

**Town of Boone
Public Hearing
6:00 PM, Nov. 22, 2021
Remote Meeting via WebEx**

WATCH OR FOR PUBLIC COMMENT: Individuals who wish to watch this meeting or who wish to address Council remotely can do so through WebEx either online or by phone. If you wish to provide public comment remotely, please email Town Manager, John A. Ward III at john.ward@townofboone.net or call in at [828-406-5563](tel:828-406-5563) and you will be provided with an invite to the meeting. All registrations must be completed by 12:30 PM on the day of the meeting. Staff will moderate the WebEx session to ensure all participants have an opportunity to address Council.

I. Call to Order of Town Council

II. Call to Order of Planning Commission

III. Approval of Public Hearing Minutes by Town Council and Planning Commission

October 25, 2021 Public Hearing Minutes

IV. Public Hearing

General Guidelines for Each Case Presented at Public Hearing

- i. Presentation of Case
- ii. Questions by Town Council & Planning Commission
- iii. Public Comment
- iv. Discussion/Questions by Town Council and Planning Commission
- v. Public Hearing for Case is Closed

V. PL05268-110121 Minimum Housing - Town Code Amendment

Case PL05268-110121 Application

Case PL05268-110121 Staff Report

Case PL05268-110121 Exhibit 1 - NC General Statute Chapter 160D,
Article 12 Minimum Housing Code

Case PL05268-110121 Exhibit 2 Session Law 2021-138, Part XIII

VI. PL05269-110121 Criminal Penalties - UDO Text Amendment

Case PL05269-110121 Application

Case PL05269-110121 Staff Report

Case PL05269-110121 Exhibit 1 Session Law 2021-138, Part XIII

VII. PL05270-110121 Miscellaneous Revisions - UDO Text Amendment

Case PL05270-110121 Application

Case PL05270-110121 Staff Report

Case PL05270-110121 Exhibit 1 NCQLP Handbook
Lighting Certification Exhibit

VIII. PL05271-110121 Townhouse Clarifications - UDO Text Amendment

Case PL05271-11012021 Application

Case PL05271-11012021 Staff Report

IX. PL05272-110121 Solar Energy Systems and Electric Vehicle Charging - UDO Text Amendment

Case PL05272-110121 Application

Case PL05272-110121 Staff Report

Case PL05272-110121 Exhibit 1 - SolSmart Zoning Review, Boone, NC

Case PL05272-110121 - Exhibit 2 - SolSmart Program Guide 2021

Case PL05272-110121 Exhibit 3 - Summary of Best Practices in Electric Vehicle Ordinances

X. Adjournment of Town Council

XI. Planning Commission Meeting

XII. Public Comment

XIII. Approval of Planning Commission Meeting Minutes

October 25, 2021 Planning Commission Meeting Minutes

November 1, 2021 Planning Commission Meeting Minutes

XIV. Planning Commission Consideration of Cases Heard at Public Hearing

XV. Other Matters

XVI. Adjournment of Planning Commission

**PUBLIC HEARING MINUTES
MONDAY, OCTOBER 25, 2021, 6:00 PM
VIA WEBEX SOFTWARE**

COUNCIL MEMBERS: Mayor Rennie Brantz, Mayor Pro-Tem Connie Ulmer, Sam Furguele, Dalton George, Nancy LaPlaca, and Virginia Roseman

PLANNING COMMISSION MEMBERS: Elizabeth Shay-Chair, Eric Plaag-Vice-Chair, Chris Behrend, Frank Venio, and John Tippet (joined at 6:09 pm)

PLANNING STAFF PRESENT: Jane Shook-Director of Planning and Inspections, Stacey Miller-Deputy Director of Planning & Inspections/Chief Building Inspector, Christy Turner-Senior Planner, Mike James-Senior Planner, Jessica Mitchell-Long Range Planner & Special Projects, and Brenda Henson-Board Secretary

OTHER TOWN STAFF AND REPRESENTATIVES PRESENT: John Ward-Town Manager, Rick Miller-Public Works Director, and Allison Meade-Town Attorney

OTHER ATTENDEES/PARTICIPANTS VIA WEBEX: Mike Curcio, Rina Norwood, Todd Carter, Judith Poland, JC Feimster, Jason Matthews, Tim Futtrelle, Mark Solomon, Alston Brown, Edie Tugman, and Jennifer

Call to Order

Mayor Brantz called the Town Council to order at 6:03 p.m. Chair Shay called the Planning Commission to order at 6:04 p.m. for the Public Hearing/Planning Commission meeting held via WebEx.

Approval of Meeting Minutes

Vice-Chair Plaag asked that the following changes be made to the September 27, 2021 Public Hearing minutes:

- Page 5 of the minutes, last paragraph, second sentence – remove the word ‘the’ after Ms. Shook answered that and remove the word ‘as’ after the B1 or
- Page 6 of the minutes, second paragraph, 5th line - the word ‘voluntarily’ should be ‘involuntarily’
- Page 7 of the minutes, fourth paragraph, first sentence – remove ‘the though’ and replace with ‘that although’
- Page 11 of the minutes, third paragraph, last sentence – replace the word ‘effect’ with ‘affect’
- Page 11 of the minutes, second to last paragraph, first sentence – remove the word ‘about’ after by including
- Page 12 of the minutes, last paragraph – remove the word ‘would’ after an alternative that
- Page 14 of the minutes, last paragraph, first sentence – remove the ? at the end of the sentence and replace it with a period

Council Member Roseman noted that Straight Street was misspelled on Page 3 of the minutes in the second to last paragraph and asked that it be corrected.

With no further changes, Council Member Roseman made a motion to approve the September 27, 2021 Public Hearing minutes as amended. The motion was seconded by Council Member LaPlaca.

Vote: Aye – All
Nay – None
The motion passed.

Commission Member Tippet joined the meeting at 6:09 p.m.

Vice-Chair Plaag made a motion to approve the September 27, 2021 Public Hearing minutes as amended. The motion was seconded by Commission Member Veno.

Vote: Aye – All
Nay – None

The motion passed.

Ms. Shook reviewed the general guidelines for each case presented at the Public Hearing.

Case PL05168-100621 Short-Term Rentals (Homestay & Vacation) – UDO Text Amendment

Amend UDO Article 7, 14, 15, 24, and 34 to modify and create new regulatory standards for short-term rentals (homestay or vacation rentals) of dwelling units.

Ms. Meade noted that a public meeting was held by Town Council in 2019 regarding this topic, and there had been numerous other discussions by Council. She stated that the basic purpose of the amendment was to create a new homestay rental use. She explained that a homestay rental meant that a permanent resident had a home and rented out guest rooms with a maximum of up to two guest rooms in the house. Ms. Meade further explained that the permanent resident of the home could be the owner, or it could be a tenant who was on-site who wanted to rent out one or two guest rooms. She stated the definition of a homestay rental was a transient lodging use that was advertised, whether online or otherwise, for stays of less than 30 days.

Ms. Meade stated there would be a separate vacation rental use and noted that this use was already included in the UDO. She explained that a vacation rental was the renting out of an entire dwelling unit such as a house, a duplex, or a multi-family apartment dwelling for transient lodging.

Ms. Meade noted that both homestay and vacation rentals would require the rental operator to obtain an annual zoning permit from the Town, and that would allow the Town to enforce the proposed provisions. She referred to draft UDO Subsection 15.05.02, which stated that homestays required a full-time resident to reside on the property as their primary home. Only one homestay could be permitted at a time. Ms. Meade explained that the full-time resident would be required to be present during the homestay rental periods.

Ms. Meade felt there was a significant difference between a family using a home in the Town as their permanent residence but deriving some additional income from renting some rooms versus a house that was held basically as an investment and rented out permanently to transient lodgers. She stated this took that house out of the family and workforce housing market and created a permanent transient lodging situation. For those reasons, a distinction was drawn between the two uses.

Ms. Meade stated that the maximum number of guest rooms in a homestay would be two guest rooms per detached single-family, two-family, or multi-family dwelling unit located on a single lot. Up to two guest rooms could also be rented in an accessory structure as long as the accessory structure was a lawful use. Maximum occupancy for the guest rooms would be the greater of two adults and any number of children or two occupants per guest room. Ms. Meade noted that the occupancy limit would have to be posted within the short-term rental and included in property listings on online platforms or other media.

Ms. Meade referred to UDO Subsection 15.05.12 that indicated homestay rental operators must remit occupancy taxes to the Town and pay any other applicable taxes. She stated that Council Member Furgiuele had let her know that occupancy taxes were not sent to the Town, so the phrase 'to the Town' would need to be removed from the proposed text.

Ms. Meade noted that homestay rentals must provide one dedicated parking space per guest room. That space could not be located on any street right-of-way and must conform to all applicable parking regulations. She stated that homestay rental permits could be revoked for a period of one year or permanently if there was a serious felony violation.

Ms. Meade referred to UDO Subsection 15.05.17 regarding compliance periods. She stated the Town Council had discussed but did not finalize a compliance period. A compliance period was suggested to allow staff time to implement this program and educate the public about the requirements. Ms. Meade stated there would be a timetable by which homestay rental operators must apply for a permit and a timeframe by which all homestays must be in compliance with the Ordinance. She stated she had suggested the possibility of 12 to 18 months for homestay operators to apply for a permit and a compliance period of 18 to 24 months.

Ms. Meade then addressed vacation rentals. She stated that whole-house rentals were currently allowed in RA and existing one- and two-family detached homes in R3, B1, B2, and B3 districts. Ms. Meade noted that Council would need to consider whether or not to expand the allowance of vacation rentals into other districts. They would also need to consider whether or not to apply a density limitation on multi-family buildings so that only a certain percentage of the apartments could be used as vacation rentals. Ms. Meade stated that the definition of a vacation rental was a single-family or two-family detached dwelling or multi-family dwelling with up to six guest rooms that offered transient overnight accommodations for any period of less than one month. Vacation rental operators must apply for a zoning permit annually that must be posted in the rental unit and provide one parking space per bedroom.

Ms. Meade referred to UDO Subsection 15.14.09 that stated for any multi-unit dwelling, no more than 25%, or two dwelling units, whichever would be greater, could be operated as a vacation rental in any single building. She stated the 25% was drawn from Raleigh's code and could be changed to a different percentage.

Ms. Meade noted that if the primary structure qualified for vacation rental use and had a legal accessory dwelling structure on the same property, both could be used as vacation rentals. However, both structures could only be rented out together to one party under a single contract. She also noted that some areas required the primary renter of both homestays and vacation rentals to be 21 years of age or older.

Council Member LaPlaca asked what the trends were for short-term rentals. Mr. Ward replied that in 2018 or 2019, Blowing Rock chose to start regulating short-term rentals. He stated that five years ago, they roughly had a TDA collection of about \$750,000. That had jumped to \$2 million now, just because of the extra capturing of the additional hotel/motel tax that was from the non-traditional hotel environment. Mr. Ward noted that, on the other side of that, were municipal trends on the actual enforcement. He stated that one of his big concerns was that whatever fees were collected should offset the cost so that Ms. Shook and her staff would have a chance to implement this program. Mr. Ward noted that an additional staff person was added to Planning & Inspections, but that position was for special projects and long-range planning, not additional permitting and enforcement. He stated that some communities hire a contractor to handle short-term rental programs, or a hybrid could involve staff and an outside contractor. Mr. Ward felt it was important to note that in tracking State legislation for at least the last two years, there had been bills introduced by the State legislature that would remove a local jurisdictions authority to regulate short-term rentals.

Council Member Furgiuele referred to UDO Subsection 15.14.11 that stated the rental operator or the operator's employee, management company, or other agent must be available to respond to complaints or emergencies within two hours at all times that a rental is occupied. He stated that a great deal of the time the rentals would occur in the evening or on the weekend, and the Planning Department would not

be available to take a complaint during non-working hours. Council Member Furgiuele asked how and to whom a citizen would make a complaint. Ms. Meade asked Council Member Furgiuele if he was concerned about renters being able to complain to the Town about a violation of this provision. Council Member Furgiuele replied that he was concerned about permanent or stable residents who might be adversely affected by the vacation rental being able to register a complaint. Ms. Meade stated that the Town permit was required to be posted where it could be easily viewed so a neighbor could obtain the permit number and then call Planning regarding possible violations. She added that UDO Subsection 15.14.11 was intended to be a complaint provision for the renters to register complaints with the rental operator, not a complaint measure for neighbors. Mr. Ward stated that the Police Department would respond to complaints such as noise, parking issues, etc., and would be able to provide Planning staff with information or evidence regarding potential violations of the short-term rental agreement. He suggested the possibility of placing something on the Town's website that would provide emergency contact information for neighbors in case they wished to speak with the short-term rental operator instead of calling the Police or registering a complaint with Planning.

Vice-Chair Plaag presented the scenario that he had just rented a three-bedroom house on Grand Boulevard and had decided to do one of the homestay rentals, but he actually wanted to rent it out to his friends Adam, Bob, Charlie, and David who are all App State students like him. The way he planned to structure this was for the first homestay rental he would rent to Adam and get 30 days out of that, for the next time he would rent to Bob, then Charlie, then David, and then repeat it over and over and over again for a year so on the books it would look like he had met the requirements of the Ordinance. In reality, what he had done was rented out a house in an R1 neighborhood in a way that allowed him to have five unrelated people living in the house together, basically as a student rental. Vice-Chair Plaag asked what mechanism the Town would have to prevent that from happening under this Ordinance. Ms. Meade replied that the scenario did not fall within the definition of homestay rental and was not transient lodging. She felt there would be no problem with enforcement if the situation came to the attention of staff. Vice-Chair Plaag stated the Town already had difficulty enforcing the no more than two unrelated people in a dwelling, and this would add yet another way that people could use homes in a manner that they were not originally intended to be used. Ms. Meade responded that enforcement was a challenge and occupancy was hard to investigate. She stated that this was a practical reality of both resource availability and commitment, and if Council wanted this to be done, they would need to make sure there was enough staff time available, training was provided, and the money to make it all happen was provided.

Mr. Ward noted that there had been a record number of permits year after year, and within the Planning Department a special projects person had been added, but no additional enforcement staff, permitting staff, or monitoring staff had been added. He stated that at the next Planning Retreat and the next Budget Retreat, if this was determined to be a priority, they could put more money toward enforcement in an effort to increase the likelihood of success.

Council Member LaPlaca asked if there had been a significant increase in revenue from occupancy tax. Mr. Ward replied that there had been an increase. Still, he noted that the use of hotel/motel tax dollars was restricted by State statute. Currently, 2/3 had to be used for promotion of the community. He stated that the 1/3 that the Town got to keep had been designated as the source to pay for the Howard Street project. Mr. Ward felt that the cost of enforcement would fall back onto the general fund and revenues generated through permitting and fees.

Vice-Chair Plaag asked if it would be possible for those operating short-term rentals on their own and not through a company like Airbnb to be required to pay occupancy tax themselves to the Town. Mr. Ward stated he liked that addition but noted that the taxes would be paid to the County, who would then disperse funds based on location. Mr. Ward suggested the possibility of random audits to make sure taxes were being remitted or possibly placing some type of condition on the permit.

Vice-Chair Plaag expressed concern about the allowance in a homestay rental of any number of children who were in the care of the homestay renter. He asked if that would allow a church bus with a group of kids to stay in the homestay rental. Ms. Meade felt that might be getting into building code limitations but added that if this was a real concern, the maximum number of overnight guests for a homestay rental could be limited to the definition of family or could merely specify that no more than two occupants were allowed. Ms. Meade stated that this topic would need to be considered.

Council Member Roseman referred to the allowance of 25% of a multi-unit dwelling to be operated as a vacation rental and expressed concern for the possibility of dwindling housing stock for residents. She stated she would like to see a stricter density percentage as well as allowing only one contract per parcel. Mr. Ward noted that there were several vacation rentals currently operating that had multiple structures on the property. Ms. Shook added that there was a property on King Street that was already permitted as a vacation rental, and it had two separate units on the property.

Council Member Furguele agreed that a tighter limit for vacation rentals would not be a bad idea because rentals with an absentee operator would be more problematic. He added that he was very hesitant to allow vacation rentals in low-density neighborhoods.

Council Member Roseman stated that she was worried about losing housing accessibility in the community and felt that some people only cared about lining their pockets instead of what was good for the community.

Ms. Meade asked if the vacation rental with two separate structures on King Street would have any way to come into compliance with the proposed Ordinance. Council Member Furguele suggested subdividing the property, but Ms. Shook did not feel that street frontage requirements could be met because one structure sat behind the other structure, and the lot was very small. Ms. Shook suggested that staff and Ms. Meade look into this situation further.

Council Member Ulmer expressed concern that the allowance of short-term rentals would entice people to create a short-term rental situation just to make money without considering the need for housing for people who want to live and work here.

Council Member Furguele suggested that the density percentage start out low, such as 5%, and the number could be increased at a later date if it was warranted. He felt it was harder to tighten the percentage once it was allowed than to loosen it once you saw how it affected the overall housing market and quality of life. Council Member Roseman agreed with Council Member Furguele's suggestion of lowering the percentage to 5%.

Ms. Shook stated that there were multi-family developments that were developed under the B3 zoning district where there was a potential for the property owner to change their whole development from a multi-family residence to short-term rentals under a motel type designation.

Ms. Meade stated she had made a suggestion to Council that they could possibly develop a student housing use that would likely help alleviate the potential misuse of homestay rentals. Vice-Chair Plaag stated he would be interested in hearing more about a student housing use. He felt there should be an age limit of 21 to operate a homestay rental until then.

Council Member Furguele referred to the public meeting that was held previously regarding short-term rentals. He noted that there were only a few people who spoke in opposition, and those people were complaining about rentals with absentee owners or absentee operators. Council Member Furguele stated that he got the sense from the public meeting that a lot of people supported the notion that there be some allowance for short-term rentals.

Mayor Brantz then invited public comment.

Ms. Shook called for the first person who had signed up to speak, Mike Curcio.

Mr. Curcio stated he lived on Dotson Drive, and he and his wife were wholeheartedly opposed to whole-house vacation rentals. He stated that anytime an Airbnb went into a neighborhood or zip code, housing costs went up considerably. Mr. Curcio expressed his disappointment that the Town had not been enforcing the UDO, although he had complained numerous times about people operating short-term rentals. He stated that staff members had told him that enforcing short-term rental violations was not a priority of this Town Council. Mr. Curcio felt there needed to be significant financial penalties in order to discourage any disuse of homestay rentals instead of just a one-year revocation of their permit. He stated that people would figure out how much money they needed to make in the short term to cover the months that they were without a permit. Then they would get their permit back after a year and start again. Mr. Curcio suggested there should be stringent requirements for those who apply for homestay rentals. He stated that Boone was a great place to visit, and we were spending more and more money on marketing the Town and less and less money on managing the Town. Mr. Curcio noted that part of the reason he and his wife moved to and stayed in Boone was because of the protections that zoning gave them. He stated that Town Council wanted affordable housing, but by allowing whole-house rentals, the cost of housing would increase. Mr. Curcio noted that some people in his neighborhood would pack up and leave their house for extended periods of time and have another family essentially move in while they were away.

Ms. Shook then called on the next speaker, Stacy Langston, with no response.

Ms. Shook called on Andrea Geisler to speak, with no response.

Ms. Shook called on Amy Phillips to speak, with no response.

Ms. Shook called on Rina Norwood to speak. Ms. Norwood stated she joined the meeting late and missed a lot of the conversation, so she wished not to speak at this time.

Ms. Shook called on James Poland to speak. Mr. Poland stated, from what he had heard, that this was a discussion between making money off of short-term rentals or not making money off of short-term rentals. He noted that he and his wife lived out of Town and operated an Airbnb. Mr. Poland felt it was wrong for someone in Town to make money off of their property in Town because it destroyed the Town.

Ms. Shook then called on Jason Matthews to speak. Mr. Matthews stated he did not wish to speak.

Ms. Shook stated there was no one else signed up to speak under public comment.

Council Member Furguele stated he would like to set the record straight. He noted that he had been a part of a number of conversations over about a 3 1/2 year period regarding short-term rentals. Council Member Furguele stated they had learned that there were widespread short-term rentals operating illegally in Town. He stated he had never heard any Council member say, and personally he had not advocated for the idea that the Town not enforce their Ordinance to the extent possible. Council Member Furguele noted that there had been discussions about the difficulties of enforcement, given the change in State law, which put a statute of limitations on enforcement of zoning violations.

Ms. Meade stated that language in the current code regarding occupancy led to an interpretation that a family could have another family staying in their house with them because a family was considered one person. Another family would be considered another person, creating two unrelated people living in the same dwelling. Ms. Meade felt that sometimes UDO language made for difficult enforcement instead of an unwillingness to enforce.

Council Member Roseman stated she did not want to have whole-home rentals in the residential districts. Council Member Furguele replied that the Town already had whole-home rentals in residential districts. He stated that Andy Paletta, former Board of Adjustment member, researched short-term rentals about

four years ago and located 650 with Boone addresses. Approximately 250 of them were located within Town limits.

Ms. Shook referred to a website called AirDNA that currently listed 678 active rentals in the 28607 zip code, with 94% of those being entire home rentals.

Rina Norwood asked to speak. Ms. Norwood asked if the Town required a short-term rental permit (STRP). Ms. Meade replied that a permit would be required under the proposed text amendment. Ms. Norwood stated that a significant charge for the short-term rental permit could help weed out the people who just wanted to make money versus those interested in the community. She also suggested requiring annual fire inspections.

Judith Poland requested to speak. Ms. Poland stated that owners of properties needed to be held responsible. Mr. Poland asked if anyone at the local level checked to make sure smoke alarms and carbon monoxide detectors were installed in short-term rentals because it was a tremendous liability if something happened. Ms. Meade replied that she was not aware of any enforcement of those items for single or two-family dwellings. Mr. Ward added that inspections were also a concern in the cost of enforcement that would need to be considered.

Vice-Chair Plaag stated that if the Town was going to allow either whole-house rentals in certain zoning districts or homestay rentals in residential districts they should be treated like the businesses that they were and should be required to pass certain inspections. Town Council would have to provide the funding to allow for that mechanism. Vice-Chair Plaag asked if he understood correctly that the homestay rental language would allow for someone renting the property to operate a short-term rental under their lease. He stated that other cities under similar pressures that Boone was under required a homestay rental to be owner-occupied.

Council Member Furgiuele asked if it was feasible to make the revocation of permit period longer than 365 days.

Ms. Meade responded to Vice-Chair Plaag's concern about renters being allowed to operate a homestay rental. She stated that a State law indicated you could not distinguish between a full-time owner and a full-time renter. Ms. Meade then addressed a comment made by Mr. Curcio regarding folks who leave their homes for a certain period of time and have someone else come in and stay in their home. She felt that with visiting professors or other situations, the Council might want to consider having a safe haven where people would not have to act illegally and were maybe allowed to have two weeks a year or four weeks a year to do this with their homes.

Ms. Meade addressed Council Member Furgiuele's question about the 365 day revocation period. She stated she did not see why it could not be longer but noted there could be a negative consequence. The longer the disqualification period, the more incentive people might have to fight notices of violation. Ms. Shook asked if background and violation checks should be performed upon application and renewal of the permit instead of just renewal. Ms. Meade agreed and felt that was a good point.

Council Member Roseman asked if there was a way that someone could lose their ability to operate altogether. Ms. Meade replied that two verified violations in a one-year period, either of the Town Code or the UDO, that were upheld against any appeal would result in the permit being revoked for a 365 day period. Council Member Roseman felt like it should be more and thought there should be a financial penalty to pay as well. Ms. Meade stated there were general penalty provisions in the UDO for first violations that increased for repeat violations.

Ms. Meade spoke to the suggestion of an inspection program for short-term rentals. She stated it was discussed with Council, and there was a general consensus not to do an inspection program. Ms. Meade

noted that some areas do have inspection programs. As part of the application process, the building inspector goes out and looks at the property and for compliance and has to sign off on it. There were obvious drawbacks to an inspection program, such as staff time and resources and the potential liability to the Town. Ms. Meade provided the example that if an inspector missed something that caused serious injury or death, there would be the risk of lawsuits.

Ms. Shook outlined the financial penalties contained in the UDO for violations. She stated there was a \$100 penalty per violation per day. Repeat violations of the Ordinance were 250% of the civil penalty plus a \$1,000 fee. Ms. Shook stated that if someone repeated a violation for a second time within the time period, it would be 500% of the civil penalty plus a \$1000 one-time assessment.

Ms. Shook announced that Planning Commission had scheduled a tentative meeting date of Monday, November 1, 2021 at 6pm to be held via WebEx to make recommendations on the cases heard at this evening's public hearing. This meeting was scheduled in the event that all cases were not able to be considered by Planning Commission this evening.

Ms. Shook referred to UDO Subsection 15.05.17 Compliance period; existing nonconformities. She noted that this applied only to homestay rentals. Ms. Meade stated that was an oversight, and this compliance was intended to apply to both homestays and vacation rentals. Ms. Shook stated that a time period for compliance needed to be decided.

Vice-Chair Plaag stated he was inclined to go with the shorter compliance periods so that someone would have a year to apply for a permit and 18 months to comply with the Ordinance requirements.

Mr. Ward felt that timeframe was doable and thought the Town might be able to use a hybrid of some Town staff working on it while utilizing a company who specializes in the permitting of short-term rentals. Mr. Ward expressed concern that the sheer volume could be overwhelming if the Town tried to do it totally by existing staff. Ms. Shook added that a lot would depend on how much voluntary compliance the Town received and how much staff would have to go out and search for themselves.

Mr. Ward mentioned the financial aspect and the need for budgeting of funds. He noted that budgeting for this and other rezoning projects like the Historic District would not align with the budget year. Council Member Furguele suggested an effective date of January 1, 2022, putting the 18-month compliance period in line with the new fiscal year.

Mayor Brantz called a break in the meeting from 8:40 p.m. until 8:48 p.m.

With nothing further, Mayor Brantz closed the public hearing for this case at 8:48 p.m.

Ms. Shook took a moment to introduce Jessica Mitchell as Planning & Inspection's new Long Range/Special Projects Planner.

Case PL05188-100821 Definition of Family and Occupancy Regulations – UDO Text Amendment

Amend UDO Articles 7, 14, 24 and 34 to modify and clarify regulations regarding residential occupancy controls, including but not limited to the definitions of family and unrelated persons, the permissible number of occupants of residential dwellings, and parking requirements.

Ms. Meade explained that, after direction from Council, only Alternative 1 was under consideration for approval. She read the proposed definition of family, which added relatedness by domestic partnership to the definition of family. Ms. Meade stated that the term domestic partners was pretty broadly defined to capture any two adults competent to contract who decided they wanted to create a household together. She noted the proposed text removed the inclusion of cousins as being family members unless their parents were part of the household. Also removed from the proposed text was the defining of family as one occupant. Ms. Meade felt the proposed changes would help deal with alleged nonconformities of

over-occupancy. The 2014 version of the UDO contained a provision that said the number of occupants in a dwelling did not constitute a use and could not create a legal nonconformity. Ms. Meade stated that occupancy presented the ultimate proof problem for enforcement. She pointed out an error in UDO Subsection 14.04.03, noting that references to over-occupancy should be changed to reference occupancy. Ms. Meade stated that over-occupancy after 2014 could not give rise to a grandfathered or legal nonconformity. She noted that if there were occupancy violations predating 2014 that the owners could establish as matter of fact, those would have a phase-out period. After those property owners receive notice, they will have a suggested two-year period to come into compliance. Ms. Meade stated that should give property owners plenty of time to serve any current or contracted leases that were upcoming.

Ms. Meade stated there was an issue that had not been resolved by Council that deserved discussion, and that was whether to make provisions for a roomer or more than one roomer. She noted that this would not apply if you had unrelated people living in a house but only to a family. Ms. Meade stated that Council would need to decide whether or not they would want to permit a family to rent out a room or two rooms to roomers or boarders to make money, but it would only apply for the family situation.

Ms. Sook mentioned current leases where people have rented to cousins and asked if there would be a phase-out period for those leases. Ms. Meade replied that changing the wording from over-occupancy to occupancy in UDO Subsection 14.04.03 should address that situation.

Vice-Chair Plaag asked if the term roomer(s)/boarder(s) was defined in the UDO. Upon checking, Ms. Meade replied that it was not defined in the UDO. She stated that the dictionary definition could be used, but a definition could also be added to the UDO.

Todd Carter wished to speak. He stated he came from a group of people who had chosen families instead of blood families and felt the definition of family needed to be more inclusive. Mr. Carter explained that he had a daughter who was pregnant and, while he had not legally adopted her, he was her primary source of care. He stated he would hate for this text to legally keep them from living in the same house just because they did not meet the proposed definition of family. Ms. Meade replied that the definition could be made broader. She suggested adding the term 'dependent' under the definition of child. Mr. Carter hoped that would cover his situation but was not sure. He added that the LGBTQ community often did not get the privilege of having blood family. Mr. Carter stated that the costs of acquiring a legal family in the eyes of the law was more than most people could pay.

Council Member Ulmer asked about communes. Ms. Meade replied that the proposed definition retained a requirement for relatedness, either by blood, by marriage, by domestic partnership, or by adoption. She stated that it did not go so far as to allow more than two adults to choose to create a family with other non-related adults and call that the single household that would fit under this family definition.

Council Member Furguele felt Mr. Carter had a valid point but expressed concern about trying to change the language on the fly to accommodate the situation. He felt the proposed language was a step forward in recognizing non-traditional families and added that occupancy limits were at the heart of neighborhood protection in Boone. Council Member Furguele stated he would rather see the language be adopted as proposed. He felt that more inclusive language could be proposed when it could be more carefully crafted.

Council Member Roseman stated she thought that Council had discussed something that addressed two consenting adults. Ms. Meade replied that a domestic partnership was drawn broadly as two people committed to having a household together, and the descendants and ancestors of those two people could be included in the family.

Council Member Furguele noted that the issue for Mr. Carter was the definition of a child and who would qualify as a child. He stated he was not against expanding the definition of child but was worried about making the change without having time to reflect on the unintended results. Ms. Meade offered this definition: Child and children shall for these purposes include a biological, foster, step, or adoptive child, legal ward, or legal dependent or other minor person who is in a child/parent relationship with an adult in the family. Council Member Roseman noted that Mr. Carter's daughter was adult, not a child, and that was why she thought they might fall under the domestic partner category. Vice-Chair Plaag felt the wording of child/parent relationship would cover Mr. Carter's situation.

Mr. Carter stated that these were the types of situations his community ran into every single day. He felt that if the LGBTQ community was truly going to be an inclusive community, these situations needed to be taken into account from the very beginning and not patched so they could be fixed later. Council Member Furguele replied that he was worried about unforeseen consequences because people seem to find ways to circumvent the intent of the Ordinance. He stated that his concern did not mean that he did not want to deal with the issue but that he would rather approach it with more thoughtful consideration.

Mayor Brantz asked if anyone would like to provide public comment. With no one wishing to provide public comment, Mayor Brantz closed the public hearing for this case at 9:27 p.m.

Case PL05169-100621 Town Utility Facilities – UDO Text Amendment

Amend UDO Article 14 to revise regulations relating to the siting of Town Utility Facilities on town properties and rights-of-way.

Ms. Shook explained that the proposed text would exclude greenways from having to acquire a zoning or special use permit. It would also allow Town utility facilities to be placed on Town property without acquiring a zoning or special use permit.

Ms. Meade further explained that this issue arose because the Town may need to put a utility facility on a piece of Town-owned property. Under the current UDO language, they would have to get approval from the Board of Adjustment. Ms. Meade noted the proposed language would allow Town Council to hold a hearing to solicit public comment if there were concerns about the facility.

Council Member Furguele stated he was satisfied with the proposed language and felt it was important to have the avenue for public input to discuss mitigation.

Vice-Chair Plaag suggested the addition of historic landmark or historic district overlay standards to UDO Subsection 14.02.03(A)(3) regarding applicable development standards.

Ms. Shook referred to UDO Subsection 14.02.03(A)(1). She asked if it was correct that Certificates of Appropriateness would not be included here. Ms. Meade noted that a special use permit was a zoning permit and suggested the language should read that no zoning related permit would be required under this ordinance. With the addition of the language regarding historic landmarks and districts and changing the wording to zoning-related permits, Ms. Meade felt that would address the COA issue.

There was no public comment. Mayor Brantz closed the public hearing for this case at 9:35 p.m.

Case PL05189-100821 Major Subdivision Process – UDO Text Amendment

Amend UDO Articles 9 and 14 to revise the process for approval of major subdivisions.

Ms. Shook stated that this text amendment would correct a process issue for major subdivision preliminary plat approval. Under the current Ordinance, final plat approval for major subdivisions was required to be approved by Town Council. This amendment would now require final plat approval by the Administrator.

Ms. Meade noted that all of the heavy lifting for a major subdivision plat approval was done by Town Council or the Board of Adjustment at the time of the preliminary plat approval. State law required that a final plat match the preliminary plat, as approved. Ms. Meade stated it was not necessary for the final plat to go back to Town Council for approval and felt that staff should sign off on the final plat.

There was no public comment. Mayor Brantz closed the public hearing for this case at 9:38 p.m.

Ms. Shook asked Planning Commission members how they would like to proceed. After a quick poll, Planning Commission members stated they would address the approval of meeting minutes and the last two cases on the public hearing agenda at this evening's meeting. Ms. Shook noted that the first two cases heard at the public hearing would be considered by Planning Commission on Monday, November 1, 2021 at 6 p.m. via WebEx. She reminded everyone that the meeting on November 1 would not be a public hearing, so there would not be an opportunity for public input on the cases at that meeting.

Adjournment of Town Council

Council Member LaPlaca made a motion to adjourn the Town Council at 9:42 p.m. The motion was seconded by Council Member Ulmer.

Vote: Aye – All
Nay – None
The motion passed.

Rennie Brantz, Mayor

Brenda Henson, Board Secretary

Elizabeth Shay, Planning Commission Chair

Continuation of Planning Commission Meeting

Approval of Meeting Minutes

Commission Member Behrend made a motion to approve the September 27, 2021 Planning Commission meeting minutes. The motion was seconded by Commission Member Tippet.

Vote: Aye – All
Nay – None
The motion passed.

Vice-Chair Plaag asked that the following amendments be made to the September 29, 2021 Planning Commission meeting minutes:

-Page 2 of the minutes, third paragraph, third line – should read 'if they wanted to paint whatever it says'

-Page 2 of the minutes, third paragraph, fourth, fifth & sixth lines – should read 'He said that wouldn't require anything but if they decided to modify it to smaller or larger, he thought it would need a COA process.'

- Page 2 of the minutes, third paragraph, sixth & seventh lines – should read ‘He said just changing the content on the attachment would not require a COA process, other than what is acceptable under the way that signs are reviewed.’
- Page 2 of the minutes, fourth paragraph, last line – change the word ‘note’ to ‘not’
- Page 2 of the minutes, fifth paragraph, third line – change the word ‘speck’ to ‘specific’
- Page 3 of the minutes, third paragraph, third line from the bottom – remove the word ‘will.’
- Page 3 of the minutes, third paragraph, second line from the bottom – change ‘Terry’ to ‘Cherry’
- Page 3 of the minutes, sixth paragraph, first line – change ‘Discussion ensued on to’ to ‘Discussion ensued as to’
- Page 4 of the minutes, third paragraph – change four references to ‘HPC’ to ‘Planning Commission’
- Page 4 of the minutes, sixth paragraph, second & third lines – should read ‘He said, for example, if a large hotel was proposed on the top of that hill with a winding driveway to it, they would not be using 50 percent of their lot on this large parcel.’
- Page 4 of the minutes, sixth paragraph, fifth line – change ‘he did not know it was’ to ‘he did not know if it was’
- Page 5 of the minutes, sixth paragraph, third line – change ‘12 or 24 months’ to ‘12 and 24 months’
- Page 5 of the minutes, seventh paragraph, first line – remove the period at the beginning of the paragraph
- Page 5 of the minutes, next to last paragraph, fifth line – change ‘rectangular, and square’ to ‘rectangular, or square’
- Page 5 of the minutes, last paragraph, last line – remove the word ‘Ms.’
- Page 6 of the minutes, third paragraph, third sentence – should read ‘Vice-Chair Plaag pointed out that for new additions to historical buildings that you don’t want your addition to look exactly the same as the historical part of a building because it creates a false sense of historic preservation; you do want there to be a distinction that is compatible.’
- Page 8 of the minutes, first paragraph, fifth line – change ‘Downtown history, architecture and will’ to ‘Downtown history and architecture, and will’
- Page 8 of the minutes, first paragraph, seventh line – put a ‘semi-colon’ after the words ‘long term’
- Page 8 of the minutes, second paragraph, first line – change ‘Discussion the’ to ‘Discussion then’
- Page 9 of the minutes, first paragraph, second line – change ‘indicated that he not opposed’ to ‘indicated that he was not opposed’
- Page 9 of the minutes, second paragraph, second line – change ‘He noted that Ms. Blanks noted’ to ‘He noted that he believed Ms. Blanks said’
- Page 9 of the minutes, third paragraph, second & third lines – should read ‘B1 Downtown Interface and knowing it could potentially be even more intensive than the R3 that currently exists there, he said he would’
- Page 9 of the minutes, fifth paragraph, first line – change ‘same three’ to ‘five’
- Page 9 of the minutes, seventh paragraph, fifth line – change ‘drive-through would not be permitted’ to ‘drive-through on a new application would not be permitted’

Vice-Chair Plaag made a motion to approve the September 29, 2021 Planning Commission meeting minutes as amended. The motion was seconded by Commission Member Behrend.

Vote: Aye – All
Nay – None
The motion passed.

Case PL05169-100621 Town Utility Facilities – UDO Text Amendment

Amend UDO Article 14 to revise regulations relating to the siting of Town Utility Facilities on town properties and rights-of-way.

Ms. Shook reminded Commission members of the suggested changes to the text during the public hearing, such as; removing the wording about zoning or special use permits and replacing it with the wording that no zoning-related permit would be required, and including language about standards related to historic districts and landmarks.

First Motion and Vote: Vice-Chair Plaag made a motion that the proposed amendment to the Town's zoning ordinance is consistent with the Town's comprehensive plan and any other adopted plans of the Town that are applicable because they are consistent with:

Comprehensive Plan Policy 2.1.1 Economic Development

E. The Town shall encourage a public service and regulatory environment conducive to business recruitment and expansion, while at the same time enhancing the area's physical and human resources.

E.1 Continue to look for ways to make development regulations and permit procedures more predictable and timely. Evaluate opportunities for administrative review and permit issuance for development projects which, due to their small size or relatively minor impacts, may not require review by a formal public commission or board.

The motion was seconded by Commission Member Tippet.

Vote: Aye – All
Nay – None
The motion passed.

Second Motion and Vote: Vice-Chair Plaag made a motion that the Planning Commission recommends approval of the proposed amendment, with the noted changes, and believes approval is reasonable and in the public interest because these language changes would streamline the process for completion of Town utility facilities located on Town property, while also providing appropriate protections under specific scenarios. The motion was seconded by Commission Member Behrend.

Vote: Aye – All
Nay – None
The motion passed.

Case PL05189-100821 Major Subdivision Process – UDO Text Amendment

Amend UDO Articles 9 and 14 to revise the process for approval of major subdivisions.

Chair Shay felt the key point to this amendment was that because of the review that happened earlier, there was no discretion, so allowing Planning to sign off on the final plat would save wear and tear on Town Council and streamline the process. Vice-Chair Plaag noted that this amendment would also save time for the applicant.

First Motion and Vote: Commission Member Veno made a motion that the proposed amendment to the Town's zoning ordinance is consistent with the Town's comprehensive plan and any other adopted plans of the Town that are applicable because they are consistent with:

Comprehensive Plan Policy 2.1.1 Economic Development

E. The Town shall encourage a public service and regulatory environment conducive to business recruitment and expansion, while at the same time enhancing the area's physical and human resources.

E.1 Continue to look for ways to make development regulations and permit procedures more predictable and timely. Evaluate opportunities for administrative review and permit issuance for development projects which, due to their small size or relatively minor impacts, may not require review by a formal public commission or board.

The motion was seconded by Commission Member Tippet.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote: Commission Member Veno made a motion that the Planning Commission recommends approval of the proposed amendment and believes approval is reasonable and in the public interest because it streamlines the process and eliminates a lot of redundancy for the Planning staff and Town Council. The motion was seconded by Vice-Chair Plaag who wished to amend the motion to add that the text change also streamlines the process for applicants. Commission Member Veno accepted the amendment

Vote: Aye – All
Nay – None

The motion passed.

Other Matters

Commission Member Behrend made a motion to table discussion of the first two cases heard at the public hearing until November 1, 2021 at 6 p.m. via WebEx. The motion was seconded by Chair Shay.

Vote: Aye – All
Nay – None

The motion passed.

Ms. Shook noted that Town Council accepted Planning Commission's recommendations for both of the Downtown Planning Projects and voted for them to become effective on October 21, 2021.

Chair Shay welcomed Jessica Mitchell to the Town.

Adjournment of Planning Commission

Vice-Chair Plaag made a motion to adjourn the meeting at 10:05 p.m. The motion was seconded by Commission Member Tippet.

Vote: Aye – All
Nay – None

The motion passed.

Elizabeth Shay, Planning Commission Chair

Brenda Henson, Board Secretary

Planning Application - UDO Text Amendment

Town of Boone Planning & Inspections Department
680 W. King Street, Suite C ♦ Boone, North Carolina 28607
Phone (828) 268-6960 ♦ Fax (828) 268-6961 ♦ www.townofboone.net

Official Use Only

Case Number:
PL05268-110121
Case Name:
Minimum Housing Code

A. CONTACT INFORMATION

Applicant: Town of Boone Company: _____
Address: 567 West King Street
Phone Number: 828-268-6200 Email Address: planning@townofboone.net

B. TEXT INFORMATION

Amendment is to: **TOWN CODE**

Article(s): Chapter 151 Minimum Housing Code
Section(s): _____

Brief Description of Amendment (Attach Proposed Text):

To modify the Town Code Chapter 151 Minimum Housing Code to revise language and bring the code into compliance with North Carolina General Statute 160D and Session Law 2021-138, Part XIII, section 13(b).

C. APPLICANT SIGNATURE: By signing this form you are certifying that this application and any attached information is accurate. Failure to provide accurate information or failure to provide any requested information may result in delays to permit processing.

Jane Shook
Applicant (Print)

/s/ Jane Shook
Applicant Signature

11/1/2021
Date

Official Use Only

Date:	Fee:	Receipt Number:	Method of Payment:	Paid By:
NA	NA	NA	NA	NA

Hearing/Decision Information

Public Hearing Meeting
Date: November 22, 2021
PC Meeting
Date: November 22, 2021
TC Meeting
Date: December 8, 2021
Text Approved: ☐ Yes ☐ No
Notes:

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Communication: Case PL05268-110121 Application (PL05268-110121 Minimum Housing - Town Code Amendment)



**STAFF REPORT
PUBLIC HEARING
NOVEMBER 22, 2021
Case PL05268-110121 Minimum Housing – Town Code Text Amendment**

Request

To modify the Town Code Chapter 151 Minimum Housing Code to revise language and bring the code into compliance with North Carolina General Statute 160D and Session Law 2021-138, Part XIII, section 13(b).

Please note: the purpose of this case is to amend Town Code Chapter 151, not the Town of Boone Unified Development Ordinance as normally heard at the Town Council/Planning Commission public hearing. The legislative decision to amend a regulation under NC Chapter 160D must follow the same procedure set forth in NC General Statutes 160D-102 Definitions & 160D-601 Procedure for adopting, amending, or repealing development regulations. Therefore, since Article 12 Minimum Housing Codes is located within Chapter 160D, any amendments must be made through the Town's traditional public hearing process, same as any other UDO text amendment.

Exhibit 1 NC General Statutes, Chapter 160D, Article 12 Minimum Housing Codes

Exhibit 2 Session Law 2021-138, Part XIII

Proposed Ordinance Amendment

Ordinance # PL05268-110121

**AN ORDINANCE TO AMEND THE TOWN OF BOONE
CODE OF ORDINANCES CHAPTER 151 – MINIMUM HOUSING CODE**

WHEREAS, the Boone Town Council desires to modify Town Code Chapter 151 ("Minimum Housing Code") to comply with the provisions of N.C.G.S. § 160D-1201 *et seq.* (updating and clarifying local planning and development regulatory authority) and Session Law 2021-138, Part XIII, section 13(b) (regarding the decriminalization of certain local ordinances);

WHEREAS, the Boone Town Council desires to clarify the responsibility of property owners to provide dwelling units that are weather-tight and do not have leaks or other defects resulting in the retention of moisture that can result in unsafe or unsanitary conditions; and

WHEREAS, the Boone Town Council is authorized to adopt this ordinance pursuant to its powers under Chapter 160D of the North Carolina General Statutes, including but not limited to its authority to regulate and enforce minimum housing standards to promote the safety and health of the general public;

NOW THEREFORE, BE IT ORDAINED BY THE BOONE TOWN COUNCIL THAT:

SECTION 1. Chapter 151 of the Boone Code of Ordinances is hereby revised as set forth in the attached **Exhibit A** to this Ordinance, which is incorporated by reference.

SECTION 2. All provisions of any Town ordinance in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 3. In the event any section, subsection, subdivision, paragraph, subparagraph, item, sentence, clause, phrase or word of this ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining provisions of this ordinance, which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this ordinance.

SECTION 4. This Ordinance shall be effective immediately upon its adoption by Town Council.

Adopted this ____ day of _____, 2021

Rennie Brantz, Mayor

ATTEST: _____
Town Clerk

EXHIBIT A

GENERAL PROVISIONS

§ 151.01 PREAMBLE.

(A) Pursuant to G.S. Ch. 160D, Art. 1912, Part 6, it is hereby found and declared that there exists, in the town's jurisdiction for purposes of planning and development, dwellings which are unfit for human habitation and/or are inimical to the welfare, and dangerous and injurious to the health, safety and morals of the people of the town's jurisdictions for purposes of planning and regulation of development, due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, and due to other conditions rendering the dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of the town's jurisdiction for the purposes of planning and development (hereinafter sometimes, "unfit dwelling").

(B) It is further found and declared that there exists, in the town's jurisdiction for purposes of planning and development, abandoned structures which pose health or safety hazards as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary ~~facilities~~ facilities (hereinafter, "unsafe abandoned structure").

§ 151.02 SCOPE.

(A) This chapter is hereby declared to be remedial and shall be construed to secure the beneficial interest and purpose thereof - which are public safety, health and general welfare - through structural strength, stability, sanitation, adequate light and ventilation and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of dwellings.

(B) The provisions of this chapter shall apply to all existing dwellings and to all dwellings hereafter constructed within the town or within any area into which the town has extended its extraterritorial jurisdiction pursuant to G.S. Ch. ~~160A~~ 160D, Art. 1912, whether or not the action of the town extending its jurisdiction into the extraterritorial area explicitly refers to the Minimum Housing Code. This chapter establishes minimum requirements for the initial and continued occupancy of all dwellings and does not replace or modify requirements otherwise established for the construction, repair, alteration or use of buildings, equipment or facilities, except as provided in this chapter.

(C) The State Building Code and all current volumes and amendments shall govern all repairs, alterations and/or additions to any existing structure.

§ 151.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words used in the present tense include the future; words in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular. Where terms are not defined in this section, they shall have their ordinarily accepted meanings or such as the context may imply.

ACCESSIBLE, READILY. Capable of being reached quickly for operation, renewal or inspections, without requiring those to whom ready access is requisite to climb over or remove obstacles or to resort to portable ladders, chairs and the like.

ADDITION. An extension or increase in floor or height of a building or structure.

AIR CONDITIONING. The treatment of air so as to control simultaneously its temperature, humidity, cleanness and distribution to meet the requirements of a conditioned space.

AIR GAP. An air gap in a water-supply system is the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture or other device and the flood-level rim of the receptacle.

ALLEY. Any public space or thoroughfare 20 feet or less in width which has been dedicated or deeded for public use.

ALTER or ALTERATION. Any change or modification in construction or occupancy.

AMPACITY. The current in amperes a conductor can carry continuously under the conditions of use without exceeding its temperature rating.

APARTMENT. A room, or suite of two or more rooms, in a residence building occupied as the home or residence of an individual, family or household.

APARTMENT HOUSE. Any building or portion thereof used as a multiple dwelling for the purpose of providing three or more separate dwelling units which may share means of egress and other essential facilities.

APPLIANCE. Utilization equipment, normally built in standardized sizes or types, which is installed or connected as a unit to perform one or more functions such as clothes washing or drying, food mixing, cooking and the like.

~~APPLICABLE GOVERNING BODY. A city, county, state, state agency or other political government subdivision or entity authorized to administer and enforce the provisions of this code, as adopted or amended.~~

APPROVED. Approved by the housing inspector ~~Building Official~~ or other authority having jurisdiction.

AREA BUILDING. The maximum horizontally projected area of the building at or above grade, exclusive of court and vent shafts.

AREA (GROSS FLOOR). The area within the inside perimeter of the exterior walls with no deduction for corridors, stairs, closets, thickness of walls, columns or other features, exclusive of court and vent shafts.

AREA (NET FLOOR). The area actually occupied not including accessory unoccupied area such as corridors, stairs, closets, thickness of walls, columns, toilet room, mechanical area or other features.

ATTIC. The space between the ceiling beams of the top habitable story and the roof rafters.

ATTIC STORY. Any story situated wholly or partly in the roof, so designated, arranged or built as to be used for business, storage or habitation.

AUTOMATIC. Self-acting, operation by its own mechanism when actuated by some impersonal influence, as for example, a change in current strength, pressure, temperature or mechanical configuration. (See NON-AUTOMATIC.)

BACKFLOW. The flow of water or the liquids, mixtures or substances into the distributing pipes of a potable supply of water from any source or sources other than its intended source.

Commented [AM1]: Unnecessary: not used elsewhere specifically referenced as the "town" where mentioned.

BACKFLOW PREVENTER. A device or means to prevent backflow into the potable water system.

BALCONY (EXTERIOR). A platform that projects from the wall of a building or structure and is enclosed by a parapet or railing no less than 42 inches in height.

BASEMENT. A story of a building or structure having one-half or more of its clear height below grade. Also see STORY. A BASEMENT used as habitable space shall be considered a story.

BEAM. A primary structural member supporting secondary structural members, floor, roof, joists and the like.

BOILER. A heating appliance intended to supply hot water or steam.

BONDING. The permanent joining of metallic parts to form an electrically conductive path which will assure electrical continuity and the capacity to conduct safely any current likely to be imposed.

BRANCH CIRCUIT. The circuit conductors between the final overcurrent device protecting the circuit and the outlet(s).

BRICK. A solid masonry unit having a shape approximately a rectangular prism, usually not larger than 12 inches by four inches by four inches. A BRICK may be made of burned clay or shale, of fire clay or mixtures thereof, of lime and sand, of cement and suitable aggregates or of other approved materials.

BUILDING. Any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind which has enclosing walls for 50% of its perimeter. The term BUILDING shall be construed as if followed by the words “or part thereof”. (For the purpose of this chapter, each portion of a building separated from other portions by a fire wall shall be considered as a separate BUILDING.) For the purpose of area and height limitations, this definition shall be applicable to sheds and open sheds.

BUILDING DRAIN. The part of the lowest piping of a drainage system which receives the discharge from soil waste, and other drainage pipes inside the walls of the building connecting with the main soil stack or vent stack which shall be located at the group or battery of fixtures where the greatest fixture unit load occurs, and conveys it to the building (house) sewer beginning ten feet outside the building wall. A cleanout shall be installed at that point and extended to finish grade.

BUILDING LINE. The line, established by law, beyond which a building shall not extend, except as specifically provided by law.

BUILDING OFFICIAL. See HOUSING INSPECTOR.

BUILDING SEWER. The part of the horizontal piping of a drainage system which extends from the end of the building drain and which receives the discharge of the building drain and conveys it to a public sewer, private sewer or individual sewage-disposal system.

CELLAR. The portion of a building, the ceiling of which is entirely below grade or less than four feet six inches above grade. (See STORY.)

CERTIFICATE OF OCCUPANCY/COMPLIANCE. A document issued by the ~~Housing Inspector~~ housing inspector certifying compliance with all applicable state and local laws, including all terms of an approved zoning permit, and authorizing occupancy of a building or structure.

CHIMNEY. One or more passageways, vertical or nearly so, for conveying flue gases to the outside atmosphere.

Commented [AM2]: For consistency, “housing inspect used throughout and replaces varying references to Housi Inspector, Inspector, Building Official, and Public Officer in current version of the ordinance.

CHIMNEY CONNECTOR. The pipe which connects a fuel burning appliance to a chimney.

CIRCUIT BREAKER. A device designed to open and close a circuit by non-automatic means and to open the circuit automatically on a predetermined overcurrent without injury to itself when properly applied within its rating.

CODE OFFICIAL. A person qualified under Article 9C of Chapter 9C of the General Statutes to engage in code enforcement. See G.S. § 143-151.8(a)(5).

COMBUSTIBLE MATERIAL. A material which cannot be classified as non-combustible or limited-combustible in accordance with that definition.

COMMON-PROPERTY LINE. A line dividing one lot from another when the lots are not of one ownership.

CONCRETE. A mixture of portland cement, fine aggregate, coarse aggregate and water.

CONDOMINIUM DWELLING UNIT. For the purpose of this chapter, is an “apartment”, as defined in this chapter.

CONDUCTOR, BARE. A conductor having no covering or electrical insulation whatsoever.

CONDUCTOR, COVERED. A conductor encased within material of composition or thickness that is not recognized by the National Electrical Code as electrical insulation.

CONDUCTOR, INSULATED. A conductor encased within material of composition and thickness that is recognized by the National Electrical Code as electrical insulation.

CROSS-CONNECTION. Any physical connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other water of unknown or questionable safety, whereby water may flow from one system to the other, the direction of flow depending on the pressure differential between the two systems.

DECK. A raised platform extending from an exterior building wall and supported by piers, columns, pilings or foundation.

DETERIORATED. A dwelling is unfit for human habitation and can be repaired, altered or improved to comply with all the minimum standards established by this chapter, at a cost not in excess of 50% of its value, as determined by findings of the ~~Inspector~~housing inspector.

DILAPIDATED. A dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all the minimum standards established by this chapter, at a cost not in excess of 50% of its value, as determined by findings of the ~~Inspector~~housing inspector.

DISCONNECTING MEANS. A device, or group of devices, or other means by which the conductors of a circuit can be disconnected from their source of supply.

DRAIN. Any pipe which carries waste water or water-borne wastes in a building drainage system.

DUCT SYSTEM. A continuous passageway for the transmission of air which, in addition to ducts, may include duct fittings, dampers, plenums, fans and accessory air handling equipment that may be part of the building construction.

DWELLING. Any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used (whether occupied or vacant), and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any manufactured home or mobile home which is used solely for a seasonal vacation purpose. Temporary family health care structures, as defined in G.S.

~~160A-160D-383.5915~~, shall be considered dwellings, provided that any minimum square footage requirements shall not apply to such structures. temporary housing, as hereinafter defined, shall

not be regarded as a dwelling. “Dwelling” shall be understood to include any and all types of dwellings and dwelling units (defined below) and combinations thereof unless the context specifically indicates otherwise.

DWELLING, SINGLE-FAMILY. A detached dwelling consisting of a single dwelling unit only.

DWELLING, TWO-FAMILY. A dwelling or combination of dwellings on a single lot consisting of two dwelling units.

DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living facilities for one or more persons; including permanent provisions for living, sleeping, eating, cooking and sanitation.

ENGINEER. Within the meaning of this chapter, shall be deemed to be a duly registered and licensed engineer.

EXTERMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food, by poisoning, spraying, fumigating, trapping or by other recognized and legal pest elimination methods approved by the ~~Inspector~~ [housing inspector](#).

FAMILY. One or more persons living together, whether related to each other by birth or not, and having common housekeeping facilities.

FIRE PARTITION. A partition of construction which subdivides a building to restrict the spread of fire or to provide areas of refuge, but is not necessarily continuous through all stories nor extended through the roof and which has a fire-resistance rating as required by the State Building Code.

FIREPLACE. A hearth, fire chamber or similarly prepared place and a chimney.

(1) FACTORY-BUILT FIREPLACES. A fireplace composed of listed factory-built components assembled in accordance with the terms of their listing and form the completed fireplace.

(2) MASONRY FIREPLACE. A hearth and fire chamber of solid masonry units such as bricks, stones, listed masonry units or reinforced concrete, provided with a suitable chimney.

FIREPLACE STOVE. A chimney-connected, solid fuel-burning stove having part of its fire chamber open to the room.

FIRE-RESISTANCE RATING. The time in hours that the material or construction will withstand the standard fire exposure as determined by a fire test made in conformity with the Methods of Fire Tests of Building Construction and Materials, ASTM E119.

FIRE WALL. A fire resistive wall, having protected openings, which restricts the spread of fire and extends continuously from the foundation to or through the roof.

FIXTURE UNIT. A quantity in terms of which the load-producing effects on a plumbing system of different kinds of plumbing fixtures are expressed on some arbitrarily chosen scale.

FLAME SPREAD. The propagation of flame over a surface.

FLAME SPREAD RATING. The numerical value assigned to a material tested in accordance with Method of Test for Surface Burning Characteristics of Building Materials, ASTM E84.

FLOOD-LEVEL RIM. The top edge of the receptacle from which water overflows.

FLOODED. A fixture is flooded when the liquid therein rises to the flood-level rim.

FLOOR AREA. The total area of all habitable rooms in a building or structure.

FRONT OF LOT. The front boundary line of a lot bordering on the street; and, in the case of a corner lot, may be either frontage.

FURNACE, CENTRAL, WARM-AIR. A self-contained appliance designed to supply heated air through ducts to spaces remote from or adjacent to the appliance location.

(1) **FORCED-AIR TYPE.** A central furnace equipped with a fan or blower which provides the primary means for circulation of air.

(2) **GRAVITY TYPE.** A central furnace depending primarily on circulation of air by gravity.

FUSE. A safety device for protecting electrical apparatus against the effect of excess current or to prevent overloading a circuit. It consists of a short length of conducting metal which melts at a certain heat and thereby breaks when an excess current flows through it. Most FUSES cannot be reused if burned out (blown). Some are renewable, however.

GARAGE. A building or structure or a portion thereof, in which a motor vehicle containing a flammable fluid in its fuel storage tank is stored, housed, kept, repaired or serviced.

GARBAGE. The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

GRADE. A reference plane representing the average of finished ground level adjoining the building at all exterior walls. With reference to lumber, means the division of sawn lumber into quality classes with respect to its physical and mechanical properties as defined in published lumber manufacturers standard grading rules.

GROUND. A conduction connection, whether intentional or accidental, between an electrical circuit or equipment and the earth, or to some conducting body that serves in place of the earth.

GROUND-FAULT CIRCUIT-INTERRUPTER. A device intended for the protection of personnel that functions to de-energize a circuit or portion thereof within an established period of time when a current to ground exceeds some predetermined value that is less than that required to operate the overcurrent protective device of the supply circuit.

GROUNDING. Connected to earth or to some conducting body that serves in place of the earth.

GROUNDING CONDUCTOR. A system or circuit conductor that is intentionally grounded.

GROUNDING CONDUCTOR. A conductor used to connect equipment or the grounded circuit of a wiring system to a grounding electrode or electrodes.

HABITABLE ROOM. A room occupied by one or more persons for living, eating or sleeping; and includes kitchens serving apartments or individual households, but does not include bathrooms, toilet compartments, laundries, serving and storage pantries, corridors, basement and other spaces that are not used frequently or during extended periods.

HEIGHT. As applied to a building, the vertical distance from average grade to the highest finished roof surface in the case of flat roofs or to a point at the average height of pitched roofs; **HEIGHT** of building in stories.

HEREAFTER. After the time that this code becomes effective.

HORIZONTAL SEPARATION. A permanent open space between the building wall under consideration and the lot line or the center line of a facing street, alley or public way. Where two or more buildings are on a lot, the **HORIZONTAL SEPARATION** of the wall under consideration shall be measured from an imaginary line drawn at a distance from the facing wall equal to the **HORIZONTAL SEPARATION** required for that wall. This definition is for the purpose of this code only and in no way implies relief from the town's Zoning Ordinance.

HOUSING INSPECTOR. The officer ~~or officers or other designated authority~~ charged with the administration and enforcement of this chapter and the authority granted by G.S. § 160D-1202(4), referenced as the “public officer” in Article 12 of Chapter 160D, or his or her such officer’s duly authorized representative, ~~(sometimes, “Inspector”).~~

IDENTIFIED. As applied to equipment, recognizable as suitable for the specific purpose, function, use environment, application and the like, where described in a particular code requirement.

INCOMBUSTIBLE MATERIAL. Synonymous with NON-COMBUSTIBLE MATERIAL.

INFESTATION. The presence, within or around a dwelling, of any insects, rodents or other pests in numbers as to constitute a menace to the health, safety or welfare of the occupants or to the public.

~~INSPECTION DEPARTMENT. Refer to BUILDING OFFICIAL.~~

~~INSPECTOR. Refer to HOUSING INSPECTOR.~~

LABELED. Equipment or materials to which has been attached a label, symbol, or other identifying mark of an organization acceptable to the authority having jurisdiction and concerned with product evaluation, that maintains periodic inspection of production of LABELED equipment or materials and by whose labeling the manufacturer indicates compliance with appropriate standards or performance in a specified manner.

LINTEL. The beam or girder placed over an opening in a wall which supports the wall construction above.

LISTED. Equipment or materials included in a list published by a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of production of LISTED equipment or materials, and whose listing states either that the equipment or materials meet nationally recognized standards or have been tested and found suitable for use in a specified manner. The means for identifying LISTED equipment may vary for each testing laboratory, inspection agency or other organization concerned with product evaluation, some of which do not recognize equipment as LISTED unless it is also labeled. The authority having jurisdiction should utilize the system employed by the listing organization to identify a listed product. (Note: Refer to G.S. §§ 66-23 through 66-27, entitled Electrical Materials, Devices, Appliances and Equipment.)

LOAD, DEAD. The weight of all permanent construction including walls, floors, roofs, partitions, stairways and of fixed service equipment.

LOAD, LIVE. The weight superimposed by the use and occupancy of the building, not including the wind load, earthquake load or dead load.

LOT. A parcel of land considered as a unit.

LOT LINE. A line dividing one lot from another, or from a street or other public space.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers and similar transportable structures placed on site for 180 consecutive days or longer and intended to be improved property.

MASONRY. The form of construction, composed of stone, brick concrete, gypsum, hollow clay tile, concrete block or tile or other similar building units or materials or a combination of these materials laid up unit by unit and set in mortar. For the purpose of this chapter, plain monolithic concrete shall be considered as MASONRY.

Commented [AM3]: Unnecessary as only one term, “inspector” is used in this version.

Commented [AM4]: Ditto as to prior note.

(1) **HOLLOW MASONRY UNIT.** A masonry unit whose net cross-sectional area in any plane parallel to the bearing surface is less than 75% of its gross cross-sectional area measured in the same plane.

(2) **MASONRY OF HOLLOW UNIT.** Masonry consisting wholly or in part of hollow masonry units laid contiguously in mortar.

(3) **REINFORCED MASONRY.** Unit masonry in which reinforcement is imbedded in such a manner that the two materials act together in resisting forces.

(4) **SOLID MASONRY.** Masonry consisting of solid masonry units laid contiguously in mortar, or consisting of plain concrete.

(5) **SOLID MASONRY UNIT.** A masonry unit whose net cross-sectional area in every plane parallel to the bearing surface is 75% or more of its gross cross-sectional area measured in the same plane.

MOBILE HOME. A single portable manufactured housing unit, or a combination of two or more units connected on-site, that is designed to be used for living, sleeping, sanitation, cooking and eating purposes by one family only and containing independent kitchen and sleeping facilities; designed so that each housing unit can be transported on its own chassis; placed on a temporary or semi-permanent foundation; and is over 32 feet in length and over eight feet in width.

MODULAR UNIT. A factory-fabricated transportable building designed to be used by itself or to be incorporated with similar units at a building site into a modular structure. The term is intended to apply to major assemblies and does not include prefabricated panels, trusses, plumbing trees and other prefabricated sub-elements.

MULTI-FAMILY HOUSE. A building or portion thereof containing three or more dwelling units, including tenement house, apartment house or flat.

MULTIPLE DWELLING. The same meaning as APARTMENT HOUSE.

MUNICIPALITY. The governmental unit which has adopted this chapter under due legislative authority.

NON-AUTOMATIC. Action requiring personal intervention for its control. (See AUTOMATIC.)

NON-COMBUSTIBLE. As applied to a building construction material means a material which, in the form in which it is used, falls in one of the following groups in divisions (1) through (4) below. No material shall be classed as NON-COMBUSTIBLE which is subject to increase in combustibility or flame spread rating beyond the limits herein established, through the effects of age, moisture or other atmospheric conditions, as for example, various types of treated wood. Flame spread rating, as used herein, refers to rating obtained according to the method for fire hazard classification of Underwriters Laboratories, Inc. For data on the ratings, see Underwriters Laboratories Fire Protection Equipment List under the heading Building Materials Hazard Classification (Fire) (40 U8).

(1) Materials no part of which will ignite and burn when subjected to fire.

Examples: asbestos fiber, brick, clay tile, concrete, glass, gypsum, iron, portland cement, slate, steel, stone.

(2) Materials having a structural base of non-combustible material, as defined in division (1) above, with a surface not over one-eighths-inch thick which has a flame spread rating not higher than 50. Examples: certain types of protected steel sheets, gypsum wall board.

(3) Materials made up of non-combustible materials as defined in division (1) above, together with combustible components in a form that cross-sections of the material in any plane present a similar composition, and having a surface flame spread rating not higher than 25 without evidence of continued progressive combustion. Examples: certain insulation materials as, blocks of cellular glass, boards of glass fiber, slabs of wood excelsior impregnated with portland cement.

(4) Materials, other than as described in division (2) above, made up of layers with no layer having a surface flame spread rating higher than 25 without evidence of continued progressive combustion. Examples: certain sandwich-type materials.

OCCUPANCY. The purpose for which a building, or part thereof, is used or intended to be used.

OCCUPANT. Any person over one year of age, living, sleeping, cooking or eating in, or having actual possession of a dwelling unit or rooming unit.

OCCUPIED. As applied to a building, shall be construed as though followed by the words “or intended, arranged or designed to be occupied”.

OPENABLE AREA. The part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

OPERATOR. Any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

OUTLET. A point on the wiring system at which current is taken to supply utilization equipment.

OVERCURRENT. Any current in excess of the rated current of equipment or the ampacity of a conductor.

OVERLOAD. Operation of equipment in excess of normal, full-load rating, or of a conductor in excess of rated ampacity which, when it persists for a sufficient length of time, would cause damage or dangerous overheating. A fault, such as a short circuit or ground fault, is not an OVERLOAD. (See OVERCURRENT.)

OWNER. ~~Any person, agent, firm or corporation having a legal or equitable interest in the property, including~~ The holder of the title in fee simple and every mortgagee of record.

PARTIES IN INTEREST. All individuals, associations and corporations who have interests of record in a dwelling ~~or and~~ any who are in possession thereof; ~~or shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any person thus representing the actual owner shall be bound to comply with the provisions of this chapter, and of rules and regulations adopted pursuant thereto, to the same extent as if he or she were the owner.~~

PARTITION. An interior wall, other than folding or portable, that subdivides spaces within any story, attic or basement of a building.

PERMIT. An official document or certificate issued by the authority having jurisdiction authorizing performance of a specified activity.

PERSON. A natural person, his or her heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

PIPING. Refers to either pipe or tubing, or both.

Commented [AM5]: This definition tracks that of §16C and sets forth the persons required to be noticed of violat state law. The town should not increase upon itself the le burden of providing notice beyond the requirements of st

Commented [AM6]: Ditto as to prior comment, and unnecessary under law. The first clause covers all owners possibilities and impliedly subsumes this second clause.

(1) PIPE. Refers to a rigid conduit of iron, steel, copper, brass, aluminum or semi-rigid polybutylene.

(2) TUBING. Refers to semi-rigid conduit of copper, steel, aluminum or polybutylene.

PLENUM. An air compartment.

PLUMBING. The practice, materials and fixtures used in the installation, maintenance, extension, and alteration of all piping, fixtures, appliances and appurtenances in connection with any of the following: sanitary drainage or storm drainage facilities, the venting system and the public or private water-supply systems, within or adjacent to any building, structure or conveyance; also the practice and materials used in the installation, maintenance, extension or alteration of storm water, liquid waste or sewage, and water-supply systems of any premises to their connection with any point of public disposal or other acceptable terminal.

PLUMBING FIXTURES. Installed receptacles, devices or appliances which are supplied with water or which receive or discharge liquids or liquid-borne wastes, with or without discharge into the drainage system with which they may be directly or indirectly connected.

PLUMBING SYSTEM. Includes the water-supply and distribution pipes; plumbing fixtures and traps; soil, wastes and vent pipes; building drains and building sewers, including their respective connections, devices and appurtenances within the property lines of the premises; and water-treating or water-using equipment.

POTABLE WATER. Water which is satisfactory for drinking, culinary and domestic purposes, and meets the requirements of the Health Authority having jurisdiction.

PREMISES.

(1) A lot, plot or parcel of land including the buildings or structures thereon; and

(2) A structure or part of a structure used as a unit for residential or commercial purposes.

PRIVATE SEWER. A sewer directly controlled by public authority.

PUBLIC AREAS. An unoccupied open space adjoining a building and on the same property that is permanently maintained accessible to the Fire Department and free of all encumbrances that might interfere with its use by the Fire Department.

PUBLIC SEWER. A common sewer directly controlled by public authority.

RAIL (GUARD). A bar extending from one post or support to another and serving as a guard or barrier.

RAIL (HAND). A narrow rail for grasping with the hand as a support.

READILY ACCESSIBLE. See ACCESSIBLE, READILY.

RECEPTACLE. A contact device installed at the outlet for the connection of a single attachment plug.

RECEPTACLE OUTLET. An outlet where one or more receptacles are installed.

REPAIR. The reconstruction or renewal of any part of an existing building for the purpose of its maintenance.

REQUIRED. Required by some provision of this chapter.

RESIDENTIAL OCCUPANCY. Buildings in which families or households live or in which sleeping accommodations are provided. The buildings include, among others, the following: dwellings, multiple dwellings and lodging houses, and all dormitories.

ROOF. The roof slab deck with its supporting members.

ROOF STRUCTURE. An enclosed structure on or above the roof of any part of a building.

ROOFING. The covering applied to the roof for weather resistance, fire resistance or appearance.

ROOMING HOUSE. Any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the family of the owner or operator.

ROOMING UNIT. A room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

RUBBISH. Combustible and non-combustible waste materials except garbage, and the term shall include ashes, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust.

SANITARY SEWER. A pipe which carries sewage and excludes storm, surface and ground water.

SELF-CLOSING. As applied to a fire door or other opening, means normally closed and equipped with an approved device which will ensure closing after having been opened for use.

SEPTIC TANK. A watertight receptacle which receives the discharge of a drainage system or part thereof, and is designed and constructed so as to separate solids from the liquid, digest organic matter through a period of detention, and allow the liquids to discharge into the soil outside of the tank through a system of one-joint or perforated piping, or disposal pit. For additional information see State Division of Health Services Bulletin 519 for tanks of 3,000 gallons' capacity or less. Above 3,000 gallons' capacity refer to State Department of Water and Air Resources guidelines.

SERVICE. The conductors and equipment for delivering energy from the electricity supply system to the wiring system of the premises served.

SERVICE CABLE. Service conductors made up in the form of a cable.

SERVICE CONDUCTORS. The supply conductors that extend from the street main or from transformers to the service equipment of the premises supplied.

SERVICE DROP. The overhead service conductors from the last pole or other aerial support to and including the splices, if any, connect to the service-entrance conductors at the building or other structure.

SERVICE EQUIPMENT. The necessary equipment, usually consisting of a circuit breaker or switch and fuses, and their accessories, located near the point of entrance of supply conductors to a building or other structure, or an otherwise defined area, and intended to constitute the main control and means of cutoff of the supply.

SEWAGE. Any liquid waste containing animal or vegetable matter in suspension or solution, and may include liquids containing chemicals in solution.

SHAFT. A vertical opening extending through one or more stories of a building, of elevators, dumbwaiter, light, ventilation or similar purpose.

SHALL. The act referred to is mandatory.

SMOKE DETECTOR. An approved listed detector sensing either visible or invisible particles or combustion.

SPRINKLERED. Equipped with an approved automatic sprinkler system properly maintained.

STAIRWAY. One or more flights of stairs and the necessary landings and platforms connecting them, to form a continuous and uninterrupted passage from one story to another in a building or structure.

STORY. The portion of a building included between the upper surface of a floor and upper surface of the floor or roof next above. The basement of a building shall be considered a STORY if it is used for purposes other than storage or heating.

STREET. Any public thoroughfare (street, avenue, boulevard, park) or space, more than 20 feet in which has been dedicated or deeded to the public for public use.

STRUCTURE. That which is built or constructed.

SUPPLIED. Paid for, furnished or provided by, or under control of the owner or operator.

SUPPORTS. Supports, hangers and anchors are devices for supporting and securing pipe and fixtures to walls, ceilings, floors or structural members.

TEMPORARY HOUSING. Any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utilities system on the same premises for more than 30 consecutive days.

THERMOSTAT. An automatic control actuated by temperature change to maintain temperatures between predetermined limits.

TOWNHOUSE. A single-family dwelling unit constructed in a series or group of attached units with property lines separating the units.

UNFIT FOR HUMAN HABITATION. ~~As Defined defined by at § 151.157 herein and G.S. § 160A-160D-441-1201(a).~~

UNSAFE ABANDONED STRUCTURE. An abandoned structure that the Town Council has found, pursuant to the authority granted at G.S. §160D-1201(b), to be a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities

UTILIZATION EQUIPMENT. Equipment which utilizes electric energy for mechanical, chemical, heating, lighting or similar purposes.

VALUATION OR VALUE. As applied to a building, means the estimated cost to replace the building in kind.

VENEER. A facing attached to a wall for the purpose of providing ornamentation, protection or insulation, but not counted as adding strength to the wall.

VENT PIPE. Vent system.

VENT SYSTEM. A pipe or pipes installed to provide a flow of air to or from a drainage system or to provide a circulation of air within the system to protect trap seals from siphonage and back pressure.

VENTILATED. Provided with a means to permit circulation of air sufficient to remove an excess of heat, fumes or vapors.

VENTILATION. The process of supplying and removing air by natural or mechanical means to or from any space.

VERTICAL OPENING. An opening through a floor or roof.

VOLTAGE, NOMINAL. A nominal value assigned to a circuit or system for the purpose of conveniently designating its voltage class (as 120/240, 480y/277, 600 and the like).

VOLTAGE TO GROUND. For grounded circuits, the voltage between the given conductor and that point or conductor of the circuit that is grounded; for ungrounded circuits, the greatest voltage between the given conductor and any other conductor of the circuit.

WALL, BEARING. A wall supporting any vertical load in addition to its own weight.

WALL, CAVITY. A wall built of masonry units or of plain concrete, or a combination of these materials, so arranged as to provide an air space within the wall, and in which the inner and outer parts of the wall are tied together with metal ties.

WALL, CURTAIN. A non-bearing wall between columns or piers and which is not supported by girders or beams, but is supported on the ground.

WALL, FACED. A wall in which the masonry facing and backing are so bonded as to exert common action under load.

WALL, EXTERIOR. A wall, bearing or non-bearing, which is used as an enclosing wall for a building, but which is not necessarily suitable for use as a party wall or fire wall.

WALL, FOUNDATION. A wall below the first floor extending below in the adjacent ground level and serving as support for a wall, pier, column or other structural part of a building.

WALL OF MASONRY, HOLLOW. A wall built of masonry units so arranged as to provide an air space within the wall, and in which the inner and outer parts of the walls are bonded together with masonry units or steel.

WALL, NON-BEARING. A wall which supports no load other than its own weight.

WALL, PANEL. A non-bearing wall in skeleton or framed construction, built between columns or piers and wholly supported at each story.

WALL, PARAPET. The part of any wall entirely above the roof line.

WALL, PARTY. A wall on an interior lot line, used or adapted for joint service between two buildings.

WALL, RETAINING. A wall designed to prevent the lateral displacement of soil or other material.

WALL, VENEERED. A wall having a facing which is not attached and bonded to the backing so as to form an integral part of the wall for purposes of load bearing and stability.

WASTE PIPE. A pipe which conveys only liquid waste, free of fecal matter.

WATER-DISTRIBUTING PIPE. In a building or premises, a pipe which conveys water from the water-service pipe to the plumbing fixtures and other water outlets.

WATER HEATER. An appliance for supplying hot water for domestic or commercial purposes. It may be used for space heating if the water temperature does not exceed 150°F.

WATER MAIN. The water (street) main is a water-supply pipe for public or community use.

WEATHERPROOF. So constructed or protected that exposure to the weather will not interfere with successful operation.

WOOD FRAME CONSTRUCTION. Construction in which the exterior bearing and non-bearing walls and partitions, floors and roofs and their supports are wholly or partly of wood or other approved materials. WOOD FRAME CONSTRUCTION may be either protected or unprotected.

WRITING. Includes printing and typewriting.

WRITTEN NOTICE. A notification in writing delivered in person to the individual or parties intended, or delivered at or sent by certified or registered mail to the last residential or business address of legal record.

YARD. An unoccupied open space other than a court.

ZONING ORDINANCE. A term applied to a town ordinance that divides the town into districts which may have different types of regulations that pertain to the use of land and type occupancies allowed in a particular area.

§ 151.04 CONFLICT WITH OTHER PROVISIONS.

In any case where a provision of this chapter is found to be in conflict with a provision of any zoning, building, fire, safety or health provisions of this code of ordinances or ordinances or codes of the town, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.

§ 151.05 ALTERNATE REMEDIES.

Nothing herein contained shall be construed to impair or limit, in any way, the town's power ~~of the municipality~~ to define and declare nuisances and to cause their abatement by summary action or otherwise, nor shall enforcement of any remedy provided herein prevent the enforcement of the other remedies provided herein.

REQUIREMENTS AND STANDARDS FOR STRUCTURES

§ 151.15 DWELLINGS UNFIT FOR HUMAN HABITATION.

(A) The ~~Housing Inspector~~housing inspector shall determine that a dwelling is unfit for human habitation if he or she finds ~~that~~ any of the following conditions:

(1) Interior load-bearing members or non-load-bearing members which seriously list, lean or buckle and/or in the opinion of the ~~Housing Inspector~~housing inspector show damage or deterioration to an extent as to render the building unsafe;

(2) External load-bearing members or non-load bearing members which seriously list, lean or buckle/or in the opinion of the ~~Housing Inspector~~housing inspector show damage or deterioration to an extent as to render the building unsafe;

(3) Floors or roofs which have improperly distributed loads, which are overloaded, or which have insufficient strength to be reasonably safe for the purpose used;

(4) Damage by fire, wind or other causes as to render the building unsafe;

(5) Dilapidation, decay, unsanitary conditions or disrepair which is dangerous to the health, safety or welfare of the occupants or other people in the town;

(6) Inadequate facilities for egress in case of fire of panic;

(7) Defects significantly increasing the hazards of fire, accidents or other calamities;

(8) Lack of adequate ventilation, light, heating or sanitary facilities to an extent as to endanger the health, safety or general welfare of the occupants or other residents of the town; and/or

(9) Lack of proper electrical, heating or plumbing facilities required by this code which constitutes a health or a definite safety hazard.

(B) Irrespective of the above, a ~~residential occupancy-dwelling~~ unit shall be construed by the ~~Inspector~~housing inspector to be unfit for human habitation, and he or she shall so find if the ~~occupancy-dwelling~~ unit contains more than seven separate types of violations of any of the minimum standards set forth in this code.

§ 151.16 UNFIT DWELLINGS AND UNSAFE ABANDONED STRUCTURES.

Unfit buildings, as defined in § 151.15 of this chapter and G.S. § ~~160A-160D-441-1201(a)~~, and unsafe abandoned buildings as defined in § 151.01 of this chapter and G.S. § ~~160A-160D-441-1201(b)~~, shall be repaired, removed, renovated or demolished as provided therein.

§ 151.17 GENERAL REQUIREMENTS FOR THE EXTERIOR AND INTERIOR OF STRUCTURES.

No person shall occupy, as owner-occupant, or let or sublet or offer to let or sublet to another for occupancy any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking or eating therein, which does not comply with the following requirements.

(A) Foundation. The building foundation walls, piers or other elements shall be maintained in a safe manner and capable of supporting the load which normal use may cause to be placed thereon.

(B) Exterior walls. The exterior walls shall be substantially weather-tight and shall be made impervious to the adverse effects of weather and be maintained in sound condition and good repair.

(C) Roofs. Roofs shall be maintained in a safe manner and have no defects which might admit rain or cause dampness in the walls or interior portion of the building.

(D) Means of egress. Every dwelling unit shall have two safe, unobstructed means of egress with minimum ceiling height of seven feet (84 inches) leading to a safe and open space at ground level. Exceptions: only one exit may be required if an exception is specifically addressed in the State Building Code and all the requirements and terms of that section are met. (This exception is not applicable if in the opinion of the ~~Building Official~~ housing inspector unusually hazardous conditions exist and additional means of egress facilities are required when necessary to assure the safety of the occupants.)

(E) Stairs. Every inside and outside stair shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair.

(F) Porches and appurtenances. Every outside porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon and shall be kept in sound condition and good repair.

(G) Windows and doors. Every window, exterior door and basement or cellar door and hatchway shall be substantially weather-tight, water-tight and rodent-proof and shall be kept in sound working condition and good repair.

(H) Windows to be glazed. Window panes or an approved substitute shall be maintained without cracks or holes which allow passage of air.

(I) Window sash. Window sash shall be properly fitted and weather-tight within the window frame.

(J) Hardware. Every exterior door shall be provided with proper hardware and maintained in good condition.

(K) Door frames. Every exterior door shall fit reasonably well within its frame so as to substantially exclude rain and wind from entering the dwelling building.

(L) Screens. Every window or other device with opening to outdoor space, used or intended to be used for ventilation, shall have screens, tight fitting, free of holes and not nailed to window or sash, except as follows: Exception: dwellings containing central heating furnaces and adequate

cooling equipment for mechanically ventilating the building year round are not required to have screens on window openings.

(M) Accessory structures. Garages, storage buildings and other accessory structures shall be maintained and kept in good repair and sound structural condition.

(N) Interior floors, walls and partitions. Every floor, wall or partition shall be substantially rodent- proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

(O) Ceilings. Every interior ceiling shall be substantially rodent-proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

(P) Structural supports. Every structural element of the dwelling shall be structurally sound and show no evidence of deterioration which would render it incapable of carrying loads which normal use may cause to be placed thereon.

(Q) Protective railings. Protective railings shall be required on any unenclosed structure over 36 inches above adjacent finish grade or on any steps containing four risers or more. Interior stairs and stairwells more than four risers high shall have handrails located in accordance with requirements of the Building Code. Handrails or protective railings shall be capable of bearing normally imposed loads and be maintained in good condition.

§ 151.18 MINIMUM SPACE AND USE REQUIREMENTS.

(A) Required space in dwelling unit. Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor area per each additional occupant.

(B) Required space in sleeping rooms. In every dwelling unit of two or more rooms, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each occupant thereof.

(C) Minimum ceiling height. At least one-half of the floor area of every habitable room, foyer, hall or corridor shall have a ceiling height of at least seven feet; and the floor area of that part of any room where the ceiling height is less than seven feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.

(D) Occupancy of dwelling unit below grade. No basement or cellar space shall be used as a habitable room or dwelling unit unless meeting all specifications for habitable rooms.

§ 151.19 STRUCTURAL AND GENERAL STANDARDS TECHNICAL GUIDELINES. [The following standards shall constitute the minimum standards for structural condition of a dwelling or dwelling unit:](#)

(A) Foundation.

(1) Beneath the building firm ground, reasonably dry, no soggy ground, no water standing, no water running under building;

(2) Sound footing, adequate bearing;

(3) Sound piers, no loose mortar or building materials;

(4) There shall be no piers in which plumb line from top center falls outside middle one-third of pier base;

(5) There shall be no isolated solid masonry piers exceeding in height ten times least dimension of pier; and

(6) No wood stiff-knees or other improper piers.

(B) Exterior walls.

(1) There shall be no wall in which plumb line from top center of studs falls outside base plate at any point along wall;

(2) Studs shall be framed, anchored, tied, spaced and braced as per the current State Building Code and all current volumes and amendments, except ~~as follows~~ that the following may be acceptable in the sound discretion of the code official:-

(a) Studs ~~in an existing building that were~~ installed in a manner that complied with the adopted Building Codes and related laws at the time of installation and are in compliance with other sections of this code and ~~if, in the opinion of a code official, that qualifies with G.S. § 143-151.8(a)(5) that~~ appear to be structurally sound ~~shall be accepted by this code.~~

(b) Studs ~~in an existing or a new building~~ that are installed as per a design by a registered, licensed architect or ~~an engineer as defined by G.S. Ch. 83A and~~ that are in compliance with other sections of this code and any other applicable laws ~~shall be accepted by this code.~~

(c) Studs that are deemed structurally sufficient by the code official acting within the discretion granted to the code official under the applicable code and that are in compliance with other sections of this code and applicable laws ~~in an existing building that are approved by a code official that qualifies with G.S. § 143-151.8(a)(5) when in his or her sole discretion granted by § 2.6 of Volume 1A of the State Building Code and are in compliance with other sections of this code and applicable laws shall be accepted by this code.~~

(3) No studs shall be rotted, fire-damaged or termite-damaged;

(4) No broken or cracked structural members;

(5) All siding weather-tight with no holes, excessive cracks or rotted boards which permit air to penetrate rooms; and

(6) No loose siding.

(C) Roofs.

(1) No rafters rotted, broken, sagging or improperly supported ends. All eaves in proper structural condition;

(2) No rafters seriously fire damaged;

(3) Rafters shall be properly braced and tied four feet O.C. maximum when required;

(4) Attic properly ventilated;

(5) No rotted, loose, fire-damaged or sagging sheathing;

(6) No loose roof covering, no holes, no leaks causing damage to structure or rooms;

(7) There shall be a minimum of class C roof covering; and

(8) Proper flashing at walls or chimneys.

(D) Means of egress.

(1) The exits required by this division (D) must be at least 30 inches wide and six feet eight inches high, be easily accessible to the occupants of each dwelling unit. All doors in the egress way and discharge points shall be easily operable and remotely located;

Commented [AM7]: This and similar sections that follow simply revised for brevity and clarity. "Code official" is defined in the definitions section.

(2) Platforms, steps and/or handrails provided to serve exits and maintained in safe condition; and

(3) Safe, continuous and unobstructed exit from interior of building to the exterior at street or grade level.

(E) Stairs.

(1) Free of holes, grooves and cracks large enough to constitute accident hazards;

(2) Stairwells and flights of stairs more than four risers high shall have rails not less than 30 inches mounted vertically from the nose of the treads to the top of the rail;

(3) Every rail firmly fastened and maintained in good condition;

(4) No flight of stairs shall be steered more than one inch out of its intended position or pulled away from supporting or adjacent structures;

(5) Every stair tread shall be of uniform width and risers of uniform height in any single flight of stairs; and

(6) Stairs shall be sound, securely fastened in their intended position and capable of supporting the live and dead loads for which they are intended.

(F) Porches and appurtenances.

(1) Foundation, floor, ceiling and roof equal to standards as set forth except: sills and joists need not be level if providing drainage of floor; floors need not be level if providing for drainage; floors need not be weather-tight; ceiling height may be 70 and attic need not be vented; and

(2) Adequate posts and railings, not rotted, broken or termite-damaged.

(G) Interior floor.

(1) No rotted or termite-damaged sills;

(2) No broken, overloaded or sagging sill;

(3) Sills reasonably level;

(4) Sills properly and sufficiently supported;

(5) No rotted, fire-damaged or termite-damaged joists;

(6) No broken or sagging joists;

(7) Floor joist, shall be framed, anchored, tied, spaced and at the maximum span as per the current State Building Code and all current volumes and amendments, except that the following may be acceptable in the sound discretion of the code official: ~~as follows.~~

(a) Floor joists ~~in an existing building~~ that were installed in a manner that complied with the adopted Building Codes and related laws at the time of installation and ~~are in compliance~~ that comply with other

sections of this code and ~~if, in the opinion of a code official, that that qualifies with C.S. § 143-151.8(a)(5) appear to be structurally sound shall be accepted by this code.~~ In no case shall the maximum spans for floor joist exceed those given in the table below; providing, they show no signs of being weak or overloaded.

(b) Floor joists ~~in an existing or a new building~~ that are installed as per a design by a registered, licensed architect or ~~an engineer as defined by C.S. Ch. 83A and are in compliance~~ that comply with other sections of this chapter and any other applicable laws ~~shall be accepted by this chapter.~~

(c) Floor joists that are deemed structurally sufficient by the code official acting within the discretion granted to the code official under the applicable code and that are in compliance with other sections of this code and applicable laws ~~in an existing building that are approved by a code official that qualifies with G.S. § 143-151.8(a)(5) when in his or her sole discretion granted by § 2.6 of Volume 1-A of the State Building Code and are in compliance with other sections of this chapter and applicable laws shall be accepted by this code.~~

158 for 2 x 10 at 16 O.C.

131 for 2 x 10 at 24 O.C.

123 for 2 x 8 at 16 O.C.

103 for 2 x 8 at 24 O.C.

94 for 2 x 6 at 16 O.C.

79 for 2 x 6 at 24 O.C.

(8) No two-inch by four-inch floor joists shall be allowed;

(9) There shall be no joists or sills seriously damaged by fire;

(10) Flooring weather-tight without holes or excessive cracks which permit air to penetrate rooms;

(11) Flooring reasonably smooth, not rotten, fire-damaged or worn through;

(12) No loose flooring; and

(13) Floor reasonably level.

(H) Interior walls.

(1) Interior finish free of holes and excessive cracks which permit air to penetrate rooms;

(2) There shall be no walls in plumb lines from top center or studs fall outside base plate at any point along wall;

(3) No loose plaster, loose boards or other loose wall materials;

(4) No cardboard, newspaper or other highly combustible or unsafe wall finish;

(5) Studs shall be framed, anchored, tied, spaced and braced as per the current State Building Code and all current volumes and amendments, except that the following may be acceptable in the sound discretion of the code official:

(a) Studs installed in a manner that complied with the adopted Building Codes and related laws at the time of installation and are in compliance with other sections of this code and that appear to be structurally sound.

(b) Studs that are installed as per a design by a registered, licensed architect or engineer and that are in compliance with other sections of this code and any other applicable laws.

(c) Studs that are deemed structurally sufficient by the code official acting within the discretion granted to the code official under the applicable code and that are in compliance with other sections of this code and applicable laws.

~~except as follows:~~

~~— (a) Studs in an existing building that were installed in a manner that complied with the adopted Building Codes and related laws at the time of installations and are in compliance with other sections of this code and if, in the opinion of a code official that qualifies with G.S. § 143-151.8(a)(5), appear to be structurally sound shall be accepted by this chapter.~~

~~— (b) Studs in an existing or a new building that are installed as per a design by a registered, licensed architect or an engineer, as defined by G.S. Ch. 83A, and are in compliance with other sections of this chapter and any other applicable laws, shall be accepted by this chapter.~~

~~— (c) Studs in an existing building that are approved by a code official that qualifies with G.S. § 143-151.8(a)(5) when, in his or her sole discretion granted by § 2.6 of Volume 1-A of the State Building Code and are in compliance with other sections of this chapter and applicable laws, shall be accepted by this chapter.~~

(6) No studs shall be rotted or termite-damaged; and

(7) No broken or cracked studs or other structural members.

(I) Ceilings.

(1) No joists rotted, broken, sagging or improperly supported ends;

(2) Ceiling joists shall be framed, anchored, tied, spaced, braced and at the maximum span as per the current State Building Code and all current volumes and amendments, that the following may be acceptable in the sound discretion of the code official:

(a) Ceiling joists installed in a manner that complied with the adopted Building Codes and related laws at the time of installation and are in compliance with other sections of this code and that appear to be structurally sound.

(b) Ceiling joists that are installed as per a design by a registered, licensed architect or engineer and that are in compliance with other sections of this code and any other applicable laws.

(c) Ceiling joists that are deemed structurally sufficient by the code official acting within the discretion granted to the code official under the applicable code and that are in compliance with other sections of this code and applicable laws.

~~except as follows:~~

~~— (a) Ceiling joists in an existing building that were installed in a manner that complied with the adopted Building Codes and related laws at the time of installation and are in compliance with other sections of this chapter and if, in the opinion of a code official that qualifies with G.S. § 143-151.8(a)(5), appear to be structurally sound shall be accepted by this chapter.~~

~~— (b) Ceiling joists in an existing or a new building that are installed as per a design by a registered, licensed architect or an engineer as defined by G.S. Ch. 83A and are in compliance with other sections of this code and any other applicable laws shall be accepted by this code.~~

~~— (c) Ceiling joists in an existing building that are approved by a code official that qualifies with G.S. § 143-151.8(a)(5) when, in his or her sole discretion granted by § 2.6 of Volume 1-A of the~~

~~State Building Code and are in compliance with other sections of this code and applicable laws, shall be accepted by this code.~~

(3) There shall be no holes or excessive cracks which permit air to penetrate room;

(4) No loose plaster, boards, sheetrock or other ceiling finish;

(5) There shall be no ceiling joists seriously damaged by fire; and

(6) No cardboard or other highly combustible finishes.

(J) Occupancy of dwelling unit below grade.

(1) The floor and walls are impervious to leakage of underground and surface runoff water and are protected against dampness;

(2) The total of window area in each room is equal to at least the minimum window size as required by § 151.24 of this chapter;

(3) The required minimum window area is located entirely above the grade of the ground adjoining the window area; and

(4) The total of openable window area in each room is equal to at least the minimum required under § 151.24 of this chapter, except where there is supplied some other device affording adequate ventilation.

§ 151.20 COOKING EQUIPMENT.

All cooking equipment and facilities shall be installed in accordance with the appropriate ~~state Building~~ building, ~~g~~ Gas or ~~e~~ Electrical c Code and shall be maintained in a safe and good working condition.

§ 151.21 GARBAGE STORAGE OR DISPOSAL FACILITIES.

Every dwelling unit or multi-family dwelling shall be supplied with an approved garbage disposal unit (mechanical sink grinder) in each dwelling unit; or an incinerator unit, to be approved by the ~~Inspector~~ housing inspector, in the structure for the use of the occupants of each dwelling unit, or an approved outside garbage can as required by ~~chapter Ch.~~ chapter Ch. 91 of this code of ordinances.

§ 151.22 MINIMUM REQUIREMENTS FOR LIGHT AND VENTILATION.

(A) No person shall occupy as owner-occupant or let or sublet or offer to let or sublet to another for occupancy any dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking and eating therein, which does not comply with the following requirements. Every habitable room shall have a window or windows with a total glassed area of not less than eight square feet or 8% of the floor area, whichever is greater. Windows shall be so arranged that at least one-half of the glassed area is openable, unless the room is otherwise properly ventilated by mechanical means.

(B) Exception: in existing buildings that complied with the applicable codes and laws at the time of installation. The minimum size window allowed will be 16 inches by 32 inches. If, in the opinion of the ~~housing inspector~~ Building Official, the location of the window and other means of egress constitute a hazard this exception shall not apply.

§ 151.23 SANITATION REQUIREMENTS.

No persons shall occupy as owner-occupant or let or sublet or offer to let or sublet to another for occupancy any dwelling or dwelling unit nor shall any vacant dwelling be designed or intended to be used for the purpose of living, sleeping, cooking or eating therein, which does not comply with the following requirements.

(A) Sanitation. Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

(B) Cleanliness. Every owner or occupant of a dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he or she occupies or controls or ~~which~~ that is provided for his or her particular use.

(C) Garbage disposal. Every occupant of a dwelling or dwelling unit shall dispose of all his or her garbage and any other organic waste which might provide food for rodents and all rubbish in a clean and sanitary manner by placing it in the garbage disposal facilities or garbage or rubbish storage containers, as required by ~~Ch.~~chapter 91 of this code of ordinances.

(D) Extermination. Every occupant of a single dwelling and every owner of a building containing two or more dwelling units shall be responsible for the extermination of any insects, rodents or other pests within the building or premises.

(E) Use and operation of supplied plumbing fixtures. Every occupant of a dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

§ 151.24 ROOMING HOUSES.

No person shall operate a rooming house, or ~~shall~~ occupy or let or sublet or offer to let or sublet to another for occupancy any rooming unit in any rooming house, except in compliance with the provisions of every section of this chapter.

(A) License required. No person shall operate a rooming house unless he or she holds a valid rooming house license and a certificate of occupancy.

(B) Water closet, lavatory and bath facilities.

(1) At least one flush water closet, lavatory basin and bathtub or shower, properly connected to a water and sewer system and in good working condition, shall be supplied for each four rooms within a rooming house wherever the facilities are to be shared.

(2) All facilities shall be located on the floor they serve within the dwelling so as to be reasonably accessible from a common hall or passageway to all persons sharing the facilities.

(C) Water heater required. Every lavatory basin and bathtub or shower shall be supplied with hot water at all times.

(D) Minimum floor area for sleeping purposes. Every room occupied for sleeping purposes by one person shall contain at least 70 square feet of floor space and every room occupied for sleeping purposes by more than one person shall contain at least 50 additional square feet for each occupant thereof.

(E) Exit requirement. Every rooming unit shall have safe, unobstructed means of egress leading to safe and open space at ground level, as required by all applicable building codes.

(F) Sanitary conditions. The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for maintenance of a sanitary condition in every other part of the rooming house; and he or she shall be further responsible for the sanitary maintenance of the entire premises where the entire structure of building is leased or occupied by the operator.

(G) Other minimum requirements for safety. Rooming houses are to comply with the other minimum structural, plumbing, electrical, sanitation and heating standards in this code.

§ 151.25 SANITARY FACILITIES.

(A) Sanitary facilities required. Every dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, and a water closet, all in good working condition and properly connected to an approved water and sewer system. Every plumbing fixture and water and waste pipe shall

be properly installed and maintained in good sanitary working condition, free from defects, leaks and obstruction.

(B) Location of sanitary facilities. All required sanitary facilities shall be located within the dwelling unit and be accessible to the occupants of same. The water closet, tub or shower, and lavatory in at least one bathroom shall be located in a room affording privacy to the user and the rooms shall have minimum floor space of 30 square feet.

(C) Hot and cold water supply. Every dwelling unit shall have connected to the kitchen sink, lavatory and tub or shower an adequate supply of both cold and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.

§ 151.26 PLUMBING STANDARDS.

(A) Connection to the town sanitary sewer system where available; otherwise, an approved septic tank;

(B) All fixtures operable;

(C) No broken water closet bowls;

(D) Water closet not loose or leaking;

(E) No leaks in shower stall floor;

(F) No hopper or Vogel bowl toilets;

(G) Adequate facilities for furnishing hot water to each tub or shower, lavatory and kitchen sink;

(H) Installed water supply inside building for each dwelling unit;

(I) Installed water closet, tub or shower, lavatory and sink for each dwelling unit. Kitchen sink at least 12 inches by 16 inches by six inches deep;

(J) Separate toilet facilities for each dwelling unit;

(K) Toilet and bathing facilities protected from the weather;

(L) All water piping protected from freezing by proper installation in protected space;

(M) At least three inches minimum size main vent properly installed for each building.

Exception: when a less restrictive main vent size is approved by the State Plumbing Code, it shall also be approved by this chapter;

(N) Soil and water lines properly supported with no broken or leaking lines; and

(O) Every water closet compartment, floor surface and bathroom floor surface so constructed or finished as not to permit the entrance or passage of water.

§ 151.27 MINIMUM ELECTRICAL REQUIREMENTS; REQUIRED OUTLETS.

(A) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used and installed and connected to the source of electric power in accordance with the ~~state~~^{adopted} ~~Electrical~~ ~~Code of the town~~.

(B) Every dwelling shall be adequately and safely wired for electric lights and convenience receptacles. Every habitable room and hallway shall have provision for adequate lighting and other necessary electrical service.

(C) Every public hall and stairway in every multiple dwelling containing five or more dwelling units shall be adequately lighted at all times. Every public hall and stairway in structures devoted solely to dwelling occupancy and containing not more than four dwelling

units may be supplied with conveniently located light switches, controlling an adequate lighting system which may be turned on when needed, instead of full-time lighting.

§ 151.28 ELECTRICAL STANDARDS.

- (A) No receptacles, ceiling fixtures or other fixtures hanging loose;
- (B) All switches and fixtures safely operable;
- (C) No unsafe wiring;
- (D) No extension cords shall be spliced;
- (E) No circuit shall be overloaded;
- (F) Fuses sized correctly and not bridged out;
- (G) All wiring to be installed shall be in accordance with the National Electrical Code;
- (H) All wiring shall be maintained in a safe condition;
- (I) Smoke detectors as required by town ordinance; and
- (J) Sufficient outlets for existing usage shall be provided as follows. There shall be a minimum of one duplex receptacle and one light with an approved switching device in each room of each dwelling or dwelling unit.

§ 151.29 ELECTRICAL SERVICES.

(A) Where the determination is made, upon examination of the existing electrical service supply, that the electrical service supply is obsolete or is a hazard to the occupants or would otherwise constitute a hazard to life and property, the following shall be used for determining the adequacy of the service supply and main disconnect switch:

Total Number of Lighting Electrical Outlets Only	Capacity of Main Service Supply and Main Disconnect Switch
0-24	60 amp service at 240 volts
25-50	100 amp service at 240 volts

(B) The minimum capacity of the service supply and the main disconnect switch shall be sufficient to adequately carry the total load required in accordance with the Electrical Code of the town.

§ 151.30 HEATING FACILITIES REQUIRED.

(A) Every dwelling unit shall have heating facilities ~~which~~ that are properly installed, maintained in safe and good working conditions, ~~and~~ capable of heating all habitable rooms, bathrooms and water closet compartments. The heating systems shall be capable of heating these areas to a temperature of 65°F at a distance of three feet above the floor at an outside temperature of 0°F or a windchill factor equal thereto. If the heating systems are found by the ~~inspector~~ housing inspector to be inadequate according to these standards, the owner shall make provisions to comply with this standard. The requirements to comply with this standard may include, but are not limited to:

- (1) The repair, replacement and/or alteration of the heating systems;

(2) The installation of insulation with an R value as required by the State Building Code in all accessible floors, walls and ceilings; and (Note: ACCESSIBLE shall be defined, in reference to this section, to mean capable of being reached without removal of the building finish.)

(3) The installation of storm doors and windows.

(B) Where an approved heating system is not provided, each dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents, in good working order, whereby heating units may be connected so as to furnish a minimum temperature of 65°F measured at a point three feet above the floor at an outside temperature of 0°F or a windchill factor equal thereto, and in a safe and proper working order.

§ 151.31 HEATING STANDARDS.

(A) In multi-family housing, liquid fuel to be stored in outside tanks and piped to heating units;

(B) No loose bricks in chimney;

(C) No hanging masonry chimneys;

(D) No holes in flue;

(E) Thimbles grouted in tight;

(F) Thimbles high enough for stovepipe to rise one-fourth inch per foot minimum;

(G) Combustible materials shall not be placed within six inches of the edges of a fireplace opening. Combustible material above and projecting more than one and one half inches from the face of the fireplace opening shall have a minimum clearance of 12 inches above the opening;

(H) Fireplace used only for supplemental heat and not for basic heating;

(I) Masonry closure, if fireplace opening is closed;

(J) Stove within six feet of thimble serving it;

(K) Clearances for appliances are to be as per the manufacturer's installation instructions or in the case of unlisted approved units, use the tables in Vol. III of the State Building Code; and

(L) No stovepipe through combustible walls.

§ 151.32 WEATHERPROOFING

Every dwelling and dwelling unit shall be maintained as provided at §§ 151.17, 151.19, and 151.26 of this ordinance so as to be weather-tight and free of plumbing leaks or other sources of water or moisture giving rise to mold and mildew or other conditions that are unsafe or unsanitary for the occupants of the dwelling. Means of draining water from a dwelling, including but not limited to sump pumps, gutters, gutter drains, condensate drains, culverts, etc. shall be maintained so as to function as intended and prevent dampness in the walls, ceiling or crawl space or basement.

ADMINISTRATION AND ENFORCEMENT

§ 151.45 HOUSING INSPECTOR.

(A) The ~~Office of Housing Inspector~~ housing inspector is hereby created. Until otherwise provided by the Town Council, the ~~Chief Building Code Officer~~ or his or her designee shall be the ~~Housing Inspector~~ housing inspector.

(B) The ~~Housing Inspector~~ housing inspector shall have the powers provided by G.S. § 160D-1210 and as otherwise

~~may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including, without limiting the generality of the foregoing and, in addition to others herein expressly or impliedly granted, the following powers:~~

(1) Investigations. To investigate dwellings in the town's jurisdiction in order to determine which dwellings therein are unfit for human habitation and/or unsafe, being guided by the requirements set forth in this chapter;

~~—~~(2) Oaths, witnesses and the like. To administer oaths and, affirmations and to examine witnesses and receive evidence; ~~and~~

(3) Right of entry. To enter upon and within premises and dwellings for the purpose of making examinations and investigations; provided that, the entries shall be made in a manner as to cause the least possible inconvenience to the persons in possession during reasonable hours and upon presentation of proper credentials;

~~—~~(4) Delegation. To appoint and fix the duties of officers, agents, and employees necessary to carry out the purposes of this chapter; and to delegate any of his or her functions and powers under this chapter to other officers or agents; and;

(5) Inspections. To make inspections to determine the condition of dwellings in order that he or she may perform his or her duty of safeguarding the health and safety of occupants and the public. For the purpose of making the inspections after proper notification and presentation of proper credentials, the housing inspector is hereby authorized to enter, examine and survey, at all reasonable times, all dwellings and premises. The owner and/or occupant of every dwelling, or the person in charge thereof, shall give the housing inspector free access to the dwelling and its premises at all reasonable times for the purpose of the inspections, examination and survey. Every occupant of a dwelling shall give the owner thereof, or his or her agent or employee, access to any part of the dwelling or its premises at all reasonable times for the purpose of making the repairs or alterations as are necessary to effect compliance with the provisions of this chapter or with any lawful order issued pursuant to the provisions of this chapter.

§ 151.46 INSPECTIONS OF MULTI-FAMILY DWELLINGS; PERIODIC INSPECTIONS.

(A) Except as provided in subsection (B) of this section, the housing inspector may make periodic inspections only when there is reasonable cause to believe that unsafe, unsanitary, or otherwise hazardous or unlawful conditions may exist in a residential building or structure. However, when the housing inspector determines that a safety hazard exists in one of the dwelling units within a multifamily building, which in the opinion of the housing inspector poses an immediate threat to the occupant, the housing inspector may inspect, in the absence of a specific complaint and actual knowledge of the unsafe condition, additional dwelling units in the multifamily building to determine if that same safety hazard exists. In conducting inspections authorized under this section, the housing inspector shall not discriminate between single-family and multifamily buildings or between owner-occupied and tenant-occupied buildings. In exercising this power, the housing inspector shall have a right to enter on any premises within its jurisdiction at all reasonable hours for the purposes of inspection or other enforcement action,

upon presentation of proper credentials. Nothing in this section shall be construed to prohibit periodic inspections in accordance with State fire prevention code or as otherwise required by State law.

(B) By means of a separate ordinance adopted pursuant to the authority granted at G.S. §160D-1207, the Town Council may require periodic inspections as part of a targeted effort to respond to blighted or potentially blighted conditions within a geographic area that has been designated by the governing board Town Council. The Housing Inspector is hereby authorized and directed to make inspections to determine the condition of dwellings in order that he or she may perform his or her duty of safeguarding the health and safety of occupants and the public. For the purpose of making the inspections after proper notification and presentation of proper credentials, the Inspector is hereby authorized to enter, examine and survey, at all reasonable times, all dwellings and premises. The owner and/or occupant of every dwelling, or the person in charge thereof, shall give the Inspector free access to the dwelling and its premises at all reasonable times for the purpose of the inspections, examination and survey. Every occupant of a dwelling shall give the owner thereof, or his or her agent or employee, access to any part of the dwelling or its premises at all reasonable times for the purpose of making the repairs or alterations as are necessary to effect compliance with the provisions of this chapter or with any lawful order issued pursuant to the provisions of this chapter.

Commented [AM8]: This potential authority is noted for the benefit of future Councils and staff in the event such an ordinance becomes desirable.

Commented [AM9]: Moved to prior section.

§ 151.47 HEARING PROCEDURES.

Whenever a petition is filed with the ~~Housing Inspector~~ housing inspector by at least five residents of the municipality charging that any dwelling is unfit for human habitation or is an unsafe abandoned ~~building~~ structure, or whenever either of the foregoing appears to the ~~Inspector~~ housing inspector (on his or her own motion), the ~~Inspector~~ housing inspector shall, if his or her preliminary investigation discloses a basis for the charges, issue and cause to be served upon the owner of and parties having an interest in the dwelling ~~or abandoned structure, including lien holders and tenants, if any, as shown by the records of the Register of Deeds of the county,~~ a complaint stating the charges in that respect and containing a notice that an administrative hearing will be held before the ~~Inspector~~ housing inspector ~~(or his or her designated agent)~~ at a place within the jurisdiction in which the property is located therein fixed not less than ten ~~(10)~~ days, nor more than ~~thirty~~ (30) days, after the serving of the complaint. ~~that~~ The owner and parties in interest shall be given a right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. ~~The; and that~~ rules of evidence prevailing in courts of law or equity shall not be controlling in administrative hearings before the ~~Inspector~~ housing inspector.

Commented [AM10]: Per statutory terminology (and consistency).

Commented [AM11]: This sort of information is carried in other sections. Definitions of "owner" and "parties of interest" and no further notice is required or desirable here, as it may be both under- and over-inclusive.

§ 151.48 SERVICE OF ORDER, CONTENTS.

If, after the notice and an administrative hearing, the ~~Housing Inspector~~ housing inspector determines that the ~~dwelling~~ structure under consideration is unfit for human habitation and/or an unsafe abandoned structure in accordance with the standards herein set forth, ~~he or she~~ the housing inspector shall state in writing his or her findings of fact in support of the determination, and shall issue and cause to be served upon the owner thereof ~~an order~~ one of the following orders, as appropriate:

(A) If the repair, alteration or improvement of the ~~building~~ dwelling or unsafe abandoned structure (sometimes referenced herein collectively as "structure"), bringing it up to the

Commented [AM12]: Pursuant to the authority granted in §160D-1201(b), the Town may apply the same procedures for "unsafe abandoned structures" as it applies to dwellings unfit for human habitation. The current ordinance clearly already does so in such provisions (see, e.g., §151.16), but this is not always consistently indicated. Language has been modified throughout the following sections of the ordinance to make clear that the provisions apply to both unfit dwellings and unsafe abandoned structures.

standards described herein, can be made at a cost less than 50% of the present value of the building, the order shall require the owner within a specified period of time, ~~not to exceed 90 days~~, to repair, alter or improve the ~~building structure~~ so as to render it fit for human habitation, or it shall require the owner within the specified time therein, ~~not to exceed 90 days~~, to repair, alter or improve the ~~building structure~~ so as to render it safe. The order may require that the ~~structure property~~ be vacated and closed only if continued occupancy during the time allowed for repair will present a significant threat of bodily harm, taking into account the nature of the necessary repairs, alterations, or improvements; the current state of the ~~structure property~~; and any additional risks due to the presence and capacity of minors under the age of 18 or occupants with physical or mental disabilities. The order shall state that the failure to make timely repairs as directed in the order shall make the ~~structure dwelling~~ subject to the issuance of an order under § 151.49 below.

(B) If the repair, alteration or improvement of the ~~structure building~~, bringing it up to the standards described herein cannot be made at a cost of less than 50% of the present value of the ~~structure building~~, the order shall require the owner, within a specified period of time, ~~not to exceed 90 days~~, to either repair, alter or improve the ~~structure building~~ so as to bring it into compliance with the standard described herein, or to demolish and remove the ~~structure building~~. The order may require that the ~~structure property~~ be vacated and closed only if continued occupancy during the time allowed for repair will present a significant threat of bodily harm, taking into account the nature of the necessary repairs, alterations, or improvements; the current state of the ~~structure property~~; and any additional risks due to the presence and capacity of minors under the age of 18 or occupants with physical or mental disabilities. The order shall state that the failure to make timely repairs as directed in the order shall make the ~~structure dwelling~~ subject to the issuance of an order under § 151.49 below. However, notwithstanding any other provision of law, if the ~~structure dwelling~~ is located in a historic district of the city and the Historic District Commission determines, after a public hearing as provided by ordinance, that the ~~structure dwelling~~ is of particular significance or value toward maintaining the character of the district, and the ~~structure dwelling~~ has not been condemned as unsafe, the order may require that the ~~structure dwelling~~ be vacated and closed consistent with G.S. § ~~160A160D-400.14(a)-949~~.

§ 151.49 ENFORCEMENT PROCEDURES IN THE EVENT OF NONCOMPLIANCE.

(A) Repair, closing, and posting. - If the owner fails to comply with an order to repair, alter, or improve or to vacate and close a dwelling or unsafe abandoned structure, the housing inspector may cause the structure to be repaired, altered, or improved or to be vacated and closed, and the housing inspector may cause to be posted on the main entrance of any dwelling so closed a placard with the following words: "This building [or structure] is unfit for human habitation [and/or unsafe]; the use or occupation of this building [or structure] for human habitation is prohibited and unlawful." Occupation of a structure so posted shall constitute a Class 1 misdemeanor. The duties of the housing inspector set forth in this subdivision shall not be exercised until the Town Council shall have by ordinance ordered the housing inspector to proceed to effectuate the purpose of this chapter with respect to the particular property or properties that the housing inspector shall have found to be unfit for human habitation or an unsafe abandoned structure and which property or properties shall be described in the ordinance. This ordinance shall be recorded in the office of the register of deeds in the county where the

Commented [AM13]: I suggest that these hard time li removed so that orders can realistically reflect the time ne repairs and availability of contractors. If the health and sa occupants is at issue, the inspector can either sharply limit allowed or close the dwelling as authorized further below paragraph.

Commented [AM14]: The statutory language has bee in lieu of the prior language of this section.

property or properties are located and shall be indexed in the name of the property owner in the grantor index.

(B) Demolition. - If the owner fails to comply with an order to remove or demolish a dwelling or an unsafe abandoned structure, the housing inspector may cause such structure to be removed or demolished. The duties of the housing inspector set forth in this subdivision shall not be exercised until the Town Council shall have by ordinance ordered the housing inspector to proceed to effectuate the purpose of this chapter with respect to the particular property or properties that the housing inspector shall have found to be unfit for human habitation or an unsafe abandoned structure and which property or properties shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a structure until the owner has first been given a reasonable opportunity to bring it into conformity with this ordinance and any other applicable codes. This ordinance shall be recorded in the office of the register of deeds in the county where the property or properties are located and shall be indexed in the name of the property owner in the grantor index.

(C) Abandonment of Intent to Repair. - If a structure has been vacated and closed for a period of one year pursuant to an ordinance adopted pursuant to subdivision (A) of this section or after the housing inspector issues an order or proceedings have commenced regarding a structure to be repaired or vacated and closed as provided in this subdivision, then the Town Council may find that the owner has abandoned the intent and purpose to repair, alter, or improve the structure in order to render it fit for human habitation and/or safe and that the continuation of the structure in its vacated and closed status would be inimical to the health, safety, and welfare of the local government in that the structure would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a structure that might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this State, then in such circumstances, the Town Council may, after the expiration of such one-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

1. If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 90 days.
2. If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within 90 days.

This ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this ordinance, the housing inspector shall effectuate the purpose of the ordinance.

~~If the owner of a dwelling fails to comply with an order issued pursuant to § 151.48 or is otherwise unable to bring the building into compliance with this chapter within the reasonable period of time specified by an order issued pursuant to § 151.48, then unless an appeal is taken from the order in accordance with § 151.51, and after the Town Council has acted as required pursuant to division (B) below, the Housing Inspector may:~~

~~— (1) Secure the issuance of a warrant charging the owner with a violation of the standards established by this code;~~

~~—(2) Cause the building to be repaired, altered or improved, and pending the repairs, alterations or improvements, may order the building vacated and closed;~~

~~—(3) Cause to be posted on the main entrance of any building so closed, a placard with the following words: “This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful.” Occupation of a building so posted shall constitute a Class 1 misdemeanor; and~~

~~—(4) Institute a legal action in a court of competent jurisdiction seeking the enforcement of the order.~~

~~—(5) If the owner fails to comply with an order to remove or demolish a dwelling despite being given a reasonable opportunity to bring the dwelling into conformity with the requirements of this code, cause the dwelling to be vacated and closed, removed or demolished.~~

~~—(B) The Inspector shall not cause the repair, alteration, improvement or demolition and removal of any building or perform any other duties set forth in divisions (A), and (B), and (C) of this section, until the Town Council shall have by ordinance ordered the Inspector to proceed to effectuate the purpose of this chapter with respect to the particular property or properties which the Inspector shall have found to be unfit for human habitation or dangerous and which property or properties shall be described in the ordinance. The ordinances shall be recorded in the office of the Register of Deeds of the county and shall be indexed in the name of the property owner in the grantor index.~~

~~—(C) The amount of the cost of the repairs, alterations or improvements or vacating and closing, or demolition and removal by the Inspector shall be a lien against the real property upon which the cost was incurred; which lien shall be filed, have the same priority and be collected as provided by G.S. Ch. 160A, Art. 10 and by G.S. Ch. 160D, Art. 12. If the real property upon which the cost was incurred is located in the town’s corporate limits, then the amount of the cost is also a lien on any other real property of the owner located within the town limits or within one mile thereof except for the owner’s primary residence. The additional lien provided in this division is inferior to all prior liens and shall be collected as a money judgment. If the dwelling is demolished and removed by the Inspector, he or she shall sell the materials of the dwelling and shall credit the proceeds of the sale against the cost of the demolition and removal and any balance remaining shall be deposited in the Superior Court by the Inspector, shall be secured in a manner as may be directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court (in a Special Proceeding brought before the Clerk of Superior Court for the purpose).~~

(E) If any occupant fails to comply with an order to vacate a dwelling, the ~~public officer~~ housing inspector may file a civil action in the name of the town to remove the occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties- defendant any person occupying the dwelling. The Clerk of Superior Court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place not to exceed ten days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. § 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served and if, at the hearing, the ~~public officer~~ housing inspector produces a certified copy of an ordinance adopted by the governing body pursuant to division (C) above, authorizing the officer to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgement ordering that the dwelling be vacated shall be enforced in the same manner as the

Commented [AM15]: These sections have been deleted in favor of the exact statutory language set forth above.

Commented [AM16]: This subsection (C) is deleted because it is redundant with section 151.52 below.

judgement for summary ejectment entered under G.S. § 42-30. An appeal from any judgement entered hereunder by the magistrate may be taken as provided in G.S. § 7A-228, and the execution of the judgement may be stayed as provided in G.S. § 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this division (E), unless the occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the governing body has ordered the ~~public officer~~ [housing inspector](#) to proceed to exercise his or her duties under division (C) of this section to vacate and close or remove and demolish the dwelling.

(F) Whenever a determination is made pursuant to § 151.48 that a dwelling must be vacated and closed, or removed or demolished, under the provisions of this section, notice of the order shall be given by first-class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for the notices. A minimum period of 45 days from the mailing of the notice shall be given before removal or demolition by action of the ~~public officer~~ [housing inspector](#), to allow the opportunity of any organization to negotiate with the owner to make repairs, lease or purchase the property for the purpose of providing affordable housing. The ~~public officer~~ [housing inspector](#) or clerk shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for the notices may raise the issue of failure to mail the notices, and the sole remedy shall be an order requiring the ~~public officer~~ [housing inspector](#) to wait 45 days before causing removal or demolition.

Authority: G.S. §160D-1203.

§ 151.50 SERVICE OF COMPLAINTS AND ORDERS.

(A) Complaints or orders issued by the ~~Housing Inspector~~ [housing inspector](#) shall be served upon persons either personally or by ~~registered or~~ certified mail. When service is made by ~~registered or~~ certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the ~~registered or~~ certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

Commented [AM17]: The statutory requirement is ce
mail.

(B) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the ~~housing inspector~~ [inspector](#) in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by registered or certified mail, and the ~~inspector~~ [housing inspector](#) makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the town at least once no later than the time at which personal service would be required under the provisions of this chapter. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

§ 151.51 RIGHT TO APPEAL.

(A) Any owner or person who is aggrieved with a decision or order issued by the ~~Housing Inspector~~ [housing inspector](#) pursuant to § 151.48 may appeal from that decision or order to the Town's Zoning Board of Adjustment (hereinafter, "Board").

(B) An appeal from any decision or order of the ~~Inspector~~housing inspector may be taken by any person aggrieved thereby or by any officer, board or commission of the town. Any appeal from the housing i~~nspector~~ shall be taken within ten days from the rendering of the decision or service of the order, whichever is later, and shall be taken by filing with the ~~Inspector~~housing inspector and with the Board a written notice of appeal on forms supplied by the ~~Inspector~~housing inspector, which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the ~~Inspector~~housing inspector shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the ~~Inspector~~housing inspector refusing to allow the person aggrieved thereby to do any act, his or her decision shall remain in force until modified or reversed. When any appeal is from a decision of the ~~Inspector~~housing inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the ~~Inspector~~housing inspector certifies to the Board, after the notice of appeal is filed with him or her, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his or her requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one days written notice to the ~~Inspector~~housing inspector, by the Board, or by a court of record upon petition made pursuant to division (E) of this section.

(C) The Board shall fix reasonable time for the hearing of all appeals, shall give due notice to all the parties and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make the decision and order as in its opinion ought to be made in the matter. The concurring vote of four members of the majority of the Board shall be necessary to reverse or modify any decision or order of the ~~Housing Inspector~~housing inspector. In any case where there are practical difficulties or unnecessary hardships in carrying out the strict letter of the ordinance, the Board shall have the power to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

(D) Every decision of the Board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board, but not otherwise.

(E) Any person aggrieved by an order issue by the ~~Inspector~~housing inspector or a decision rendered by the Board may petition the Superior Court for an injunction restraining the ~~Inspector~~housing inspector from carrying out the order or decision and the Court may, upon the petition, issue a temporary injunction restraining the ~~Inspector~~housing inspector pending a final disposition of the order; provided, however, that, the petition shall be filed within 30 days after issuance of the order or rendering of the decision. Hearings shall be held by the Court on any the petition within 20 days, and shall be given preference over other matters on the Court's calendar. The court shall hear and determine the issues raised and shall enter the final order or decree as law and justice may require; provided, however, that, it shall not be necessary to file bond in any amount before obtaining a temporary injunction under this division (E).

(F) In case any dwelling is erected, constructed, altered, repaired converted, maintained or used in violation of this chapter or any valid order or decision of the ~~Inspector~~housing inspector or Board may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration or use, to restrain, correct or abate the violation, to

prevent the occupancy of the dwelling or to prevent any illegal act, conduct or use in or about the premises of the dwelling.

§ 151.52 LIEN ON PREMISES.

(A) The amount of the cost of the repairs, alterations or improvements, or vacating and closing, or removal or demolition by the ~~Housing Inspector~~ housing inspector shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority and be collected as a lien for special assessment provided in Article 10 of Chapter 160A of the General Statutes. The amount of such cost is also a lien on any other real property of the owner located within the town limits except for the owner's primary residence. The additional lien provided in this division is inferior to all prior liens and shall be collected as a money judgment.

(B) If ~~the dwelling~~ a structure is removed or demolished by the ~~Inspector~~ housing inspector, he or she shall sell the materials of the ~~dwellings~~ structure and any personal property, fixtures, or appurtenances found in or attached to the structure and shall credit the proceeds of the sale against the cost of the removal or demolition and any balance remaining shall be deposited in the Superior Court by the ~~Inspector~~ housing inspector, shall be secured in a manner as may be directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order of decree of the court. Repairs, alterations, improvements or demolitions may be made under the supervision of the ~~Housing Inspector~~ housing inspector or he or she may let the same to contract on competitive bids or by private contract if no bids are received.

(C) Vacating and closing ~~buildings~~ structures shall be done under the supervision of the ~~Inspector~~ housing inspector.

§ 151.53 VIOLATIONS.

(A) Unless otherwise provided herein, it shall be unlawful for the owner of any ~~building~~ structure to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close and demolish and remove the same, upon order of the ~~Inspector~~ housing inspector duly made and served as herein provided, within the time specified in the order, and each day that any failure, neglect, or refusal to comply with the order continues shall constitute a separate offense.

(B) When the ~~Inspector~~ housing inspector finds that a ~~building~~ structure is unfit for human habitation or ~~unsafe~~ dangerous within the meaning of this chapter and has notified the owner to ~~this~~ effect and the time limit set by the ~~Inspector~~ housing inspector for the correction of defects or vacating same has expired, no person shall receive rentals, offer for rent or occupy the ~~building~~ structure ~~unfit as a human habitation~~, and each day the offense continues shall be deemed a separate offense.

§ 151.99 PENALTY.

~~(A) A violation of this chapter is subject to the general penalty and enforcement provisions of §10.99 of this code of ordinances. Any act constituting a violation of this chapter shall subject the offender to a civil penalty in the amount of \$100, plus court costs and attorney's fees incurred by the town. If the offender fails to pay the penalty within ten days after receiving written notice of the violation, the penalty may recovered by the town in a civil action in the nature of a debt. This chapter may also be enforced by any civil action instituted by the town to prevent, restrain, correct or abate a violation of this chapter.~~

~~—(B) The violation of any provision of this chapter shall constitute a misdemeanor, as provided by G.S. § 14-4. Any person violating these provisions shall be guilty of a misdemeanor and, upon conviction, the offender shall be punished by a fine of not more than \$50 for each separate offense.~~

CONFORMITY TO ADOPTED PLANS

COMPREHENSIVE PLAN UPDATE

1.1 Overall Objectives for the Boone Comprehensive Plan (p. 15):

The following objectives, which have not been listed in any particular order of importance, are deliberately broad in scope and less specific than either a policy statement or an implementation action.

Economic Development: Acknowledge the area’s natural beauty, university, and medical center presence as the Town’s greatest assets for economic development and jobs creation. Treat them accordingly.

Community Appearance and Community Character: Blend the built environment with the natural, scenic, and historic character of a High Country small town. Especially discourage commercial strip development, cluttered signage, and “cheap” apartment buildings.

Open Space: Integrate open space and greenways into the urban fabric of the Town. Preserve the countryside by discouraging suburban sprawl. Avoid development in floodplains, on ridgetops, and on steep slopes.

Environmental Quality: Address and monitor growth factors and activities that contribute to water, air, light, and noise pollution.

Trees: Conserve existing trees and plant new trees, especially hardwoods.

Automobile Transportation: Maximize the efficiency of existing facilities, but not at the expense town and neighborhood character and livability. Build or expand transportation facilities and parking areas as needed, but with care. Work to reduce auto dependency, use, and congestion.

Bikeways: Implement the planned system of bikeways as a legitimate transportation alternative. Unify with greenways and other pedestrian facilities where possible.

Mass Transit: Enhance and support the mass transit system as an effective alternative to the congestion created by the individual automobile.

Pedestrian Movement: Encourage a system of sidewalks, paths, crosswalks and compact development patterns which make it easy to get around Boone on foot.

Infrastructure: Engage in long range planning for water and sewer systems, stormwater runoff, natural gas, and other utility systems. Place overhead utilities underground whenever feasible.

Public Safety: Maintain a high level of policing and fire protection and plan the expansion of public safety services to coincide with projected population increases and identified needs.

Energy and Waste: Reduce waste generation, and the consumption of energy and water. Develop area recycling programs to the fullest. Encourage an anti-litter consciousness among residents and visitors.

Commented [AM18]: Under the recently-enacted Ses 2021-138, Part XIII, section 13(b), a criminal penalty can o applied with respect to violations of local ordinances enac Chapter 160D insofar as the ordinance relates to “unsafe b I believe this reference is best understood to refer to an o adopted pursuant to G.S. § 160D-1119, which is the only j of 160D that refers to “unsafe buildings” and which appea different Article of Chapter 160D (Article 11) rather than i 12 (minimum housing). Accordingly, I do not believe there authority for imposing criminal penalties under the new st beyond what is expressly set forth in the minimum housin itself (making violation of section § 151.49 (A) above a Cla misdemeanor).

University: Emphasize cooperative planning among the Town, County, and University.

Downtown: Support and enhance the cultural and historic significance of downtown Boone, and affirm its appealing, pedestrian orientation.

Recreation: Strive for additional public recreation facilities, especially sports fields, greenways and indoor recreation centers.

Neighborhoods: Ensure the livability of neighborhoods, especially through land use and traffic planning.

Public Involvement: Encourage active public involvement and volunteerism to expand the effectiveness of community planning and action.

Comprehensive Plan Policies: Staff has reviewed land use and comprehensive plan policies, and listed those policies which in staff's opinion have a bearing on the request. The Commission and Council should review these policies carefully. Each member may make his or her own interpretation as to the relevance of each and which carry the most weight thereby shaping their overall recommendation.

COMPREHENSIVE PLAN POLICIES

2.1 THE ECONOMY

2.1.1 Economic Development

- A. The Town shall protect and enhance a high quality of life, image, cultural amenities, and natural beauty as the most effective, long term component of an economic development strategy.
 - A.1 Continue to evaluate and amend development regulations to help insure aesthetic quality in the area and preserve the natural beauty of the area.
 - A.2 Adopt analytically sound, technically based hillside development regulations to preserve natural beauty.
 - A.3 Support the Arts Council, Jones House, ASU and others in attracting quality cultural events to Boone.
 - A.4 Balance the benefits of economic development projects with special concern for environmental quality issues.
- B. New and expanding industries and businesses shall be encouraged which: 1) diversify the local economy, 2) train and use a skilled labor force and 3) increase area residents' incomes.
- C. The Town shall encourage the development of a well-balanced tourism trade as a primary element of the area's economic future. Investments in services, facilities, and proper growth management shall be employed in furtherance of this objective.
- D. Economic development efforts shall encourage the revitalization and reuse of currently unused or underutilized structures, sites and infrastructure in appropriately located areas.
 - D.1 Evaluate development regulations for amendments providing flexibility in the renovation and redevelopment of existing structures and sites.
 - D.2 Urge the resolution of the clean-up process of the 482 State Farm Road site so as to render the building suitable for use as soon as possible.
 - D.3 Pursue annually at least one joint public-private venture that will benefit the community at large.
- E. The Town shall encourage a public service and regulatory environment conducive to business recruitment and expansion, while at the same time enhancing the area's physical and human resources.
 - E.1 Continue to look for ways to make development regulations and permit procedures more predictable and timely. Evaluate opportunities for administrative review and permit issuance for

Commented [jm19]: Choose the Comprehensive Plan Statements that relate to the Text Amendment most appropriately.

Context from the Comprehensive Plan may be added as needed.

development projects which, due to their small size or relatively minor impacts, may not require review by a formal public commission or board.

- F. New firms and expanding businesses that complement the natural resources and beauty of the region shall be especially recruited and encouraged.
- G. The Town shall support the development of new business parks.
 - G.1 Identify suitable property for possible business park development.
- H. The Town shall promote coordination of economic development resources with the appropriate institutions and agencies. Regional coordination and interaction among areas with a shared economic interest shall be encouraged.
 - H.1 Assist business recruitment and expansion efforts by providing demographic and market data and development information to potential developers and business prospects. Direct such interested parties, by referral through the Economic Development Director, to identified locations in the community.
 - H.2 Include economic development as a specific point of discussion by the recently created Community Council.
 - H.3 Continue to support the Economic Development Commission as the lead economic development agency in the county. Continue to support and work with the Committee of 100, Chamber of Commerce, Tourism Development Authority, High Country Host, Broyhill Institute for Business Development, High Country Council of Governments, Caldwell Community College and Technical Institute, JobLink and others on issues of economic benefit to the whole community.
- I. Small business start-ups, expansions and spin-offs shall be encouraged. The presence of ASU and Caldwell Community College and Technical Institute shall be recognized as a necessary and important resource for area businesses.
- J. Appropriate educational and training programs shall be encouraged to help local residents, especially those unemployed and underemployed, take advantage of business expansion and to develop new skills.
 - J.1 Encourage the growth of a student internship program between area businesses, ASU and Caldwell Community College and Technical Institute as a means of providing training for Boone area citizens.
 - J.2 Actively pursue workforce training through ASU and Caldwell Community College and Technical Institute to meet existing needs of current employers and make efforts to develop the skills necessary for higher paying jobs.
 - J.3 Support careers education programs in the public schools.
- K. Boone shall identify and provide services consistent with the needs of the area's growing retiree population.
 - K.1 Support local agencies and institutions efforts in the development of programs and services providing for the needs of the growing retiree population.

2.2 INFRASTRUCTURE

2.2.4 Public Safety

- A. The Town shall employ community education, school, and public involvement programs to enhance community awareness of public safety issues.
 - A.1 Continue on-going community programs such as the Ride Along Program, the D.A.R.E. program, Police Explorers, School Resource Officers, the Bicycle Safety Program, and Traffic Related Safety Programs.

- A.2 Continue to promote the Community Related Policing Concept.
- A.3 Continue to reduce crime through Problem Oriented Policing.
- B. The Town shall periodically review the need for additional paid personnel, capital improvements and equipment needs to meet or exceed public safety standards, insurance ratings and other measures of public safety.
 - B.1 Land acquisition for an additional fire station should remain a top priority.
 - B.2 The need for additional paid fire department personnel to provide 24 hour staffing will be evaluated annually.
 - B.3 Replacement schedules for retirement of aging fire and police apparatus will be updated annually.
 - B.4 Evaluate law enforcement personnel needs annually.
 - B.5 Set standards for recruitment of police personnel and attend career days at various education institutions.
- C. The Town shall periodically review the need for and sponsor professional level training for law enforcement, fire, and emergency personnel.
 - C.1 Continue specialized training to meet or exceed the technical requirements of the law enforcement profession.
 - C.2 Continue specialized training for fire personnel in areas of hazardous materials, confined space rescue, driver-operator and structural firefighting.
- D. The Town shall place renewed emphasis on enforcement of the state building code and flood prevention regulations to avert or minimize loss of life and property during natural disasters.

2.3 THE COMMUNITY

2.3.2 Community Character

- A. The identification, restoration and active use of structures, buildings, monuments, and neighborhoods of historic or architectural significance shall be encouraged as a means of enhancing their economic and cultural value to the planning area.
 - A.1 Conduct on-going assessments of critical locations in community deserving special attention by the zoning ordinance, in light of their high visibility, traffic impact, strategic location, or other unique features. Continue to encourage significant new public buildings and outdoor spaces to locate in these and other positions of visibility and strategic prominence. Encourage the private sector to do likewise.
 - A.2 Seek out locations of historical merit in the community, and prepare an action plan for their enhancement, rehabilitation, or relocation as may be necessary.
- B. Multiple and appropriate adaptive reuse of historic resources shall be encouraged.
 - B.1 Amend development regulations to offer flexibility for restoration and active use of historic structures and other resources.
- C. Wise development of the tourism potential of the area's architectural, historic, scenic and natural resources shall be encouraged.
 - C.1 Consider the placement of public art at appropriate locations in downtown, including murals.
- D. The destruction of significant architectural, historic, scenic, natural and archaeological resources in the planning area shall be discouraged.
 - D.1 Carefully scrutinize proposed road widening to ensure that such actions do not destroy community and neighborhood character.

D.2 Continue to support the Town's tree preservation standards. Evaluate the effectiveness of the tree regulations since their establishment and amend them as necessary.

- E. New development, redevelopment and rehabilitation of structures and sites shall occur in a manner which is consistent with the neighborhood and architectural context of the immediate area, and supportive, whenever possible, of Boone's original community character as a High Country small town.

2.3 THE COMMUNITY

2.3.3 Housing and Neighborhoods

- A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.
- A.1 As road widenings are proposed, carefully evaluate their potential impact on the integrity of residential areas, pedestrian-oriented commercial districts, and the ability of bicyclists and pedestrians to function in the affected area.
- A.2 Prepare at least two neighborhood plans, working closely with neighborhood residents, and incorporating the full range of neighborhood issues to include: land use, traffic, housing, neighborhood business services, infrastructure improvements, parks and recreation needs, crime and safety.
- A.3 Prepare a document readily accessible to the public that details residential zoning areas and the date on which each was implemented.
- A.4 Establish a planning and development policy that protects older established residential neighborhoods from the negative effects of adjacent commercial development.
- A.5 Establish a task force to determine how like communities successfully enforce their existing residential codes. Items requiring focused attention: Detailed analysis of implementation and enforcement. For example, penalties, personnel requirements, budget implications, long-term effect on town character and economic development.
- A.6 Implement a residential zoning enforcement policy based on the task force analysis above.
- B. Street system designs which discourage through traffic on purely local streets while allowing for free circulation within the neighborhood shall be encouraged.
- B.1 Update the Town's standards for subdivision street layouts, emphasizing circulation between neighborhoods and the ability of pedestrians and bicyclists to travel on back streets throughout the town.
- B.2 To the extent federal and state funding programs will allow, seek and apply for at least one grant to provide for bicycle paths to connect residential areas with commercial and university districts.
- C. Proposed residential development which would expose residents to harmful effects of incompatible development or to environmental hazards shall be prohibited.
- C.1 Amend the zoning map and development regulations to prevent residential uses from locating adjacent to existing developments and other uses which may have characteristics which cannot be effectively mitigated.
- D. Innovative and flexible land planning and development practices shall be encouraged to create livable developments which better safeguard land, water, energy and historic resources.
- D.1 Continue to evaluate opportunities in the zoning ordinance for flexibly designed and located single-family and multi-family residential developments.

- D.2 Establish ongoing relationships with ASU's departments of Geography and Planning, Appropriate Technology, and Sustainable Development to develop, enhance, and implement efforts toward creating affordable housing, appropriate infill development, neighborhood livability standards, and design standards for multi-family development. This should include attention to lighting, bike and pedestrian pathways, and federal, state, and local funding sources.
- E. Factors in determining preferred locations for high density residential development shall include: close proximity to the university, employment or shopping centers; access to major thoroughfares and the transit system; the availability of public services and facilities; and compatibility with adjacent land uses.
 - E.1 Review the zoning ordinance for the appropriate placement of high density housing near urban activity centers that are coordinated with transit system stops.
- F. The affordable housing needs of area residents, particularly elderly and low to moderate income residents, shall be recognized in Town policies and actions regarding residential development.
 - F.1 To the extent the federal and state funding programs will allow, seek and apply for at least one grant to provide for low to moderate income housing.
- G. Compact, full service neighborhoods, offering opportunities for living, working, shopping, and gathering places, shall be encouraged in newly planned developments, as well as for redeveloping areas.
- H. The overall housing unit density for proposed infill residential development or redevelopment should be compatible with the average density of existing areas.

2.3 THE COMMUNITY

2.3.4 Public Involvement

- A. Public involvement shall be encouraged in decisions concerning land use and development by making the public aware of proposed developments at the earliest opportunity, as well as fostering communication among developers, the Town, the County, the University, and the general public.
 - A.1 Offer continued support to the recently created Community Council. A number of appropriate issues for consideration by the committee are included among these implementation actions.
 - A.2 Maintain and update a mailing list of architects, engineers, surveyors, landscape architects, realtors, builders, developers and contractors for notification and distribution of changes in Town policies and regulations.
 - A.3 Encourage periodic articles in all available media outlets about land use decisions, how they are advertised, and how they are made. Continue school presentations by Town planning staff to explain land use and how it affects each citizen.
 - A.4 Post all zoning change requests, special use and variance requests to the Town of Boone web site with date of application and date of impending and completed actions. Explore the possibility of providing links to the Town web site from local newspaper online editions in which the Town posts public notices.
- B. Neighborhood and special area planning shall be encouraged to foster public involvement in the production of closely tailored, action oriented special area plans and programs.
 - B.1 Prepare at least two small area or neighborhood plans within the year.
- C. Specific functional plans and implementation tools shall be supported as part of the comprehensive planning program for the Town and County.

- D. Special committees, advisory panels, educational forums, public workshops, leadership seminars, town meetings and media contacts shall be encouraged and fostered to enhance the effectiveness of citizen involvement in community planning and action.
- D.1 Hold an annual Town Meeting to hear citizen concerns about growth and development and the progress made. In addition to the annual Town Meetings, consider special workshops, open houses and a newsletter or annual report to keep citizens involved and informed about the future of the town and the action being taken.

PLANNING BOARD REPORT/RECOMMENDATIONS

Per NCGS 160D-604(b), subsequent to initial adoption of a zoning regulation, all proposed amendments to the zoning regulation or zoning map shall be submitted to the Planning Commission for review and comment. If no written report is received from the Planning Commission within 30 days of referral of the amendment to that board, the Town Council may act on the amendment without the Planning Commission report. The Town Council is not bound by the recommendations, if any, of the Planning Commission. Per NCGS 160D-604(d), when conducting a review of proposed zoning text or map, the Planning Commission shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Commission shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the Planning Commission, but a comment by the Planning Commission that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.

Vote 1: The proposed amendment to the Town Code ☐ **is** OR ☐ **is not** consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because:

Note 1

Note 1: describe elements of controlling land use plans and how the amendment is or is not consistent.

Vote 2: The Planning Commission recommends ☐ **approval** OR ☐ **denial** of Ordinance PL05268-110121 and believes ☐ **approval** OR ☐ **denial** is reasonable and in the public interest because:

Note 2

Note 2: briefly explain why, factors may include (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment.

TOWN COUNCIL ACTION

Per NCGS 160D-605, when adopting or rejecting any zoning text or map amendment, the Town Council shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the governing board was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan.

Vote 1: The proposed amendment to the Town Code ☐ **is** OR ☐ **is not** consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because:

Note 1

Vote 2: The Town Council ☐ **approves** OR ☐ **denies** Ordinance PL05268-110121 and believes ☐ **approval** OR ☐ **denial** is reasonable and in the public interest because:

Note 2

Note 1: describe elements of controlling land use plans and how the amendment is or is not consistent.

Note 2: briefly explain why, factors may include (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment.

Article 12.

Minimum Housing Codes.

§ 160D-1201. Authorization.

(a) Dwellings. – The existence and occupation of dwellings that are unfit for human habitation are inimical to the welfare and dangerous and injurious to the health and safety of the people of this State. A public necessity exists for the repair, closing, or demolition of such dwellings. Whenever any local government finds that there exists in the planning and development regulation jurisdiction dwellings that are unfit for human habitation due to dilapidation; defects increasing the hazards of fire, accidents or other calamities; lack of ventilation, light, or sanitary facilities; or other conditions rendering the dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety, morals, or otherwise inimical to the welfare of the residents of the local government, power is conferred upon the local government to exercise its police powers to repair, close, or demolish the dwellings consistent with the provisions of this Article.

(b) Abandoned Structures. – Any local government may by ordinance provide for the repair, closing, or demolition of any abandoned structure that the governing board finds to be a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities. The ordinance may provide for the repair, closing, or demolition of such structure pursuant to the same provisions and procedures as are prescribed by this Article for the repair, closing, or demolition of dwellings found to be unfit for human habitation. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 39, 51(a), (b), (d).)

§ 160D-1202. Definitions.

The following terms shall have the meanings whenever used or referred to as indicated when used in this Part unless a different meaning clearly appears from the context:

- (1) Owner. – The holder of the title in fee simple and every mortgagee of record.
- (2) Parties in interest. – All individuals, associations, and corporations who have interests of record in a dwelling and any who are in possession thereof.
- (3) Public authority. – Any housing authority or any officer who is in charge of any department or branch of the government of the city, county, or State relating to health, fire, building regulations, or other activities concerning dwellings in the local government.
- (4) Public officer. – The officer or officers who are authorized by ordinances adopted hereunder to exercise the powers prescribed by the ordinances and by this Article. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1203. Ordinance authorized as to repair, closing, and demolition; order of public officer.

Upon the adoption of an ordinance finding that dwelling conditions of the character described in G.S. 160D-1201 exist, the governing board is authorized to adopt and enforce ordinances relating to dwellings within the planning and development regulation jurisdiction that are unfit for human habitation. These ordinances shall include the following provisions:

- (1) Designation of enforcement officer. – One or more public officers shall be designated to exercise the powers prescribed by the ordinance.

- (2) Investigation, complaint, hearing. – Whenever a petition is filed with the public officer by a public authority or by at least five residents of the jurisdiction charging that any dwelling is unfit for human habitation or when it appears to the public officer that any dwelling is unfit for human habitation, the public officer shall, if a preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwellings a complaint stating the charges in that respect and containing a notice that an administrative hearing will be held before the public officer, or the officer's designated agent, at a place within the county in which the property is located. The hearing shall be not less than 10 days nor more than 30 days after the serving of the complaint. The owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. The rules of evidence prevailing in courts of law shall not be controlling in administrative hearings before the public officer.
- (3) Orders. – If, after notice and an administrative hearing, the public officer determines that the dwelling under consideration is unfit for human habitation, the officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner one of the following orders, as appropriate:
- a. If the repair, alteration, or improvement of the dwelling can be made at a reasonable cost in relation to the value of the dwelling, requiring the owner, within the time specified, to repair, alter, or improve the dwelling in order to render it fit for human habitation. The ordinance may fix a certain percentage of this value as being reasonable. The order may require that the property be vacated and closed only if continued occupancy during the time allowed for repair will present a significant threat of bodily harm, taking into account the nature of the necessary repairs, alterations, or improvements; the current state of the property; and any additional risks due to the presence and capacity of minors under the age of 18 or occupants with physical or mental disabilities. The order shall state that the failure to make timely repairs as directed in the order shall make the dwelling subject to the issuance of an unfit order under subdivision (4) of this section.
 - b. If the repair, alteration, or improvement of the dwelling cannot be made at a reasonable cost in relation to the value of the dwelling, requiring the owner, within the time specified in the order, to remove or demolish the dwelling. The ordinance may fix a certain percentage of this value as being reasonable. However, notwithstanding any other provision of law, if the dwelling is located in a historic district and the Historic District Commission determines, after an administrative hearing as provided by ordinance, that the dwelling is of particular significance or value toward maintaining the character of the district, and the dwelling has not been condemned as unsafe, the order may require that the dwelling be vacated and closed consistent with G.S. 160D-949.

- (4) Repair, closing, and posting. – If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the dwelling, the public officer may cause the dwelling to be repaired, altered, or improved or to be vacated and closed, and the public officer may cause to be posted on the main entrance of any dwelling so closed a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a Class 1 misdemeanor. The duties of the public officer set forth in this subdivision shall not be exercised until the governing board shall have by ordinance ordered the public officer to proceed to effectuate the purpose of this Article with respect to the particular property or properties that the public officer shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. This ordinance shall be recorded in the office of the register of deeds in the county where the property or properties are located and shall be indexed in the name of the property owner in the grantor index.
- (5) Demolition. – If the owner fails to comply with an order to remove or demolish the dwelling, the public officer may cause such dwelling to be removed or demolished. The duties of the public officer set forth in this subdivision shall not be exercised until the governing board shall have by ordinance ordered the public officer to proceed to effectuate the purpose of this Article with respect to the particular property or properties that the public officer shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the housing code. This ordinance shall be recorded in the office of the register of deeds in the county where the property or properties are located and shall be indexed in the name of the property owner in the grantor index.
- (6) Abandonment of Intent to Repair. – If the dwelling has been vacated and closed for a period of one year pursuant to an ordinance adopted pursuant to subdivision (4) of this section or after a public officer issues an order or proceedings have commenced under the substandard housing regulations regarding a dwelling to be repaired or vacated and closed as provided in this subdivision, then the governing board may find that the owner has abandoned the intent and purpose to repair, alter, or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, and welfare of the local government in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling that might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this State, then in such circumstances, the governing board may, after the expiration of such

one-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

- a. If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 90 days.
- b. If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within 90 days.

This ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this ordinance, the public officer shall effectuate the purpose of the ordinance.

(7) Liens. –

- a. The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the General Statutes.
- b. If the real property upon which the cost was incurred is located in an incorporated city, then the amount of the cost is also a lien on any other real property of the owner located within the city limits or within one mile thereof except for the owner's primary residence. The additional lien provided in this sub-subdivision is inferior to all prior liens and shall be collected as a money judgment.
- c. If the dwelling is removed or demolished by the public officer, the local government shall sell the materials of the dwelling, and any personal property, fixtures, or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the public officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the local government to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

- (8) Civil action. – If any occupant fails to comply with an order to vacate a dwelling, the public officer may file a civil action in the name of the local government to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as defendant any person occupying such dwelling. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed 10 days from the

issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. If the summons appears to have been duly served and if at the hearing the public officer produces a certified copy of an ordinance adopted by the governing board pursuant to subdivision (5) of this section authorizing the officer to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. 7A-228, and the execution of such judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this paragraph unless such occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the governing board has ordered the public officer to proceed to exercise his duties under subdivisions (4) and (5) of this section to vacate and close or remove and demolish the dwelling.

- (9) Additional notices to affordable housing organizations. – Whenever a determination is made pursuant to subdivision (3) of this section that a dwelling must be vacated and closed, or removed or demolished, under the provisions of this section, notice of the order shall be given by first-class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of 45 days from the mailing of such notice shall be given before removal or demolition by action of the public officer, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease, or purchase the property for the purpose of providing affordable housing. The public officer or clerk shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the public officer to wait 45 days before causing removal or demolition. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 40, 51(a), (b), (d).)

§ 160D-1204. Heat source required.

(a) A local government shall, by ordinance, require that every dwelling unit leased as rental property within the city shall have, at a minimum, a central or electric heating system or sufficient chimneys, flues, or gas vents, with heating appliances connected, so as to heat at least one habitable room, excluding the kitchen, to a minimum temperature of 68 degrees Fahrenheit measured 3 feet above the floor with an outside temperature of 20 degrees Fahrenheit.

(b) If a dwelling unit contains a heating system or heating appliances that meet the requirements of subsection (a) of this section, the owner of the dwelling unit shall not be required to install a new heating system or heating appliances, but the owner shall be required to maintain the existing heating system or heating appliances in a good and safe working condition. Otherwise, the owner of the dwelling unit shall install a heating system or heating appliances that meet the

requirements of subsection (a) of this section and shall maintain the heating system or heating appliances in a good and safe working condition.

(c) Portable kerosene heaters are not acceptable as a permanent source of heat as required by subsection (a) of this section but may be used as a supplementary source in single-family dwellings and duplex units. An owner who has complied with subsection (a) of this section shall not be held in violation of this section where an occupant of a dwelling unit uses a kerosene heater as a primary source of heat.

(d) This section applies only to local governments with a population of 200,000 or over within their planning and development regulation jurisdiction, according to the most recent decennial federal census.

(e) Nothing in this section shall be construed to diminish the rights or remedies available to a tenant under a lease agreement, statute, or at common law or to prohibit a city from adopting an ordinance with more stringent heating requirements than provided for by this section. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1205. Standards.

An ordinance adopted under this Article shall provide that the public officer may determine that a dwelling is unfit for human habitation if the officer finds that conditions exist in the dwelling that render it dangerous or injurious to the health, safety, or welfare of the occupants of the dwelling, the occupants of neighboring dwellings, or other residents of the jurisdiction. Defective conditions may include the following, without limiting the generality of the foregoing: defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanness. The ordinances may provide additional standards to guide the public officers in determining the fitness of a dwelling for human habitation. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1206. Service of complaints and orders.

(a) Complaints or orders issued by a public officer pursuant to an ordinance adopted under this Article shall be served upon persons either personally or by certified mail. When service is made by certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the certified mail is unclaimed or refused but the regular mail is not returned by the post office within 10 days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

(b) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the public officer in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by certified mail, and the public officer makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the jurisdiction at least once no later than the time at which personal service would be required under the provisions of this Article. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1207. Periodic inspections.

(a) Except as provided in subsection (b) of this section, the inspection department may make periodic inspections only when there is reasonable cause to believe that unsafe, unsanitary, or otherwise hazardous or unlawful conditions may exist in a residential building or structure. However, when the inspection department determines that a safety hazard exists in one of the dwelling units within a multifamily building, which in the opinion of the inspector poses an immediate threat to the occupant, the inspection department may inspect, in the absence of a specific complaint and actual knowledge of the unsafe condition, additional dwelling units in the multifamily building to determine if that same safety hazard exists. For purposes of this section, the term "reasonable cause" means any of the following: (i) the landlord or owner has a history of more than two verified violations of the housing ordinances or codes within a 12-month period, (ii) there has been a complaint that substandard conditions exist within the building or there has been a request that the building be inspected, (iii) the inspection department has actual knowledge of an unsafe condition within the building, or (iv) violations of the local ordinances or codes are visible from the outside of the property. In conducting inspections authorized under this section, the inspection department shall not discriminate between single-family and multifamily buildings or between owner-occupied and tenant-occupied buildings. In exercising this power, members of the department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. Nothing in this section shall be construed to prohibit periodic inspections in accordance with State fire prevention code or as otherwise required by State law.

(b) A local government may require periodic inspections as part of a targeted effort to respond to blighted or potentially blighted conditions within a geographic area that has been designated by the governing board. However, the total aggregate of targeted areas in the local government jurisdiction at any one time shall not be greater than 1 square mile or five percent (5%) of the area within the local government jurisdiction, whichever is greater. A targeted area designated by the local government shall reflect the local government's stated neighborhood revitalization strategy and shall consist of property that meets the definition of a "blighted area" or "blighted parcel" as those terms are defined in G.S. 160A-503(2) and G.S. 160A-503(2a), respectively, except that for purposes of this subsection, the planning board is not required to make a determination as to the property. The local government shall not discriminate in its selection of areas or housing types to be targeted and shall (i) provide notice to all owners and residents of properties in the affected area about the periodic inspections plan and information regarding a legislative hearing regarding the plan, (ii) hold a legislative hearing regarding the plan, and (iii) establish a plan to address the ability of low-income residential property owners to comply with minimum housing code standards.

(c) In no event may a local government do any of the following: (i) adopt or enforce any ordinance that would require any owner or manager of rental property to obtain any permit or permission under Article 11 or Article 12 of this Chapter from the local government to lease or rent residential real property or to register rental property with the local government, except for those individual properties that have more than four verified violations in a rolling 12-month period or two or more verified violations in a rolling 30-day period, or upon the property being identified within the top ten percent (10%) of properties with crime or disorder problems as set forth in a local ordinance, (ii) require that an owner or manager of residential rental property enroll or participate in any governmental program as a condition of obtaining a certificate of occupancy, (iii) levy a special fee or tax on residential rental property that is not also levied against other commercial and residential properties, unless expressly authorized by general law or applicable

only to an individual rental unit or property described in clause (i) of this subsection and the fee does not exceed five hundred dollars (\$500.00) in any 12-month period in which the unit or property is found to have verified violations, (iv) provide that any violation of a rental registration ordinance is punishable as a criminal offense, or (v) require any owner or manager of rental property to submit to an inspection before receiving any utility service provided by the local government. For purposes of this section, the term "verified violation" means all of the following:

- (1) The aggregate of all violations of housing ordinances or codes found in an individual rental unit of residential real property during a 72-hour period.
- (2) Any violations that have not been corrected by the owner or manager within 21 days of receipt of written notice from the local government of the violations. Should the same violation occur more than two times in a 12-month period, the owner or manager may not have the option of correcting the violation. If the housing code provides that any form of prohibited tenant behavior constitutes a violation by the owner or manager of the rental property, it shall be deemed a correction of the tenant-related violation if the owner or manager, within 30 days of receipt of written notice of the tenant-related violation, brings a summary ejectment action to have the tenant evicted.

(d) If a property is identified by the local government as being in the top ten percent (10%) of properties with crime or disorder problems, the local government shall notify the landlord of any crimes, disorders, or other violations that will be counted against the property to allow the landlord an opportunity to attempt to correct the problems. In addition, the local government and the county sheriff's office or city's police department shall assist the landlord in addressing any criminal activity, which may include testifying in court in a summary ejectment action or other matter to aid in evicting a tenant who has been charged with a crime. If the local government or the county sheriff's office or city's police department does not cooperate in evicting a tenant, the tenant's behavior or activity at issue shall not be counted as a crime or disorder problem as set forth in the local ordinance, and the property may not be included in the top ten percent (10%) of properties as a result of that tenant's behavior or activity.

(e) If the local government takes action against an individual rental unit under this section, the owner of the individual rental unit may appeal the decision to the housing appeals board or the zoning board of adjustment, if operating, or the planning board if created under G.S. 160D-301, or if neither is created, the governing board. The board shall fix a reasonable time for hearing appeals, shall give due notice to the owner of the individual rental unit, and shall render a decision within a reasonable time. The owner may appear in person or by agent or attorney. The board may reverse or affirm the action, wholly or partly, or may modify the action appealed from, and may make any decision and order that in the opinion of the board ought to be made in the matter. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 41, 51(a), (b), (d).)

§ 160D-1208. Remedies.

(a) An ordinance adopted pursuant to this Article may provide for a housing appeals board as provided by G.S. 160D-305. An appeal from any decision or order of the public officer is a quasi-judicial matter and may be taken by any person aggrieved thereby or by any officer, board, or commission of the local government. Any appeal from the public officer shall be taken within 10 days from the rendering of the decision or service of the order by filing with the public officer and with the housing appeals board a notice of appeal that shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the public officer shall forthwith

transmit to the board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the public officer refusing to allow the person aggrieved thereby to do any act, the decision remains in force until modified or reversed. When any appeal is from a decision of the public officer requiring the person aggrieved to do any act, the appeal has the effect of suspending the requirement until the hearing by the board, unless the public officer certifies to the board, after the notice of appeal is filed with the officer, that because of facts stated in the certificate, a copy of which shall be furnished to the appellant, a suspension of the requirement would cause imminent peril to life or property. In that case the requirement is not suspended except by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the public officer, by the board, or by a court of record upon petition made pursuant to subsection (f) of this section.

(b) The housing appeals board shall fix a reasonable time for hearing appeals, shall give due notice to the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make any decision and order that in its opinion ought to be made in the matter, and, to that end, it has all the powers of the public officer, but the concurring vote of four members of the board is necessary to reverse or modify any decision or order of the public officer. The board also has power in passing upon appeals, when unnecessary hardships would result from carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance is observed, public safety and welfare secured, and substantial justice done.

(c) Every decision of the housing appeals board is subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the board, but not otherwise.

(d) Any person aggrieved by an order issued by the public officer or a decision rendered by the housing appeals board may petition the superior court for an injunction restraining the public officer from carrying out the order or decision and the court may, upon such petition, issue a temporary injunction restraining the public officer pending a final disposition of the cause. The petition shall be filed within 30 days after issuance of the order or rendering of the decision. Hearings shall be had by the court on a petition within 20 days and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. It is not necessary to file bond in any amount before obtaining a temporary injunction under this subsection.

(e) If any dwelling is erected, constructed, altered, repaired, converted, maintained, or used in violation of this Article or of any ordinance or code adopted under authority of this Article or any valid order or decision of the public officer or board made pursuant to any ordinance or code adopted under authority of this Article, the public officer or board may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, or use; to restrain, correct, or abate the violation; to prevent the occupancy of the dwelling; or to prevent any illegal act, conduct, or use in or about the premises of the dwelling. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 42, 51(a), (b), (d).)

§ 160D-1209. Compensation to owners of condemned property.

Nothing in this Article shall be construed as preventing the owner or owners of any property from receiving just compensation for the taking of property by the power of eminent domain under the laws of this State nor as permitting any property to be condemned or destroyed except in

accordance with the police power of the State. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1210. Additional powers of public officer.

An ordinance adopted by the governing board may authorize the public officer to exercise any powers necessary or convenient to carry out and effectuate the purpose and provisions of this Article, including the following powers in addition to others herein granted:

- (1) To investigate the dwelling conditions in the local government's planning and development regulation jurisdiction in order to determine which dwellings therein are unfit for human habitation.
- (2) To administer oaths, affirmations, examine witnesses, and receive evidence.
- (3) To enter upon premises for the purpose of making examinations in a manner that will do the least possible inconvenience to the persons in possession.
- (4) To appoint and fix the duties of officers, agents, and employees necessary to carry out the purposes of the ordinances.
- (5) To delegate any of his or her functions and powers under the ordinance to other officers and other agents. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1211. Administration of ordinance.

A local government adopting an ordinance under this Article shall, as soon as possible thereafter, prepare an estimate of the annual expenses or costs to provide the equipment, personnel, and supplies necessary for periodic examinations and investigations of the dwellings for the purpose of determining the fitness of dwellings for human habitation and for the enforcement and administration of its ordinances adopted under this Article. The local government is authorized to make appropriations from its revenues necessary for this purpose and may accept and apply grants or donations to assist it. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1212. Supplemental nature of Article.

Nothing in this Article shall be construed to abrogate or impair the powers of the courts or of any department of any local government to enforce any provisions of its charter or its ordinances or regulations nor to prevent or punish violations thereof. The powers conferred by this Article shall be supplemental to the powers conferred by any other law in carrying out the provisions of the ordinances. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

**SESSION LAW 2021-138
SENATE BILL 300**

AN ACT TO INCREASE PROTECTIONS, TRAINING, AND OVERSIGHT FOR STATE AND LOCAL LAW ENFORCEMENT OFFICERS; TO CREATE A DECERTIFICATION DATABASE; TO REQUIRE USE OF THE FEDERAL BUREAU OF INVESTIGATION'S NEXT GENERATION IDENTIFICATION SYSTEM AND RAP BACK SERVICE FOR LAW ENFORCEMENT; TO REQUIRE REPORTING RELATED TO GIGLIO MATERIAL; TO EXPAND TRANSPORTATION OF INVOLUNTARY COMMITMENT RESPONDENTS; TO STANDARDIZE LAW ENFORCEMENT OFFICER ENTRY REQUIREMENTS AND ONGOING REQUIREMENTS; TO REQUIRE PSYCHOLOGICAL SCREENINGS OF LAW ENFORCEMENT OFFICERS PRIOR TO CERTIFICATION OR EMPLOYMENT; TO EDUCATE LAW ENFORCEMENT OFFICERS ON MAINTAINING GOOD MENTAL HEALTH, AND TO PROVIDE INFORMATION TO LAW ENFORCEMENT OFFICERS ON MENTAL HEALTH RESOURCES AVAILABLE; TO CREATE A PHYSICAL FITNESS STUDY; TO DECRIMINALIZE CERTAIN LOCAL ORDINANCES AND PROVIDE COMPLIANCE AS A DEFENSE TO AN ORDINANCE VIOLATION; TO MANDATE MISDEMEANOR FIRST APPEARANCES WHEN A DEFENDANT IS IN CUSTODY; TO REQUIRE USE OF THE NATIONAL DECERTIFICATION INDEX MAINTAINED BY THE INTERNATIONAL ASSOCIATION OF DIRECTORS OF LAW ENFORCEMENT STANDARDS AND TRAINING IN THE CERTIFICATION PROCESS FOR CERTIFIED PERSONNEL; TO ESTABLISH A DUTY FOR LAW ENFORCEMENT OFFICERS TO INTERVENE IN AND REPORT EXCESSIVE USE OF FORCE; TO ADDRESS CONSTITUTIONAL ISSUES WITH SATELLITE-BASED MONITORING RAISED IN STATE VERSUS GRADY AND CREATE A PROCESS TO REVIEW WHETHER OFFENDERS SUBJECT TO THAT CASE WHICH WERE REMOVED FROM SATELLITE-BASED MONITORING ARE OTHERWISE ELIGIBLE; TO REMOVE THE STANDARDS COMMISSIONS FROM A NONEXCLUSIVE LIST OF STATE AGENCY LICENSING BOARDS; TO PROTECT LAW ENFORCEMENT OFFICERS; TO AMEND THE LAW TO PROVIDE IMMEDIATE DISCLOSURE OF BODY-WORN CAMERA RECORDINGS RELATED TO DEATH OR SERIOUS BODILY INJURY; AND TO ESTABLISH THE BIPARTISAN NORTH CAROLINA LEGISLATIVE WORKING GROUP TO MAKE RECOMMENDATIONS FOR THE RECODIFICATION OF NORTH CAROLINA'S CRIMINAL LAWS.

The General Assembly of North Carolina enacts:

PART I. DECERTIFICATION STATEWIDE DATABASE AND PUBLIC LAW ENFORCEMENT DATABASE REGULATIONS

SECTION 1.(a) Article 1 of Chapter 17C of the General Statutes is amended by adding a new section to read:

"§ 17C-14. Database of law enforcement officer certification suspensions and revocations.



The Commission shall develop and maintain a statewide database accessible to the public on its website that contains all revocations and suspensions of law enforcement officer certifications by the Commission."

SECTION 1.(b) Chapter 17E of the General Statutes is amended by adding a new section to read:

"§ 17E-14. Database of justice officer certification suspensions and revocations.

The Commission shall develop and maintain a statewide database accessible to the public on its website that contains all revocations and suspensions of justice officer certifications by the Commission."

SECTION 1.(c) This section becomes effective October 1, 2021.

PART II. REQUIRE USE OF THE FEDERAL BUREAU OF INVESTIGATION'S NEXT GENERATION IDENTIFICATION (NGI) SYSTEM AND RAP BACK SERVICE

SECTION 2.(a) Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-972.1. Criminal record checks for North Carolina Criminal Justice Education and Training Standards Commission and North Carolina Sheriffs' Education and Training Standards Commission; fingerprints sent to Federal Bureau of Investigation.

(a) The State Bureau of Investigation (SBI) shall provide to the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission the criminal history of any person who applies for certification or is certified, as a criminal justice officer or justice officer, from the State and National Repositories of Criminal Histories. Each agency employing certified criminal justice officers or justice officers shall provide to the SBI, the fingerprints of any person who applies for certification and certified officers, other identifying information required by the State and National Repositories, and any additional information required by the SBI.

(b) The SBI shall conduct a criminal history records check using the fingerprints of the applicants and certified officers, in accordance with 12 NCAC 09B. 0103 and 12 NCAC 10B. 0302, and enroll the fingerprints in the Statewide Automated Fingerprint Identification System (SAFIS).

(c) In addition to searching the State's criminal history record file, the SBI shall forward a set of fingerprints to the Federal Bureau of Investigation (FBI) for a national criminal history record check. The SBI shall enroll each individual whose fingerprints are received under this section in the Federal Bureau of Investigation's Next Generation Identification (NGI) System and Criminal Justice Record of Arrest and Prosecution Background (Rap Back) Service. The SBI will also notify the certifying Commission of any subsequent arrest of an individual identified through the Rap Back Service.

(d) Within 15 business days of receiving notification by either Commission that the individual whose fingerprints have been stored in the State Automated Fingerprint Identification System (SAFIS) pursuant to subsection (b) of this section has withdrawn the application or separated from employment and an Affidavit of Separation has been filed with either Commission, the SBI shall remove the individual's fingerprints from SAFIS and forward a request to the FBI to remove the fingerprints from the NGI System and the Criminal Justice Rap Back Service.

(e) The Commissions shall keep all information obtained pursuant to this section confidential."

SECTION 2.(b) No later than June 30, 2023, all personnel certified by either Commission shall have their fingerprints electronically submitted to the SBI for a state and national criminal history check.

SECTION 2.(c) This section becomes effective January 1, 2023.

PART III. CRITICAL INCIDENT STATEWIDE DATABASE

SECTION 3.(a) G.S. 17C-2 reads as rewritten:

"§ 17C-2. Definitions.

Unless the context clearly otherwise requires, the following definitions apply in this Article:

...

(3a) Critical incident. – An incident involving any use of force by a law enforcement officer that results in death or serious bodily injury to a person.

...."

SECTION 3.(b) Article 1 of Chapter 17C of the General Statutes is amended by adding a new section to read:

"§ 17C-15. Database for law enforcement officer critical incident information.

(a) The Division shall develop and maintain a statewide database for use by law enforcement agencies that tracks all critical incident data of law enforcement officers in North Carolina.

(b) All law enforcement agencies in the State that employ personnel certified by the Commission shall provide any information requested by the Division to maintain the database required by subsection (a) of this section.

(c) Information collected under this section that is confidential under State or federal law shall remain confidential.

(d) A law enforcement officer who is reported to the Division as having been involved in a critical incident who disputes being involved in a critical incident has a right, prior to being placed in the database, to request a hearing in superior court for a determination of whether the officer's involvement was properly placed in the database."

SECTION 3.(c) G.S. 17E-2 reads as rewritten:

"§ 17E-2. Definitions.

Unless the context clearly requires otherwise, the following definitions apply to this Chapter:

...

(4) "Critical incident" means an incident involving any use of force by a law enforcement officer that results in death or serious bodily injury to a person."

SECTION 3.(d) Chapter 17E of the General Statutes is amended by adding a new section to read:

"§ 17E-15. Database for justice officer critical incident information.

(a) The Division shall develop and maintain a statewide database for use by law enforcement agencies that tracks all critical incident data of justice officers in North Carolina.

(b) All law enforcement agencies in the State that employ personnel certified by the Commission shall provide any information requested by the Commission to maintain the database required by subsection (a) of this section.

(c) Information collected under this section that is confidential under State or federal law shall remain confidential.

(d) A justice officer who is reported to the Division as having been involved in a critical incident who disputes being involved in a critical incident has a right, prior to being placed in the database, to request a hearing in superior court for a determination of whether the officer's involvement was properly placed in the database."

SECTION 3.(e) This section becomes effective October 1, 2021, and applies to critical incidents on or after that date.

PART IV. REPORT REQUIREMENT RELATED TO GIGLIO MATERIAL

SECTION 4.(a) Article 1 of Chapter 17C of the General Statutes is amended by adding a new section to read:

"§ 17C-16. Requirement to report material relevant to testimony.

(a) Any person who is certified by the Commission or has received a conditional offer of employment and who has been notified that the person may not be called to testify at trial based on bias, interest, or lack of credibility shall report and provide a copy of that notification to the Criminal Justice Standards Division within 30 days of receiving the notification, except as provided in subsection (h) of this section. This requirement shall only apply if the person is notified by one of the following methods:

- (1) In writing by a superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, assistant United States attorney, or the person's agency head.
- (2) In open court by a superior court judge, district court judge, or federal judge, and documented in a written order.

(b) The report to the Division shall be in writing and shall state who notified the person that the person may not be called to testify at trial. A person required to report to the Division under subsection (a) of this section shall make the same report to the person's agency head within 30 days of being notified that the person may not be called to testify at trial. An agency head who receives a report that a person in the agency has been notified that they may not be called to testify at trial shall also report the notification to the Division in writing within 30 days of the agency head's receipt of that report.

(c) A superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, or assistant United States attorney who notifies a person that they may not be called to testify at trial as provided in subsection (a) of this section shall report that notification to the Division and provide a copy of the written document or order within 30 days of notifying the person that they may not be called to testify at trial.

(d) If the Division transfers to another agency the certification of any person required to report to the Division pursuant to subsection (a) of this section, the Division shall provide written notification to both the head of the new agency and the elected district attorney in the prosecutorial district where the agency is located that the person has been previously notified that the person may not be called to testify at trial. If the new agency receiving notification pursuant to this subsection is a State agency, the Division shall notify the elected district attorney in every prosecutorial district of the State.

(e) If any person required to report to the Division pursuant to subsection (a) of this section is subsequently informed in writing that that notification has been rescinded, the person shall provide the Division a copy of that document. The provisions of subsection (d) of this section do not apply if the person required to report pursuant to subsection (a) of this section is subsequently informed in writing that the notification has been rescinded.

(f) No later than March 1 each year, the Commission shall report to the Joint Legislative Oversight Committee on Justice and Public Safety regarding the number of individuals for whom the Division received a report required by subsection (a) of this section during the previous calendar year. The report shall include information for each case on whether a final agency decision has been entered pursuant to Chapter 150B of the General Statutes and what action, if any, has been taken against each certification. The report shall not include the name or any other identifying information of any person required to report pursuant to subsection (a) of this section.

(g) The reports and notifications received by the Division pursuant to this section shall not be public record.

(h) Any person who has received a notification that may meet the reporting requirement provided in subsection (a) of this section may apply for a hearing in superior court for a judicial determination of whether or not the person received a notification that the person may not be called to testify at trial based on bias, interest, or lack of credibility. This hearing is limited to reviewing whether (i) a person who is certified by the Commission or has received a conditional offer of employment, (ii) has been notified in writing by a superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, or

assistant United States attorney; or notified in open court by a superior court judge, district court judge, or federal judge, and documented in a written order, and (iii) that notification states that the person may not be called to testify at trial based on bias, interest, or lack of credibility, not matters of law or admissibility. The person must provide notice of the hearing to the Division. One extension of 15 days will be added to the 30-day reporting requirement provided in subsection (a) of this section if notice of a hearing is received."

SECTION 4.(b) Chapter 17E of the General Statutes is amended by adding a new section to read:

"§ 17E-16. Requirement to report material relevant to testimony.

(a) Any person who is certified by the Commission or has received a conditional offer of employment and who has been notified that the person may not be called to testify at trial based on bias, interest, or lack of credibility shall report and provide a copy of that notification to the Justice Officers' Standards Division within 30 days of receiving the notification, except as provided in subsection (h) of this section. This requirement shall only apply if the person is notified by one of the following methods:

- (1) In writing by a superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, assistant United States attorney, or the person's agency head.
- (2) In open court by a superior court judge, district court judge, or federal judge and documented in a written order.

(b) The report to the Division shall be in writing and shall state who notified the person that the person may not be called to testify at trial. A person required to report to the Division under subsection (a) of this section shall make the same report to the person's agency head within 30 days of being notified that the person may not be called to testify at trial. An agency head who receives a report that a person in the agency has been notified that they may not be called to testify at trial shall also report the notification to the Division in writing within 30 days of the agency head's receipt of that report.

(c) A superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, or assistant United States attorney who notifies a person that they may not be called to testify at trial as provided in subsection (a) of this section shall report that notification to the Division and provide a copy of the written document or order within 30 days of notifying the person that they may not be called to testify at trial.

(d) If the Division transfers to another agency the certification of any person required to report to the Division pursuant to subsection (a) of this section, the Division shall provide written notification to both the head of the new agency and the elected district attorney in the prosecutorial district where the agency is located that the person has been previously notified that the person may not be called to testify at trial. If the new agency receiving notification pursuant to this subsection is a State agency, the Division shall notify the elected district attorney in every prosecutorial district of the State.

(e) If any person required to report to the Division pursuant to subsection (a) of this section is subsequently informed in writing that that notification has been rescinded, the person shall provide the Division a copy of that document. The provisions of subsection (d) of this section do not apply if the person required to report pursuant to subsection (a) of this section is subsequently informed in writing that the notification has been rescinded.

(f) No later than March 1 each year, the Commission shall report to the Joint Legislative Oversight Committee on Justice and Public Safety regarding the number of individuals for whom the Division received a report required by subsection (a) of this section during the previous calendar year. The report shall include information for each case on whether a final agency decision has been entered pursuant to Chapter 150B of the General Statutes and what action, if any, has been taken against each certification. The report shall not include the name or any other identifying information of any person required to report pursuant to subsection (a) of this section.

(g) The reports and notifications received by the Division pursuant to this section shall not be public record.

(h) Any person who has received a notification that may meet the reporting requirement provided in subsection (a) of this section may apply for a hearing in superior court for a judicial determination of whether or not the person received a notification that the person may not be called to testify at trial based on bias, interest, or lack of credibility. This hearing is limited to reviewing whether (i) a person who is certified by the Commission or has received a conditional offer of employment, (ii) has been notified in writing by a superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, or assistant United States attorney; or notified in open court by a superior court judge, district court judge, or federal judge, and documented in a written order, and (iii) that notification states that the person may not be called to testify at trial based on bias, interest, or lack of credibility, not matters of law or admissibility. The person must provide notice of the hearing to the Division. One extension of 15 days will be added to the 30-day reporting requirement provided in subsection (a) of this section if notice of a hearing is received."

SECTION 4.(c) This section becomes effective October 1, 2021, and applies to notifications received prior to, on, or after that date by persons required to report pursuant to this act.

PART V. REQUIRE CERTAIN MINIMUM LAW ENFORCEMENT OFFICER STANDARDS

SECTION 5.(a) The Criminal Justice Education and Training Standards Commission and the Sheriffs' Education and Training Standards Commission shall jointly develop uniform, statewide minimum standards for law enforcement officers and justice officers and adopt these standards as rules.

SECTION 5.(b) Each Commission shall report the standards developed pursuant to subsection (a) of this section to the Joint Legislative Oversight Committee on Justice and Public Safety no later than December 31, 2021.

SECTION 5.(c) Each Commission may adopt temporary rules under G.S. 150B-21.1 to comply with this section and shall adopt permanent rules to comply with this section by December 31, 2022.

PART VI. TRANSPORTATION OF INVOLUNTARY COMMITMENT RESPONDENTS

SECTION 6.(a) G.S. 122C-251(f) reads as rewritten:

"(f) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, a clerk, a magistrate, or a district court judge, where applicable, may authorize either a health care provider of the respondent or the family or immediate friends of the respondent, if they so request, to transport the respondent in accordance with the procedures of this Article. This authorization shall only be granted in cases where the danger to the public, the health care provider of the respondent, the family or friends of the respondent, or the respondent himself or herself is not substantial. The health care provider of the respondent or the family or immediate friends of the respondent shall bear the costs of providing this transportation."

SECTION 6.(b) This section becomes effective October 1, 2021, and applies to custody orders issued on or after that date.

PART VII. LAW ENFORCEMENT OFFICER ENTRY REQUIREMENTS, ONGOING REQUIREMENTS, AND CREATE A PHYSICAL FITNESS STUDY

SECTION 7.(a) G.S. 17C-6(a) reads as rewritten:

"(a) In addition to powers conferred upon the Commission elsewhere in this Article, the Commission shall have the following powers, which shall be enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17C-10:

...

- (2) Establish minimum educational and training standards that must be met in order to qualify for entry level employment and retention as a criminal justice officer in temporary or probationary status or in a permanent position. The standards for entry level employment shall include all of the following:

...

- c. Education and training to develop knowledge and increase awareness of effective mental health and wellness strategies for criminal justice officers.

...

- (14) Establish minimum standards for in-service training for criminal justice officers. In-service training standards shall include all of the following:

...

- c. Training to develop knowledge and increase awareness of effective mental health and wellness strategies for criminal justice officers. The standards established shall include two hours of training on this issue every three years.

...."

SECTION 7.(b) G.S. 17E-4(a) reads as rewritten:

"(a) The Commission shall have the following powers, duties, and responsibilities, which are enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17E-8 and G.S. 17E-9:

...

- (2) Establish minimum educational and training standards that may be met in order to qualify for entry level employment as an officer in temporary or probationary status or in a permanent position. The standards for entry level employment of officers shall include all of the following:

...

- c. Education and training to develop knowledge and increase awareness of effective mental health and wellness strategies for justice officers.

...

- (11) Establish minimum standards for in-service training for justice officers. In-service training standards shall include all of the following:

...

- c. Training to develop knowledge and increase awareness of effective mental health and wellness strategies for justice officers. The standards established shall include two hours of training on this issue every three years.

...."

SECTION 7.(c) G.S. 17C-10(c) reads as rewritten:

"(c) In addition to the requirements of subsection (b) of this section, the Commission, by rules and regulations, shall fix other qualifications for the employment, training, and retention of criminal justice officers including minimum age, education, physical and mental standards, citizenship, good moral character, experience, and such other matters as relate to the competence and reliability of persons to assume and discharge the responsibilities of criminal justice officers, ~~and the officers.~~ The Commission shall prescribe the means for presenting evidence of fulfillment of these requirements. The Commission shall require the administration of a psychological screening examination, including a face-to-face, in-person interview conducted by a licensed

psychologist, to determine the criminal justice officer's psychological suitability to properly fulfill the responsibilities of the criminal justice officer. If face-to-face, in-person is not practicable, the face-to-face evaluation can be virtual as long as both the audio and video allow for a professional clinical evaluation in a clinical environment. The psychological screening examination shall be given (i) prior to the initial certification or (ii) prior to the criminal justice officer performing any action requiring certification by the Commission.

Where minimum educational standards are not met, yet the individual shows potential and a willingness to achieve the standards by extra study, they may be waived by the Commission for the reasonable amount of time it will take to achieve the standards required. Such an educational waiver shall not exceed 12 months."

SECTION 7.(d) G.S. 17E-7(c) reads as rewritten:

"(c) In addition to the requirements of subsection (b) of this section, the Commission, by rules and regulations, may fix other qualifications for the employment and retention of justice officers including minimum age, education, physical and mental standards, citizenship, good moral character, experience, and such other matters as relate to the competence and reliability of persons to assume and discharge the responsibilities of the ~~office, and the office.~~ The Commission shall prescribe the means for presenting evidence of fulfillment of these requirements. The Commission shall require the administration of a psychological screening examination, including a face-to-face, in-person interview conducted by a licensed psychologist, to determine the justice officer's psychological suitability to properly fulfill the responsibilities of the justice officer. If face-to-face, in-person is not practicable, the face-to-face evaluation can be virtual as long as both the audio and video allow for a professional clinical evaluation in a clinical environment. The psychological screening examination shall be given (i) prior to the initial certification or (ii) prior to the criminal justice officer performing any action requiring certification by the Commission.

Where minimum educational standards are not met, yet the individual shows potential and a willingness to achieve the standards by extra study, they may be waived by the Commission for the reasonable amount of time it will take to achieve the standards required. Upon petition from a sheriff, the Commission may grant a waiver of any provisions of this section (17E-7) for any justice officer serving that sheriff."

SECTION 7.(e) In developing the standards and training required by subsections (a) and (b) of this section, the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission are encouraged to adopt standards that provide training conducted by mental health professionals and through face-to-face instruction.

SECTION 7.(f) The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission shall regularly provide information on any statewide mental health resources specifically available to criminal justice officers or justice officers to all criminal justice agencies or departments in the State that employ officers certified by either Commission.

SECTION 7.(g) All criminal justice agencies or departments in the State that employ criminal justice officers certified by the North Carolina Criminal Justice Education and Training Standards Commission or justice officers certified by the North Carolina Sheriffs' Education and Training Standards Commission shall coordinate with the appropriate local management entity/managed care organization (LME/MCO) or prepaid health plan, as defined under G.S. 108D-1, to make information on State and local mental health resources and programs easily available to all employees and develop policies to encourage employees to utilize the resources available.

SECTION 7.(h) The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission shall jointly study the benefits, if any, of requiring physical fitness testing

throughout the career of a law enforcement officer, and shall also study whether that testing, if required, should be incrementally adjusted based upon the age of the law enforcement officer, and report to the Joint Legislative Oversight Committee on Justice and Public Safety no later than March 31, 2022.

SECTION 7.(i) The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission shall implement the requirements of subsections (a) through (d) of this section no later than January 1, 2022. The requirements of subsections (c) and (d) of this section shall apply to certifications issued and employees entering employment on or after the implementation date of those requirements.

SECTION 7.(j) Subsections (a) through (d) of this section become effective January 1, 2022, and apply to applications for law enforcement certification filed on or after that date. The remainder of this section is effective when it becomes law.

PART VIII. DEVELOPMENT OF EARLY WARNING SYSTEMS

SECTION 8.(a) Chapter 17A of the General Statutes is amended by adding a new section to read:

"§ 17A-10. Development of law enforcement early warning system.

(a) Every agency in the State that employs personnel certified by the North Carolina Criminal Justice Education and Training Standards Commission or the North Carolina Sheriffs' Education and Training Standards Commission shall develop and implement an early warning system to document and track the actions and behaviors of law enforcement officers for the purpose of intervening and improving performance. The early warning system required by this section shall include information, at a minimum, regarding the following:

- (1) Instances of the discharge of a firearm.
- (2) Instances of use of force.
- (3) Vehicle collisions.
- (4) Citizen complaints.

(b) Information collected under this section that is confidential under State or federal law shall remain confidential.

(c) For purposes of this section, "law enforcement officer" means any sworn law enforcement officers with the power of arrest, both State and local."

SECTION 8.(b) This section becomes effective December 1, 2021, and applies to actions and behaviors on or after that date.

PART IX. LAW ENFORCEMENT AGENCY BEST PRACTICES RECRUITING GUIDE

SECTION 9.(a) The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission shall jointly develop a best practices guide to help law enforcement agencies recruit and retain a diverse workforce.

SECTION 9.(b) The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission shall report to the Joint Legislative Oversight Committee on Justice and Public Safety no later than April 1, 2022, regarding the best practices guide required by subsection (a) of this section.

PART X. INVESTIGATIONS OF OFFICER-INVOLVED DEATHS

SECTION 10.(a) G.S. 143B-919 is amended by adding a new subsection to read:

"(b1) The Bureau shall, upon request of the Governor or a sheriff, chief of police, head of a State law enforcement agency, district attorney, or the Commissioner of Prisons, investigate and prepare evidence in the event of any of the following:

- (1) A sworn law enforcement officer with the power to arrest uses force against an individual in the performance of the officer's duties that results in the death of the individual.
- (2) An individual in the custody of the Department of Public Safety, a State prison, a county jail, or a local confinement facility, regardless of the physical location of the individual, dies."

SECTION 10.(b) This section becomes effective October 1, 2021.

PART XI. MANDATORY IN-SERVICE TRAINING FOR LAW ENFORCEMENT OFFICERS

SECTION 11.(a) G.S. 17C-6(a), as amended by Section 7 of this act, reads as rewritten:

"(a) In addition to powers conferred upon the Commission elsewhere in this Article, the Commission shall have the following powers, which shall be enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17C-10:

...

- (14) Establish minimum standards for in-service training for criminal justice officers. In-service training standards for sworn law enforcement officers shall include all of the ~~following~~following training topics:
 - a. ~~Training in response~~ Response to, and investigation of, domestic violence cases, as well as training investigation for evidence-based prosecutions.
 - b. ~~Training on juvenile~~ Juvenile justice issues, including (i) the handling and processing of juvenile matters for referrals, diversion, arrests, and detention; (ii) best practices for handling incidents involving juveniles; (iii) adolescent development and psychology; and (iv) promoting relationship building with youth as a key to delinquency prevention.
 - c. Ethics.
 - d. Mental health for criminal justice officers.
 - e. Community policing.
 - f. Minority sensitivity.
 - g. Use of force.
 - h. The duty to intervene and report.

...."

SECTION 11.(b) G.S. 17E-4(a), as amended by Section 7 of this act, reads as rewritten:

"(a) The Commission shall have the following powers, duties, and responsibilities, which are enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17E-8 and G.S. 17E-9:

...

- (11) Establish minimum standards for in-service training for justice officers. In-service training standards for sworn law enforcement officers shall include all of the ~~following~~following training topics:
 - a. ~~Training in response~~ Response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions. For purposes of the domestic violence training requirement, the term "justice officer" shall include those defined in G.S. 17E-2(3)a., except that the term shall not include "special deputy sheriffs" as defined in G.S. 17E-2(3)a.
 - b. ~~Training on juvenile~~ Juvenile justice issues, including (i) the handling and processing of juvenile matters for referrals, diversion, arrests, and

detention; (ii) best practices for handling incidents involving juveniles; (iii) adolescent development and psychology; and (iv) promoting relationship building with youth as a key to delinquency prevention.

- c. Ethics.
- d. Mental health for justice officers.
- e. Community policing.
- f. Minority sensitivity.
- g. Use of force.
- h. The duty to intervene and report.

...."

SECTION 11.(c) This section becomes effective January 1, 2022.

PART XII. EXEMPT CHANGES TO LAW ENFORCEMENT IN-SERVICE TRAINING STANDARDS FROM RULEMAKING

SECTION 12.(a) G.S. 150B-1(d) reads as rewritten:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

...

- (6a) The Criminal Justice Education and Training Standards Commission with respect to establishing minimum standards for in-service training for criminal justice officers under G.S. 17C-6(a)(14).
- (6b) The Sheriffs' Education and Training Standards Commission with respect to establishing minimum standards for in-service training for justice officers under G.S. 17E-4(a)(11).

...."

SECTION 12.(b) This section is effective when it becomes law.

PART XIII. DECRIMINALIZATION OF CERTAIN ORDINANCES

SECTION 13.(a) G.S. 153A-123 reads as rewritten:

"§ 153A-123. Enforcement of ordinances.

...

(b) ~~Unless the board of commissioners has provided otherwise, Except for the types of ordinances listed in subsection (b1) of this section, violation of a county ordinance is may be a~~ misdemeanor or infraction as provided by ~~G.S. 14-4. G.S. 14-4 only if the county specifies such in the ordinance.~~ An ordinance may provide by express statement that the maximum fine, term of imprisonment, or infraction penalty to be imposed for a violation is some amount of money or number of days less than the maximum imposed by G.S. 14-4. Notwithstanding G.S. 153A-45, no ordinance specifying a criminal penalty may be enacted at the meeting in which it is first introduced.

(b1) No ordinance of the following types may impose a criminal penalty:

- (1) Any ordinance adopted under Article 18 of this Chapter, Planning and Regulation of Development or, its successor, Chapter 160D of the General Statutes, except for those ordinances related to unsafe buildings.
- (2) Any ordinance adopted pursuant to G.S. 153A-134, Regulating and licensing businesses, trades, etc.
- (3) Any ordinance adopted pursuant to G.S. 153A-138, Registration of mobile homes, house trailers, etc.
- (4) Any ordinance adopted pursuant to G.S. 153A-140.1, Stream-clearing programs.
- (5) Any ordinance adopted pursuant to G.S. 153A-143, Regulation of outdoor advertising or, its successor, G.S. 160D-912, Outdoor advertising.

- (6) Any ordinance adopted pursuant to G.S. 153A-144, Limitations on regulating solar collectors or, its successor, G.S. 160D-914, Solar collectors.
- (7) Any ordinance adopted pursuant to G.S. 153A-145, Limitations on regulating cisterns and rain barrels.
- (8) Any ordinance regulating trees.

...."

SECTION 13.(b) G.S. 160A-175 reads as rewritten:

"§ 160A-175. Enforcement of ordinances.

...

(b) ~~Unless the Council shall otherwise provide, Except for the types of ordinances listed in subsection (b1) of this section, violation of a city ordinance is may be a misdemeanor or~~ infracton as provided by G.S. 14-4. G.S. 14-4 only if the city specifies such in the ordinance. An ordinance may provide by express statement that the maximum fine, term of imprisonment, or infracton penalty to be imposed for a violation is some amount of money or number of days less than the maximum imposed by G.S. 14-4. Notwithstanding G.S. 160A-75, no ordinance specifying a criminal penalty may be enacted at the meeting in which it is first introduced.

(b1) No ordinance of the following types may impose a criminal penalty:

- (1) Any ordinance adopted under Article 19 of this Chapter, Planning and Regulation of Development, or its successor, Chapter 160D of the General Statutes, except for those ordinances related to unsafe buildings.
- (2) Any ordinance adopted pursuant to G.S. 160A-193.1, Stream-clearing programs.
- (3) Any ordinance adopted pursuant to G.S. 160A-194, Regulating and licensing businesses, trades, etc.
- (4) Any ordinance adopted pursuant to G.S. 160A-199, Regulation of outdoor advertising or, its successor, G.S. 160D-912, Outdoor advertising.
- (5) Any ordinance adopted pursuant to G.S. 160A-201, Limitations on regulating solar collectors or, its successor, G.S. 160D-914, Solar collectors.
- (6) Any ordinance adopted pursuant to G.S. 160A-202, Limitations on regulating cisterns and rain barrels.
- (7) Any ordinance adopted pursuant to G.S. 160A-304, Regulation of taxis.
- (8) Any ordinance adopted pursuant to G.S. 160A-306, Building setback lines.
- (9) Any ordinance adopted pursuant to G.S. 160A-307, Curb cut regulations.
- (10) Any ordinance regulating trees.

...."

SECTION 13.(c) G.S. 14-4 reads as rewritten:

"§ 14-4. Violation of local ordinances misdemeanor.

(a) ~~Except as provided in subsection (b), (b) or (c) of this section,~~ if any person shall violate an ordinance of a county, city, town, or metropolitan sewerage district created under Article 5 of Chapter 162A, he shall be guilty of a Class 3 misdemeanor and shall be fined not more than five hundred dollars (\$500.00). No fine shall exceed fifty dollars (\$50.00) unless the ordinance expressly states that the maximum fine is greater than fifty dollars (\$50.00).

(b) If any person shall violate an ordinance of a county, city, or town regulating the operation or parking of vehicles, he shall be responsible for an infracton and shall be required to pay a penalty of not more than fifty dollars (\$50.00).

(c) A person may not be found responsible or guilty of a local ordinance violation punishable pursuant to subsection (a) of this section if, when tried for that violation, the person produces proof of compliance with the local ordinance through any of the following:

- (1) No new alleged violations of the local ordinance within 30 days from the date of the initial alleged violation.

- (2) The person provides proof of a good-faith effort to seek assistance to address any underlying factors related to unemployment, homelessness, mental health, or substance abuse that might relate to the person's ability to comply with the local ordinance."

SECTION 13.(d) This section becomes effective December 1, 2021, and applies to offenses and violations committed on or after that date.

PART XIV. REQUIRE MANDATORY FIRST APPEARANCE FOR MISDEMEANORS WHEN DEFENDANT IS IN CUSTODY AND REQUIRE FIRST APPEARANCE FOR ALL CHARGES WHEN DEFENDANT IS IN CUSTODY TO BE HELD WITHIN SEVENTY-TWO HOURS

SECTION 14.(a) G.S. 15A-601 reads as rewritten:

"§ 15A-601. First appearance before a district court judge; ~~right in felony and other cases in original jurisdiction of superior court; consolidation of first appearance before magistrate and before district court judge; first appearance before clerk of superior court; use of two-way audio and video transmission.~~

(a) Any defendant charged in a magistrate's order under G.S. 15A-511 or criminal process under Article 17 of this Chapter, Criminal Process, with a crime in the original jurisdiction of the superior court must be brought before a district court judge in the district court district as defined in G.S. 7A-133 in which the crime is charged to have been committed. This first appearance before a district court judge is not a critical stage of the proceedings against the defendant.

Any defendant charged in a magistrate's order under G.S. 15A-511 or criminal process under Article 17 of this Chapter, Criminal Process, with a misdemeanor offense and held in custody must be brought before a district court judge in the district court district as defined in G.S. 7A-133 in which the crime is charged to have been committed. This first appearance before a district court judge is not a critical stage of the proceedings against the defendant.

...

(b) When a district court judge conducts an initial appearance as provided in G.S. 15A-511, ~~he~~ the judge may consolidate those proceedings and the proceedings under this Article.

(c) Unless the defendant is released pursuant to Article 26 of this Chapter, Bail, first appearance before a district court judge must be held within ~~96-72~~ hours after the defendant is taken into custody or at the first regular session of the district court in the county, whichever occurs first. If the defendant is not taken into custody, or is released pursuant to Article 26 of this Chapter, Bail, within ~~96-72~~ hours after being taken into custody, first appearance must be held at the next session of district court held in the county. This subsection does not apply to a defendant whose first appearance before a district court judge has been set in a criminal summons pursuant to G.S. 15A-303(d).

...

(e) The clerk of the superior court in the county in which the defendant is taken into custody may conduct a first appearance as provided in this Article if a district court judge is not available in the county within ~~96-72~~ hours after the defendant is taken into custody. A magistrate may conduct the first appearance if the clerk is not available. The clerk, clerk or magistrate, in conducting a first appearance, shall proceed under this Article as would a district court judge."

SECTION 14.(b) This section becomes effective December 1, 2021, and applies to criminal processes served on or after that date.

PART XV. REQUIRE USE OF THE NATIONAL DECERTIFICATION INDEX MAINTAINED BY THE INTERNATIONAL ASSOCIATION OF DIRECTORS OF LAW

ENFORCEMENT STANDARDS AND TRAINING IN THE CERTIFICATION PROCESS FOR CERTIFIED PERSONNEL

SECTION 15.(a) G.S. 17C-6(a) reads as rewritten:

"(a) In addition to powers conferred upon the Commission elsewhere in this Article, the Commission shall have the following powers, which shall be enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17C-10:

...

(21) Search the National Decertification Index (NDI) maintained by the International Association of Directors of Law Enforcement Standards and Training (IADLEST) using the name of every applicant for certification or applicant for lateral transfer, and any other personal identifying information necessary to complete the search, and shall utilize any record of conviction of a criminal offense received as a result of the search during the application and lateral transfer process to determine if the applicant has any record that would disqualify the applicant for certification."

SECTION 15.(b) G.S. 17E-4(a) reads as rewritten:

"(a) The Commission shall have the following powers, duties, and responsibilities, which are enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17E-8 and G.S. 17E-9:

...

(17) Search the National Decertification Index (NDI) maintained by the International Association of Directors of Law Enforcement Standards and Training (IADLEST) using the name of every applicant for certification or applicant for lateral transfer, and any other personal identifying information necessary to complete the search, and shall utilize any record of conviction of a criminal offense received as a result of the search during the application and lateral transfer process to determine if the applicant has any record that would disqualify the applicant for certification.

...."

SECTION 15.(c) This section becomes effective October 1, 2021, and applies to applications for certification submitted on or after that date.

PART XVI. ESTABLISH A DUTY FOR LAW ENFORCEMENT OFFICERS TO INTERVENE IN AND REPORT EXCESSIVE USE OF FORCE

SECTION 16.(a) G.S. 15A-401 is amended by adding a new subsection to read:

"(d1) Duty to Intervene and Report Excessive Use of Force. – A law enforcement officer, while in the line of duty, who observes another law enforcement officer use force against another person that the observing officer reasonably believes exceeds the amount of force authorized by subsection (d) of this section and who possesses a reasonable opportunity to intervene, shall, if it is safe to do so, attempt to intervene to prevent the use of excessive force. Additionally, the observing officer shall, within a reasonable period of time not to exceed 72 hours thereafter, report what the officer reasonably believes to be an unauthorized use of force to a superior law enforcement officer within the agency of the observing officer, even if the observing officer did not have a reasonable opportunity to intervene. If the head of the law enforcement agency of the observing officer was involved or present during what the observing officer reasonably believes to be unauthorized use of force, the observing officer shall make the report to the highest ranking law enforcement officer of that officer's agency who was not involved in or present during the use of force."

SECTION 16.(b) This section becomes effective December 1, 2021, and applies to uses of force that occur on or after that date.

PART XVII. REMOVE THE STANDARDS COMMISSIONS FROM A NONEXCLUSIVE LIST OF STATE AGENCY LICENSING BOARDS

SECTION 17.(a) G.S. 93B-1(3)e. is repealed.

SECTION 17.(b) This section becomes effective December 1, 2021.

PART XVIII. ADDRESS CONSTITUTIONAL ISSUES WITH SATELLITE-BASED MONITORING RAISED IN STATE V. GRADY AND CREATE A PROCESS TO REVIEW WHETHER OFFENDERS SUBJECT TO THAT CASE WHICH WERE REMOVED FROM SATELLITE-BASED MONITORING ARE OTHERWISE ELIGIBLE

SECTION 18.(a) Part V of Article 27A of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-208.39. Legislative finding of efficacy.

The General Assembly finds that empirical and statistical reports such as the 2015 California Study, "Does GPS Improve Recidivism among High Risk Sex Offenders? Outcomes for California's GPS Pilot for High Risk Sex Offender Parolees," show that sex offenders monitored with the global positioning system (GPS) are less likely than other sex offenders to receive a violation for committing a new crime, and that offenders monitored by GPS demonstrated significantly better outcomes for both increasing compliance and reducing recidivism. It is the intent of the General Assembly to protect the public from victimization. Therefore, the General Assembly recognizes that the GPS monitoring program is an effective tool to deter criminal behavior among sex offenders."

SECTION 18.(b) G.S. 14-208.6 reads as rewritten:

"§ 14-208.6. Definitions.

The following definitions apply in this Article:

...

(3e) Reoffender. – A person who has two or more convictions for a felony that is described in G.S. 14-208.6(4). For purposes of this definition, if an offender is convicted of more than one offense in a single session of court, only one conviction is counted.

...."

SECTION 18.(c) G.S. 14-208.40 reads as rewritten:

"§ 14-208.40. Establishment of program; creation of guidelines; duties.

(a) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall establish a sex offender monitoring program that uses a continuous satellite-based monitoring system and shall create guidelines to govern the program. The program shall be designed to monitor three categories of offenders as follows:

- (1) Any offender who is convicted of a reportable conviction as defined by G.S. 14-208.6(4) and who is required to register under Part 3 of Article 27A of Chapter 14 of the General Statutes because the defendant is classified as a sexually violent predator, is a ~~recidivist, reoffender,~~ or was convicted of an aggravated offense as those terms are defined in ~~G.S. 14-208.6.~~ G.S. 14-208.6 and based on the Division of Adult Correction and Juvenile Justice's risk assessment program requires the highest possible level of supervision and monitoring.
- (2) Any offender who satisfies all of the following criteria: (i) is convicted of a reportable conviction as defined by G.S. 14-208.6(4), (ii) is required to register under Part 2 of Article 27A of Chapter 14 of the General Statutes, (iii) has committed an offense involving the physical, mental, or sexual abuse of a minor, and (iv) based on the Division of Adult Correction and Juvenile

Justice's risk assessment program requires the highest possible level of supervision and monitoring.

- (3) Any offender who is convicted of G.S. 14-27.23 or ~~G.S. 14-27.28, who shall be enrolled in the satellite-based monitoring program for the offender's natural life upon termination of the offender's active punishment.~~ G.S. 14-27.28 and based on the Division of Adult Correction and Juvenile Justice's risk assessment program requires the highest possible level of supervision and monitoring.

(b) In developing the guidelines for the program, the Division of Adult Correction and Juvenile Justice shall require that any offender who is enrolled in the satellite-based program submit to an active continuous satellite-based monitoring program, unless an active program will not work as provided by this section. If the Division of Adult Correction and Juvenile Justice determines that an active program will not work as provided by this section, then the Division of Adult Correction and Juvenile Justice shall require that the defendant submit to a passive continuous satellite-based program that works within the technological or geographical limitations.

(c) The satellite-based monitoring program shall use a system that provides all of the following:

- (1) Time-correlated and continuous tracking of the geographic location of the subject using a global positioning system based on satellite and other location tracking technology.
- (2) Reporting of subject's violations of prescriptive and proscriptive schedule or location requirements. Frequency of reporting may range from once a day (passive) to near real-time (active).

(d) The Division of Adult Correction and Juvenile Justice may contract with a single vendor for the hardware services needed to monitor subject offenders and correlate their movements to reported crime incidents. The contract may provide for services necessary to implement or facilitate any of the provisions of this Part."

SECTION 18.(d) G.S. 14-208.40A reads as rewritten:

"§ 14-208.40A. Determination of satellite-based monitoring requirement by court.

(a) When an offender is convicted of a reportable conviction as defined by G.S. 14-208.6(4), during the sentencing phase, the district attorney shall present to the court any evidence that (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a ~~recidivist, reoffender,~~ (iii) the conviction offense was an aggravated offense, (iv) the conviction offense was a violation of G.S. 14-27.23 or G.S. 14-27.28, or (v) the offense involved the physical, mental, or sexual abuse of a minor. The district attorney shall have no discretion to withhold any evidence required to be submitted to the court pursuant to this subsection.

The offender shall be allowed to present to the court any evidence that the district attorney's evidence is not correct.

(b) After receipt of the evidence from the parties, the court shall determine whether the offender's conviction places the offender in one of the categories described in G.S. 14-208.40(a), and if so, shall make a finding of fact of that determination, specifying whether (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a ~~recidivist, reoffender,~~ (iii) the conviction offense was an aggravated offense, (iv) the conviction offense was a violation of G.S. 14-27.23 or G.S. 14-27.28, or (v) the offense involved the physical, mental, or sexual abuse of a minor.

(c) If the court finds that the offender has been classified as a sexually violent predator, is a ~~recidivist, reoffender,~~ has committed an aggravated offense, or was convicted of G.S. 14-27.23 or G.S. 14-27.28, the court shall order that the offender to enroll in a satellite-based monitoring program for life. Division of Adult Correction and Juvenile Justice do a risk

assessment of the offender. The Division of Adult Correction and Juvenile Justice shall have up to 60 days to complete the risk assessment of the offender and report the results to the court.

(c1) Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile Justice pursuant to subsection (c) of this section, the court shall determine whether, based on the Division of Adult Correction and Juvenile Justice's risk assessment, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite-based monitoring program for a period of 10 years.

(d) If the court finds that the offender committed an offense that involved the physical, mental, or sexual abuse of a minor, that the offense is not an aggravated offense or a violation of G.S. 14-27.23 or G.S. 14-27.28 and the offender is not a ~~recidivist, reoffender~~, the court shall order that the Division of Adult Correction do a risk assessment of the offender. The Division of Adult Correction and Juvenile Justice shall have ~~a minimum of 30 days, but not more than 60 days,~~ up to 60 days to complete the risk assessment of the offender and report the results to the court.

(e) Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile Justice pursuant to subsection (d) of this section, the court shall determine whether, based on the Division of Adult Correction and Juvenile Justice's risk assessment, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite-based monitoring program for a period of time to be specified by the ~~court.~~ court, not to exceed 10 years."

SECTION 18.(e) G.S. 14-208.40B reads as rewritten:

"§ 14-208.40B. Determination of satellite-based monitoring requirement in certain circumstances.

(a) When an offender is convicted of a reportable conviction as defined by G.S. 14-208.6(4), and there has been no determination by a court on whether the offender shall be required to enroll in satellite-based monitoring, the Division of Adult Correction and Juvenile Justice shall make an initial determination on whether the offender falls into one of the categories described in G.S. 14-208.40(a).

(b) If the Division of Adult Correction and Juvenile Justice determines that the offender falls into one of the categories described in G.S. 14-208.40(a), the district attorney, representing the Division of Adult Correction and Juvenile Justice, shall schedule a hearing in superior court for the county in which the offender resides. The Division of Adult Correction and Juvenile Justice shall notify the offender of the Division of Adult Correction and Juvenile Justice's determination and the date of the scheduled hearing by certified mail sent to the address provided by the offender pursuant to G.S. 14-208.7. The hearing shall be scheduled no sooner than 15 days from the date the notification is mailed. Receipt of notification shall be presumed to be the date indicated by the certified mail receipt. Upon the court's determination that the offender is indigent and entitled to counsel, the court shall assign counsel to represent the offender at the hearing pursuant to rules adopted by the Office of Indigent Defense Services.

(c) At the hearing, the court shall determine if the offender falls into one of the categories described in G.S. 14-208.40(a). The court shall hold the hearing and make findings of fact pursuant to G.S. 14-208.40A.

If the court finds that (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a ~~recidivist, reoffender~~, (iii) the conviction offense was an aggravated offense, or (iv) the conviction offense was a violation of G.S. 14-27.23 or G.S. 14-27.28, the court shall order that the offender to enroll in satellite-based monitoring for life. Division of Adult Correction and Juvenile Justice do a risk assessment of the offender. The Division of Adult Correction and Juvenile Justice shall have up to 60 days to complete the risk assessment of the offender and report the results to the court.

(c1) Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile Justice pursuant to subsection (c) of this section, the court shall determine whether, based on the Division of Adult Correction and Juvenile Justice's risk assessment, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite-based monitoring program for a period of 10 years.

If the court finds that the offender committed an offense that involved the physical, mental, or sexual abuse of a minor, that the offense is not an aggravated offense or a violation of G.S. 14-27.23 or G.S. 14-27.28, and the offender is not a ~~recidivist, reoffender,~~ the court shall order that the Division of Adult Correction and Juvenile Justice do a risk assessment of the offender. The Division of Adult Correction and Juvenile Justice shall have ~~a minimum of 30 days, but not more than 60 days,~~ up to 60 days to complete the risk assessment of the offender and report the results to the court. The Division of Adult Correction and Juvenile Justice may use a risk assessment of the offender done within six months of the date of the hearing.

Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile Justice, the court shall determine whether, based on the Division of Adult Correction and Juvenile Justice's risk assessment, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite-based monitoring program for a period of time to be specified by the ~~court,~~ court, not to exceed 10 years."

SECTION 18.(f) G.S. 14-208.41 reads as rewritten:

"§ 14-208.41. Enrollment in satellite-based monitoring programs mandatory; length of enrollment; tolling.

(a) Any person described by G.S. 14-208.40(a)(1) shall enroll in a satellite-based monitoring program with the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice office in the county where the person resides. The person shall remain enrolled in the satellite-based monitoring program for the registration period imposed ~~under G.S. 14-208.23 which is the person's life, for a period required by G.S. 14-208.40A or G.S. 14-208.40B unless the requirement to enroll in the satellite-based monitoring program is terminated or modified pursuant to G.S. 14-208.43.~~

(b) Any person described by G.S. 14-208.40(a)(2) who is ordered by the court pursuant to G.S. 14-208.40A or G.S. 14-208.40B to enroll in a satellite-based monitoring program shall do so with the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice office in the county where the person resides. The person shall remain enrolled in the satellite-based monitoring program for the period of time ordered by the court.

(c) Any person described by G.S. 14-208.40(a)(3), upon completion of active punishment, shall enroll in a satellite-based monitoring program with the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice office in the county where the person resides. The person shall enroll in the satellite-based monitoring program for the entire period of post-release supervision and shall remain enrolled in the satellite-based monitoring program ~~for the person's life, the period required by G.S. 14-208.40A or G.S. 14-208.40B unless the requirement to enroll in the satellite-based monitoring program is terminated or modified pursuant to G.S. 14-208.43. Any term of imprisonment based on revocation of probation or post-release supervision for the conviction which resulted in satellite-based monitoring tolls the period of enrollment.~~"

SECTION 18.(g) G.S. 14-208.42 reads as rewritten:

"§ 14-208.42. Offenders required to submit to satellite-based monitoring required to cooperate with Division of Adult Correction and Juvenile Justice upon completion of sentence.

Notwithstanding any other provision of law, when an offender is required to enroll in satellite-based monitoring pursuant to G.S. 14-208.40A or G.S. 14-208.40B, upon completion of the offender's sentence and any term of parole, post-release supervision, intermediate punishment, or supervised probation that follows the sentence, the offender shall continue to be enrolled in the satellite-based monitoring program for the period required by G.S. 14-208.40A or G.S. 14-208.40B unless the requirement that the person enroll in a satellite-based monitoring program is terminated or modified pursuant to G.S. 14-208.43.

The Division of Adult Correction and Juvenile Justice shall have the authority to have contact with the offender at the offender's residence or to require the offender to appear at a specific location as needed for the purpose of enrollment, to receive monitoring equipment, to have equipment examined or maintained, and for any other purpose necessary to complete the requirements of the satellite-based monitoring program. The offender shall cooperate with the Division of Adult Correction and Juvenile Justice and the requirements of the satellite-based monitoring program until the offender's requirement to enroll is terminated and the offender has returned all monitoring equipment to the Division of Adult Correction and Juvenile Justice."

SECTION 18.(h) G.S. 14-208.43 reads as rewritten:

"§ 14-208.43. Request-Petition for termination or modification of the satellite-based monitoring requirement.

(a) An offender described by G.S. 14-208.40(a)(1) or G.S. 14-208.40(a)(3) who is required to submit to satellite-based monitoring ~~for the offender's life may file a request-petition for termination or modification of the monitoring requirement with the Post-Release Supervision and Parole Commission. The request to terminate the satellite-based monitoring requirement and to terminate the accompanying requirement of unsupervised probation may not be submitted until at least one year after the offender: (i) has served his or her sentence for the offense for which the satellite-based monitoring requirement was imposed, and (ii) has also completed any period of probation, parole, or post-release supervision imposed as part of the sentence.~~ superior court in the county where the conviction occurred five years after the date of initial enrollment.

(b) ~~Upon receipt of the request for termination, the Commission shall review documentation contained in the offender's file and the statewide registry to determine whether the person has complied with the provisions of this Article. In addition, the Commission shall conduct fingerprint-based state and federal criminal history record checks to determine whether the person has been convicted of any additional reportable convictions.~~

(c) ~~If it is determined that the person has not received any additional reportable convictions during the period of satellite-based monitoring and the person has substantially complied with the provisions of this Article, the Commission may terminate the monitoring requirement if the Commission finds that the person is not likely to pose a threat to the safety of others.~~

(d) ~~If it is determined that the person has received any additional reportable convictions during the period of satellite-based monitoring or has not substantially complied with the provisions of this Article, the Commission shall not order the termination of the monitoring requirement.~~

(d1) ~~Notwithstanding the provisions of this section, if the Commission is notified by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety that the offender has been released, pursuant to G.S. 14-208.12A, from the requirement to register under Part 2 of Article 27A of this Chapter, upon request of the offender, the Commission shall order the termination of the monitoring requirement.~~

(e) ~~The Commission shall not consider any request to terminate a monitoring requirement except as provided by this section. The district attorney in the district in which the petition is filed shall be given notice of the petition at least three weeks before the hearing on the matter. The petitioner may present evidence in support of the petition, and the district attorney may~~

present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied.

(c) The victim of the underlying offense may appear and be heard by the court in a proceeding regarding a petition for termination or modification of satellite-based monitoring requirement. If the victim has elected to receive notices of such proceedings, the district attorney's office shall notify the victim of the date, time, and place of the hearing. The district attorney's office may provide the required notification electronically or by telephone, unless the victim requests otherwise. The victim shall be responsible for notifying the district attorney's office of any changes in the victim's address and telephone number or other contact information. The judge in any court proceeding subject to this section shall inquire as to whether the victim is present and wishes to be heard. If the victim is present and wishes to be heard, the court shall grant the victim an opportunity to be reasonably heard. The right to be reasonably heard may be exercised, at the victim's discretion, through an oral statement, submission of a written statement, or submission of an audio or video statement.

(d) The petition may be granted only if the court makes all of the following findings:

- (1) The petitioner has been enrolled in the satellite-based monitoring program for at least five years.
- (2) The petitioner no longer requires the highest possible level of supervision and monitoring for 10 years.

(e) The court may order any of the following:

- (1) The petitioner to remain enrolled in the satellite-based monitoring program for a period of time to be specified by the court, not to exceed a total of 10 years.
- (2) The petitioner's requirement to enroll in the satellite-based monitoring program be terminated.

(f) If the court denies the petition, the person may again petition the court for relief in accordance with this section two years from the date of the denial of the original petition to terminate the satellite-based monitoring requirement. If the court grants the petition, the clerk of court shall forward a certified copy of the order to the Post Release Supervision and Parole Commission. The Commission-court has no authority to consider or terminate a monitoring requirement for an offender described in G.S. 14-208.40(a)(2)."

SECTION 18.(i) Article 27A of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-208.46. Petition for postenrollment determination for lifetime satellite-based monitoring enrollees.

(a) An offender who is enrolled in a satellite-based monitoring for life may file a petition for termination or modification of the monitoring requirement with the superior court in the county where the conviction occurred five years after the date of initial enrollment.

(b) The district attorney in the district in which the petition is filed shall be given notice of the petition at least three weeks before the hearing on the matter. The petitioner may present evidence in support of the petition, and the district attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied.

(c) The victim of the underlying offense may appear and be heard by the court in a proceeding regarding a petition for termination or modification of satellite-based monitoring requirement. If the victim has elected to receive notices of such proceedings, the district attorney's office shall notify the victim of the date, time, and place of the hearing. The district attorney's office may provide the required notification electronically or by telephone, unless the victim requests otherwise. The victim shall be responsible for notifying the district attorney's office of any changes in the victim's address and telephone number or other contact information. The judge in any court proceeding subject to this section shall inquire as to whether the victim is

present and wishes to be heard. If the victim is present and wishes to be heard, the court shall grant the victim an opportunity to be reasonably heard. The right to be reasonably heard may be exercised, at the victim's discretion, through an oral statement, submission of a written statement, or submission of an audio or video statement.

(d) If the petitioner has not been enrolled in the satellite-based monitoring program for at least 10 years, the court shall order the petitioner to remain enrolled in the satellite-based monitoring program for a total of 10 years.

(e) If the petitioner has been enrolled in the satellite-based monitoring program for more than 10 years, the court shall order the petitioner's requirement to enroll in the satellite-based monitoring program be terminated.

(f) The court has no authority to terminate the satellite-based monitoring requirement for an offender ordered to satellite-based monitoring for life prior to 10 years of enrollment."

SECTION 18.(j) G.S. 15A-1343 reads as rewritten:

"§ 15A-1343. Conditions of probation.

...
(a1) Community and Intermediate Probation Conditions. – In addition to any conditions a court may be authorized to impose pursuant to G.S. 15A-1343(b1), the court may include any one or more of the following conditions as part of a community or intermediate punishment:

...
(6) Submission to satellite-based monitoring, pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the defendant is described by G.S. 14-208.40(a)(2).G.S. 14-208.40(a)(2), and based on the Division of Adult Correction and Juvenile Justice's risk assessment program requires the highest possible level of supervision and monitoring.

...
(b2) Special Conditions of Probation for Sex Offenders and Persons Convicted of Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – As special conditions of probation, a defendant who has been convicted of an offense which is a reportable conviction as defined in G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor, must:

...
(7) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the defendant is described by G.S. 14-208.40(a)(1).G.S. 14-208.40(a)(1), and the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, based on the Division's risk assessment program, recommends that the defendant submit to the highest possible level of supervision and monitoring.

...."

SECTION 18.(k) G.S. 15A-1343.2 reads as rewritten:

"§ 15A-1343.2. Special probation rules for persons sentenced under Article 81B.

(a) Applicability. – This section applies only to persons sentenced under Article 81B of this Chapter.

...
(f) Delegation to Probation Officer in Intermediate Punishments. – Unless the presiding judge specifically finds in the judgment of the court that delegation is not appropriate, the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may require an offender sentenced to intermediate punishment to do any of the following:

...
(5) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the defendant is described by G.S. 14-208.40(a)(2).G.S. 14-208.40(a)(2), and based on the Division of

Adult Correction and Juvenile Justice's risk assessment program requires the highest possible level of supervision and monitoring.

...
If the Section imposes any of the above requirements, then it may subsequently reduce or remove those same requirements.

...
(f1) **Mandatory Condition of Satellite-Based Monitoring for Some Sex Offenders.** – Notwithstanding any other provision of this section, the court shall impose satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes as a condition of probation on any offender who is described by ~~G.S. 14-208.40(a)(1)~~G.S. 14-208.40(a)(1), and based on the Division of Adult Correction and Juvenile Justice's risk assessment program requires the highest possible level of supervision and monitoring.

...."

SECTION 18.(l) G.S. 15A-1344(e2) is repealed.

SECTION 18.(m) G.S. 15A-1368.4 reads as rewritten:

"§ 15A-1368.4. Conditions of post-release supervision.

(a) **In General.** – Conditions of post-release supervision may be reintegrative in nature or designed to control the supervisee's behavior and to enforce compliance with law or judicial order. A supervisee may have his supervision period revoked for any violation of a controlling condition or for repeated violation of a reintegrative condition. Compliance with reintegrative conditions may entitle a supervisee to earned time credits as described in G.S. 15A-1368.2(d).

...
(b1) **Additional Required Conditions for Sex Offenders and Persons Convicted of Offenses Involving Physical, Mental, or Sexual Abuse of a Minor.** – In addition to the required condition set forth in subsection (b) of this section, for a supervisee who has been convicted of an offense which is a reportable conviction as defined in G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor, controlling conditions, violations of which may result in revocation of post-release supervision, are:

...
(6) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the offense is a reportable conviction as defined by ~~G.S. 14-208.6(4)~~ and G.S. 14-208.6(4), the supervisee is in the category described by ~~G.S. 14-208.40(a)(1)~~G.S. 14-208.40(a)(1), and based on the Division of Adult Correction and Juvenile Justice's risk assessment program requires the highest possible level of supervision and monitoring.

(7) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the offense is a reportable conviction as defined by ~~G.S. 14-208.6(4)~~ and G.S. 14-208.6(4), the supervisee is in the category described by ~~G.S. 14-208.40(a)(2)~~G.S. 14-208.40(a)(2), and based on the Division of Adult Correction and Juvenile Justice's risk assessment program requires the highest possible level of supervision and monitoring.

...."

SECTION 18.(n) G.S. 15A-1374 reads as rewritten:

"§ 15A-1374. Conditions of parole.

(a) **In General.** – The Post-Release Supervision and Parole Commission may in its discretion impose conditions of parole it believes reasonably necessary to insure that the parolee will lead a law-abiding life or to assist him to do so. The Commission must provide as an express condition of every parole that the parolee not commit another crime during the period for which the parole remains subject to revocation. When the Commission releases a person on parole, it must give him a written statement of the conditions on which he is being released.

...

(b1) Mandatory Satellite-Based Monitoring Required as Condition of Parole for Certain Offenders. – If a parolee is in a category described by G.S. 14-208.40(a)(1) or ~~G.S. 14-208.40(a)(2)~~, G.S. 14-208.40(a)(2) and based on the Division of Adult Correction and Juvenile Justice's risk assessment program requires the highest possible level of supervision and monitoring, the Commission must require as a condition of parole that the parolee submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes."

SECTION 18.(o) The Division of Adult Correction and Juvenile Justice shall provide each elected District Attorney a list of the individuals that reside in a county in that District Attorney's district that is subject to State v. Grady, 831 S.E. 2d 542 (NC 2019), decided August 16, 2019, namely all individuals in the same category as the defendant, Mr. Grady: individuals subject to mandatory lifetime satellite-based monitoring based solely on their status as a statutorily defined "recidivist" who have completed their prison sentences and are no longer supervised by the State through probation, parole, or post-release supervision. An elected District Attorney must decide to handle each case or have the Attorney General handle the case. If requested by an elected District Attorney, the Attorney General shall make a preliminary determination whether the recidivist subject to State v. Grady, may meet any requirement to enroll in a satellite-based monitoring program other than being a recidivist, and represent the State in any proceedings created by this section. Each District Attorney or Attorney General shall review the determination for every one of the class members. If the District Attorney or Attorney General makes a preliminary determination that the individual may meet any requirement to enroll in a satellite-based monitoring program other than being a recidivist, they shall notify the person and the sheriff in the county where the individual resides. The District Attorney or Attorney General may petition the court in that county for a hearing to have a judge determine if an individual subject to State v. Grady, 831 S.E. 2d 542 (NC 2019), meets the criteria for satellite-based monitoring consistent with G.S. 14-208.40A, as amended by this act.

SECTION 18.(p) Subsection (b) of this section applies to satellite-based monitoring determinations on or after December 1, 2021, and includes felony convictions obtained before, on, or after that date. Subsection (i) of this section becomes effective December 1, 2021, and applies to any individual required to enroll in satellite-based monitoring for life on or after that date. Subsection (o) of this section becomes effective December 1, 2021, and applies to any individual required to enroll in the satellite-based monitoring program based solely on being a "recidivist" on or after that date. The remainder of this section becomes effective December 1, 2021, and applies to satellite-based monitoring determinations on or after that date.

PART XIX. PROTECTIONS FOR LAW ENFORCEMENT OFFICERS

SECTION 19.(a) G.S. 14-223 reads as rewritten:

"§ 14-223. Resisting officers.

(a) If any person shall willfully and unlawfully resist, delay or obstruct a public officer in discharging or attempting to discharge ~~a duty of his office, he shall be an official duty, the person is guilty of a Class 2 misdemeanor.~~

(b) If any person shall willfully and unlawfully resist, delay, or obstruct a public officer in discharging or attempting to discharge an official duty, and the resistance, delay, or obstruction is the proximate cause of a public officer's serious injury, the person is guilty of a Class I felony.

(c) If any person shall willfully and unlawfully resist, delay, or obstruct a public officer in discharging or attempting to discharge an official duty, and the resistance, delay, or obstruction is the proximate cause of a public officer's serious bodily injury, the person is guilty of a Class F felony.

(d) "Serious bodily injury" is defined as bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition

that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization."

SECTION 19.(b) In order to raise public awareness about resisting, delaying, and obstructing law enforcement officers and encourage North Carolina residents to interact with law enforcement officers safely, the Department of Public Safety shall create a targeted social media campaign and television commercials that address the concerns of not resisting arrest and raising public awareness about resisting, delaying, and obstructing law enforcement officers. DPS shall also make available on its internet website a public service announcement containing legally accurate information regarding the public's responsibilities during traffic stops and other interactions with law enforcement.

SECTION 19.(c) The Department of Public Safety shall provide to the Division of Motor Vehicles an internet link to the public service announcement authorized by subsection (b) of this section, which the Division of Motor Vehicles shall make available on its internet website. In addition, the Division of Motor Vehicles shall broadcast the public service announcement authorized by subsection (b) of this section on monitors at drivers license office locations across the State.

SECTION 19.(d) Subsection (a) of this section becomes effective December 1, 2021, and applies to offenses committed on or after that date. The remainder of this section is effective when it becomes law.

PART XX. ESTABLISH CRIMINAL RECODIFICATION WORKING GROUP

SECTION 20.(a) There is created the Bipartisan North Carolina Legislative Working Group on Criminal Law Recodification (Working Group). The purpose of the Working Group is to make recommendations to the General Assembly regarding a streamlined, comprehensive, orderly, and principled criminal code which includes all common law, statutory, regulatory, and ordinance crimes.

SECTION 20.(b) The Working Group shall be comprised of nine members selected as follows:

- (1) Two senators who are members of the majority party appointed by the President Pro Tempore of the Senate.
- (2) Two senators who are members of the minority party appointed by the Minority Leader of the Senate.
- (3) Two representatives who are members of the majority party appointed by the Speaker of the House of Representatives.
- (4) Two representatives who are members of the minority party appointed by the Minority Leader of the House of Representatives.
- (5) One individual appointed jointly by the President Pro Tempore of the Senate and the Speaker of the House of Representatives. This individual shall have served at least six years as a member of the General Assembly and shall serve as the chair of the Working Group.

SECTION 20.(c) The Working Group shall solicit comments and feedback from the public, as well as from all of the following:

- (1) The Administrative Office of the Courts.
- (2) The Attorney General.
- (3) The Conference of District Attorneys.
- (4) Indigent Defense Services.
- (5) The North Carolina Sheriffs' Association.
- (6) The North Carolina Association of Chiefs of Police.
- (7) The North Carolina Police Benevolent Association.
- (8) The North Carolina League of Municipalities.
- (9) The North Carolina Association of County Commissioners.

SECTION 20.(d) All appointments to the Working Group shall be made no later than 30 days after this act becomes law. Vacancies on the Working Group shall be filled by the appointing authority. The Working Group, while in the discharge of its official duties, may exercise all the powers provided under the provisions of G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them and the power to subpoena witnesses.

SECTION 20.(e) The Working Group shall meet upon the call of the chair but at least monthly beginning no later than September 15, 2021. A majority of the voting members shall constitute a quorum. Members shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1 or G.S. 138-5, as appropriate. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to monitor and provide technical assistance to the Working Group; provided, however, legislative staff shall not be made available at times when the 2021 General Assembly is in session. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Working Group. The Working Group shall terminate on December 31, 2022.

SECTION 20.(f) The Working Group shall establish general principles which shall, at a minimum, provide for all of the following:

- (1) Incorporate existing statutory and common law offenses into Chapter 14 of the General Statutes, harmonizing additions with current Chapter content.
- (2) Apply consistent terminology across statutes and define all terminology.
- (3) Specify the required mental state or that an offense is a strict liability crime.
- (4) Eliminate redundant crimes and multiple punishment for the same conduct.
- (5) Simplify offense numbering.
- (6) Eliminate or modify unconstitutional provisions to ensure lawfulness.
- (7) Eliminate outdated laws.
- (8) Apply consistent, logical offense grading, with advice from the North Carolina Sentencing Policy and Advisory Commission.

SECTION 20.(g) The Working Group shall provide the following deliverables:

- (1) For common law crimes and crimes included in the North Carolina General Statutes:
 - a. Create a database of all statutory and common law crimes, including statute number or common law designation; offense short title; elements; link to the statute; punishment; special and key features; frequency of charging, if available; and any proposed changes and the status of those changes in order to track decisions by the Working Group.
 - b. Draft legislation amending, recodifying, or proposing changes to North Carolina criminal statutes using a format that is consistent with drafting conventions used by the North Carolina General Assembly, as directed by the Working Group.
- (2) For crimes created by local ordinances:
 - a. Create a database of ordinance offenses, including ordinance title, general description, elements, punishment, and key feature coding. The Working Group will sample ordinances from diverse jurisdictions or review all, as time allows.
 - b. Report on common ordinance crimes, including charging data, if available, and including presentation of a range of policy options for addressing ordinance crimes consistent with the Working Group's goals.

- c. Draft legislation using a format that is consistent with drafting conventions used by the North Carolina General Assembly, as directed by the Working Group.
- (3) For crimes created by administrative boards and bodies:
 - a. Create a database of all crimes created by administrative boards and bodies that make it a crime to violate any regulation created by an administrative board or body, with exemplary regulations and punishment levels.
 - b. Report on policy options for addressing regulatory crimes consistent with the Working Group's goals.
 - c. Draft legislation using a format that is consistent with drafting conventions used by the North Carolina General Assembly, as directed by the Working Group.

PART XXI. AMEND THE LAW TO PROVIDE IMMEDIATE DISCLOSURE OF BODY-WORN CAMERA RECORDINGS RELATED TO DEATH OR SERIOUS BODILY INJURY

SECTION 21.(a) G.S. 132-1.4A reads as rewritten:

"§ 132-1.4A. Law enforcement agency recordings.

- (a) Definitions. – The following definitions apply in this section:
 - (1) Body-worn camera. – An operational video or digital camera or other electronic device, including a microphone or other mechanism for allowing audio capture, affixed to the uniform or person of law enforcement agency personnel and positioned in a way that allows the camera or device to capture interactions the law enforcement agency personnel has with others.
 - (2) Custodial law enforcement agency. – The law enforcement agency that owns or leases or whose personnel operates the equipment that created the recording at the time the recording was made.
 - (3) Dashboard camera. – A device or system installed or used in a law enforcement agency vehicle that electronically records images or audio depicting interaction with others by law enforcement agency personnel. This term does not include body-worn cameras.
 - (4) Disclose or disclosure. – To make a recording available for viewing or listening to by the person requesting disclosure, at a time and location chosen by the custodial law enforcement agency. This term does not include the release of a recording.
 - (5) Personal representative. – A parent, court-appointed guardian, spouse, or ~~attorney~~ attorney licensed in North Carolina of a person whose image or voice is in the recording. If a person whose image or voice is in the recording is deceased, the term also means the personal representative of the estate of the deceased person; the deceased person's surviving spouse, parent, or adult child; the deceased person's ~~attorney~~ attorney licensed in North Carolina; or the parent or guardian of a surviving minor child of the deceased.
 - (6) Recording. – A visual, audio, or visual and audio recording captured by a body-worn camera, a dashboard camera, or any other video or audio recording device operated by or on behalf of a law enforcement agency or law enforcement agency personnel when carrying out law enforcement responsibilities. This term does not include any video or audio recordings of interviews regarding agency internal investigations or interviews or interrogations of suspects or witnesses.
 - (7) Release. – To provide a copy of a recording.

(8) Serious bodily injury. – A bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.

(b) Public Record and Personnel Record Classification. – Recordings are not public records as defined by G.S. 132-1. Recordings are not personnel records as defined in Part 7 of Chapter 126 of the General Statutes, G.S. 160A-168, or G.S. 153A-98.

(b1) Immediate Disclosure. – When requested by submission of the notarized form described in subsection (b2) of this section to the head of a law enforcement agency, any portion of a recording in the custody of a law enforcement agency which depicts a death or serious bodily injury shall, upon order of the court pursuant to subsection (b3) of this section, be disclosed to a personal representative of the deceased, the injured individual, or a personal representative on behalf of the injured individual. Any disclosure ordered by the court pursuant to subsection (b3) of this section shall be done by the agency in a private setting. A person who receives disclosure as ordered by the court pursuant to subsection (b3) of this section shall not record or copy the recording. Except as provided in subsection (b3) of this section, the portion of the recording relevant to the death or serious bodily injury shall not be edited or redacted.

(b2) Notarized Form. – A person requesting disclosure pursuant to subsection (b1) of this section must submit a signed and notarized form provided by the law enforcement agency. The form shall be developed by the Administrative Office of the Courts and shall include notice that, if disclosed, the recording may not be recorded or copied, or if unlawfully recorded or copied may not be knowingly disseminated, and notice of the criminal penalties provided in subsection (b4) of this section.

(b3) Immediate Disclosure Review. – No later than three business days from receipt of the notarized form requesting immediate disclosure pursuant to subsection (b1) of this section, a law enforcement agency shall file a petition in the superior court in any county where any portion of the recording was made for issuance of a court order regarding disclosure of the recording requested pursuant to subsection (b1) of this section and shall also deliver a copy of the petition and a copy of the recording, which shall remain confidential unless the court issues an order of disclosure pursuant to this section, to the senior resident superior court judge for that superior court district or their designee. There shall be no fee for filing the petition. The court shall conduct an in-camera review of the recording and shall enter an order within seven business days of the filing of the petition instructing that the recording be (i) immediately disclosed without editing or redaction; (ii) immediately disclosed with editing or redaction; (iii) disclosed at a later date, with or without editing or redaction; or (iv) not disclosed to the person or persons seeking disclosure. In determining whether the recording may be disclosed pursuant to this section, the court shall consider the following factors:

- (1) If the person requesting disclosure of the recording is a person authorized to receive disclosure pursuant to subsection (c) of this section.
- (2) If the recording contains information that is otherwise confidential or exempt from disclosure or release under State or federal law.
- (3) If disclosure would reveal information regarding a person that is of a highly sensitive and personal nature.
- (4) If disclosure may harm the reputation or jeopardize the safety of a person.
- (5) If disclosure would create a serious threat to the fair, impartial, and orderly administration of justice.
- (6) If confidentiality is necessary to protect either an active or inactive internal or criminal investigation or potential internal or criminal investigation.

In any proceeding pursuant to this subsection, the following persons shall be notified and those persons, or their designated representative, shall be given an opportunity to be heard at any

proceeding: (i) the head of the custodial law enforcement agency, (ii) any law enforcement agency personnel whose image or voice is in the portion of the recording requested to be disclosed and the head of that person's employing law enforcement agency, (iii) the District Attorney, (iv) the investigating law enforcement agency, and (v) the party requesting the disclosure. The court may order any conditions or restrictions on the disclosure that the court deems appropriate.

Petitions filed pursuant to this subsection shall be scheduled for hearing as soon as practicable, and the court shall issue an order pursuant to the provisions of this subsection no later than seven business days after the filing of the petition. Any subsequent proceedings in such actions shall be accorded priority by the trial and appellate courts.

If disclosure of a recording is denied based on subdivision (6) of this subsection, the court shall schedule a subsequent hearing, to be held no more than 20 business days after the issuance of the order, to reconsider whether the recording should be disclosed.

(b4) Any person who willfully records, copies, or attempts to record or copy a recording disclosed pursuant to subsection (b1) of this section shall be guilty of a Class 1 misdemeanor. Any person who knowingly disseminates a recording or a copy of a recording disclosed pursuant to subsection (b1) of this section is guilty of a Class I felony.

(c) Disclosure; General. – Recordings in the custody of a law enforcement agency shall be disclosed only as provided by this section. Recordings depicting a death or serious bodily injury shall only be disclosed as provided in subsections (b1) through (b3) of this section.

A person requesting disclosure of a recording must make a written request to the head of the custodial law enforcement agency that states the date and approximate time of the activity captured in the recording or otherwise identifies the activity with reasonable particularity sufficient to identify the recording to which the request refers.

The head of the custodial law enforcement agency may only disclose a recording to the following:

- (1) A person whose image or voice is in the recording.
- (2) A personal representative of an adult person whose image or voice is in the recording, if the adult person has consented to the disclosure.
- (3) A personal representative of a minor or of an adult person under lawful guardianship whose image or voice is in the recording.
- (4) A personal representative of a deceased person whose image or voice is in the recording.
- (5) A personal representative of an adult person who is incapacitated and unable to provide consent to disclosure.

When disclosing the recording, the law enforcement agency shall disclose only those portions of the recording that are relevant to the person's request. A person who receives disclosure pursuant to this subsection shall not record or copy the recording.

...."

SECTION 21.(b) No later than the effective date of this section, the Administrative Office of the Courts shall develop and make available to all law enforcement agencies the following forms:

- (1) A signed and notarized request for immediate disclosure as required by G.S. 132-1.4A(b1) and (b2) as enacted by subsection (a) of this section.
- (2) A petition for use by law enforcement agencies pursuant to G.S. 132-1.4A(b3) as enacted by subsection (a) of this section.

SECTION 21.(c) This section becomes effective December 1, 2021, and applies to all requests made on or after that date for disclosure of a recording.

PART XXII. SAVINGS CLAUSE, SEVERABILITY CLAUSE, AND EFFECTIVE DATE

SECTION 22.(a) If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 22.(b) Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

SECTION 22.(c) Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 25th day of August, 2021.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 2:47 p.m. this 2nd day of September, 2021

Planning Application - UDO Text Amendment

Town of Boone Planning & Inspections Department
680 W. King Street, Suite C ♦ Boone, North Carolina 28607
Phone (828) 268-6960 ♦ Fax (828) 268-6961 ♦ www.townofboone.net

Official Use Only

Case Number:
PL05269-110121
Case Name:
Criminal Penalties

A. CONTACT INFORMATION

Applicant: Town of Boone Company: _____
Address: 567 West King Street
Phone Number: 828-268-6200 Email Address: planning@townofboone.net

B. TEXT INFORMATION

Amendment is to: UDO

Article(s): Article 12

Section(s): 12.03 Persons Liable, 12.06 Remedies

Brief Description of Amendment (Attach Proposed Text):

To modify the UDO to bring the UDO Article 12 into compliance with Senate Bill 300/Session Law 2021-138 to decriminalize local government ordinances.

C. APPLICANT SIGNATURE: By signing this form you are certifying that this application and any attached information is accurate. Failure to provide accurate information or failure to provide any requested information may result in delays to permit processing.

Jane Shook
Applicant (Print)

/s/ Jane Shook
Applicant Signature

11/1/2021
Date

Official Use Only

Date:	Fee:	Receipt Number:	Method of Payment:	Paid By:
NA	NA	NA	NA	NA

Hearing/Decision Information

Public Hearing Meeting
Date: November 22, 2021

PC Meeting
Date: November 22, 2021

TC Meeting
Date: December 8, 2021

Text Approved: ☐ Yes ☐ No

Notes:

S:\FORMS\Current Forms\Planning\UDOTextAmendment_PlanningApplication_09252017.doc

Communication: Case PL05269-110121 Application (PL05269-110121 Criminal Penalties - UDO Text Amendment)



STAFF REPORT
PUBLIC HEARING
NOVEMBER 22, 2021

Case PL05269-110121 Criminal Penalties - UDO Text Amendment

Request

To modify the UDO to bring the UDO Article 12 into compliance with Senate Bill 300/Session Law 2021-138 to decriminalize local government ordinances. Please use the following link to access the adopted statute: [S300v8.pdf \(ncleg.gov\)](https://www.ncleg.gov/Sessions/2021/Bills/General/SB300v8.pdf) a copy of which is attached as Exhibit 1 for this case.

Proposed Ordinance Amendment

ORDINANCE # PL05269-110121

**AN ORDINANCE TO REVISE ARTICLE 12 OF THE TOWN OF BOONE UNIFIED DEVELOPMENT ORDINANCE
WITH RESPECT TO PERSONS LIABLE FOR VIOLATIONS**

WHEREAS, the Boone Town Council desires to modify the town's Unified Development Ordinance ("UDO") with respect to persons liable for violations of the ordinance;

WHEREAS, it is appropriate to hold construction and design professionals responsible for UDO violations in which they knew or should have known they played a part;

WHEREAS, the state legislature has adopted Session Law 2021-138 which, at Part XIII, section 13(b), provides, *inter alia*, that a municipality may no longer criminalize violations of certain local ordinances, including zoning and development ordinances enacted pursuant to authority under G.S. chapter 160D, except for those ordinances related to unsafe buildings; and

WHEREAS, the Boone Town Council is authorized to adopt this ordinance pursuant to its zoning and development regulation powers under Chapter 160D of the North Carolina General Statutes; and

WHEREAS, this proposed UDO text amendment was duly noticed for public hearing; a public hearing was held with respect to the proposed amendment on November 22, 2021; and the Boone Planning Commission has had an opportunity to submit a written report to the Boone Town Council;

NOW THEREFORE, BE IT ORDAINED BY THE BOONE TOWN COUNCIL THAT:

- SECTION 1.** The following subsections of Article 12 of the Boone Unified Development Ordinance are hereby amended as set forth in the attached Exhibit A to this ordinance, with deletions and additions shown in **red** and **blue** respectively, which attached exhibit is incorporated by reference. All other provisions of Article 12 remain unchanged.
- SECTION 2.** All provisions of any Town ordinance in conflict with this ordinance are hereby repealed to the extent of such conflict.
- SECTION 3.** In the event any section, subsection, subdivision, paragraph, subparagraph, item, sentence, clause, phrase or word of this ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining provisions of this ordinance, which shall remain in full force and effect as if the portion so

declared or adjudged invalid or unconstitutional was not originally a part of this ordinance.

SECTION 4. This Ordinance shall be effective immediately upon its adoption by Town Council.

Adopted this the ____th day of _____, 2021.

The Honorable Rennie Brantz, Mayor

Attest:

Nicole Harmon, Town Clerk

Exhibit A**Article 12 Enforcement**

...

12.03 Persons Liable

12.03.01 The owner, tenant, or occupant of any land or structure, or part thereof, or other person who possesses a cognizable interest in the real or personal property in question, who participates in, assists, directs, causes, allows, maintains, or is otherwise responsible for any situation that is contrary to the requirements of this Ordinance shall be liable for violations of this Ordinance.

12.03.02 A builder, contractor, architect, engineer or other construction, trade or design professional who participates in, assists, directs, or creates a situation that constitutes a violation of this ordinance or is otherwise responsible for a situation that is contrary to the requirements of this Ordinance shall be liable for violations of this Ordinance.

12.03.03~~2~~ No landlord may escape liability for an occupancy violation based upon a claimed lack of knowledge of the violation unless:

- A.** The lease of the property includes a provision which authorizes the landlord to terminate the lease early if the tenant violates the occupancy or zoning rules of the Town; and
- B.** The landlord takes prompt action to terminate the lease and/or tenancy of the tenants of the property when an occupancy violation has been confirmed by the Administrator.

12.03.04 The liability imposed upon persons pursuant to this section 12.03 is joint and several. Each responsible person is subject to enforcement and such fines and/or other remedies as are as set forth in this Article.

...

12.06 Remedies

12.06.01 Available Remedies: Any or all of the following may be used to enforce the provisions of this Ordinance.

- A. Civil Penalties:** Any person who violates any provision of this ordinance may be subject to the assessment of a civil penalty in accordance with Section 12.07. In addition, where the violation consists of or includes working without required permit(s), the violator shall be required to pay double the normal fee for any required permit(s).

B. Criminal Penalties:

~~1. Assessment:~~ Criminal penalties may be assessed only for violations of this ordinance that create or maintain an unsafe building circumstance. In any such case, unless a more stringent criminal penalty is prescribed pursuant to State law for thea particular violation of this Ordinance or are otherwise providedconduct at issue, any person who violates the UDOa person who knowingly or willfully violates this ordinance shall be guilty of a Class 3 misdemeanor, pursuant to N.C. Gen. Stat. § 14-4 (a), with and a fine up to \$500.00. A person who knowingly or willfully

violates this ordinance more than once in any 24-month period shall be guilty of
~~ny person who knowingly or willfully violates any provision of Article 20 shall be~~
~~guilty of a Class 2 misdemeanor with and~~ a fine up to \$~~25~~,000.00 for each such
violation.

~~A. Any person who, being the owner or agent of the owner of any land located within the planning jurisdiction of the Town, subdivides their land in violation of this Ordinance, or transfers or sells land by reference to, exhibition of, or by any other use of a plat showing a subdivision of the land before the plat has been properly approved and recorded in the office of the Watauga County Register of Deeds, shall be guilty of a Class 1 misdemeanor with a fine of \$1,000.00. The Town may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land. Building permits required pursuant to G.S. 160D-1102 shall be denied for lots that have been illegally subdivided. In addition to other remedies, the Town may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from violation of this Ordinance.~~

a. The Administrator shall institute criminal charges only with the authorization of the Town Manager.

~~2. Determination: In determining whether criminal charges should be recommended with respect to a particular violation, the Administrator shall consider the following factors, which shall not be exclusive, and the applicability of any individual factor shall not determine the decision, which should be based on the best interests of the Town:~~

- ~~a. Whether the violator is a repeat violator;~~
- ~~b. Whether the violator has acted in intentional disregard of the Ordinance;~~
- ~~c. Whether there are factors outside control of the violator which have the prevented the person from expeditiously correcting the violation;~~
- ~~d. Whether the violator has stated an intention to undertake prompt correction action;~~
- ~~e. What damage has occurred as a result of the violation;~~
- ~~f. Whether the violation is capable of repetition but escaping review, or civil penalties are ineffective in ensuring enforcement of the Ordinance; and~~
- ~~g. Whether some other reason is identified which will enhance the enforcement of the Ordinance by the pursuit of criminal charges in a particular case.~~

C. Injunction: Any violation of this Ordinance or of any condition, order, requirement, or remedy

adopted pursuant to this Ordinance may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to State law. The institution of an action for injunctive relief under this Section does not relieve any party to such proceedings from any civil or criminal penalty prescribed for violations of this Ordinance.

- D. Revocation of Approvals or Certificates:** The Administrator may revoke and require the return of a development approval, a Certificate of Compliance, a Certificate of Occupancy, or a Certificate of Zoning Completion pursuant to Section 12.09.
- E. Stop Work Orders:** Whenever the Administrator determines that a person is engaged in doing work without a required development approval; or any building or structure or part thereof is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner, or in substantial violation of any State or local building law, or in a manner that endangers life or property, the Administrator may order the specific part of the work that is in violation or presents such a hazard to be immediately stopped pursuant to Section 12.08.
- F. State and Common Law Remedies:** In addition to other enforcement provisions contained in this Article, the Council may exercise any and all enforcement powers granted to it by State law or common law.

CONFORMITY TO ADOPTED PLANS

COMPREHENSIVE PLAN UPDATE

1.1 Overall Objectives for the Boone Comprehensive Plan (p. 15):

The following objectives, which have not been listed in any particular order of importance, are deliberately broad in scope and less specific than either a policy statement or an implementation action.

Economic Development: Acknowledge the area's natural beauty, university, and medical center presence as the Town's greatest assets for economic development and jobs creation. Treat them accordingly.

Community Appearance and Community Character: Blend the built environment with the natural, scenic, and historic character of a High Country small town. Especially discourage commercial strip development, cluttered signage, and "cheap" apartment buildings.

Open Space: Integrate open space and greenways into the urban fabric of the Town. Preserve the countryside by discouraging suburban sprawl. Avoid development in floodplains, on ridgetops, and on steep slopes.

Environmental Quality: Address and monitor growth factors and activities that contribute to water, air, light, and noise pollution.

Trees: Conserve existing trees and plant new trees, especially hardwoods.

Automobile Transportation: Maximize the efficiency of existing facilities, but not at the expense town and neighborhood character and livability. Build or expand transportation facilities and parking areas as needed, but with care. Work to reduce auto dependency, use, and congestion.

Bikeways: Implement the planned system of bikeways as a legitimate transportation alternative. Unify with greenways and other pedestrian facilities where possible.

Mass Transit: Enhance and support the mass transit system as an effective alternative to the congestion created by the individual automobile.

Pedestrian Movement: Encourage a system of sidewalks, paths, crosswalks and compact development patterns which make it easy to get around Boone on foot.

Infrastructure: Engage in long range planning for water and sewer systems, stormwater runoff, natural gas, and other utility systems. Place overhead utilities underground whenever feasible.

Public Safety: Maintain a high level of policing and fire protection and plan the expansion of public safety services to coincide with projected population increases and identified needs.

Energy and Waste: Reduce waste generation, and the consumption of energy and water. Develop area recycling programs to the fullest. Encourage an anti-litter consciousness among residents and visitors.

University: Emphasize cooperative planning among the Town, County, and University.

Downtown: Support and enhance the cultural and historic significance of downtown Boone, and affirm its appealing, pedestrian orientation.

Recreation: Strive for additional public recreation facilities, especially sports fields, greenways and indoor recreation centers.

Neighborhoods: Ensure the livability of neighborhoods, especially through land use and traffic planning.

Public Involvement: Encourage active public involvement and volunteerism to expand the effectiveness of community planning and action.

Comprehensive Plan Policies: Staff has reviewed land use and comprehensive plan policies, and listed those policies which in staff's opinion have a bearing on the request. The Commission and Council should review these policies carefully. Each member may make his or her own interpretation as to the relevance of each and which carry the most weight thereby shaping their overall recommendation.

COMPREHENSIVE PLAN POLICIES

2.1 THE ECONOMY

2.1.1 Economic Development

A. The Town shall protect and enhance a high quality of life, image, cultural amenities, and natural beauty as the most effective, long term component of an economic development strategy.

A.1 Continue to evaluate and amend development regulations to help insure aesthetic quality in the area and preserve the natural beauty of the area.

2.3 THE COMMUNITY

2.3.4 Public Involvement

A. Public involvement shall be encouraged in decisions concerning land use and development by making the public aware of proposed developments at the earliest opportunity, as well as fostering communication among developers, the Town, the County, the University, and the general public.

A.1 Offer continued support to the recently created Community Council. A number of appropriate issues for consideration by the committee are included among these implementation actions.

A.2 Maintain and update a mailing list of architects, engineers, surveyors, landscape architects, realtors, builders, developers and contractors for notification and distribution of changes in Town policies and regulations.

A.3 Encourage periodic articles in all available media outlets about land use decisions, how they are advertised, and how they are made. Continue school presentations by Town planning staff to explain land use and how it affects each citizen.

- A.4 Post all zoning change requests, special use and variance requests to the Town of Boone web site with date of application and date of impending and completed actions. Explore the possibility of providing links to the Town web site from local newspaper online editions in which the Town posts public notices.
- D. Special committees, advisory panels, educational forums, public workshops, leadership seminars, town meetings and media contacts shall be encouraged and fostered to enhance the effectiveness of citizen involvement in community planning and action.

PLANNING BOARD REPORT/RECOMMENDATIONS

Per NCGS 160D-604(b), subsequent to initial adoption of a zoning regulation, all proposed amendments to the zoning regulation or zoning map shall be submitted to the Planning Commission for review and comment. If no written report is received from the Planning Commission within 30 days of referral of the amendment to that board, the Town Council may act on the amendment without the Planning Commission report. The Town Council is not bound by the recommendations, if any, of the Planning Commission. Per NCGS 160D-604(d), when conducting a review of proposed zoning text or map, the Planning Commission shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Commission shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the Planning Commission, but a comment by the Planning Commission that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.

Vote 1: The proposed amendment to the Town's zoning ordinance ☐is OR ☐is not consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because:

Note 1

Vote 2: The Planning Commission recommends ☐approval OR ☐denial of Ordinance #PL05269-110121 and believes ☐approval OR ☐denial is reasonable and in the public interest because:

Note 2

Note 1: describe elements of controlling land use plans and how the amendment is or is not consistent.

Note 2: briefly explain why, factors may include (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment.

TOWN COUNCIL ACTION

Per NCGS 160D-605, when adopting or rejecting any zoning text or map amendment, the Town Council shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the governing board was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan.

Vote 1: The proposed amendment to the Town's zoning ordinance ☐is OR ☐is not consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because:

Note 1

Vote 2: The Town Council ☐approves OR ☐denies Ordinance #PL05269-110121 to the Town's zoning ordinance and believes ☐approval OR ☐denial is reasonable and in the public interest because:

Note 2

Note 1: describe elements of controlling land use plans and how the amendment is or is not consistent.

Note 2: briefly explain why, factors may include (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

SESSION LAW 2021-138
SENATE BILL 300

AN ACT TO INCREASE PROTECTIONS, TRAINING, AND OVERSIGHT FOR STATE AND LOCAL LAW ENFORCEMENT OFFICERS; TO CREATE A DECERTIFICATION DATABASE; TO REQUIRE USE OF THE FEDERAL BUREAU OF INVESTIGATION'S NEXT GENERATION IDENTIFICATION SYSTEM AND RAP BACK SERVICE FOR LAW ENFORCEMENT; TO REQUIRE REPORTING RELATED TO GIGLIO MATERIAL; TO EXPAND TRANSPORTATION OF INVOLUNTARY COMMITMENT RESPONDENTS; TO STANDARDIZE LAW ENFORCEMENT OFFICER ENTRY REQUIREMENTS AND ONGOING REQUIREMENTS; TO REQUIRE PSYCHOLOGICAL SCREENINGS OF LAW ENFORCEMENT OFFICERS PRIOR TO CERTIFICATION OR EMPLOYMENT; TO EDUCATE LAW ENFORCEMENT OFFICERS ON MAINTAINING GOOD MENTAL HEALTH, AND TO PROVIDE INFORMATION TO LAW ENFORCEMENT OFFICERS ON MENTAL HEALTH RESOURCES AVAILABLE; TO CREATE A PHYSICAL FITNESS STUDY; TO DECRIMINALIZE CERTAIN LOCAL ORDINANCES AND PROVIDE COMPLIANCE AS A DEFENSE TO AN ORDINANCE VIOLATION; TO MANDATE MISDEMEANOR FIRST APPEARANCES WHEN A DEFENDANT IS IN CUSTODY; TO REQUIRE USE OF THE NATIONAL DECERTIFICATION INDEX MAINTAINED BY THE INTERNATIONAL ASSOCIATION OF DIRECTORS OF LAW ENFORCEMENT STANDARDS AND TRAINING IN THE CERTIFICATION PROCESS FOR CERTIFIED PERSONNEL; TO ESTABLISH A DUTY FOR LAW ENFORCEMENT OFFICERS TO INTERVENE IN AND REPORT EXCESSIVE USE OF FORCE; TO ADDRESS CONSTITUTIONAL ISSUES WITH SATELLITE-BASED MONITORING RAISED IN STATE VERSUS GRADY AND CREATE A PROCESS TO REVIEW WHETHER OFFENDERS SUBJECT TO THAT CASE WHICH WERE REMOVED FROM SATELLITE-BASED MONITORING ARE OTHERWISE ELIGIBLE; TO REMOVE THE STANDARDS COMMISSIONS FROM A NONEXCLUSIVE LIST OF STATE AGENCY LICENSING BOARDS; TO PROTECT LAW ENFORCEMENT OFFICERS; TO AMEND THE LAW TO PROVIDE IMMEDIATE DISCLOSURE OF BODY-WORN CAMERA RECORDINGS RELATED TO DEATH OR SERIOUS BODILY INJURY; AND TO ESTABLISH THE BIPARTISAN NORTH CAROLINA LEGISLATIVE WORKING GROUP TO MAKE RECOMMENDATIONS FOR THE RECODIFICATION OF NORTH CAROLINA'S CRIMINAL LAWS.

The General Assembly of North Carolina enacts:

PART I. DECERTIFICATION STATEWIDE DATABASE AND PUBLIC LAW ENFORCEMENT DATABASE REGULATIONS

SECTION 1.(a) Article 1 of Chapter 17C of the General Statutes is amended by adding a new section to read:

"§ 17C-14. Database of law enforcement officer certification suspensions and revocations.



* S 3 0 0 - V - 8 *

The Commission shall develop and maintain a statewide database accessible to the public on its website that contains all revocations and suspensions of law enforcement officer certifications by the Commission."

SECTION 1.(b) Chapter 17E of the General Statutes is amended by adding a new section to read:

"§ 17E-14. Database of justice officer certification suspensions and revocations.

The Commission shall develop and maintain a statewide database accessible to the public on its website that contains all revocations and suspensions of justice officer certifications by the Commission."

SECTION 1.(c) This section becomes effective October 1, 2021.

PART II. REQUIRE USE OF THE FEDERAL BUREAU OF INVESTIGATION'S NEXT GENERATION IDENTIFICATION (NGI) SYSTEM AND RAP BACK SERVICE

SECTION 2.(a) Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-972.1. Criminal record checks for North Carolina Criminal Justice Education and Training Standards Commission and North Carolina Sheriffs' Education and Training Standards Commission; fingerprints sent to Federal Bureau of Investigation.

(a) The State Bureau of Investigation (SBI) shall provide to the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission the criminal history of any person who applies for certification or is certified, as a criminal justice officer or justice officer, from the State and National Repositories of Criminal Histories. Each agency employing certified criminal justice officers or justice officers shall provide to the SBI, the fingerprints of any person who applies for certification and certified officers, other identifying information required by the State and National Repositories, and any additional information required by the SBI.

(b) The SBI shall conduct a criminal history records check using the fingerprints of the applicants and certified officers, in accordance with 12 NCAC 09B. 0103 and 12 NCAC 10B. 0302, and enroll the fingerprints in the Statewide Automated Fingerprint Identification System (SAFIS).

(c) In addition to searching the State's criminal history record file, the SBI shall forward a set of fingerprints to the Federal Bureau of Investigation (FBI) for a national criminal history record check. The SBI shall enroll each individual whose fingerprints are received under this section in the Federal Bureau of Investigation's Next Generation Identification (NGI) System and Criminal Justice Record of Arrest and Prosecution Background (Rap Back) Service. The SBI will also notify the certifying Commission of any subsequent arrest of an individual identified through the Rap Back Service.

(d) Within 15 business days of receiving notification by either Commission that the individual whose fingerprints have been stored in the State Automated Fingerprint Identification System (SAFIS) pursuant to subsection (b) of this section has withdrawn the application or separated from employment and an Affidavit of Separation has been filed with either Commission, the SBI shall remove the individual's fingerprints from SAFIS and forward a request to the FBI to remove the fingerprints from the NGI System and the Criminal Justice Rap Back Service.

(e) The Commissions shall keep all information obtained pursuant to this section confidential."

SECTION 2.(b) No later than June 30, 2023, all personnel certified by either Commission shall have their fingerprints electronically submitted to the SBI for a state and national criminal history check.

SECTION 2.(c) This section becomes effective January 1, 2023.

PART III. CRITICAL INCIDENT STATEWIDE DATABASE

SECTION 3.(a) G.S. 17C-2 reads as rewritten:

"§ 17C-2. Definitions.

Unless the context clearly otherwise requires, the following definitions apply in this Article:

...

(3a) Critical incident. – An incident involving any use of force by a law enforcement officer that results in death or serious bodily injury to a person.

...."

SECTION 3.(b) Article 1 of Chapter 17C of the General Statutes is amended by adding a new section to read:

"§ 17C-15. Database for law enforcement officer critical incident information.

(a) The Division shall develop and maintain a statewide database for use by law enforcement agencies that tracks all critical incident data of law enforcement officers in North Carolina.

(b) All law enforcement agencies in the State that employ personnel certified by the Commission shall provide any information requested by the Division to maintain the database required by subsection (a) of this section.

(c) Information collected under this section that is confidential under State or federal law shall remain confidential.

(d) A law enforcement officer who is reported to the Division as having been involved in a critical incident who disputes being involved in a critical incident has a right, prior to being placed in the database, to request a hearing in superior court for a determination of whether the officer's involvement was properly placed in the database."

SECTION 3.(c) G.S. 17E-2 reads as rewritten:

"§ 17E-2. Definitions.

Unless the context clearly requires otherwise, the following definitions apply to this Chapter:

...

(4) "Critical incident" means an incident involving any use of force by a law enforcement officer that results in death or serious bodily injury to a person."

SECTION 3.(d) Chapter 17E of the General Statutes is amended by adding a new section to read:

"§ 17E-15. Database for justice officer critical incident information.

(a) The Division shall develop and maintain a statewide database for use by law enforcement agencies that tracks all critical incident data of justice officers in North Carolina.

(b) All law enforcement agencies in the State that employ personnel certified by the Commission shall provide any information requested by the Commission to maintain the database required by subsection (a) of this section.

(c) Information collected under this section that is confidential under State or federal law shall remain confidential.

(d) A justice officer who is reported to the Division as having been involved in a critical incident who disputes being involved in a critical incident has a right, prior to being placed in the database, to request a hearing in superior court for a determination of whether the officer's involvement was properly placed in the database."

SECTION 3.(e) This section becomes effective October 1, 2021, and applies to critical incidents on or after that date.

PART IV. REPORT REQUIREMENT RELATED TO GIGLIO MATERIAL

SECTION 4.(a) Article 1 of Chapter 17C of the General Statutes is amended by adding a new section to read:

"§ 17C-16. Requirement to report material relevant to testimony.

(a) Any person who is certified by the Commission or has received a conditional offer of employment and who has been notified that the person may not be called to testify at trial based on bias, interest, or lack of credibility shall report and provide a copy of that notification to the Criminal Justice Standards Division within 30 days of receiving the notification, except as provided in subsection (h) of this section. This requirement shall only apply if the person is notified by one of the following methods:

- (1) In writing by a superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, assistant United States attorney, or the person's agency head.
- (2) In open court by a superior court judge, district court judge, or federal judge, and documented in a written order.

(b) The report to the Division shall be in writing and shall state who notified the person that the person may not be called to testify at trial. A person required to report to the Division under subsection (a) of this section shall make the same report to the person's agency head within 30 days of being notified that the person may not be called to testify at trial. An agency head who receives a report that a person in the agency has been notified that they may not be called to testify at trial shall also report the notification to the Division in writing within 30 days of the agency head's receipt of that report.

(c) A superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, or assistant United States attorney who notifies a person that they may not be called to testify at trial as provided in subsection (a) of this section shall report that notification to the Division and provide a copy of the written document or order within 30 days of notifying the person that they may not be called to testify at trial.

(d) If the Division transfers to another agency the certification of any person required to report to the Division pursuant to subsection (a) of this section, the Division shall provide written notification to both the head of the new agency and the elected district attorney in the prosecutorial district where the agency is located that the person has been previously notified that the person may not be called to testify at trial. If the new agency receiving notification pursuant to this subsection is a State agency, the Division shall notify the elected district attorney in every prosecutorial district of the State.

(e) If any person required to report to the Division pursuant to subsection (a) of this section is subsequently informed in writing that that notification has been rescinded, the person shall provide the Division a copy of that document. The provisions of subsection (d) of this section do not apply if the person required to report pursuant to subsection (a) of this section is subsequently informed in writing that the notification has been rescinded.

(f) No later than March 1 each year, the Commission shall report to the Joint Legislative Oversight Committee on Justice and Public Safety regarding the number of individuals for whom the Division received a report required by subsection (a) of this section during the previous calendar year. The report shall include information for each case on whether a final agency decision has been entered pursuant to Chapter 150B of the General Statutes and what action, if any, has been taken against each certification. The report shall not include the name or any other identifying information of any person required to report pursuant to subsection (a) of this section.

(g) The reports and notifications received by the Division pursuant to this section shall not be public record.

(h) Any person who has received a notification that may meet the reporting requirement provided in subsection (a) of this section may apply for a hearing in superior court for a judicial determination of whether or not the person received a notification that the person may not be called to testify at trial based on bias, interest, or lack of credibility. This hearing is limited to reviewing whether (i) a person who is certified by the Commission or has received a conditional offer of employment, (ii) has been notified in writing by a superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, or

assistant United States attorney; or notified in open court by a superior court judge, district court judge, or federal judge, and documented in a written order, and (iii) that notification states that the person may not be called to testify at trial based on bias, interest, or lack of credibility, not matters of law or admissibility. The person must provide notice of the hearing to the Division. One extension of 15 days will be added to the 30-day reporting requirement provided in subsection (a) of this section if notice of a hearing is received."

SECTION 4.(b) Chapter 17E of the General Statutes is amended by adding a new section to read:

"§ 17E-16. Requirement to report material relevant to testimony.

(a) Any person who is certified by the Commission or has received a conditional offer of employment and who has been notified that the person may not be called to testify at trial based on bias, interest, or lack of credibility shall report and provide a copy of that notification to the Justice Officers' Standards Division within 30 days of receiving the notification, except as provided in subsection (h) of this section. This requirement shall only apply if the person is notified by one of the following methods:

- (1) In writing by a superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, assistant United States attorney, or the person's agency head.
- (2) In open court by a superior court judge, district court judge, or federal judge and documented in a written order.

(b) The report to the Division shall be in writing and shall state who notified the person that the person may not be called to testify at trial. A person required to report to the Division under subsection (a) of this section shall make the same report to the person's agency head within 30 days of being notified that the person may not be called to testify at trial. An agency head who receives a report that a person in the agency has been notified that they may not be called to testify at trial shall also report the notification to the Division in writing within 30 days of the agency head's receipt of that report.

(c) A superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, or assistant United States attorney who notifies a person that they may not be called to testify at trial as provided in subsection (a) of this section shall report that notification to the Division and provide a copy of the written document or order within 30 days of notifying the person that they may not be called to testify at trial.

(d) If the Division transfers to another agency the certification of any person required to report to the Division pursuant to subsection (a) of this section, the Division shall provide written notification to both the head of the new agency and the elected district attorney in the prosecutorial district where the agency is located that the person has been previously notified that the person may not be called to testify at trial. If the new agency receiving notification pursuant to this subsection is a State agency, the Division shall notify the elected district attorney in every prosecutorial district of the State.

(e) If any person required to report to the Division pursuant to subsection (a) of this section is subsequently informed in writing that that notification has been rescinded, the person shall provide the Division a copy of that document. The provisions of subsection (d) of this section do not apply if the person required to report pursuant to subsection (a) of this section is subsequently informed in writing that the notification has been rescinded.

(f) No later than March 1 each year, the Commission shall report to the Joint Legislative Oversight Committee on Justice and Public Safety regarding the number of individuals for whom the Division received a report required by subsection (a) of this section during the previous calendar year. The report shall include information for each case on whether a final agency decision has been entered pursuant to Chapter 150B of the General Statutes and what action, if any, has been taken against each certification. The report shall not include the name or any other identifying information of any person required to report pursuant to subsection (a) of this section.

(g) The reports and notifications received by the Division pursuant to this section shall not be public record.

(h) Any person who has received a notification that may meet the reporting requirement provided in subsection (a) of this section may apply for a hearing in superior court for a judicial determination of whether or not the person received a notification that the person may not be called to testify at trial based on bias, interest, or lack of credibility. This hearing is limited to reviewing whether (i) a person who is certified by the Commission or has received a conditional offer of employment, (ii) has been notified in writing by a superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, or assistant United States attorney; or notified in open court by a superior court judge, district court judge, or federal judge, and documented in a written order, and (iii) that notification states that the person may not be called to testify at trial based on bias, interest, or lack of credibility, not matters of law or admissibility. The person must provide notice of the hearing to the Division. One extension of 15 days will be added to the 30-day reporting requirement provided in subsection (a) of this section if notice of a hearing is received."

SECTION 4.(c) This section becomes effective October 1, 2021, and applies to notifications received prior to, on, or after that date by persons required to report pursuant to this act.

PART V. REQUIRE CERTAIN MINIMUM LAW ENFORCEMENT OFFICER STANDARDS

SECTION 5.(a) The Criminal Justice Education and Training Standards Commission and the Sheriffs' Education and Training Standards Commission shall jointly develop uniform, statewide minimum standards for law enforcement officers and justice officers and adopt these standards as rules.

SECTION 5.(b) Each Commission shall report the standards developed pursuant to subsection (a) of this section to the Joint Legislative Oversight Committee on Justice and Public Safety no later than December 31, 2021.

SECTION 5.(c) Each Commission may adopt temporary rules under G.S. 150B-21.1 to comply with this section and shall adopt permanent rules to comply with this section by December 31, 2022.

PART VI. TRANSPORTATION OF INVOLUNTARY COMMITMENT RESPONDENTS

SECTION 6.(a) G.S. 122C-251(f) reads as rewritten:

"(f) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, a clerk, a magistrate, or a district court judge, where applicable, may authorize either a health care provider of the respondent or the family or immediate friends of the respondent, if they so request, to transport the respondent in accordance with the procedures of this Article. This authorization shall only be granted in cases where the danger to the public, the health care provider of the respondent, the family or friends of the respondent, or the respondent himself or herself is not substantial. The health care provider of the respondent or the family or immediate friends of the respondent shall bear the costs of providing this transportation."

SECTION 6.(b) This section becomes effective October 1, 2021, and applies to custody orders issued on or after that date.

PART VII. LAW ENFORCEMENT OFFICER ENTRY REQUIREMENTS, ONGOING REQUIREMENTS, AND CREATE A PHYSICAL FITNESS STUDY

SECTION 7.(a) G.S. 17C-6(a) reads as rewritten:

"(a) In addition to powers conferred upon the Commission elsewhere in this Article, the Commission shall have the following powers, which shall be enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17C-10:

...

- (2) Establish minimum educational and training standards that must be met in order to qualify for entry level employment and retention as a criminal justice officer in temporary or probationary status or in a permanent position. The standards for entry level employment shall include all of the following:

...

- c. Education and training to develop knowledge and increase awareness of effective mental health and wellness strategies for criminal justice officers.

...

- (14) Establish minimum standards for in-service training for criminal justice officers. In-service training standards shall include all of the following:

...

- c. Training to develop knowledge and increase awareness of effective mental health and wellness strategies for criminal justice officers. The standards established shall include two hours of training on this issue every three years.

...."

SECTION 7.(b) G.S. 17E-4(a) reads as rewritten:

"(a) The Commission shall have the following powers, duties, and responsibilities, which are enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17E-8 and G.S. 17E-9:

...

- (2) Establish minimum educational and training standards that may be met in order to qualify for entry level employment as an officer in temporary or probationary status or in a permanent position. The standards for entry level employment of officers shall include all of the following:

...

- c. Education and training to develop knowledge and increase awareness of effective mental health and wellness strategies for justice officers.

...

- (11) Establish minimum standards for in-service training for justice officers. In-service training standards shall include all of the following:

...

- c. Training to develop knowledge and increase awareness of effective mental health and wellness strategies for justice officers. The standards established shall include two hours of training on this issue every three years.

...."

SECTION 7.(c) G.S. 17C-10(c) reads as rewritten:

"(c) In addition to the requirements of subsection (b) of this section, the Commission, by rules and regulations, shall fix other qualifications for the employment, training, and retention of criminal justice officers including minimum age, education, physical and mental standards, citizenship, good moral character, experience, and such other matters as relate to the competence and reliability of persons to assume and discharge the responsibilities of criminal justice officers, ~~and the officers.~~ The Commission shall prescribe the means for presenting evidence of fulfillment of these requirements. The Commission shall require the administration of a psychological screening examination, including a face-to-face, in-person interview conducted by a licensed

psychologist, to determine the criminal justice officer's psychological suitability to properly fulfill the responsibilities of the criminal justice officer. If face-to-face, in-person is not practicable, the face-to-face evaluation can be virtual as long as both the audio and video allow for a professional clinical evaluation in a clinical environment. The psychological screening examination shall be given (i) prior to the initial certification or (ii) prior to the criminal justice officer performing any action requiring certification by the Commission.

Where minimum educational standards are not met, yet the individual shows potential and a willingness to achieve the standards by extra study, they may be waived by the Commission for the reasonable amount of time it will take to achieve the standards required. Such an educational waiver shall not exceed 12 months."

SECTION 7.(d) G.S. 17E-7(c) reads as rewritten:

"(c) In addition to the requirements of subsection (b) of this section, the Commission, by rules and regulations, may fix other qualifications for the employment and retention of justice officers including minimum age, education, physical and mental standards, citizenship, good moral character, experience, and such other matters as relate to the competence and reliability of persons to assume and discharge the responsibilities of the ~~office, and the office.~~ The Commission shall prescribe the means for presenting evidence of fulfillment of these requirements. The Commission shall require the administration of a psychological screening examination, including a face-to-face, in-person interview conducted by a licensed psychologist, to determine the justice officer's psychological suitability to properly fulfill the responsibilities of the justice officer. If face-to-face, in-person is not practicable, the face-to-face evaluation can be virtual as long as both the audio and video allow for a professional clinical evaluation in a clinical environment. The psychological screening examination shall be given (i) prior to the initial certification or (ii) prior to the criminal justice officer performing any action requiring certification by the Commission.

Where minimum educational standards are not met, yet the individual shows potential and a willingness to achieve the standards by extra study, they may be waived by the Commission for the reasonable amount of time it will take to achieve the standards required. Upon petition from a sheriff, the Commission may grant a waiver of any provisions of this section (17E-7) for any justice officer serving that sheriff."

SECTION 7.(e) In developing the standards and training required by subsections (a) and (b) of this section, the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission are encouraged to adopt standards that provide training conducted by mental health professionals and through face-to-face instruction.

SECTION 7.(f) The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission shall regularly provide information on any statewide mental health resources specifically available to criminal justice officers or justice officers to all criminal justice agencies or departments in the State that employ officers certified by either Commission.

SECTION 7.(g) All criminal justice agencies or departments in the State that employ criminal justice officers certified by the North Carolina Criminal Justice Education and Training Standards Commission or justice officers certified by the North Carolina Sheriffs' Education and Training Standards Commission shall coordinate with the appropriate local management entity/managed care organization (LME/MCO) or prepaid health plan, as defined under G.S. 108D-1, to make information on State and local mental health resources and programs easily available to all employees and develop policies to encourage employees to utilize the resources available.

SECTION 7.(h) The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission shall jointly study the benefits, if any, of requiring physical fitness testing

throughout the career of a law enforcement officer, and shall also study whether that testing, if required, should be incrementally adjusted based upon the age of the law enforcement officer, and report to the Joint Legislative Oversight Committee on Justice and Public Safety no later than March 31, 2022.

SECTION 7.(i) The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission shall implement the requirements of subsections (a) through (d) of this section no later than January 1, 2022. The requirements of subsections (c) and (d) of this section shall apply to certifications issued and employees entering employment on or after the implementation date of those requirements.

SECTION 7.(j) Subsections (a) through (d) of this section become effective January 1, 2022, and apply to applications for law enforcement certification filed on or after that date. The remainder of this section is effective when it becomes law.

PART VIII. DEVELOPMENT OF EARLY WARNING SYSTEMS

SECTION 8.(a) Chapter 17A of the General Statutes is amended by adding a new section to read:

"§ 17A-10. Development of law enforcement early warning system.

(a) Every agency in the State that employs personnel certified by the North Carolina Criminal Justice Education and Training Standards Commission or the North Carolina Sheriffs' Education and Training Standards Commission shall develop and implement an early warning system to document and track the actions and behaviors of law enforcement officers for the purpose of intervening and improving performance. The early warning system required by this section shall include information, at a minimum, regarding the following:

- (1) Instances of the discharge of a firearm.
- (2) Instances of use of force.
- (3) Vehicle collisions.
- (4) Citizen complaints.

(b) Information collected under this section that is confidential under State or federal law shall remain confidential.

(c) For purposes of this section, "law enforcement officer" means any sworn law enforcement officers with the power of arrest, both State and local."

SECTION 8.(b) This section becomes effective December 1, 2021, and applies to actions and behaviors on or after that date.

PART IX. LAW ENFORCEMENT AGENCY BEST PRACTICES RECRUITING GUIDE

SECTION 9.(a) The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission shall jointly develop a best practices guide to help law enforcement agencies recruit and retain a diverse workforce.

SECTION 9.(b) The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission shall report to the Joint Legislative Oversight Committee on Justice and Public Safety no later than April 1, 2022, regarding the best practices guide required by subsection (a) of this section.

PART X. INVESTIGATIONS OF OFFICER-INVOLVED DEATHS

SECTION 10.(a) G.S. 143B-919 is amended by adding a new subsection to read:

"(b1) The Bureau shall, upon request of the Governor or a sheriff, chief of police, head of a State law enforcement agency, district attorney, or the Commissioner of Prisons, investigate and prepare evidence in the event of any of the following:

- (1) A sworn law enforcement officer with the power to arrest uses force against an individual in the performance of the officer's duties that results in the death of the individual.
- (2) An individual in the custody of the Department of Public Safety, a State prison, a county jail, or a local confinement facility, regardless of the physical location of the individual, dies."

SECTION 10.(b) This section becomes effective October 1, 2021.

PART XI. MANDATORY IN-SERVICE TRAINING FOR LAW ENFORCEMENT OFFICERS

SECTION 11.(a) G.S. 17C-6(a), as amended by Section 7 of this act, reads as rewritten:

"(a) In addition to powers conferred upon the Commission elsewhere in this Article, the Commission shall have the following powers, which shall be enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17C-10:

...

- (14) Establish minimum standards for in-service training for criminal justice officers. In-service training standards for sworn law enforcement officers shall include all of the ~~following~~following training topics:
 - a. ~~Training in response~~ Response to, and investigation of, domestic violence cases, as well as training investigation for evidence-based prosecutions.
 - b. ~~Training on juvenile~~ Juvenile justice issues, including (i) the handling and processing of juvenile matters for referrals, diversion, arrests, and detention; (ii) best practices for handling incidents involving juveniles; (iii) adolescent development and psychology; and (iv) promoting relationship building with youth as a key to delinquency prevention.
 - c. Ethics.
 - d. Mental health for criminal justice officers.
 - e. Community policing.
 - f. Minority sensitivity.
 - g. Use of force.
 - h. The duty to intervene and report.

...."

SECTION 11.(b) G.S. 17E-4(a), as amended by Section 7 of this act, reads as rewritten:

"(a) The Commission shall have the following powers, duties, and responsibilities, which are enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17E-8 and G.S. 17E-9:

...

- (11) Establish minimum standards for in-service training for justice officers. In-service training standards for sworn law enforcement officers shall include all of the ~~following~~following training topics:
 - a. ~~Training in response~~ Response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions. For purposes of the domestic violence training requirement, the term "justice officer" shall include those defined in G.S. 17E-2(3)a., except that the term shall not include "special deputy sheriffs" as defined in G.S. 17E-2(3)a.
 - b. ~~Training on juvenile~~ Juvenile justice issues, including (i) the handling and processing of juvenile matters for referrals, diversion, arrests, and

detention; (ii) best practices for handling incidents involving juveniles; (iii) adolescent development and psychology; and (iv) promoting relationship building with youth as a key to delinquency prevention.

- c. Ethics.
- d. Mental health for justice officers.
- e. Community policing.
- f. Minority sensitivity.
- g. Use of force.
- h. The duty to intervene and report.

...."

SECTION 11.(c) This section becomes effective January 1, 2022.

PART XII. EXEMPT CHANGES TO LAW ENFORCEMENT IN-SERVICE TRAINING STANDARDS FROM RULEMAKING

SECTION 12.(a) G.S. 150B-1(d) reads as rewritten:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

...

- (6a) The Criminal Justice Education and Training Standards Commission with respect to establishing minimum standards for in-service training for criminal justice officers under G.S. 17C-6(a)(14).
- (6b) The Sheriffs' Education and Training Standards Commission with respect to establishing minimum standards for in-service training for justice officers under G.S. 17E-4(a)(11).

...."

SECTION 12.(b) This section is effective when it becomes law.

PART XIII. DECRIMINALIZATION OF CERTAIN ORDINANCES

SECTION 13.(a) G.S. 153A-123 reads as rewritten:

"§ 153A-123. Enforcement of ordinances.

...

(b) ~~Unless the board of commissioners has provided otherwise, Except for the types of ordinances listed in subsection (b1) of this section, violation of a county ordinance is may be a misdemeanor or infraction as provided by G.S. 14-4. G.S. 14-4 only if the county specifies such in the ordinance. An ordinance may provide by express statement that the maximum fine, term of imprisonment, or infraction penalty to be imposed for a violation is some amount of money or number of days less than the maximum imposed by G.S. 14-4. Notwithstanding G.S. 153A-45, no ordinance specifying a criminal penalty may be enacted at the meeting in which it is first introduced.~~

(b1) No ordinance of the following types may impose a criminal penalty:

- (1) Any ordinance adopted under Article 18 of this Chapter, Planning and Regulation of Development or, its successor, Chapter 160D of the General Statutes, except for those ordinances related to unsafe buildings.
- (2) Any ordinance adopted pursuant to G.S. 153A-134, Regulating and licensing businesses, trades, etc.
- (3) Any ordinance adopted pursuant to G.S. 153A-138, Registration of mobile homes, house trailers, etc.
- (4) Any ordinance adopted pursuant to G.S. 153A-140.1, Stream-clearing programs.
- (5) Any ordinance adopted pursuant to G.S. 153A-143, Regulation of outdoor advertising or, its successor, G.S. 160D-912, Outdoor advertising.

- (6) Any ordinance adopted pursuant to G.S. 153A-144, Limitations on regulating solar collectors or, its successor, G.S. 160D-914, Solar collectors.
- (7) Any ordinance adopted pursuant to G.S. 153A-145, Limitations on regulating cisterns and rain barrels.
- (8) Any ordinance regulating trees.

...."

SECTION 13.(b) G.S. 160A-175 reads as rewritten:

"§ 160A-175. Enforcement of ordinances.

...

(b) ~~Unless the Council shall otherwise provide, Except for the types of ordinances listed in subsection (b1) of this section, violation of a city ordinance is may be a misdemeanor or infraction as provided by G.S. 14-4. G.S. 14-4 only if the city specifies such in the ordinance. An ordinance may provide by express statement that the maximum fine, term of imprisonment, or infraction penalty to be imposed for a violation is some amount of money or number of days less than the maximum imposed by G.S. 14-4. Notwithstanding G.S. 160A-75, no ordinance specifying a criminal penalty may be enacted at the meeting in which it is first introduced.~~

(b1) No ordinance of the following types may impose a criminal penalty:

- (1) Any ordinance adopted under Article 19 of this Chapter, Planning and Regulation of Development, or its successor, Chapter 160D of the General Statutes, except for those ordinances related to unsafe buildings.
- (2) Any ordinance adopted pursuant to G.S. 160A-193.1, Stream-clearing programs.
- (3) Any ordinance adopted pursuant to G.S. 160A-194, Regulating and licensing businesses, trades, etc.
- (4) Any ordinance adopted pursuant to G.S. 160A-199, Regulation of outdoor advertising or, its successor, G.S. 160D-912, Outdoor advertising.
- (5) Any ordinance adopted pursuant to G.S. 160A-201, Limitations on regulating solar collectors or, its successor, G.S. 160D-914, Solar collectors.
- (6) Any ordinance adopted pursuant to G.S. 160A-202, Limitations on regulating cisterns and rain barrels.
- (7) Any ordinance adopted pursuant to G.S. 160A-304, Regulation of taxis.
- (8) Any ordinance adopted pursuant to G.S. 160A-306, Building setback lines.
- (9) Any ordinance adopted pursuant to G.S. 160A-307, Curb cut regulations.
- (10) Any ordinance regulating trees.

...."

SECTION 13.(c) G.S. 14-4 reads as rewritten:

"§ 14-4. Violation of local ordinances misdemeanor.

(a) ~~Except as provided in subsection (b), (b) or (c) of this section,~~ if any person shall violate an ordinance of a county, city, town, or metropolitan sewerage district created under Article 5 of Chapter 162A, he shall be guilty of a Class 3 misdemeanor and shall be fined not more than five hundred dollars (\$500.00). No fine shall exceed fifty dollars (\$50.00) unless the ordinance expressly states that the maximum fine is greater than fifty dollars (\$50.00).

(b) If any person shall violate an ordinance of a county, city, or town regulating the operation or parking of vehicles, he shall be responsible for an infraction and shall be required to pay a penalty of not more than fifty dollars (\$50.00).

(c) A person may not be found responsible or guilty of a local ordinance violation punishable pursuant to subsection (a) of this section if, when tried for that violation, the person produces proof of compliance with the local ordinance through any of the following:

- (1) No new alleged violations of the local ordinance within 30 days from the date of the initial alleged violation.

- (2) The person provides proof of a good-faith effort to seek assistance to address any underlying factors related to unemployment, homelessness, mental health, or substance abuse that might relate to the person's ability to comply with the local ordinance."

SECTION 13.(d) This section becomes effective December 1, 2021, and applies to offenses and violations committed on or after that date.

PART XIV. REQUIRE MANDATORY FIRST APPEARANCE FOR MISDEMEANORS WHEN DEFENDANT IS IN CUSTODY AND REQUIRE FIRST APPEARANCE FOR ALL CHARGES WHEN DEFENDANT IS IN CUSTODY TO BE HELD WITHIN SEVENTY-TWO HOURS

SECTION 14.(a) G.S. 15A-601 reads as rewritten:

"§ 15A-601. First appearance before a district court judge; ~~right in felony and other cases in original jurisdiction of superior court; consolidation of first appearance before magistrate and before district court judge; first appearance before clerk of superior court; use of two-way audio and video transmission.~~

(a) Any defendant charged in a magistrate's order under G.S. 15A-511 or criminal process under Article 17 of this Chapter, Criminal Process, with a crime in the original jurisdiction of the superior court must be brought before a district court judge in the district court district as defined in G.S. 7A-133 in which the crime is charged to have been committed. This first appearance before a district court judge is not a critical stage of the proceedings against the defendant.

Any defendant charged in a magistrate's order under G.S. 15A-511 or criminal process under Article 17 of this Chapter, Criminal Process, with a misdemeanor offense and held in custody must be brought before a district court judge in the district court district as defined in G.S. 7A-133 in which the crime is charged to have been committed. This first appearance before a district court judge is not a critical stage of the proceedings against the defendant.

...

(b) When a district court judge conducts an initial appearance as provided in G.S. 15A-511, ~~he~~ the judge may consolidate those proceedings and the proceedings under this Article.

(c) Unless the defendant is released pursuant to Article 26 of this Chapter, Bail, first appearance before a district court judge must be held within ~~96-72~~ hours after the defendant is taken into custody or at the first regular session of the district court in the county, whichever occurs first. If the defendant is not taken into custody, or is released pursuant to Article 26 of this Chapter, Bail, within ~~96-72~~ hours after being taken into custody, first appearance must be held at the next session of district court held in the county. This subsection does not apply to a defendant whose first appearance before a district court judge has been set in a criminal summons pursuant to G.S. 15A-303(d).

...

(e) The clerk of the superior court in the county in which the defendant is taken into custody may conduct a first appearance as provided in this Article if a district court judge is not available in the county within ~~96-72~~ hours after the defendant is taken into custody. A magistrate may conduct the first appearance if the clerk is not available. The clerk, clerk or magistrate, in conducting a first appearance, shall proceed under this Article as would a district court judge."

SECTION 14.(b) This section becomes effective December 1, 2021, and applies to criminal processes served on or after that date.

PART XV. REQUIRE USE OF THE NATIONAL DECERTIFICATION INDEX MAINTAINED BY THE INTERNATIONAL ASSOCIATION OF DIRECTORS OF LAW

ENFORCEMENT STANDARDS AND TRAINING IN THE CERTIFICATION PROCESS FOR CERTIFIED PERSONNEL

SECTION 15.(a) G.S. 17C-6(a) reads as rewritten:

"(a) In addition to powers conferred upon the Commission elsewhere in this Article, the Commission shall have the following powers, which shall be enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17C-10:

...

(21) Search the National Decertification Index (NDI) maintained by the International Association of Directors of Law Enforcement Standards and Training (IADLEST) using the name of every applicant for certification or applicant for lateral transfer, and any other personal identifying information necessary to complete the search, and shall utilize any record of conviction of a criminal offense received as a result of the search during the application and lateral transfer process to determine if the applicant has any record that would disqualify the applicant for certification."

SECTION 15.(b) G.S. 17E-4(a) reads as rewritten:

"(a) The Commission shall have the following powers, duties, and responsibilities, which are enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17E-8 and G.S. 17E-9:

...

(17) Search the National Decertification Index (NDI) maintained by the International Association of Directors of Law Enforcement Standards and Training (IADLEST) using the name of every applicant for certification or applicant for lateral transfer, and any other personal identifying information necessary to complete the search, and shall utilize any record of conviction of a criminal offense received as a result of the search during the application and lateral transfer process to determine if the applicant has any record that would disqualify the applicant for certification.

...."

SECTION 15.(c) This section becomes effective October 1, 2021, and applies to applications for certification submitted on or after that date.

PART XVI. ESTABLISH A DUTY FOR LAW ENFORCEMENT OFFICERS TO INTERVENE IN AND REPORT EXCESSIVE USE OF FORCE

SECTION 16.(a) G.S. 15A-401 is amended by adding a new subsection to read:

"(d1) Duty to Intervene and Report Excessive Use of Force. – A law enforcement officer, while in the line of duty, who observes another law enforcement officer use force against another person that the observing officer reasonably believes exceeds the amount of force authorized by subsection (d) of this section and who possesses a reasonable opportunity to intervene, shall, if it is safe to do so, attempt to intervene to prevent the use of excessive force. Additionally, the observing officer shall, within a reasonable period of time not to exceed 72 hours thereafter, report what the officer reasonably believes to be an unauthorized use of force to a superior law enforcement officer within the agency of the observing officer, even if the observing officer did not have a reasonable opportunity to intervene. If the head of the law enforcement agency of the observing officer was involved or present during what the observing officer reasonably believes to be unauthorized use of force, the observing officer shall make the report to the highest ranking law enforcement officer of that officer's agency who was not involved in or present during the use of force."

SECTION 16.(b) This section becomes effective December 1, 2021, and applies to uses of force that occur on or after that date.

PART XVII. REMOVE THE STANDARDS COMMISSIONS FROM A NONEXCLUSIVE LIST OF STATE AGENCY LICENSING BOARDS

SECTION 17.(a) G.S. 93B-1(3)e. is repealed.

SECTION 17.(b) This section becomes effective December 1, 2021.

PART XVIII. ADDRESS CONSTITUTIONAL ISSUES WITH SATELLITE-BASED MONITORING RAISED IN STATE V. GRADY AND CREATE A PROCESS TO REVIEW WHETHER OFFENDERS SUBJECT TO THAT CASE WHICH WERE REMOVED FROM SATELLITE-BASED MONITORING ARE OTHERWISE ELIGIBLE

SECTION 18.(a) Part V of Article 27A of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-208.39. Legislative finding of efficacy.

The General Assembly finds that empirical and statistical reports such as the 2015 California Study, "Does GPS Improve Recidivism among High Risk Sex Offenders? Outcomes for California's GPS Pilot for High Risk Sex Offender Parolees," show that sex offenders monitored with the global positioning system (GPS) are less likely than other sex offenders to receive a violation for committing a new crime, and that offenders monitored by GPS demonstrated significantly better outcomes for both increasing compliance and reducing recidivism. It is the intent of the General Assembly to protect the public from victimization. Therefore, the General Assembly recognizes that the GPS monitoring program is an effective tool to deter criminal behavior among sex offenders."

SECTION 18.(b) G.S. 14-208.6 reads as rewritten:

"§ 14-208.6. Definitions.

The following definitions apply in this Article:

...

(3e) Reoffender. – A person who has two or more convictions for a felony that is described in G.S. 14-208.6(4). For purposes of this definition, if an offender is convicted of more than one offense in a single session of court, only one conviction is counted.

...."

SECTION 18.(c) G.S. 14-208.40 reads as rewritten:

"§ 14-208.40. Establishment of program; creation of guidelines; duties.

(a) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall establish a sex offender monitoring program that uses a continuous satellite-based monitoring system and shall create guidelines to govern the program. The program shall be designed to monitor three categories of offenders as follows:

- (1) Any offender who is convicted of a reportable conviction as defined by G.S. 14-208.6(4) and who is required to register under Part 3 of Article 27A of Chapter 14 of the General Statutes because the defendant is classified as a sexually violent predator, is a ~~recidivist, reoffender,~~ or was convicted of an aggravated offense as those terms are defined in ~~G.S. 14-208.6.~~ G.S. 14-208.6 and based on the Division of Adult Correction and Juvenile Justice's risk assessment program requires the highest possible level of supervision and monitoring.
- (2) Any offender who satisfies all of the following criteria: (i) is convicted of a reportable conviction as defined by G.S. 14-208.6(4), (ii) is required to register under Part 2 of Article 27A of Chapter 14 of the General Statutes, (iii) has committed an offense involving the physical, mental, or sexual abuse of a minor, and (iv) based on the Division of Adult Correction and Juvenile

Justice's risk assessment program requires the highest possible level of supervision and monitoring.

- (3) Any offender who is convicted of G.S. 14-27.23 or ~~G.S. 14-27.28, who shall be enrolled in the satellite-based monitoring program for the offender's natural life upon termination of the offender's active punishment.~~ G.S. 14-27.28 and based on the Division of Adult Correction and Juvenile Justice's risk assessment program requires the highest possible level of supervision and monitoring.

(b) In developing the guidelines for the program, the Division of Adult Correction and Juvenile Justice shall require that any offender who is enrolled in the satellite-based program submit to an active continuous satellite-based monitoring program, unless an active program will not work as provided by this section. If the Division of Adult Correction and Juvenile Justice determines that an active program will not work as provided by this section, then the Division of Adult Correction and Juvenile Justice shall require that the defendant submit to a passive continuous satellite-based program that works within the technological or geographical limitations.

(c) The satellite-based monitoring program shall use a system that provides all of the following:

- (1) Time-correlated and continuous tracking of the geographic location of the subject using a global positioning system based on satellite and other location tracking technology.
- (2) Reporting of subject's violations of prescriptive and proscriptive schedule or location requirements. Frequency of reporting may range from once a day (passive) to near real-time (active).

(d) The Division of Adult Correction and Juvenile Justice may contract with a single vendor for the hardware services needed to monitor subject offenders and correlate their movements to reported crime incidents. The contract may provide for services necessary to implement or facilitate any of the provisions of this Part."

SECTION 18.(d) G.S. 14-208.40A reads as rewritten:

"§ 14-208.40A. Determination of satellite-based monitoring requirement by court.

(a) When an offender is convicted of a reportable conviction as defined by G.S. 14-208.6(4), during the sentencing phase, the district attorney shall present to the court any evidence that (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a ~~recidivist, reoffender,~~ (iii) the conviction offense was an aggravated offense, (iv) the conviction offense was a violation of G.S. 14-27.23 or G.S. 14-27.28, or (v) the offense involved the physical, mental, or sexual abuse of a minor. The district attorney shall have no discretion to withhold any evidence required to be submitted to the court pursuant to this subsection.

The offender shall be allowed to present to the court any evidence that the district attorney's evidence is not correct.

(b) After receipt of the evidence from the parties, the court shall determine whether the offender's conviction places the offender in one of the categories described in G.S. 14-208.40(a), and if so, shall make a finding of fact of that determination, specifying whether (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a ~~recidivist, reoffender,~~ (iii) the conviction offense was an aggravated offense, (iv) the conviction offense was a violation of G.S. 14-27.23 or G.S. 14-27.28, or (v) the offense involved the physical, mental, or sexual abuse of a minor.

(c) If the court finds that the offender has been classified as a sexually violent predator, is a ~~recidivist, reoffender,~~ has committed an aggravated offense, or was convicted of G.S. 14-27.23 or G.S. 14-27.28, the court shall order that the offender to enroll in a satellite-based monitoring program for life. Division of Adult Correction and Juvenile Justice do a risk

assessment of the offender. The Division of Adult Correction and Juvenile Justice shall have up to 60 days to complete the risk assessment of the offender and report the results to the court.

(c1) Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile Justice pursuant to subsection (c) of this section, the court shall determine whether, based on the Division of Adult Correction and Juvenile Justice's risk assessment, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite-based monitoring program for a period of 10 years.

(d) If the court finds that the offender committed an offense that involved the physical, mental, or sexual abuse of a minor, that the offense is not an aggravated offense or a violation of G.S. 14-27.23 or G.S. 14-27.28 and the offender is not a ~~recidivist, reoffender~~, the court shall order that the Division of Adult Correction do a risk assessment of the offender. The Division of Adult Correction and Juvenile Justice shall have ~~a minimum of 30 days, but not more than 60 days, up to 60 days~~ to complete the risk assessment of the offender and report the results to the court.

(e) Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile Justice pursuant to subsection (d) of this section, the court shall determine whether, based on the Division of Adult Correction and Juvenile Justice's risk assessment, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite-based monitoring program for a period of time to be specified by the ~~court~~ court, not to exceed 10 years."

SECTION 18.(e) G.S. 14-208.40B reads as rewritten:

"§ 14-208.40B. Determination of satellite-based monitoring requirement in certain circumstances.

(a) When an offender is convicted of a reportable conviction as defined by G.S. 14-208.6(4), and there has been no determination by a court on whether the offender shall be required to enroll in satellite-based monitoring, the Division of Adult Correction and Juvenile Justice shall make an initial determination on whether the offender falls into one of the categories described in G.S. 14-208.40(a).

(b) If the Division of Adult Correction and Juvenile Justice determines that the offender falls into one of the categories described in G.S. 14-208.40(a), the district attorney, representing the Division of Adult Correction and Juvenile Justice, shall schedule a hearing in superior court for the county in which the offender resides. The Division of Adult Correction and Juvenile Justice shall notify the offender of the Division of Adult Correction and Juvenile Justice's determination and the date of the scheduled hearing by certified mail sent to the address provided by the offender pursuant to G.S. 14-208.7. The hearing shall be scheduled no sooner than 15 days from the date the notification is mailed. Receipt of notification shall be presumed to be the date indicated by the certified mail receipt. Upon the court's determination that the offender is indigent and entitled to counsel, the court shall assign counsel to represent the offender at the hearing pursuant to rules adopted by the Office of Indigent Defense Services.

(c) At the hearing, the court shall determine if the offender falls into one of the categories described in G.S. 14-208.40(a). The court shall hold the hearing and make findings of fact pursuant to G.S. 14-208.40A.

If the court finds that (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a ~~recidivist, reoffender~~, (iii) the conviction offense was an aggravated offense, or (iv) the conviction offense was a violation of G.S. 14-27.23 or G.S. 14-27.28, the court shall order that the offender to enroll in satellite-based monitoring for life. Division of Adult Correction and Juvenile Justice do a risk assessment of the offender. The Division of Adult Correction and Juvenile Justice shall have up to 60 days to complete the risk assessment of the offender and report the results to the court.

(c1) Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile Justice pursuant to subsection (c) of this section, the court shall determine whether, based on the Division of Adult Correction and Juvenile Justice's risk assessment, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite-based monitoring program for a period of 10 years.

If the court finds that the offender committed an offense that involved the physical, mental, or sexual abuse of a minor, that the offense is not an aggravated offense or a violation of G.S. 14-27.23 or G.S. 14-27.28, and the offender is not a ~~recidivist, reoffender,~~ the court shall order that the Division of Adult Correction and Juvenile Justice do a risk assessment of the offender. The Division of Adult Correction and Juvenile Justice shall have ~~a minimum of 30 days, but not more than 60 days,~~ up to 60 days to complete the risk assessment of the offender and report the results to the court. The Division of Adult Correction and Juvenile Justice may use a risk assessment of the offender done within six months of the date of the hearing.

Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile Justice, the court shall determine whether, based on the Division of Adult Correction and Juvenile Justice's risk assessment, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite-based monitoring program for a period of time to be specified by the ~~court,~~ court, not to exceed 10 years."

SECTION 18.(f) G.S. 14-208.41 reads as rewritten:

"§ 14-208.41. Enrollment in satellite-based monitoring programs mandatory; length of enrollment; tolling.

(a) Any person described by G.S. 14-208.40(a)(1) shall enroll in a satellite-based monitoring program with the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice office in the county where the person resides. The person shall remain enrolled in the satellite-based monitoring program for the registration period imposed ~~under G.S. 14-208.23 which is the person's life, for a period required by G.S. 14-208.40A or G.S. 14-208.40B unless the requirement to enroll in the satellite-based monitoring program is terminated or modified pursuant to G.S. 14-208.43.~~

(b) Any person described by G.S. 14-208.40(a)(2) who is ordered by the court pursuant to G.S. 14-208.40A or G.S. 14-208.40B to enroll in a satellite-based monitoring program shall do so with the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice office in the county where the person resides. The person shall remain enrolled in the satellite-based monitoring program for the period of time ordered by the court.

(c) Any person described by G.S. 14-208.40(a)(3), upon completion of active punishment, shall enroll in a satellite-based monitoring program with the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice office in the county where the person resides. The person shall enroll in the satellite-based monitoring program for the entire period of post-release supervision and shall remain enrolled in the satellite-based monitoring program ~~for the person's life, the period required by G.S. 14-208.40A or G.S. 14-208.40B unless the requirement to enroll in the satellite-based monitoring program is terminated or modified pursuant to G.S. 14-208.43. Any term of imprisonment based on revocation of probation or post-release supervision for the conviction which resulted in satellite-based monitoring tolls the period of enrollment.~~

SECTION 18.(g) G.S. 14-208.42 reads as rewritten:

"§ 14-208.42. Offenders required to submit to satellite-based monitoring required to cooperate with Division of Adult Correction and Juvenile Justice upon completion of sentence.

Notwithstanding any other provision of law, when an offender is required to enroll in satellite-based monitoring pursuant to G.S. 14-208.40A or G.S. 14-208.40B, upon completion of the offender's sentence and any term of parole, post-release supervision, intermediate punishment, or supervised probation that follows the sentence, the offender shall continue to be enrolled in the satellite-based monitoring program for the period required by G.S. 14-208.40A or G.S. 14-208.40B unless the requirement that the person enroll in a satellite-based monitoring program is terminated or modified pursuant to G.S. 14-208.43.

The Division of Adult Correction and Juvenile Justice shall have the authority to have contact with the offender at the offender's residence or to require the offender to appear at a specific location as needed for the purpose of enrollment, to receive monitoring equipment, to have equipment examined or maintained, and for any other purpose necessary to complete the requirements of the satellite-based monitoring program. The offender shall cooperate with the Division of Adult Correction and Juvenile Justice and the requirements of the satellite-based monitoring program until the offender's requirement to enroll is terminated and the offender has returned all monitoring equipment to the Division of Adult Correction and Juvenile Justice."

SECTION 18.(h) G.S. 14-208.43 reads as rewritten:

"§ 14-208.43. Request-Petition for termination or modification of the satellite-based monitoring requirement.

(a) An offender described by G.S. 14-208.40(a)(1) or G.S. 14-208.40(a)(3) who is required to submit to satellite-based monitoring ~~for the offender's life may file a request-petition for termination or modification of the monitoring requirement with the Post-Release Supervision and Parole Commission. The request to terminate the satellite-based monitoring requirement and to terminate the accompanying requirement of unsupervised probation may not be submitted until at least one year after the offender: (i) has served his or her sentence for the offense for which the satellite-based monitoring requirement was imposed, and (ii) has also completed any period of probation, parole, or post-release supervision imposed as part of the sentence.~~ superior court in the county where the conviction occurred five years after the date of initial enrollment.

(b) ~~Upon receipt of the request for termination, the Commission shall review documentation contained in the offender's file and the statewide registry to determine whether the person has complied with the provisions of this Article. In addition, the Commission shall conduct fingerprint-based state and federal criminal history record checks to determine whether the person has been convicted of any additional reportable convictions.~~

(c) ~~If it is determined that the person has not received any additional reportable convictions during the period of satellite-based monitoring and the person has substantially complied with the provisions of this Article, the Commission may terminate the monitoring requirement if the Commission finds that the person is not likely to pose a threat to the safety of others.~~

(d) ~~If it is determined that the person has received any additional reportable convictions during the period of satellite-based monitoring or has not substantially complied with the provisions of this Article, the Commission shall not order the termination of the monitoring requirement.~~

(d1) ~~Notwithstanding the provisions of this section, if the Commission is notified by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety that the offender has been released, pursuant to G.S. 14-208.12A, from the requirement to register under Part 2 of Article 27A of this Chapter, upon request of the offender, the Commission shall order the termination of the monitoring requirement.~~

(e) ~~The Commission shall not consider any request to terminate a monitoring requirement except as provided by this section. The district attorney in the district in which the petition is filed shall be given notice of the petition at least three weeks before the hearing on the matter. The petitioner may present evidence in support of the petition, and the district attorney may~~

present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied.

(c) The victim of the underlying offense may appear and be heard by the court in a proceeding regarding a petition for termination or modification of satellite-based monitoring requirement. If the victim has elected to receive notices of such proceedings, the district attorney's office shall notify the victim of the date, time, and place of the hearing. The district attorney's office may provide the required notification electronically or by telephone, unless the victim requests otherwise. The victim shall be responsible for notifying the district attorney's office of any changes in the victim's address and telephone number or other contact information. The judge in any court proceeding subject to this section shall inquire as to whether the victim is present and wishes to be heard. If the victim is present and wishes to be heard, the court shall grant the victim an opportunity to be reasonably heard. The right to be reasonably heard may be exercised, at the victim's discretion, through an oral statement, submission of a written statement, or submission of an audio or video statement.

(d) The petition may be granted only if the court makes all of the following findings:

- (1) The petitioner has been enrolled in the satellite-based monitoring program for at least five years.
- (2) The petitioner no longer requires the highest possible level of supervision and monitoring for 10 years.

(e) The court may order any of the following:

- (1) The petitioner to remain enrolled in the satellite-based monitoring program for a period of time to be specified by the court, not to exceed a total of 10 years.
- (2) The petitioner's requirement to enroll in the satellite-based monitoring program be terminated.

(f) If the court denies the petition, the person may again petition the court for relief in accordance with this section two years from the date of the denial of the original petition to terminate the satellite-based monitoring requirement. If the court grants the petition, the clerk of court shall forward a certified copy of the order to the Post Release Supervision and Parole Commission. The Commission-courts has no authority to consider or terminate a monitoring requirement for an offender described in G.S. 14-208.40(a)(2)."

SECTION 18.(i) Article 27A of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-208.46. Petition for postenrollment determination for lifetime satellite-based monitoring enrollees.

(a) An offender who is enrolled in a satellite-based monitoring for life may file a petition for termination or modification of the monitoring requirement with the superior court in the county where the conviction occurred five years after the date of initial enrollment.

(b) The district attorney in the district in which the petition is filed shall be given notice of the petition at least three weeks before the hearing on the matter. The petitioner may present evidence in support of the petition, and the district attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied.

(c) The victim of the underlying offense may appear and be heard by the court in a proceeding regarding a petition for termination or modification of satellite-based monitoring requirement. If the victim has elected to receive notices of such proceedings, the district attorney's office shall notify the victim of the date, time, and place of the hearing. The district attorney's office may provide the required notification electronically or by telephone, unless the victim requests otherwise. The victim shall be responsible for notifying the district attorney's office of any changes in the victim's address and telephone number or other contact information. The judge in any court proceeding subject to this section shall inquire as to whether the victim is

present and wishes to be heard. If the victim is present and wishes to be heard, the court shall grant the victim an opportunity to be reasonably heard. The right to be reasonably heard may be exercised, at the victim's discretion, through an oral statement, submission of a written statement, or submission of an audio or video statement.

(d) If the petitioner has not been enrolled in the satellite-based monitoring program for at least 10 years, the court shall order the petitioner to remain enrolled in the satellite-based monitoring program for a total of 10 years.

(e) If the petitioner has been enrolled in the satellite-based monitoring program for more than 10 years, the court shall order the petitioner's requirement to enroll in the satellite-based monitoring program be terminated.

(f) The court has no authority to terminate the satellite-based monitoring requirement for an offender ordered to satellite-based monitoring for life prior to 10 years of enrollment."

SECTION 18.(j) G.S. 15A-1343 reads as rewritten:

"§ 15A-1343. Conditions of probation.

...
(a1) Community and Intermediate Probation Conditions. – In addition to any conditions a court may be authorized to impose pursuant to G.S. 15A-1343(b1), the court may include any one or more of the following conditions as part of a community or intermediate punishment:

...
(6) Submission to satellite-based monitoring, pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the defendant is described by G.S. 14-208.40(a)(2).G.S. 14-208.40(a)(2), and based on the Division of Adult Correction and Juvenile Justice's risk assessment program requires the highest possible level of supervision and monitoring.

...
(b2) Special Conditions of Probation for Sex Offenders and Persons Convicted of Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – As special conditions of probation, a defendant who has been convicted of an offense which is a reportable conviction as defined in G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor, must:

...
(7) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the defendant is described by G.S. 14-208.40(a)(1).G.S. 14-208.40(a)(1), and the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, based on the Division's risk assessment program, recommends that the defendant submit to the highest possible level of supervision and monitoring.

...."

SECTION 18.(k) G.S. 15A-1343.2 reads as rewritten:

"§ 15A-1343.2. Special probation rules for persons sentenced under Article 81B.

(a) Applicability. – This section applies only to persons sentenced under Article 81B of this Chapter.

...
(f) Delegation to Probation Officer in Intermediate Punishments. – Unless the presiding judge specifically finds in the judgment of the court that delegation is not appropriate, the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may require an offender sentenced to intermediate punishment to do any of the following:

...
(5) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the defendant is described by G.S. 14-208.40(a)(2).G.S. 14-208.40(a)(2), and based on the Division of

Adult Correction and Juvenile Justice's risk assessment program requires the highest possible level of supervision and monitoring.

...
If the Section imposes any of the above requirements, then it may subsequently reduce or remove those same requirements.

...
(f1) **Mandatory Condition of Satellite-Based Monitoring for Some Sex Offenders.** – Notwithstanding any other provision of this section, the court shall impose satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes as a condition of probation on any offender who is described by ~~G.S. 14-208.40(a)(1)~~G.S. 14-208.40(a)(1), and based on the Division of Adult Correction and Juvenile Justice's risk assessment program requires the highest possible level of supervision and monitoring.

...."

SECTION 18.(l) G.S. 15A-1344(e2) is repealed.

SECTION 18.(m) G.S. 15A-1368.4 reads as rewritten:

"§ 15A-1368.4. Conditions of post-release supervision.

(a) **In General.** – Conditions of post-release supervision may be reintegrative in nature or designed to control the supervisee's behavior and to enforce compliance with law or judicial order. A supervisee may have his supervision period revoked for any violation of a controlling condition or for repeated violation of a reintegrative condition. Compliance with reintegrative conditions may entitle a supervisee to earned time credits as described in G.S. 15A-1368.2(d).

...
(b1) **Additional Required Conditions for Sex Offenders and Persons Convicted of Offenses Involving Physical, Mental, or Sexual Abuse of a Minor.** – In addition to the required condition set forth in subsection (b) of this section, for a supervisee who has been convicted of an offense which is a reportable conviction as defined in G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor, controlling conditions, violations of which may result in revocation of post-release supervision, are:

- ...
(6) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the offense is a reportable conviction as defined by ~~G.S. 14-208.6(4)~~ and G.S. 14-208.6(4), the supervisee is in the category described by ~~G.S. 14-208.40(a)(1)~~G.S. 14-208.40(a)(1), and based on the Division of Adult Correction and Juvenile Justice's risk assessment program requires the highest possible level of supervision and monitoring.
- (7) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the offense is a reportable conviction as defined by ~~G.S. 14-208.6(4)~~ and G.S. 14-208.6(4), the supervisee is in the category described by ~~G.S. 14-208.40(a)(2)~~G.S. 14-208.40(a)(2), and based on the Division of Adult Correction and Juvenile Justice's risk assessment program requires the highest possible level of supervision and monitoring.

...."

SECTION 18.(n) G.S. 15A-1374 reads as rewritten:

"§ 15A-1374. Conditions of parole.

(a) **In General.** – The Post-Release Supervision and Parole Commission may in its discretion impose conditions of parole it believes reasonably necessary to insure that the parolee will lead a law-abiding life or to assist him to do so. The Commission must provide as an express condition of every parole that the parolee not commit another crime during the period for which the parole remains subject to revocation. When the Commission releases a person on parole, it must give him a written statement of the conditions on which he is being released.

...

(b1) Mandatory Satellite-Based Monitoring Required as Condition of Parole for Certain Offenders. – If a parolee is in a category described by G.S. 14-208.40(a)(1) or ~~G.S. 14-208.40(a)(2)~~, G.S. 14-208.40(a)(2) and based on the Division of Adult Correction and Juvenile Justice's risk assessment program requires the highest possible level of supervision and monitoring, the Commission must require as a condition of parole that the parolee submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes."

SECTION 18.(o) The Division of Adult Correction and Juvenile Justice shall provide each elected District Attorney a list of the individuals that reside in a county in that District Attorney's district that is subject to State v. Grady, 831 S.E. 2d 542 (NC 2019), decided August 16, 2019, namely all individuals in the same category as the defendant, Mr. Grady: individuals subject to mandatory lifetime satellite-based monitoring based solely on their status as a statutorily defined "recidivist" who have completed their prison sentences and are no longer supervised by the State through probation, parole, or post-release supervision. An elected District Attorney must decide to handle each case or have the Attorney General handle the case. If requested by an elected District Attorney, the Attorney General shall make a preliminary determination whether the recidivist subject to State v. Grady, may meet any requirement to enroll in a satellite-based monitoring program other than being a recidivist, and represent the State in any proceedings created by this section. Each District Attorney or Attorney General shall review the determination for every one of the class members. If the District Attorney or Attorney General makes a preliminary determination that the individual may meet any requirement to enroll in a satellite-based monitoring program other than being a recidivist, they shall notify the person and the sheriff in the county where the individual resides. The District Attorney or Attorney General may petition the court in that county for a hearing to have a judge determine if an individual subject to State v. Grady, 831 S.E. 2d 542 (NC 2019), meets the criteria for satellite-based monitoring consistent with G.S. 14-208.40A, as amended by this act.

SECTION 18.(p) Subsection (b) of this section applies to satellite-based monitoring determinations on or after December 1, 2021, and includes felony convictions obtained before, on, or after that date. Subsection (i) of this section becomes effective December 1, 2021, and applies to any individual required to enroll in satellite-based monitoring for life on or after that date. Subsection (o) of this section becomes effective December 1, 2021, and applies to any individual required to enroll in the satellite-based monitoring program based solely on being a "recidivist" on or after that date. The remainder of this section becomes effective December 1, 2021, and applies to satellite-based monitoring determinations on or after that date.

PART XIX. PROTECTIONS FOR LAW ENFORCEMENT OFFICERS

SECTION 19.(a) G.S. 14-223 reads as rewritten:

"§ 14-223. Resisting officers.

(a) If any person shall willfully and unlawfully resist, delay or obstruct a public officer in discharging or attempting to discharge ~~a duty of his office, he shall be an official duty, the person is guilty of a Class 2 misdemeanor.~~

(b) If any person shall willfully and unlawfully resist, delay, or obstruct a public officer in discharging or attempting to discharge an official duty, and the resistance, delay, or obstruction is the proximate cause of a public officer's serious injury, the person is guilty of a Class I felony.

(c) If any person shall willfully and unlawfully resist, delay, or obstruct a public officer in discharging or attempting to discharge an official duty, and the resistance, delay, or obstruction is the proximate cause of a public officer's serious bodily injury, the person is guilty of a Class F felony.

(d) "Serious bodily injury" is defined as bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition

that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization."

SECTION 19.(b) In order to raise public awareness about resisting, delaying, and obstructing law enforcement officers and encourage North Carolina residents to interact with law enforcement officers safely, the Department of Public Safety shall create a targeted social media campaign and television commercials that address the concerns of not resisting arrest and raising public awareness about resisting, delaying, and obstructing law enforcement officers. DPS shall also make available on its internet website a public service announcement containing legally accurate information regarding the public's responsibilities during traffic stops and other interactions with law enforcement.

SECTION 19.(c) The Department of Public Safety shall provide to the Division of Motor Vehicles an internet link to the public service announcement authorized by subsection (b) of this section, which the Division of Motor Vehicles shall make available on its internet website. In addition, the Division of Motor Vehicles shall broadcast the public service announcement authorized by subsection (b) of this section on monitors at drivers license office locations across the State.

SECTION 19.(d) Subsection (a) of this section becomes effective December 1, 2021, and applies to offenses committed on or after that date. The remainder of this section is effective when it becomes law.

PART XX. ESTABLISH CRIMINAL RECODIFICATION WORKING GROUP

SECTION 20.(a) There is created the Bipartisan North Carolina Legislative Working Group on Criminal Law Recodification (Working Group). The purpose of the Working Group is to make recommendations to the General Assembly regarding a streamlined, comprehensive, orderly, and principled criminal code which includes all common law, statutory, regulatory, and ordinance crimes.

SECTION 20.(b) The Working Group shall be comprised of nine members selected as follows:

- (1) Two senators who are members of the majority party appointed by the President Pro Tempore of the Senate.
- (2) Two senators who are members of the minority party appointed by the Minority Leader of the Senate.
- (3) Two representatives who are members of the majority party appointed by the Speaker of the House of Representatives.
- (4) Two representatives who are members of the minority party appointed by the Minority Leader of the House of Representatives.
- (5) One individual appointed jointly by the President Pro Tempore of the Senate and the Speaker of the House of Representatives. This individual shall have served at least six years as a member of the General Assembly and shall serve as the chair of the Working Group.

SECTION 20.(c) The Working Group shall solicit comments and feedback from the public, as well as from all of the following:

- (1) The Administrative Office of the Courts.
- (2) The Attorney General.
- (3) The Conference of District Attorneys.
- (4) Indigent Defense Services.
- (5) The North Carolina Sheriffs' Association.
- (6) The North Carolina Association of Chiefs of Police.
- (7) The North Carolina Police Benevolent Association.
- (8) The North Carolina League of Municipalities.
- (9) The North Carolina Association of County Commissioners.

SECTION 20.(d) All appointments to the Working Group shall be made no later than 30 days after this act becomes law. Vacancies on the Working Group shall be filled by the appointing authority. The Working Group, while in the discharge of its official duties, may exercise all the powers provided under the provisions of G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them and the power to subpoena witnesses.

SECTION 20.(e) The Working Group shall meet upon the call of the chair but at least monthly beginning no later than September 15, 2021. A majority of the voting members shall constitute a quorum. Members shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1 or G.S. 138-5, as appropriate. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to monitor and provide technical assistance to the Working Group; provided, however, legislative staff shall not be made available at times when the 2021 General Assembly is in session. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Working Group. The Working Group shall terminate on December 31, 2022.

SECTION 20.(f) The Working Group shall establish general principles which shall, at a minimum, provide for all of the following:

- (1) Incorporate existing statutory and common law offenses into Chapter 14 of the General Statutes, harmonizing additions with current Chapter content.
- (2) Apply consistent terminology across statutes and define all terminology.
- (3) Specify the required mental state or that an offense is a strict liability crime.
- (4) Eliminate redundant crimes and multiple punishment for the same conduct.
- (5) Simplify offense numbering.
- (6) Eliminate or modify unconstitutional provisions to ensure lawfulness.
- (7) Eliminate outdated laws.
- (8) Apply consistent, logical offense grading, with advice from the North Carolina Sentencing Policy and Advisory Commission.

SECTION 20.(g) The Working Group shall provide the following deliverables:

- (1) For common law crimes and crimes included in the North Carolina General Statutes:
 - a. Create a database of all statutory and common law crimes, including statute number or common law designation; offense short title; elements; link to the statute; punishment; special and key features; frequency of charging, if available; and any proposed changes and the status of those changes in order to track decisions by the Working Group.
 - b. Draft legislation amending, recodifying, or proposing changes to North Carolina criminal statutes using a format that is consistent with drafting conventions used by the North Carolina General Assembly, as directed by the Working Group.
- (2) For crimes created by local ordinances:
 - a. Create a database of ordinance offenses, including ordinance title, general description, elements, punishment, and key feature coding. The Working Group will sample ordinances from diverse jurisdictions or review all, as time allows.
 - b. Report on common ordinance crimes, including charging data, if available, and including presentation of a range of policy options for addressing ordinance crimes consistent with the Working Group's goals.

- c. Draft legislation using a format that is consistent with drafting conventions used by the North Carolina General Assembly, as directed by the Working Group.
- (3) For crimes created by administrative boards and bodies:
 - a. Create a database of all crimes created by administrative boards and bodies that make it a crime to violate any regulation created by an administrative board or body, with exemplary regulations and punishment levels.
 - b. Report on policy options for addressing regulatory crimes consistent with the Working Group's goals.
 - c. Draft legislation using a format that is consistent with drafting conventions used by the North Carolina General Assembly, as directed by the Working Group.

PART XXI. AMEND THE LAW TO PROVIDE IMMEDIATE DISCLOSURE OF BODY-WORN CAMERA RECORDINGS RELATED TO DEATH OR SERIOUS BODILY INJURY

SECTION 21.(a) G.S. 132-1.4A reads as rewritten:

"§ 132-1.4A. Law enforcement agency recordings.

- (a) Definitions. – The following definitions apply in this section:
 - (1) Body-worn camera. – An operational video or digital camera or other electronic device, including a microphone or other mechanism for allowing audio capture, affixed to the uniform or person of law enforcement agency personnel and positioned in a way that allows the camera or device to capture interactions the law enforcement agency personnel has with others.
 - (2) Custodial law enforcement agency. – The law enforcement agency that owns or leases or whose personnel operates the equipment that created the recording at the time the recording was made.
 - (3) Dashboard camera. – A device or system installed or used in a law enforcement agency vehicle that electronically records images or audio depicting interaction with others by law enforcement agency personnel. This term does not include body-worn cameras.
 - (4) Disclose or disclosure. – To make a recording available for viewing or listening to by the person requesting disclosure, at a time and location chosen by the custodial law enforcement agency. This term does not include the release of a recording.
 - (5) Personal representative. – A parent, court-appointed guardian, spouse, or ~~attorney~~ attorney licensed in North Carolina of a person whose image or voice is in the recording. If a person whose image or voice is in the recording is deceased, the term also means the personal representative of the estate of the deceased person; the deceased person's surviving spouse, parent, or adult child; the deceased person's ~~attorney~~ attorney licensed in North Carolina; or the parent or guardian of a surviving minor child of the deceased.
 - (6) Recording. – A visual, audio, or visual and audio recording captured by a body-worn camera, a dashboard camera, or any other video or audio recording device operated by or on behalf of a law enforcement agency or law enforcement agency personnel when carrying out law enforcement responsibilities. This term does not include any video or audio recordings of interviews regarding agency internal investigations or interviews or interrogations of suspects or witnesses.
 - (7) Release. – To provide a copy of a recording.

(8) Serious bodily injury. – A bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.

(b) Public Record and Personnel Record Classification. – Recordings are not public records as defined by G.S. 132-1. Recordings are not personnel records as defined in Part 7 of Chapter 126 of the General Statutes, G.S. 160A-168, or G.S. 153A-98.

(b1) Immediate Disclosure. – When requested by submission of the notarized form described in subsection (b2) of this section to the head of a law enforcement agency, any portion of a recording in the custody of a law enforcement agency which depicts a death or serious bodily injury shall, upon order of the court pursuant to subsection (b3) of this section, be disclosed to a personal representative of the deceased, the injured individual, or a personal representative on behalf of the injured individual. Any disclosure ordered by the court pursuant to subsection (b3) of this section shall be done by the agency in a private setting. A person who receives disclosure as ordered by the court pursuant to subsection (b3) of this section shall not record or copy the recording. Except as provided in subsection (b3) of this section, the portion of the recording relevant to the death or serious bodily injury shall not be edited or redacted.

(b2) Notarized Form. – A person requesting disclosure pursuant to subsection (b1) of this section must submit a signed and notarized form provided by the law enforcement agency. The form shall be developed by the Administrative Office of the Courts and shall include notice that, if disclosed, the recording may not be recorded or copied, or if unlawfully recorded or copied may not be knowingly disseminated, and notice of the criminal penalties provided in subsection (b4) of this section.

(b3) Immediate Disclosure Review. – No later than three business days from receipt of the notarized form requesting immediate disclosure pursuant to subsection (b1) of this section, a law enforcement agency shall file a petition in the superior court in any county where any portion of the recording was made for issuance of a court order regarding disclosure of the recording requested pursuant to subsection (b1) of this section and shall also deliver a copy of the petition and a copy of the recording, which shall remain confidential unless the court issues an order of disclosure pursuant to this section, to the senior resident superior court judge for that superior court district or their designee. There shall be no fee for filing the petition. The court shall conduct an in-camera review of the recording and shall enter an order within seven business days of the filing of the petition instructing that the recording be (i) immediately disclosed without editing or redaction; (ii) immediately disclosed with editing or redaction; (iii) disclosed at a later date, with or without editing or redaction; or (iv) not disclosed to the person or persons seeking disclosure. In determining whether the recording may be disclosed pursuant to this section, the court shall consider the following factors:

- (1) If the person requesting disclosure of the recording is a person authorized to receive disclosure pursuant to subsection (c) of this section.
- (2) If the recording contains information that is otherwise confidential or exempt from disclosure or release under State or federal law.
- (3) If disclosure would reveal information regarding a person that is of a highly sensitive and personal nature.
- (4) If disclosure may harm the reputation or jeopardize the safety of a person.
- (5) If disclosure would create a serious threat to the fair, impartial, and orderly administration of justice.
- (6) If confidentiality is necessary to protect either an active or inactive internal or criminal investigation or potential internal or criminal investigation.

In any proceeding pursuant to this subsection, the following persons shall be notified and those persons, or their designated representative, shall be given an opportunity to be heard at any

proceeding: (i) the head of the custodial law enforcement agency, (ii) any law enforcement agency personnel whose image or voice is in the portion of the recording requested to be disclosed and the head of that person's employing law enforcement agency, (iii) the District Attorney, (iv) the investigating law enforcement agency, and (v) the party requesting the disclosure. The court may order any conditions or restrictions on the disclosure that the court deems appropriate.

Petitions filed pursuant to this subsection shall be scheduled for hearing as soon as practicable, and the court shall issue an order pursuant to the provisions of this subsection no later than seven business days after the filing of the petition. Any subsequent proceedings in such actions shall be accorded priority by the trial and appellate courts.

If disclosure of a recording is denied based on subdivision (6) of this subsection, the court shall schedule a subsequent hearing, to be held no more than 20 business days after the issuance of the order, to reconsider whether the recording should be disclosed.

(b4) Any person who willfully records, copies, or attempts to record or copy a recording disclosed pursuant to subsection (b1) of this section shall be guilty of a Class 1 misdemeanor. Any person who knowingly disseminates a recording or a copy of a recording disclosed pursuant to subsection (b1) of this section is guilty of a Class I felony.

(c) Disclosure; General. – Recordings in the custody of a law enforcement agency shall be disclosed only as provided by this section. Recordings depicting a death or serious bodily injury shall only be disclosed as provided in subsections (b1) through (b3) of this section.

A person requesting disclosure of a recording must make a written request to the head of the custodial law enforcement agency that states the date and approximate time of the activity captured in the recording or otherwise identifies the activity with reasonable particularity sufficient to identify the recording to which the request refers.

The head of the custodial law enforcement agency may only disclose a recording to the following:

- (1) A person whose image or voice is in the recording.
- (2) A personal representative of an adult person whose image or voice is in the recording, if the adult person has consented to the disclosure.
- (3) A personal representative of a minor or of an adult person under lawful guardianship whose image or voice is in the recording.
- (4) A personal representative of a deceased person whose image or voice is in the recording.
- (5) A personal representative of an adult person who is incapacitated and unable to provide consent to disclosure.

When disclosing the recording, the law enforcement agency shall disclose only those portions of the recording that are relevant to the person's request. A person who receives disclosure pursuant to this subsection shall not record or copy the recording.

...."

SECTION 21.(b) No later than the effective date of this section, the Administrative Office of the Courts shall develop and make available to all law enforcement agencies the following forms:

- (1) A signed and notarized request for immediate disclosure as required by G.S. 132-1.4A(b1) and (b2) as enacted by subsection (a) of this section.
- (2) A petition for use by law enforcement agencies pursuant to G.S. 132-1.4A(b3) as enacted by subsection (a) of this section.

SECTION 21.(c) This section becomes effective December 1, 2021, and applies to all requests made on or after that date for disclosure of a recording.

PART XXII. SAVINGS CLAUSE, SEVERABILITY CLAUSE, AND EFFECTIVE DATE

SECTION 22.(a) If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 22.(b) Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

SECTION 22.(c) Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 25th day of August, 2021.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 2:47 p.m. this 2nd day of September, 2021

Planning Application - UDO Text Amendment

Town of Boone Planning & Inspections Department
680 W. King Street, Suite C ♦ Boone, North Carolina 28607
Phone (828) 268-6960 ♦ Fax (828) 268-6961 ♦ www.townofboone.net

Official Use Only

Case Number:
PL05270-110121
Case Name:
Miscellaneous Revisions

A. CONTACT INFORMATION

Applicant: Town of Boone Company: _____
Address: 567 West King Street
Phone Number: 828-268-6200 Email Address: planning@townofboone.net

B. TEXT INFORMATION

Amendment is to: UDO

Article(s): Article 2, Article 14, Article 25, Article 34

Section(s): 2.04, 14.03.05, 25.05, Definitions

Brief Description of Amendment (Attach Proposed Text):

Amend the UDO Article 2 to reduce membership of the Historic Preservation Commission from seven to five members; Article 25 to require that development applicants submit a final lighting plan compliance certification, and UDO Articles 14 and 34 to clarify "livability space" requirements.

C. APPLICANT SIGNATURE: By signing this form you are certifying that this application and any attached information is accurate. Failure to provide accurate information or failure to provide any requested information may result in delays to permit processing.

Jane Shook
Applicant (Print)

/s/ Jane Shook
Applicant Signature

11/1/2021
Date

Official Use Only

Date:	Fee:	Receipt Number:	Method of Payment:	Paid By:
NA	NA	NA	NA	NA

Hearing/Decision Information

Public Hearing Meeting

Date: November 22, 2021

PC Meeting

Date: November 22, 2021

TC Meeting

Date: December 8, 2021

Text Approved: ☐ Yes ☐ No

Notes:

S:\FORMS\Current Forms\Planning\UDOTextAmendment_PlanningApplication_09252017.doc



STAFF REPORT
PUBLIC HEARING
NOVEMBER 22, 2021

Case PL05270-110121 Miscellaneous Revisions - UDO Text Amendment

Request

Amend the UDO Article 2 to reduce membership of the Historic Preservation Commission from seven to five members; Article 25 to require that development applicants submit a final lighting plan compliance certification, and UDO Articles 14 and 34 to clarify “livability space” requirements.

This amendment is intended to provide an opportunity for corrections discovered during implementation of recent code changes or to reflect changing circumstances. Staff maintains an ongoing list of potential ordinance and code changes that are either suggested by Council or Town staff who regularly utilize these documents. The proposed revisions for this case are intended to improve the clarity of regulations, to streamline regulations or correct errors that create difficulties for customers, boards and staff.

Proposed Ordinance Amendment

ORDINANCE # PL05270-110121

AN ORDINANCE TO REVISE ARTICLES 2, 14, 24, AND 25 OF THE TOWN OF BOONE UNIFIED DEVELOPMENT ORDINANCE RELATING TO THE HISTORIC PRESERVATION COMMISSION, FINAL LIGHT PLAN COMPLIANCE CERTIFICATIONS AND LIVABILITY SPACE REQUIREMENTS

WHEREAS, the Boone Town Council desires to modify, clarify and streamline the requirements within the Unified Development Ordinance; and

WHEREAS, the Boone Town Council is authorized to enact this Ordinance pursuant to its zoning authority under G.S. Chapter 160D, Article 6;

NOW THEREFORE, BE IT ORDAINED BY THE BOONE TOWN COUNCIL THAT:

SECTION 1. Town of Boone Unified Development Ordinance (“UDO”) is hereby revised as set forth in the attached **Exhibit A** to this Ordinance, which is incorporated by reference, with deletions and additions shown in ~~red~~ and blue respectively:

SECTION 2. All provisions of any Town ordinance in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 3. In the event any section, subsection, subdivision, paragraph, subparagraph, item, sentence, clause, phrase or word of this ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining provisions of this ordinance, which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this ordinance.

SECTION 4. This Ordinance shall be effective immediately upon its adoption by Town Council.

Adopted this the ____th day of _____, 2021.

The Honorable Rennie Brantz, Mayor

Attest:

Nicole Harmon, Town Clerk

Communication: Case PL05270-110121 Staff Report (PL05270-110121 Miscellaneous Revisions - UDO Text Amendment)

EXHIBIT A**Article 2 Administrative Mechanisms****2.04 Historic Preservation Commission**

...

2.04.02 Membership. There shall be a Historic Preservation Commission consisting of five (5) ~~seven (7)~~ members. To the extent qualified persons can be found, the majority of the Commission shall have demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields, and to the extent persons may be found with the stated qualifications, the Town Council shall seek to appoint two persons with significant experience or knowledge in historic preservation, one person with significant experience or knowledge in building construction, and one person with significant experience or knowledge in architecture.

2.04.04 Historic Preservation Commission Chair and Vice-Chair

A. In or about July of each year, the Commission will accept and review applications from the current membership for Chair and Vice-Chair positions in order to forward a recommendation on these positions to Council. Upon receipt of the Commission's recommendations, Council shall review the submitted applications and the Historic Preservation Commission recommendations before designating the Chair and the Vice-Chair. The people so designated shall serve in these capacities for terms on one (1) year, with eligibility for unlimited re-appointment. Vacancies in these offices shall be filled for the unexpired terms only.

1. The Historic Preservation Commission shall designate the Chair and Vice-Chair of any subcommittees.

B. The people so designated shall serve in these capacities for terms of one (1) year, with eligibility for unlimited re-appointment.

C. The Chair and Vice-chair may take part in all deliberations and vote on all issues.

Article 14 Zoning District Regulations

...

14.03.05 Livability Space Ratio

A. Livability space includes natural areas, lawns and other landscaped areas, walkways, terraces, sitting areas, outdoor recreational areas, and the pervious, landscaped portion of street rights-of-way. Livability space does not include paved pedestrian sidewalks or vehicular areas

B. A maximum of one-third of the livability space required for a development may be impervious (e.g., paved terraces or sitting areas).

C.B. Livability space ratio is a ratio where the numerator is the square footage of Livability Space and the denominator is the square footage of the entire parcel.

Article 25 Community Appearance Standards

...

25.05 Lighting

25.05.01 The intent of this Section is to prevent light from commercial developments from excessively illuminating the property in question, other properties, or the night sky.

25.05.02 Only light fixtures which are categorized as full cut-off (FCO) fixtures shall be permitted, except sportsfield fixtures which must comply with Section 25.05.04.

25.05.03 The following are specific standards for lighting intensity based upon the activity involved. Values are presented in allowable foot-candles (fc) maintained (measured horizontally) at grade and are to be averaged throughout the site to avoid hot spots, i.e. areas of extreme light intensity relative to the remainder of the site:

Activity	Minimum	Maximum	Min./Max. Uniformity Ratio
Pedestrian Areas/Sidewalks	.2 f.c.	1.0 f.c.	
Building Entries	1.0 f.c.	10.0 f.c.	
Street Lighting	.2 f.c.	1.0 f.c.	
Open Parking Areas	.2 f.c. to 9 f.c.	3.6 fc	4:1
Playgrounds		5.0 fc	
Site Perimeter		.5 fc	

25.05.04 Lighting for sports fields and outdoor courts is generally in excess of general outdoor lighting levels. Recreation lighting levels established by the IESNA are to be used as the standard. All sportsfields or tennis courts must meet the following minimum standards:

- A.** Fixtures must be fitted with the manufacturer's glare control package. If the manufacturer does not have a glare control package, the fixture specification must be changed to a manufacturer that offers a glare control package.
- B.** Lighting shall be extinguished no later than one hour after the event ends.
- C.** Fixtures must be designed with a sharp cutoff and aimed so that their beams fall within the primary playing area and the immediate surroundings, so that off-site direct illumination is significantly restricted.

25.05.05 Gas station canopies shall be illuminated at a maximum illuminance of 30 fc and individual fixtures shall be flush mounted or have the canopy edge below the lowest light-emitting point on the fixtures. All existing gas station canopies which exceed this standard shall be made compliant within seven (7) years of the date of adoption of this Article.

25.05.06 Up-lighting may be used to illuminate a building, landscaping element or architectural feature, provided the lighting design has a maximum illuminance of 12fc, measured in a vertical plane. Down lighting is preferred.

25.05.07 Parking decks and covered parking areas must conform to IESNA standards.

25.05.08 At the end of a development permit, the applicant shall submit a final certification that a post installation inspection was conducted to check for compliance with a light meter against the approved lighting plan. Substitutions by electricians and contractors are common and will not be accepted unless substitutions are reviewed and approved.

—The post installation inspection should be conducted by a professional engineer with demonstrable expertise in lighting design and mitigation strategies, or a lighting specialist who is lighting certified (LC) by the National Council on Qualifications for the Lighting Professions (NCQLP).

Staff Note: The National Council on Qualifications for the Lighting Professions (NCQLP) provides a Candidate Handbook for those seeking Lighting Certification (LC), and as such includes reasoning why evaluating lighting is necessary. The following excerpt is from the NCQLP Candidate Handbook, and the full Candidate Handbook is attached as an Exhibit.

Lighting is the single most important element in the visual environment. Effective lighting improves productivity and strengthens security. Lighting consumes up to 40 percent of the energy used in our buildings. A well-designed lighting system reduces energy, maintenance, and potential liability costs. Both public and private interests are served by more effective lighting and reduced operating costs. Rapid improvements in lighting systems and equipment offer potential solutions, yet they have also made lighting practice more complex. As the lighting industry has grown, a number of efforts have been undertaken to differentiate knowledgeable and qualified lighting practitioners. As a result, a need was recognized for an independent, industry-wide credentialing effort. Such a program addresses multiple issues that include: safety, health, productivity, energy conservation and effectiveness, environmental concerns, governmental policy, lighting technology, and competent, knowledgeable lighting practice.

Article 34 Definitions

...

Livability Space

Natural areas, lawns and other landscaped areas, walkways, terraces, sitting areas, outdoor recreational areas and the pervious, landscaped portion of street rights-of-way. Livability space does not include paved pedestrian sidewalks or vehicular areas. ~~A maximum of one-third of the livability space required for a development may be impervious (e.g., paved terraces or sitting areas).~~

CONFORMITY TO ADOPTED PLANS

COMPREHENSIVE PLAN UPDATE

1.1 Overall Objectives for the Boone Comprehensive Plan (p. 15):

The following objectives, which have not been listed in any particular order of importance, are deliberately broad in scope and less specific than either a policy statement or an implementation action.

Economic Development: Acknowledge the area's natural beauty, university, and medical center presence as the Town's greatest assets for economic development and jobs creation. Treat them accordingly.

Community Appearance and Community Character: Blend the built environment with the natural, scenic, and historic character of a High Country small town. Especially discourage commercial strip development, cluttered signage, and "cheap" apartment buildings.

Open Space: Integrate open space and greenways into the urban fabric of the Town. Preserve the countryside by discouraging suburban sprawl. Avoid development in floodplains, on ridgetops, and on steep slopes.

Environmental Quality: Address and monitor growth factors and activities that contribute to water, air, light, and noise pollution.

Trees: Conserve existing trees and plant new trees, especially hardwoods.

Automobile Transportation: Maximize the efficiency of existing facilities, but not at the expense town and neighborhood character and livability. Build or expand transportation facilities and parking areas as needed, but with care. Work to reduce auto dependency, use, and congestion.

Bikeways: Implement the planned system of bikeways as a legitimate transportation alternative. Unify with greenways and other pedestrian facilities where possible.

Mass Transit: Enhance and support the mass transit system as an effective alternative to the congestion created by the individual automobile.

Pedestrian Movement: Encourage a system of sidewalks, paths, crosswalks and compact development patterns which make it easy to get around Boone on foot.

Infrastructure: Engage in long range planning for water and sewer systems, stormwater runoff, natural gas, and other utility systems. Place overhead utilities underground whenever feasible.

Public Safety: Maintain a high level of policing and fire protection and plan the expansion of public safety services to coincide with projected population increases and identified needs.

Energy and Waste: Reduce waste generation, and the consumption of energy and water. Develop area recycling programs to the fullest. Encourage an anti-litter consciousness among residents and visitors.

University: Emphasize cooperative planning among the Town, County, and University.

Downtown: Support and enhance the cultural and historic significance of downtown Boone, and affirm its appealing, pedestrian orientation.

Recreation: Strive for additional public recreation facilities, especially sports fields, greenways and indoor recreation centers.

Neighborhoods: Ensure the livability of neighborhoods, especially through land use and traffic planning.

Public Involvement: Encourage active public involvement and volunteerism to expand the effectiveness of community planning and action.

Comprehensive Plan Policies: Staff has reviewed land use and comprehensive plan policies, and listed those policies which in staff's opinion have a bearing on the request. The Commission and Council should review these policies carefully. Each member may make his or her own interpretation as to the relevance of each and which carry the most weight thereby shaping their overall recommendation.

COMPREHENSIVE PLAN POLICIES

2.1 THE ECONOMY

2.1.1 Economic Development

- E. The Town shall encourage a public service and regulatory environment conducive to business recruitment and expansion, while at the same time enhancing the area's physical and human resources.

E.1 Continue to look for ways to make development regulations and permit procedures more predictable and timely. Evaluate opportunities for administrative review and permit issuance for development projects which, due to their small size or relatively minor impacts, may not require review by a formal public commission or board.

2.3 THE COMMUNITY

2.3.4 Public Involvement

- A. Public involvement shall be encouraged in decisions concerning land use and development by making the public aware of proposed developments at the earliest opportunity, as well as fostering communication among developers, the Town, the County, the University, and the general public.
- B. Neighborhood and special area planning shall be encouraged to foster public involvement in the production of closely tailored, action oriented special area plans and programs.

B.1 Prepare at least two small area or neighborhood plans within the year.

- C. Specific functional plans and implementation tools shall be supported as part of the comprehensive planning program for the Town and County.
- D. Special committees, advisory panels, educational forums, public workshops, leadership seminars, town meetings and media contacts shall be encouraged and fostered to enhance the effectiveness of citizen involvement in community planning and action.

D.1 Hold an annual Town Meeting to hear citizen concerns about growth and development and the progress made. In addition to the annual Town Meetings, consider special workshops, open houses and a newsletter or annual report to keep citizens involved and informed about the future of the town and the action being taken.

PLANNING BOARD REPORT/RECOMMENDATIONS

Per NCGS 160D-604(b), subsequent to initial adoption of a zoning regulation, all proposed amendments to the zoning regulation or zoning map shall be submitted to the Planning Commission for review and comment. If no written report is received from the Planning Commission within 30 days of referral of the amendment to that board, the Town Council may act on the amendment without the Planning Commission report. The Town Council is not bound by the recommendations, if any, of the Planning Commission. Per NCGS 160D-604(d), when conducting a review of proposed zoning text or map, the Planning Commission shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Commission shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the Planning Commission, but a comment by the Planning Commission that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.

Vote 1: The proposed amendment to the Town's zoning ordinance ☐is OR ☐is not consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because:

Note 1

Vote 2: The Planning Commission recommends ☐approval OR ☐denial of Ordinance PL05270-110121 and believes ☐approval OR ☐denial is reasonable and in the public interest because:

Note 2

Note 1: describe elements of controlling land use plans and how the amendment is or is not consistent.

Note 2: briefly explain why, factors may include (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment.

TOWN COUNCIL ACTION

Per NCGS 160D-605, when adopting or rejecting any zoning text or map amendment, the Town Council shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the governing board was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan.

Vote 1: The proposed amendment to the Town's zoning ordinance ☐is OR ☐is not consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because:

Note 1

Vote 2: The Town Council ☐approves OR ☐denies Ordinance PL05270-110121 and believes ☐approval OR ☐denial is reasonable and in the public interest because:

Note 2

Note 1: describe elements of controlling land use plans and how the amendment is or is not consistent.

Note 2: briefly explain why, factors may include (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment.

Exhibit 1

candidate handbook



NCQLP

National Council on Qualifications
for the Lighting Professions

Dear Candidate for Lighting Certification:

The NCQLP prepares the LC Candidate Handbook to assist you as a prospective candidate in deciding if you are ready to take the Lighting Certification Examination and to help you to prepare for it. It has been specifically developed by NCQLP and its testing agency, PSI Services, to direct you to the information you will need to study for and to take the LC Examination. If you review this manual carefully, we believe the material it contains and the advice it offers will be extremely valuable to you.

The Lighting Certification Program was established by the lighting industry in 1991. Both lighting organizations as well as several governmental agencies whose mission encompasses lighting have been involved since the beginning. Lighting Certification sets a baseline standard that covers the entire scope of the vast lighting field. Utilizing the NCQLP's testing mechanism, qualified individuals can earn their Lighting Certification designation. PSI, as NCQLP's professional testing agency, provides the expertise of an independent testing company to construct a valid and reliable examination that encompasses our entire field. The LC Examination is continuously reviewed by the NCQLP Examination Committee to ensure that the questions asked are current, comprehensive, fair and reflective of lighting applications as they are being practiced across our industry today.

The scope of the material covered within the Examination is quite comprehensive. Therefore, we encourage each candidate to thoroughly prepare to take this Examination. No matter what our level of experience, all of us have areas within lighting that are less familiar to us than others. The Lighting Certification Examination is broadly based. However, anyone who has the required background can be successful. Students as interns do equally well as practitioners. But, it is important to remember to pay particular attention to those areas in your study in which your involvement in lighting education or practice has been less extensive so you are thoroughly familiar with all aspects of lighting.

Of course, there are a number of ways to enhance your preparation. Some find it useful to become a part of a Study Group. (NCQLP does not become involved in any test study activities beyond the LC candidate handbook.) For others, it is more effective to study on their own. Or, you might do both to support your efforts to organize the reference texts in a meaningful way and identify topic areas within the Content Outline for which you feel you need to study in greater depth.

On behalf of all the NCQLP volunteers involved in this Program, we are pleased that you are interested in becoming Lighting Certified. We hope the information in this Handbook will contribute to your success in achieving this objective. It is very encouraging to see the growing commitment to excellence that lighting professionals are exhibiting and we look forward to your joining those within our field who have chosen to become Lighting Certified.

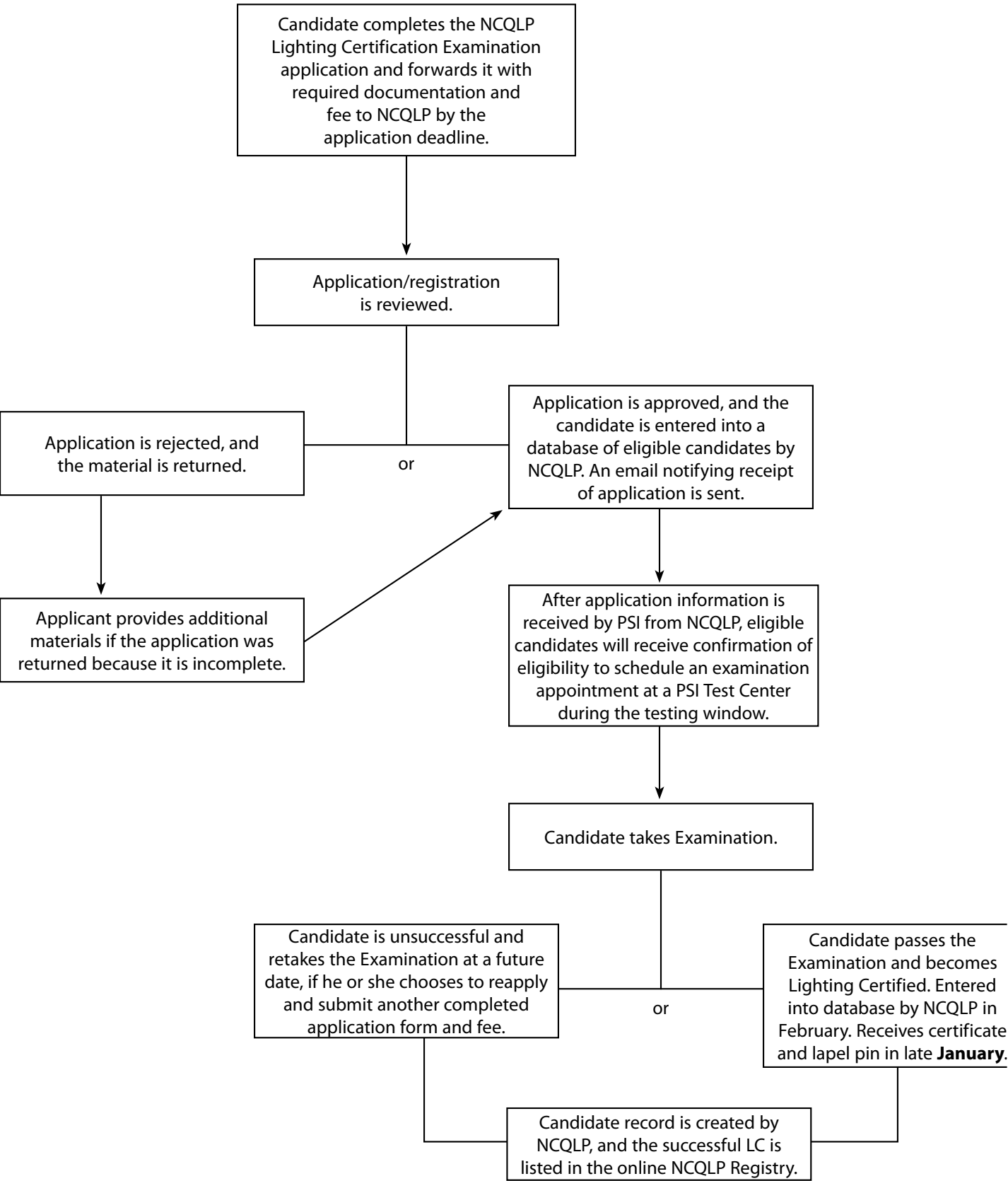


NCQLP Examination Committee

NCQLP | Candidate Handbook

i. NCQLP Lighting Certification Examination Process

The following flow chart helps explain the entire Lighting Certification application and examination process.



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Lighting is the single most important element in the visual environment. Effective lighting improves productivity and strengthens security. Lighting consumes up to 40 percent of the energy used in our buildings. A well-designed lighting system reduces energy, maintenance, and potential liability costs. Both public and private interests are served by more effective lighting and reduced operating costs. Rapid improvements in lighting systems and equipment offer potential solutions, yet they have also made lighting practice more complex.

As the lighting industry has grown, a number of efforts have been undertaken to differentiate knowledgeable and qualified lighting practitioners. As a result, a need was recognized for an independent, industry-wide credentialing effort. Such a program addresses multiple issues that include: safety, health, productivity, energy conservation and effectiveness, environmental concerns, governmental policy, lighting technology, and competent, knowledgeable lighting practice.

1. About NCQLP

The National Council on Qualifications for the Lighting Professions (NCQLP) is an independent certifying body. NCQLP, a non-profit credentialing body composed of membership organizations, sponsors a baseline certification program for individuals in lighting and lighting related professions.

NCQLP is governed by a Board of Directors that represents its member organizations. Member organizations include the:

- Design Lights Consortium (DLC)
- Illuminating Engineering Society (IES)
- International Association of Lighting Designers (IALD)
- interNational Association of Lighting Management Companies (NALMCO)
- Lighting Research Center (LRC)
- National Association of Independent Lighting Distributors (NAILD)
- National Electrical Manufacturers Association (NEMA)
- New York State Energy Research & Development Authority (NYSERDA)
- U.S. Department of Energy – (USDOE)

2. Testing Agency

PSI Services is the professional testing agency under contract with NCQLP to assist in the development, site management, scoring and analysis of the Lighting Certification Examination. PSI services also include reporting of scores to candidates who take the Examination. PSI is a leader in the testing industry, offering certification, licensing, talent assessment and academic solutions worldwide.

3. Statement of Nondiscrimination Policy

NCQLP and PSI do not discriminate among applicants on the basis of age, gender, race, religion, national origin, disability, sexual orientation or marital status.

4. NCQLP Certification

NCQLP Certification is a voluntary, industry-led effort. It is a recognition of those professionals who have met specified minimum standards, as measured by a systematic evaluation of the likelihood of success in executing a set of skills. Those who successfully complete the LC Examination and maintain their certification are entitled to use the appellation LC, Lighting Certified, after their name.

5. NCQLP Lighting Certification Examination

NCQLP offers the Lighting Certification Examination for lighting professionals in design, installation, operations and maintenance of lighting equipment and systems. The Examination tests baseline knowledge of techniques and technologies required for efficient and effective lighting practice.

The Lighting Certification Examination is a **4 hour**, two section Examination. There are 180 multiple-choice questions. Eighty of these questions are a series of job-related case studies.

Multiple-Choice Questions

The multiple-choice section includes questions on the following three major content areas:

- Existing Conditions
- Design Phase
- Bidding and Construction Phase

The Multiple-Choice Section Summary below contains information about the cognitive complexity levels of examination questions. Complexity levels describe the cognitive nature of questions asked as defined below.

Complexity Levels

- Recall** is the ability to recall or recognize specific information.
- Application** is the ability to comprehend, relate or apply knowledge to new or changing situations.
- Analysis** is the ability to analyze information, to put information together to arrive at solutions, and/or to evaluate the usefulness of the solutions.

Multiple-Choice Section Summary				
Content Area	Number of Questions by Type			
	Recall	Application	Analysis	Total
1. Existing Conditions	8	15	2	25
2. Design Phase	9	27	9	45
3. Bidding and Construction Phase	6	18	6	30
Total	23	60	17	100

Case Study Information

The case studies are classified in 5 basic construction applications with the following subcategories listed as below. Note: Questions from the 17 Application chapters within the IES Lighting Handbook, 10th Edition, may be distributed across any case study.

1. Commercial (5 case studies)
 - Office
 - Retail
 - Hospitality and Entertainment
 - Sports and Recreation
2. Institutional (6 case studies)
 - Education
 - Health Care
 - Transport
 - Museum
 - Worship
 - Libraries
 - Government (Municipal and Correctional Facilities)
3. Residential (2 case studies)
 - Single Family
 - Multi Family
 - Assisted Living
4. Industrial (2 case studies)
 - Manufacturing
 - Warehouse
5. Exteriors (site and roadway) (1 case study)

Note: Questions will be included on Art; Common Applications; Daylighting; Emergency, Safety, and Security; and Miscellaneous within the above applications.

Note: Your total score will be based on the entire 180 items – 100 from the general multiple-choice section and 80 from the case study section.

NCQLP, with the advice and assistance of PSI, prepares the Examination. The questions are obtained from those with content expertise in lighting and are reviewed for relevancy, consistency, accuracy and appropriateness by NCQLP volunteers.

6. Examination Dates and Application Deadlines

Examination Dates	Early Application Postmark Deadline	Final Application* Postmark Deadline
November 1-15, 2021	August 17, 2021	September 15, 2021

**Computer Testing at PSI Test Centers
November 1 through November 15, 2021**

A Lighting Certification Examination Application is included in this handbook. You may also submit an application online through www.ncqlp.org. All forms must be completed **together** with the required recommendations and the appropriate fee to NCQLP by September 15, 2021. (See application for checklist.)

*September 15, 2021, is the final application mailed or online through www.ncqlp.org submission deadline. THERE ARE NO EXCEPTIONS TO THIS DEADLINE!

7. Eligibility Requirements

To be eligible for the NCQLP Lighting Certification Examination candidates must meet **one** of the following requirements:

1. Have a bachelor's degree from an accredited college or university and a minimum of three years of lighting-related work experience.
- OR
2. Have a minimum of six years of lighting-related work experience.

Intern LC candidates: Visit the NCQLP website, www.ncqlp.org for information about the Intern LC Program. Qualified student or graduates within one year following graduation with a bachelor's degree only may take the Examination as an Intern.

Letters of Recommendation: All candidates, including Intern LC candidates, are required to submit two Recommendation with their application. These can be from peers, colleagues or supervisors who are non-family members. The Recommendation Form is included in this handbook and may be duplicated. These Recommendation Forms are to substantiate your level of experience. Online Recommendations are directly linked back to your application. They **DO NOT** come directly to NCQLP.

How to Apply: Submit or transmit through the online process under www.ncqlp.org the: completed application (Parts A and B); application Consent Form, two completed Recommendation and appropriate fee to NCQLP by August 17 (early application postmark deadline) or September 15 (final application postmark deadline). **If you have less than six years of lighting-related experience, you MUST include an official, college transcript with your application or, if submitting online, a PDF copy. The transcript CANNOT be sent separately.**

Please wait at least 30 business days following the application deadline before calling NCQLP about your application. An email confirmation of receipt will be sent to all eligible candidates within 30 business days of receipt of the application. **Incomplete applications will be returned without processing.** All application materials must be submitted by September 15, 2021.

8. Examination Fees

Examination	Early Application Postmark Deadline Fee (by August 17)	Final Application Postmark Deadline Fee (by September 15)
Lighting Certification	\$575	\$675

Application fees may be paid by credit card (**American Express, MasterCard, and VISA only**), check or money order payable to NCQLP in U.S. dollars only. **DO NOT SEND CASH.**

9. Test Center Information

Examinations are delivered at PSI Test Centers geographically located throughout the United States. A current listing of PSI Test Centers, including addresses and driving directions, may be viewed at <http://schedule.psiexams.com>. The examinations are administered by appointment only, Monday through Saturday.

10. Scheduling an Examination Appointment

After your application information is received by PSI from NCQLP, you will receive confirmation of eligibility to schedule an examination appointment. You may schedule the examination by one of the following methods. Be prepared to confirm a date and location for testing. Individuals are scheduled on a first-come, first-served basis.

Online Scheduling: You may schedule an examination appointment online at any time at <http://schedule.psiexams.com>. To use this service on our website, follow these easy steps:

- Go to <http://schedule.psiexams.com> and select "Begin Scheduling."
- Follow the simple, step-by-step instructions to choose your examination program and register for the examination.

Telephone Scheduling: Call PSI at 888-519-9901 to schedule an examination appointment. This toll free number is answered from 7:00 a.m. to 9:00 p.m. (Central Time) Monday through Thursday, 7:00 a.m. to 7:00 p.m. on Friday and 8:30 a.m. to 5:00 p.m. on Saturday.

After the appointment is made, you will be given a time to report to the Test Center, and if an email address is provided, you will be sent an email confirmation notice. Unscheduled candidates (walk-ins) will not be admitted to the Test Center.

11. Examination Rescheduling

You may reschedule your examination to a date within the same testing window once at no charge online at <http://schedule.psiexams.com> or by calling PSI at 888-519-9901 at least two business days prior to your scheduled examination appointment.

12. Requests for Special Accommodations (Manual Application Only)

NCQLP and PSI comply with the Americans with Disabilities Act (ADA) and want to ensure that individuals with disabilities are not deprived of the opportunity to take the Examination solely by reason of a disability, as required and defined by the relevant provisions of the law. Special Examination arrangements may be made for these individuals, provided that an appropriate request for accommodation is submitted with the application materials to NCQLP by the application deadline and the request is approved. A form to request accommodation is in this handbook. This form must be signed by an appropriate medical/healthcare professional and submitted with the Examination application and must include all required documentation materials to substantiate the specific needs of each individual. This request cannot be sent online via the NCQLP website.

13. Refunds

REFUNDS WILL NOT BE GIVEN TO INDIVIDUALS REQUESTING TO WITHDRAW FROM THE EXAMINATION AFTER THE APPLICATION IS SUBMITTED. Medical requests signed by the candidate's physician, or conditions beyond the control of the individual, received in writing at least 15 days prior to the Examination date, will qualify the candidate's application to be rolled over to the following year. A rollover is permitted one time only. A \$150 administrative fee is charged, if approved. However, these individuals must submit another set of completed application materials to apply to sit for the Examination the next year. **OTHERWISE, ANY CANDIDATE WHO FAILS TO APPEAL FOR THE EXAMINATION ON THE SCHEDULED DATE WILL FORFEIT THE FULL AMOUNT OF THE EXAMINATION FEE.** Examination fees are not transferable to another testing date unless a rollover has been granted. They can never be transferred to another individual.

14. On the Day of the Examination

Your examination will be given by computer at a PSI Test Center. You do not need any computer experience or typing skills to take your examination. On the day of your examination appointment, report to the Test Center at least 15 minutes before your scheduled testing time for check in and testing instructions. Look for signs indicating PSI Test Center Check-in. **A CANDIDATE WHO ARRIVES MORE THAN 15 MINUTES AFTER THE SCHEDULED TESTING TIME WILL NOT BE ADMITTED.** You will have 4 hours to complete the Examination. Additional time is not allowed. No breaks are scheduled during the Examination.

15. Admission to the Test Center

To gain admission to the test center, two forms of identification are required.

- One form must be a current, permanent identification card issued by a governmental agency that includes both your signature and photograph. Only a driver's license, state or federally issued ID, military ID or passport will be accepted. No form of temporary identification will be accepted.
- The second form of identification must include your name and signature to allow verification of the signature on the first form.
- If your name is different from what appears on either form of identification, you must bring proof of your name change such as a marriage license, divorce decree or court order.

All candidates will also be required to sign a roster for verification of identity. **PROPER IDENTIFICATION IS REQUIRED TO GAIN ADMISSION TO THE TEST CENTER.**

16. Inclement Weather

In the event of inclement weather, natural disasters or unforeseen emergencies on the day of a scheduled Examination, NCQLP and PSI will determine whether circumstances warrant

the cancellation of the Examination at a specific site, and subsequent rescheduling of an Examination at a particular test center(s). The Examination will usually **not** be rescheduled if the supervisor is able to open the test center. Candidates may visit the website www.psonline.com/openings prior to the Examination to determine if PSI has been advised that any test centers are closed. Every attempt will be made to administer all Examinations as scheduled. However, should an Examination be canceled at a test center(s), all scheduled candidates will receive notification following the Examination regarding rescheduling procedures.

17. Test Center Security and Restrictions

PSI administration and security standards are designed to ensure all candidates are provided the same opportunity to demonstrate their abilities. The Test Center is continuously monitored by audio and video surveillance equipment for security purposes.

The following security procedures apply during the examination:

1. Examinations are proprietary. No cameras, notes, tape recorders, pagers or cellular/smart phones are allowed in the testing room. Possession of a cellular/smart phone or other electronic devices is strictly prohibited and will result in dismissal from the examination.
2. A basic hand-held, battery-operated or a solar-operated calculator without paper tape printing or alphabetic memory capabilities and scientific calculators without memory **are permitted**. Candidates are not allowed to share calculators.

Guidelines for Calculators: What is Allowed?

- An allowable calculator will be hand-held, solar or battery operated, and silent (i.e., the calculator has NO printing capability).
- Calculators with simple memory or scientific function are allowed.
- Financial and Real Estate calculators generally ARE allowed, but they must be hand held, solar or battery powered and silent.

The HP 12C, HP17BII, the TI-BAll plus, TI-BAll plus Professional calculators do not have full alpha keypads and **ARE ALLOWED**.

Guidelines for Calculators: What is NOT Allowed?

- Calculators that are NOT acceptable include large calculators that have printing capabilities or need to be plugged in.
- Calculators with screens that can display more than one line of numbers or those with alphabetic keypads (keys from A-Z that allow text input) are not allowed due to the threat of candidates storing examination information.
- Any mobile device with a calculator function (cell phone, tablet, etc.) is not allowed.

The I-Touch and I-Pad, TI-83 Plus, HP 19BII, 39G, 49G, 48Gx calculators are true programmable devices with alpha keypads and are NOT allowed.

Graphing calculators and phones of any kind, even with calculator functionality, are **STRICTLY PROHIBITED**.

3. No guests, visitors or family members are allowed in the testing room or reception areas.

4. No personal items, valuables, or weapons should be brought to the Test Center. Only wallets and keys are permitted. Coat must be left outside the testing room. You will be provided a soft locker to store your wallet and/or keys with you in the testing room. **If any personal items are observed or heard (e.g., cellular/smart phone, alarm) in the testing room after the examination is started, the administration will be forfeited.**

5. You will be provided with one piece of scratch paper at a time and a pencil to use during the examination, unless noted on the sign-in roster for a particular candidate. You must return the scratch paper to the supervisor at the completion of testing, or you will not receive your score report.

6. No books, reference materials, food or drink may be taken into the Examination room.

7. No Examination materials, documents or memoranda of any kind may be taken from the Examination room.

8. You must have the supervisor's permission to leave the room during the Examination. You will not be allowed additional time to make up for time lost during breaks.

9. No questions concerning the content of the Examination may be asked during the testing period. The candidate should listen carefully to the instructions given by the proctor supervisor and should carefully read the directions before beginning the Examination.

10. The supervisor may dismiss a candidate from the Examination for any of the following reasons:

- if the candidate's admission to the Examination is unauthorized;
- if a candidate creates a disturbance, is abusive or otherwise uncooperative;
- if a candidate gives or receives help, is suspected of doing so or shows any other evidence of cheating;
- if a candidate attempts to remove Examination materials or notes from the testing room;
- if a candidate attempts to take the Examination for someone else;
- if the candidate displays and/or uses a cellular/smart phone or other prohibited electronic device during the Examination;
- if the candidate attempts to use unauthorized aids; and/or
- if the candidate fails to follow Examination regulations or the instructions given by the test center supervisor.

18. Taking the Examination

After your identification has been confirmed, you will be directed to a testing carrel. You will be instructed on-screen to enter your identification number. Your photograph, taken before beginning the examination, will remain on-screen throughout your examination session. This photograph will also print on your score report.

Prior to attempting the examination, you will be given the opportunity to practice taking an examination on the computer. The time you use for this practice examination is NOT counted as part of your examination time or score. When you are comfortable

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with the computer testing process, you may quit the practice session and begin the timed examination.

Before beginning the examination, instructions for taking the examination are provided on-screen. The computer monitors the time you spend on the examination. The examination will terminate if you exceed the time allowed. You may click on the Time box in the lower menu bar on the screen to monitor your time. A digital clock indicates the time remaining for you to complete the examination. The Time feature may be turned off during the examination.

Only one examination question is presented at a time. The question number appears in the lower right portion of the screen. Choices of answers to the examination question are identified as A, B, C, or D. You must indicate your choice by either typing in the letter in the response box in the lower left portion of the computer screen or clicking on the option using the mouse. To change your answer, enter a different option by typing in the letter in the response box or by clicking on the option using the mouse. You may change your answer as many times as you wish during the examination time limit. When the examination is completed, the number of examination questions answered is reported. If not all questions have been answered and there is time remaining, return to the examination and answer those questions. **There is no penalty for guessing.**

19. Scores Canceled by NCQLP and/or PSI

NCQLP and PSI are concerned with reporting only valid scores. On rare occasions, circumstances may make Examination scores invalid. NCQLP and/or PSI reserve the right to cancel or withhold any Examination scores if, in their sole discretion, there is cause to question the validity of the scores. Scores declared invalid and canceled by NCQLP and/or PSI may be grouped into two categories:

1. Doubts may be raised about the validity of candidates' scores because of suspected misconduct; in such circumstances, candidates are to cooperate in the investigation of their scores. If scores are canceled because of suspected candidate misconduct, NCQLP will investigate such matters to determine if the candidate will be eligible for retesting.
2. Some scores may be rendered invalid because of circumstances beyond the candidates' control. NCQLP and/or PSI will investigate such situations. When such occurrences result in canceling candidates' scores, NCQLP is notified that there are no reportable scores for reasons beyond the candidates' control. In this event, NCQLP and PSI will determine the appropriate action to take for these candidates.

In addition to the reasons listed above, NCQLP may cancel or invalidate Examination results if, upon investigation, violation of the policies outlined in this publication are found to have occurred.

20. Questions About the Examination

Candidates may comment on any Examination question at the time of the Examination if a question is believed to be misleading or deficient in accuracy or content by clicking

on the Comment button to the left of the Time button. This opens a dialogue box where comments may be entered. Each comment will be individually reviewed before Examination scoring. Individual responses to comments on questions will not be provided. **No comments on questions will be considered after Examination results are released to candidates.** Following the Examination, candidates may not have access to the Examinations or to specific questions.

Any complaints about the conduct of the Examination or the test center have to be submitted in writing to the Operation Department, PSI, 18000 W. 105th St., Olathe, KS 66061-754, within **10 days** following the Examination, with a copy to NCQLP.

21. Report of Results

Candidates will be notified by the end of December following the Examination date whether they have passed or failed the Examination. **No results will be provided by telephone.** Examination scores are reported as raw scores and a total scaled score is given. A raw score is the number of correctly answered questions. The scaled score is statistically derived from the raw score. Your total raw score determines whether you pass or fail and is converted to a scaled score ranging between 0 and 99. A scaled score of 70 is required to pass.

The reason for reporting scaled scores is that different forms or versions of the Examination may vary in difficulty. As new forms of the Examination are introduced, many questions in each content area are replaced. These changes may cause one form of the Examination to be slightly easier or harder than another form. To adjust for these differences in difficulty, a procedure called "equating" is used. The goal of equating is to ensure fairness to all candidates.

In the equating process, the minimum raw score which is the number of correctly answered questions required to equal the scaled passing score, is statistically adjusted, or equated. For instance, if the Examination is determined to be more difficult than the base form of the Examination, then the minimum raw passing score required will be slightly lower than the original raw passing score. If the Examination is easier than the base form of the Examination, then the minimum raw score will be higher. Equating helps to assure that the scaled passing score represents the same level of difficulty no matter which form of the Examination a candidate takes.

In addition to the candidate's total raw and scaled scores, raw scores are reported for all the major content categories of the Multiple-Choice Examination. The number of questions answered correctly in each content category is compared to the total number of questions that is possible in that category on the Examination such as 15/20. However, passing the Examination is based only on the candidate's total scaled score.

Successful candidates receive from NCQLP a letter, certificate and pin sent in late January. Successful candidates will also be given access to their online profile in late January.

22. Confidentiality

Individual Examination scores are released ONLY to the individual candidate. Results will not be given via telephone, fax or email. NEITHER NCQLP OR PSI CAN DISCUSS ANYTHING RELATED TO AN INDIVIDUAL WITH ANYONE OTHER THAN THAT INDIVIDUAL. Successful candidate names may be listed in NCQLP member organizations' publications.

23. Disclaimer

The report of Examination results by PSI is for the sole use of the individual candidate. Any use of Examination results by other entities is inappropriate and NCQLP can assume no responsibility or liability for such use.

24. Duplicate Score Reports

Requests for duplicate score reports must be made in writing to PSI within one year of the Examination date. Your request must include your name, mailing address, Examination date, test site and signature. The fee for a duplicate score report is \$25; include a check or money order made payable to PSI Services Inc. for this amount with your request and mail to: PSI, 18000 W. 105th St., Olathe, KS 66061-7543.

25. Requests for Handscoring

Candidates who do not pass the Examination may request a manual verification of the computer scoring. Requests for manual rescoring must be submitted to PSI, 18000 W. 105th St., Olathe, KS 66061-7543 in writing within one year of the Examination with a copy to NCQLP. The fee to hand score the Examination is \$25. The request should include: your name, mailing address, Examination date, test site, signature and a copy of your score report. Upon receipt of the request and appropriate fee, the candidate's answer sheet will be inspected and handscored. This process takes approximately 30 days. Candidates near a passing score should be aware that to ensure correct reporting of results, the testing agency selects a random sampling of Examinations of candidates who score within one unit of passing. These Examinations are automatically hand-scored before results are mailed as a quality control measure. Thus, it is extremely doubtful that any Examination results will change from "fail" to "pass" through handscoring.

26. Re-Examination

There is no limit to the number of times unsuccessful candidates may take the Examination, provided that all eligibility requirements in effect at the time of application for Re-Examination have been met. To apply for Re-Examination, candidates must request, complete and resubmit all required application forms and pay the appropriate Examination fees.

27. Certification Renewal

LCs are required to renew their certification every three years. Retaking and passing the LC Examination satisfies this requirement for one three-year cycle. For complete information on Certification Renewal refer to the *Certification Renewal Guidelines* at www.ncqlp.org.

28. Lighting Certification Syllabus

Content Outline

To begin your preparation in an informed and organized manner you need to know what to expect from the actual Examination in terms of content. Information regarding the content of the Examination is presented in this handbook. The content outline provides a general overview of the Examination and, with close inspection, can give you specific study direction because the percentages indicate the relative importance of each category on the Examination.

The content of the Examination is based on a job analysis and is described in the detailed content outline that follows.

Lighting Certification Examination Content Outline

This Examination tests both knowledge of basic concepts and ability to solve design problems.

I. EXISTING CONDITIONS (25 Items)

A. Assess Lighting Systems

1. Luminaire types
2. Luminaire placement
3. Luminaire mounting
4. Light source (e.g., types, CCT, CRI, spectral distribution)
5. Ballast/Driver (e.g., types, voltage, current, ballast factor)
6. Illuminance levels
7. Daylighting conditions and characteristics
8. Lighting controls (e.g., occupancy sensors, timer switches, photocells, dimmers, energy management systems)
9. Emergency lighting and exit signs
10. Light quality (e.g., under/overlighting, glare, light pollution, light trespass)
11. Equipment (e.g., failure, flicker, cycling)
12. Electrical conditions (voltages)

B. Review Building Conditions

1. Ceiling types
2. Plenum depth (e.g., HVAC diffusers, ducts)
3. Building or space characteristics
 - age
 - height, width, length, orientation, latitude
 - surface reflectances
 - available daylighting
 - luminance ratios
 - aesthetic conditions
 - owned vs. leased
4. Standards and Code compliance

C. Verify Factors Affecting Energy Usage

1. Hours of operation
2. Utility rates and cost (e.g., demand charges, load shedding, time of use)
3. Control schedules and technologies (e.g., bi-level, sensors)

D. Evaluate Human Factors

- tasks being performed
- age

- speed
- physiological issues
- accuracy
- user opinions

E. Establish Baseline or Existing Annual Costs

- energy
- maintenance

II. DESIGN PHASE (45 Items)

A. Programming

1. Establish design constraints
 - a. regulatory (Codes (e.g., NFPA 101, NFPA 70, building codes, energy codes), Standards (e.g., ASHRAE 90.1, OSHA, ADA Accessibility, IES Recommended Practices), Regulations (e.g., product safety certification, EPCAT/EISA))
 - b. project constraints (e.g., budget, maintenance, flexibility, schedule)
 - c. physical constraints (e.g., architectural, mechanical, structural, electrical, acoustical, fire ratings)
2. Establish criteria
 - a. daylight
 - b. sustainability (e.g., LEED, RoHS, MLO, sustainability codes)
 - c. human health and performance (e.g., WELL standard, CDC Health Impact Assessment, IEEE1789)
3. Define proposed conditions
 - a. colors
 - b. finishes (e.g., material, specularity, reflectance)
4. Human Factors (Psychological/Physiological)
 - a. determine users' needs (e.g., visual performance, visual comfort)
 - b. assess users' expectations
5. Establish Programming Report
 - a. electrical requirements
 - b. lighting power density
 - c. brightness hierarchies
 - horizontal and vertical illuminances of key surfaces
 - surface colors/reflectances
 - luminance/exitance ratios
 - d. budget
 - e. schedule

B. Schematic Design

1. Develop preliminary design concept
 - a. evaluate ideas of owner, architect, interior designer
 - b. determine design objectives
 - c. determine lighting system
 - lighting qualities/design issues (e.g., color, surface color enhancement, texture)
 - luminous composition
 - illuminances/light levels
2. Prepare preliminary cost projection
3. Refine design concept (e.g., design iterations)
4. Specify critical product criteria
 - dimensions
 - matching of components
 - lighting performance
 - custom fixtures

5. Prepare design report and presentation
6. Identify/evaluate/select lighting technologies
 - a. electrical light sources
 - b. daylighting technologies
 - c. control techniques
 - d. cost and energy evaluation
 - e. reliability
 - f. ease and cost of installations, operation, maintenance
 - g. integration (e.g., systems, materials, finishes)
 - h. photometrics
7. Perform preliminary calculations and estimates
 - a. lighting calculations
 - b. energy and code compliance analysis
 - c. budget (e.g., base budget and value engineering)

C. Design Development

1. Compare and confirm design concepts with detailed technical analyses
 - a. review manufacturer's data
 - b. evaluate performance (e.g., photometrics, color, uniformity, binning)
 - c. perform lighting calculations
 - d. compatibility (e.g., dimming, controls, electrical)
 - e. finalize lighting techniques (e.g., direct, indirect) and select equipment (e.g., lamp, ballast, luminaire, controls)
2. Develop plans and specifications
 - a. layout/drawings
 - b. specifications and details
 - c. daylighting
3. Develop controls concept
 - a. create control narrative (e.g., sensor settings, schedules, equipment)
 - b. select technologies and equipment (e.g., review samples, manufacturer's data)
 - c. define control zones
4. Verify product availability
5. Review with project team
6. Prepare presentation for owner/client

D. Construction Documents

1. Finalize lighting drawings and specifications
2. Finalize control drawings and specifications
3. Finalize commissioning/programming documents
4. Perform QA/QC review

E. Determine Proposed Energy Use and Costs

- installation (e.g., equipment, labor, disposal, recycling)
- energy
- incentives/rebates
- operations & maintenance

F. Identify and Evaluate System Costs and Savings

- Simple Payback
- Life Cycle Cost Benefit Analysis
- Return on Investment
- Net Present Value
- Internal Rate of Return

III. BIDDING AND CONSTRUCTION PHASE (30 Items)

- A. Respond to Bid Requests for Information (RFIs)
- B. Issue Bid Addenda
- C. Review and Respond to Contractor Proposals (e.g., substitutions, scope of work, schedule, value engineering)
- D. Prepare / review Submittals
- E. Prepare / respond to RFIs
- F. Perform Field Observation Reports
- G. Prepare Supplemental Instructions / Change Orders
- H. Prepare / review Record Drawings and Specifications
- I. Develop Punch List
- J. Evaluate Lighting Performance vs. Design Criteria
- K. Focus and Adjust Luminaires
- L. Commission Control Functions and Program
- M. Develop Documentation
 1. Luminaire, lamp, and control schedules
 2. Control settings
- N. Train Client
- O. Troubleshoot (e.g., premature component failure, control systems operating improperly, flicker, low lumen output, color shift, lamp cycling)

Case Study Information

The case studies are classified into 5 basic construction applications with the following subcategories listed as below. Note: Questions from the 17 Application chapters within the IES The Lighting Handbook, 10th Edition, may be distributed across any case study.

1. **Commercial (5 case studies)**
 - Office
 - Retail
 - Hospitality and Entertainment
 - Sports and Recreation
2. **Institutional (6 case studies)**
 - Education
 - Health Care
 - Transport
 - Museum
 - Worship
 - Libraries
 - Government (Municipal and Correctional Facilities)
3. **Residential (2 case studies)**
 - Single Family
 - Multi Family
 - Assisted Living
4. **Industrial (2 case studies)**
 - Manufacturing
 - Warehouse
5. **Exteriors (site and roadway) (1 case study)**

Note: Questions within the above applications will include Art; Common Applications; Daylighting; Emergency, Safety, and Security; and Miscellaneous.

Suggested Reference List

The suggested reading lists are intended to assist Lighting Certification Examination candidates in preparing for the Examination.

It is not the intention of NCQLP and its volunteers that a candidate purchase all the books listed on the reference list. Most of the information on the Examination is based on the general knowledge required for competent practice at the three to six years of experience level. Candidates may have other references that cover the same content areas within the Examination. If the references are current and reflect common practice, they will provide general background for the Examination.

Candidates are expected to be familiar with regulations that directly impact lighting and are broadly applied across the U.S. in Regional/Local codes. Standards and regulations will not be included on the Examination.

Successful candidates will have an understanding and working knowledge of the guidelines, standards and regulations that apply to lighting such as the American with Disabilities Act (ADA), OSHA Safety and Health Standards, and UL. A thorough understanding of the topic covered by the references correlate with success on the Lighting Examination.

Many books are available and can be obtained in bookstores or by contacting individual publishers. IES specifically carries the references in its publications catalogue and candidate may purchase them there.

Reference List 2021 – See all lighting-related sections on the following sources.

- IES Lighting Library.
 - Lighting Applications
 - Lighting Practice
 - Lighting Science
 - Roadway and Parking Facility Lighting
- ANSI/IES LS-1-20, Nomenclature and Definitions for Illuminating Engineering. (Free - available online at IES.org)
- ASHRAE/IESNA Standard 90.1-2019, American Society of Heating Refrigerating and Air Conditioning Engineers (ASHRAE) Atlanta, GA. 2019. (Lighting Section 9 included in Lighting Library)
- LEED Reference Guide for Building Design and Construction, Version 4. USGBC. 2013.
- NFPA 101: Life Safety Code, 2021 Edition. National Fire Protection Association (NFPA) Quincy, MA.
- NFPA 70 National Electrical Code, 2020 Edition. National Fire Protection Association (NFPA) Quincy, MA.

Study Advice

The advice offered here may be helpful as you prepare for the Examination. Try to be objective about yourself and your individual learning needs when you are deciding how to proceed with your study.

Determine how you study best. Some students seem to learn faster by hearing the information, while others need to see it written or illustrated, and still others prefer to discuss material with colleagues. A combination of these alternatives can often produce the best results. If you had success in lecture courses, you may need to hear information for best retention. If you find that you prefer to read material, then you might consider writing important facts on 3x5 cards. You can refresh your memory by periodically reviewing these cards. This technique is especially useful if you write the material thoughtfully and concisely, which allows you to digest the material through both reading and writing. You may wish to organize a study group or find a study partner. **(NCQLP IS NOT INVOLVED IN FORMING STUDY GROUPS.)** Once you decide on the most effective and comfortable method for you, focus on that preference and use the other techniques to complement it.

Plan your study schedule well in advance. Use learning techniques such as reading or audiovisual aids. Be sure you find a quiet place to study where you will not be interrupted. We suggest you concentrate your study efforts on a few carefully chosen references from the resource list provided.

Sample Questions

1. When evaluating daylighting systems in terms of glare, the MOST important illumination conditions to be evaluated are those occurring
 - A. when cooling loads due to solar gains are greatest.
 - B. when direct sunlight would penetrate the fenestration.
 - C. at 2-hour intervals from sunrise to solar noon.
 - D. at the solstices and the equinoxes.
2. The term luminaire refers to a
 - A. lighting unit exclusively for roadway illumination.
 - B. lighting unit exclusively for interior illumination.
 - C. complete lighting unit without light source and electrical components.
 - D. complete lighting unit including light source and electrical components.
3. Which of the following is the BEST definition of illuminance?
 - A. luminous flux density incident on an object per unit area
 - B. flux density emitted from an object without regard for direction
 - C. flux density emitted from an object in a given direction
 - D. time rate of flow of light energy
4. Which of the following is a CIE/IES luminaire distribution classification category?
 - A. semi-direct
 - B. concentrating
 - C. forward throw
 - D. wall wash
5. A hospital is experiencing EMI problems with its radiology equipment. The lighting system in this area has been identified as a 2 x 4 lensed troffer. The interference can be attributed to the luminaire's
 - A. size.
 - B. proximity.
 - C. electrical characteristics.
 - D. spectral power distribution.

6. When evaluating an existing fluorescent lighting system for potential LED upgrade, mean lumens to rated lumens is
 - A. initial ballast factor.
 - B. initial lumen output.
 - C. lamp lumen depreciation.
 - D. luminaire dirt depreciation.
7. A ray of incident light being reflected in one distinct direction is representative of which of the following types of reflection?
 - A. spread
 - B. diffuse
 - C. specular
 - D. semi-specular
8. IES Standard IES-LM-80 provides LED fixture manufacturers a method to
 - A. measure lumen maintenance.
 - B. identify gamut area.
 - C. quantify fidelity.
 - D. define efficacy.
9. A lighting practitioner is designing a new car dealership to meet LEED requirements. The owner wishes to leave all of the parking lot luminaires on after business hours. Which of the following lighting control systems is MOST appropriate?
 - A. on/off switched
 - B. dimming
 - C. vacancy sensor
 - D. photocell
10. An energy-saving measure reducing lighting demand by 24.5 kW costs \$11,000 to install. Given 4,000 annual operating hours and \$0.085 per kWh, what is the simple payback?
 - A. 0.8 years
 - B. 1.3 years
 - C. 3.8 years
 - D. 4.3 years
11. In life-cycle cost benefit analysis, the measure of results is expressed in
 - A. deferred expenses.
 - B. kWh saved.
 - C. net present value.
 - D. risk factors.
12. Before a lighting system can be commissioned, the punch list
 - A. must be completed by the contractor.
 - B. must be certified by the inspector.
 - C. must be approved by the owner.
 - D. cannot be modified by the practitioner.
13. An electrical contractor should notify the lighting practitioner of the anticipated date of substantial completion so that
 - A. the practitioner can walk through with the electrical inspector.
 - B. drivers can be calibrated by the electrical engineer.
 - C. alternative luminaires can be ordered to meet the new schedule.
 - D. a schedule can be set for aiming and adjusting the fixtures.
14. To ensure a lighting design's projected energy savings are realized after installation, which of the following must be completed?
 - A. Calibrate occupancy sensors.
 - B. Focus the adjustable accent lights.
 - C. Inspect the branch circuit wiring.
 - D. Finalize the punch list.
15. Which of the following color sample sets is used to calculate the CRI/Ra of a light source?
 - A. R1-R8
 - B. R1-R9
 - C. R1-R14
 - D. R1-R99

Answer Key

- | | |
|------|-------|
| 1. B | 9. B |
| 2. D | 10. B |
| 3. A | 11. C |
| 4. A | 12. A |
| 5. C | 13. D |
| 6. C | 14. A |
| 7. C | 15. A |
| 8. A | |

Case Study Sample Problem

Case Study: A lighting practitioner has been asked to redesign the lighting in the common areas of a retirement facility built in 1968. The facility is privately owned and located in a rural area of the United States. Reflectance values are 70/40/20. The existing overall appearance of the facility is dark and gloomy. Additionally, the owner wishes to decrease energy costs.

- 16. During the first site visit, which of the following information should the practitioner collect?
 - A. resident preferences
 - B. current maintenance procedures
 - C. occupant age and gender distribution
 - D. impact of daylighting in existing spaces
- 17. After collecting initial project information, which of the following should the practitioner do NEXT?
 - A. Establish preliminary design constraints.
 - B. Create a budget for the entire design.
 - C. Prepare plans and specifications for lighting the areas.
 - D. Replace all existing lamps with same wattage and type.
- 18. Prior to redesigning the 2 x 4 recessed troffer lighting system in the dining room, the practitioner should recommend
 - A. replacing the ceiling with a tan acoustical tile.
 - B. painting the walls with a cream semi-gloss paint.
 - C. replacing the flooring with a charcoal-colored carpet.
 - D. painting the north-facing walls with a navy blue high-gloss paint.

- 19. The 15' x 20' lobby has a 10" plenum depth and a ceiling height of 9' AFF. Artwork is displayed on the walls. Which of the following combinations is the MOST appropriate lighting system?

<u>Ambient</u>	<u>Accent</u>
A. 2' x 2' volumetric troffers	wall washers
B. two-tier chandelier	track lighting
C. surface-mounted decorative bowls	linear wall grazers
D. recessed downlights	recessed adjustable
- 20. To BEST integrate daylighting into the design solution, which of the following should the practitioner do at this time?
 - A. Install a pre-set control system that will control daylighting levels through the control of existing adjustable blinds.
 - B. Recommend all south-facing windows be redesigned to increase light penetration.
 - C. Install a photosensor-activated control system for both ambient lighting and motorized shades.
 - D. Recommend 2700K CCT luminaires be installed to maximize daylighting.

Answer Key

16. D

17. A

18. B

19. D

20. C

2021 LIGHTING CERTIFICATION EXAMINATION APPLICATION

Part A

INSTRUCTIONS FOR COMPLETING THE LIGHTING CERTIFICATION EXAMINATION APPLICATION

The following instructions are offered to help you complete your application correctly when applying for the NCQLP Lighting Certification Examination. Read the information provided in the Candidate Handbook before completing the application. **Incomplete or illegible applications and applications submitted without proper payment will be returned unprocessed.**

You must complete your application manually if you are requesting Section 20 – Special ADA Accommodation.

If completing the online application through www.ncqlp.org, please follow the format and prompts provided.

PART A

SIGNATURE. You must read, sign and date this section for your application for it to be processed.

Sections 1, 2 – NAME AND FORMER NAME. Print your first name, middle initial, last name and former name (if applicable) in the boxes provided. Print only one letter in each box. Do not use hyphens or any punctuation marks in these spaces. If your name has a generational suffix, please indicate Jr., Sr., II, III, etc.

Section 3 – DATE OF BIRTH. Write the two digit month of your birth. Next, print the two digits for the day and year of your birth in the boxes supplied. Please use two digits for the month, day (e.g., 03) and year (e.g., 60 for 1960).

Section 4 – GENDER. Blacken the circle which corresponds to your gender.

Sections 5, 6 – DAYTIME TELEPHONE AND FAX NUMBERS. Please provide the area code and number of the telephone and fax numbers where you can be reached on weekdays between 9:00 a.m. and 5:00 p.m. Central Time (daytime telephone).

Section 7 – RESIDENCE STREET ADDRESS. Print only one number or character per box. Leave a blank box between the numbers and the street name where you would normally leave a space. If your address is too long, please abbreviate the street name. Enter your apartment number, P.O. Box number or any address addendum in the spaces provided to the right of the street address. Please abbreviate where possible. **Important: The mailing address you provide on your application will be used to mail your examination results unless you indicate a change of address no later than 30 days before the Examination. If you move after this time, leave a forwarding address with your post office so the pertinent information can be forwarded to your new address.**

Section 8 – CITY/STATE. Print the name of the city in the boxes provided. Use the standard two-character abbreviation, such as, TX for Texas, to indicate the state.

Section 9 – ZIP CODE/POSTAL CODE. Enter your nine-digit zip code in the boxes. Applicants with alpha and numeric postal codes must enter their postal codes in the boxes provided.

Sections 10, 11 – FOREIGN PROVINCE AND COUNTRY. Enter the Province in which you reside and blacken the circle which corresponds to the Country in which you reside. If you reside in a country other than the United States, please provide the additional information requested.

Section 12 – EMAIL ADDRESS. Enter your email address in the boxes provided.

Sections 13, 14, 15. Complete each section by entirely blackening the appropriate circles for each question. Where additional information is required, please type or print CLEARLY.

Section 16 – TRANSCRIPTS. Complete this section *ONLY* if you are applying as an individual with a bachelor's degree **with less than six years of professional lighting-related work experience**. The transcript **MUST** be included with the application.

Section 17 – SPECIAL ADA ACCOMMODATION REQUEST. Complete this section if you have a disability and require special testing accommodations. The Request for Accommodations form on page 20 must be completed and submitted with your application.

PART B

Complete the information as requested on Part B of the application.

When completed, follow the online application process located at www.ncqlp.org or mail the application (Parts A and B) with the appropriate fee and all required documentation to:

NCQLP, P.O. Box 142729, Austin, TX 78714-2729

If utilizing private carriers, please use the physical address of 1016 La Posada Drive, #155, Austin, TX 78752.

2021 Lighting Certification Examination Application

Read the Candidate Handbook in its entirety before completing this application.
ALL SECTIONS OF THIS APPLICATION FORM MUST BE COMPLETED, IF REQUIRED. This form
will be returned, if it is incomplete, illegible, or received after the application deadline.

TO APPLY online, go to www.ncqlp.org.

TO APPLY using this form:

1. Complete **all** portions of this application.
2. Checklist:

ALL ITEMS MUST BE ENCLOSED OR YOUR APPLICATION
WILL BE RETURNED WITHOUT PROCESSING

- Part A
- Part B
- Consent Form
- Recommendation 1
- Recommendation 2
- Appropriate Fee
- Transcript (if less than 6 years of experience)
- Letter of Eligibility from Accredited Institution (if Intern LC)

Every applicant, including Intern LCs, must submit all required materials in their application packet.

3. Mail the application to:

NCQLP
P.O. Box 142729
Austin, TX 78714-2729

If utilizing private carriers, please use the physical address of 1016 La Posada Drive, #155, Austin, TX 78752.

An email will be sent within 30 business days confirming receipt of your application.

NCQLP WILL RETURN INCOMPLETE APPLICATIONS.

1 NAME: FIRST															MI		
NAME: LAST															GENERATION		
2 FORMER NAME																	
3 DATE OF BIRTH				4 GENDER				5 DAYTIME TELEPHONE NUMBER				6 FAX NUMBER					
MONTH		DAY		YEAR		☐ MALE		☐ FEMALE		AREA CODE				AREA CODE			
7 RESIDENCE STREET ADDRESS (Abbreviate if necessary.)															APT, PO, ETC. (Abbreviate if necessary.)		
8 CITY															STATE		
9 ZIP CODE/POSTAL CODE																	
10 PROVINCE															11 COUNTRY		
☐ UNITED STATES ☐ CANADA ☐ OTHER: _____																	
12 EMAIL ADDRESS																	

13 ELIGIBILITY STATUS

Please choose one.

- ☐ I have a bachelor's degree from an accredited college or university and a minimum of three years experience. (Complete section 16.)
- ☐ I have a minimum of six years of experience.
- ☐ I am applying as an Intern to take the examination.
- ☐ I am currently Certified and wish to retake the examination to fulfill my current certification requirement.
- ☐ I am a reapplicant for the LC Examination. The last time I attempted this examination was:

Write the month and year you last took the examination.

MONTH			YEAR		

14 EDUCATION

Indicate the highest degree you have obtained.

- ☐ High School Diploma or equivalent
- ☐ Trade Certification: _____
- ☐ Associate's Degree
- ☐ Bachelor's Degree
- ☐ Master's Degree – Field: _____
- ☐ Doctoral Degree – Field: _____
- ☐ Other: _____

15 FEESIndicate the appropriate fee(s). Examination fees may be paid by check or money order (payable to NCQLP) or by credit card (**VISA, American Express and MasterCard only**) in U.S. dollars only.Early Application Postmark Deadline Fee (August 17)..... ☐ \$ 575Final Application Postmark Deadline Fee (September 15)..... ☐ \$ 675Intern Application Fee..... ☐ \$ 100**TOTAL ENCLOSED**\$ _____If payment is made by credit card, please provide the following information. (**VISA, American Express and MasterCard only**)

Credit Card No. _____

Corporate Card: ☐ Yes ☐ No By signing this form you are agreeing to abide by the policies regarding payment.

Expiration Date _____

Signature _____

Cardholder Name (print) _____

16 TRANSCRIPTS

Individuals applying with a bachelor's or higher degree should complete this section. The transcripts must be included with the application materials for all candidates with less than six years of professional lighting-related work experience.

School Name: _____

School Address: _____

Dates Attended: From _____ Through _____

Degree(s) Earned: _____

17 SPECIAL ADA ACCOMMODATION REQUEST

- ☐ YES
(Complete the form included in the handbook.)

SIGNATUREPlease read, sign and date the statement below.
Applications without this section completed will be returned unprocessed.

I hereby apply to sit for the NCQLP Lighting Certification Examination. I certify that I have read all portions of the Candidate Handbook and application and that all information that has been or will be submitted to NCQLP from me or on my behalf is true and accurate to the best of my knowledge. I understand that if the information I have submitted is determined by NCQLP to be incomplete or inaccurate, my application may be rejected or my examination results may be delayed or invalidated. I hold NCQLP and its officers, directors, volunteers and employees harmless for any action taken pursuant to the rules and standards of the NCQLP Lighting Certification Examination process as outlined in the Candidate Handbook and application with regard to my Certification. I hereby waive any claim or cause of action against the NCQLP including any claims or causes based on negligence arising out of any actions or failures to act by the NCQLP in granting, denying, or revoking any Certifications except claims based on gross negligence or lack of good faith by the NCQLP. By signing this statement, I acknowledge that I have read and understand this information, and agree to abide by these NCQLP policies including keeping confidential specific details of examination items nor will I share this information with outside parties. I certify that all items on the checklist are enclosed. If they are not, I understand that all materials will be returned without processing.

Candidate Name (Please print) _____

Signature _____

Date _____

**FOR OFFICE
USE ONLY**



NCQLP Application Consent Form

I _____ hereby make application to NCQLP for eligibility for NCQLP Lighting Certification, in accordance with its rules and regulations. I certify that all information contained in my application for NCQLP Lighting Certification is true and accurate to the best of my knowledge. I understand that if any statement made on this application or hereafter supplied to NCQLP is false, incomplete or inaccurate or if I violate any of the rules or regulations of NCQLP, I may be denied eligibility for Certification, or my Certification may be revoked or otherwise limited. I understand that if I receive NCQLP certification, it will be my responsibility to remain in compliance with all NCQLP requirements for Certification as they presently exist and as they may be revised, to keep my Lighting Certification current.

In addition, I hereby authorize NCQLP, its officers, directors, committee members, employees, and agents (the "above-designated parties"), to review my application for eligibility for NCQLP Lighting Certification, and, if I receive NCQLP Lighting Certification, to initiate review of my continued eligibility for NCQLP Lighting Certification. I agree to cooperate promptly and fully in any such review, including submitting such documents and information deemed necessary to confirm the information in this application. I hereby authorize NCQLP, now and in the future, to request and procure any information necessary for such review from any individual or institution, each of which shall be absolutely immune from civil liability arising from any act, communication, report, recommendation or disclosure of any such information even where the information involved would otherwise be deemed privileged so long as any such conduct is performed or made in good faith and without malice or gross negligence. I authorize the above-designated parties to communicate any and all information relating to any NCQLP application and review thereof including but not limited to pendency or outcome of disciplinary proceedings to state and federal authorities, employers and others.

I understand that NCQLP may use any score in psychometric analyses to confirm observations and reports of suspected irregularities in the conduct of an Examination or review, and respond to any inquiry about my status in its Examination or review system in accordance with its then-current policy.

I certify that I am the candidate whose signature appears below. Because of the confidential nature of the NCQLP Lighting Certification Examination, I will not take any Examination materials from the test site, reproduce the Examination materials, or transmit the Examination questions or answers IN ANY FORM, written or verbal, to any other person. I understand that I may only seek admission to sit for the NCQLP Lighting Certification Examination for the purpose of seeking NCQLP Lighting Certification or Certification renewal, and for no other purpose. I understand that NCQLP reserves the right to refuse admission to any NCQLP Lighting Certification Examination to me if I do not have the proper identification, or if administration has begun. If I do anything which is not authorized or which is prohibited by NCQLP in connection with any NCQLP Examination, I understand that my examination performance may be voided, and such activity may be the subject of legal action. If I am refused admission for any of these reasons, fail to appear at the test site, or if my examination performance is voided, I will receive no refund of the application or examination fees and there will be no credit for future examinations.

I understand that review of the adequacy of examination materials will be limited to computing any scoring correction. I waive all further claims of examination review and agree to indemnify and hold harmless the above-designated parties for any action taken pursuant to the rules and standards of NCQLP with regard to this application, my Lighting Certification and/or Certification renewal.

By signing, I hereby certify that I have read and understand this information, and that I am in compliance and will remain in compliance with all rules and regulations of NCQLP, as now constituted and as they may be amended.

Signature _____

Date _____



2021 NCQLP Examination Application – Part B

The following information is confidential. Data will be used to develop a profile of those within the NCQLP's Certification Program. It will be aggregated for statistical purposes. The information will not be used or considered in connection with any decision regarding Certification.

Please provide the following information as it will allow NCQLP to better serve you, the lighting industry and the public. Detach this page from the handbook and submit it with your completed application.

1. Please list your email address for communication purposes: _____

2. Which ONE phrase BEST describes your primary job responsibility?

- | | |
|--|--|
| ☐ A. Architect | ☐ K. Landscape Architect |
| ☐ B. Contractor | ☐ L. Lighting Designer/Consultant |
| ☐ C. Distributor | ☐ M. Manufacturer |
| ☐ D. Educator | ☐ N. Manufacturers' Representative |
| ☐ E. Electrical Engineer | ☐ O. Marketing |
| ☐ F. Energy Services | ☐ P. Product/Industrial Designer |
| ☐ G. Estimator | ☐ Q. Retrofitter |
| ☐ H. Facilities Manager | ☐ R. Sales Representative |
| ☐ I. Government Employee | ☐ S. Utility Company Employee |
| ☐ J. Interior Designer | ☐ T. Visual Merchandiser |

3. Check the lighting-related organizations of which you are a member:

- | | | |
|--------------------------------|-------------------------------|---------------------------------|
| ☐ A. AEE | ☐ E. IALD | ☐ I. IIDA |
| ☐ B. AIA | ☐ F. IEEE | ☐ J. NALMCO |
| ☐ C. ASID | ☐ G. IES | ☐ K. NAILD |
| ☐ D. CIBSE | ☐ H. IFMA | |

4. How many years have you been a lighting practitioner?

- ☐ 3-5 ☐ 6-10 ☐ 11-20 ☐ 20+

5. Indicate your highest level of education:

- ☐ High School ☐ Associate's Degree ☐ Bachelor's Degree ☐ Advanced Degree

6. Indicate any professional credentials or licenses you have earned. Do not include college degrees.

Please check all that apply:

- | | |
|--|---|
| ☐ Certificate of Technical Knowledge (TKE) | ☐ LEED |
| ☐ Certified Facility Manager (CFM) | ☐ Licensed/Registered Architect |
| ☐ CLEP | ☐ Licensed/Registered Interior Designer |
| ☐ EPA Greenlights, Surveyor Ally | ☐ Lighting Certified (LC) |
| ☐ IALD Professional Member | ☐ Professional Engineer (PE) |

7. Please Print Name: _____

8. Employer Name: _____

9. Comments: _____



National Council on Qualifications for the Lighting Professions

2021 Lighting Certification Examination

Recommendation Form

TWO completed recommendation forms are required for ALL individuals applying for the NCQLP Lighting Certification Examination. The completed forms must be submitted to NCQLP with your application.

Provide this form to your supervisor and/or professional colleagues and ask them to complete it. If you are an Intern LC candidate, please provide it to your employer or professor for completion. Additional copies of this form may be made.

Please type or print clearly.

Applicant's Name _____

To properly identify the applicant's **lighting-related experience**, please identify the percentages of work time, to your knowledge, that they spend in each of the following areas. Percentages must total 100 percent.

1. SURVEY/AUDIT – EXISTING..... _____
 2. LIGHTING DESIGN..... _____
 3. FINANCIAL ANALYSIS..... _____
 4. INSTALLATION AND COMMISSIONING _____
 5. OPERATIONS AND MAINTENANCE _____
 6. REGULATORY COMPLIANCE _____
 7. OTHER (NONLIGHTING-RELATED)..... _____
- TOTAL 100%

To the best of your knowledge, how many years/months has the applicant been working in **lighting-related** activities? _____

What is your professional relationship to the applicant? _____

Additional Input (Provide additional comments on reverse side of form): _____

Supervisor/Colleague Name _____

Position _____

Company _____

Address _____

Business Telephone Number _____ Business FAX Number _____

Email Address _____

Signature _____ Date _____

Return TWO completed recommendation forms to NCQLP with your application.

(over)

Recommendation Form *continued*[illegible]

Request for Special Accommodations Provider Form

Please submit this form and related materials to:

National Council on Qualifications for the Lighting Professions (NCQLP)
P.O. Box 142729, Austin, TX 78714-2729

If utilizing private carriers, please use the physical address of 1016 La Posada Drive, #155, Austin, TX 78752.

I, _____ (printed name of candidate), hereby authorize and request the provider identified below to release the information requested by NCQLP relating to my disability and the accommodation appropriate to my disability to sit for the NCQLP Examination.

Signature _____ Date _____

The candidate/patient identified above is requesting accommodation to sit for the National Council on Qualifications for the Lighting Professions ("NCQLP") Examination. NCQLP accommodation policy requires candidates requesting accommodation to submit current documentation of the disability from an individual qualified to assess the disability. The candidate is requesting that you provide such documentation; you should submit your evaluation on your professional letterhead.

Your evaluation should include your assessment of the candidate's disability as well as an accommodation plan. The documentation should explain the type and degree of the candidate's disability and how the proposed accommodation affects the disability.

The documentation should include the following information: (i) the month, day and year the candidate/patient first consulted you; (ii) the month, day and year the candidate/patient was last seen by you; (iii) the diagnosis of the candidate/patient's disability; (iv) the name of the examinations used; and (v) the duration of the condition.

You are also required to include recommended accommodations for testing in the documentation. Finally, please sign the statement below and include it in the transmittal of your evaluation.

HEALTHCARE PROFESSIONAL DECLARATION

Signature _____

Name (please print) _____ Date _____

Address _____

Telephone _____ State License #: _____

If you are not licensed, please note credentials that qualify you to diagnose the disability: _____



NCQLP™

Mission

The mission of NCQLP is to serve and protect the well being of the public through effective and efficient lighting practice.

Strategic Goals and Objectives

1. To implement and administer a justifiable and defensible certification for lighting practitioners.
 - Perform regular Job Analysis Studies as a basis for the LC credential.
 - Develop and administer an annual LC examination.
 - Provide oversight to maintain a valid, reliable and legally defensible LC credential.
2. To maintain continuity of NCQLP certification by establishing a credible, financially stable organization.
 - Establish administrative policies and guidelines.
 - Comply with applicable laws and regulations.
 - Develop sources of income and an ongoing fundraising effort.
 - Promote a positive public image.
3. To increase the demand for certified practitioners with end users.
 - Encourage end users to use LC certified practitioners.
 - Explore strategies to support the efforts of lighting practitioners.
 - Encourage jurisdictions to require LC certified practitioners.
4. To encourage lighting practitioners to seek certification.
 - Publicize the mission of NCQLP.
 - Assist lighting practitioners in the identification of educational opportunities to prepare for the examination.
 - Market to practitioners, organizations and governmental agencies.

National Council on Qualifications for the Lighting Professions

P.O. Box 142729
 Austin, TX 78714-2729
 Phone: 512-973-0042
 Fax: 512-973-0043
 Email: info@ncqlp.org
 Web: www.ncqlp.org

If utilizing private carriers, please use the physical address of
 1016 La Posada Drive, #155, Austin, TX 78752.

NCQLP Member Organizations

Design Lights Consortium (DLC)

Web: www.designlights.org

Illuminating Engineering Society (IES)

Web: www.ies.org

International Association of Lighting Designers Inc.
(IALD)

Web: www.iald.org

interNational Association of Lighting Management
Companies (NALMCO)

Web: www.nalmco.org

Lighting Research Center (LRC)

Web: www.lrc.rpi.edu

National Association of Independent Lighting
Distributors (NAILD)

Web: www.naild.org

National Electrical Manufacturers Association (NEMA)

Web: www.nema.org

New York State Energy Research & Development
Authority (NYSERDA)

Web: www.nyserda.org

U.S. Department of Energy (USDOE)

Web: www.energy.gov



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www.ncqlp.org

Planning Application - UDO Text Amendment

Town of Boone Planning & Inspections Department
680 W. King Street, Suite C ♦ Boone, North Carolina 28607
Phone (828) 268-6960 ♦ Fax (828) 268-6961 ♦ www.townofboone.net

Official Use Only

Case Number:
PL05271-110121
Case Name:
Townhouse Clarification

A. CONTACT INFORMATION

Applicant: Town of Boone Company: _____
Address: 567 West King Street
Phone Number: 828-268-6200 Email Address: planning@townofboone.net

B. TEXT INFORMATION

Amendment is to: **UDO**

Article(s): Articles 1, 5, 15, 25, and Appendix B

Section(s): 1.28, 5.06, 5.10, 15.03, 25.02, and Appendix B Table C1.01

Brief Description of Amendment (Attach Proposed Text):

To modify the UDO Articles 1, 5, 15, 25, and Appendix B to revise language to clarify requirements for Townhouse developments and to revise how livability space is applied to multi-family developments overall.

C. APPLICANT SIGNATURE: By signing this form you are certifying that this application and any attached information is accurate. Failure to provide accurate information or failure to provide any requested information may result in delays to permit processing.

Jane Shook
Applicant (Print)

/s/ Jane Shook
Applicant Signature

11/1/2021
Date

Official Use Only

Date:	Fee:	Receipt Number:	Method of Payment:	Paid By:
NA	NA	NA	NA	NA

Hearing/Decision Information

Public Hearing Meeting

Date: November 22, 2021

PC Meeting

Date: November 22, 2021

TC Meeting

Date: December 8, 2021

Text Approved: ☐ Yes ☐ No

Notes:

S:\FORMS\Current Forms\Planning\UDOTextAmendment_PlanningApplication_09252017.doc

Communication: Case PL05271-11012021 Application (PL05271-110121 Townhouse Clarifications - UDO Text Amendment)



**STAFF REPORT
PUBLIC HEARING
NOVEMBER 22, 2021**

Case PL05271-110121 Townhouse Clarifications - UDO Text Amendment

Request

To modify the UDO Articles 1, 5, 15, 25, and Appendix B to revise language to clarify requirements for Townhouse developments and to revise how livability space is applied to multi-family developments overall.

Though UDO Subsection 15.03.03(A), states “A townhouse style design and a mixture of unit configuration and sizes per development shall be encouraged” Staff has noticed difficulties with the strict application of the ordinance as follows for townhouse developments:

1. Subdivision/process: Townhouse as defined by the UDO is a building containing, intended or used solely for one dwelling unit on its own lot, with an individual private entrance and where three or more buildings are joined side-by-side (“a row”), with no dwelling unit located above or below another dwelling unit, and each building having exposed front and rear walls for access, light and ventilation. A townhouse development may contain multiple rows.

Therefore, by definition, a townhouse development requires both the division of property so that each dwelling unit is on its own lot and a review and approval of the townhouse use. Staff has proposed that the subdivision of property be approved through the approval of the use to streamline the approval process.

2. Density: The division of land for a townhouse development would be considered an architecturally integrated subdivision. An architecturally integrated subdivision is a subdivision in which approval is obtained not only for the division of land into lots but also for a configuration of principal buildings to be located on such lots. The number of dwelling units in an architecturally integrated subdivision may not exceed the maximum density authorized for the tract. The number of lots allowed in an architecturally integrated subdivision shall be calculated by dividing the project area by the minimum gross land area set forth for the zoning district.

Though an interpretation could be made that this standard does not apply to townhouse development which is required by both UDO and building code to place each dwelling unit on its own lot, Staff would feel more comfortable if it were made clear to applicants the standards for which density should be calculated. Note: staff is recommending that density be calculated through the application of livability space, height, required parking, and required landscape buffers as with other multi-family developments.

3. Building Design Elements: Townhouse developments are constructed under the NC Residential Building Code for One- and Two-Family Dwellings and as such are treated similarly to single-family dwelling units. NC General Statutes restricts how local governments can apply “building design elements” to those types of structures. “Building design elements” as used within this Ordinance means exterior building color; type or style of exterior cladding material; style or materials of roof structures or porches; exterior nonstructural architectural ornamentation; location or

architectural styling of windows and doors, including garage doors; the number and types of rooms; and the interior layout of rooms. See UDO Subsection 1.28 for more information.

The multi-family standards set forth in Section 15.03 specifically sets forth types of rooms and interior layout requirements, neither which are permissible for townhouse development under NC General Statutes. Staff is proposing to clearly identify those standards which townhouse developments are exempt from.

4. Orientation: Current commercial standards in UDO Subsection 25.02.01, require the primary façade to face the primary public way. The primary façade is the main entrance of the building and the primary public way is the street that carries the most traffic. Most townhouse developments face off of an internal street and find it difficult to have the homes face the primary public way when the parking for the home is required to be to the side or rear of the development. Though this issue may need more review, Staff is proposing to exempt townhouse developments from this requirement.
5. Livability Space: Section 15.03 currently requires a livability space ratio of .50 must be met for new multi-family developments. Further, fifty percent (50%) of the required livability space shall be designated to a defined area exclusively for the use of ground floor units. This space must consist of a common yard with accompanying private outdoor space for each ground level unit, or individual yards contiguous with the unit served. Either configuration must provide direct access from all ground floor units. The remaining livability space shall be designated for the use of the development as a whole as recreation space and shall be located so as to provide for direct auditory, visual, and physical access from the dwelling units served.

By definition livability space includes natural areas, lawns and other landscaped areas, walkways, terraces, sitting areas, outdoor recreational areas and the pervious, landscaped portion of street rights-of-way. Though applicants are technically meeting the livability space requirements of Section 15.03, Staff has noticed that landscape buffers are commonly included in the “common yard area.” Staff feel the intent was to provide a yard/patio area for each ground floor unit which was to be accessible to the unit. This is not what is being provided by the current language since the applicant can use what is considered “livability space.” Staff is suggesting that the .50 livability space requirement be retained but to actually require yards or patio areas, exclusive of landscape buffers, for each ground floor dwelling unit that is at least the length or width of the unit and has a depth of at least 10 feet. This would apply to all multi-family development, not just the townhouse developments. In addition, the development would still be required to provide recreational space and maintain the rest of the livability space as originally required.

Proposed Ordinance Amendment

ORDINANCE # PL05271-110121

AN ORDINANCE TO REVISE ARTICLES 1, 5, 15, 25, AND APPENDIX B OF THE TOWN OF BOONE UNIFIED DEVELOPMENT ORDINANCE RELATING TO REVISIONS PERTAIN TO TOWNHOUSE DEVELOPMENT AND LIVABILITY SPACE REQUIREMENTS FOR MULTI-FAMILY DEVELOPMENTS OVERALL

WHEREAS, the Boone Town Council desires to modify, clarify and streamline the requirements for Townhouse developments and how livability space is to be applied to all multi-family development overall; and

WHEREAS, the Town Council finds that it is in the best interest of the Town and its citizens that townhouse development criteria be clarified since it is an encouraged multi-family building type; and

WHEREAS, the Boone Town Council is authorized to enact this Ordinance pursuant to its zoning authority under G.S. Chapter 160D, Article 6;

NOW THEREFORE, BE IT ORDAINED BY THE BOONE TOWN COUNCIL THAT:

SECTION 1. The Town of Boone Uniform Development Ordinance (“UDO”) is hereby revised as set forth in the attached **Exhibit A** to this Ordinance, which is incorporated by reference, with deletions and additions shown in ~~red~~ and blue respectively:

SECTION 2. All provisions of any Town ordinance in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 3. In the event any section, subsection, subdivision, paragraph, subparagraph, item, sentence, clause, phrase or word of this ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining provisions of this ordinance, which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this ordinance.

SECTION 4. This Ordinance shall be effective immediately upon its adoption by Town Council.

Adopted this the ____th day of _____, 2021.

The Honorable Rennie Brantz, Mayor

Attest:

Nicole Harmon, Town Clerk

Communication: Case PL05271-11012021 Staff Report (PL05271-110121 Townhouse Clarifications - UDO Text Amendment)

Exhibit A**Article 1 General Provisions****1.28 Building Design Elements**

1.28.01 "Building design elements" as used within this Ordinance means exterior building color; type or style of exterior cladding material; style or materials of roof structures or porches; exterior nonstructural architectural ornamentation; location or architectural styling of windows and doors, including garage doors; the number and types of rooms; and the interior layout of rooms. The phrase "building design elements" does not include any of the following: (i) the height, bulk, orientation, or location of a structure on a zoning lot, (ii) the use of buffering or screening to minimize visual impacts, to mitigate the impacts of light and noise, or to protect the privacy of neighbors, or (iii) regulations adopted pursuant to this Article governing the permitted uses of land or structures subject to the North Carolina Residential Code for One- and Two-Family Dwellings.

1.28.02 Any regulation relating to building design elements adopted under this Ordinance may not be applied to any structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings except under one or more of the following circumstances:

- A. The structures are located in an area designated as a local historic district pursuant to Part 4 of Article 9 of this Chapter.
- B. The structures are located in an area designated as a historic district on the National Register of Historic Places.
- C. The structures are individually designated as local, State, or national historic landmarks.
- D. The regulations are directly and substantially related to the requirements of applicable safety codes adopted under G.S. 143-138.
- E. Where the regulations are applied to manufactured housing in a manner consistent with G.S. 160D-908 and federal law.
- F. Where the regulations are adopted as a condition of participation in the National Flood Insurance Program.

1.28.03 Regulations prohibited by this subsection may not be applied, directly or indirectly, in any zoning district or conditional district unless voluntarily consented to by the owners of all the property to which those regulations may be applied as part of and in the course of the process of seeking and obtaining a zoning amendment or a zoning, subdivision, or development approval, nor may any such regulations be applied indirectly as part of a review pursuant to G.S. 160D-604 or G.S. 160D-605 of any proposed zoning amendment for consistency with an adopted comprehensive plan or other applicable officially adopted plan.

Article 5 Subdivisions**5.06 Subdivision Types**

5.06.01 There are two types of subdivisions:

- A.** Minor, and
- B.** Major

5.06.02 A minor subdivision is any subdivision other than a major subdivision.

5.06.03 A major subdivision is one which involves:

- A.** The creation of eleven or more lots, regardless of whether the lots are created at one time or over an extended period of time; or
- B.** The creation of any new streets (either public or private); or
- C.** The creation or extension of a public water or sewer system, or
- D.** The installation of drainage improvements upon one (1) or more lots to serve one (1) or more other lots.

5.06.04 Approval of the division of land for a townhouse development (Uses 1.07-1.10) shall be approved under the process for the use with the exception that a final plat meeting the requirements of Appendix A, Section A10 shall be submitted prior to issuance of any final certificate of occupancy for the development.

...

5.10 Architecturally Integrated Subdivisions

5.10.01 In an architecturally integrated subdivision, the applicant may create lots and construct buildings without regard to any minimum lot size, lot width or setback restrictions except that:

- A.** Lot boundary setback requirements shall apply where and to the extent that the subdivided tract abuts land that is not part of the subdivision, and
- B.** Each lot must be of sufficient size and dimensions that it can support the structure proposed to be located on it, consistent with all other applicable requirements of this Ordinance.

5.10.02 The number of dwelling units in an architecturally integrated subdivision may not exceed the maximum density authorized for the tract. Except for townhouse developments, the number of lots allowed in an architecturally integrated subdivision shall be calculated by dividing the project area by the minimum gross land area set forth for the zoning district. Townhouse developments where each dwelling unit is on its own lot, shall calculate density based on the application of the livability space requirement for the district.

A. For an architecturally integrated subdivision project that is composed of areas with different zoning designations, the number of lots shall be determined for each zoning district.

B. The maximum number of lots for the project, except for townhouse developments, shall be the sum of the densities for each district.

~~A. Further, o~~ Only authorized uses shall be permitted in each zoning district.

5.10.03 In architecturally integrated subdivisions the amount of land saved by creating lots that are smaller than the standards set forth in Section 16.01 shall be set aside as open space.

5.10.04 The purpose of this Section is to provide flexibility, consistent with the public health and safety and without increasing overall density, to the applicant who subdivides property and constructs buildings on the lots created in accordance with a unified and coherent plan of development.

Article 15 Limited Use Regulations

15.03 1.07 Duplex; 1.08-1.10 Townhouse; 1.11-1.13 Multi-Family Dwelling; 1.14-1.16 Multi-Family Dwelling In Mixed Use (unless specifically excluded)

15.03.01 Applicable standards described in this Section are required for Uses 1.07-1.16 and apply to all of the following:

- A.** New construction, whether such construction constitutes a new development or an expansion of an existing development;
- B.** Multi-family dwelling units created by a change in use of a portion or all of an existing development to multi-family use; and
- C.** Renovation or replacement of a portion or all of an existing multi-family development when the costs of renovation or replacement trigger the requirements of Article 7 for compliance with this Ordinance.

15.03.02 This Section shall not apply to:

- A.** Multi-family dwelling units in mixed-use building(s) constructed pursuant to and in accordance with the requirements of Section 15.04,
- B.** Multi-family dwelling units in single use buildings within a mixed use project constructed pursuant to an in accordance with the requirements of Section 15.04, if:
 - 1. The development is approved through a Conditional District B1 General Business, B2 Neighborhood Business, B3 General Business rezoning process; and
 - 2. No phasing of construction is proposed or approved unless:

- a. The commercial portions of the development will be constructed as part of the initial phase; or
- b. All phases approved prior to the construction of the phase in which the commercial portions of the development are completed, together allow the construction of no more than one-third (1/3) the number of multi-family dwelling units which are approved for the development as a whole; or
- c. The applicant provides adequate assurances in the form of financial commitments which will guarantee that all commercial portions of the development will be completed within the approved vesting period. For purposes of this alternative, by example only and not by way of exclusion, an irrevocable letter of credit from an appropriate financial institution in favor of the Town in a sufficient amount to cover 125% of the projected costs of construction, said projection sealed by a North Carolina licensed engineer, is considered such a guarantee.

15.03.03 Each new multi-family development shall meet the following standards:

- A.** A townhouse style design and a mixture of unit configuration and sizes per development shall be encouraged. No one type of dwelling units, as defined by the number of bedrooms, shall comprise more than 50% of the total units.
 - 1. Exemption: Townhouse uses are exempt from this requirement.
- B.** Parking shall be limited to a maximum of two (2) spaces per unit and a clearly designated parking area for visitors.
 - 1. The square footage of the parking designated for visitors may not exceed ten percent (10%) of the total parking area. A minimum of twenty-five percent (25%) of units shall have a garage or carport.
 - 2. If freestanding, garages and carports shall be architecturally integrated with the development. To the greatest extent practicable, parking shall be located behind or underneath proposed building(s).
- C.** A livability space ratio of .50 must be met for the development. ~~Fifty percent (50%) of the required livability space shall be designated to a defined area exclusively for the use of ground floor units. This space must consist of a common yard with accompanying private outdoor space for each ground level unit, or individual yards contiguous with the unit served. Either configuration must provide direct access from all ground floor units. The remaining livability space shall be designated for the use of the development as a whole as recreation space and shall be located so as to provide for direct auditory, visual, and physical access from the dwelling units served.~~
 - 1. Each ground floor unit shall have direct access to an exclusive front, side or rear yard that is the width or length of the unit with a depth of at least ten feet. This yard shall

be outside of any required landscaped streetyards or other required landscape buffers.

1.2. The remaining livability space, outside of required landscape streetyards or other required landscaped buffers shall be designated for the use of the development as a whole.

D. On-site property management or an owner's association shall be required.

E. Recreation space:

1. A minimum of 5% of the parcel shall be provided as recreation space for residents of the park.
2. In general, required recreation space shall have a least dimension of twenty-five feet (25), an average dimension of fifty feet (50'), and a minimum area of 2,500 square feet. Smaller dimensions are acceptable if:
 - a. Less than 2500 square feet of recreation area is required, or
 - b. The recreation area is a suitably improved roof area or enclosed floor area, or
 - c. The anticipated needs of the residents require smaller facilities, such as tot lots or shuffle board courts, or
3. The dedication of a greenway easement may be used to satisfy the requirements for recreational space.
4. Outdoor recreation area for common use should be located twenty feet (20') or more from any residential windows at the same general level.
5. Recreation areas shall be maintained in a safe and sanitary manner.

15.03.04 Each residential building shall meet the following standards:

- A. The maximum building height shall be three (3) stories of occupied space, and in no case shall the building exceed fifty feet (50') in total height including the roof or the maximum in the particular zoning district, whichever is less.
- B. **Roof Requirements:**
 1. If a pitched roof is proposed, the pitched roof area may be used as attic or storage space.
 2. If a flat roof is proposed, fifty percent (50%) of the roof area must be used as livability space.
- C. The front entrance of each unit on the first floor must be at ground level to the greatest extent practicable.

15.03.05 Each dwelling unit shall meet the following standards:

- A.** The bedroom to bathroom ratio of each unit within the development shall be limited as follows:
1. Efficiency unit and one (1) bedroom unit: one (1) bathroom.
 2. Two (2) bedroom unit: one (1) or two (2) bathrooms, with no less than one bathroom with common access.
 3. Three (3) bedroom unit: Two (2) bathrooms with no less than one (1) bathroom with common access.
 4. Four (4) or more bedroom unit: Three (3) bathrooms with no less than two (2) bathrooms with common access from a hall.
- B.** In every unit with two (2) or more bedrooms, a designated master suite must be included and shall be at least twenty-five percent (25%) larger than every other bedroom and not less than 144 square feet excluding closet space.
- C.** Dedicated storage space of at least fifty square feet (50 ft²) per unit must be provided for units without garages. Any storage space which is not within or attached to the building containing the units served by the space must be architecturally integrated with the development.

~~C.D.~~ Exemption: Townhouse uses are exempt from the requirements of Subsection 15.03.05.

~~D. Occupancy of each unit shall be limited to (2) two unrelated persons.~~

15.03.06 Occupancy of each unit shall be limited to (2) two unrelated persons.

(Ord. 20150028, 11-19-2015; Ord. 20160438, 03-16-2017; Ord. 20160751, 03-16-2017; Ord. PL01265-011618, 03-22-2018; Ord. PL02634-060519, 11-21-2019)

Article 25 Community Appearance Standards

25.02 Building Design

25.02.01 Pedestrian-Orientation: The intent of this Section is to provide a design of buildings that support a safe and attractive pedestrian environment.

- A.** Primary façade and main building entry of publicly visible buildings shall face the primary public way.
- B.** If site constraints are present, the applicant's intent to use a "stock plan" is not a basis for appeal.
- C.** The Administrator may approve a redesign in which the main primary entrance does not face the primary public way provided the following:

1. The main building entrance, when not facing the primary public way, shall provide a safe and convenient access for pedestrians from the main building entrance to the primary public way. The pedestrian way must provide additional landscape amenities.
2. Entrances which are oriented on a diagonal are permitted, provided that they are integrated with the overall architectural design, and not merely angled appendages or alcoves.
3. Ground floor windows or window displays shall be provided along at least ten percent (10%) of the building's (ground floor) street-facing elevation(s); windows and display boxes shall be integral to the building design and not mounted to an exterior wall. Parapets above the first floor are excluded from the calculations when the building is over eighty feet (80') in length.

~~3.4.~~ Developments containing only townhouse uses are exempt from this requirement.

...

Article 34 Definitions

Livability Space

Natural areas, lawns and other landscaped areas, walkways, terraces, sitting areas, outdoor recreational areas and the pervious, landscaped portion of street rights-of-way. Livability space does not include paved pedestrian sidewalks or vehicular areas. A maximum of one-third of the livability space required for a development may be impervious (e.g., paved terraces or sitting areas).

Townhouse

A building containing, intended or used solely for one dwelling unit on its own lot, with an individual private entrance and where three or more buildings are joined side-by-side ("a row"), with no dwelling unit located above or below another dwelling unit, and each building having exposed front and rear walls for access, light and ventilation. A Townhouse development may contain multiple rows.

Appendix B Comparative Tables

C1.01 Complete Table of Principal Uses

Use #	Specific Use	Zoning Districts																				Reference		
		Low Density Residential				Medium to High Density Residential						Commercial/Industrial						Education						
		RA	R1	R1A	RR	R1S	R2	R4	MH	R3	R5	OI	B1D C	B1DI	B2	B3	WD	M1	U1	E1	E2		E3	E4
1.0 Household Living																								
1.08	Townhouse (up to 30 bedrooms)							L T50		L T50														15.03
1.09	Townhouse (31-100 bedrooms)							L T50		L T75														15.03
1.10	Townhouse (> 100 bedrooms)							L T75		L 125														15.03

CONFORMITY TO ADOPTED PLANS

COMPREHENSIVE PLAN UPDATE

1.1 Overall Objectives for the Boone Comprehensive Plan (p. 15):

The following objectives, which have not been listed in any particular order of importance, are deliberately broad in scope and less specific than either a policy statement or an implementation action.

Economic Development: Acknowledge the area's natural beauty, university, and medical center presence as the Town's greatest assets for economic development and jobs creation. Treat them accordingly.

Community Appearance and Community Character: Blend the built environment with the natural, scenic, and historic character of a High Country small town. Especially discourage commercial strip development, cluttered signage, and "cheap" apartment buildings.

Open Space: Integrate open space and greenways into the urban fabric of the Town. Preserve the countryside by discouraging suburban sprawl. Avoid development in floodplains, on ridgetops, and on steep slopes.

Environmental Quality: Address and monitor growth factors and activities that contribute to water, air, light, and noise pollution.

Trees: Conserve existing trees and plant new trees, especially hardwoods.

Automobile Transportation: Maximize the efficiency of existing facilities, but not at the expense town and neighborhood character and livability. Build or expand transportation facilities and parking areas as needed, but with care. Work to reduce auto dependency, use, and congestion.

Bikeways: Implement the planned system of bikeways as a legitimate transportation alternative. Unify with greenways and other pedestrian facilities where possible.

Mass Transit: Enhance and support the mass transit system as an effective alternative to the congestion created by the individual automobile.

Pedestrian Movement: Encourage a system of sidewalks, paths, crosswalks and compact development patterns which make it easy to get around Boone on foot.

Infrastructure: Engage in long range planning for water and sewer systems, stormwater runoff, natural gas, and other utility systems. Place overhead utilities underground whenever feasible.

Public Safety: Maintain a high level of policing and fire protection and plan the expansion of public safety services to coincide with projected population increases and identified needs.

Energy and Waste: Reduce waste generation, and the consumption of energy and water. Develop area recycling programs to the fullest. Encourage an anti-litter consciousness among residents and visitors.

University: Emphasize cooperative planning among the Town, County, and University.

Downtown: Support and enhance the cultural and historic significance of downtown Boone, and affirm its appealing, pedestrian orientation.

Recreation: Strive for additional public recreation facilities, especially sports fields, greenways and indoor recreation centers.

Neighborhoods: Ensure the livability of neighborhoods, especially through land use and traffic planning.

Public Involvement: Encourage active public involvement and volunteerism to expand the effectiveness of community planning and action.

Comprehensive Plan Policies: Staff has reviewed land use and comprehensive plan policies, and listed those policies which in staff's opinion have a bearing on the request. The Commission and Council should review these policies carefully. Each member may make his or her own interpretation as to the relevance of each and which carry the most weight thereby shaping their overall recommendation.

COMPREHENSIVE PLAN POLICIES

2.1 THE ECONOMY

2.1.1 Economic Development

- A. The Town shall protect and enhance a high quality of life, image, cultural amenities, and natural beauty as the most effective, long term component of an economic development strategy.
 - A.1 Continue to evaluate and amend development regulations to help insure aesthetic quality in the area and preserve the natural beauty of the area.
 - A.2 Adopt analytically sound, technically based hillside development regulations to preserve natural beauty.
 - A.3 Support the Arts Council, Jones House, ASU and others in attracting quality cultural events to Boone.
 - A.4 Balance the benefits of economic development projects with special concern for environmental quality issues.
- B. New and expanding industries and businesses shall be encouraged which: 1) diversify the local economy, 2) train and use a skilled labor force and 3) increase area residents' incomes.
- C. The Town shall encourage the development of a well-balanced tourism trade as a primary element of the area's economic future. Investments in services, facilities, and proper growth management shall be employed in furtherance of this objective.
- D. Economic development efforts shall encourage the revitalization and reuse of currently unused or underutilized structures, sites and infrastructure in appropriately located areas.
 - D.1 Evaluate development regulations for amendments providing flexibility in the renovation and redevelopment of existing structures and sites.
 - D.2 Urge the resolution of the clean-up process of the 482 State Farm Road site so as to render the building suitable for use as soon as possible.
 - D.3 Pursue annually at least one joint public-private venture that will benefit the community at large.
- E. The Town shall encourage a public service and regulatory environment conducive to business recruitment and expansion, while at the same time enhancing the area's physical and human resources.
 - E.1 Continue to look for ways to make development regulations and permit procedures more predictable and timely. Evaluate opportunities for administrative review and permit issuance for development projects which, due to their small size or relatively minor impacts, may not require review by a formal public commission or board.
- F. New firms and expanding businesses that complement the natural resources and beauty of the region shall be especially recruited and encouraged.
- G. The Town shall support the development of new business parks.

- G.1 Identify suitable property for possible business park development.
- H. The Town shall promote coordination of economic development resources with the appropriate institutions and agencies. Regional coordination and interaction among areas with a shared economic interest shall be encouraged.
 - H.1 Assist business recruitment and expansion efforts by providing demographic and market data and development information to potential developers and business prospects. Direct such interested parties, by referral through the Economic Development Director, to identified locations in the community.
 - H.2 Include economic development as a specific point of discussion by the recently created Community Council.
 - H.3 Continue to support the Economic Development Commission as the lead economic development agency in the county. Continue to support and work with the Committee of 100, Chamber of Commerce, Tourism Development Authority, High Country Host, Broyhill Institute for Business Development, High Country Council of Governments, Caldwell Community College and Technical Institute, JobLink and others on issues of economic benefit to the whole community.
- I. Small business start-ups, expansions and spin-offs shall be encouraged. The presence of ASU and Caldwell Community College and Technical Institute shall be recognized as a necessary and important resource for area businesses.
- J. Appropriate educational and training programs shall be encouraged to help local residents, especially those unemployed and underemployed, take advantage of business expansion and to develop new skills.
 - J.1 Encourage the growth of a student internship program between area businesses, ASU and Caldwell Community College and Technical Institute as a means of providing training for Boone area citizens.
 - J.2 Actively pursue workforce training through ASU and Caldwell Community College and Technical Institute to meet existing needs of current employers and make efforts to develop the skills necessary for higher paying jobs.
 - J.3 Support careers education programs in the public schools.
- K. Boone shall identify and provide services consistent with the needs of the area's growing retiree population.
 - K.1 Support local agencies and institutions efforts in the development of programs and services providing for the needs of the growing retiree population.

2.3 THE COMMUNITY

- A. Urban type development within the Urban Growth Area shall meet appropriate Town standards.
 - A.1 Establish minimum architectural design standards for commercial development throughout the Town.
- B. Properly planned, mixed use developments that promote efficient provision of public services shall be encouraged within the Urban Growth Area.
- C. Funding for outside agencies and organizations serving the citizens of Boone shall continue to receive support consistent with area service needs and Town budget constraints.
 - C.1 Funding requests for outside agencies and organizations serving the citizens of Boone shall continue to be evaluated on an annual basis consistent with area service needs and Town budget constraints.

- D. Coordinated inter-governmental and university-town planning for urban area land use and development, transportation, utilities, recycling, environmental management, law enforcement, education, recreation, tourism and economic development shall be encouraged.

D.1 Involve appropriate agencies, organizations, and citizens in the preparation of community-wide function plans including, for example, a master parks plan, a small projects transportation committee, water treatment expansion planning, the recycling program, a storm water management plan, anti-litter campaign, and other specific plans.

2.3 THE COMMUNITY

2.3.1 Community Appearance

- A. Measures to improve the effectiveness of grading, landscaping and buffering standards for new and existing developments shall be encouraged.
- B. The significance of street trees in providing visual relief, summer cooling, improved air quality and livability shall be recognized through public policies and actions to encourage their planting and maintenance.
 - B.1 Expand scope and effectiveness of the Town's street tree planting program in close cooperation with student and citizen volunteer groups, power companies and other groups.
 - B.2 Implement Boone's street tree master plan. Prepare an inventory of existing street trees and other significant trees within the urban area. Coordinate with Boone's Walkways Long Range plan.
 - B.3 Amend the Town's site plan review standards to require new commercial and residential developments to plant trees in accordance with the Street Tree Master Plan and Walkways Long Range Plan.
- C. The significance of major roadway entrances into Boone as measures of community image and quality shall be recognized through building placement, landscape, signage and other visual improvements. The Town, along with private property owners and developers, shall work to jointly improve the appearance and design of major street corridors.
 - C.1 Prepare a strategic plan that addresses the problems of hazardous buildings, dilapidated buildings and visually unattractive property, beginning with an inventory of such places and establishing an action plan to change their appearance consistent with the High Country.
 - C.2 Contact NCDOT and request establishment of central medians along those major roadways in Boone which involve multi-lane facilities. Establish high priorities for locations where pedestrians must cross multi-lane facilities.
 - C.3 Prepare a plan for improving the appearance and function of at least one major highway corridor in Boone. Involve property owners, the Boone Area Chamber of Commerce, NCDOT, and appropriate local civic organizations on an advisory committee. The plan should include a review of landscaping and buffering requirements, signage, parking design standards, including parking to the rear, all-around architecture, driveway cuts, build-to lines and setbacks, and other requirements along the entry corridor.
 - C.4 All of the items listed under Community Appearance should be part of a single beautification plan for coordination and effectiveness of efforts and for policy consideration by Town Council. The Town Community Appearance Commission should coordinate all plan elements, and actively seek the input of the community at large.
- D. Sign policies and standards shall be periodically updated to enhance community identity and create a high quality business image.

- D.1 Conduct a review of the Town's sign regulations with the goal to have a long term policy consistent with the appearance of the High Country, including greater use of ground signs and directory signs.
- E. The Town shall encourage public, private, and utility company efforts to place utility wires underground whenever feasible.
 - E.1 Prepare a Master Plan for the placement of utilities underground in Boone, establishing priority areas, estimating costs, scheduling the plan's implementation, and assigning responsibilities.
 - E.2 Coordinate with NCDOT and utility companies on the burying of overhead utilities when any roadway widening project is proposed.

2.3 THE COMMUNITY

2.3.2 Community Character

- A. The identification, restoration and active use of structures, buildings, monuments, and neighborhoods of historic or architectural significance shall be encouraged as a means of enhancing their economic and cultural value to the planning area.
 - A.1 Conduct on-going assessments of critical locations in community deserving special attention by the zoning ordinance, in light of their high visibility, traffic impact, strategic location, or other unique features. Continue to encourage significant new public buildings and outdoor spaces to locate in these and other positions of visibility and strategic prominence. Encourage the private sector to do likewise.
 - A.2 Seek out locations of historical merit in the community, and prepare an action plan for their enhancement, rehabilitation, or relocation as may be necessary.
- B. Multiple and appropriate adaptive reuse of historic resources shall be encouraged.
 - B.1 Amend development regulations to offer flexibility for restoration and active use of historic structures and other resources.
- C. Wise development of the tourism potential of the area's architectural, historic, scenic and natural resources shall be encouraged.
 - C.1 Consider the placement of public art at appropriate locations in downtown, including murals.
- D. The destruction of significant architectural, historic, scenic, natural and archaeological resources in the planning area shall be discouraged.
 - D.1 Carefully scrutinize proposed road widening to ensure that such actions do not destroy community and neighborhood character.
 - D.2 Continue to support the Town's tree preservation standards. Evaluate the effectiveness of the tree regulations since their establishment and amend them as necessary.
- E. New development, redevelopment and rehabilitation of structures and sites shall occur in a manner which is consistent with the neighborhood and architectural context of the immediate area, and supportive, whenever possible, of Boone's original community character as a High Country small town.

2.3 THE COMMUNITY

2.3.3 Housing and Neighborhoods

- A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.

- A.1 As road widenings are proposed, carefully evaluate their potential impact on the integrity of residential areas, pedestrian-oriented commercial districts, and the ability of bicyclists and pedestrians to function in the affected area.
- A.2 Prepare at least two neighborhood plans, working closely with neighborhood residents, and incorporating the full range of neighborhood issues to include: land use, traffic, housing, neighborhood business services, infrastructure improvements, parks and recreation needs, crime and safety.
- A.3 Prepare a document readily accessible to the public that details residential zoning areas and the date on which each was implemented.
- A.4 Establish a planning and development policy that protects older established residential neighborhoods from the negative effects of adjacent commercial development.
- A.5 Establish a task force to determine how like communities successfully enforce their existing residential codes. Items requiring focused attention: Detailed analysis of implementation and enforcement. For example, penalties, personnel requirements, budget implications, long-term effect on town character and economic development.
- A.6 Implement a residential zoning enforcement policy based on the task force analysis above.
- B. Street system designs which discourage through traffic on purely local streets while allowing for free circulation within the neighborhood shall be encouraged.
 - B.1 Update the Town's standards for subdivision street layouts, emphasizing circulation between neighborhoods and the ability of pedestrians and bicyclists to travel on back streets throughout the town.
 - B.2 To the extent federal and state funding programs will allow, seek and apply for at least one grant to provide for bicycle paths to connect residential areas with commercial and university districts.
- C. Proposed residential development which would expose residents to harmful effects of incompatible development or to environmental hazards shall be prohibited.
 - C.1 Amend the zoning map and development regulations to prevent residential uses from locating adjacent to existing developments and other uses which may have characteristics which cannot be effectively mitigated.
- D. Innovative and flexible land planning and development practices shall be encouraged to create livable developments which better safeguard land, water, energy and historic resources.
 - D.1 Continue to evaluate opportunities in the zoning ordinance for flexibly designed and located single-family and multi-family residential developments.
 - D.2 Establish ongoing relationships with ASU's departments of Geography and Planning, Appropriate Technology, and Sustainable Development to develop, enhance, and implement efforts toward creating affordable housing, appropriate infill development, neighborhood livability standards, and design standards for multi-family development. This should include attention to lighting, bike and pedestrian pathways, and federal, state, and local funding sources.
- E. Factors in determining preferred locations for high density residential development shall include: close proximity to the university, employment or shopping centers; access to major thoroughfares and the transit system; the availability of public services and facilities; and compatibility with adjacent land uses.
 - E.1 Review the zoning ordinance for the appropriate placement of high density housing near urban activity centers that are coordinated with transit system stops.

- F. The affordable housing needs of area residents, particularly elderly and low to moderate income residents, shall be recognized in Town policies and actions regarding residential development.
 - F.1 To the extent the federal and state funding programs will allow, seek and apply for at least one grant to provide for low to moderate income housing.
- G. Compact, full service neighborhoods, offering opportunities for living, working, shopping, and gathering places, shall be encouraged in newly planned developments, as well as for redeveloping areas.
- H. The overall housing unit density for proposed infill residential development or redevelopment should be compatible with the average density of existing areas.

2.3 THE COMMUNITY

2.3.4 Public Involvement

- A. Public involvement shall be encouraged in decisions concerning land use and development by making the public aware of proposed developments at the earliest opportunity, as well as fostering communication among developers, the Town, the County, the University, and the general public.
 - A.1 Offer continued support to the recently created Community Council. A number of appropriate issues for consideration by the committee are included among these implementation actions.
 - A.2 Maintain and update a mailing list of architects, engineers, surveyors, landscape architects, realtors, builders, developers and contractors for notification and distribution of changes in Town policies and regulations.
 - A.3 Encourage periodic articles in all available media outlets about land use decisions, how they are advertised, and how they are made. Continue school presentations by Town planning staff to explain land use and how it affects each citizen.
 - A.4 Post all zoning change requests, special use and variance requests to the Town of Boone web site with date of application and date of impending and completed actions. Explore the possibility of providing links to the Town web site from local newspaper online editions in which the Town posts public notices.
- B. Neighborhood and special area planning shall be encouraged to foster public involvement in the production of closely tailored, action oriented special area plans and programs.
 - B.1 Prepare at least two small area or neighborhood plans within the year.
- C. Specific functional plans and implementation tools shall be supported as part of the comprehensive planning program for the Town and County.
- D. Special committees, advisory panels, educational forums, public workshops, leadership seminars, town meetings and media contacts shall be encouraged and fostered to enhance the effectiveness of citizen involvement in community planning and action.
 - D.1 Hold an annual Town Meeting to hear citizen concerns about growth and development and the progress made. In addition to the annual Town Meetings, consider special workshops, open houses and a newsletter or annual report to keep citizens involved and informed about the future of the town and the action being taken.

PLANNING BOARD REPORT/RECOMMENDATIONS

Per NCGS 160D-604(b), subsequent to initial adoption of a zoning regulation, all proposed amendments to the zoning regulation or zoning map shall be submitted to the Planning Commission for review and comment. If no written report is received from the Planning Commission within 30 days of referral of the amendment to that board, the Town Council may act on the amendment without the Planning Commission report. The Town Council is not bound by the recommendations, if any, of the Planning Commission. Per NCGS 160D-604(d), when conducting a review of proposed zoning text or map, the Planning Commission shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Commission shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the Planning Commission, but a comment by the Planning Commission that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.

Vote 1: The proposed amendment to the Town's zoning ordinance ☐is OR ☐is not consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because:

Note 1

Vote 2: The Planning Commission recommends ☐approval OR ☐denial of Ordinance #PL05271-110121 and believes ☐approval OR ☐denial is reasonable and in the public interest because:

Note 2

Note 1: describe elements of controlling land use plans and how the amendment is or is not consistent.

Note 2: briefly explain why, factors may include (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment.

TOWN COUNCIL ACTION

Per NCGS 160D-605, when adopting or rejecting any zoning text or map amendment, the Town Council shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the governing board was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan.

Vote 1: The proposed amendment to the Town's zoning ordinance ☐is OR ☐is not consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because:

Note 1

Vote 2: The Town Council ☐approves OR ☐denies Ordinance #PL05271-110121 to the Town's zoning ordinance and believes ☐approval OR ☐denial is reasonable and in the public interest because:

Note 2

Note 1: describe elements of controlling land use plans and how the amendment is or is not consistent.

Note 2: briefly explain why, factors may include (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment.

Planning Application - UDO Text Amendment

Town of Boone Planning & Inspections Department
680 W. King Street, Suite C ♦ Boone, North Carolina 28607
Phone (828) 268-6960 ♦ Fax (828) 268-6961 ♦ www.townofboone.net

Official Use Only

Case Number:
PL05272-110121
Case Name:
Solar & Electric-Vehicle Charging

A. CONTACT INFORMATION

Applicant: Town of Boone Company: _____
Address: 567 West King Street
Phone Number: 828-268-6200 Email Address: planning@townofboone.net

B. TEXT INFORMATION

Amendment is to: **UDO**

Article(s): Articles 14, 15, 25, 31, and 34

Section(s): 14.02, 14.03, 15.64, 15.65, 25.05, 31.06, and Definitions

Brief Description of Amendment (Attach Proposed Text):

To modify the Unified Development Ordinance (UDO) to create regulations for accessory solar energy systems, and accessory and principal use electric vehicle charging stations.

C. APPLICANT SIGNATURE: By signing this form you are certifying that this application and any attached information is accurate. Failure to provide accurate information or failure to provide any requested information may result in delays to permit processing.

Jane Shook
Applicant (Print)

/s/ Jane Shook
Applicant Signature

11/1/2021
Date

Official Use Only

Date:	Fee:	Receipt Number:	Method of Payment:	Paid By:
NA	NA	NA	NA	NA

Hearing/Decision Information

Public Hearing Meeting
Date: November 22, 2021

PC Meeting
Date: November 22, 2021

TC Meeting
Date: December 8, 2021

Text Approved: ☐ Yes ☐ No

Notes:

S:\FORMS\Current Forms\Planning\UDOTextAmendment_PlanningApplication_09252017.doc

Communication: Case PL05272-110121 Application (PL05272-110121 Solar Energy Systems and Electric Vehicle Charging - UDO Text



**STAFF REPORT
PUBLIC HEARING
NOVEMBER 22, 2021**

Case PL05272-110121 Solar & Electric-Vehicle Charging - UDO Text Amendment

Request & History

To modify the Unified Development Ordinance (UDO) to create regulations for accessory solar energy systems, and accessory and principal use electric vehicle charging stations.

On April 19, 2018, Town Council adopted the “Resolution to Clarify Town of Boone Goals to Combat Climate Change” which states the Town of Boone wishes to be a leader in the fight against climate change and has adopted the three following goals:

1. Climate neutrality in municipal operations by 2030
2. Transition municipal operations to 100% clean renewable energy by 2040
3. Transition the entire town of Boone to 100% clean renewable energy by 2050

Note: Visit [Sustainability in Boone](#) for more information.

In 2019-2020 Town Manager Ward collaborated with SolSmart to review the Town of Boone's UDO. [Solsmart](#) is a national designation to recognize communities that have taken steps to address local barriers to solar energy. Mr. Ward presented the findings to Town Council in November 2019. Town Council gave approval to move forward with the more permissive options for ordinance changes with a brief discussion that the proposed language should be consistent with the recommendations from the Historic Preservation Commission for landmarks and districts. Draft language acknowledges the Historic District or Landmark status and requires all solar energy systems to follow the regulations adopted for the landmark or district.

Exhibit 1: Solsmart – Zoning Review for Boone, NC

Exhibit 2: Solsmart Program Guide

This specific text only addresses solar energy systems that are accessory to a principal use.

While working on the ordinance for solar energy systems, Staff has noticed an increase in the requests for regulatory information on electric vehicle charging stations including electric vehicle charging stations as a principal use. Similar in their ability to reduce a development's carbon footprint, Staff merged the electric vehicle charging amendment with the accessory solar energy system.

Exhibit 3: Summary of Best Practices in Electric Vehicle Ordinances

In summary, Staff is proposing to allow accessory solar energy systems, accessory electric vehicle charging stations and electric vehicle charging stations as a principal use.

Regulatory Information

§ 160D-914. Solar collectors.

- (a.) Except as provided in subsection (c) of this section, no local government development regulation shall prohibit, or have the effect of prohibiting, the installation of a solar collector that gathers solar

radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a residential property, and no person shall be denied permission by a local government to install a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a residential property. As used in this section, the term "residential property" means property where the predominant use is for residential purposes.

- (b.) This section does not prohibit a development regulation regulating the location or screening of solar collectors as described in subsection (a) of this section, provided the regulation does not have the effect of preventing the reasonable use of a solar collector for a residential property.
- (c.) This section does not prohibit a development regulation that would prohibit the location of solar collectors as described in subsection (a) of this section that are visible by a person on the ground and that are any of the following:
 - (1.) On the facade of a structure that faces areas open to common or public access.
 - (2.) On a roof surface that slopes downward toward the same areas open to common or public access that the facade of the structure faces.
 - (3.) Within the area set off by a line running across the facade of the structure extending to the property boundaries on either side of the facade, and those areas of common or public access faced by the structure.
- (d.) In any civil action arising under this section, the court may award costs and reasonable attorneys' fees to the prevailing party. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

...

§ 160D-944. Designation of historic districts.

...

- (d) The provisions of G.S. 160D-910 apply to zoning or other development regulations pertaining to historic districts, and the authority under G.S. 160D-910(b) for the Ordinance to regulate the location or screening of solar collectors may encompass requiring the use of plantings or other measures to ensure that the use of solar collectors is not incongruous with the special character of the district. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

Proposed Ordinance Amendment

ORDINANCE # PL05272-110121

AN ORDINANCE TO REVISE ARTICLES 14, 15, 25, 31, AND 34 OF THE TOWN OF BOONE UNIFIED DEVELOPMENT ORDINANCE RELATING TO REVISING LANGUAGE REGULATING ACCESSORY SOLAR ENERGY SYSTEMS AND ELECTRIC VEHICLE CHARGING STATIONS

WHEREAS, the Boone Town Council desires to modify, clarify and streamline the requirements for approval of solar energy systems and electric vehicle charging; and

WHEREAS, the Town Council of the Town of Boone adopted a Resolution to Clarify Town of Boone Goals to Combat Climate Change in April 2019, which states the Town of Boone wishes to be a leader in the fight against climate change and wishes to amend the Unified Development Ordinance to clarify regulations on certain solar energy systems and electric vehicle charging stations; and

WHEREAS, the Boone Town Council is authorized to enact this Ordinance pursuant to its zoning authority under G.S. Chapter 160D, Article 6;

NOW, THEREFORE, BE IT ORDAINED BY THE BOONE TOWN COUNCIL THAT:

SECTION 1. The Town of Boone Unified Development Ordinance ("UDO") is hereby revised as set forth in the attached **Exhibit A** to this Ordinance, which is incorporated by reference, with deletions and additions shown in **red** and **blue**, respectively:

SECTION 2. All provisions of any Town ordinance in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 3. In the event any section, subsection, subdivision, paragraph, subparagraph, item, sentence, clause, phrase, or word of this Ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining provisions of this Ordinance, which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this Ordinance.

SECTION 4. This Ordinance shall be effective immediately upon its adoption by Town Council.

Adopted this the ____th day of _____, 2021.

The Honorable Rennie Brantz, Mayor

Attest:

Nicole Harmon, Town Clerk

Exhibit A

Article 14 Zoning District Regulations

14.02 Use Information

...

14.02.03 Uses Not Requiring Development Approvals

A. Notwithstanding any other provisions of this ordinance, no zoning ~~or special use~~-related permit is ~~necessary~~ required for the following uses:

1. Public streets, ~~or~~ sidewalks or greenways.
2. Electric power, telephone, telegraph, cable television, gas, water and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way with the permission of the public owner.
3. Town utility facilities located within ~~a the Town's public~~ right-of-way or on Town property with the permission of the ~~owner~~ Town; provided, that if the proposed Town utility facility would exceed any otherwise applicable development standard relating to height, size, or intensity of use, or standards related to Historic Districts or Historic Landmarks the Administrator shall notify the Town Council and Town Council may direct that a hearing be held to solicit public comment with respect to the proposed facility.
4. Electric vehicle charging stations installed on Town property or the public right of way.

Note: Text highlighted in yellow contains text that is currently in the process of being modified. See the November 18, 2021 Public Hearing packet for more information.

14.03 Intensity Standards

...

14.03.07 Building Height

- A. The height of a building shall be the vertical distance measured from the average elevation of the finished grade at the primary façade of the building to the highest point of the building except as provided herein.
- B. "Stories" as used herein refers to the number of heated, habitable floors above grade at the primary facade. Where both stories and heights are listed, the building can have no more than the listed number of stories, and also may not exceed the specified height in feet.
- C. Secondary Height: If expressly allowed, the height limitation may range between the primary height limitation to the secondary height limitation (which is the maximum for the district), subject to the provisions below:
 1. For each foot the height of the structure exceeds the primary height limitation, the boundary lot setback applicable to the entire structure shall increase by one foot (1').
 2. For each story which exceeds the primary height limitation, the boundary lot setback applicable to the entire structure shall increase by 11 feet (11').

3. In no case shall the height of a structure exceed the secondary height limitation established for the district.
- D. In all nonresidential zones and the R3 zone, all structures located within 100 feet of an R1 zoned property shall not exceed forty feet (40') in height.
 - E. Where a multi-unit or nonresidential structure has a height in excess of twenty feet (20') and adjoins a low density residential district, the structure shall meet an additional setback of one and one half feet (1 ½') for each foot in height above twenty feet (20').
 - F. If a structure is located at an elevation of 3000 feet above mean sea level and 500 feet above the valley floor, in no case shall the height of such structure exceed forty feet (40') above the mean natural grade.
 - G. The following features are not included in calculating the height of a structure for the purposes of applying the district height limitations set forth in this Article, except that on a corner lot in any residential district no planting, structures, fence, wall or obstruction to vision more than three feet (3') in height measured from the street center line shall be placed or maintained within the triangular area formed by the intersection street lines and a straight line connecting points on said street lines each if which is twenty-five feet (25') from the point of intersection.
 1. Belfries, chimneys, church spires, cupolas, domes and similar structural appendages not intended or used as places of storage or occupancy; and
 2. Accessory antennas, flagpoles, ~~solar collectors~~ and similar equipment fixtures and devices provided that such features do not exceed 15% of the maximum height requirements; and
 3. Except as provided at 16.08.04(B)(2), parapets which do not exceed five feet (5') past the maximum building height; by way of clarification, the height of parapets above 5' shall be counted toward the building height for purposes of applying building height; and
 4. Elevator and mechanical equipment and penthouses; and
 5. Utility transmission poles and cables; and
 6. Limited structures to enable recreation uses of open rooftops (Accessory Use A-27). As used in this provision, "limited structure" does not include areas that are simply decking to be used for standing or sitting.
 7. The features listed above are exempt from the height limitations subject to the following requirements:
 - a. Not more than one-third (1/3) of the total roof area may be consumed by such features.
 - b. The features must be set back from the edge of the roof at primary and secondary facades a minimum of one foot for every foot which such features extend above the roof surface to which they are attached.

Article 15 Limited Use Requirements**15.64 Solar Energy Systems, Accessory (A-27)****A. General Requirements**

1. Solar energy systems as described in this Section are permissible in all zoning districts as an accessory use to a permitted principal use subject to the standards for accessory uses in applicable zoning districts and the specific criteria set forth herein.
2. In addition to the requirements set forth in this Section, solar energy systems located within a Historic District or Historic Landmark shall follow the requirements set forth in the design standards adopted for the District or Landmark.

B. Rooftop Solar Energy Systems

1. The highest point of a rooftop solar energy system shall be permitted to exceed the district height limit of up to fifteen feet (15') above the rooftop to which it is attached. Roof-mounted solar energy systems are not subject to the limitations in Subsection 14.03.07(G).

C. Ground-mounted Solar Energy Systems

1. All ground-mounted solar energy systems shall meet the building street setback requirement of fifteen feet (15') from the street right-of-way line and seven feet (7') from any interior lot line.
2. The maximum lot coverage of a ground-mounted energy system shall not exceed ten percent (10%) of the lot.
3. A ground-mounted solar energy system must be clearly subordinate to the principal structure in all dimensional aspects and shall not exceed fifteen feet (15') in height.
4. A ground-mounted solar energy system shall not be located in an easement unless expressly allowed.
5. Applicants are allowed five percent (5%) of additional impervious surface before additional stormwater requirements, set forth in Article 21, are required.
6. Ground-mounted solar energy systems are not allowed within any required landscape buffer.

15.65 Electric Vehicle Charging Stations, Accessory (A-28) and Principal (11.37)**A. General Requirements**

1. An electric vehicle charging station shall only be installed in standard-size parking space.
2. Every electric vehicle charging station shall be installed outside of the public right-of-way.

3. Wheel stops, bollards, or other barriers shall be placed between the electric vehicle charging space and the equipment unless the equipment is designed to be impact-resistant. Alternatively, there shall be a minimum distance of two (2) feet between the curb and the electric vehicle charging equipment.
 - a. The installation of an electric vehicle charging station and any protective measures shall not reduce the size of the parking space.
 - b. Any cords shall be retractable or have a place to hang the connector and cord sufficiently out of the electric vehicle charging space.
 - c. Any cords connecting the charger to a vehicle shall be configured so that they do not cross a driveway, sidewalk, or passenger unloading area.
4. The following information shall be posted at all electric vehicle charging stations:
 - a. Voltage and amperage levels;
 - b. Hour of operations if time limits or tow-away provisions are to be enforced;
 - c. Usage fees;
 - d. Safety information;
 - e. Contact information for reporting when the equipment is not operating.
 - f. An electric vehicle charging station(s) installed at a single-family or two-family dwelling is not required to meet the signage requirements set forth in this subsection.
 - g. [Option] Signage requirements a, c-f herein may be waived if all information required in those parts is contained in an app required to be used by the user of the electric vehicle charging station.
5. Electric vehicle charging station equipment associated may encroach 20% into any required landscape buffer provided the equipment shall be placed outside of the critical root zone for any tree.

B. Electric Vehicle Charging Stations (Accessory Use, A-28)

1. Electric vehicle charging stations installed as accessory uses are exempt from any appearance, landscaping, or stormwater requirement.

C. Electric Vehicle Charging Stations (Principal Use, 11.37)

1. Canopies or other structures associated with Use 11.37 shall meet all setbacks required for the district.
2. When Use 11.37 is created through the conversion of parking spaces in an existing development:
 - a. The applicant shall provide reliable and persuasive evidence (which may include but is not necessarily limited to a parking demand analysis prepared by a qualified engineer) demonstrating that sufficient parking for the development remains after the removal of the parking for the electric vehicle charging station use.
 - b. Two-hundred square feet (200 sq. ft.) of additional impervious surface is allowed

before additional stormwater requirements outlined in Article 21 are required.

3. Use 11.37 electric vehicle charging stations shall meet all other ordinance requirements for commercial development.

Article 25 Community Appearance Standards

25.05 Lighting

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25.05.05 ~~Gas station~~ Canopies associated with vehicle related services shall be illuminated at a maximum illuminance of 30 fc and individual fixtures shall be flush mounted or have the canopy edge below the lowest light-emitting point on the fixtures. All existing gas station canopies which exceed this standard shall be made compliant within seven (7) years of the date of adoption of this Article.

Article 31 Landscape Standards

31.06 Buffer and Screen Requirements

31.06.05 Loading Docks, Screening of Solid Waste and Recycling Container Areas, Outdoor Storage Areas, Utility Structures and Rainwater Harvesting Systems

A. Loading docks, solid waste and recycling containers, outdoor storage, mechanical and HVAC equipment, rainwater harvesting systems, and similar facilities on the roof, on the ground, or on buildings shall be incorporated into the overall design theme. These areas shall be located and screened so that the visual impacts of these facilities are fully contained and out of view from adjacent properties and public streets.

1. Accessory solar energy systems are exempt from this screening requirement.

B. Solid waste and recycling containers (when required) shall be screened in accordance with the Solid Waste and Recycling Enclosure Detail (Subsection 22.13.03). The design and materials of the enclosure, fence or wall must be presented as part of the site plan or subdivision approval process. The screening material shall be architecturally compatible with the principal building(s) on site. Landscape plantings compatible with the overall landscape plan may be required outside of enclosures where they are in public view from a street and it is necessary to soften the enclosures appearance.

C. Outdoor storage areas shall be located along the side or the rear of the principle structure and screened so that the visual impacts are fully contained and out of view from adjacent properties and public streets. Screening material may include fence, wall or landscaping so long as materials are architecturally compatible with the principle building(s) on site and will provide an opaque screen. All areas utilized for outdoor storage must be located in areas specifically designed for outdoor storage and is prohibited in or on designated exterior walkways, parking areas, driveways, and landscape areas.

(Ord. 20140384, 08-18-2014)

Article 34 Definitions

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Electric Vehicle Charging Station

Equipment that connects an electric vehicle (EV) to a source of electricity to recharge electric vehicles, and plug-in hybrids.

Solar Energy System

The components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The term applies, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems, and solar hot water systems that are accessory to a principal use. Such systems include, but are not limited to ground-mounted, roof-mounted, and building-integrated solar energy systems. Solar energy systems may generate energy in excess of the energy requirements of the property if it is to be sold back to a public utility in accordance with applicable laws.

Solar Energy System, Accessory

An accessory solar energy system is designed to meet or off-set the energy demands of the principal use rather than for the purpose of supplying or distributing electrical energy to users, a customer or customers.

C1.01 Complete Table of Principal Uses

Use #	Specific Use	Zoning Districts																								Reference
		Low Density Residential				Medium to High Density Residential						Commercial/Industrial								Education						
		RA	R1	R1A	RR	R1S	R2	R4	MH	R3	R5	OI	B1DC	B1DI	B2	B3	WD	M1	U1	E1	E2	E3	E4			
11.0 General Sales and Service																										
11.29	Vehicle Sales and Service														L T125	L T75									15.23	
11.30	Equipment Sales and Service															L T125		L T125							15.24	
11.31	Moped Sales and Service													P	P	P										
11.32	Boat or Marine Craft Sales and Service															L T75		L T75							15.25	
11.33	Impound Lot/Towing Service															L T125		L T125							15.26	
11.34	Gas Station	pT125													pT125	pT125		pT125								
11.35	Car Wash														pT125	pT125		pT125								
11.37	Electric-Vehicle Charging Station														L	L		L							15.65	
15.0 Parking																										
15.01	Parking Lot											L				L									15.39	
15.02	Parking Structure									L T125		L				L									15.40	
15.03	Park and Ride Lots	L										L		CD		L		L							15.39	

C1.02 Complete Table of Accessory Uses

Use #	Accessory Use	Zoning Districts																						
		Low Density Residential				Medium to High Density Residential						Commercial/Industrial							Education					
		RA	R1	R1A	RR	R1S	R2	R4	MH	R3	R5	OI	B1DC	BIDl	B2	B3	WD	M1	U1	U1	E2	E3	E4	
A-27	Solar Energy System	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L							15.64
A-28	Electric-Vehicle Charging Station	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L							15.65

(Ord. PL04727-050721, 07-01-2021)

CONFORMITY TO ADOPTED PLANS

COMPREHENSIVE PLAN UPDATE

1.1 Overall Objectives for the Boone Comprehensive Plan (p. 15):

The following objectives, which have not been listed in any particular order of importance, are deliberately broad in scope and less specific than either a policy statement or an implementation action.

Economic Development: Acknowledge the area's natural beauty, university, and medical center presence as the Town's greatest assets for economic development and jobs creation. Treat them accordingly.

Community Appearance and Community Character: Blend the built environment with the natural, scenic, and historic character of a High Country small town. Especially discourage commercial strip development, cluttered signage, and "cheap" apartment buildings.

Open Space: Integrate open space and greenways into the urban fabric of the Town. Preserve the countryside by discouraging suburban sprawl. Avoid development in floodplains, on ridgetops, and on steep slopes.

Environmental Quality: Address and monitor growth factors and activities that contribute to water, air, light, and noise pollution.

Trees: Conserve existing trees and plant new trees, especially hardwoods.

Automobile Transportation: Maximize the efficiency of existing facilities, but not at the expense town and neighborhood character and livability. Build or expand transportation facilities and parking areas as needed, but with care. Work to reduce auto dependency, use, and congestion.

Bikeways: Implement the planned system of bikeways as a legitimate transportation alternative. Unify with greenways and other pedestrian facilities where possible.

Mass Transit: Enhance and support the mass transit system as an effective alternative to the congestion created by the individual automobile.

Pedestrian Movement: Encourage a system of sidewalks, paths, crosswalks and compact development patterns which make it easy to get around Boone on foot.

Infrastructure: Engage in long range planning for water and sewer systems, stormwater runoff, natural gas, and other utility systems. Place overhead utilities underground whenever feasible.

Public Safety: Maintain a high level of policing and fire protection and plan the expansion of public safety services to coincide with projected population increases and identified needs.

Energy and Waste: Reduce waste generation, and the consumption of energy and water. Develop area recycling programs to the fullest. Encourage an anti-litter consciousness among residents and visitors.

University: Emphasize cooperative planning among the Town, County, and University.

Downtown: Support and enhance the cultural and historic significance of downtown Boone, and affirm its appealing, pedestrian orientation.

Recreation: Strive for additional public recreation facilities, especially sports fields, greenways and indoor recreation centers.

Neighborhoods: Ensure the livability of neighborhoods, especially through land use and traffic planning.

Public Involvement: Encourage active public involvement and volunteerism to expand the effectiveness of community planning and action.

Comprehensive Plan Policies: Staff has reviewed land use and comprehensive plan policies, and listed those policies which in staff's opinion have a bearing on the request. The Commission and Council should review these policies carefully. Each member may make his or her own interpretation as to the relevance of each and which carry the most weight thereby shaping their overall recommendation.

COMPREHENSIVE PLAN POLICIES

2.1 THE ECONOMY

2.1.1 Economic Development

- A. The Town shall protect and enhance a high quality of life, image, cultural amenities, and natural beauty as the most effective, long term component of an economic development strategy.
 - A.1 Continue to evaluate and amend development regulations to help insure aesthetic quality in the area and preserve the natural beauty of the area.
 - A.2 Adopt analytically sound, technically based hillside development regulations to preserve natural beauty.
 - A.3 Support the Arts Council, Jones House, ASU and others in attracting quality cultural events to Boone.
 - A.4 Balance the benefits of economic development projects with special concern for environmental quality issues.
- B. New and expanding industries and businesses shall be encouraged which: 1) diversify the local economy, 2) train and use a skilled labor force and 3) increase area residents' incomes.
- C. The Town shall encourage the development of a well-balanced tourism trade as a primary element of the area's economic future. Investments in services, facilities, and proper growth management shall be employed in furtherance of this objective.
- D. Economic development efforts shall encourage the revitalization and reuse of currently unused or underutilized structures, sites and infrastructure in appropriately located areas.
 - D.1 Evaluate development regulations for amendments providing flexibility in the renovation and redevelopment of existing structures and sites.
 - D.2 Urge the resolution of the clean-up process of the 482 State Farm Road site so as to render the building suitable for use as soon as possible.
 - D.3 Pursue annually at least one joint public-private venture that will benefit the community at large.
- E. The Town shall encourage a public service and regulatory environment conducive to business recruitment and expansion, while at the same time enhancing the area's physical and human resources.
 - E.1 Continue to look for ways to make development regulations and permit procedures more predictable and timely. Evaluate opportunities for administrative review and permit issuance for development projects which, due to their small size or relatively minor impacts, may not require review by a formal public commission or board.
- F. New firms and expanding businesses that complement the natural resources and beauty of the region shall be especially recruited and encouraged.
- G. The Town shall support the development of new business parks.

- G.1 Identify suitable property for possible business park development.
- H. The Town shall promote coordination of economic development resources with the appropriate institutions and agencies. Regional coordination and interaction among areas with a shared economic interest shall be encouraged.
 - H.1 Assist business recruitment and expansion efforts by providing demographic and market data and development information to potential developers and business prospects. Direct such interested parties, by referral through the Economic Development Director, to identified locations in the community.
 - H.2 Include economic development as a specific point of discussion by the recently created Community Council.
 - H.3 Continue to support the Economic Development Commission as the lead economic development agency in the county. Continue to support and work with the Committee of 100, Chamber of Commerce, Tourism Development Authority, High Country Host, Broyhill Institute for Business Development, High Country Council of Governments, Caldwell Community College and Technical Institute, JobLink and others on issues of economic benefit to the whole community.
- I. Small business start-ups, expansions and spin-offs shall be encouraged. The presence of ASU and Caldwell Community College and Technical Institute shall be recognized as a necessary and important resource for area businesses.
- J. Appropriate educational and training programs shall be encouraged to help local residents, especially those unemployed and underemployed, take advantage of business expansion and to develop new skills.
 - J.1 Encourage the growth of a student internship program between area businesses, ASU and Caldwell Community College and Technical Institute as a means of providing training for Boone area citizens.
 - J.2 Actively pursue workforce training through ASU and Caldwell Community College and Technical Institute to meet existing needs of current employers and make efforts to develop the skills necessary for higher paying jobs.
 - J.3 Support careers education programs in the public schools.
- K. Boone shall identify and provide services consistent with the needs of the area's growing retiree population.
 - K.1 Support local agencies and institutions efforts in the development of programs and services providing for the needs of the growing retiree population.

2.1 THE ECONOMY

2.1.2 Commercial Development

- A. Uncontrolled strip development along the areas through streets shall be prohibited. The undesirable effects of existing strip development shall be reduced and/or reconfigured when redevelopment opportunities permit. New strip development on isolated single lots along through streets shall be discouraged.
 - A.1 Review and revise the Town's driveway and parking standards to minimize driveway cuts and require that adjacent parking lots be connected.
- B. Commercial and Office Development shall be encouraged to locate in planned shopping centers, office parks and mixed use developments to stop the proliferation of strip development.
 - B.1 Review the Town's zoning text and map with the objective of reducing the negative impacts of typical commercial strip development.

- C. Community/Commercial Centers shall be located adjacent to a major street and contain or be adjacent to other appropriate community facilities.
- D. Automobile Orientated Neighborhood and Convenience Commercial Centers shall be encouraged to locate on a collector street or secondary street at its intersection with a major street.
- E. Residentially scaled and designed neighborhood businesses may be a planned element of newly developed or redeveloped neighborhoods. They should be near other compatible facilities such as elementary schools and neighborhood parks.
- F. Commercial uses may be encouraged to develop by consolidation and expansion of existing commercially zoned property, only when such consolidation and expansion does not encroach upon a viable residential area.
- G. Effective buffering and/or landscaping shall be provided where a large scale or automobile-orientated commercial or office use adjoins an existing or planned residential use.
- H. Encroachment of incompatibly scaled and designed commercial or office uses into viable existing or planned residential areas shall be prohibited.
 - H.1 Amend the zoning map to provide appropriate commercial zoning in transitional areas that do not encroach upon established residential neighborhoods.
- I. Office and institutional development may be encouraged as a transitional land use between residential areas and higher intensity commercial activities.
- J. Highway Oriented Commercial uses shall be clustered along segments of major streets and contain land uses which are mutually compatible and reinforcing in use and design. Businesses shall be encouraged to coordinate their site designs with other nearby businesses. Design factors shall include, at a minimum, shared parking and street access, convenient pedestrian and vehicular movement, and consistent sign standards.
 - J.1 Beyond the major corridor area consider the development of architectural design standards for commercial development throughout the Town's planning area.
 - J.2 Consider supplementing the highway corridor overlay district in the zoning Ordinance to encourage commercial development to include: 1) attractive signage, and 2) build-to lines with parking in the rear.

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2.2 INFRASTRUCTURE

2.2.1 Transportation

- A. Street patterns shall be designed so as to define the limits of the neighborhood, accentuate focal points and interesting vistas, allow convenient circulation within the neighborhood and provide multiple, alternative outlets from the area to adjoining neighborhoods and /or major streets. Particular attention shall be given to avoid designs that provide convenient "cut-through" traffic opportunities.
 - A.1 Evaluate design standards for new subdivision streets for possible provisions for street patterns and designs which would accentuate focal points and interesting vistas, allow for convenient circulation within the neighborhood, and provide multiple alternative outlets from the area to adjoining neighborhoods and /or major streets.
- B. Planned systems of pedestrian ways, bikeways, greenways, and similar facilities shall be encouraged as energy efficient and environmentally sound transportation alternatives. Site planning that incorporates secure bicycle storage at places of living, working or schooling, shopping, and gathering shall be required, where appropriate.

- B.1 Encourage and legitimize alternative transportation through the enhanced use of bikeways, pedestrian ways, and greenways throughout the Town. Link existing bike, pedestrian, and greenways where possible and continue efforts for expansion.
- B.2 Continue to implement sidewalk construction throughout Boone in accordance with the Boone Walkways Long Range Plan (1995 Boone – Blowing Rock Alternative Transportation Plan). Actively pursue available funding opportunities.
- B.3 Provide safe and convenient bicycle and pedestrian crossings at major intersections and along Highways 321, 421, and 105.
- B.4 Explore funding options for alternative transportation projects throughout Town. Options could include a city-wide vehicle registration fee, earmarking property taxes for alternative transportation improvements, and seeking grant funding opportunities from federal, state and private organizations.
- C. The Boone Thoroughfare Plan shall be employed to promote a hierarchical, functional road network and to promote the proper arrangement of land patterns by controlling the location of streets and roads.
 - C.1 Explore opportunities for major traffic planning initiatives between the Town of Boone and ASU in accordance with Boone's Thoroughfare Plan.
- D. Properly designed major street intersections containing right and left turn bays shall be encouraged where crosswalks and pedestrian traffic do not have first priority.
 - D.1 Construct additional turning lanes at intersections where traffic is backed-up during peak traffic times.
- E. Sufficient right-of-way along new roadways and at major intersections shall be acquired to allow future facility expansion.
 - E.1 Amend development regulations to require sufficient right-of-way in new developments, according to an overall system plan.
- F. A program of improvements and maintenance to maximize the use of existing streets shall be employed as a cost effective means of meeting area transportation needs, provided that such improvements shall not destroy the livability of a residential or commercial area for the sole purpose of moving greater traffic volumes.
 - F.1 Synchronize all traffic signals and coordinate sign locations in the Town with priority given to the downtown area.
 - F.2 Endorse the opening of Howard Street, between Appalachian Street and College Street, in accordance with Boone's Thoroughfare Plan.
 - F.3 Continue and expand the role of Boone's Transportation Committee, whose responsibility is to recommend priorities and action plans for small scale transportation improvements.
- G. The operational success of the area's mass transit system shall be enhanced through the encouragement of compact, transit sensitive development patterns. Site planning that incorporates transit stops and convenience clusters shall be required, where appropriate.
 - G.1 Evaluate and amend site plan standards to include provisions for transit stops, sidewalks and pedestrian ways, bikeways and secure bicycle storage.
 - G.2 Construct transit stops with covered passenger shelters to encourage ridership.
 - G.3 Construct, where possible, bus stop pull-out areas or lanes to avoid holding up traffic along traffic corridors.

- H. Policies that have the effect of reducing automobile dependency, use and congestion in the heart of the urban area shall be supported.
 - H.1 Prepare educational information concerning the location and use of bikeways, greenways, the bus system, and other forms of transportation as alternatives to the automobile.
 - H.2 Work to promote increased coordination of University access concerns within the Alternative Transportation Plan.
- I. Driveway cuts along major streets and roads shall be limited to allow these streets to serve primarily as safe traffic movement corridors or, alternatively, to maximize curb frontage for on-street parking.
 - I.1 Periodically evaluate the Town's driveway regulations to minimize driveway cuts onto area streets.
- J. Private roads serving multiple uses shall be discouraged in new developments, except where public performance standards can be met, and when provisions for continued maintenance are assured.
- K. The Town shall encourage the development and use of park and ride lots at the edge of Town when and where demand warrants.
 - K.1 Plan for park and ride lots on the perimeter of Town.
- L. All future road construction within the Town shall be examined for bike and pedestrian feasibility. Wherever possible, compatible bike lanes and pedestrian walkways shall be implemented in conjunction with accompanying road construction.
 - L.1 Facilitate the development of central medians in the Town's main roadways to assist in the creation of safe pedestrian crossings.
 - L.2 Explore funding options for business, pedestrian, car, and bike friendly conversion of the center turn-lane of the new five-lane Hardin Street so as to enhance the character of the street and promote shared use by cars, businesses, the university, bikes, and pedestrians.
 - L.3 Work with NCDOT when planning new roadways or roadway improvements. Stress the importance of bike and pedestrian ways, bike and pedestrian crossings, and landscaping.
- M. Continued improvement and appropriate expansion of regional air facilities shall be encouraged and supported.
 - M.1 Continue to support transportation projects which improve access to regional air facilities.

2.2 INFRASTRUCTURE

2.2.2 Utilities

- A. Extensions of water and/or sewer services that could result in scattered, non-directed development and costly provision of other urban services shall be prohibited.
- B. Water and sewer services shall be concentrated within the limits of a geographically defined Urban Growth Area. The Primary Growth Area shall receive first priority for the provision or enhancement of water and sewer services.
 - B.1 Continue to monitor water consumption at the Boone Water Treatment Plan with an eye toward planning for expansion of the facility when appropriate.
- C. The Town shall consider the highest level of participation in the cost of providing water and sewer services within the Primary Growth Area with the next highest level of participation considered for the Secondary Growth Area.
- D. Water and sewer services shall not be extended to properties in the Rural Area (outside the Urban Growth Area). Exceptions to this policy may include the provision of services to other local governments, cooperative agreements on major economic development initiatives, and extensions needed to address imminent public health problems or related environmental hazards.

- D.1 Establish revised written water and sewer service extension policies consistent with the designated growth area on the Growth Strategy Map of this plan. Coordinate with the County in assessing water and sewer needs in the areas of the county that are already facing significant development pressures, and that are supportive of an organized, planned growth strategy.
- E. The Town shall employ incentives to encourage a concentration of intense urban type development within the Urban Growth Area.
 - E.1 Establish an incentive program to encourage development within the Urban Growth Area.
- F. Area-wide cooperation and support shall be sought in bringing in alternative utility services to the Boone Area.
 - F.1 Consider the establishment of an "Alternate Energy Commission" to address this and other energy issues on an on-going basis.
- G. Long range planning for a possible stormwater collection and treatment system shall be supported, including the development of financial and regulatory strategies.
 - G.1 Prepare a community-wide stormwater management strategy to address the future implementation of NPDES Phase II program requirements.

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2.2 INFRASTRUCTURE

2.2.5 Environmental Health

- A. Development on ridgetops and excessive slopes shall be strongly discouraged. Where development is allowed, stringent performance standards shall be met.
 - A.1 Continue working on the preparation of hillside and ridge-top regulations for consideration and adoption of Town Council.
- B. Continued improvements to the public sewage collection and treatment facilities shall be supported, with priority given to servicing existing or planned densely developed areas where environmental and economic benefits can be realized.
- C. Development activities in the 100 year floodplain or near lakes or streams shall be carefully controlled. If development must occur, low intensity uses such as open space, recreation and adequately buffered agricultural or forestry activities shall be preferred.
- D. Runoff and drainage from development activities shall be of a quality and quantity as near to natural conditions as possible, with special emphasis given to critical watershed areas.
- E. Development which preserves the natural features of the site, including existing topography, streams and significant trees and vegetation, shall be reflected in the Town's Development Standards.
 - E.1 Consider the use of innovative zoning techniques such as density bonuses and transfer of development rights in exchange for preservation of significant environmental features.
- F. Recognizing the economic and environmental costs of commercial and residential stormwater runoff, innovative stormwater management techniques such as permeable sidewalks,, driveways, and parking areas shall be encouraged.
- G. The development of a comprehensive drainage and flood plain management plan, including public and private actions in support of plan implementation, shall be supported.
 - G.1 Develop and implement a comprehensive storm drainage plan and a flood management plan to include public and private implementation strategies. This plan should be coordinated with the Town's current activities with the Community Rating System (CRS) program to reduce flood insurance costs to the citizens of the Town of Boone.
 - G.2 Continue to evaluate necessary revisions to the Town's flood insurance rate maps.

- H. Local area requirements for solid waste disposal facilities shall be anticipated through advanced planning; facilities shall be located and designed so as not to adversely impact significant natural or man-made resources.
 - H.1 In cooperation with GDS, ASU and Watauga County, prepare a strategic action plan for solid waste facilities and programs in Boone, particularly concerning enhancement of reuse of containers and materials, recycling and waste reduction methods.
- I. The Town recognizes the need for a regional solution to the solid waste issue, and will support efforts toward that end.
 - I.1 Encourage and participate in a cooperative, regional solution to the solid waste problem in concert with organizations such as the High Country Council of Governments, and appropriate state agencies.
- J. Research and development of reuse, recycling, and resource recovery programs, whether public or private, shall be encouraged and supported.
- K. The Town shall encourage and set an example which promotes water and energy conservation, and the reduction of waste generation at the source.
- L. An anti-litter consciousness, beginning in the schools, and including the university, businesses and individual citizens and visitors shall be encouraged.
 - L.1 Establish a community-wide anti-litter campaign. Publicize the campaign through schools, local civic organizations, ASU service organizations and all local media outlets. Such a campaign could also be an item of focus for the Community Council.
- M. The location of hazardous waste storage and disposal facilities in the Boone planning area shall not be supported. Transportation of hazardous materials through Boone shall be discouraged. The location of propane storage tanks shall be carefully controlled to the extent permitted by state and federal law, as well as by state enabling legislation for local government regulation.
- N. Industries and activities producing excessive noise, odor, air, water and light pollution, or other harmful impacts, shall not be permitted, unless such adverse impacts can be clearly overcome through effective mitigation.
- O. Encourage use of low-impact habitat-friendly practices to achieve and maintain native species, including plants, wildlife and beneficial insects (such as pollinators) within private and public developments.
 - O.1 Use plans and investments to enhance the diversity, quantity and quality of habitats that are native, rare or declining.
- P. Ensure that landscape and pesticide management practices minimize impacts to the environment including impacts to pollinators.
 - P.1 Create a least toxic pesticide management plan for use by the Town which also can be distributed to the community as an educational tool.
 - P.2 Create a landscape management plan for the Town using best management practices that preserves, maintains and enhances native plant material selections which are also pollinator friendly.
 - P.3 Revise standards in the Unified Development Ordinance Appendix B to include pollinator-friendly plant material.

2.3 THE COMMUNITY

- A. Urban type development within the Urban Growth Area shall meet appropriate Town standards.

- A.1 Establish minimum architectural design standards for commercial development throughout the Town.
- B. Properly planned, mixed use developments that promote efficient provision of public services shall be encouraged within the Urban Growth Area.
- C. Funding for outside agencies and organizations serving the citizens of Boone shall continue to receive support consistent with area service needs and Town budget constraints.
 - C.1 Funding requests for outside agencies and organizations serving the citizens of Boone shall continue to be evaluated on an annual basis consistent with area service needs and Town budget constraints.
- D. Coordinated inter-governmental and university-town planning for urban area land use and development, transportation, utilities, recycling, environmental management, law enforcement, education, recreation, tourism and economic development shall be encouraged.
 - D.1 Involve appropriate agencies, organizations, and citizens in the preparation of community-wide function plans including, for example, a master parks plan, a small projects transportation committee, water treatment expansion planning, the recycling program, a storm water management plan, anti-litter campaign, and other specific plans.

2.3 THE COMMUNITY

2.3.1 Community Appearance

- A. Measures to improve the effectiveness of grading, landscaping and buffering standards for new and existing developments shall be encouraged.
- B. The significance of street trees in providing visual relief, summer cooling, improved air quality and livability shall be recognized through public policies and actions to encourage their planting and maintenance.
 - B.1 Expand scope and effectiveness of the Town's street tree planting program in close cooperation with student and citizen volunteer groups, power companies and other groups.
 - B.2 Implement Boone's street tree master plan. Prepare an inventory of existing street trees and other significant trees within the urban area. Coordinate with Boone's Walkways Long Range plan.
 - B.3 Amend the Town's site plan review standards to require new commercial and residential developments to plant trees in accordance with the Street Tree Master Plan and Walkways Long Range Plan.
- C. The significance of major roadway entrances into Boone as measures of community image and quality shall be recognized through building placement, landscape, signage and other visual improvements. The Town, along with private property owners and developers, shall work to jointly improve the appearance and design of major street corridors.
 - C.1 Prepare a strategic plan that addresses the problems of hazardous buildings, dilapidated buildings and visually unattractive property, beginning with an inventory of such places and establishing an action plan to change their appearance consistent with the High Country.
 - C.2 Contact NCDOT and request establishment of central medians along those major roadways in Boone which involve multi-lane facilities. Establish high priorities for locations where pedestrians must cross multi-lane facilities.
 - C.3 Prepare a plan for improving the appearance and function of at least one major highway corridor in Boone. Involve property owners, the Boone Area Chamber of Commerce, NCDOT, and appropriate local civic organizations on an advisory committee. The plan should include a review of landscaping and buffering requirements, signage, parking design standards, including parking

to the rear, all-around architecture, driveway cuts, build-to lines and setbacks, and other requirements along the entry corridor.

C.4 All of the items listed under Community Appearance should be part of a single beautification plan for coordination and effectiveness of efforts and for policy consideration by Town Council. The Town Community Appearance Commission should coordinate all plan elements, and actively seek the input of the community at large.

D. Sign policies and standards shall be periodically updated to enhance community identity and create a high quality business image.

D.1 Conduct a review of the Town's sign regulations with the goal to have a long term policy consistent with the appearance of the High Country, including greater use of ground signs and directory signs.

E. The Town shall encourage public, private, and utility company efforts to place utility wires underground whenever feasible.

E.1 Prepare a Master Plan for the placement of utilities underground in Boone, establishing priority areas, estimating costs, scheduling the plan's implementation, and assigning responsibilities.

E.2 Coordinate with NCDOT and utility companies on the burying of overhead utilities when any roadway widening project is proposed.

2.3 THE COMMUNITY

2.3.2 Community Character

A. The identification, restoration and active use of structures, buildings, monuments, and neighborhoods of historic or architectural significance shall be encouraged as a means of enhancing their economic and cultural value to the planning area.

A.1 Conduct on-going assessments of critical locations in community deserving special attention by the zoning Ordinance, in light of their high visibility, traffic impact, strategic location, or other unique features. Continue to encourage significant new public buildings and outdoor spaces to locate in these and other positions of visibility and strategic prominence. Encourage the private sector to do likewise.

A.2 Seek out locations of historical merit in the community, and prepare an action plan for their enhancement, rehabilitation, or relocation as may be necessary.

B. Multiple and appropriate adaptive reuse of historic resources shall be encouraged.

B.1 Amend development regulations to offer flexibility for restoration and active use of historic structures and other resources.

C. Wise development of the tourism potential of the area's architectural, historic, scenic and natural resources shall be encouraged.

C.1 Consider the placement of public art at appropriate locations in downtown, including murals.

D. The destruction of significant architectural, historic, scenic, natural and archaeological resources in the planning area shall be discouraged.

D.1 Carefully scrutinize proposed road widening to ensure that such actions do not destroy community and neighborhood character.

D.2 Continue to support the Town's tree preservation standards. Evaluate the effectiveness of the tree regulations since their establishment and amend them as necessary.

E. New development, redevelopment and rehabilitation of structures and sites shall occur in a manner which is consistent with the neighborhood and architectural context of the immediate area, and

supportive, whenever possible, of Boone's original community character as a High Country small town.

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2.3 THE COMMUNITY

2.3.4 Public Involvement

- A. Public involvement shall be encouraged in decisions concerning land use and development by making the public aware of proposed developments at the earliest opportunity, as well as fostering communication among developers, the Town, the County, the University, and the general public.
 - A.1 Offer continued support to the recently created Community Council. A number of appropriate issues for consideration by the committee are included among these implementation actions.
 - A.2 Maintain and update a mailing list of architects, engineers, surveyors, landscape architects, realtors, builders, developers and contractors for notification and distribution of changes in Town policies and regulations.
 - A.3 Encourage periodic articles in all available media outlets about land use decisions, how they are advertised, and how they are made. Continue school presentations by Town planning staff to explain land use and how it affects each citizen.
 - A.4 Post all zoning change requests, special use and variance requests to the Town of Boone web site with date of application and date of impending and completed actions. Explore the possibility of providing links to the Town web site from local newspaper online editions in which the Town posts public notices.
- B. Neighborhood and special area planning shall be encouraged to foster public involvement in the production of closely tailored, action oriented special area plans and programs.
 - B.1 Prepare at least two small area or neighborhood plans within the year.
- C. Specific functional plans and implementation tools shall be supported as part of the comprehensive planning program for the Town and County.
- D. Special committees, advisory panels, educational forums, public workshops, leadership seminars, town meetings and media contacts shall be encouraged and fostered to enhance the effectiveness of citizen involvement in community planning and action.
 - D.1 Hold an annual Town Meeting to hear citizen concerns about growth and development and the progress made. In addition to the annual Town Meetings, consider special workshops, open houses and a newsletter or annual report to keep citizens involved and informed about the future of the Town and the action being taken.

PLANNING BOARD REPORT/RECOMMENDATIONS

Per NCGS 160D-604(b), subsequent to initial adoption of a zoning regulation, all proposed amendments to the zoning regulation or zoning map shall be submitted to the Planning Commission for review and comment. If no written report is received from the Planning Commission within 30 days of referral of the amendment to that board, the Town Council may act on the amendment without the Planning Commission report. The Town Council is not bound by the recommendations, if any, of the Planning Commission. Per NCGS 160D-604(d), when conducting a review of proposed zoning text or map, the Planning Commission shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Commission shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the Planning Commission, but a comment by the Planning Commission that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.

Vote 1: The proposed amendment to the Town's zoning Ordinance ☐is OR ☐is **not** consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because:

Note 1

Vote 2: The Planning Commission recommends ☐approval OR ☐denial of Ordinance PL05272-110121 and believes ☐approval OR ☐denial is reasonable and in the public interest because:

Note 2

Note 1: describe elements of controlling land use plans and how the amendment is or is not consistent.

Note 2: briefly explain why, factors may include (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment.

TOWN COUNCIL ACTION

Per NCGS 160D-605, when adopting or rejecting any zoning text or map amendment, the Town Council shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the governing board was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan.

Vote 1: The proposed amendment to the Town's zoning Ordinance ☐is OR ☐is not consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because:

Note 1

Note 1: describe elements of controlling land use plans and how the amendment is or is not consistent.

Vote 2: The Town Council ☐approves OR ☐denies Ordinance PL05272-110121 and believes ☐approval OR ☐denial is reasonable and in the public interest because:

Note 2

Note 2: briefly explain why, factors may include (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment.



ZONING REVIEW – Boone, NC

PZD-1a: Review zoning requirements and identify restrictions that intentionally or unintentionally prohibit solar PV development. Compile findings in a memo. (Required)

To assist your community, the national solar experts at SolSmart have conducted a review of your community's zoning code to assess possible barriers (i.e. height restrictions, set-back requirements, etc.) and gaps related to solar PV development. Below, please find the outcome of their review. By reading the narrative, reviewing the example code language provided, and signing the statement at the bottom of the page, your community will satisfy PZD-1a and be one step closer to achieving SolSmart designation.

Potential barriers in current code language

Element	Section	Priority
Screening	15.23.01	Low (Screening requirements may increase the cost of installation)
Reviewer Comments		
There appears to be instances in the Unified Development Ordinance where screening is required for certain uses: “Utility facilities in or adjoining residential zoning districts must maintain district setback, be fenced (unless totally enclosed within a structure), and either be screened from view or designed to have a residential appearance.” http://www.townofboone.net/wp-content/uploads/2020/02/Art16_02202020.pdf If the town decides to develop regulations around solar, note that zoning codes do not need to address fencing or screening of ground-mounted systems – this is covered by the National Electric Code (NEC), which requires that ground-mounted systems be screened to protect wiring and prevent unwanted access. Ensuring compliance with the NEC in the permitting process is a recommended best practice, but additional screening requirements for purely aesthetic purposes unnecessarily add complications and cost to installations and are not recommended. Municipalities should ensure that they have adopted the most current version of the NEC.		
Examples		
More Permissive: Screening of Mechanical and Electrical Equipment: All exterior mechanical and electrical equipment shall be screened on all vertical sides at least to the height of the equipment it is screening and incorporated into the design of buildings to the maximum extent feasible. Equipment to be screened includes, but is not limited to, all roof-mounted equipment, air conditioners, heaters, utility meters, cable equipment, telephone entry boxes, backflow preventions, irrigation control valves, electrical transformers, pull boxes, and all ducting for air conditioning, heating, and blower systems. Screening materials may include landscaping or other materials that shall be consistent with the exterior colors and materials of the building. Solar energy systems are exempt from this screening requirement. (emphasis added) The Architectural Review Board or Landmarks Commission may reduce the height of the required screening based on the placement of the equipment on the roof, the existing height of the subject building and surrounding buildings, and the overall visibility of the equipment. (Santa Monica Zoning Code)		

Potential gaps in current code language

Element	Priority
Definitions	High (Establishing a clear foundation with an inclusive and comprehensive definition will prevent future misinterpretation.)
Reviewer Comments	
The zoning ordinance does not provide a definition for solar energy systems. Silence often creates uncertainty about the legality of various types of solar development, forcing local officials to make ad hoc determinations about the similarity of specific installations with other defined uses. When a community adds definitions and use permissions to its code, it eliminates this inadvertent barrier to solar development. Some municipalities define different types of solar so that they can be treated differently in the ordinances and so that the requirements and applicability are clear. Could your community's zoning code be made clearer by differentiating between rooftop solar and ground mounted solar, between large and small-scale systems, or between solar photovoltaic and solar hot water? While some municipalities choose to regulate based on size or energy capacity, solar technology is changing over time and becoming more efficient so that kW output will not always directly relate to system size/land use impacts. It is best practice to <u>differentiate by size (square ft., acreage, plot size) not capacity (kW or MW).</u> Additional Resources/Guidance: (SolSmart – Solar Energy: SolSmart's Toolkit for Local Governments – Planning, Zoning, and Development Regulations)	
Examples	
More permissive option: “Solar Energy System: An energy system that consists of one or more solar collection devices, solar energy related ‘balance of system’ equipment, and other associated infrastructure with the primary intention of generating electricity, storing electricity, or otherwise converting solar energy to a different form of energy. Solar energy systems may generate energy in excess of the energy requirements of a property if it is to be sold back to a public utility in accordance with the law.” (Renewable Energy Ordinance Framework, DVRPC) Less permissive option: “Solar Energy System: An energy system which converts solar energy to usable thermal, mechanical, chemical, or electrical energy to meet all or a significant part of a structure's energy requirements.” (Renewable Energy Ordinance Framework, DVRPC)	

Element	Priority
Accessory Use	High (Allowing solar as by-right accessory use will significantly reduce installation times and costs, which should encourage further development of solar energy.)
Reviewer Comments	
The zoning code does not clearly state that certain types/sizes of solar energy systems are considered accessory uses. It is best practice to list small rooftop solar energy systems as a by-right accessory use. By codifying in the zoning ordinance that accessory use solar PV is explicitly allowed by-right in all major zones, the community could receive credit for PZD-2b. Additional Resources/Guidance: (SolSmart – Solar Energy: SolSmart's Toolkit for Local Governments – Planning, Zoning, and Development Regulations)	
Examples	

More permissive:

“Solar Energy Systems as described in this Article are permitted in all zoning districts as an accessory use to a permitted principal use subject to the standards for accessory uses in the applicable zoning district and the specific criteria set forth in this article.” ([Renewable Energy Ordinance Framework](#), DVRPC)

Less permissive:

“Solar Energy Systems shall be considered an accessory use and permitted by right if mounted to an existing structure and if any percentage of the energy is used for one or more of the principal uses on the same lot.” ([Renewable Energy Ordinance Framework](#), DVRPC)

Element	Priority
Height	Moderate (Allowing the solar energy system to exceed the district’s maximum height limit is critical, especially to allow for solar energy systems to be installed where buildings may have already met the maximum building height. It is also important for system efficiency, as discussed below.)
Reviewer Comments	
It is a best practice to either exempt solar energy systems from height limits, or permit solar energy systems to exceed the maximum building height in all applicable districts by no less than 6 ft. For buildings that are already built to the maximum height limit – especially buildings with flat roofs - this may limit their ability to install solar. This is particularly critical on flat buildings, because solar installations on these structures are typically done at an angle to maximize system efficiency (generally at the same angle as the latitude at which the system is installed). Therefore, additional height is often necessary.	
Additional Resources/Guidance: (SolSmart – Solar Energy: SolSmart’s Toolkit for Local Governments – Planning, Zoning, and Development Regulations) (DVRPC – Renewable Energy Ordinance Framework)	
Examples	
Most permissive option: “For a roof-mounted system installed on a flat roof, the highest point of the system shall be permitted to exceed the district’s height limit of up to fifteen (15) feet above the rooftop to which it is attached.” (Renewable Energy Ordinance Framework , DVRPC)	
Less permissive option: “For a roof-mounted system installed on a flat roof, the highest point of the system shall be permitted to exceed the district’s height limit of up to six (6) feet above the rooftop to which it is attached.”(Renewable Energy Ordinance Framework , DVRPC)	

Element	Priority
Setbacks	Low (The town may want to consider allowing solar energy systems to encroach reasonably into the setback so that they can receive adequate sunlight to make them efficient.)
Reviewer Comments	
It is a best practice to allow ground-mounted solar energy systems a modest encroachment into the setback.	
(Massachusetts Dept. of Energy Resources, Model Zoning for the Regulation of Solar Energy Systems)	
Examples	
More permissive option:	

(1) Small- and medium-scale ground-mounted solar energy systems accessory to principal use may be located no closer than [1/2 of the setback that would otherwise apply] from the front, side or rear lot line. All ground-mounted solar energy systems in residential districts shall be installed either in the side yard or rear yard to the extent practicable (Massachusetts Dept. of Energy Resources, [Model Zoning for the Regulation of Solar Energy Systems](#))

Less permissive option:

(2) Small- and medium-scale ground-mounted solar energy systems accessory to a principal use may be located no closer than [twenty (20) feet] from the front, side or rear lot line. All ground-mounted solar energy systems in residential districts shall be installed either in the side yard or rear yard to the extent practicable. (Massachusetts Dept. of Energy Resources, [Model Zoning for the Regulation of Solar Energy Systems](#))

Element	Priority
Historic Districts/Properties	Low
Reviewer Comments	
How would the community regulate solar PV in historic districts/properties? Review processes will add time and added labor cost through delayed installations, so municipalities should attempt to make solar provisions for historic districts minimally restrictive.	
Additional Resources: [Installing Solar on Historic Buildings – North Carolina Clean Energy Technology Center and the National Trust for Historic Preservation]	
[SolSmart – Solar Energy: SolSmart’s Toolkit for Local Governments – Planning, Zoning, and Development Regulations]	
Examples	
City of Plano, TX – Heritage Resource District Design Guidelines (pg. 65) - “Historic district. Solar energy systems in historic districts should be designed, sized, and located to minimize their effect on the character of historic buildings. a. Place solar energy systems to avoid obscuring significant features or adversely affecting the perception of the overall character of the property. b. Minimize visual impacts by locating solar energy systems back from the front facade. c. Consider installing solar energy systems on an addition or secondary structure where applicable. d. Use the least invasive method feasible to attach the solar energy system to a historic roof such that it avoids damage to significant features and historic materials and can be removed and the original character easily restored. e. All solar energy systems within the historic district require a Certificate of Appropriateness from the Historical Commission [or equivalent]”	

Element	Priority
Lot Coverage/Impervious Surfaces	Moderate (Counting solar energy systems as lot coverage could limit the implementation of solar systems, especially if many of the current lots at or are near the maximum lot coverage allowed under the code.)
Reviewer Comments	
It is a best practice to exempt solar ground-mounted systems from lot coverage if the ground beneath the system is pervious (e.g. grass). If the town would like to limit the size of ground-mounted systems, there are other mechanisms (e.g. setbacks) which can limit the size, location of ground-mounted systems on a	

lot and its distance from adjacent parcels.

Examples

Most Permissive:

“For purposes of determining compliance with building coverage standards of the applicable zoning district, the total horizontal projection area of all ground-mounted and free-standing solar collectors, including solar photovoltaic cells, panels, arrays, inverters, shall be considered pervious coverage so long as pervious conditions are maintained underneath the solar photovoltaic cells, panels, and arrays.” ([Renewable Energy Ordinance Framework](#), DVRPC)

Less Permissive:

“For purposes of determining compliance with building coverage standards of the applicable zoning district, the total horizontal projection area of all ground-mounted and free-standing solar collectors, including solar photovoltaic cells, panels, arrays, inverters and solar hot air or water collector devices, shall be considered ___% impervious coverage. For example, if the total horizontal projection of a solar energy system is 100 square feet, XX square feet shall count towards the impervious coverage standard. For a tracking array or other moveable system, the horizontal projection area shall be calculated at a 33 degree tilt angle.” ([Renewable Energy Ordinance Framework](#), DVRPC)

Element	Priority
Non-conforming use	Low (Preventing of solar energy systems on non- conforming structures could limit the locations where solar may be installed. If the town has many buildings/structures that are non- conforming, this may become a higher priority.)

Reviewer Comments

It is not clear from the code whether installing a solar energy system on a non-conforming structure would be permitted. Clarifying this point would make the ordinance more solar-friendly. It is a best practice to permit solar installations on nonconforming structures, so long as the installation of solar on these structures does not in any way further the nonconformance.

Examples

Option A:

Pre-Existing Non-Conforming Uses and Structures 1.1 Improvements that do not change the use or the basic exterior characteristics or appearance of the building or structure are allowed. Such improvements include but are not limited to the following: Installation or replacement of solar energy systems. (Massachusetts Dept. of Energy Resources, [Model Zoning for the Regulation of Solar Energy Systems](#))

Option B:

(3) Permitted accessory equipment. Rooftop photovoltaic solar systems shall be deemed permitted accessory equipment to [residential and commercial] conforming and nonconforming buildings and structures in all zoning categories. Nothing contained in this chapter, including design standards or guidelines included or referenced herein, shall be deemed to prohibit the installation of rooftop photovoltaic solar systems as accessory equipment to conforming and nonconforming buildings, including buildings containing nonconforming uses. (Broward County, FL, [Zoning Ordinance](#))

Element	Priority
Principal Use Solar	Low

Reviewer Comments

If the town has enough usable land that could be developed for a principle use solar system (large-scale/utility-scale), it might consider adding some zoning considerations and development requirements into the zoning ordinance. This could be of interest in there is a brownfield site such as a landfill available for development.

Examples

See Example #2 on page 13 (Site Plan Review provisions for large-scale ground-mounted solar energy systems) in the [Model Zoning for the Regulation of Solar Energy Systems, MA DOER](#)

Additional notes

The Town of Boone Code of Ordinances and Unified Development Ordinance are silent regarding the use of solar energy. They do not provide basic information about the use of energy - including a purpose, definitions, general regulations including clarification on accessory use and primary use solar. Including basic information about solar energy improves transparency of processes and clarity of development requirements and can enhance the growth of the local solar market in an organized and efficient manner.

From review, I also found that there are many opportunities for the town to receive points for various SolSmart criteria. Here are a few of them:

By exempting rooftop solar PV from certain restrictions such as height limits, Boone could receive credit for PZD-10b. By permitting small ground-mounted solar PV as an accessory use in at least one zoning district, the town could receive credit for PZD-10a. By exempting small ground-mounted solar PV from certain restrictions on accessory uses such as setbacks, lot coverage/impervious surface calculations, the town could receive credit for PZD-10c. By establishing a clear regulatory pathway for primary use solar PV, the town could earn credit for PZD-12a. By providing clear guidance for the installation of solar PV in historic district/on historic properties, the town could earn credit for PZD-4.

In terms of next steps, this zoning review could be formally presented to the Boone planning commission or relevant zoning body. Based on the zoning review findings and the dialogue from this Planning Commission meeting, town planners could then draft proposed language for changes to the zoning code. If these two steps are taken and documented via meeting minutes and/or a memo, Boone would receive credit for PZD-1b and PZD-1c. If you have any questions on the findings of this zoning review or would like additional guidance as you craft proposed language, please reach out to me, David Golembeski (SolSmart Technical Assistance provider to Boone) at dgolembeski@solarfound.org.

I, _____, as _____ of _____, _____
[Name] [Title] [Community] [State]

have received the zoning review and read its findings.

Signature _____

Date _____

Russell County Virginia

"The Heart of Southwest Virginia"

Harry Ferguson
At-Large

Tim Lovelace
District 1

Lou Ann Wallace
District 2

Rebecca Dye, Chairperson
District 6

Steve Breeding, Vice-Chairman
District 5

Carl Rhea
District 3

David Eaton
District 4

Lonzo Lester
County Administrator

INTEROFFICE MEMORANDUM

Date: April 23, 2019

To: **RC Building Official Department**

From: Lonzo Lester
County Administrator

Subject: **Best Practices for Solar PV Permitting and Inspection Training**

The Russell County's Human Resources Department has documented that Mickey Rhea, Building Inspector and Bridgett McGlothlin, Building Inspector Technician has completed the Best Practices for Solar PV Permitting and Inspections Training online on April 18, 2019 in your training file.

The following Best Practices for Solar PV Permitting and Inspection Training sessions were completed:

- [Best Practices for Solar PV Permitting & Inspection \(session 1, permitting I\)](#) (P-8 when taken with session 2, below; I-1 when taken with sessions 2 and 3 below)
- [Best Practices for Solar PV Permitting & Inspection \(session 2, permitting II\)](#) (P-8 when taken with session 1, above; I-1 when taken with sessions 1 above and 3 below)
- [Best Practices for Solar PV Permitting & Inspection \(session 3, inspection I\)](#) (I-1 when taken with sessions 1 and 2 above)

We appreciate your time and dedication to participate in this training for the Building Official Department.

Sincerely,

Lonzo Lester

Lonzo Lester, MBA, CPC, VCO
County Administrator



October 9, 2020

SolSmart
1110 Vermont Ave NW, Ste 930
Washington, DC 20005

RE: **Insert Credit(s)** (e.g. P-8; P-9; I-1) Training Credit

Dear SolSmart,

This memo is to inform you that the **Insert Dept. Name(s)** Department for **Insert Community Name** has completed training required for credit **Insert Credit title** (e.g. P-8; P-9; etc.). The training was completed on **Insert date M/D/YYYY** with the following employees attending: **Insert Name(s), Title(s)**. All of these employees oversee review permit materials and issue permits. The following courses were completed:

- **Insert title of each training video or course, include hyperlink**
- **Insert title of each training video or course, include hyperlink**
- **Insert title of each training video or course, include hyperlink**

Include brief summary of the training(s) and community's key takeaways.

Please let me know if any additional documentation is required for the credit.

Sincerely,

Add Electronic or Written Signature

Insert Name, Title, Community Name

Insert Community Contact Information: Name, Address, Phone Number, Web Address, etc.

[Insert Community's
Logo/Letterhead here]



Solar Photovoltaic Installation Permitting Checklist

This basic, pre-submittal checklist below contains the minimum information and project plan details required to be submitted to [insert community name] when applying to install a solar photovoltaic (PV) system (residential or small commercial). The intent of using the checklist is to provide transparent and well-defined information to minimize the number of required revisions and expedite the application and review process.

In order to process your permit application in an expeditious manner you must provide *all* the required information regarding your proposal. Incomplete applications will take significantly longer to process.

The applicant (owner or system installer on behalf of owner) must complete the following steps:

- ☐ Complete the following permit application form(s):
 - Building Permit form: [Insert link to permit form\(s\) here](#)
 - Electrical Permit form: [Insert link to permit form\(s\) here](#)
- ☐ Assemble the following supporting documents:
 - ☐ Site Plan
 - Must include location of major components on the property. This drawing need not be exactly to scale, but it should represent relative location of components at site. PV arrays in compliance with [IRC fire setback requirements](#) need no separate fire service review.
 - ☐ Electrical Worksheets
 - Electrical worksheets should show: PV array configuration; wiring system; overcurrent protection; inverter; disconnects; required signs; AC connection to building; and attachment detail for roof mounted or footing details for ground-mounted systems. See supplied [standard electrical diagrams](#).
 - ☐ Spec. Sheets & Installation Manuals
 - Include specification sheets and installation manuals (if available) for all manufactured components including but not limited to PV modules, inverters, combiner box, disconnects, and mounting system.
- ☐ Assemble fees for building permit, note the following:
 - These fees are list at [Insert link here, if applicable](#)
 - Fees are due upon submittal of application
 - Accepted methods of payment include:
- ☐ Assemble fees for electrical permit, note the following:
 - These fees are listed at [Insert link here, if applicable](#)
 - Fees are due upon submittal of application
 - Accepted methods of payment include:
- ☐ Prepare method of delivery and submit application. [Acceptable delivery methods](#) to submit application include:
 - Email all materials to: [Insert Email Address](#)
 - Mail all materials to: [Insert Mailing Address](#)
 - Deliver in person at: [Insert Address](#)
 - Hours of operation: [Insert Hours of Operations](#)

Review Process Timeline

The Building/Planning Department is committed to providing timely review of solar PV permit applications. Best efforts are made to review completed one and two-family dwelling solar permit application within [Insert how many days](#) and commercial/non-residential permit application within [Insert how many days](#). These turnaround times are typical, not guaranteed. The community a staff of dedicated individuals, but workloads, vacations, and sick leave can cause unforeseen delays that may impact turnaround time.

Commented [DG1]: If the community requires no more than one permit application form for small rooftop solar PV, it can receive credit for SolSmart Credit P-4, worth 5 points.

Commented [DG2]: Add or delete required documents as necessary

Commented [DG3]: If the community provides a streamlined process for solar PV permit submission and approval, it can receive credit for SolSmart Credit P-11, worth 20 points.

Commented [DG4]: If the community processes small rooftop solar PV permits in 10 business days or fewer, it can receive credit for SolSmart Credit P-6, worth 10 points.

If the community processes small rooftop solar PV permits in 3 business days or fewer, it can receive credit for SolSmart Credit P-2, worth 20 points

[Insert Community's
Logo/Letterhead here]

Scheduling an Inspection

After your solar system is installed, an inspection is required. **XX (number of inspections)** inspections are required for accessory use solar PV. Information on how to request an inspection is available [here](#).

Expect a wait of **xx** days for an inspection. Times may vary depending on staff workload and complexity of the application.

Contact Information

If you have any questions, please call **Insert Phone Number Here**.



Commented [DG5]: If the community requires no more than two inspections for accessory use solar PV, it can receive credit for SolSmart Credit I-2, worth 10 points.

Commented [DG6]: If the community completes inspections within 5 business days after inspection request, it can receive credit for SolSmart Credit I-5, worth 10 points.



Permitting Checklist for Installing Solar on your Home or Business

Adding solar panels to your home or business can be intimidating. Use this checklist to facilitate an easy installation. If you have questions along the way, contact Construction Review at 574-3321 or the Office of Sustainability at 574-6285.

Ground-mounted systems only require an electrical permit. Roof-mounted systems require an electrical permit and a simplified building permit. Follow the checklists below to ensure proper documentation when applying for permits to install your solar array.

Checklist for Ground-Mounted Solar Installations

- ☐ Obtain an electric permit. Electrical permits are issued the same day as the application is submitted. Submit an electrical permit application using the appropriate method:

Permit Applicant	Method for Submitting Electrical Permit Application
Property Owner	In person at the permitting office located at 444 S 5th Street
Licensed Contractor	In person at the permitting office located at 444 S 5th Street or Mail this application to Develop Louisville Permits, 444 S 5th Street, Louisville, KY 40202 or Complete the application through the online permitting system

- ☐ Pay the permit fee. Fees for electrical permits start at \$50. Exact cost is confirmed during the review and payments are required at the time of permit issuance.
- ☐ Pass inspection. Request an inspection of your completed installation. Information on how to request an inspection is available on Construction Review's [Request an Inspection webpage](#). Expect a wait of three to four days for an inspection. Times may vary depending on staff workload and complexity of the application.

More information on electrical permits is available on Construction Review's [Electric Permits webpage](#).



OFFICE OF
SUSTAINABILITY
A Division of Develop Louisville

Checklist for Roof-Mounted Solar Installations

- ☐ Obtain an electrical permit. Electrical permits are issued the same day as the application is submitted. Submit an [electrical permit application](#) using the appropriate method:

Permit Applicant	Method for Submitting Permit Application
Property Owner	In person at the permitting office located at 444 S 5th Street
Licensed Contractor	In person at the permitting office located at 444 S 5th Street or Mail the application and any supporting documentation to Develop Louisville Permits, 444 S 5th Street, Louisville, KY 40202 or Complete the application through the online permitting system

- ☐ Obtain a simplified building permit. Most simplified building permits can be obtained the same day the application is completed. Anticipate four to five business days for complete review and issuance of the simplified building permit. Submit the following information using the appropriate method listed in the table above:

- ☐ [An application](#)
- ☐ A simple diagram drawn to scale of the roof with panels shown in location and number. The diagram should also indicate the framing of the roof (e.g., 2x8's at 16" with 12' spans).
- ☐ Manufacturer's specifications (e.g., spec sheet) on the system including weight of the system and the attachment method.

Please Note: a structural engineer analysis will be required for very unique situations such as unusual framing or loading condition. This requirement will be determined on a case-by-case basis after the initial application.

- ☐ Pay permit fees. Fees for electrical permits and simplified building permits start at \$50 each. Exact cost is confirmed during the review and payments are required at the time of permit issuance.
- ☐ Request an inspection of your completed installation. Information on how to request an inspection is available on Construction Review's [Request an Inspection webpage](#). Expect a wait of three to four days for an inspection. Times may vary depending on staff workload and complexity of the application.



COMMUNITY DEVELOPMENT DEPARTMENT • PHONE: 651-792-7080 2660
CIVIC CENTER DR. • ROSEVILLE, MN 55113

ROOFTOP SOLAR PV PANEL PERMIT CHECKLIST

Instructions: Submit this fully completed checklist, accompanying information, and completed Electrical Permit application with a completed Building Permit Application as one application packet.*

Checklist

- ☐ Building Permit ([Online Portal](#) / [Residential PDF application](#) / [Commercial PDF application](#))
 - ☐ Electrical Permit. Submit with Building Permit. ([Online Portal](#) / [PDF application](#))
 - ☐ Basic site plan and details of location on roof or property (see Appendix 1 for examples)
 - ☐ Engineering documentation for structural load and wind resistance.
 - ☐ Proof of Structural Compliance.
 - MN Department of Labor & Industry: “[Standardized Load Tables Characterizing Residential Solar Thermal and Solar Electric Installations For Residential Structures in Minnesota](#)”
 - See Appendix 2 “Structural Review of PV Installation Mounting System & Roof”
-
- ☐ Process and application for conditional use permits may be found [here](#).

Application Submittal. Complete and thorough applications for small rooftop solar PV permits will be processed in 1 – 3 business days. The permit application may be submitted for review by way of any of the following methods.

- **Online Portal:** www.cityofroseville.com/epermits
- **In-person/Mail:** Community Development Office, 2660 Civic Center Drive, Roseville, MN 55113

Associated Fees. The city accepts payments in the form of Cash / Check / Credit Card.

Building Permit Fee: The building permit is 1.28% of the job valuation or a minimum of \$160.00.

Electrical Permit Fee: The electrical permit is a minimum of \$40.00, but changes upon the amount of service necessary for the system (based on amps), and the inspection fees.

Electrical Permit Service Fee: The City of Roseville works with an Electrical Inspector on contract, and their service fees are shown below.

<u>Contract Electrical Inspector Fees</u>	<u>2019 Amount</u>
0 – 5 kW	\$ 60.00
5.1 – 10 kW	\$ 100.00
10.1 – 20 kW	\$ 150.00
20.1 – 30 kW	\$ 200.00
30.1 – 40 kW	\$ 250.00
40.1 kW and larger	\$ 25.00 for each additional 10 kW

<u>Electrical Permit Fee Description</u> <i>(Services, changes for services)</i>	<u>2019 Amount</u>
Minimum fee	\$ 40.00
0 – 300 amp	50.00
301 – 400 amp	58.00
401 – 500 amp	72.00
501 – 600 amp	86.00
601 – 800 amp	114.00
801 – 1,000 amp	142.00
1,101 – 1,100 amp	156.00

Total Fees Example: The MN-average, 5.1kW, \$19,500 Residential Solar PV System Roseville would cost:

- **Solar/Renewable Energy Permit**
- Building Permit Fee: **\$249.60**
 - o $\$19,500 \times (1.28\% \text{ or } 0.0128)$
- State Surcharge Fee: **\$9.75**
 - o Use valuation box at <https://www.dli.mn.gov/about-department/building-permit-surcharge>
- Processing Fee: **\$4.99**
 - o $249.60 \times (2\% \text{ or } 0.02)$
- Contractor License Verification: **\$1.00**
- **Contractor Electrical Permit**
- Electrical Permit Fee: **\$100.00**
 - o 5.1 kW system
 - o Additional trip charges and fees may be required by the contract inspector.
- Processing Fee: **\$2.00**
 - o $100.00 \times (2\% \text{ or } 0.02)$
- Contractor License Verification: **\$1.00**

Total Fees: \$ 368.34

**Dependent on the valuation and service requirements for each installation.*

*NOTE: additional information may be requested during the review process.

Appendix 1: Basic Site Plan and Location Details

BUILDING CROSS SECTION

1, 2, 3, 4

Rafters: 2X4 rafters, spaced 16" on center;
Decking: 5/8" plywood;
Roof Cover: one layer asphalt shingles;
Lag Bolts: 1/2" bolts with 2 1/4" length

7

4'X8' Solar Panel module
raised 1', flush mounted to
roof with manufacturer
approved bracing/brackets

- (1) Roof construction
- (2) Rafter size
- (3) Rafter spacing
- (4) Bolt style, diameter, and embedment length
- (5) Rafter span dimension
- (6) Approximate roof slope
- (7) Mounted solar system

6

12.6' span

run

rise

5 4:12 pitch

span

ELEVATION

Flush-Mounted:

(collector surface is *parallel* to the roof surface)

Non-Flush-Mounted:

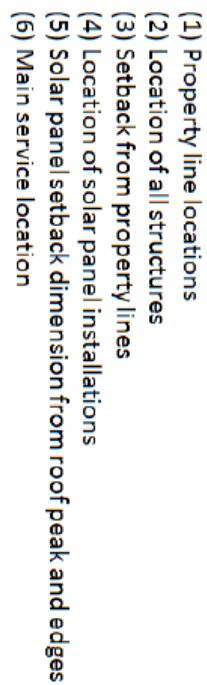
(collector surface is at an *angle* to roof surface)

1' difference between panel
surface and roof surface

5' difference between panel
surface and roof surface

1' difference between panel
surface and roof surface

45°



Appendix 2

Structural Review of PV Installation Mounting System & Roof

(MN DoLJ - Great Plains Institute's "Solar Permitting Toolkit for MN Municipalities")

1. Is the roof supporting the installation a pitched roof in good condition, without visible sag or deflection, no cracking or splintering of support, or other potential structural defect? YES ☐ NO ☐
2. Is the roof a rafter system*? ☐ YES ☐ NO
3. Is the equipment to be flush-mounted to the roof such that the collector surface is parallel to the roof?
☐ YES ☐ NO
4. Is the roofing type lightweight? ☐ YES (composition, lightweight masonry, metal, etc...) ☐ NO
5. Does the roof have a single layer roof covering? Yes No
 - If "No" to any of questions 1 -4 above, additional documentation may be required. Documentation may need to demonstrate the structural integrity of the roof and all necessary structural modifications needed to maintain integrity. A statement stamped by a Minnesota licensed/certified structural engineer certifying integrity may be needed. Contact the building official to determine submittal requirements.
6. Identify method and types of weatherproofing for roof penetrations (e.g. flashing, caulk):

7. Is the mounting structure an engineered product designed to mount PV modules with no more than an 18" gap beneath 1 module frames? YES ☐ NO ☐
 - If No, provide details of structural attachment certified by a design professional. Manufacturer's engineering specifications are sufficient to meet this requirement.
8. For manufactured mounting systems, fill information on the mounting system below**:
 - a. Mounting System Manufacturer _____
 - b. Product Name and Model # _____
 - c. Total Weight of PV Modules and Rails _____ lbs
 - d. Total Number of Attachment Points _____ (attachment points must be equally distributed across the array)
 - e. Weight per Attachment Point (c÷d) _____ lbs
 - f. Maximum Spacing between Attachment Points on a Rail _____ inches (see product manual for maximum spacing allowed based on maximum design wind speed).
 - g. Total Surface Area of PV Modules (square feet) _____ ft²
 - h. Distributed Weight of PV Module on Roof (c÷g) _____ lbs/ft²
 - o If the outcome of e. is greater than 45 lbs or h. is greater than 5 lbs/ft², a study or statement demonstrating the structural integrity of the installation, or a statement stamped by a Minnesota licensed/certified structural engineer, may be required. Contact the building official to determine requirements

*For truss systems, additional information may be needed to establish the truss' design loads. The SolarStruc Tool (<https://www.growsolar.org/wp-content/uploads/2012/06/Solarstruc-2.2.xls>) allows contractors to calculate truss capacity for solar installations. Contact building official for standards on when structural analysis will be needed.

**Attaching the rail to each rafter or truss that passes under the array, or to blocking installed between each support, may serve to mitigate for any structural uncertainties on older roofs or wind loading concerns. This approach was used by Minneapolis and Saint Paul based upon engineering studies conducted with their building stock. Contact the building official to determine requirements.

Residential solar PV system permit checklist

The applicant will review this checklist to ensure the application and plans are complete.

- ☐ Completed building permit application.
 - Flat fee: \$251
- ☐ Completed and paid for electrical permit application.
 - See electric permit fee schedule for fee
- ☐ Submit plans through ProjectDox.
- ☐ The fire department will be notified by the installer.
- ☐ Specification sheets and installation manuals for all manufactured components, including but not limited to, PV modules, inverter(s), combiner box, disconnects and mounting system.
- ☐ Complete structural review of PV installation mounting system and roof (See Appendix 1).
- ☐ Complete energy code compliance certificate.
- ☐ Complete scope of work.
- ☐ The system must be SRCC certified.

Minnesota rules (1325.1100 Solar Energy, Supb. 5a. Certification) states that solar collectors sold, offered for sale or installed in the state must bear a Solar Rating and Certification Corporation (SRCC) certification seal evidencing the manufacturer's compliance with the design, reliability, durability, safety, operation, servicing, installation and manual criteria contained in the Operation Guidelines and Standards in the Minnesota State Building Code (Documents OG-100, OG-300-95, and Standard OG-100-86) and must provide every prospective buyer with a copy of the certification award issued by the SRCC (<https://www.revisor.mn.gov/rules/?id=1325.1100>). The SRCC is part of the International Code Council (ICC). For more information about their certification programs or directory of certified products, visit <http://www.solar-rating.org/about/purpose.html>.
- ☐ The inspector will look for SRCC certified system during the inspection.
- ☐ All contractors must provide a copy/proof of their current Minnesota state license.

Applications meeting all requirements will be issued permits within three to five business days.

Additional documentation may be required due to variations and/or revisions of projects.

Appendix 1: Structural review of PV installation mounting system and roof

1. Is the roof supporting the installation a pitched roof in good condition, without visible sag or deflection, no cracking or splintering of support, or other potential structural defect? ☐ Yes ☐ No
2. Is the roof a rafter system*? ☐ Yes ☐ No
**For more information, visit the Minnesota Department of Labor & Industry website (<http://mn.gov/commerce-stat/pdfs/standardized-load-table-report.pdf>).*
3. Is the equipment to be flush-mounted to the roof such that the collector surface is parallel to the roof? ☐ Yes ☐ No
4. Is the roofing type lightweight (composition, lightweight masonry, metal, etc.)? ☐ Yes ☐ No
5. Does the roof have a single layer roof covering? ☐ Yes ☐ No

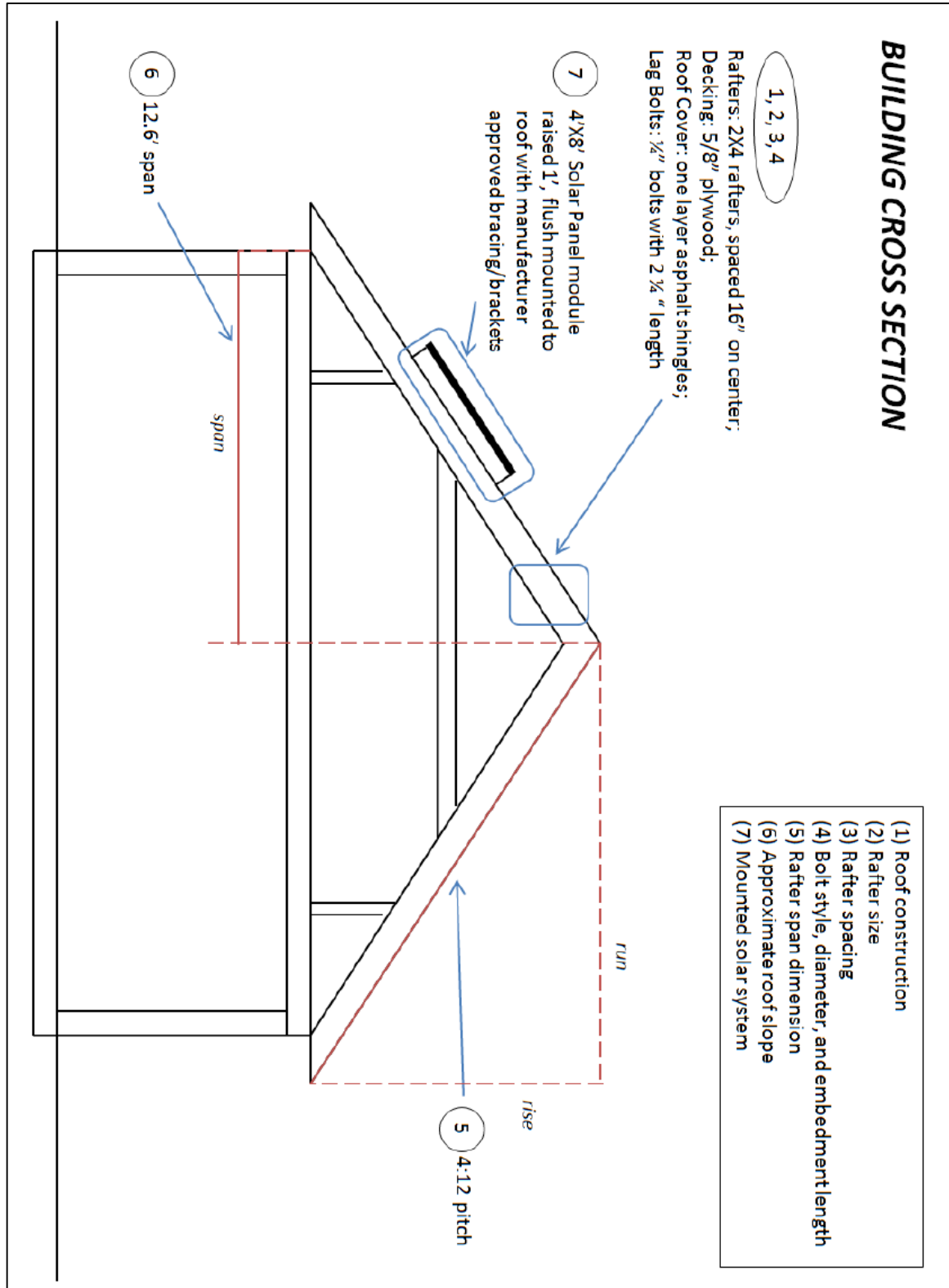
If you answered "No" to any of questions 1-4 above, additional documentation may be required. Documentation may need to demonstrate the structural integrity of the roof and all necessary structural modifications needed to maintain integrity. A statement stamped by a Minnesota licensed/certified structural engineer certifying integrity may be needed. Contact the building official to determine submittal requirements.

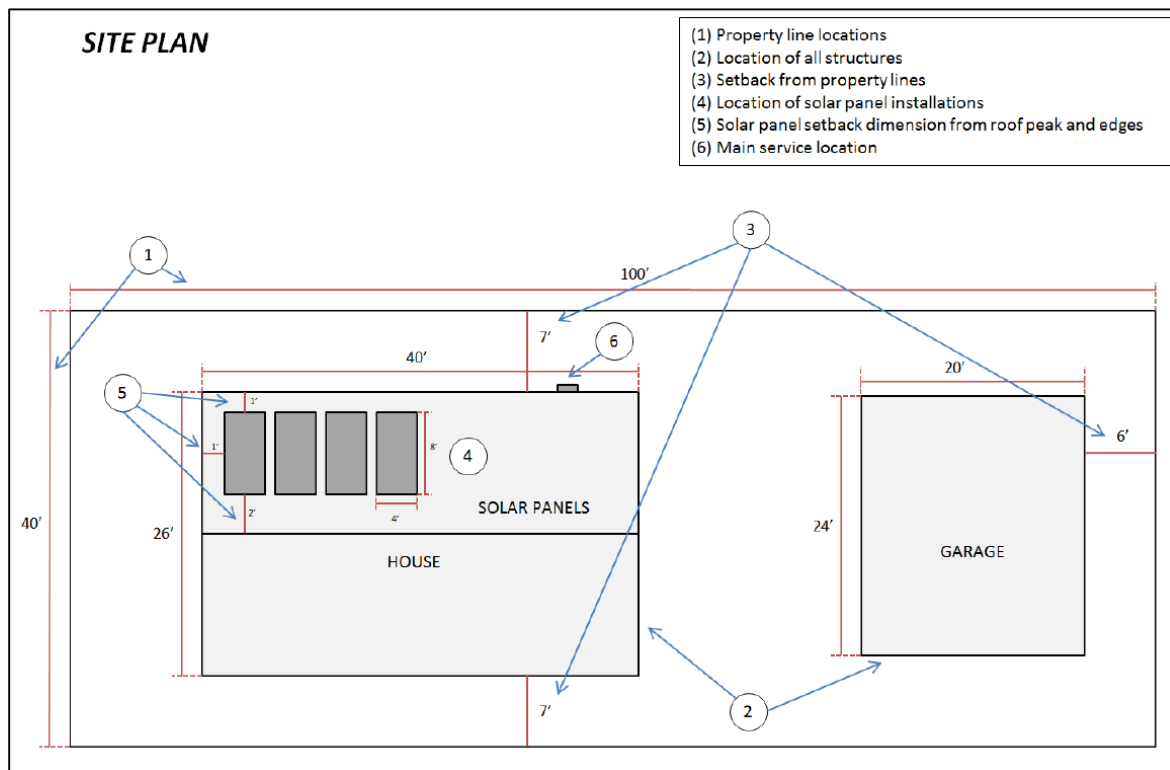
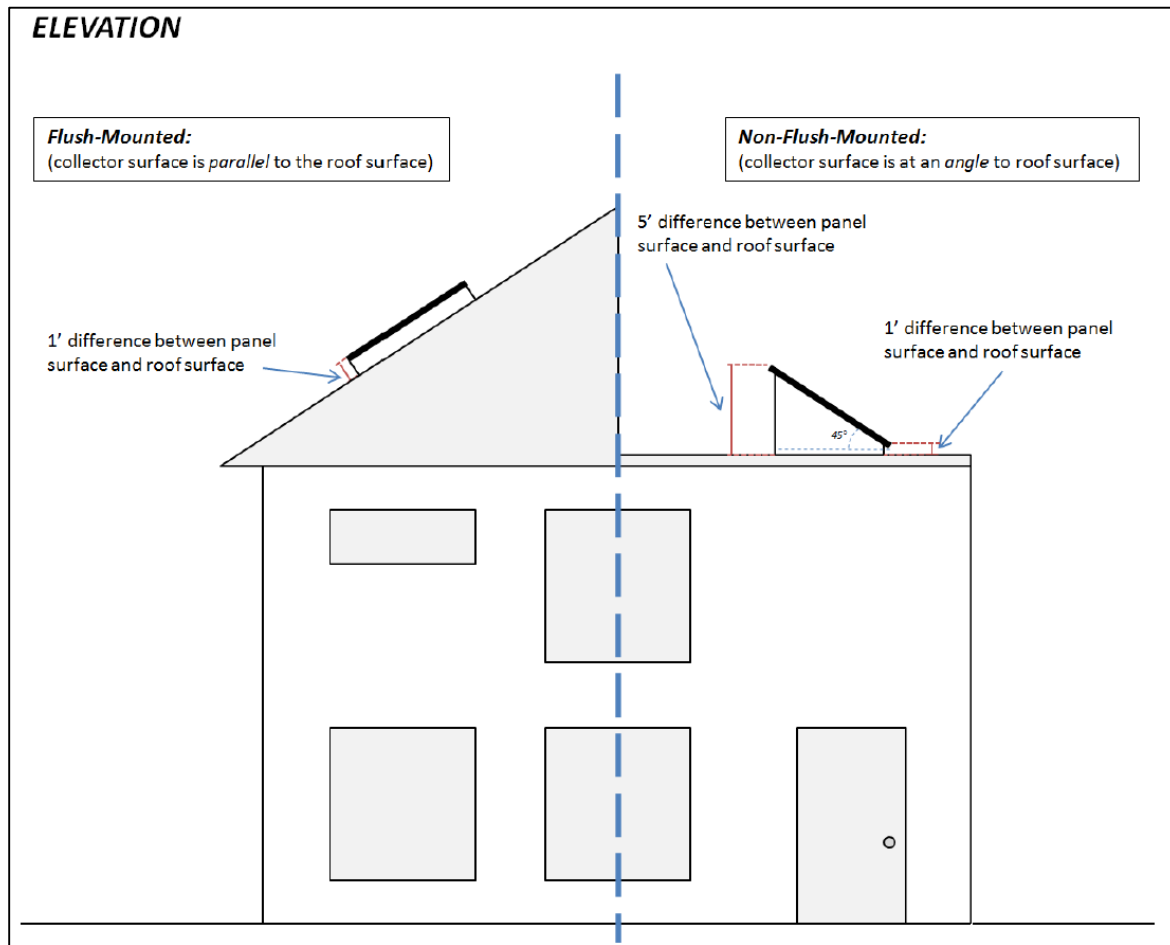
6. Identify method and types of weatherproofing for roof penetrations (e.g. flashing, caulk):

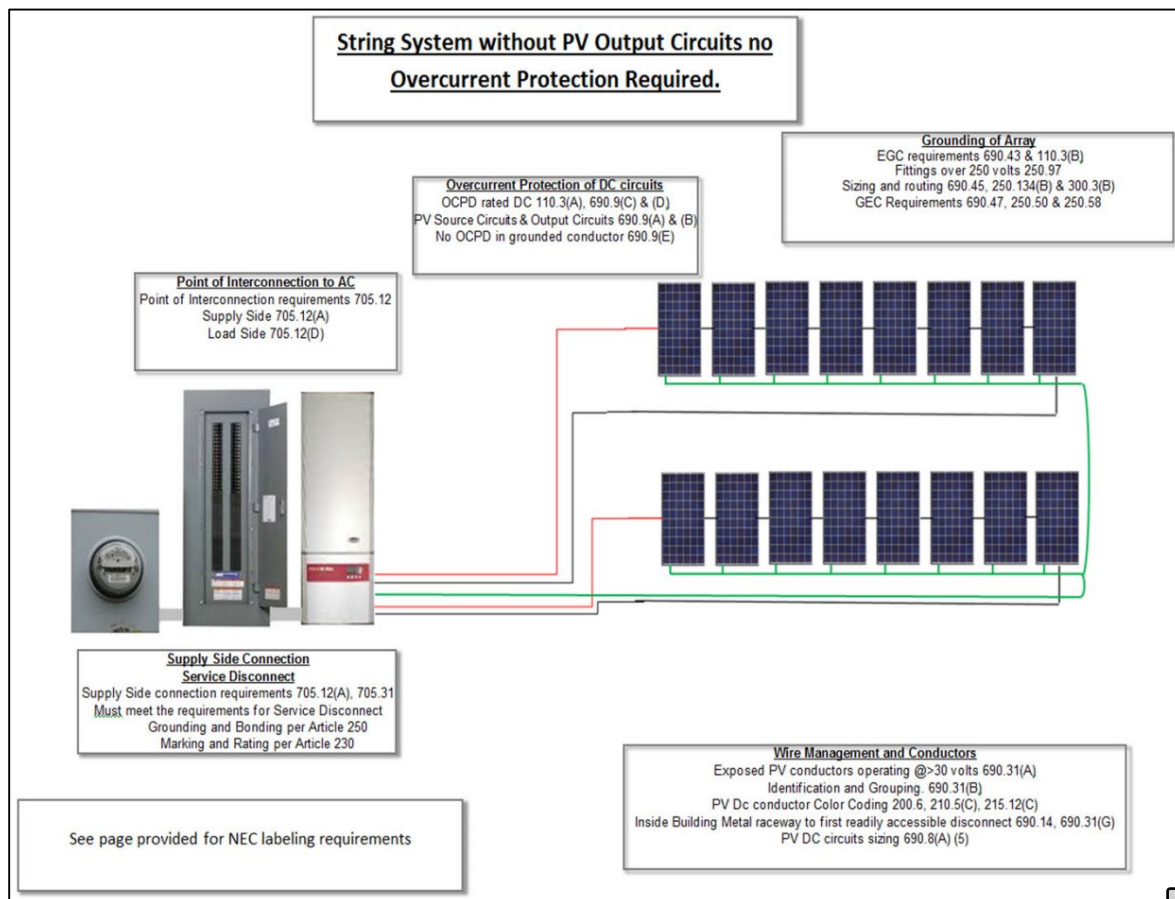
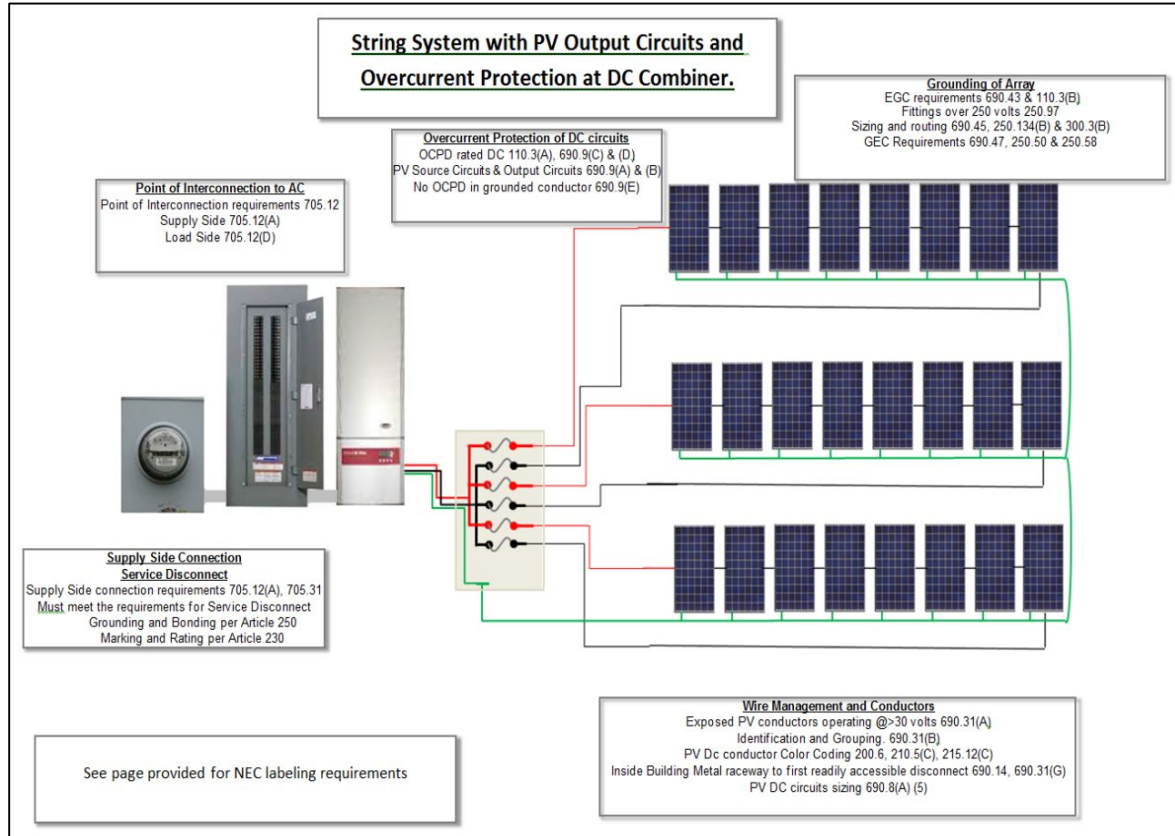
7. Is the mounting structure an engineered product designed to mount PV modules with no more than an 18-inch gap beneath the module frames? ☐ Yes ☐ No
 If No, provide details of structural attachment certified by a design professional. Manufacturer's engineering specifications are sufficient to meet this requirement.

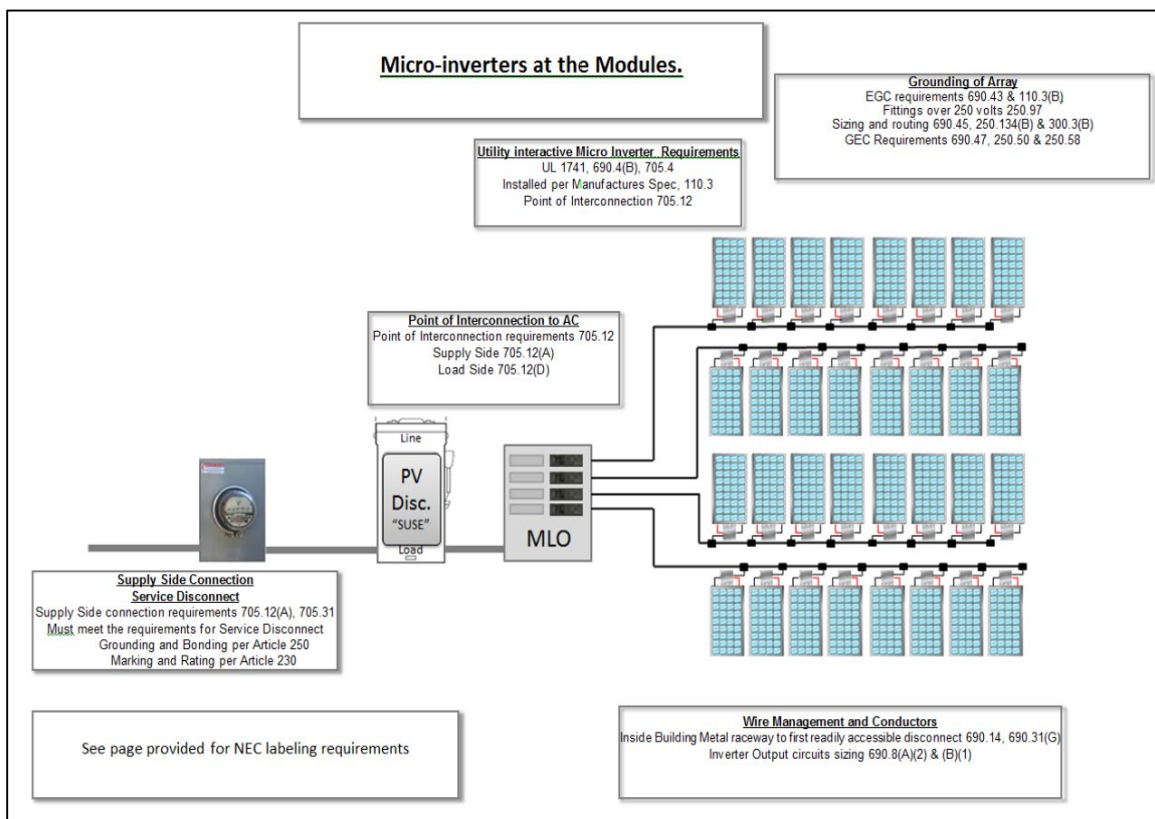
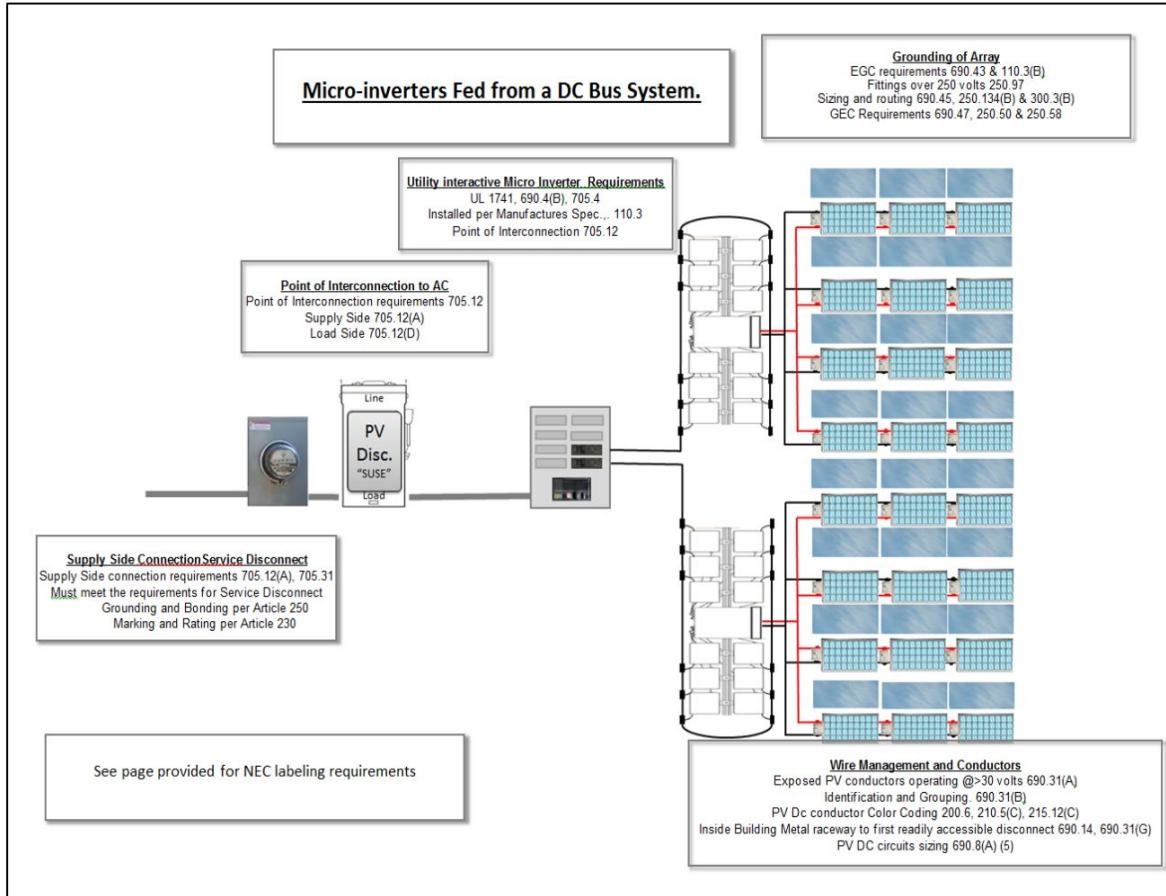
8. For manufactured mounting systems, fill information on the mounting system below:
 - a. Mounting system manufacturer: _____
 - b. Product name and model number: _____
 - c. Total weight of PV modules and rails: _____ pounds
 - d. Total number of attachment points: _____ (must be equally distributed across the array)
 - e. Weight per attachment point ($c \div d$): _____ pounds
 - f. Maximum spacing between attachment points on a rail: _____ inches (see product manual for maximum spacing allowed based on maximum design wind speed).
 - g. Total surface area of PV modules: _____ square feet
 - h. Distributed weight of PV module on roof ($c \div g$): _____ pounds per square feet
 - o If the outcome of "e." is greater than 45 pounds or "h." is greater than 5 pounds per square feet, a study or statement demonstrating the structural integrity of the installation, or a statement stamped by a Minnesota licensed/certified structural engineer, may be required. Contact the building official to determine requirements

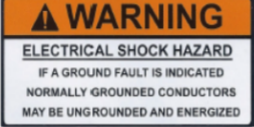
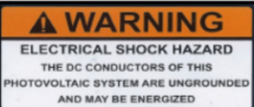
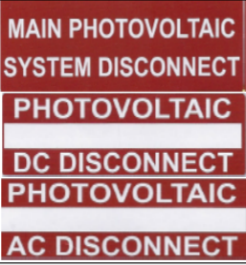
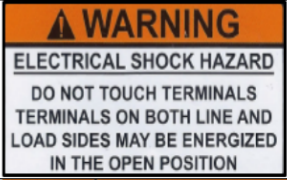
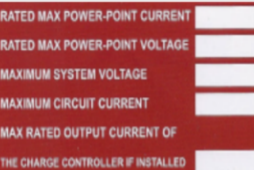
Appendix 2: Diagrams of complement permit applications









NEC Labeling Requirements					
Section	Location of Label	Label Text and Appearance		Location of Label	Label Text and Appearance
690.5(C)	Shall appear on the utility-interactive inverter or be applied by the installer near the ground-fault indicator at a visible location		690.54	All interactive system(s) points of interconnection with other sources shall be marked at an accessible location at the disconnecting means as a power source and with the rated ac output current and the nominal operating ac voltage.	
690.35(F)	Shall be labeled with the following warning at each junction box, combiner box, disconnect, and device where energized, ungrounded circuits may be exposed during service.		690.56(B) 690.4(D) 705.10 705.12(D)(3)	A permanent plaque or directory, denoting all electric power sources on or in the premises, shall be installed at each service equipment location and at locations of all electric power production sources capable of being interconnected.	
690.13(B) 690.15	Each PV system disconnecting means shall be permanently marked to identify it as a PV system disconnect.		690.17(E)	Where all terminals of the disconnecting means may be energized in the open position, a warning sign shall be mounted on or adjacent to the disconnecting means.	
690.53	A permanent label for the direct-current PV power source indicating the information specified in (1) through (5) shall be provided by the installer at the PV disconnecting means.		705.12 (D)(2)(3)(b)	A permanent warning label shall be applied to the distribution equipment adjacent to the back-fed breaker from the inverter.	
			705.12 (D)(2)(3)(c)	Permanent warning labels shall be applied to distribution equipment	
			690.56(C)	Buildings or structures with both utility service and a PV system, complying with 690.12, shall have a permanent plaque or directory. Stating:	
690.31(G)(3)	The following wiring methods and enclosures that contain PV power source conductors shall be marked: (1) Exposed raceways, cable trays, and other wiring methods (2) Covers or enclosures of pull boxes and junction boxes (3) Conduit bodies in which any of the available conduit openings are unused		690.31(G)(3)	Where circuits are embedded in built-up, laminate, or membrane roofing materials in roof areas not covered by PV modules and associated equipment, the location of circuits shall be clearly marked.	



PROGRAM GUIDE



WWW.SOLSMART.ORG

JANUARY 2021

SolSmart Program Guide:

Recognizing Local Solar Achievements!



Welcome to the SolSmart Program Guide, a comprehensive resource to guide local governments through the SolSmart designation and technical assistance process.

Why SolSmart?

Across the United States, communities are turning to solar energy for clean, reliable, and affordable electricity to power their homes and businesses. Rapidly declining prices for solar technologies have brought vast amounts of solar energy into the mainstream within a few short years. Millions of Americans now rely on solar to power the necessities of modern life.

In addition to keeping the lights on, solar energy provides many environmental, social, and economic benefits. It is a carbon-free electricity source that is an essential part of any strategy to reduce greenhouse gas emissions. An increasing number of communities are now using solar to meet climate change goals or renewable energy targets. At the same time, solar energy is a primary driver for job creation and economic growth. Interstate Renewable Energy Council's *National Solar Jobs Census* found that solar employs nearly 250,000 American workers as of 2019, and since 2010 the size of the solar workforce has grown by 167 percent.¹

Those who have taken advantage of the opportunity to install solar panels are finding that solar saves money. Homeowners, businesses, schools, and local governments are using solar energy to drastically reduce their utility costs. Meanwhile, in the face of costly natural disasters that threaten the reliability of the electricity grid, solar can be combined with battery storage to provide backup power and make communities more resilient.

Yet, solar "soft costs" have significant local impacts on the affordability of solar energy systems. "Soft costs" refer to business processes or administrative costs that can increase the time and money it takes to install a solar energy system — costs that are then passed on to customers. These costs arise due to sales and marketing, permitting processes, planning, and zoning considerations, financing, and a wide variety of other factors. Overall, these soft costs represent about 64% of the total cost of a solar energy system.²

To address solar soft costs at the local level, the U.S. Department of Energy's Solar Energy Technologies Office (SETO) funds [SolSmart](#), a national designation and technical assistance program. SolSmart recognizes local governments that have taken key steps to address barriers to solar energy and provides no-cost technical assistance to accelerate the development of local solar energy markets.

SolSmart benefits three primary stakeholders at the local level. The first is solar customers that can enjoy a greater return on their investment if soft costs are reduced. Cumbersome local government processes can add up to \$2,500 or more to the cost of a homeowner going solar.³ Second, local governments benefit from the time and money saved by cutting red tape and making processes more efficient. For example, providing more accessible information on permit and inspection processes can decrease the volume of questions from installers and the number of incomplete applications, thereby reducing demands on staff time. Finally, local solar companies benefit from transparent and standardized processes that reduce barriers to entering the market, reduce administrative costs, and improve customer satisfaction.

¹ Interstate Renewable Energy Council, *National Solar Jobs Census 2019*, February 2020, available at <http://www.solarjobscensus.org>

² U.S. Department of Energy, *Soft Costs Webpage*, available at <https://www.energy.gov/eere/solar/soft-costs>

³ Jesse Burkhardt et al., "How Much Do Local Regulations Matter? Exploring the Impact of Permitting and Local Regulatory Processes on PV Prices in the United States," *Electricity Markets & Policy*, September 2014, <https://emp.lbl.gov/publications/how-much-do-local-regulations-matter>.

As of June 2021, [more than 400 communities in 41 states plus the District of Columbia and U.S. Virgin Islands](#) have achieved designation as SolSmart Gold, Silver, or Bronze. The program's broad national reach is helping communities in all parts of the country make it faster, easier, and more affordable to go solar. The designation program is led by the International City/County Management Association, while the technical assistance program is led by Interstate Renewable Energy Council.

SolSmart Designation Criteria

SolSmart uses objective criteria based on established solar energy best practices to measure local government progress toward creating a solar-friendly community. Local governments that complete the necessary requirements are awarded SolSmart Bronze, Silver, or Gold Designation.



There are three levels of SolSmart designation for local governments.
Below are the requirements for each level

Bronze	60 Total Points	3 Pre-requisite Credits
	☐ 20 Points in Permitting & Inspection ☐ 20 Points in Planning & Zoning ☐ 20 Points from any Special Focus category	☐ Complete the Solar Statement (PR-1) ☐ Complete solar permitting checklist (PI-1) ☐ Complete zoning review (PZ-1)
Silver	100 Total Points	3 Pre-requisite Credits
	☐ Complete bronze designation requirements	☐ Complete permit staff training (PI-2) ☐ Complete inspection staff training (PI-3) ☐ Complete zoning clarification (PZ-4)
Gold	200 Total Points	2 Pre-requisite Credits
	☐ Complete silver designation requirements	☐ Complete permit turnaround time (PI-4) ☐ Complete solar in zoning (PZ-5)

Special Award: Communities that earn 60% of the available points in a category are eligible for special recognition.

The SolSmart Designation Criteria is organized into 5 categories – 2 Foundation Categories and 3 Special Focus Categories. Below you will find a summary of the 5 categories and the number of credits and available points in each category.

Foundational Categories

Permitting and Inspection		Planning and Zoning	
Credits: 20	Points: 205	Credits: 23	Points: 185

Special Focus Categories

Government Operations		Community Engagement		Market Development	
Credits: 10	Points: 160	Credits: 12	Points: 70	Credits: 10	Points: 155

Permitting and Inspection | 20 Credits | 205 Points

Most local governments have direct oversight of the permitting and inspection policies and procedures within their jurisdiction. Communities that implement permitting best practices provide solar developers and installers with a transparent, efficient, and cost-effective approval process. Well-trained staff and completed permit applications can reduce staff time needed to review permits which allows them to focus on other priorities. Clear inspection procedures ensure compliance with applicable state and local codes while protecting public health and safety. *Many of the credits in the permitting and inspection category can be verified by providing information in a detailed permitting checklist. That publicly available document should be backed up by internal standard operating procedures that ensure a transparent and efficient permitting and inspection process.*

Planning and Zoning | 23 Credits | 185 Points

Local government planning and zoning regulations can help facilitate the rapid expansion of solar energy within a community while ensuring compliance with development standards. Communities can utilize planning and zoning regulations to provide maximum siting options for rooftop and ground-mounted solar energy while preserving community character and historic resources. Incorporating solar energy in local planning documents sets a community's vision for the integration of solar energy with other land uses. Zoning codes should contain language that provides clear and transparent regulations on the development and use of solar energy within the jurisdiction. *Many of the credits in the planning and zoning category can be verified by providing a link to a community's codes, ordinances, and community plans.*

Government Operations | 10 Credits | 160 Points

Local governments can lead the way by installing solar energy on public facilities and land. Communities can engage with their local utility to discuss goals for solar energy, net metering, interconnection, and community solar. These actions are high impact that can directly lead to more megawatts of solar energy on the local grid. *Many of the credits in the government operations category can be verified by providing documents demonstrating installed solar capacity such as news articles about solar installations, dashboards/metrics showing solar production, and contracts that demonstrate solar project construction.*

Community Engagement | 12 Credits | 70 Points

Local governments are an important and trusted source of information for residents, businesses, and solar installers. Posting information on the local government's website, providing public education, and engagement opportunities can help residents and businesses interested in solar energy make informed decisions. *Many of the credits in the community engagement category can be verified on a local government's solar webpage by providing information about a community's solar energy goals and processes in one centralized location.*

Market Development | 10 Credits | 155 Points

Local governments can collaborate and partner with organizations to promote solar development within their jurisdiction. Supporting a community solar program, promoting a solarize group-buy campaign, or partnering with a local financial institution can make solar energy more affordable and accessible for homes and businesses while improving business opportunities for solar installers. *Many of the credits in the market development category can be verified by providing news articles about the local governments role in supporting solar development or by providing official documents that established policies or programs.*

SolSmart Technical Assistance and Designation Process

Any local government, regardless of previous solar experience, is eligible for SolSmart designation.

The first step for any local government interested in pursuing SolSmart designation is to connect with one of our technical assistance providers through a [consultation call](#). During this call, our technical assistance providers (TA provider) will describe the program and process, learn about a community's solar goals, and identify the applicable SolSmart Designation Criteria for the local government. The consultation call and all technical assistance is provided at no-cost because of a grant through the U.S. Department of Energy.

Once the local government decides to pursue SolSmart designation, they need to complete a Solar Statement and return it to a technical assistance provider. The Solar Statement demonstrates the community's commitment to work with the SolSmart team and achieve designation.

The local government then work with the TA provider to conduct a baseline assessment of the community's solar processes. This analysis helps determine how close the community is to designation and identifies what technical assistance pathway will achieve designation. After the baseline assessment, with guidance from the SolSmart team, the local government should complete any pre-requisite credits needed to achieve designation.

The local government may need to complete additional credits to be ready to submit for designation. In this case, the credits should balance recommendations from the SolSmart team and credits of interest to the local government.

Once the necessary credits are completed, the local government is ready to submit for designation review. The TA provider can assist the local government with the submission process through SolSmart's website. The submission is reviewed by the Designation Program Administrator within 10 business days and the local government is notified of their designation by email.

Local governments are encouraged to celebrate and publicize their designations. The designation email contains a Designation Toolkit with template press release, sample social media, and SolSmart Designation logos. SolSmart will also recognize local governments on the SolSmart website, on social media, and in the SolSmart newsletter.

Designation Criteria

Three designation criteria are available to local governments depending on what processes are within their jurisdiction.

Local governments that control permitting, inspection, planning, and zoning use the **Standard Designation Criteria**.

Local governments that do not control permitting, inspection, planning, and/or zoning use the **Modified/County Designation Criteria**. This criteria is appropriate for certain counties that do not have control over one or more of those processes.

Regional organizations are eligible for SolSmart designation. Multi-jurisdictional organizations such as regional councils or councils of government use the **Regional Organization Designation Criteria**.

SolSmart Definitions to Know

SolSmart - A national designation and technical assistance program. SolSmart recognizes local governments that have taken key steps to address barriers to solar energy and provides no-cost technical assistance to accelerate the development of local solar energy markets.

SolSmart Designation Program Administrators - A team of organizations that maintains the SolSmart Criteria, conducts designation reviews, awards designation.

SolSmart Technical Assistance Providers - A team of organizations that provide assistance to local governments pursuing SolSmart designation.

SolSmart Designation Criteria - A standardized collection of best practices that local governments can implement which aim to accelerate the development of local solar markets. SolSmart provides three Designation Criteria - Standard, Modified/County, and Regional Organization.

SolSmart Credit - A specific action that local governments can implement to encourage solar energy development in their community. SolSmart credits may include policies, processes, or programs that implement solar best practices. Each credit has a corresponding point value ranging from 5 to 20.

SolSmart Credit Overview

The SolSmart Designation Criteria is comprised of 75 credits organized into 5 Categories. Each credit is specific action that local governments can implement to encourage solar energy development in their community. Each credit has a corresponding point value ranging from 5 to 20.

Credit Identifier	Credit Points	Program Participation Pre-requisite Credit
PR-1	Req'd	Provide a document that demonstrates your local government's commitment to pursue SolSmart designation.

Credit Identifier	Credit Points	Permitting and Inspection Credits
PI-1	Req'd	Post an online checklist detailing the required permit(s), submittals, and steps of your community's permitting process for small rooftop solar PV. (Required for Bronze)
PI-2	10	Train permitting staff on best practices for permitting solar PV and/or solar and storage systems. Training must have occurred in the past five years. (Required for Silver).
PI-3	10	Train inspection staff on best practices for inspecting solar PV and/or solar and storage systems. Training must have occurred within the past five years. (Required for Silver).
PI-4	20	Post an online statement confirming a three-business day turnaround time for small rooftop solar PV. (Required for Gold)
PI-5	5	Distinguish between solar PV systems qualifying for streamlined and standard permit review.
PI-6	5	Require no more than one permit application form for a small rooftop solar PV system.
PI-7	10	Adopt a standard solar PV permit application form aligned with best practices (e.g. Solar ABCs).
PI-8	20	Provide an online process for solar PV permit submission and approval.
PI-9	20	Exempt or waive fees for residential solar PV permit applications.
PI-10	5	Demonstrate that residential permit fees for solar PV are \$500 or less.
PI-11	10	Demonstrate that commercial permit fees for solar PV are based on cost-recovery and capped at a reasonable level so fees do not become a net revenue source. (e.g. fees cover the cost of the staff time required to review and process the permit application).

PI-12	10	Post solar PV inspection requirements online, including the inspection process and what details inspectors will review.
PI-13	10	Require no more than two inspections for small rooftop solar PV.
PI-14	10	Offer inspection appointment times in lieu of appointment windows for solar PV.
PI-15	10	Provide an online process for solar PV inspection scheduling.
PI-16	10	Train fire and safety staff on solar PV and/or solar and storage systems. Training must have occurred in the past five years.
PI-17	10	Train fire and safety staff on specific plans and procedures for responding to an emergency at a large-scale solar PV system within the jurisdiction. (This may include a walk-through of the site, coordinated with the project's owner/operator).
PI-18	10	Share site specific solar PV and/or solar and storage permit data, including addresses, with first responders and their departments. (e.g. through software that allows users to view searchable, filterable data about a specific site and system).
PI-19	10	Post an online checklist detailing the required permit(s), submittals, and steps of your community's energy storage system permitting process.
PI-20	10	Post energy storage system inspection requirements online, including the inspection process and what details inspectors will review.

Credit Identifier	Credit Points	Planning and Zoning Credits
PZ-1	Req'd	Review zoning requirements and identify restrictions that intentionally or unintentionally prohibit solar PV development. Compile findings in a memo. (Required for Bronze). Examples include: height restrictions, set-back requirements, screening requirements, visibility restrictions, etc.
PZ-2	5	Present PZ-1 memo findings to planning commission or relevant body.
PZ-3	5	Draft proposed language for changes to zoning code based on PZ-1 memo and PZ-2 dialogue. Involve planners and/or local zoning experts in the creation of the draft language.
PZ-4	0	Post an online document from the Planning/Zoning Department that states accessory use solar PV is allowed by-right in all major zones. (e.g. via a zoning determination letter). (Required for Silver unless Gold Requirement PZ-5 is achieved. If PZ-5 is achieved, PZ-4 is not necessary.)
PZ-5	20	Codify in the zoning ordinance that accessory use solar PV is explicitly allowed by-right in all major zones. Zoning ordinance language should not include intentional or unintentional barriers to accessory use solar, such as limits to visibility from public rights-of-way, excessive restrictions to system size, glare studies, subjective design reviews, and neighbor consent requirements. (Required for Gold, PZ-4 is optional)
PZ-6	5	Ensure the zoning ordinance exempts rooftop solar PV from certain restrictions on accessory uses (e.g. height limits, rooftop equipment screening requirements, or other restrictions).
PZ-7	5	Ensure the zoning ordinance permits small ground-mounted solar PV as an accessory use in at least one zoning district.
PZ-8	5	Ensure the zoning ordinance exempts small ground-mounted solar PV from certain restrictions on accessory uses (e.g. setbacks, coverage or impervious surface calculations, or other restrictions).
PZ-9	5	Ensure the zoning ordinance establishes a clear regulatory pathway for large-scale solar PV (e.g. through a special use permit or through inclusion among allowed conditional uses).
PZ-10	10	Ensure the zoning ordinance includes a native perennial vegetation and/or habitat-friendly ground cover requirement or standard for large-scale solar PV.
PZ-11	5	Ensure the zoning ordinance enables co-location of solar PV with an agricultural use such as grazing, apiaries, or crops (agrivoltaics).
PZ-12	5	Ensure the zoning ordinance requires a decommissioning plan that outlines the terms and conditions for a large-scale solar PV system's proper removal at the end of its useful life cycle or in the event of cessation of operation. (The decommissioning plan may include steps to remove the system, requirements for disposal and/or recycling of system components, and restoration as needed to allow for return to agriculture or other land use).

PZ-13	5	Ensure the zoning ordinance establishes solar energy zones and/or solar overlays for large-scale solar PV.
PZ-14	10	Require new construction to be solar ready in at least one zoning district by adopting Appendix U (International Code Council), Appendix RB (International Energy Conservation Code), or another mechanism.
PZ-15	20	Codify a solar requirement for new construction and/or retrofits meeting a specific threshold, in at least one zoning district.
PZ-16	10	Provide clear guidance for the installation of solar PV on historic properties and in special overlay districts.
PZ-17	5	Post an online fact sheet that provides an overview of what zoning allows for solar PV under what conditions (e.g. types and sizes of solar systems permitted, the processes required, and other relevant information).
PZ-18	10	Train planning and zoning staff on best practices in planning and zoning for solar PV. Training must have occurred in the past five years.
PZ-19	5	Draft new or updated language and provide a timeline for the inclusion of specific solar PV goals, metrics, and/or strategies into existing and/or future plans.
PZ-20	10	Include specific solar PV goals, metrics, and/or strategies in the most current version of relevant local plans (e.g. energy plan, climate plan, comprehensive plan).
PZ-21	10	Develop a solar PV assessment that identifies all feasible sites for large-scale solar PV development within a jurisdiction.
PZ-22	10	Enable solar rights through a local solar access ordinance.
PZ-23	20	Codify in the zoning ordinance that accessory use energy storage systems are explicitly allowed by-right in all major zones.

Credit Identifier	Credit Points	Government Operations Credits
GO-1	20	Demonstrate coordination between local government inspectors and utility staff to reduce Permission to Operate timeline for solar PV.
GO-2	10	Discuss community goals for solar PV, net metering, community solar, and/or interconnection processes with the local utility and explore areas for future collaboration. Compile summary and next steps in a memo.
GO-3	10	Coordinate with regional organizations and/or local governments to engage utilities on advancing solar policies such as utility procurement of solar PV, green tariffs, and/or interconnection process improvements.
GO-4	10	Conduct feasibility analysis for solar PV on local government facilities and/or local government-controlled land.
GO-5	20	Install solar PV on local government facilities and/or local government-controlled land.
GO-6	20	Install solar PV on local government-controlled brownfields and/or under-utilized properties.
GO-7	20	Install solar PV integrated with other technologies such as combined heat and power or electric vehicle charging on local government facilities and/or local government-controlled land.
GO-8	20	Install solar PV plus storage on local government facilities and/or local government-controlled land.
GO-9	10	Require new local government facilities and/or facility retrofits meeting a specific threshold to be solar ready.
GO-10	20	Procure solar energy for municipal operations through an offsite physical PPA, virtual PPA, green tariff, or similar structure.

Credit Identifier	Credit Points	Community Engagement Credits
CE-1	10	Post a solar landing page on local government's website with information that may include the community's solar goals, educational materials and tools that promote solar, and resources for solar development (e.g. permitting checklist, application forms, zoning regulations, etc.).
CE-2	5	Post online resources about solar installers and/or solar quote platforms for solar PV.

CE-3	5	Post online resources about residential and commercial solar PV financing options and incentives.
CE-4	5	Post online resources about consumer protection and solar PV.
CE-5	5	Post an online summary of state policies related to a property owner's solar access and solar rights, including links to state-level policy.
CE-6	5	Post an online summary of state policies related to Homeowner Associations (HOAs) ability to regulate and/or restrict solar PV, including links to state-level policy.
CE-7	5	Post an online dashboard or summary of the solar PV metrics for your community.
CE-8	5	Post an online solar map for your community.
CE-9	5	Support a solar informational session and/or solar tour explaining solar PV opportunities and policies. Session/Tour must have occurred within the last 5 years.
CE-10	5	Distribute solar job training and career opportunities in coordination with local colleges and/or workforce development organizations.
CE-11	5	Demonstrate local government support for local solar projects through speeches, press releases, opinion articles, etc.
CE-12	10	Discuss solar PV goals and/or strategies for increasing solar PV development within an appropriate committee, commission, taskforce, and/or working group. (e.g. solar is a recurring agenda item during monthly sustainability commission meetings).

Credit Identifier	Credit Points	Market Development Credits
MD-1	20	Demonstrate activity in state regulatory and/or legislative proceedings regarding solar PV.
MD-2	20	Support a community-wide group purchase program (e.g. Solarize). Program must have occurred within the last 5 years.
MD-3	10	Encourage low-to-moderate income (LMI) participation in community-wide group purchase program through program design and/or financing support options.
MD-4	20	Support a community solar program.
MD-5	10	Encourage low-to-moderate income (LMI) participation in a community solar program through program design and/or financing support options.
MD-6	20	Provide residents with Community Choice Aggregation/Energy that includes solar PV as a power generation source.
MD-7	10	Provide a PACE financing program that includes solar PV as an eligible technology.
MD-8	20	Provide local incentives or locally-enabled finance (e.g. a revolving loan fund) for solar PV.
MD-9	5	Provide local incentives for solar PV to low-to-moderate income (LMI) households, Disadvantaged Business Enterprises (DBEs), and/or non-profit organizations that provide community services.
MD-10	20	Partner with financial institutions and/or foundations to offer loans, rebates, grants, or other incentives for solar PV projects. (Financial institutions could include entities such as a local or regional bank, CDFI, or credit union).

Credit Identifier	Credit Points	Innovative Action Credit
IA-1	Varies	The actions identified in the categories above represent many of the most common and impactful efforts communities are taking to make going solar easier and more affordable for residents and businesses. However, we know that communities across the country are developing innovative ways to promote and deploy solar energy. If your community has taken action that was not captured in any of the credits above, please share it with us.

How to Use the SolSmart Program Guide

The following section of the SolSmart program guide contains specific actions, called credits, that local governments and community stakeholders can implement to encourage solar energy development in their community. Each credit has a brief description, recommended verification for designation review, community examples, templates, and/or resources. A SolSmart Scorecard is available to help track progress. Please contact your TA provider for more information.

The following provides an overview of the information that is provided for each SolSmart credit.

Credit Identifier	Credit Points	Credit Language	☐
Credit Objective and description.			
Recommended Verification: Suggested options to verify the credit.			
Community Examples: Examples of how an individual community has completed the credit.			
Templates: Links to a template(s) that can help complete a credit.			
Resources: Links to useful websites, reports, guidebooks, etc. that have up-to-date information about the topics addressed by the credit			

Solar Statement

PR-1	Req'd	Provide a document that demonstrates your local government's commitment to pursue SolSmart designation.	☐
Local governments interested in pursuing SolSmart designation must indicate their commitment to supporting solar development in their community by completing the PR-1 Solar Statement Pre-requisite. The solar statement should be signed by an individual who can speak on behalf of the local government. It is preferred that the statement is signed by a Department executive or an elected official, but it does not need to go through an official approval process. The solar statement demonstrates your community's commitment to pursue SolSmart designation. If possible, please place the solar statement on your local government's letterhead. The solar statement should address the items listed in the bullets below. The statement does not need to be more than one page in length.			
The solar statement should include: - A commitment to participate in the SolSmart designation process - A statement of solar goals, areas of focus or community priorities (e.g. streamlining the permitting process or supporting a non-profit led solar initiative) - Past achievements or programs related to solar PV and/or renewable energy - A commitment to tracking metrics related to solar PV and/or provide a benchmark of available solar metrics (e.g. the number of installed systems, capacity, growth in residential installations, etc.) - A commitment of staff time and resources to improve the local market for solar PV			
Community Examples: Fitchburg, WI SolSmart Bronze Pulaski County, VA SolSmart Gold			
Templates: PR-1 SolSmart Solar Statement Template SolSmart			

Permitting and Inspection

PI-1	Req'd	Post an online checklist detailing the required permit(s), submittals, and steps of your community's permitting process for small rooftop solar PV. (Required for Bronze)	☐
Providing a set of requirements for the local solar permitting process (for both residential and commercial solar) on an easy-to-find local government webpage represents a major step toward overcoming informational barriers. An online solar permit checklist can be a simple way for a community to accelerate permit approval timelines and save staff time by reducing the number of inquiries received from solar installers and requests for additional information associated with incomplete permit applications. Such checklists typically detail all the plans and forms required for approval and system design requirements.			
Recommended Verification: Provide a link to the online solar PV permitting checklist.			
Community Examples: Chapel Hill, NC SolSmart Gold Philadelphia, PA SolSmart Gold			
Templates: PI-1 SolSmart Solar Permitting Checklist Template SolSmart California Solar Permitting Guidebook (4th Edition) (pg. 22-24)			
Resources: Sharing Success: Emerging Approaches to Efficient Rooftop Solar Permitting Interstate Renewable Energy Council (IREC) Simplifying the Solar Permitting Process: Residential Solar Permitting Best Practices Explained Interstate Renewable Energy Council (IREC) Solar PV Construction: Codes, Permitting, and Inspection SolSmart's Toolkit for Local Governments			
PI-2	10	Train permitting staff on best practices for permitting solar PV and/or solar and storage systems. Training must have occurred in the past five years. (Required for Silver)	☐
Regular solar PV training, at least every few years, is a best practice to ensure permit technicians and plan reviewers are up-to-date on new procedures, codes, and products within the solar industry. Trainings increase staff knowledge of solar energy systems and ensures they know the best procedures for permit application review and processing to ensure applications and supporting documents are compliant with building and electrical codes. Increased staff knowledge can improve processing efficiency, thereby reducing demands on staff time and resources. Local governments can require staff to attend full or half-day workshops (either live or online) and provide resources designed to help keep staff informed about advances in solar and storage technologies.			
Recommended Verification: Provide a memo with details about the permit training including name of training, name of trainer, attendees (name, title, department), date and time, location, agenda, and presentation/slides.			
Templates: PI-2 SolSmart Solar Permit Training Template Memo SolSmart			
Resources: SolSmart Workshop: Best Practices for Solar PV Permitting and Inspection (session 1, permitting I) SolSmart and Bill Brooks, P.E. SolSmart Workshop: Best Practices for Solar PV Permitting and Inspection (session 2, permitting II) SolSmart and Bill Brooks, P.E. SolSmart Workshop: Best Practices for Solar PV Permitting and Inspection (session 3, inspection) SolSmart and Bill Brooks, P.E. Solar + Storage. A Guide for Local Governments SolSmart Webinar			
PI-3	10	Train inspection staff on best practices for inspecting solar PV and/or solar and storage systems. Training must have occurred within the past five years. (Required for Silver).	☐
Regular solar PV training, at least every few years, is a best practice to ensure field inspectors are up-to-date on new procedures, codes, and products within the solar industry. Trainings increase staff knowledge of solar energy systems and ensures they know the best procedures for field inspections to ensure compliance with applicable state and local building and electrical codes. Increased staff knowledge can improve inspection efficiency,			

thereby reducing demands on staff time and resources. Local governments can require staff to attend full or half-day workshops (either live or online) and provide resources designed to help keep staff informed about advances in solar and storage technologies.

Recommended Verification:

- Provide a memo with details about the inspection training including name of training, name of trainer, attendees (name, title, department), date and time, location, agenda, and presentation/slides.

Templates:

- [PI-3 SolSmart Solar Inspection Training Template Memo](#) | SolSmart

Resources:

- [Solar PV Field Inspection Basics - Series](#) | Interstate Renewable Energy Council (IREC)
- [SolSmart Workshop: Best Practices for Solar PV Permitting and Inspection \(session 1, permitting I\)](#) | SolSmart and Bill Brooks, P.E.
- [SolSmart Workshop: Best Practices for Solar PV Permitting and Inspection \(session 2, permitting II\)](#) | SolSmart and Bill Brooks, P.E.
- [SolSmart Workshop: Best Practices for Solar PV Permitting and Inspection \(session 3, inspection\)](#) | SolSmart and Bill Brooks, P.E.
- [Solar + Storage. A Guide for Local Governments](#) | SolSmart Webinar

PI-4	20	Post an online statement confirming a three-business day turnaround time for small rooftop solar PV. (Required for Gold)	☐
Implementing a streamlined permitting process for small-scale solar PV systems (≤ 10 -15 kW) along with other efforts increase process efficiency and reduce permit turnaround times can result in significant time and cost savings for staff, solar installers, and solar customers.			
Recommended Verification: • Provide a link to a webpage outlining a permitting pathway for small PV systems of less than three days.			
Community Examples: • Alexandria, VA SolSmart Gold • Roseville, MN SolSmart Gold			
Templates: • PI-1 SolSmart Solar Permitting Checklist Template SolSmart • California Solar Permitting Guidebook (4th Edition) (pg. 22-24)			
Resources: • Sharing Success: Emerging Approaches to Efficient Rooftop Solar Permitting Interstate Renewable Energy Council (IREC) • Simplifying the Solar Permitting Process: Residential Solar Permitting Best Practices Explained Interstate Renewable Energy Council (IREC) • Solar PV Construction: Codes, Permitting, and Inspection SolSmart's Toolkit for Local Governments			

PI-5	5	Distinguish between solar PV systems qualifying for streamlined and standard permit review.	☐
Recognizing the relative simplicity and similarities of small-scale solar photovoltaic (PV) systems (≤ 10 -15 kW in size) can allow local jurisdictions to establish processes to expedite review and approval of these systems while maintaining its commitment to ensuring public safety. Establishing a separate, streamlined process for small-scale PV systems based on proven national best practices can reduce the time required to review and approve qualifying applications, saving time and money both for the local government and the solar customer.			
Recommended Verification: • Provide a link to a document or web page outlining a streamlined and standard permit review policy. • Provide details in an e-mail or other written documentation from a permitting official or staff member describing the policy is also acceptable.			
Community Examples: • Philadelphia, PA SolSmart Gold • Putnam County, GA SolSmart Silver			
Templates: • PI-1 SolSmart Solar Permitting Checklist Template SolSmart			

• Simplified Solar Permitting Process SolSmart • Expedited Permit Process for PV Systems Solar ABCs
Resources: • Sharing Success: Emerging Approaches to Efficient Rooftop Solar Permitting Interstate Renewable Energy Council (IREC) • Simplifying the Solar Permitting Process: Residential Solar Permitting Best Practices Explained Interstate Renewable Energy Council (IREC) • Solar PV Construction: Codes, Permitting, and Inspection SolSmart's Toolkit for Local Governments

PI-6	5	Require no more than one permit application form for a small rooftop solar PV system.	☐
Since rooftop solar energy systems impact both the structural and electrical aspects of the buildings on which they are installed, many local jurisdictions require both building and electrical permits. However, residential rooftop systems with minimal structural impacts can be safely permitted without a building permit application. Relevant design aspects for systems qualifying for only one application form include (but are not limited to): mounting system features, static and dynamic loads of the system, type of roofing material and waterproofing methods, and compliance with zoning and fire codes.			
Recommended Verification: • Provide a link to the permit application form used for small rooftop solar PV systems.			
Community Examples: • Berkeley, CA SolSmart Gold • Fitchburg, WI SolSmart Bronze			
Templates: • Best Management Practices for Solar Installation Policy Mid America Regional Council (MARC) • New York State Unified Solar Permit Application New York State Energy and Research Development Authority (NYSERDA)			
Resources: • Sharing Success: Emerging Approaches to Efficient Rooftop Solar Permitting Interstate Renewable Energy Council (IREC) • Simplifying the Solar Permitting Process: Residential Solar Permitting Best Practices Explained Interstate Renewable Energy Council (IREC) • Solar PV Construction: Codes, Permitting, and Inspection SolSmart's Toolkit for Local Governments			

PI-7	10	Adopt a standard solar PV permit application form aligned with best practices (e.g. Solar ABCs).	☐
While requiring a single application form under existing permitting processes represents an improvement over requiring both a building and electrical permit, it may still be more time consuming to complete, review, and approve permits via a process not specifically designed for solar. Developing a solar-specific permit (or combining building and electrical permits with revisions to collect information unique to solar energy systems) and posting application materials online can save time and money for both those completing the forms (and their customers) and the local government staff reviewing and approving these applications.			
Recommended Verification: • Provide a link to the standard solar PV permit application form.			
Community Examples: • Evanston, IL SolSmart Gold • Salt Lake City, UT SolSmart Bronze			
Templates: • PI-7 SolSmart Solar Permit Application Template SolSmart • Best Management Practices for Solar Installation Policy Mid America Regional Council (MARC) • New York State Unified Solar Permit Application New York State Energy and Research Development Authority (NYSERDA) • Simplified Solar Permitting Process SolSmart			
Resources: • Expedited Permit Process for PV Systems Solar ABCs			

- [Sharing Success: Emerging Approaches to Efficient Rooftop Solar Permitting](#) | Interstate Renewable Energy Council (IREC)
- [Simplifying the Solar Permitting Process: Residential Solar Permitting Best Practices Explained](#) | Interstate Renewable Energy Council (IREC)
- [Solar PV Construction: Codes, Permitting, and Inspection](#) | SolSmart's Toolkit for Local Governments

PI-8	20	Provide an online process for solar PV permit submission and approval.	☐
Online permit submittal, review, and approval can eliminate solar installer trips to the permitting office and reduce the amount of time permitting staff need to spend entering information from paper application forms into an online database. Online systems can also ensure all required information is submitted prior to any review, saving staff time by ensuring only completed applications are reviewed. Online permit platforms can allow for multiple staff to review materials at the same time and to track progress in the review and approval process.			
Recommended Verification: • Provide a link to the online platform for submission and approval. • If an email-based online process is used: 1) Provide details from building official or staff describing the process. 2) Provide a copy of a sample email with personal and confidential information removed.			
Community Examples: • Madison, WI SolSmart Gold • Missoula County, MT SolSmart Silver			
Templates: • Several software providers have integrated the solar PV permit application process into their online systems.			
Resources: • Sharing Success: Emerging Approaches to Efficient Rooftop Solar Permitting Interstate Renewable Energy Council (IREC) • Simplifying the Solar Permitting Process: Residential Solar Permitting Best Practices Explained Interstate Renewable Energy Council (IREC) • Solar PV Construction: Codes, Permitting, and Inspection SolSmart's Toolkit for Local Governments			

PI-9	20	Exempt or waive fees for residential solar PV permit applications.	☐
In addition to state and federal incentives, local governments can also incentivize solar development within their jurisdictions. Exempting or waiving permit fees for solar energy systems can incentivize community members to install solar by lowering the overall cost of the system.			
Recommended Verification: • Provide a link to the permit fee schedule or other officially approved document that shows solar PV permit fees are exempt or waived.			
Community Examples: • Coral Gables, FL SolSmart Silver • Superior, CO SolSmart Bronze			
Resources: • Sharing Success: Emerging Approaches to Efficient Rooftop Solar Permitting Interstate Renewable Energy Council (IREC) • Simplifying the Solar Permitting Process: Residential Solar Permitting Best Practices Explained Interstate Renewable Energy Council (IREC) • Solar PV Construction: Codes, Permitting, and Inspection SolSmart's Toolkit for Local Governments			

PI-10	5	Demonstrate that residential permit fees for solar PV are \$500 or less.	☐
Many local governments permit solar systems through existing permitting processes and permit fees for solar are often calculated according to value-based methods typically associated with building permits (where the fee is a certain percentage of the overall project cost). Due to the higher cost of solar installations relative to comparable projects, fees calculated by a value-based method can become expensive and exceed the cost of the staff time required to review and issue the permits. For residential systems, capping solar permit fees under \$500 or establishing a flat fee, can ensure permit fees cover staff costs without unnecessarily increasing project costs.			

Recommended Verification:	
Provide a link to the permit fee schedule or a document that outlines the permit fees applied to a solar installation.	
Community Examples:	
Naperville, IL SolSmart Silver Sacramento, CA SolSmart Gold	
Templates:	
PI-10 SolSmart Solar Residential Fees Template Memo SolSmart PI-1 SolSmart Solar Permitting Checklist Template SolSmart	
Resources:	
Sharing Success: Emerging Approaches to Efficient Rooftop Solar Permitting Interstate Renewable Energy Council (IREC) Simplifying the Solar Permitting Process: Residential Solar Permitting Best Practices Explained Interstate Renewable Energy Council (IREC) Solar PV Construction: Codes, Permitting, and Inspection SolSmart's Toolkit for Local Governments	

PI-11	10	Demonstrate that commercial permit fees for solar PV are based on cost-recovery and capped at a reasonable level so fees do not become a net revenue source. (e.g. fees cover the cost of the staff time required to review and process the permit application).	☐
Many local governments permit solar systems through existing permitting processes and permit fees for solar are often calculated according to value-based methods typically associated with building permits (where the fee is a certain percentage of the overall project cost). Due to the higher cost of solar installations relative to comparable projects, fees calculated by a value-based method can become expensive and exceed the cost of the staff time required to review and issue the permits. For commercial systems, basing fees on a cost-recovery method can ensure permit fees cover staff costs without unnecessarily increasing project costs.			
Recommended Verification:			
- Provide a link to the permit fee schedule or a document that outlines the permit fees applied to a solar installation. - Provide a narrative that explains the costs incurred in processing the permits (this should include estimates of the amount of staff hours for each stage of the process and the hourly cost of staff time). This narrative should show that the fee is not significantly higher than these costs.			
Community Examples:			
Naperville, IL SolSmart Silver Sacramento, CA SolSmart Gold			
Templates:			
PI-11 SolSmart Solar Commercial Fees Template Memo SolSmart PI-1 SolSmart Solar Permitting Checklist Template SolSmart			
Resources:			
Sharing Success: Emerging Approaches to Efficient Rooftop Solar Permitting Interstate Renewable Energy Council (IREC) Simplifying the Solar Permitting Process: Residential Solar Permitting Best Practices Explained Interstate Renewable Energy Council (IREC) Solar PV Construction: Codes, Permitting, and Inspection SolSmart's Toolkit for Local Governments			

PI-12	10	Post solar PV inspection requirements online, including the inspection process and what details inspectors will review.	☐
Providing an online list of inspection requirements will reduce informational barriers between inspectors and solar installers, helping to ensure that all items in the inspection process have been adequately addressed before inspectors arrive on site. These checklists can be used to highlight "common mistakes" made by installers.			
Recommended Verification:			
Provide a link to the online document outlining the inspection process and requirements.			
Community Examples:			
Camden County, NJ SolSmart Bronze Ramsey County, MN SolSmart Bronze			

Templates: • PI-12 SolSmart Rooftop Solar Photovoltaic (PV) System Field Inspection Checklist SolSmart • Model Inspection Checklist for Residential Rooftop PV Interstate Renewable Energy Council (IREC) • Field Inspection Checklist New York State Energy and Research Development Authority (NYSERDA)		
Resources: • Sharing Success: Emerging Approaches to Efficient Rooftop Solar Permitting Interstate Renewable Energy Council (IREC) • Simplifying the Solar Permitting Process: Residential Solar Permitting Best Practices Explained Interstate Renewable Energy Council (IREC) • Solar PV Construction: Codes, Permitting, and Inspection SolSmart's Toolkit for Local Governments		

PI-13	10	Require no more than two inspections for small rooftop solar PV.	☐
Inspections of standard rooftop solar energy systems installed on existing homes should be consolidated into a single inspection trip. Any inspections should be limited to the electrical, structural, and fire safety aspects of the system; excessive reviews add to the time and cost of the inspection process while doing little to ensure system efficiency or further protect public health or safety. Building and Fire Authorities can enter into agreements allowing for a single agency to conduct all inspections for systems meeting certain design standards.			
Recommended Verification: • Provide details about the solar PV inspection process that includes information on the type of inspections (and which departments are involved) and total number inspection trips required.			
Community Examples: • Lake in the Hills, IL SolSmart Gold • South St. Paul, MN SolSmart Bronze			
Templates: • PI-1 SolSmart Solar Permitting Checklist Template SolSmart • Model Inspection Checklist for Residential Rooftop PV Interstate Renewable Energy Council (IREC) • Field Inspection Checklist New York State Energy and Research Development Authority (NYSERDA)			
Resources: • Sharing Success: Emerging Approaches to Efficient Rooftop Solar Permitting Interstate Renewable Energy Council (IREC) • Simplifying the Solar Permitting Process: Residential Solar Permitting Best Practices Explained Interstate Renewable Energy Council (IREC) • Solar PV Construction: Codes, Permitting, and Inspection SolSmart's Toolkit for Local Governments			

PI-14	10	Offer inspection appointment times in lieu of appointment windows for solar PV.	☐
Though inspections of standard rooftop solar PV systems can take as little as 30 minutes to complete, inspection appointment windows can be up to four or more hours long. Replacing appointment windows with scheduled appointment times will ensure the inspector and installer are both prepared for the inspection to occur when they arrive on site. This can save time and money for both the local government and the installer (and for solar customers as well).			
Recommended Verification: • Provide details about the solar PV inspection process that includes information on inspection appointment times and how to request an appointment.			
Community Examples: • Coventry, CT SolSmart Gold • Pulaski County, VA SolSmart Gold			
Templates: • PI-1 SolSmart Solar Permitting Checklist Template SolSmart			
Resources: • Sharing Success: Emerging Approaches to Efficient Rooftop Solar Permitting Interstate Renewable Energy Council (IREC) • Simplifying the Solar Permitting Process: Residential Solar Permitting Best Practices Explained Interstate Renewable Energy Council (IREC) • Solar PV Construction: Codes, Permitting, and Inspection SolSmart's Toolkit for Local Governments			

PI-15	10	Provide an online process for solar PV inspection scheduling.	☐
Similar to online permit submittal, review, and approval processes, an online option for scheduling and managing inspection requests can promote process efficiency and reduce demands on time and resources for local government staff.			
Recommended Verification: - Provide a link to the online platform for inspection scheduling. - If an email-based online process is used: - Provide details from building official or staff describing the process. - Provide a copy of a sample email with personal and confidential information removed.			
Community Examples: Prince George's County, MD Not Designated San Leandro, CA SolSmart Bronze			
Templates: Several software providers have integrated the solar PV inspection request process into their online systems.			
Resources: Sharing Success: Emerging Approaches to Efficient Rooftop Solar Permitting Interstate Renewable Energy Council (IREC) Simplifying the Solar Permitting Process: Residential Solar Permitting Best Practices Explained Interstate Renewable Energy Council (IREC) Solar PV Construction: Codes, Permitting, and Inspection SolSmart's Toolkit for Local Governments			
PI-16	10	Train fire and safety staff on solar PV and/or solar and storage systems. Training must have occurred in the past five years.	☐
Regular solar PV training, at least every few years, is a best practice to ensure firefighters and first responders are up-to-date on new procedures, codes, and products within the solar industry. Though fires caused by rooftop solar PV systems are extremely rare, firefighters responding to fires caused by other means need to take special precautions when a solar PV system is present. Training fire safety staff on how to identify and avoid potential hazards can help ensure the safety of first responders and reduce misconceptions or discomfort around increased solar deployment.			
Recommended Verification: Provide a memo with details about the fire and safety staff training including name of training, name of trainer, attendees (name, title, department), date and time, location, agenda, and presentation/slides.			
Templates: PI-16 SolSmart Solar Fire Training Template Memo SolSmart			
Resources: Firefighter Safety and Photovoltaic Systems (Training Course) UL Photovoltaic (PV) Systems National Fire Protection Association (NFPA) Solar + Storage. A Guide for Local Governments SolSmart Webinar Solar PV Safety for Firefighters Interstate Renewable Energy Council (IREC)			
PI-17	10	Train fire and safety staff on specific plans and procedures for responding to an emergency at a large-scale solar PV system within the jurisdiction. (This may include a walk-through of the site, coordinated with the project's owner/operator).	☐
Though fires and other emergencies at large-scale solar PV systems are extremely rare, fire and safety staff should partner with a large-scale solar system owner/operator to ensure first responders have a standard operating procedure (SOP) outlining how to address a fire or rescue operation at the large-scale solar project. The solar system owner/operator should work with fire responder to ensure SOPs are established and that the fire and safety staff have received any necessary training. Along with a basic understanding of solar PV and fire safety, firefighters and safety staff should be familiar with the project site and characteristics, including where to enter the site, location of system components, if battery storage is present at the site, and proper shutdown procedures. First responders should also know key points of contact for the project in case of an emergency.			
Recommended Verification:			

• Provide a memo with details about emergency response plans and procedures. • Provide a link to the requirement in the community's code of ordinances.
Community Examples: • Putnam County, GA (e,9) SolSmart Silver • York, ME (pg. 178 – f,3) Not Designated
Templates: • PI-17 SolSmart Solar Large-scale Training Template Memo SolSmart
Resources: • Fire Fighter Safety and Emergency Response for Solar Power Systems The Fire Protection Research Foundation • Solar PV Safety for Firefighters Interstate Renewable Energy Council (IREC)

PI-18	10	Share site specific solar PV and/or solar and storage permit data, including addresses, with first responders and their departments. (e.g. through software that allows users to view searchable, filterable data about a specific site and system).	☐
Fire and safety staff can benefit from having access to the locations of permitted solar PV systems. This gives fire departments advanced knowledge about homes or business that have on-site solar and allows them to development a plan before arriving onsite.			
Recommended Verification: • Provide details about the process for information sharing, including how fire and safety staff received the data. • Provide a link to the platform that allows fire and safety staff to access the data.			
Community Examples: • Adams County, CO SolSmart Gold • Freeport, IL SolSmart Gold			
Resources: • Sharing Success: Emerging Approaches to Efficient Rooftop Solar Permitting Interstate Renewable Energy Council (IREC) • Simplifying the Solar Permitting Process: Residential Solar Permitting Best Practices Explained Interstate Renewable Energy Council (IREC) • Solar PV Construction: Codes, Permitting, and Inspection SolSmart's Toolkit for Local Governments • Solar PV Safety for Firefighters Interstate Renewable Energy Council (IREC)			

PI-19	10	Post an online checklist detailing the required permit(s), submittals, and steps of your community's energy storage system permitting process.	☐
Providing a set of requirements for the local energy storage permitting process (for both residential and commercial solar) on an easy-to-find local government web page represents a major step toward overcoming informational barriers. An online energy storage permit checklist can be a simple way for a community to accelerate permit approval timelines and save staff time by reducing the number of inquiries received from energy storage installers and requests for additional information associated with incomplete permit applications. Such checklists typically detail all the plans and forms required for approval and system design requirements.			
Recommended Verification: • Provide link to online permitting checklist for energy storage systems.			
Community Examples: • Rocklin, CA Not Designated • Sonoma, CA Not Designated			
Templates: • Battery Energy Storage System Model Permit New York State Energy and Research Development Authority (NYSERDA) • Storage Battery System Requirements Sustainable Energy Action Committee (SEAC)			
Resources: • Solar + Storage, A Guide for Local Governments SolSmart Webinar			

PI-20	10	Post energy storage system inspection requirements online, including the inspection process and what details inspectors will review.	☐
Providing an online list of inspection requirements will reduce informational barriers between inspectors and energy storage installers, helping to ensure that all items in the inspection process have been adequately addressed before inspectors arrive on site. These checklists can be used to highlight “common mistakes” made by installers.			
Recommended Verification: Provide a link to the online document outlining the inspection process and requirements.			
Community Examples: Palo Alto, CA Not Designated			
Templates: Battery Energy Storage System Electrical Checklist New York State Energy and Research Development Authority (NYSERDA) Storage Battery System Requirements Sustainable Energy Action Committee (SEAC)			
Resources: Solar + Storage. A Guide for Local Governments SolSmart Webinar			

Planning and Zoning

PZ-1	Req'd	Review zoning requirements and identify restrictions that intentionally or unintentionally prohibit solar PV development. Compile findings in a memo. (Required for Bronze). Examples include: height restrictions, set-back requirements, screening requirements, visibility restrictions, etc.	☐
A community's zoning ordinance and land use regulations create statutory limits on what individuals may do with their property as a matter of right and often provides additional processes to consider special exceptions. Land use regulations often contain use standards that provide additional requirements for certain types of development. Local governments should be aware of any restrictions that could intentionally or unintentionally prohibit solar energy development within their community and consider removing those barriers to promote easier and more equitable solar deployment. Often, removing restrictive zoning language can save property owners time and money because they can avoid going through a more extensive process to have their solar system considered.			
Recommended Verification: Provide a signed SolSmart Zoning Review Memo.			
Community Examples: Framingham, MA SolSmart Silver			
Templates: SolSmart Zoning Review Template SolSmart			
Resources: Planning for Solar Energy American Planning Association (APA) Planning, Zoning & Development SolSmart's Toolkit for Local Governments			
PZ-2	5	Present PZ-1 memo findings to planning commission or relevant body.	☐
The zoning ordinance review memo can be the starting point for ordinance amendments to remove barriers to solar or add language that could promote development. Presenting the findings of the memo to a relevant commission or body can start conversations about updates to solar energy regulations within the community. If			

the relevant commission or body is interested in updating the zoning ordinance, they can direct staff to draft recommendations.	
Recommended Verification: Provide meeting minutes, meeting agenda, or materials prepared for the meeting (e.g., handouts and slides) that demonstrate a discussion about the zoning review.	
Community Examples: Lewisville, TX SolSmart Bronze	
Resources: Planning for Solar Energy American Planning Association (APA) Planning, Zoning & Development SolSmart's Toolkit for Local Governments	

PZ-3	5	Draft proposed language for changes to zoning code based on PZ-1 memo and PZ-2 dialogue. Involve planners and/or local zoning experts in the creation of the draft language.	☐
A local government interested in enabling solar energy development should consider including basic solar information in the zoning ordinance such as a purpose, definitions, clarification on accessory use and primary use solar, and use standards. Zoning codes that contain no or little information about solar energy can complicate the process for homes and business that want to install a solar energy system. Including basic information about solar energy improves transparency of processes and clarity of development requirements and can enhance the growth of the local solar market in an organized and efficient manner.			
Recommended Verification: Provide draft language of the proposed zoning ordinance changes that relate to solar energy.			
Community Examples: Lafayette, CO SolSmart Gold			
Templates: Model Zoning for the Regulation of Solar Energy Systems Massachusetts Department of Energy Resources Renewable Energy Ordinance Framework: Solar PV Delaware Valley Regional Planning Commission (DVRPC)			
Resources: Planning for Solar Energy American Planning Association (APA) Planning, Zoning & Development SolSmart's Toolkit for Local Governments			

PZ-4	0	Post an online document from the Planning/Zoning Department that states accessory use solar PV is allowed by-right in all major zones. (e.g. via a zoning determination letter). (Required for Silver unless Gold Requirement PZ-5 is achieved. If PZ-5 is achieved, PZ-4 is not necessary.)	☐
Including solar energy in the zoning ordinance provides the highest level of policy certainty and clarity. A zoning ordinance change that codifies accessory use solar as an allowed or by-right use is a best-case scenario. However, this may be impractical or politically difficult to achieve in the short term, or outside of a zoning update cycle. Instead of an ordinance change, local governments may write and publish a zoning determination letter clarifying that accessory use solar is an allowed or by-right use in all major zones. This clarification removes uncertainty and can increase solar adoption and lower costs for residents and businesses.			
Recommended Verification: - Provide a link to an online document (and the parent webpage) that clarifies that accessory solar PV is an allowed or by-right use in all major zones. - This document should: - show that the process does not involve staff discretion, special permits, conditional permits, use permits, or variances - have language that demonstrates its applicability in all major zones - be made public			
Community Examples: Egg Harbor, WI SolSmart Silver South Miami, FL SolSmart Silver			

Resources:

- [Planning for Solar Energy](#) | American Planning Association (APA)
- [Planning, Zoning & Development](#) | SolSmart's Toolkit for Local Governments

PZ-5	20	Codify in the zoning ordinance that accessory use solar PV is explicitly allowed by-right in all major zones. Zoning ordinance language should not include intentional or unintentional barriers to accessory use solar, such as limits to visibility from public rights-of-way, excessive restrictions to system size, glare studies, subjective design reviews, and neighbor consent requirements. (Required for Gold, PZ-4 is optional)	☐
A community's zoning ordinance and land use regulations create statutory limits on what individuals may do with their property as a matter of right. Zoning often provides additional processes, which can be long and costly, to consider special exceptions when a proposal is inconsistent with current land use regulations. Codifying solar as an accessory use and as an allowed or by-right use in all major zoning categories provides policy certainty and clarity which can promote easier and more equitable solar deployment. It can increase solar development and save property owners time and money because they can avoid going through a more extensive process to have their solar system considered.			
Recommended Verification: • Provide a link to the zoning ordinance or land use regulations that codify solar as an accessory use and allowed or by-right use. Please indicate the relevant section(s).			
Community Examples: • Brownsville, TX SolSmart Silver • Pinecrest, FL SolSmart Silver			
Templates: • Georgia's Model Solar Ordinance Georgia Tech Strategic Energy Institute • Model Solar Energy Local Law (NY) New York State Energy Research and Development Authority (NYSERDA) • Model Zoning for the Regulation of Solar Energy Systems Massachusetts Department of Energy Resources • Renewable Energy Ordinance Framework: Solar PV Delaware Valley Regional Planning Commission (DVRPC) • Solar Model Ordinance Grow Solar Toolkit • Template Solar Energy Development Ordinance for North Carolina North Carolina Clean Energy Technology Center (NCCETC)			
Resources: • Are You Solar Ready? National Renewable Energy Laboratory (NREL) • Best Practices in Zoning for Solar National Renewable Energy Laboratory (NREL) • Planning for Solar Energy American Planning Association (APA) • Planning, Zoning & Development SolSmart's Toolkit for Local Governments			

PZ-6	5	Ensure the zoning ordinance exempts rooftop solar PV from certain restrictions on accessory uses (e.g. height limits, rooftop equipment screening requirements, or other restrictions).	☐
Height restrictions are often imposed on buildings within specific zoning districts to satisfy several planning objectives such as protection of views, controlling neighborhood character, density, and access to sunlight. In many districts, buildings are constructed up to the maximum allowed height. Many local governments exempt antennas, chimneys, flagpoles from height limits to allow for their placement and use. Since solar panels are most efficient when installed at an angle equal to a location latitude, local governments should consider adding solar to the list of height exemptions.			
Recommended Verification: • Provide a link to the zoning ordinance or land use regulations that exempts rooftop solar PV from certain restrictions on accessory uses. Please indicate the relevant section(s).			
Community Examples: • Brownsville, TX SolSmart Silver • Plymouth, IN (pg. 204, 210 D.2.a) SolSmart Gold			
Templates:			

• Model Zoning for the Regulation of Solar Energy Systems Massachusetts Department of Energy Resources • Renewable Energy Ordinance Framework: Solar PV Delaware Valley Regional Planning Commission (DVRPC)
Resources: • Planning for Solar Energy American Planning Association (APA) • Planning, Zoning & Development SolSmart's Toolkit for Local Governments

PZ-7	5	Ensure the zoning ordinance permits small ground-mounted solar PV as an accessory use in at least one zoning district.	☐
Sometimes a property is not suitable for rooftop solar because the building has structural limitations, or the rooftop is shaded. In this case, a small ground-mounted solar PV system can still allow the property owner to install solar and enjoy the benefits. Permitting or allowing small ground-mounted solar PV as an accessory use in at least one zoning districts can promote easier and more equitable solar deployment. It can increase solar development and save property owners time and money because they can avoid going through a more extensive process to have their solar system considered.			
Recommended Verification: • Provide a link to the zoning ordinance or land use regulations that allows small ground-mounted solar PV as an accessory use. Please indicate the relevant section(s).			
Community Examples: • Philadelphia, PA SolSmart Gold • La Crescent, MN SolSmart Gold			
Templates: • Model Zoning for the Regulation of Solar Energy Systems Massachusetts Department of Energy Resources • Renewable Energy Ordinance Framework: Solar PV Delaware Valley Regional Planning Commission (DVRPC)			
Resources: • Best Practices in Zoning for Solar National Renewable Energy Laboratory (NREL) • Planning for Solar Energy American Planning Association (APA) • Planning, Zoning & Development SolSmart's Toolkit for Local Governments			

PZ-8	5	Ensure the zoning ordinance exempts small ground-mounted solar PV from certain restrictions on accessory uses (e.g. setbacks, coverage or impervious surface calculations, or other restrictions).	☐
Small ground-mounted solar PV that is considered an accessory use may be subject to certain restrictions such as setbacks, lot coverage, and impervious surface ratios. These types of regulations are normally applied to accessory structures like sheds, garages, or accessory dwelling units which can have a greater impact on neighbors when built up against a lot line or covering a larger percentage of the lot. Solar is less obtrusive and contains pervious surfaces underneath the panels and it can be exempted from certain restrictions to promote easier and more equitable solar deployment.			
Recommended Verification: • Provide a link to the zoning ordinance or land use regulations that exempts small ground-mounted solar PV from certain restrictions on accessory uses. Please indicate the relevant section(s).			
Community Examples: • Edina, MN SolSmart Gold • Swarthmore, PA SolSmart Bronze			
Templates: • Model Zoning for the Regulation of Solar Energy Systems Massachusetts Department of Energy Resources • Renewable Energy Ordinance Framework: Solar PV Delaware Valley Regional Planning Commission (DVRPC)			
Resources: • Planning for Solar Energy American Planning Association (APA)			

- [Planning, Zoning & Development](#) | SolSmart's Toolkit for Local Governments

PZ-9	5	Ensure the zoning ordinance establishes a clear regulatory pathway for large-scale solar PV (e.g. through a special use permit or through inclusion among allowed conditional uses).	☐
A local government should consider including large-scale solar regulations in their zoning ordinance or land use regulations to provide clarity and consistency to the development process. Including the type of district (e.g. commercial, industrial, low productivity agricultural land) where development is allowed, the type of applicable permit(s) (e.g. conditional use permits, use permits), and use standards or special regulations provide solar developers with a clear set of guidelines and a more predictable approval process. Recommended Verification: • Provide a link to the zoning ordinance or land use regulations that establishes a regulatory pathway for large-scale solar PV development. Please indicate the relevant section(s). Community Examples: • Freeport, IL SolSmart Gold • La Crosse, WI SolSmart Gold Templates: • Model Zoning for the Regulation of Solar Energy Systems Massachusetts Department of Energy Resources • Renewable Energy Ordinance Framework: Solar PV Delaware Valley Regional Planning Commission (DVRPC) Resources: • Are You Solar Ready? National Renewable Energy Laboratory (NREL) • Land Use Considerations for Large-scale Solar SolSmart Issue Brief • Planning for Solar Energy American Planning Association (APA) • Planning, Zoning & Development SolSmart's Toolkit for Local Governments • Top Five Large-scale Solar Myths National Renewable Energy Laboratory (NREL)			
PZ-10	10	Ensure the zoning ordinance includes a native perennial vegetation and/or habitat-friendly ground cover requirement or standard for large-scale solar PV.	☐
Large-scale solar projects cover many acres that can be used for the dual purpose of providing clean, renewable energy and growing native perennial vegetation or habitat-friendly ground cover. Planting native perennial vegetation under solar PV systems can improve soil health and water retention, while providing habitat for pollinators and native species. Recommended Verification: • Provide a link to the zoning ordinance or land use regulations that includes language about a native perennial vegetation and/or habitat-friendly ground cover requirement or standard. Please indicate the relevant section(s). Community Examples: • Stearns County, MN (6.52.2 H) SolSmart Silver • St. Joseph County, IN SolSmart Gold Templates: • Minnesota Solar Model Ordinance Great Plains Institute (GPI) • Model Solar Energy Local Law (NY) New York State Energy Research and Development Authority (NYSERDA) Resources: • Land Use Considerations for Large-scale Solar SolSmart Issue Brief • NREL Beneath Solar Panels, the Seeds of Opportunity Sprout National Renewable Energy Laboratory (NREL) • State Pollinator-friendly Scorecards Fresh Energy			
PZ-11	5	Ensure the zoning ordinance enables co-location of solar PV with an agricultural use such as grazing, apiaries, or crops (agrivoltaics).	☐

Large-scale solar projects cover many acres that can be used for the dual purpose of providing clean, renewable energy and co-locating with forms of agriculture. Co-locating solar PV with crops can enhance yields, soil health, and water retention while improving system efficiency by reducing air temperature near the panels.	
Recommended Verification: Provide a link to the zoning ordinance or land use regulations that includes language enabling the co-location of solar with an agricultural use. Please indicate the relevant section(s).	
Community Examples: Leon County, FL SolSmart Gold San Luis Obispo County, CA (D.9) Not Designated	
Templates: Illinois Solar Model Ordinance Great Plains Institute (GPI)	
Resources: Co-Location of Solar and Agriculture Webinar National Renewable Energy Laboratory (NREL) Land Use Considerations for Large-scale Solar SolSmart Issue Brief NREL Beneath Solar Panels, the Seeds of Opportunity Sprout National Renewable Energy Laboratory (NREL)	

PZ-12	5	Ensure the zoning ordinance requires a decommissioning plan that outlines the terms and conditions for a large-scale solar PV system's proper removal at the end of its useful life cycle or in the event of cessation of operation. (The decommissioning plan may include steps to remove the system, requirements for disposal and/or recycling of system components, and restoration as needed to allow for return to agriculture or other land use).	☐
A community's zoning ordinance can require a decommissioning plan that clearly outlines the roles, responsibilities, terms, and conditions to ensure the local government will not be responsible for the removal of a large-scale solar PV system. Decommissioning is the responsibility of the system owner and requiring a plan can alleviate concerns that a local government will be unnecessarily burden with system removal.			
Recommended Verification: Provide a link to the zoning ordinance or land use regulations that includes language about a decommissioning plan for large-scale solar PV. Please indicate the relevant section(s).			
Community Examples: La Crosse, WI SolSmart Gold Will County, IL SolSmart Gold			
Templates: Model Solar Energy Local Law New York State Energy Research and Development Authority (NYSERDA) Template Solar Energy Development Ordinance for North Carolina North Carolina Clean Energy Technology Center (NCCETC)			
Resources: Decommissioning Solar Panel Systems New York State Energy Research and Development Authority (NYSERDA) Land Use Considerations for Large-scale Solar SolSmart Issue Brief			

PZ-13	5	Ensure the zoning ordinance establishes solar energy zones and/or solar overlays for large-scale solar PV.	☐
A community's zoning ordinance and land use regulations could establish a solar energy zone or overlay. This strategy can encourage solar development on favorable sites and reduce the project development timeline by streamlining permitting and zoning requirements.			
Recommended Verification: Provide a link to the zoning ordinance or land use regulations that establishes solar energy zones and/or solar overlays for large-scale solar PV. Please indicate the relevant section(s).			
Community Examples: Framingham, MA (pg. 96) SolSmart Silver Wellesley, MA (pg. 101) SolSmart Silver			
Resources:			

- [Planning for Solar Energy](#) | American Planning Association (APA)
- [Planning, Zoning & Development](#) | SolSmart's Toolkit for Local Governments

PZ-14	10	Require new construction to be solar ready in at least one zoning district by adopting Appendix U (International Code Council), Appendix RB (International Energy Conservation Code), or another mechanism.	☐
Local governments can proactively plan for increased solar deployment by requiring new construction to be solar ready which can reduce the installation costs if a solar system will be installed at some point in the future. Solar ready buildings are designed and engineered in such a way that allows for the easy installation of a future solar system. The International Code Council (ICC) has developed model codes and standards for solar ready construction.			
Recommended Verification: • Provide a link to the adopted code(s) or language that requires new construction to be solar ready.			
Community Examples: • El Paso, TX SolSmart Gold • Warrenville, IL SolSmart Gold			
Templates: • Appendix U International Residential Code (IRC) • Appendix RB International Energy Conservation Code (IECC)			
Resources: • Planning for Solar Energy American Planning Association (APA) • Planning, Zoning & Development SolSmart's Toolkit for Local Governments • Solar Ready Construction Guidelines Mid-America Regional Council (MARC)			

PZ-15	20	Codify a solar requirement for new construction and/or retrofits meeting a specific threshold, in at least one zoning district.	☐
Local governments can proactively promote solar development by requiring a solar installation on new construction, and/or retrofits. Installing solar on new construction is cost-effective and can rapidly increase solar deployment in a community. A solar requirement can be mandated at a local level in the code of ordinances or, as in the case of California, at the state level.			
Recommended Verification: • Provide a link to the adopted code(s) or language that requires solar on new construction or retrofits.			
Community Examples: • Santa Monica, CA SolSmart Gold • South Miami, FL SolSmart Silver			
Resources: • Better Roofs Ordinance San Francisco Planning Department • Planning for Solar Energy American Planning Association (APA) • Planning, Zoning & Development SolSmart's Toolkit for Local Governments			

PZ-16	10	Provide clear guidance for the installation of solar PV on historic properties and in special overlay districts.	☐
Many communities contain historic properties or historic districts that aim to preserve a community's character and heritage. These properties and districts are often regulated by specific design guidelines that outline how a historic property may be modified. These guidelines can include the best methods to incorporate a solar energy installation while maintaining the historical nature of the structure and surrounding neighborhood.			
Recommended Verification: • Provide a link to the zoning ordinance or land use regulations that includes guidance on the installation of solar PV on historic properties and in special overlay districts. Please indicate the relevant section(s). • Provide a link to guidance for the installation of solar PV on historic properties and in special overlay districts			
Community Examples: • Ann Arbor, MI SolSmart Silver • Park City, UT SolSmart Gold			

Resources:

- [Implementing Solar PV Projects on Historic Buildings and in Historic Districts](#) | National Renewable Energy Laboratory (NREL)
- [Installing Solar Panels on Historic Buildings](#) | North Carolina Clean Energy Technology Center (NCCETC)
- [Planning for Solar Energy](#) | American Planning Association (APA)
- [Planning, Zoning & Development](#) | SolSmart's Toolkit for Local Governments

PZ-17	5	Post an online fact sheet that provides an overview of what zoning allows for solar PV under what conditions (e.g. types and sizes of solar systems permitted, the processes required, and other relevant information).	☐
A community's zoning ordinance and land use regulations create statutory limits on what individuals may do with their property as a matter of right and often provides additional processes to consider special exceptions. Land use regulations often contain use standards that provide additional requirements for certain types of development. However, these regulations can sometimes be unclear and difficult to access, especially for topics like solar PV. Posting an online fact sheet that summarizes zoning regulations for solar represents a major step toward overcoming informational barriers.			
Recommended Verification: • Provide a link to the fact sheet, zoning determination letter, or other online document that clarifies and summarizes how the zoning ordinance and land use regulations regulate solar energy.			
Community Examples: • San Diego County, CA SolSmart Gold • Sedona, AZ SolSmart Bronze			
Resources: • Planning, Zoning & Development SolSmart's Toolkit for Local Governments			

PZ-18	10	Train planning and zoning staff on best practices in planning and zoning for solar PV. Training must have occurred in the past five years.	☐
Regular solar PV training, at least every few years, is a best practice to ensure planning and zoning staff are up-to-date on strategies for incorporating solar into plans, ordinances, and development regulations. Training staff in planning and zoning best practices for solar can help them to evaluate the options available for reducing barriers to solar and enable them to customize these best practices to their local context. Training can help staff develop clear, transparent, well-defined, and consistent planning and zoning regulations and processes that provide certainty for property owners and solar developers. Local governments can require staff to attend full or half-day workshops (either live or online) and provide or create resources designed to help staff keep up with advances in solar planning and zoning best practices.			
Recommended Verification: • Provide a memo with details about the planning and zoning training including name of training, name of trainer, attendees (name, title, department), date and time, location, agenda, and presentation/slides.			
Templates: • PZ-18 SolSmart Solar Planning and Zoning Training Template Memo SolSmart			
Resources: • Best Practices in Solar Planning and Zoning SolSmart Webinar • Planning for Solar Energy American Planning Association (APA) • Planning, Zoning & Development SolSmart's Toolkit for Local Governments			

PZ-19	5	Draft new or updated language and provide a timeline for the inclusion of specific solar PV goals, metrics, and/or strategies into existing and/or future plans.	☐
Planning documents provide the foundation for a community's vision for how and where it would like future development to occur. Comprehensive, sub-area, and functional plans also provide policy guidance to the local government as it weighs how future development aligns with other objectives. Communities that would like to promote solar development in an organized and efficient manner should draft solar energy goals, metrics, or strategies for inclusion in new or updated plans.			
Recommended Verification:			

Provide draft language of the proposed plan changes that relate to solar energy and a timeline for inclusion in future plans.
Community Examples: Chatham County, NC SolSmart Gold South St. Paul, MN SolSmart Bronze
Templates: Solar Resource Development Requirement Metropolitan Council (Met Council)
Resources: Integrating Solar Energy into Local Plans American Planning Association (APA) Planning for Solar Energy American Planning Association (APA) Planning, Zoning & Development SolSmart's Toolkit for Local Governments

PZ-20	10	Include specific solar PV goals, metrics, and/or strategies in the most current version of relevant local plans (e.g. energy plan, climate plan, comprehensive plan).	☐
Planning documents provide the foundation for a community's vision for how and where it would like future development to occur. Development is governed largely by the components of the comprehensive plan and guided by the policies and strategies outlined in other functional plans such as a Climate Action Plan or Sustainability Plan. These planning documents should align to have solar energy goals, metrics, and strategies that promote solar development in an organized and efficient manner.			
Recommended Verification: Provide a link to the relevant plans that incorporate solar PV goals, metrics, and/or strategies. Please indicate the relevant section(s).			
Community Examples: Ann Arbor, MI SolSmart Silver Philadelphia, PA SolSmart Gold			
Resources: Integrating Solar Energy into Local Plans American Planning Association (APA) Local Government Strategies for 100% Clean Energy SolSmart Webinar Planning for Solar Energy American Planning Association (APA) Planning, Zoning & Development SolSmart's Toolkit for Local Governments			

PZ-21	10	Develop a solar PV assessment that identifies all feasible sites for large-scale solar PV development within a jurisdiction.	☐
Local governments can proactively identify sites that are favorable for solar PV projects. Identifying sites that have high solar potential and the best characteristics for large-scale solar development can reduce potential conflicts between solar and other land uses and speed up the project development timeline.			
Recommended Verification: Provide a link to the large-scale solar PV assessment.			
Community Examples: Mountain Iron, MN SolSmart Bronze Santa Clara County, CA Not Designated			
Resources: Planning for Solar Energy American Planning Association (APA) Planning, Zoning & Development SolSmart's Toolkit for Local Governments Solar Resource Protection Requirement Metropolitan Council (Met Council)			

PZ-22	10	Enable solar rights through a local solar access ordinance.	☐
In some states, local governments have jurisdiction to enable solar rights through an ordinance. A solar rights or access ordinance protects a property owner's right to sunlight, ensuring a solar installation has access to the sunlight it needs to generate electricity. A solar access ordinance can also remove restrictive covenants for solar PV in relevant zones.			
Recommended Verification:			

Provide a link to the zoning ordinance or land use regulations that protects solar rights and access. Please indicate the relevant section(s).
Community Examples: Ashland, OR Not Designated Freeport, IL SolSmart Gold
Templates: A Comprehensive Review of Solar Access Law in the United States Solar America Board for Codes and Standards (Solar ABCs)
Resources: A Comprehensive Review of Solar Access Law in the United States Solar America Board for Codes and Standards (Solar ABCs) Best Practices in Zoning for Solar National Renewable Energy Laboratory (NREL) Planning for Solar Energy American Planning Association (APA) Planning, Zoning & Development SolSmart's Toolkit for Local Governments

PZ-23	20	Codify in the zoning ordinance that accessory use energy storage systems are explicitly allowed by-right in all major zones.	☐
A community's zoning ordinance and land use regulations create statutory limits on what individuals may do with their property as a matter of right. Zoning often provides additional processes, which can be long and costly, to consider special exceptions when a proposal is inconsistent with current land use regulations. Codifying residential energy storage as an accessory use and allowed or by-right use in all major zoning categories provides policy certainty and clarity which can promote easier and more equitable energy storage deployment. It can increase energy storage development and save property owners time and money because they can avoid going through a more extensive process to have their energy storage system considered.			
Recommended Verification: Provide a link to the zoning ordinance or land use regulations that codify energy storage as an accessory use and allowed or by-right use. Please indicate the relevant section(s).			
Community Examples: Coming Soon			
Templates: Battery Energy Storage Model Law New York State Energy Research and Development Authority (NYSERDA)			

Government Operations

GO-1	20	Demonstrate coordination between local government inspectors and utility staff to reduce Permission to Operate timeline for solar PV.	☐
A solar system that has not been granted permission to operate (PTO), is not allowed to produce electricity which can have economic impacts for the system owner. To reduce economic loss, local governments can coordinate with the electric utility to ensure solar PV systems can begin operation as soon as it has been confirmed that the systems are properly constructed and connected to the grid. Consolidating and/or coordinating local government inspections and utility interconnection inspections can save time and money for solar installers and property owners.			
Recommended Verification: Provide details about the coordination process and explaining how this process reduces the time between inspection and Permission to Operate			
Community Examples: Leon County, FL SolSmart Gold			
Resources: Utility Engagement SolSmart's Toolkit for Local Governments			

GO-2	10	Discuss community goals for solar PV, net metering, community solar, and/or interconnection processes with the local utility and explore areas for future collaboration. Compile summary and next steps in a memo.	☐
Local governments can leverage their relationship with electric utilities to encourage increased support for, and development of, solar energy. Local governments and utilities can partner to provide community solar programs, solar incentives, and help improve the solar interconnection process. Utilities can also help local governments meet municipal or community-wide renewable energy goals by procuring large amount of solar energy.			
Recommended Verification: Provide meeting minutes (including a list of follow-up action items), e-mail correspondence, meeting agenda, materials prepared for the meeting (e.g., handouts and slides), or other evidence that at least one meeting occurred with your local utility.			
Community Examples: Minneapolis, MN SolSmart Gold Missoula, MT SolSmart Silver			
Resources: Engagement Guidance American Cities Climate Challenge Renewables Accelerator Making Solar & Electrification Policies Mutually Beneficial SolSmart Webinar Procurement Guidance American Cities Climate Challenge Renewables Accelerator Solar & Electrification, A Beneficial Partnership SolSmart Issue Brief Utilizing City-Utility Partnership Agreements to Achieve Climate and Energy Goals World Resources Institute (WRI)			
GO-3	10	Coordinate with regional organizations and/or local governments to engage utilities on advancing solar policies such as utility procurement of solar PV, green tariffs, and/or interconnection process improvements.	☐
Local governments can find strength in numerous as they advance ambitious energy transformation goals. Collaborating with other local governments and/or regional organizations allows resources, expertise, and staff to be pooled together which can enhance efforts to work with utilities. Networks of communities and utilities can provide opportunities to share best practices and common strategies through peer-to-peer learning. They can also help build coalitions and advocate for state policy.			
Recommended Verification: Provides details about your community's participation in coordinated efforts between local governments and/or regional organizations to engage utilities with the goal of advancing solar initiatives.			
Community Examples: Lake Forest, IL SolSmart Bronze Salt Lake City, UT SolSmart Bronze			
Resources: Engagement Guidance American Cities Climate Challenge Renewables Accelerator Engagement Tracker American Cities Climate Challenge Renewables Accelerator PJM Cities & Communities Coalition World Resources Institute (WRI) Procurement Guidance American Cities Climate Challenge Renewables Accelerator Utilizing City-Utility Partnership Agreements to Achieve Climate and Energy Goals World Resources Institute (WRI)			
GO-4	10	Conduct feasibility analysis for solar PV on local government facilities and/or local government-controlled land.	☐
Local governments can lead by example and install solar PV on their facilities and/or land to achieve clean energy goals and generate electricity cost savings. The first step is conducting a feasibility analysis to discover which rooftops or grounds have the highest solar potential and best characteristic for a solar installation. An RFP can then be issued for the most favorable sites.			
Recommended Verification: Provide a link to the feasibility analysis or details about the feasibility analysis that was conducted – who conducted, what were the sites, when was it conducted, what were the recommendations and next steps.			

Community Examples:

- [Asheville, NC](#) | SolSmart Gold
- [Mountain Iron, MN](#) | SolSmart Bronze

Resources:

- [Decision Support Tools for Local Solar Planning & Development](#) | SolSmart Webinar
- [Solar Project Development Pathway - Site and Opportunity Assessment](#) | Environmental Protection Agency (EPA)
- [Solar Development on Public Facilities and Under-utilized Land](#) | SolSmart's Toolkit for Local Governments
- [System Advisor Model \(SAM\)](#) | National Renewable Energy Laboratory (NREL)

GO-5	20	Install solar PV on local government facilities and/or local government-controlled land.	☐
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Local governments can lead by example and install solar on their facilities and/or land to achieve clean energy goals. Solar installations can generate revenue for local governments, deliver electricity cost savings, and serve as an educational tool for community members.

Recommended Verification:

- Provide news articles, a press release announcing the commissioned system, or webpage that summarizes the details of the installation(s) including total number of systems, size, location, and photos.

Community Examples:

- [Johnson County, IA](#) | SolSmart Gold
- [New York City, NY](#) | SolSmart Gold

Resources:

- [Procurement Guidance](#) | American Cities Climate Challenge Renewables Accelerator
- [Solar Decision Support and Resources for Local Governments](#) | National Renewable Energy Laboratory (NREL)
- [Solar Development on Public Facilities and Under-utilized Land](#) | SolSmart's Toolkit for Local Governments
- [Solar Power Purchase Agreements: A Toolkit for Local Governments](#) | Interstate Renewable Energy Council (IREC)

GO-6	20	Install solar PV on local government-controlled brownfields and/or under-utilized properties.	☐
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As large, open spaces with limited future uses, brownfields, landfills, and other under-utilized lands are favorable locations for solar PV systems. Local governments can lease these lands for solar development to increase locally installed solar capacity while generating land lease revenue.

Recommended Verification:

- Provide a news article, a press release announcing the commissioned system, or webpage that summarizes the details of the installation(s) including total number of systems, size, location, and photos.

Community Examples:

- [Cary, NC](#) | SolSmart Silver
- [Eau Claire, WI](#) | SolSmart Gold

Resources:

- [Developing Solar on Brownfields](#) | SolSmart Webinar
- [RE-Powering America's Land](#) | Environmental Protection Agency (EPA)
- [Solar Development on Public Facilities and Under-utilized Land](#) | SolSmart's Toolkit for Local Governments
- [The Guide to Developing Solar Photovoltaics at Massachusetts Landfills](#) | Massachusetts Department of Energy Resources

GO-7	20	Install solar PV integrated with other technologies such as combined heat and power or electric vehicle charging on local government facilities and/or local government-controlled land.	☐
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Solar can provide unique benefits when paired with other distributed energy technologies. Co-locating solar with other technologies can improve resilience, provide demand-charge reductions, and charging electric vehicles with a renewable source of energy.

Recommended Verification:	
Provide a news article, a press release announcing the commissioned system, or webpage that summarizes the details of the solar installation(s) integrated with other technologies including total number of systems, size, location, technologies used, and photos.	
Community Examples:	
Duluth, MN SolSmart Gold Montgomery County, MD SolSmart Gold	
Resources:	
Best Practices for Solar & Electric Bus Charging at Transit Agencies SolSmart Webinar REopt: Renewable Energy Integration & Optimization National Renewable Energy Laboratory (NREL) Solar and Electric Vehicles: A Guide for Local Governments SolSmart Solar & Electric Vehicle Best Practices for Local Governments SolSmart Webinar	

GO-8	20	Install solar PV plus storage on local government facilities and/or local government-controlled land.	☐
Solar can provide resilience benefits and serve as emergency backup power to local government facilities in case of a power outage. Local governments have leveraged solar PV and storage to provide lighting for evacuation routes, power to shelters, and extend the fuel supply of diesel generation. Solar plus storage can also be used to provide demand-charge reductions by reducing peak load.			
Recommended Verification:			
Provide a news article, a press release announcing the commissioned system, or webpage that summarizes the details of the solar installation(s) plus storage including total number of systems, size, location, and photos.			
Community Examples:			
Fayetteville, AR SolSmart Gold Portland, OR Not Designated			
Resources:			
REopt: Renewable Energy Integration & Optimization National Renewable Energy Laboratory (NREL) Resiliency: Solar + Storage SolSmart's Toolkit for Local Governments Solar + Storage: A Guide for Local Governments SolSmart Issue Brief Solar and Energy Storage for Resiliency (Solar Resilient) San Francisco Department of the Environment Solar and Resiliency: Integrative Financing Strategies for SolSmart Communities SolSmart Issue Brief Solar + Storage / Resiliency CUNY Smart Distributed Generation Hub			

GO-9	10	Require new local government facilities and/or facility retrofits meeting a specific threshold to be solar ready.	☐
Local governments can lead by example and require new facilities or those completing a retrofit to be solar ready. Solar ready construction can reduce the installation costs if a solar system will be installed at some point in the future. Solar ready buildings are designed and engineered in such a way that allows for the easy installation of a future solar system.			
Recommended Verification:			
Provide a link to adopted code(s) or language that require new construction and/or retrofits of local government facilities to be solar ready.			
Community Examples:			
Montgomery County, MD SolSmart Gold			
Resources:			
Solar-Ready Building Design: A Summary of Technical Considerations National Renewable Energy Laboratory (NREL)			

GO-10	20	Procure solar energy for municipal operations through an offsite physical PPA, virtual PPA, green tariff, or similar structure.	☐
To meet climate and energy goals, local governments can procure a large amount of solar energy through an appropriate structure, depending on the types of contracts allowed by state and utility regulations.			
Recommended Verification:			

Provide a document such as a news article, contract, press release, or similar official document containing the details how the local government is procuring solar energy.
Community Examples: Cincinnati, OH Not Designated Denton, TX SolSmart Gold
Resources: How Cities Benefit from Power Purchase Agreements Center for Climate and Energy Solutions (C2ES) How Local Governments Can Buy Renewable Energy & Support Market Development SolSmart Webinar Local Government Strategies for 100% Clean Energy SolSmart Webinar Procurement Guidance American Cities Climate Challenge Renewables Accelerator

Community Engagement

CE-1	10	Post a solar landing page on local government's website with information that may include the community's solar goals, educational materials and tools that promote solar, and resources for solar development (e.g. permitting checklist, application forms, zoning regulations, etc.).	☐
A solar landing page is a way to provide residents, businesses, and solar installers with important information about your community's solar energy policies, processes, goals, and metrics from one centralized location. It is also a way to educate community members about solar energy topics like financing options and consumer protection best practices.			
Recommended Verification: Provide a link to the solar landing page.			
Community Examples: Pulaski County, VA SolSmart Gold Tyngsborough, MA SolSmart Gold			
Templates: CE-1 SolSmart Solar Landing Page Template SolSmart			
Resources: Homeowner's Guide to Going Solar (View in Spanish) U.S. Department of Energy (DOE) Residential Consumer Guide to Solar Power Solar Energy Industries Association (SEIA)			
CE-2	5	Post online resources about solar installers and/or solar quote platforms for solar PV.	☐
More solar companies operating in your community means residents and businesses are faced with more choices as they consider who to select for their solar project. Providing relevant local information on active solar installers can help community members make the best choice given their circumstances.			
Recommended Verification: Provide a link to a webpage that contains information about local solar installers and/or solar quote platforms.			
Community Examples: Denver, CO SolSmart Gold Schaumburg, IL SolSmart Silver			
Templates: CE-1 SolSmart Solar Landing Page Template SolSmart			
Resources: Board Certified Professionals Directory North American Board Certified Energy Practitioners (NABCEP) EnergySage EnergySage Pickmysolar Pick My Solar Solar Buyer's Markets: Potential PV Price Savings of Online Quote Platforms National Renewable Energy Laboratory (NREL)			

CE-3	5	Post online resources about residential and commercial solar PV financing options and incentives.	☐
Many different financing options are available for residential and commercial solar PV. Local governments can play an important role in providing access to information about available options.			
Recommended Verification: Provide a link to a webpage that contains information about financing options and incentives.			
Community Examples: Walnut Creek, CA SolSmart Gold Wood County, WI SolSmart Gold			
Templates: CE-1 SolSmart Solar Landing Page Template SolSmart			
Resources: A Homeowner's Guide to Solar Financing: Leases, Loans and PPAs Clean Energy States Alliance (CESA) Database of State Incentives for Renewables and Efficiency (DSIRE) North Carolina Clean Energy Technology Center (NCCETC) Financing your solar panel system EnergySage Homeowner's Guide to the Federal Tax Credit for Solar Photovoltaics (View in Spanish) U.S. Department of Energy (DOE)			

CE-4	5	Post online resources about consumer protection and solar PV.	☐
Solar energy can be a new and complex topic for community members. Local governments can provide online guides and resources to help community members have a clear understanding of solar PV, allowing them to make informed decisions.			
Recommended Verification: Provide a link to a webpage containing consumer protection resources.			
Community Examples: Alexandria, VA SolSmart Gold James City County, VA SolSmart Bronze			
Templates: CE-1 SolSmart Solar Landing Page Template SolSmart			
Resources: Consumer Solar Checklist Interstate Renewable Energy Council (IREC) EnergySage EnergySage Residential Issues and Existing Regulatory Framework SolSmart's Toolkit for Local Governments Solar Customer Resource Portal Solar Energy Industries Association (SEIA) Solar Owner's Manual (View in Spanish) Solar United Neighbors (SUN)			

CE-5	5	Post an online summary of state policies related to a property owner's solar access and solar rights, including links to state-level policy.	☐
Community members are often unaware that state policy could impact their property's solar rights. Solar rights and solar access are terms which describe the ability of property owners to utilize sunlight on their property. Each state has its own unique policy and enforcement regime.			
Recommended Verification: Provide a link to a webpage with information about state policies relating to solar access and/or rights.			
Community Examples: Torrance, CA SolSmart Gold Wilmette, IL SolSmart Silver			
Templates: CE-1 SolSmart Solar Landing Page Template SolSmart			
Resources: A Comprehensive Review of Solar Access Law in the United States Solar America Board for Codes and Standards (Solar ABCs)			

- [Database of State Incentives for Renewables and Efficiency \(DSIRE\)](#) | North Carolina Clean Energy Technology Center (NCCETC)

CE-6	5	Post an online summary of state policies related to Homeowner Associations (HOAs) ability to regulate and/or restrict solar PV, including links to state-level policy.	☐
Homeowner Associations often aim to impose restrictive measures on solar PV systems. Community members should be aware of state policy that defines what HOAs are allowed and not allowed to do in terms of regulating solar PV systems.			
Recommended Verification: • Provide a link to a webpage with information about state policies relating to Homeowner Associations and solar PV.			
Community Examples: • Hallandale Beach, FL SolSmart Silver • Torrance, CA SolSmart Gold			
Templates: • CE-1 SolSmart Solar Landing Page Template SolSmart			
Resources: • A Beautiful Day in the Neighborhood: Encouraging Solar Development through Community Association Policies and Processes The Solar Foundation (now the Interstate Renewable Energy Council)			

CE-7	5	Post an online dashboard or summary of the solar PV metrics for your community.	☐
Key solar metrics such as the number of installations and total installed capacity can help communicate progress towards local and state renewable energy goals. Other related metrics could include the percentage of municipal energy provided by solar energy, installed capacity per capita and progress towards greenhouse gas emissions targets.			
Recommended Verification: • Provide a link to a webpage displaying solar PV metrics.			
Community Examples: • Boulder, CO SolSmart Gold • Westminster, CO SolSmart Bronze			
Templates: • CE-1 SolSmart Solar Landing Page Template SolSmart			

CE-8	5	Post an online solar map for your community.	☐
Solar maps can provide community members with an estimate of the solar potential of their rooftop. Solar maps can also show the location of solar installations within a community.			
Recommended Verification: • Provide a link to the solar map for your community.			
Community Examples: • Los Angeles County, CA Not Designated • Westminster, CO SolSmart Bronze			
Templates: • CE-1 SolSmart Solar Landing Page Template SolSmart			
Resources: • Data Explorer Google • Go Solar Ready Ohio-Kentucky-Indiana Regional Council of Governments • NY Solar Map Sustainable CUNY • Project Sunroof Google			

CE-9	5	Support a solar informational session and/or solar tour explaining solar PV opportunities and policies. Session/Tour must have occurred within the last 5 years.	☐
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An engaged and informed community can encourage solar market growth and increase the likelihood that local homes and businesses will pursue solar installations. Solar informational sessions and solar tours are ways to educate community members about the solar energy and the processes involved with an installation.		
Recommended Verification: Provide a link(s) to details about the solar informational session or tour such as an agenda, date, time, and location.		
Community Examples: Lower Merion, PA SolSmart Bronze Sarasota County, FL SolSmart Silver		
Resources: Virtual Solar Tours National Solar Tour		

CE-10	5	Distribute solar job training and career opportunities in coordination with local colleges and/or workforce development organizations.	☐
Solar jobs have grown 12 times faster than the U.S. economy since 2014. As local solar markets grow, local governments can promote solar job opportunities with community colleges and workforce development organizations to ensure a well-trained, local workforce.			
Recommended Verification: Provide posted job descriptions, screenshots from employment websites, evidence of classified ads or advertisement of job trainings.			
Community Examples: Fitchburg, WI SolSmart Bronze Washington, DC SolSmart Gold			
Templates: CE-1 SolSmart Solar Landing Page Template SolSmart			
Resources: Solar Training Network Interstate Renewable Energy Council (IREC) Solar Workforce Development Pilot St. Louis, MO Workforce Development Grid Alternatives			

CE-11	5	Demonstrate local government support for local solar projects through speeches, press releases, opinion articles, etc.	☐
Local governments can encourage solar market growth by highlighting solar energy goals, initiatives, and success stories through various communications strategies.			
Recommended Verification: Provide a link to a document demonstrating encouragement of solar PV projects.			
Community Examples: Fayetteville, AR SolSmart Gold Louisville, KY SolSmart Gold			
Resources: Stakeholder Engagement SolSmart's Toolkit for Local Governments			

CE-12	10	Discuss solar PV goals and/or strategies for increasing solar PV development within an appropriate committee, commission, taskforce, and/or working group. (e.g. solar is a recurring agenda item during monthly sustainability commission meetings).	☐
An Environmental Advisory Council, Sustainability Committees, or Climate Action Taskforce is a great way to keep residents and key stakeholders actively engaged in community energy policy and development. These groups can assist in the development of solar energy goals and strategies, lead community-based solar initiatives, and provide communication and outreach support to inform community members about solar initiatives and plans.			
Recommended Verification: Provide meeting minutes (including a list of follow-up action items), meeting agenda, or materials			

prepared for the meeting (e.g., handouts and slides) from within the past year and provide documentation of the regularly scheduled frequency of these meetings.
Community Examples: • Branford, CT SolSmart Bronze • Fairfield, CT SolSmart Gold
Templates: • CE-1 SolSmart Solar Landing Page Template SolSmart
Resources: • Stakeholder Engagement SolSmart's Toolkit for Local Governments • Solar and Resiliency: Integrative Financing Strategies for SolSmart Communities SolSmart Issue Brief

Market Development

MD-1	20	Demonstrate activity in state regulatory and/or legislative proceedings regarding solar PV.	☐
Local governments can provide an important voice into the development of state-level solar energy policy, strategies, and incentives. Government staff can track policy developments actively and develop appropriate strategies to interact with state regulators and legislators.			
Recommended Verification: • Provide a link to public comments on solar energy or related energy proceedings, op-eds in local newspapers, or agenda, minutes, and/or recordings of meetings attended by representatives of the local government.			
Community Examples: • Ann Arbor, MI SolSmart Silver • Santa Fe, NM (Resolution 2018-71) SolSmart Bronze			
Resources: • Engagement Guidance American Cities Climate Challenge Renewables Accelerator • Engagement Tracker American Cities Climate Challenge Renewables Accelerator • The Federal and State Context: Policies Affecting Solar Energy Development SolSmart's Toolkit for Local Governments			
MD-2	20	Support a community-wide group purchase program (e.g. Solarize). Program must have occurred within the last 5 years.	☐
Local governments can support or host community group purchase programs for solar energy. Bulk purchasing can reduce the costs of solar installations for community members. These limited time-offers have had consistent success in providing discounts of up to 20% of installed costs for residential systems.			
Recommended Verification: • Provide a link to a website where the Solarize campaign has been publicly announced. • Provide details about the status of an ongoing solarize campaign or final metrics of a completed solarize campaign.			
Community Examples: • La Crosse County, WI SolSmart Bronze • Montgomery County, MD SolSmart Gold			
Templates: • Solarize Your Community New York State Energy and Research Development Authority (NYSERDA)			
Resources: • How to Develop a Solarize Campaign SolSmart Webinar • Market Development and Finance SolSmart's Toolkit for Local Governments • Solarize Mass Massachusetts Clean Energy Center			

MD-3	10	Encourage low-to-moderate income (LMI) participation in community-wide group purchase program through program design and/or financing support options.	☐
Local governments can support or host community group purchase programs for solar energy. Group purchase programs can incorporate incentives for income-qualified participants to promote equitable participation.			
Recommended Verification: Provide details that explains the forms of financing support or program design elements that support LMI residents in solar PV group purchase program.			
Community Examples: Durham, NC SolSmart Gold Philadelphia, PA SolSmart Gold			
Templates: Solarize Your Community New York State Energy and Research Development Authority (NYSERDA)			
Resources: How to Development a Solarize Campaign SolSmart Webinar Market Development and Finance SolSmart's Toolkit for Local Governments Solarize Mass Massachusetts Clean Energy Center			

MD-4	20	Support a community solar program.	☐
Community solar offers residents and businesses an opportunity to own or lease a portion of a solar project in exchange for economic benefits proportional to their share. These economic benefits are commonly delivered in the form of electricity bill credits. For renters, and homes or business that are not suitable sites for solar, community solar programs allow consumers to access solar without installing panels on their homes or business. Community solar can be provided by utilities, a third party, or a non-profit.			
Recommended Verification: Provide a link to information about the community solar program, including any outreach materials and details about program design.			
Community Examples: Austin, TX SolSmart Gold Fort Collins, CO SolSmart Gold			
Resources: A Guide to Community Share Solar: Utility, Private, and Nonprofit Project Development National Renewable Energy Laboratory (NREL) Community Solar SolSmart's Toolkit for Local Governments Expanding Solar Participation through Community Solar SolSmart Issue Brief Expanding Solar Participation through Community Solar SolSmart Webinar Procurement Guidance American Cities Climate Challenge Renewables Accelerator			

MD-5	10	Encourage low-to-moderate income (LMI) participation in a community solar program through program design and/or financing support options.	☐
Community solar provides opportunities to open access to solar to low-to-moderate income households. To fully achieve this potential, a community program should design programs and financing to support low to moderate income participation, including savings from day one. It is also important to ensure that appropriate and trusted messengers are used and that offerings are designed to be flexible without long-term commitments.			
Recommended Verification: Provide details that explains the forms of financing support or program design elements that support LMI residents in a community solar program.			
Community Examples: Denver, CO SolSmart Gold Washington, DC SolSmart Gold			
Resources: A Guide to Community Share Solar: Utility, Private, and Nonprofit Project Development National Renewable Energy Laboratory (NREL) Community Solar SolSmart's Toolkit for Local Governments			

- [Design and Implementation of Community Solar Programs for Low- and Moderate-Income Customers](#) | National Renewable Energy Laboratory (NREL)
- [Procurement Guidance](#) | American Cities Climate Challenge Renewables Accelerator

MD-6	20	Provide residents with Community Choice Aggregation/Energy that includes solar PV as a power generation source.	☐
Local governments can increase access to solar energy for their operations and their residents through community choice aggregation. Community Choice Aggregation allows local governments to aggregate energy demand within their jurisdiction and procure power from an energy supplier while the local utility provides transmission and distribution services. Many local governments utilize community choice to procure more renewable energy, including solar, than would be available from their local electric utility. States must have enabling legislation for local governments to provide community choice aggregation.			
Recommended Verification: • Provide a link to details about a Community Choice program (with solar PV as a power generation source) that is available for residents.			
Community Examples: • San Jose, CA SolSmart Gold • Somerville, MA SolSmart Gold			
Templates: • Community Choice Aggregation Toolkit New York State Energy and Research Development Authority (NYSERDA) • Starting a New CCA California Community Choice Association (CalCCA)			
Resources: • Community Choice Aggregation Environmental Protection Agency (EPA) • Community Choice Aggregation SolSmart Issue Brief • Community Choice Aggregation: Challenges, Opportunities, and Impacts on Renewable Energy Markets National Renewable Energy Laboratory (NREL) • Using Community Choice Aggregation to Achieve Clean Energy Goals SolSmart Webinar			

MD-7	10	Provide a PACE financing program that includes solar PV as an eligible technology.	☐
Property Assessed Clean Energy (PACE) financing is an on-bill financing mechanism which enables repayment of long-term, low-interest loans on property tax bills. PACE can be used to finance renewable energy and energy efficiency projects on residential and/or commercial properties, depending on the PACE financing program design. In order for residents and business to access PACE financing, it must be enabled at the state and local level.			
Recommended Verification: • Provide a link to the local ordinance creating a PACE program. • Provide a link to the PACE program webpage.			
Community Examples: • Deerfield Beach, FL SolSmart Silver • Grand Rapids, MI SolSmart Silver			
Resources: • Market Development and Finance SolSmart's Toolkit for Local Governments • Resources PACENation			

MD-8	20	Provide local incentives or locally-enabled finance (e.g. a revolving loan fund) for solar PV.	☐
In addition to state and federal incentives, local governments can also encourage solar development within their jurisdictions by providing tax exemptions, rebates, or other financial incentives. Some jurisdictions have enabled community finance through revolving loan funds or credit enhancement facilities for renewable energy projects. These actions can help lower the cost of solar for residents.			
Recommended Verification: • Provide a link to an ordinance creating local incentives or financing options.			

Provide a link to an application or form that are required for a solar PV system to be eligible for incentives or financing.
Community Examples: Loudoun County, VA SolSmart Silver St. Louis Park, MN SolSmart Silver
Resources: Market Development and Finance SolSmart's Toolkit for Local Governments

MD-9	5	Provide local incentives for solar PV to low-to-moderate income (LMI) households, Disadvantaged Business Enterprises (DBEs), and/or non-profit organizations that provide community services.	☐
Local governments can support solar installations by LMI households, DBEs, and non-profit organizations by providing incentives such as low-interest loans, grants, on-bill financing and a variety of tax incentives and rebates. Local governments can expand solar programs to disadvantaged residents by implementing any number of these programs.			
Recommended Verification: - Provide a link to an ordinance creating local incentives or financing options. - Provide a link to an application or form that are required for a solar PV system to be eligible for incentives or financing.			
Community Examples: Boulder, CO SolSmart Gold Portland, OR Not Designated			
Resources: Market Development and Finance SolSmart's Toolkit for Local Governments Projects & Programs in Low-to-Moderate Income Communities SolSmart Webinar Resources to Support Initiatives for Low-to-Moderate Income Communities SolSmart Webinar Unlocking Solar for Low- and Moderate-Income Residents: A Matrix of Financing Options by Resident, Provider, and Housing Type National Renewable Energy Laboratory (NREL)			

MD-10	20	Partner with financial institutions and/or foundations to offer loans, rebates, grants, or other incentives for solar PV projects. (Financial institutions could include entities such as a local or regional bank, CDFI, or credit union).	☐
Loans, rebates, or grants can improve the financial prospects of a solar project, allowing more community members to install solar. Local governments can work with local financial institutions to offer and/or promote financing options for solar projects.			
Recommended Verification: - Provide link to financing options for solar energy. - Provide a memo detailing how the local government partnered with the financial institution to offer a financial incentive for solar energy.			
Community Examples: Lafayette, CO SolSmart Gold Milwaukee, WI SolSmart Gold			
Resources: Market Development and Finance SolSmart's Toolkit for Local Governments			

Innovative Action

IA-1	Varies	The actions identified in the categories above represent many of the most common and impactful efforts communities are taking to make going solar easier and more affordable for residents and businesses. However, we know that communities across the country are developing innovative ways to promote and deploy solar energy. If your community has taken action that was not captured in any of the credits above, please share it with us.	☐
Innovative actions will be reviewed by a team of solar experts and each action may be worth up to 20 points.			
Recommended Verification: Provide a memo describing the innovative action and include any supporting documentation or links that provide additional details.			
Community Examples: Grayslake, IL SolSmart Bronze - The Grayslake Sustainable Business Initiative recognizes local businesses that are choosing to be more sustainable. Solar energy is emphasized by awarding a business automatic gold designation if they have installed a solar energy system. Montgomery County, MD SolSmart Gold - Montgomery County's 4th Solar Co-op offered EV charging as an option through the solar co-op. This helps promote EV charging and can reduce costs through group purchasing.			

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Summary of Best Practices in Electric Vehicle Ordinances

BY CLAIRE COOKE AND BRIAN ROSS

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This ordinance guide was developed based upon funding from the Alliance for Sustainable Energy, LLC, Managing and Operating Contractor for the National Renewable Energy Laboratory for the US Department of Energy.

About the Great Plains Institute

A nonpartisan, national, nonprofit organization, the Great Plains Institute (GPI) is transforming the energy system to benefit the economy and environment. We combine a unique consensus-building approach, expert knowledge, research and analysis, and local action to find and implement lasting solutions. Learn more at www.betterenergy.org.

For more information on this ordinance summary, please contact Brian Ross, Senior Program Director at bross@gpisd.net.

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Overview

This document is a summary guide to electric vehicle (EV) and electric vehicle supply equipment (EVSE) ordinances in the US.¹ The guide is sorted into best practice categories and provides a summary of typical provisions used by cities for each category. Each category includes a table with key points and text examples from actual ordinances, as well as recommendations from model codes for that topic, drawn from one of several model ordinances, or ordinance guidance documents that have been developed to inform cities on developing EV-ready zoning standards.

This summary is provided as a reference to cities seeking to develop EV zoning standards or development regulations. The summary does not address building or electric codes, only zoning ordinance language and associated tools. The examples are not intended to constitute recommendations, but rather to show the breadth of choices made by communities across the nation to integrate EVSE into development regulation.

The ordinance language in the following tables are drawn from the zoning ordinances of the following cities. To see the full context of each example, click on the links below and use the search function within the ordinance document to find the relevant example.

- [Atlanta, GA](#)
- [Auburn Hills, MI](#)
- [Chelan, WA](#)
- [Des Moines, WA](#)
- [Douglas County, WA](#)
- [Duluth, MN](#)
- [Golden Valley, MN](#)
- [Howard County, MD](#)
- [Indianapolis, IN](#)
- [Kansas City, MO](#)
- [Methuen, MA](#)
- [Middletown, CT](#)
- [Montgomery County, MD](#)
- [Mountlake Terrace, WA](#)
- [New Orleans, LA](#)
- [Saint Paul, MN](#)
- [Salt Lake City, UT](#)
- [St. Louis Park, MN](#)

The inventory of adopted ordinances also included a scan of model zoning ordinances and ordinance guidance documents for how local governments can use their zoning codes to help electrify transportation.

¹ This is not a complete inventory but rather a representative sample of ordinances from cities throughout the United States.

The guides and model ordinances are listed below, with links, along with their region of origin:

- Europe: [Electric Vehicle Charging Infrastructure: Guidelines for Cities](#)
- Georgia: [Model Municipal Ordinance](#) (click on the first hyperlink in Section II, A)
- Iowa: [Leading the Charge: City Codes and Electric Vehicles](#)
- Midwest: [Principles for EV-Ready Communities](#)
- New Jersey: [Alternative Fuel Vehicle Readiness: A Guidebook for Municipalities](#)
- New York: [Literature Review Summary: Electric Vehicle Supply Equipment Signage Guidance](#)
- New York: [Promoting Electric Vehicle Charging Station Installations](#)
- Northeast/Mid-Atlantic: [Creating EV-Ready Towns and Cities: A Guide to Planning and Policy Tools](#)
- Santa Clara County, CA: [Plug-in Electric Vehicle Best Practices Compendium](#)
- Washington: [Electric Vehicle Infrastructure: A Guide for Local Governments in Washington State](#)
- Washington: [Plug-In Electric Vehicle Readiness Plan](#)

1. Electric Vehicle Charging Station as Permitted Land Uses

Information related to where EV charging stations (or specific types of EV stations) are permitted. Charging stations are likely to be an accessory use but may also be a principal use in some instances. Ordinances clarify where these land uses are permitted to streamline the installation of infrastructure that serves a public purpose.

Typical Ordinance Includes	Language Example	
Specification:	City, State:	Text:
Treats different types of EVSE as different land uses and may distinguish between where different types of charging stations are allowed. - Charging station types are typically distinguished as different “levels” contingent on charging speed (see “definitions” p11-12). - Most often, levels 1 & 2 are allowed in all zones while level 3 stations are restricted to specific zoning districts. - May provide a table to delineate use permitted zoning districts for each station type. - May also allow for all three levels in all zoning districts.	Chelan, WA	“Level 1 and 2 electric vehicle charging stations are a permitted use in all zoning districts... Level 3 electric vehicle charging stations are a permitted use in the Warehouse and Industrial (WI), Highway Service Commercial (C-HS),..., zoning districts”
	Des Moines, WA	“Levels 1, 2, and 3 electric vehicle charging stations are allowed in all zoning designations.”
May require a conditional or special use permit for charging stations in specific zones.	Auburn Hills, MI	“Installation shall be subject to permit approval administered by the Community Development Department.”
	Chelan, WA	“Level 3 electric vehicle charging stations...require a conditional use permit in Downtown Mixed Use (DMU), Tourist Accommodation (T-A),...zoning districts.”
May place restrictions on charging stations in the right of way.	New Orleans, LA	“No property or parcel may have more than one electric vehicle charger installed in the right-of-way adjacent to such property or parcel.”
	Des Moines, WA	“Electric vehicle charging stations are not permitted within the city right-of-way”

EV Guide and Model Code Recommendations

Model Code Document Name:

Iowa Clean Cities Coalition, Leading the Charge: City Codes and Electric Vehicles

Recommendation: “Define what types of EVSE are allowable by land use type.”

Reasoning: “By establishing compatible charging stations according to land use types, cities can eliminate confusion about what is and isn’t allowable while also affirming the desirability of EVSE within the community...”

2. Electric Vehicle Make-Ready Standards

Requirements and standards for installing the infrastructure to support EVSE (also known as “make-ready”), other than the installation of the EVSE equipment itself. Make-ready standards are to prepare, at the time of construction, for future installation of chargers. Make-ready requirements capture savings by avoiding future costly retrofits to install chargers and have minimal impacts on the construction or renovation costs for the parking facility.

Typical Ordinance Includes	Language Example	
Specification:	City, State:	Text:
May require or recommend the installation of appropriate electrical capacity and conduits to support future EVSE.	Howard County, MD	“For new occupancies subject to this section: at least 1 parking space for each 25 residential units shall feature energized outlets; and a residential unit with a garage, carport, or driveway shall feature appropriate electric vehicle supply equipment consisting of conductors, connectors,[...] so that an energized outlet may be added in the future.”
	St. Louis Park, MN	“Multiple-Family Residential Land Uses: all new, expanded and reconstructed parking areas shall provide the electrical capacity necessary to accommodate the future hardwire installation of Level 2 EVCSs for a minimum of 10% of required parking spaces.”
	St. Louis Park, MN	“Non-Residential Land Uses: all new, expanded and reconstructed parking areas shall provide the electrical capacity necessary to accommodate the future hardwire installation of Level 2 or DC

		EVCSs for a minimum of 10% of required parking spaces.”
	Auburn Hills, MI	“In order to proactively plan for and accommodate the anticipated future growth in market demand for electric vehicles, it is strongly encouraged, but not required, that all new one-family and multiple-family homes with garages be constructed to provide a 220-240-volt / 40 amp outlet on a dedicated circuit and in close proximity to designated vehicle parking to accommodate the potential future hardwire installation of a Level-2 electric vehicle charging station.”
	Auburn Hills, MI	“it is strongly encouraged, but not required, that all new and expanded non-residential development parking areas provide the electrical capacity necessary to accommodate the future hardwire installation of Level-2 electric vehicle charging stations. It is recommended that a typical parking lot (e.g., 1,000 or less parking spaces) have a minimum ratio of 2% of the total parking spaces be prepared for such stations.”
May delineate zoning districts where EVSE is allowed.	Mountlake Terrace, WA	“Electric vehicle infrastructure shall be permitted in zoning districts of the city as identified in ...”

EV Guide and Model Code Recommendations

Model Code Document Name:

Model City Ordinance Relating to Electric Vehicle (EV) Charging Infrastructure

Recommendation: “Require that [the] main electrical switchgear be installed with sufficient space and capacity to support 20% of EV spaces at 208/240V and 40A per space, with a dedicated branch circuit and overcurrent protection device, per space.”

Reasoning: “Retrofitting parking structures can be 91%+ more expensive than outfitting garages during the initial construction phase.”

Recommendation: “Require that all parking spaces in a parking structure be made “EV-Capable” i.e. conduit be

installed throughout the structure and subpanels sized to accommodate 60A or 40A breakers for each.”

Reasoning: “[if] at least 20% of stalls are “EV-Ready” ... the total electrical capacity is able to be shared among the remaining 80% of EV parking stalls using load sharing technology. However, this is only possible if the electrical conduit (trunk line) and subpanels are preinstalled throughout the parking garage to allow Level-2 Charging Equipment to be connected in the future.”

3. Electric Vehicle Supply Equipment Standards

Minimum standards or required design of charging equipment or charging station infrastructure. These standards are often combined with minimum requirements for EV charging installations (see best practice #5).

Typical Ordinance Includes	Language Example	
Specification:	City, State:	Text:
May require that EVSE meet standards found in the National Electric Code.	Atlanta, GA	“Installation of EVSE shall meet National Electric Code article 625...”
Often specifies that EVSE must be mounted. • May specify on what EVSE should be mounted. • Often specify at what height EVSE should be mounted. • Often specify that EVSE should be installed so as not to be a tripping hazard. • May require a retraction device or place to mount cords. • May specify that cords should not cross walkways.	Montgomery County, MD	“Battery charging station outlets and connector devices shall be no less than 36 inches and no higher than 48 inches from the surface where mounted.”
	Chelan, WA	“Equipment mounted on pedestals, lighting posts, bollards, or other devices for on-street charging station shall be designed and located as to not impede pedestrian travel or create trip hazards within the right-of-way”
	New Orleans, LA	“Cords shall be retractable or have a place to hang the connector and cord sufficiently above the pedestrian surface. Any cords connecting the charger to a vehicle shall be configured so that they do not cross a driveway, sidewalk, or passenger unloading area.”
May specify other standards that EVSE should comply with.	St. Louis Park, MN	“EVCS pedestals shall be designed to minimize potential damage by accidents,

• May specify that EVSE be installed in compliance with a specific state code. • Often specify that EVSE be installed in compliance with the Americans with Disabilities Act.		vandalism and to be safe for use in inclement weather.”
	St. Louis Park, MN	“Battery charging station outlets and connector devices shall be mounted to comply with state code and must comply with all relevant Americans with Disabilities Act (ADA) requirements.”
May specify the distance of the charging station from the curb.	Mountlake Terrace, WA	“Charging station equipment...shall be a minimum of 24 inches clear from the face of the curb.”
May specify under what circumstances a parking space must adhere to these standards.	Des Moines, WA	“Electric vehicle charging stations utilizing parking stalls located in parking lots, or parking garages shall comply with the following requirements...”
	Douglas County, WA	“Design criteria for electric vehicle charging stations or battery exchange stations within commercial, industrial and mixed-use zoning districts...”

EV Guide and Model Code Recommendations

Model Code Name:

Iowa Clean Cities Coalition, Leading the Charge: City Codes and Electric Vehicles

Recommendation: Design criteria should be created for EVSE installations.

Reasoning: “By articulating standards for EVSE design and installation, including setbacks and pedestal height for freestanding units, a community can facilitate a smooth construction permitting process.”

4. Electric Vehicle Parking Space Design and Location

Information related to EV parking space design and location. Design and location decisions will affect installation cost (length of conduit from electric source) and use (location of the space relative to the building).

Typical Ordinance Includes	Language Example	
Specification:	City, State:	Text:
May specify parking space size.	Atlanta, GA	“The installation of an EVSE should not reduce the electric vehicle charging station’s length to below the size and standards required under section 16-28.014”
	Methuen, MA	“Where provided, spaces should be standard size parking stalls but designed in a way that will discourage non-electric car vehicles from using them.”
	Montgomery County, MD	“The minimum width for a parking space for charging electric vehicles is 9 feet.”
May specify the location of parking spaces on a street or within a parking lot.	Atlanta, GA	“Criteria for electric vehicle parking and charging on private streets...For the purpose of reducing cable management issues and placing the...charging station closer to crosswalks and curb ramps, such charging stations shall be installed to use the last space on a block face in the direction of travel.”
	Methuen, MA	“Parking spaces for electric vehicles must not be located in the most convenient spots because this will encourage use by non-electric vehicles.”
	Salt Lake City, UT	“The electric vehicle parking space shall be located in the same lot as the principal use.”
	St. Louis Park, MN	“The EVCSs shall be located in desirable and convenient parking locations that will serve as an incentive for the use of electric vehicles.”
	St. Louis Park, MN	“General Requirements for Single-Family Residential Zoning Districts...EVSE shall be located in a garage, or on the exterior wall

		of the home or garage adjacent to a parking space.”
May provide specifications about parking space and location fit.	Methuen, MA	“Design should be appropriate to the location and use. Facilities should be able to be readily identified by electric cars users but blend into the surrounding landscape/architecture for compatibility with the character and use of the site.”
May require the parking space to have features that protect charging equipment.	Chelan, WA	“Equipment shall be protected by wheel stops or concrete filled bollards.”
	Montgomery County, MD	“Adequate battery charging station protection, such as concrete-filled steel bollards shall be used. Curbing may be used in lieu of bollards, if the battery charging station is setback a minimum of 24 inches from the face of the curb.”
May simply specify an entity with the authority to create standards for EV charging stations.	Des Moines, WA	“The city manager or designee is authorized to develop and maintain standards for the design and construction of electric vehicle charging stations.”

EV Guide and Model Code Recommendations

Model Code Document Name:

Plug-in Electric Vehicle Best Practices Compendium (County of Santa Clara, CA)

Recommendation: Information be given concerning “Parking configurations, including guidance on whether it is preferable to locate chargers in perpendicular, parallel, or angled parking spaces, and on the location of wheel stops, guard posts and signage.”

5. Required EV Parking Capacity & Minimum Parking Requirements

Information on minimum EV parking standards and on how EV charging spaces/parking spots are accounted for as part of minimum parking space requirements (parking minimums already in place in the ordinance). Cities requiring EV parking minimums are capturing the public value in this infrastructure, like non-EV parking minimums, and to landscaping, stormwater management, accessibility, and other design elements that are routine elements of parking standards.

Typical Ordinance Includes	Language Example																			
Specification:	City, State:	Text:																		
Often recommends or requires that a proportion of parking spaces be EV charging stations, designated for EV parking, or be EVSE ready. • These are often specified as a percent or a ratio. • May also be based on land uses such as the number of residential units in a development. • May be based on land use type. • May limit the number of chargers that can be installed in the right-of-way. • May include incentives for higher level charging stations through variations in space requirements.	Montgomery County, MD	“The minimum number of electric vehicle charging stations required is 1 electric vehicle charging station per 50 parking spaces.”																		
	Howard County, MD	“For new occupancies subject to this section: at least 1 parking space for each 25 residential units shall feature energized outlets.”																		
	Mountlake Terrace, WA	“The first column in Table 1 shows the type of land use for which electric vehicle charging stations shall be provided, pursuant to this section. The second column shows the minimum percentage of the facility’s parking spaces that shall provide a connection to electric vehicle charging stations.” <table><tr><th>Land Use Type</th><th>Percent Parking Spaces</th></tr><tr><td>Multi-household Res</td><td>10%</td></tr><tr><td>Lodging</td><td>3%</td></tr><tr><td>Retail, eating and drinking</td><td>1%</td></tr><tr><td>Office, medical</td><td>3%</td></tr><tr><td>Industrial</td><td>1%</td></tr><tr><td>Institutional, Municipal</td><td>3%</td></tr><tr><td>Recreation/Entertainment/Cultural</td><td>1%</td></tr><tr><td>Other</td><td>3%</td></tr></table>	Land Use Type	Percent Parking Spaces	Multi-household Res	10%	Lodging	3%	Retail, eating and drinking	1%	Office, medical	3%	Industrial	1%	Institutional, Municipal	3%	Recreation/Entertainment/Cultural	1%	Other	3%
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Recreation/Entertainment/Cultural	1%																			
Other	3%																			
St. Louis Park, MN	“All new or reconstructed parking structures or lots with at least 50 parking spaces, or expanded parking structures or lots that result in a parking lot with 50 or more parking spaces, shall install EVSE as required below. 1. Multiple-family residential land uses shall have 10% of required parking as Level 1 stations for																			

		resident parking, and one Level 2 station for guest parking. At least one handicapped accessible parking space shall have access to an EVCS. 2. Non-residential land uses with parking spaces available for use by the general public shall have at least 1% of required parking as Level 2 stations with a minimum of two spaces served by Level 2 charging, with at least one station adjacent to an accessible parking space. In non-residential zoned districts, DC charging stations may be installed to satisfy the EVCS requirements described above on a one-for-one basis."								
	Indianapolis, IN	"Two electric vehicle charging stations shall be required for developments that provide 500 or more off-street parking spaces."								
	Middletown, CT	"Any new development that requires 25 or more parking spaces, as calculated by Section 40.04 of these regulations, shall have a minimum of 1 charging space or 3% of the total number of spaces allocated to Electric Vehicles (EVs) (whichever is greater) and must have a Level 2 or 3 charging station/connection per EV parking space."								
	Salt Lake City, UT	"The number of required minimum parking spaces is determined after applying any applicable reductions and exemptions. The number of required EV parking spaces shall be as follows:" <table><tr><th>Required Minimum Number of Parking Spaces</th><th>Number of EV Parking Spaces</th></tr><tr><td>0 to 49</td><td>0</td></tr><tr><td>50 to 99</td><td>1</td></tr><tr><td>100+</td><td>2, plus 1 for each additional 100 stalls</td></tr></table>	Required Minimum Number of Parking Spaces	Number of EV Parking Spaces	0 to 49	0	50 to 99	1	100+	2, plus 1 for each additional 100 stalls
Required Minimum Number of Parking Spaces	Number of EV Parking Spaces									
0 to 49	0									
50 to 99	1									
100+	2, plus 1 for each additional 100 stalls									
	New Orleans, LA	"No property or parcel may have more than one (1) electric vehicle charger installed in the right-of-way adjacent to such property or parcel."								

	Salt Lake City, UT	"A reduction in the minimum number of required electric vehicle parking stalls may be reduced by 25% if a Level 2 station is installed or by 50% if a Fast Charge station is installed. For each additional Level 2 or Fast Charge station installed, the additional reduction will be based on the already reduced number."
May include EV parking space proportion requirements as part of optional financing or a flexible code. • May be part of a sustainability points system (Duluth, MN). • May be one of several required amenities to choose from as part of a Planned Unit Development (Golden Valley, MN). • May be tied to public funding or financial partnership by the city (Saint Paul, MN)	Duluth, MN	"A minimum of 2% of required automobile parking spaces are signed and reserved for hybrid/electric/low energy vehicles in preferred locations near the primary building entrance."
	Golden Valley, MN	(include) "An electric vehicle charging station accessible to residents, employees, and/or the public."
	Saint Paul, MN	*Work in Progress* In their city code under <i>Chapter 81. - Sustainable Building</i>, Saint Paul has an "Overlay" that is required for "construction projects receiving more than \$200,000 in public assistance, as well as certain rehab projects." This overlay specifies different requirements including "Electric vehicle charging capability." However, specifications regarding this requirement are yet to be worked out. - City of Saint Paul Website - Sustainable Building Policy - Sustainable Building Policy Guidebook
May include flexibility on minimum requirements to reduce cost burden.	St. Louis Park, MN	"When the cost of installing EVSE required by this Chapter would exceed five percent of the total project cost, the property owner or applicant may request a reduction in the EVSE requirements and submit cost estimates for city consideration. When City Council approval of the project is not required, the Zoning Administrator may administratively approve a reduction the required amount of EVSE to limit the EVSE installation costs to not more than five percent of the total project cost."
	Middletown, CT	"Applicants may request a waiver or reduction of electric vehicle parking requirements from the

		Planning and Zoning Commission during site plan approval.”						
May require that a proportion of EV charging stations also be made accessible.	Chelan, WA	“Accessible vehicle charging stations shall be provided based on the following table:”						
		<table><tr><th>Number of EV Charging Stations</th><th>Min. Accessible EV Stations</th></tr><tr><td>3-50</td><td>1</td></tr><tr><td>51-100</td><td>2</td></tr></table>	Number of EV Charging Stations	Min. Accessible EV Stations	3-50	1	51-100	2
		Number of EV Charging Stations	Min. Accessible EV Stations					
	3-50	1						
51-100	2							
Montgomery County, MD	“A minimum of one accessible electric vehicle charging station is required in any parking facility that is required to have one electric vehicle parking space. For parking facilities required to have 51-75 electric vehicle parking spaces the number of accessible spaces will increase to two (2). Between 76 – 100 electric vehicle parking spaces increases to three (3) and each thereafter increment of 25 electric charging station shall increase by one additional accessible electric vehicle charging space.”							
May count electric vehicle charging stations towards meeting existing minimum parking requirements for developments (despite being simultaneously restricted to EVs only).	Kansas City, MO	Electric vehicle charging stations may be counted toward satisfying minimum off-street parking space requirements.”						
	Methuen, MA	“An electric vehicle charging space may count for ½ of a space in the calculation for minimum parking spaces that are required...”						
	Indianapolis, IN	“For each electric vehicle charging station provided, the minimum number of required off-street parking spaces may be reduced by two. Each charging station counts toward the minimum number of required parking spaces.”						
	Chelan, WA	“Electric vehicle charging stations located within parking lots or garages may be included in the calculation of the minimum required parking spaces required pursuant to the Development Standards...”						
	Middletown, CT	“Requests for reduction of general parking spaces in exchange for additional EV parking: For any development that exceeds the minimum number of EVCs as required ... The reduction of parking cannot be greater than 10% of the total amount of parking for the proposed development.”						

EV Guide and Model Code Recommendations

Model Code Name:

Action Items for EV-Ready Communities
(NYSERDA Fact Sheet, Energetics)

Recommendation: Require “Set numerical or percentage-based goals ... for EV infrastructure in new construction.”

Creating EV-Ready Towns and Cities: A
Guide to Planning and Policy Tools
(NYSERDA, Transportation and Climate
Initiative of the Northeast and Mid-Atlantic
States, 2012)

Recommendation: Create an “incentive zoning [that] provides a bonus, such as in the form of additional floor area, in exchange for the provision of a public amenity or community improvements...In the case of EVSE, a developer incentive would be exchanged for EVSE pre-wiring or charging station installation.”

6. Electric Vehicle-Designed Parking Use Standards and Protections

Information related to parking restrictions, protections, and penalties for EV-designated spaces. Restricting use of EV charging parking stalls to EVs protects the public benefit being provided, like limiting use of accessible parking stalls.

Typical Ordinance Includes	Language Example	
Specification:	City, State:	Text:
May state restrictions on what type of vehicle may park in an EV charging station parking space. May specify the ramifications for parking unauthorized vehicles in EV charging spaces.	Atlanta, GA	“Each electric vehicle charging station and parking space for which any parking incentive was granted shall be reserved for use as an electric vehicle charging station or as electric reserved parking.”
	Auburn Hills, MI	“A police agency or a governmental agency...may provide for the immediate removal of a vehicle...in any of the following circumstances...When a sign provides notice that a parking space is a publicly designated electric vehicle charging station, no person shall park or stand any non-electric vehicle in a designated electric vehicle charging station space. Further, no person shall park or stand an electric vehicle in a publicly designated electric vehicle charging station space when not electrically charging or parked beyond the days and hours designated on the regulatory signs posted.”

	Chelan, WA	"Except when located in conjunction with single-family residences, electric vehicle charging stations shall be reserved for parking and charging of electric vehicles only."
	Kansas City, MO	"Public electric vehicle charging stations must be reserved for parking and charging electric vehicles only. Electric vehicles may be parked in any space designated for public parking, subject to the restrictions that apply to any other vehicle."

EV Guide and Model Code Recommendations

Model Code Name:

Alternative Fuel Vehicle Readiness: A Guidebook for Municipalities (North Jersey Transportation Planning Authority, 2017)

Recommendation: Municipalities should create enforcement policies for EV parking and charging stations that "specify towing of vehicles in violation of the restriction or impose a fine."

Reasoning: "It is important to define how restrictions and time limits will be enforced. Without an enforcement policy, there is no incentive to follow the restrictions."

7. Signage, Safety, and Other Standards

Information related to signage, road markings, notifications, lighting, usage fees, and maintenance. Signage helps all drivers understand appropriate use of this new form of parking infrastructure, and other standards similarly attempt to protect or enhance the public value of the infrastructure and minimize risks.

Typical Ordinance Includes	Language Example	
Specification:	City, State:	Text:
Often includes signage and road marking requirements. May include photo examples of signage.	Atlanta, GA	"Way finding signs, if installed, shall be placed to effectively guide the motorists to the electric vehicle parking space and/or charging station. Private regulatory signage shall be placed in a manner that shall not interfere with any parking space, drive lane or exit."
	Douglas County, WA	"Each electric vehicle charging station shall be posted with signage indicating the space is only for electric vehicle charging purposes."
Often includes lighting requirements.	St. Louis Park, MN	"Site lighting shall be provided where an electric vehicle charging station is installed, unless charging is for daytime purposes only."
	Chelan, WA	"Lighting. Adequate site lighting shall be provided, which shall also comply with Chapter 17.62..."
Often includes information about charging usage fees.	Kansas City, MO	"Property owners are not restricted from collecting a service fee for the use of an electric vehicle charging station."
Often includes information about general operations and maintenance.	Atlanta, GA	"Electric vehicle charging stations and parking spaces for which any parking incentive was granted shall be operational at all times. When an electrical vehicle parking station is not operational for 14 consecutive days, it shall be considered to have been removed from service. The failure to maintain the number of electric vehicle charging stations and parking spaces shall be cause to require the

		installation of the number of parking spaces required by the district regulations.”
	Model Code – Electric Vehicle Infrastructure. Guide for Local Governments (Washington State)	“Charging station equipment shall be maintained in all respects, including the functioning of the charging equipment. A phone number or other contact information shall be provided on the charging station equipment for reporting when the equipment is not functioning, or other problems are encountered.”
	St. Louis Park, MN	“The EVCS must be operational during the normal business hours of the use(s) that it serves. EVCS may be de-energized or otherwise restricted after normal business hours of the use(s) it serves.”
Often includes requirements for contact information for instances where a charging station is damaged or out of order.	Atlanta, GA	“A phone number or other contact information shall be provided when the station is not functioning in a manner that allows electric vehicles to be charged.”
	St. Louis Park, MN	“A phone number or other contact information shall be provided on the equipment for reporting problems with the equipment or access to it.”
Often includes information about required notices.	Chelan, WA	“The following information shall be posted at all electric vehicle charging stations: 1. Voltage and amperage levels; 2. Hour of operations if time limits or tow-away provisions are to be enforced by the property owner; 3. Usage fees; 4. Safety information; 5. Contact information for reporting when the equipment is not operating or other problems.”
May include time limits and hours of operation.	Mountlake Terrace, WA	“Time limits may be placed on the number of hours that an electric vehicle is allowed to charge, prohibiting indefinite charging /parking. If applicable, warnings shall be posted to alert charging station users about

		hours of use and possible actions affecting electric vehicle charging stations that are not being used according to posted rules.”
	St. Louis Park, MN	“The EVCS must be operational during the normal business hours of the use(s) that it serves. EVCS may be de-energized or otherwise restricted after normal business hours of the use(s) it serves.”
May include information on landscaping requirements.	Atlanta, GA	“Minimum landscaping requirements for surface electric vehicle parking and charging station lots...(a) All parking shall be terminated with a landscape strip a minimum width of five feet and equal to the length of the parking bay. (b) All required landscaped areas shall be planted with evergreen groundcover or shrubs with a maximum mature height of 30 inches...”

EV Guide and Model Code Recommendations

Model Code Document Name:

Plug-in Electric Vehicle Best Practices Compendium (Santa Clara County)

Recommendation: “Local governments should ...consider reducing EVSE permitting costs ... by waiving or subsidizing the fees to residents and/or businesses.”

Action Items For EV-Ready Communities (NYSERDA)

Recommendation: “Simplify and streamline permit processes.”

Literature Review Summary: Electric Vehicle Supply Equipment Signage Guidance. (NYSERDA, Energetics, 2013)

Recommendation: All sign types should be considered when writing an EV ordinance. “There are three different types of signage applicable to EVSE: General Service or Guidance Signs, Regulatory or Enforceable Signs, and Special or Information/Trailblazer Signs.”

8. Definition of Terms

Defining terms is a best practice for any ordinance, particularly when ordinance users and staff may be unfamiliar with the specifics of the land use and the policies being implemented via the ordinance requirements. Several EV or EVSE terms used in or pertinent to an EV-ready ordinance are defined below. Not all terms are used by each city. Terms used in an ordinance should be pertinent to the specific language and regulations found in each city's ordinance.

Typical Ordinance Includes	Language Example	
Term:	City, State:	Text:
Accessible electric vehicle charging station	Auburn Hills, MI	"an electric vehicle charging station where the battery charging station is located within accessible reach of a barrier-free access aisle and the electric vehicle."
Battery charging station	St. Louis Park, MN	"an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles."
Battery Electric Vehicle	Electric Vehicle Infrastructure: Guide for Local Governments (Washington State)	"any vehicle that operates exclusively on electrical energy from an off-board source that is stored in the vehicle's batteries, and produces zero tailpipe emissions or pollution when stationary or operating."
Battery exchange station	Des Moines, WA	"a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter ..."
Charging Levels • Level 1 • Level 2 • Level 3	Auburn Hills, MI	"the standardized indicators of electrical force or voltage, at which an electric vehicle's battery is recharged. The terms 1,2, and 3 are the most common charging levels, and include the following specifications:

This is in some instances paired with the definition for <i>electric vehicle charging station</i>		1. Level-1 is considered slow charging. Voltage including the range from 0 through 120. 2. Level-2 is considered medium charging. Voltage is greater than 120 and includes 240. 3. Level-3 is considered fast or rapid charging. Voltage is greater than 240. "
	Chelan, WA	"Level 1 is considered slow charging and operates on a fifteen to twenty amp breaker on a one hundred twenty volt AC circuit. Level 2 is considered medium charging and operated on a forty to one hundred amp breaker on a two hundred eight or two hundred forty volt AC circuit. Level 3 is considered fast or rapid charging and operated on a sixty amp or higher breaker on a four hundred eighty volt or higher three phase circuit with special grounding equipment. Level 3 stations can also be referred to as rapid charging stations that are typically characterized by industrial grade electrical outlets that allow for faster recharging of electric vehicles."
	Des Moines, WA	"the standardized indicators of electrical force, or voltage, at which an electric vehicle's battery is recharged. The terms Level 1, 2, and 3 are the most common EV charging levels, and include the following specifications: Level 1 is considered slow charging and operates on a 15 to 20 amp breaker on a 120 volt AC circuit. Level 2 is considered medium charging and operates on a 40 to 100 amp breaker on a 208 or 240 volt AC circuit. Level 3 is considered "fast" or "rapid" charging and typically operates on a 60 amp or higher breaker on a 480 volt or higher three phase circuit with special grounding equipment. Level 3 stations are primarily for commercial and public

		applications and are typically characterized by industrial grade electrical outlets that allow for faster recharging of electric vehicles.”
Electric capacity	St. Louis Park, MN	“at minimum: 1. Panel capacity to accommodate a dedicated branch circuit and service capacity to install a 208/240V outlet per charger; 2. Conduit from an electric panel to future EVCS location(s).”
Electric vehicle	Auburn Hills, MI	“any vehicle that is licensed and registered for operation on public and private highways, roads, and streets; either partially or exclusively, on electrical energy from the grid, or an off-board source, that is stored on-board via a battery for motive purpose. “Electric vehicle” includes: (1) a battery electric vehicle; (2) a plug-in hybrid electric vehicle”
	Des Moines, WA	“any vehicle that operates, either partially or exclusively, on electrical energy from the grid, or an off-board source, that is stored on-board for motive purpose. “Electric vehicle” includes: (a) A battery electric vehicle; (b) A plug-in hybrid electric vehicle; (c) A neighborhood electric vehicle; (d) A medium-speed electric vehicle.
	Howard County, MD	“a vehicle that uses electricity for propulsion.”
Electric vehicle, plug-in hybrid	Kansas City, MO	“an electric vehicle that (1) contains an internal combustion engine and also allows power to be delivered to drive wheels by an electric motor; (2) charges its battery primarily by connecting to the grid or other off-board electrical source; (3) may additionally be able to sustain battery charge using an on-board internal

		combustion-driven generator; and (4) has the ability to travel powered by electricity.”
Electric vehicle charging station	Electric Vehicle Infrastructure: Guide for Local Governments (Washington State)	“a public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle. An electric vehicle charging station equipped with Level 1 or Level 2 charging equipment is permitted outright as an accessory use to any principal use.”
	Des Moines, WA	“a public or private parking space that is served by battery charging station equipment for the purpose of transferring electric energy to a battery or other energy storage device in an electric vehicle.”
Electric vehicle charging station – private restricted use	Auburn Hills, MI	“an electric vehicle charging station that is (1) privately owned and restricted access (e.g., single-family home, executive parking, designated employee parking) or (2) publicly owned and restricted (e.g., fleet parking with no access to the general public).”
	Kansas City, MO	“an EV charging station that is not available for use by the general public. Examples include electric vehicle charging stations that serve residential homeowners or renters, executive parking areas, designated employee parking areas and fleet parking areas.”
Electric vehicle charging station – public use	Auburn Hills, MI	“an electric vehicle charging station that is (1) publicly owned and publicly available (e.g., Park & Ride parking, public library parking lot, on-street parking) or (2) privately owned and available to visitors of the use (e.g., shopping center parking).”
	Kansas City, MO	“an EV charging station that is accessible to and available for use by the public.”

Electric vehicle supply equipment	St. Louis Park, MN	“any equipment or electrical component used in charging electric vehicles at a specific location. EVSE does not include equipment located on the electric vehicles themselves.”
Electric vehicle infrastructure	Kansas City, MO	“conduit/wiring, structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations and rapid charging stations.”
	Des Moines, WA	“structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.”
Electric vehicle parking space	Auburn Hills, MI	“any marked parking space that identifies the use to be exclusively for the parking of an electric vehicle.”
Energized outlet	Howard County, MD	“a connected point in an electrical wiring installation at which current is taken to charge an electric vehicle.”
Neighborhood electric vehicle	Mountlake Terrace, WA	“a self-propelled, electrically powered four-wheeled motor vehicle whose speed attainable in one mile is more than 25 miles per hour but not more than 35 miles per hour and other wise meets or exceeds the federal regulations...”
Non-electric vehicle	Auburn Hills, MI	“any motor vehicle that does not meet the definition of electric vehicle.”
Rapid charging station	Methuen, MA	“an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels...”

**PUBLIC HEARING MINUTES
MONDAY, OCTOBER 25, 2021, 6:00 PM
VIA WEBEX SOFTWARE**

COUNCIL MEMBERS: Mayor Rennie Brantz, Mayor Pro-Tem Connie Ulmer, Sam Furguele, Dalton George, Nancy LaPlaca, and Virginia Roseman

PLANNING COMMISSION MEMBERS: Elizabeth Shay-Chair, Eric Plaag-Vice-Chair, Chris Behrend, Frank Venio, and John Tippet (joined at 6:09 pm)

PLANNING STAFF PRESENT: Jane Shook-Director of Planning and Inspections, Stacey Miller-Deputy Director of Planning & Inspections/Chief Building Inspector, Christy Turner-Senior Planner, Mike James-Senior Planner, Jessica Mitchell-Long Range Planner & Special Projects, and Brenda Henson-Board Secretary

OTHER TOWN STAFF AND REPRESENTATIVES PRESENT: John Ward-Town Manager, Rick Miller-Public Works Director, and Allison Meade-Town Attorney

OTHER ATTENDEES/PARTICIPANTS VIA WEBEX: Mike Curcio, Rina Norwood, Todd Carter, Judith Poland, JC Feimster, Jason Matthews, Tim Futtrelle, Mark Solomon, Alston Brown, Edie Tugman, and Jennifer

Call to Order

Mayor Brantz called the Town Council to order at 6:03 p.m. Chair Shay called the Planning Commission to order at 6:04 p.m. for the Public Hearing/Planning Commission meeting held via WebEx.

Approval of Meeting Minutes

Vice-Chair Plaag asked that the following changes be made to the September 27, 2021 Public Hearing minutes:

- Page 5 of the minutes, last paragraph, second sentence – remove the word ‘the’ after Ms. Shook answered that and remove the word ‘as’ after the B1 or
- Page 6 of the minutes, second paragraph, 5th line - the word ‘voluntarily’ should be ‘involuntarily’
- Page 7 of the minutes, fourth paragraph, first sentence – remove ‘the though’ and replace with ‘that although’
- Page 11 of the minutes, third paragraph, last sentence – replace the word ‘effect’ with ‘affect’
- Page 11 of the minutes, second to last paragraph, first sentence – remove the word ‘about’ after by including
- Page 12 of the minutes, last paragraph – remove the word ‘would’ after an alternative that
- Page 14 of the minutes, last paragraph, first sentence – remove the ? at the end of the sentence and replace it with a period

Council Member Roseman noted that Straight Street was misspelled on Page 3 of the minutes in the second to last paragraph and asked that it be corrected.

With no further changes, Council Member Roseman made a motion to approve the September 27, 2021 Public Hearing minutes as amended. The motion was seconded by Council Member LaPlaca.

Vote: Aye – All
Nay – None
The motion passed.

Commission Member Tippet joined the meeting at 6:09 p.m.

Vice-Chair Plaag made a motion to approve the September 27, 2021 Public Hearing minutes as amended. The motion was seconded by Commission Member Veno.

Vote: Aye – All
Nay – None

The motion passed.

Ms. Shook reviewed the general guidelines for each case presented at the Public Hearing.

Case PL05168-100621 Short-Term Rentals (Homestay & Vacation) – UDO Text Amendment

Amend UDO Article 7, 14, 15, 24, and 34 to modify and create new regulatory standards for short-term rentals (homestay or vacation rentals) of dwelling units.

Ms. Meade noted that a public meeting was held by Town Council in 2019 regarding this topic, and there had been numerous other discussions by Council. She stated that the basic purpose of the amendment was to create a new homestay rental use. She explained that a homestay rental meant that a permanent resident had a home and rented out guest rooms with a maximum of up to two guest rooms in the house. Ms. Meade further explained that the permanent resident of the home could be the owner, or it could be a tenant who was on-site who wanted to rent out one or two guest rooms. She stated the definition of a homestay rental was a transient lodging use that was advertised, whether online or otherwise, for stays of less than 30 days.

Ms. Meade stated there would be a separate vacation rental use and noted that this use was already included in the UDO. She explained that a vacation rental was the renting out of an entire dwelling unit such as a house, a duplex, or a multi-family apartment dwelling for transient lodging.

Ms. Meade noted that both homestay and vacation rentals would require the rental operator to obtain an annual zoning permit from the Town, and that would allow the Town to enforce the proposed provisions. She referred to draft UDO Subsection 15.05.02, which stated that homestays required a full-time resident to reside on the property as their primary home. Only one homestay could be permitted at a time. Ms. Meade explained that the full-time resident would be required to be present during the homestay rental periods.

Ms. Meade felt there was a significant difference between a family using a home in the Town as their permanent residence but deriving some additional income from renting some rooms versus a house that was held basically as an investment and rented out permanently to transient lodgers. She stated this took that house out of the family and workforce housing market and created a permanent transient lodging situation. For those reasons, a distinction was drawn between the two uses.

Ms. Meade stated that the maximum number of guest rooms in a homestay would be two guest rooms per detached single-family, two-family, or multi-family dwelling unit located on a single lot. Up to two guest rooms could also be rented in an accessory structure as long as the accessory structure was a lawful use. Maximum occupancy for the guest rooms would be the greater of two adults and any number of children or two occupants per guest room. Ms. Meade noted that the occupancy limit would have to be posted within the short-term rental and included in property listings on online platforms or other media.

Ms. Meade referred to UDO Subsection 15.05.12 that indicated homestay rental operators must remit occupancy taxes to the Town and pay any other applicable taxes. She stated that Council Member Furgiuele had let her know that occupancy taxes were not sent to the Town, so the phrase 'to the Town' would need to be removed from the proposed text.

Ms. Meade noted that homestay rentals must provide one dedicated parking space per guest room. That space could not be located on any street right-of-way and must conform to all applicable parking regulations. She stated that homestay rental permits could be revoked for a period of one year or permanently if there was a serious felony violation.

Ms. Meade referred to UDO Subsection 15.05.17 regarding compliance periods. She stated the Town Council had discussed but did not finalize a compliance period. A compliance period was suggested to allow staff time to implement this program and educate the public about the requirements. Ms. Meade stated there would be a timetable by which homestay rental operators must apply for a permit and a timeframe by which all homestays must be in compliance with the Ordinance. She stated she had suggested the possibility of 12 to 18 months for homestay operators to apply for a permit and a compliance period of 18 to 24 months.

Ms. Meade then addressed vacation rentals. She stated that whole-house rentals were currently allowed in RA and existing one- and two-family detached homes in R3, B1, B2, and B3 districts. Ms. Meade noted that Council would need to consider whether or not to expand the allowance of vacation rentals into other districts. They would also need to consider whether or not to apply a density limitation on multi-family buildings so that only a certain percentage of the apartments could be used as vacation rentals. Ms. Meade stated that the definition of a vacation rental was a single-family or two-family detached dwelling or multi-family dwelling with up to six guest rooms that offered transient overnight accommodations for any period of less than one month. Vacation rental operators must apply for a zoning permit annually that must be posted in the rental unit and provide one parking space per bedroom.

Ms. Meade referred to UDO Subsection 15.14.09 that stated for any multi-unit dwelling, no more than 25%, or two dwelling units, whichever would be greater, could be operated as a vacation rental in any single building. She stated the 25% was drawn from Raleigh's code and could be changed to a different percentage.

Ms. Meade noted that if the primary structure qualified for vacation rental use and had a legal accessory dwelling structure on the same property, both could be used as vacation rentals. However, both structures could only be rented out together to one party under a single contract. She also noted that some areas required the primary renter of both homestays and vacation rentals to be 21 years of age or older.

Council Member LaPlaca asked what the trends were for short-term rentals. Mr. Ward replied that in 2018 or 2019, Blowing Rock chose to start regulating short-term rentals. He stated that five years ago, they roughly had a TDA collection of about \$750,000. That had jumped to \$2 million now, just because of the extra capturing of the additional hotel/motel tax that was from the non-traditional hotel environment. Mr. Ward noted that, on the other side of that, were municipal trends on the actual enforcement. He stated that one of his big concerns was that whatever fees were collected should offset the cost so that Ms. Shook and her staff would have a chance to implement this program. Mr. Ward noted that an additional staff person was added to Planning & Inspections, but that position was for special projects and long-range planning, not additional permitting and enforcement. He stated that some communities hire a contractor to handle short-term rental programs, or a hybrid could involve staff and an outside contractor. Mr. Ward felt it was important to note that in tracking State legislation for at least the last two years, there had been bills introduced by the State legislature that would remove a local jurisdictions authority to regulate short-term rentals.

Council Member Furgiuele referred to UDO Subsection 15.14.11 that stated the rental operator or the operator's employee, management company, or other agent must be available to respond to complaints or emergencies within two hours at all times that a rental is occupied. He stated that a great deal of the time the rentals would occur in the evening or on the weekend, and the Planning Department would not

be available to take a complaint during non-working hours. Council Member Furgiuele asked how and to whom a citizen would make a complaint. Ms. Meade asked Council Member Furgiuele if he was concerned about renters being able to complain to the Town about a violation of this provision. Council Member Furgiuele replied that he was concerned about permanent or stable residents who might be adversely affected by the vacation rental being able to register a complaint. Ms. Meade stated that the Town permit was required to be posted where it could be easily viewed so a neighbor could obtain the permit number and then call Planning regarding possible violations. She added that UDO Subsection 15.14.11 was intended to be a complaint provision for the renters to register complaints with the rental operator, not a complaint measure for neighbors. Mr. Ward stated that the Police Department would respond to complaints such as noise, parking issues, etc., and would be able to provide Planning staff with information or evidence regarding potential violations of the short-term rental agreement. He suggested the possibility of placing something on the Town's website that would provide emergency contact information for neighbors in case they wished to speak with the short-term rental operator instead of calling the Police or registering a complaint with Planning.

Vice-Chair Plaag presented the scenario that he had just rented a three-bedroom house on Grand Boulevard and had decided to do one of the homestay rentals, but he actually wanted to rent it out to his friends Adam, Bob, Charlie, and David who are all App State students like him. The way he planned to structure this was for the first homestay rental he would rent to Adam and get 30 days out of that, for the next time he would rent to Bob, then Charlie, then David, and then repeat it over and over and over again for a year so on the books it would look like he had met the requirements of the Ordinance. In reality, what he had done was rented out a house in an R1 neighborhood in a way that allowed him to have five unrelated people living in the house together, basically as a student rental. Vice-Chair Plaag asked what mechanism the Town would have to prevent that from happening under this Ordinance. Ms. Meade replied that the scenario did not fall within the definition of homestay rental and was not transient lodging. She felt there would be no problem with enforcement if the situation came to the attention of staff. Vice-Chair Plaag stated the Town already had difficulty enforcing the no more than two unrelated people in a dwelling, and this would add yet another way that people could use homes in a manner that they were not originally intended to be used. Ms. Meade responded that enforcement was a challenge and occupancy was hard to investigate. She stated that this was a practical reality of both resource availability and commitment, and if Council wanted this to be done, they would need to make sure there was enough staff time available, training was provided, and the money to make it all happen was provided.

Mr. Ward noted that there had been a record number of permits year after year, and within the Planning Department a special projects person had been added, but no additional enforcement staff, permitting staff, or monitoring staff had been added. He stated that at the next Planning Retreat and the next Budget Retreat, if this was determined to be a priority, they could put more money toward enforcement in an effort to increase the likelihood of success.

Council Member LaPlaca asked if there had been a significant increase in revenue from occupancy tax. Mr. Ward replied that there had been an increase. Still, he noted that the use of hotel/motel tax dollars was restricted by State statute. Currently, 2/3 had to be used for promotion of the community. He stated that the 1/3 that the Town got to keep had been designated as the source to pay for the Howard Street project. Mr. Ward felt that the cost of enforcement would fall back onto the general fund and revenues generated through permitting and fees.

Vice-Chair Plaag asked if it would be possible for those operating short-term rentals on their own and not through a company like Airbnb to be required to pay occupancy tax themselves to the Town. Mr. Ward stated he liked that addition but noted that the taxes would be paid to the County, who would then disperse funds based on location. Mr. Ward suggested the possibility of random audits to make sure taxes were being remitted or possibly placing some type of condition on the permit.

Vice-Chair Plaag expressed concern about the allowance in a homestay rental of any number of children who were in the care of the homestay renter. He asked if that would allow a church bus with a group of kids to stay in the homestay rental. Ms. Meade felt that might be getting into building code limitations but added that if this was a real concern, the maximum number of overnight guests for a homestay rental could be limited to the definition of family or could merely specify that no more than two occupants were allowed. Ms. Meade stated that this topic would need to be considered.

Council Member Roseman referred to the allowance of 25% of a multi-unit dwelling to be operated as a vacation rental and expressed concern for the possibility of dwindling housing stock for residents. She stated she would like to see a stricter density percentage as well as allowing only one contract per parcel. Mr. Ward noted that there were several vacation rentals currently operating that had multiple structures on the property. Ms. Shook added that there was a property on King Street that was already permitted as a vacation rental, and it had two separate units on the property.

Council Member Furguele agreed that a tighter limit for vacation rentals would not be a bad idea because rentals with an absentee operator would be more problematic. He added that he was very hesitant to allow vacation rentals in low-density neighborhoods.

Council Member Roseman stated that she was worried about losing housing accessibility in the community and felt that some people only cared about lining their pockets instead of what was good for the community.

Ms. Meade asked if the vacation rental with two separate structures on King Street would have any way to come into compliance with the proposed Ordinance. Council Member Furguele suggested subdividing the property, but Ms. Shook did not feel that street frontage requirements could be met because one structure sat behind the other structure, and the lot was very small. Ms. Shook suggested that staff and Ms. Meade look into this situation further.

Council Member Ulmer expressed concern that the allowance of short-term rentals would entice people to create a short-term rental situation just to make money without considering the need for housing for people who want to live and work here.

Council Member Furguele suggested that the density percentage start out low, such as 5%, and the number could be increased at a later date if it was warranted. He felt it was harder to tighten the percentage once it was allowed than to loosen it once you saw how it affected the overall housing market and quality of life. Council Member Roseman agreed with Council Member Furguele's suggestion of lowering the percentage to 5%.

Ms. Shook stated that there were multi-family developments that were developed under the B3 zoning district where there was a potential for the property owner to change their whole development from a multi-family residence to short-term rentals under a motel type designation.

Ms. Meade stated she had made a suggestion to Council that they could possibly develop a student housing use that would likely help alleviate the potential misuse of homestay rentals. Vice-Chair Plaag stated he would be interested in hearing more about a student housing use. He felt there should be an age limit of 21 to operate a homestay rental until then.

Council Member Furguele referred to the public meeting that was held previously regarding short-term rentals. He noted that there were only a few people who spoke in opposition, and those people were complaining about rentals with absentee owners or absentee operators. Council Member Furguele stated that he got the sense from the public meeting that a lot of people supported the notion that there be some allowance for short-term rentals.

Mayor Brantz then invited public comment.

Ms. Shook called for the first person who had signed up to speak, Mike Curcio.

Mr. Curcio stated he lived on Dotson Drive, and he and his wife were wholeheartedly opposed to whole-house vacation rentals. He stated that anytime an Airbnb went into a neighborhood or zip code, housing costs went up considerably. Mr. Curcio expressed his disappointment that the Town had not been enforcing the UDO, although he had complained numerous times about people operating short-term rentals. He stated that staff members had told him that enforcing short-term rental violations was not a priority of this Town Council. Mr. Curcio felt there needed to be significant financial penalties in order to discourage any disuse of homestay rentals instead of just a one-year revocation of their permit. He stated that people would figure out how much money they needed to make in the short term to cover the months that they were without a permit. Then they would get their permit back after a year and start again. Mr. Curcio suggested there should be stringent requirements for those who apply for homestay rentals. He stated that Boone was a great place to visit, and we were spending more and more money on marketing the Town and less and less money on managing the Town. Mr. Curcio noted that part of the reason he and his wife moved to and stayed in Boone was because of the protections that zoning gave them. He stated that Town Council wanted affordable housing, but by allowing whole-house rentals, the cost of housing would increase. Mr. Curcio noted that some people in his neighborhood would pack up and leave their house for extended periods of time and have another family essentially move in while they were away.

Ms. Shook then called on the next speaker, Stacy Langston, with no response.

Ms. Shook called on Andrea Geisler to speak, with no response.

Ms. Shook called on Amy Phillips to speak, with no response.

Ms. Shook called on Rina Norwood to speak. Ms. Norwood stated she joined the meeting late and missed a lot of the conversation, so she wished not to speak at this time.

Ms. Shook called on James Poland to speak. Mr. Poland stated, from what he had heard, that this was a discussion between making money off of short-term rentals or not making money off of short-term rentals. He noted that he and his wife lived out of Town and operated an Airbnb. Mr. Poland felt it was wrong for someone in Town to make money off of their property in Town because it destroyed the Town.

Ms. Shook then called on Jason Matthews to speak. Mr. Matthews stated he did not wish to speak.

Ms. Shook stated there was no one else signed up to speak under public comment.

Council Member Furguele stated he would like to set the record straight. He noted that he had been a part of a number of conversations over about a 3 1/2 year period regarding short-term rentals. Council Member Furguele stated they had learned that there were widespread short-term rentals operating illegally in Town. He stated he had never heard any Council member say, and personally he had not advocated for the idea that the Town not enforce their Ordinance to the extent possible. Council Member Furguele noted that there had been discussions about the difficulties of enforcement, given the change in State law, which put a statute of limitations on enforcement of zoning violations.

Ms. Meade stated that language in the current code regarding occupancy led to an interpretation that a family could have another family staying in their house with them because a family was considered one person. Another family would be considered another person, creating two unrelated people living in the same dwelling. Ms. Meade felt that sometimes UDO language made for difficult enforcement instead of an unwillingness to enforce.

Council Member Roseman stated she did not want to have whole-home rentals in the residential districts. Council Member Furguele replied that the Town already had whole-home rentals in residential districts. He stated that Andy Paletta, former Board of Adjustment member, researched short-term rentals about

four years ago and located 650 with Boone addresses. Approximately 250 of them were located within Town limits.

Ms. Shook referred to a website called AirDNA that currently listed 678 active rentals in the 28607 zip code, with 94% of those being entire home rentals.

Rina Norwood asked to speak. Ms. Norwood asked if the Town required a short-term rental permit (STRP). Ms. Meade replied that a permit would be required under the proposed text amendment. Ms. Norwood stated that a significant charge for the short-term rental permit could help weed out the people who just wanted to make money versus those interested in the community. She also suggested requiring annual fire inspections.

Judith Poland requested to speak. Ms. Poland stated that owners of properties needed to be held responsible. Mr. Poland asked if anyone at the local level checked to make sure smoke alarms and carbon monoxide detectors were installed in short-term rentals because it was a tremendous liability if something happened. Ms. Meade replied that she was not aware of any enforcement of those items for single or two-family dwellings. Mr. Ward added that inspections were also a concern in the cost of enforcement that would need to be considered.

Vice-Chair Plaag stated that if the Town was going to allow either whole-house rentals in certain zoning districts or homestay rentals in residential districts they should be treated like the businesses that they were and should be required to pass certain inspections. Town Council would have to provide the funding to allow for that mechanism. Vice-Chair Plaag asked if he understood correctly that the homestay rental language would allow for someone renting the property to operate a short-term rental under their lease. He stated that other cities under similar pressures that Boone was under required a homestay rental to be owner-occupied.

Council Member Furgiuele asked if it was feasible to make the revocation of permit period longer than 365 days.

Ms. Meade responded to Vice-Chair Plaag's concern about renters being allowed to operate a homestay rental. She stated that a State law indicated you could not distinguish between a full-time owner and a full-time renter. Ms. Meade then addressed a comment made by Mr. Curcio regarding folks who leave their homes for a certain period of time and have someone else come in and stay in their home. She felt that with visiting professors or other situations, the Council might want to consider having a safe haven where people would not have to act illegally and were maybe allowed to have two weeks a year or four weeks a year to do this with their homes.

Ms. Meade addressed Council Member Furgiuele's question about the 365 day revocation period. She stated she did not see why it could not be longer but noted there could be a negative consequence. The longer the disqualification period, the more incentive people might have to fight notices of violation. Ms. Shook asked if background and violation checks should be performed upon application and renewal of the permit instead of just renewal. Ms. Meade agreed and felt that was a good point.

Council Member Roseman asked if there was a way that someone could lose their ability to operate altogether. Ms. Meade replied that two verified violations in a one-year period, either of the Town Code or the UDO, that were upheld against any appeal would result in the permit being revoked for a 365 day period. Council Member Roseman felt like it should be more and thought there should be a financial penalty to pay as well. Ms. Meade stated there were general penalty provisions in the UDO for first violations that increased for repeat violations.

Ms. Meade spoke to the suggestion of an inspection program for short-term rentals. She stated it was discussed with Council, and there was a general consensus not to do an inspection program. Ms. Meade

noted that some areas do have inspection programs. As part of the application process, the building inspector goes out and looks at the property and for compliance and has to sign off on it. There were obvious drawbacks to an inspection program, such as staff time and resources and the potential liability to the Town. Ms. Meade provided the example that if an inspector missed something that caused serious injury or death, there would be the risk of lawsuits.

Ms. Shook outlined the financial penalties contained in the UDO for violations. She stated there was a \$100 penalty per violation per day. Repeat violations of the Ordinance were 250% of the civil penalty plus a \$1,000 fee. Ms. Shook stated that if someone repeated a violation for a second time within the time period, it would be 500% of the civil penalty plus a \$1000 one-time assessment.

Ms. Shook announced that Planning Commission had scheduled a tentative meeting date of Monday, November 1, 2021 at 6pm to be held via WebEx to make recommendations on the cases heard at this evening's public hearing. This meeting was scheduled in the event that all cases were not able to be considered by Planning Commission this evening.

Ms. Shook referred to UDO Subsection 15.05.17 Compliance period; existing nonconformities. She noted that this applied only to homestay rentals. Ms. Meade stated that was an oversight, and this compliance was intended to apply to both homestays and vacation rentals. Ms. Shook stated that a time period for compliance needed to be decided.

Vice-Chair Plaag stated he was inclined to go with the shorter compliance periods so that someone would have a year to apply for a permit and 18 months to comply with the Ordinance requirements.

Mr. Ward felt that timeframe was doable and thought the Town might be able to use a hybrid of some Town staff working on it while utilizing a company who specializes in the permitting of short-term rentals. Mr. Ward expressed concern that the sheer volume could be overwhelming if the Town tried to do it totally by existing staff. Ms. Shook added that a lot would depend on how much voluntary compliance the Town received and how much staff would have to go out and search for themselves.

Mr. Ward mentioned the financial aspect and the need for budgeting of funds. He noted that budgeting for this and other rezoning projects like the Historic District would not align with the budget year. Council Member Furgiuele suggested an effective date of January 1, 2022, putting the 18-month compliance period in line with the new fiscal year.

Mayor Brantz called a break in the meeting from 8:40 p.m. until 8:48 p.m.

With nothing further, Mayor Brantz closed the public hearing for this case at 8:48 p.m.

Ms. Shook took a moment to introduce Jessica Mitchell as Planning & Inspection's new Long Range/Special Projects Planner.

Case PL05188-100821 Definition of Family and Occupancy Regulations – UDO Text Amendment

Amend UDO Articles 7, 14, 24 and 34 to modify and clarify regulations regarding residential occupancy controls, including but not limited to the definitions of family and unrelated persons, the permissible number of occupants of residential dwellings, and parking requirements.

Ms. Meade explained that, after direction from Council, only Alternative 1 was under consideration for approval. She read the proposed definition of family, which added relatedness by domestic partnership to the definition of family. Ms. Meade stated that the term domestic partners was pretty broadly defined to capture any two adults competent to contract who decided they wanted to create a household together. She noted the proposed text removed the inclusion of cousins as being family members unless their parents were part of the household. Also removed from the proposed text was the defining of family as one occupant. Ms. Meade felt the proposed changes would help deal with alleged nonconformities of

over-occupancy. The 2014 version of the UDO contained a provision that said the number of occupants in a dwelling did not constitute a use and could not create a legal nonconformity. Ms. Meade stated that occupancy presented the ultimate proof problem for enforcement. She pointed out an error in UDO Subsection 14.04.03, noting that references to over-occupancy should be changed to reference occupancy. Ms. Meade stated that over-occupancy after 2014 could not give rise to a grandfathered or legal nonconformity. She noted that if there were occupancy violations predating 2014 that the owners could establish as matter of fact, those would have a phase-out period. After those property owners receive notice, they will have a suggested two-year period to come into compliance. Ms. Meade stated that should give property owners plenty of time to serve any current or contracted leases that were upcoming.

Ms. Meade stated there was an issue that had not been resolved by Council that deserved discussion, and that was whether to make provisions for a roomer or more than one roomer. She noted that this would not apply if you had unrelated people living in a house but only to a family. Ms. Meade stated that Council would need to decide whether or not they would want to permit a family to rent out a room or two rooms to roomers or boarders to make money, but it would only apply for the family situation.

Ms. Sook mentioned current leases where people have rented to cousins and asked if there would be a phase-out period for those leases. Ms. Meade replied that changing the wording from over-occupancy to occupancy in UDO Subsection 14.04.03 should address that situation.

Vice-Chair Plaag asked if the term roomer(s)/boarder(s) was defined in the UDO. Upon checking, Ms. Meade replied that it was not defined in the UDO. She stated that the dictionary definition could be used, but a definition could also be added to the UDO.

Todd Carter wished to speak. He stated he came from a group of people who had chosen families instead of blood families and felt the definition of family needed to be more inclusive. Mr. Carter explained that he had a daughter who was pregnant and, while he had not legally adopted her, he was her primary source of care. He stated he would hate for this text to legally keep them from living in the same house just because they did not meet the proposed definition of family. Ms. Meade replied that the definition could be made broader. She suggested adding the term 'dependent' under the definition of child. Mr. Carter hoped that would cover his situation but was not sure. He added that the LGBTQ community often did not get the privilege of having blood family. Mr. Carter stated that the costs of acquiring a legal family in the eyes of the law was more than most people could pay.

Council Member Ulmer asked about communes. Ms. Meade replied that the proposed definition retained a requirement for relatedness, either by blood, by marriage, by domestic partnership, or by adoption. She stated that it did not go so far as to allow more than two adults to choose to create a family with other non-related adults and call that the single household that would fit under this family definition.

Council Member Furguele felt Mr. Carter had a valid point but expressed concern about trying to change the language on the fly to accommodate the situation. He felt the proposed language was a step forward in recognizing non-traditional families and added that occupancy limits were at the heart of neighborhood protection in Boone. Council Member Furguele stated he would rather see the language be adopted as proposed. He felt that more inclusive language could be proposed when it could be more carefully crafted.

Council Member Roseman stated she thought that Council had discussed something that addressed two consenting adults. Ms. Meade replied that a domestic partnership was drawn broadly as two people committed to having a household together, and the descendants and ancestors of those two people could be included in the family.

Council Member Furguele noted that the issue for Mr. Carter was the definition of a child and who would qualify as a child. He stated he was not against expanding the definition of child but was worried about making the change without having time to reflect on the unintended results. Ms. Meade offered this definition: Child and children shall for these purposes include a biological, foster, step, or adoptive child, legal ward, or legal dependent or other minor person who is in a child/parent relationship with an adult in the family. Council Member Roseman noted that Mr. Carter's daughter was adult, not a child, and that was why she thought they might fall under the domestic partner category. Vice-Chair Plaag felt the wording of child/parent relationship would cover Mr. Carter's situation.

Mr. Carter stated that these were the types of situations his community ran into every single day. He felt that if the LGBTQ community was truly going to be an inclusive community, these situations needed to be taken into account from the very beginning and not patched so they could be fixed later. Council Member Furguele replied that he was worried about unforeseen consequences because people seem to find ways to circumvent the intent of the Ordinance. He stated that his concern did not mean that he did not want to deal with the issue but that he would rather approach it with more thoughtful consideration.

Mayor Brantz asked if anyone would like to provide public comment. With no one wishing to provide public comment, Mayor Brantz closed the public hearing for this case at 9:27 p.m.

Case PL05169-100621 Town Utility Facilities – UDO Text Amendment

Amend UDO Article 14 to revise regulations relating to the siting of Town Utility Facilities on town properties and rights-of-way.

Ms. Shook explained that the proposed text would exclude greenways from having to acquire a zoning or special use permit. It would also allow Town utility facilities to be placed on Town property without acquiring a zoning or special use permit.

Ms. Meade further explained that this issue arose because the Town may need to put a utility facility on a piece of Town-owned property. Under the current UDO language, they would have to get approval from the Board of Adjustment. Ms. Meade noted the proposed language would allow Town Council to hold a hearing to solicit public comment if there were concerns about the facility.

Council Member Furguele stated he was satisfied with the proposed language and felt it was important to have the avenue for public input to discuss mitigation.

Vice-Chair Plaag suggested the addition of historic landmark or historic district overlay standards to UDO Subsection 14.02.03(A)(3) regarding applicable development standards.

Ms. Shook referred to UDO Subsection 14.02.03(A)(1). She asked if it was correct that Certificates of Appropriateness would not be included here. Ms. Meade noted that a special use permit was a zoning permit and suggested the language should read that no zoning related permit would be required under this ordinance. With the addition of the language regarding historic landmarks and districts and changing the wording to zoning-related permits, Ms. Meade felt that would address the COA issue.

There was no public comment. Mayor Brantz closed the public hearing for this case at 9:35 p.m.

Case PL05189-100821 Major Subdivision Process – UDO Text Amendment

Amend UDO Articles 9 and 14 to revise the process for approval of major subdivisions.

Ms. Shook stated that this text amendment would correct a process issue for major subdivision preliminary plat approval. Under the current Ordinance, final plat approval for major subdivisions was required to be approved by Town Council. This amendment would now require final plat approval by the Administrator.

Ms. Meade noted that all of the heavy lifting for a major subdivision plat approval was done by Town Council or the Board of Adjustment at the time of the preliminary plat approval. State law required that a final plat match the preliminary plat, as approved. Ms. Meade stated it was not necessary for the final plat to go back to Town Council for approval and felt that staff should sign off on the final plat.

There was no public comment. Mayor Brantz closed the public hearing for this case at 9:38 p.m.

Ms. Shook asked Planning Commission members how they would like to proceed. After a quick poll, Planning Commission members stated they would address the approval of meeting minutes and the last two cases on the public hearing agenda at this evening's meeting. Ms. Shook noted that the first two cases heard at the public hearing would be considered by Planning Commission on Monday, November 1, 2021 at 6 p.m. via WebEx. She reminded everyone that the meeting on November 1 would not be a public hearing, so there would not be an opportunity for public input on the cases at that meeting.

Adjournment of Town Council

Council Member LaPlaca made a motion to adjourn the Town Council at 9:42 p.m. The motion was seconded by Council Member Ulmer.

Vote: Aye – All
Nay – None
The motion passed.

Rennie Brantz, Mayor

Brenda Henson, Board Secretary

Elizabeth Shay, Planning Commission Chair

Continuation of Planning Commission Meeting

Approval of Meeting Minutes

Commission Member Behrend made a motion to approve the September 27, 2021 Planning Commission meeting minutes. The motion was seconded by Commission Member Tippet.

Vote: Aye – All
Nay – None
The motion passed.

Vice-Chair Plaag asked that the following amendments be made to the September 29, 2021 Planning Commission meeting minutes:

-Page 2 of the minutes, third paragraph, third line – should read 'if they wanted to paint whatever it says'

-Page 2 of the minutes, third paragraph, fourth, fifth & sixth lines – should read 'He said that wouldn't require anything but if they decided to modify it to smaller or larger, he thought it would need a COA process.'

- Page 2 of the minutes, third paragraph, sixth & seventh lines – should read ‘He said just changing the content on the attachment would not require a COA process, other than what is acceptable under the way that signs are reviewed.’
- Page 2 of the minutes, fourth paragraph, last line – change the word ‘note’ to ‘not’
- Page 2 of the minutes, fifth paragraph, third line – change the word ‘speck’ to ‘specific’
- Page 3 of the minutes, third paragraph, third line from the bottom – remove the word ‘will.’
- Page 3 of the minutes, third paragraph, second line from the bottom – change ‘Terry’ to ‘Cherry’
- Page 3 of the minutes, sixth paragraph, first line – change ‘Discussion ensued on to’ to ‘Discussion ensued as to’
- Page 4 of the minutes, third paragraph – change four references to ‘HPC’ to ‘Planning Commission’
- Page 4 of the minutes, sixth paragraph, second & third lines – should read ‘He said, for example, if a large hotel was proposed on the top of that hill with a winding driveway to it, they would not be using 50 percent of their lot on this large parcel.’
- Page 4 of the minutes, sixth paragraph, fifth line – change ‘he did not know it was’ to ‘he did not know if it was’
- Page 5 of the minutes, sixth paragraph, third line – change ‘12 or 24 months’ to ‘12 and 24 months’
- Page 5 of the minutes, seventh paragraph, first line – remove the period at the beginning of the paragraph
- Page 5 of the minutes, next to last paragraph, fifth line – change ‘rectangular, and square’ to ‘rectangular, or square’
- Page 5 of the minutes, last paragraph, last line – remove the word ‘Ms.’
- Page 6 of the minutes, third paragraph, third sentence – should read ‘Vice-Chair Plaag pointed out that for new additions to historical buildings that you don’t want your addition to look exactly the same as the historical part of a building because it creates a false sense of historic preservation; you do want there to be a distinction that is compatible.’
- Page 8 of the minutes, first paragraph, fifth line – change ‘Downtown history, architecture and will’ to ‘Downtown history and architecture, and will’
- Page 8 of the minutes, first paragraph, seventh line – put a ‘semi-colon’ after the words ‘long term’
- Page 8 of the minutes, second paragraph, first line – change ‘Discussion the’ to ‘Discussion then’
- Page 9 of the minutes, first paragraph, second line – change ‘indicated that he not opposed’ to ‘indicated that he was not opposed’
- Page 9 of the minutes, second paragraph, second line – change ‘He noted that Ms. Blanks noted’ to ‘He noted that he believed Ms. Blanks said’
- Page 9 of the minutes, third paragraph, second & third lines – should read ‘B1 Downtown Interface and knowing it could potentially be even more intensive than the R3 that currently exists there, he said he would’
- Page 9 of the minutes, fifth paragraph, first line – change ‘same three’ to ‘five’
- Page 9 of the minutes, seventh paragraph, fifth line – change ‘drive-through would not be permitted’ to ‘drive-through on a new application would not be permitted’

Vice-Chair Plaag made a motion to approve the September 29, 2021 Planning Commission meeting minutes as amended. The motion was seconded by Commission Member Behrend.

Vote: Aye – All
Nay – None
The motion passed.

Case PL05169-100621 Town Utility Facilities – UDO Text Amendment

Amend UDO Article 14 to revise regulations relating to the siting of Town Utility Facilities on town properties and rights-of-way.

Ms. Shook reminded Commission members of the suggested changes to the text during the public hearing, such as; removing the wording about zoning or special use permits and replacing it with the wording that no zoning-related permit would be required, and including language about standards related to historic districts and landmarks.

First Motion and Vote: Vice-Chair Plaag made a motion that the proposed amendment to the Town's zoning ordinance is consistent with the Town's comprehensive plan and any other adopted plans of the Town that are applicable because they are consistent with:

Comprehensive Plan Policy 2.1.1 Economic Development

E. The Town shall encourage a public service and regulatory environment conducive to business recruitment and expansion, while at the same time enhancing the area's physical and human resources.

E.1 Continue to look for ways to make development regulations and permit procedures more predictable and timely. Evaluate opportunities for administrative review and permit issuance for development projects which, due to their small size or relatively minor impacts, may not require review by a formal public commission or board.

The motion was seconded by Commission Member Tippet.

Vote: Aye – All
Nay – None
The motion passed.

Second Motion and Vote: Vice-Chair Plaag made a motion that the Planning Commission recommends approval of the proposed amendment, with the noted changes, and believes approval is reasonable and in the public interest because these language changes would streamline the process for completion of Town utility facilities located on Town property, while also providing appropriate protections under specific scenarios. The motion was seconded by Commission Member Behrend.

Vote: Aye – All
Nay – None
The motion passed.

Case PL05189-100821 Major Subdivision Process – UDO Text Amendment

Amend UDO Articles 9 and 14 to revise the process for approval of major subdivisions.

Chair Shay felt the key point to this amendment was that because of the review that happened earlier, there was no discretion, so allowing Planning to sign off on the final plat would save wear and tear on Town Council and streamline the process. Vice-Chair Plaag noted that this amendment would also save time for the applicant.

First Motion and Vote: Commission Member Veno made a motion that the proposed amendment to the Town's zoning ordinance is consistent with the Town's comprehensive plan and any other adopted plans of the Town that are applicable because they are consistent with:

Comprehensive Plan Policy 2.1.1 Economic Development

E. The Town shall encourage a public service and regulatory environment conducive to business recruitment and expansion, while at the same time enhancing the area's physical and human resources.

E.1 Continue to look for ways to make development regulations and permit procedures more predictable and timely. Evaluate opportunities for administrative review and permit issuance for development projects which, due to their small size or relatively minor impacts, may not require review by a formal public commission or board.

The motion was seconded by Commission Member Tippet.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote: Commission Member Veno made a motion that the Planning Commission recommends approval of the proposed amendment and believes approval is reasonable and in the public interest because it streamlines the process and eliminates a lot of redundancy for the Planning staff and Town Council. The motion was seconded by Vice-Chair Plaag who wished to amend the motion to add that the text change also streamlines the process for applicants. Commission Member Veno accepted the amendment

Vote: Aye – All
Nay – None

The motion passed.

Other Matters

Commission Member Behrend made a motion to table discussion of the first two cases heard at the public hearing until November 1, 2021 at 6 p.m. via WebEx. The motion was seconded by Chair Shay.

Vote: Aye – All
Nay – None

The motion passed.

Ms. Shook noted that Town Council accepted Planning Commission's recommendations for both of the Downtown Planning Projects and voted for them to become effective on October 21, 2021.

Chair Shay welcomed Jessica Mitchell to the Town.

Adjournment of Planning Commission

Vice-Chair Plaag made a motion to adjourn the meeting at 10:05 p.m. The motion was seconded by Commission Member Tippet.

Vote: Aye – All
Nay – None

The motion passed.

Elizabeth Shay, Planning Commission Chair

Brenda Henson, Board Secretary

**SPECIAL PLANNING COMMISSION MEETING MINUTES
MONDAY, NOVEMBER 1, 2021, 6:00 PM
VIA WEBEX SOFTWARE**

PLANNING COMMISSION MEMBERS PRESENT: Elizabeth Shay-Chair, Eric Plaag-Vice-Chair, Chris Behrend, Amanda Halbert, John Tippet, Frank Veno, and Smith Warren

PLANNING STAFF PRESENT: Jane Shook-Director of Planning and Inspections, Stacey Miller-Deputy Director of Planning and Inspections/Chief Building Inspector, Christy Turner-Senior Planner, Mike James-Senior Planner, Jessica Mitchell-Long Range Planner, and Brenda Henson-Board Secretary

OTHERS PRESENT: Carolyn Danielle, Casey Mahler, and Donny McCaulley

Call to Order

Chair Shay called the special Planning Commission meeting, continued from the October 25, 2021 Public Hearing/Planning Commission meeting and held via WebEx, to order at 6:02 p.m.

Case PL05168-100621 Short-Term Rentals (Homestay & Vacation) – UDO Text Amendment

Amend UDO Article 7, 14, 15, 24, and 34 to modify and create new regulatory standards for short-term rentals (homestay or vacation rentals) of dwelling units.

Vice-Chair Plaag asked Ms. Shook to review the changes that were made to the proposed language after the public hearing.

Ms. Shook reviewed the revised ordinance in the board packet and noted the revised language included a requirement for homestay rental operators to be at least 21 years old, language clarifying the responsibility of paying occupancy taxes was added as was the dates for compliance of homestays.

Ms. Shook stated that an item for consideration was added under vacation rentals that would allow a full-time resident to rent his or her dwelling unit for up to two weeks in any calendar year. Another item for consideration was that if the vacation rental permit could not be viewed from a private or public street, it shall be displayed where it can be viewed from the public or private street adjoining the primary façade of the dwelling unit. Ms. Shook stated that the vacation rental operator must be at least 21 years old. Also changed in the proposed language was the allowance of no more than 25% of dwelling units in a building that contains multiple dwelling units to be used as vacation rentals which was reduced to 5%. Clarifying language was added regarding payment of occupancy taxes. Ms. Shook noted that clarifying language was added regarding complaints made by renters or neighbors and an item for consideration that a contact phone number for the rental operator be posted on the subject property. Also, a section was added regarding the compliance period for existing nonconformities.

Commission Member Veno asked what the difference was between homestay rentals and vacation rentals. Ms. Shook replied that a vacation rental was the rental of the whole home, and homestay rental was renting one or two rooms in a home that would still be occupied by the rental operator.

Commission Member Veno mentioned two bills before the State legislature that could conceivably prevent towns from banning or even having any regulations on short-term rentals. Ms. Shook replied that the State legislature frequently entertained bills but advised against the Town not taking action because of pending legislation that may or may not receive final approval. Commission Member Veno expressed concern about affordable housing and neighborhoods and stated he was especially concerned about vacation rentals. He asked about the process of paying taxes with short-term rentals. Ms. Shook explained that some rental platforms remitted a lump sum payment to the jurisdiction. She noted that the payment did not come with any data indicating which rental location paid, nor how much each

location paid. She stated it would be the property owner's responsibility to verify that taxes were submitted on their behalf from the rental platform.

Chair Shay asked Commission Member Veno what his concerns were with vacation rentals. Commission Member Veno replied that he was concerned with someone buying a house in a neighborhood just to use as a vacation rental and that home would be rented without any monitoring from the owner.

Ms. Shook noted that the vacation rentals use was an existing use and the proposed changes provided further restrictions that what currently existed.

Chair Shay asked about nuisance problems. Ms. Shook replied that if a renter received a citation/violation, that information could be downloaded and mapped so that the activity could be seen when processing applications or renewals.

Commission Member Tippet referred to Subsection 15.14.05 and asked why only single-family and two-family detached dwellings existing as of January 1, 2014 could be converted to a vacation rental. Ms. Shook explained that January 1, 2014 was when the UDO changed, and single-family homes were no longer allowed to be constructed in the R3, B1, B2, and B3 zoning districts.

Vice-Chair Plaag stated he had misgivings that the Town allowed vacation rentals already, even though it was restricted to certain zones. He also had misgivings about the idea of extending the homestay rentals as an option into purely residential districts like the R1 and R2. Vice-Chair Plaag stated he was concerned that most people who work in Boone could not afford to live in Boone. He felt that was driven by the conversion of apartments and even some single-family homes to student rentals. Vice-Chair Plaag stated that people who operated homestay or vacation rentals could make four times as much from that short-term rental as they could from simply renting out the property to an individual year-round. He felt the net effect would drive people out of Boone and put more pressure on the local housing market, making it harder for people who want to live here long term. Vice-Chair Plaag stated that the Town had done a terrible job as a community of encouraging the development of housing stock that was attractive to the workforce and people who live and work in Town.

Vice-Chair Plaag mentioned a nine-home subdivision consisting of small cottage homes that he proposed building a couple of years ago. He felt it would have been attractive to people looking for workforce housing. He noted that installing a sewer line was cost-prohibitive, so he asked Town Council if they could cost-share because this project would provide a housing stock that the Town desperately needed. Vice-Chair Plaag stated that Town Council never even responded. He ended up subdividing the property and selling the lots so that there would now be three larger homes instead of nine smaller homes. Vice-Chair Plaag stated he would like to see Planning Commission and Town Council devote their time and resources to thinking about the issue of workforce and senior housing in the community. Vice-Chair Plaag felt the choice that was made now on this issue would have a cascading effect on the larger issue over time.

Commission Member Behrend stated she had mixed feelings about allowing vacation rentals. She asked if this text amendment was in response to a specific complaint. Ms. Shook explained that short-term rentals had been an ongoing topic for several years. She noted that tourist homes were already permitted in the Ordinance, which then changed to vacation rentals and stated that the proposed amendment would add restrictions to the existing use of vacation rentals.

Chair Shay asked if the Town knew how many property owners of short-term rentals were single property owners versus multiple property owners. Ms. Shook replied that the Town did not have that information.

Chair Shay stated she had a lot of the same discomforts that others had expressed, noting she was leery of residences being bought up and turned into rentals. At the same time, she stated she realized that it was an important source

of income for people who owned their homes and wanted or needed to make some money from renting.

Commission Member Veno stated he had done some research and found that small areas like Boone that allowed vacation rentals had seen a 1% increase in rentals, a 0.18% increase in rent, and a 0.26% increase in homeownership.

Vice-Chair Plaag offered the following suggestions of items to add to the proposed regulations:

1. Require rental operators to carry liability insurance of either \$500,000 or \$1,000,000 for vacation rentals and homestay rentals.
2. Homestay and vacation rental permits will not be transferrable with the sale of the property.
3. Rental operators of homestay and vacation rentals must maintain records of their rentals throughout the year. Those records will be subject to audit at any time.
4. A property owner can only own one vacation or homestay rental in a district.
5. Any expanded parking for homestays and vacation rentals may only be to the side or rear of the property to limit conversion of front yards into parking lots.
6. Limit the number of days that a homestay rental can be in service in a permit year to 90 days.
7. Require homestay and vacation rentals to undergo an inspection prior to receiving a permit or renewal.

Ms. Shook referred to the suggestion Vice-Chair Plaag made regarding the requirement of inspections. She felt that implementing and maintaining an inspection program would require an increase in staff and could be a liability to the Town. Ms. Shook added that, if implemented, an appropriate fee would need to be charged for the permit.

Vice-Chair Plaag asked if a portion of the hospitality taxes could help fund an additional inspector. Ms. Shook replied that, based upon her understanding, those taxes were to cover tourism-type activities. She stated that the taxes might fund something else that the Town spent money on that would, in turn, free up money to help fund that position. Ms. Shook noted that she and Stacey Miller, Deputy Director of Planning & Inspections, had discussed the possible need for a housing specialist position. The position would handle a wide variety of housing-related issues, such as minimum housing, neighborhood conservation districts, and occupancy, and short-term rentals.

Commission Member Warren stated he was not able to attend last week's public hearing, but he had read the materials. He noted that he shared a lot of the same concerns as others.

Vice-Chair Plaag felt this was a difficult dilemma. He stated that the proposed amendment was designed to strengthen regulations for something that already existed, and he was reluctant to miss an opportunity to strengthen an existing regulation. Vice-Chair Plaag stated he would be supportive of something that made the vacation rental use a more responsible use in the community.

Commission Member Veno agreed with Vice-Chair Plaag regarding strengthening the regulations. He also agreed with Vice-Chair Plaag's suggested additions to the proposed regulations. Commission Member Veno stated he was all for people making money but felt a balance would still protect livability in the Town.

Vice-Chair Plaag stated he did not love that the Town allowed vacation rentals at all because it was putting pressure on the housing stock. However, he felt that recommending this amendment with the changes he proposed would help make vacation rentals be done more responsibly.

Chair Shay stated she agreed in spirit but had concerns that, if approved, no more action would be taken to try to protect the threat to housing in Town.

Commission Member Veno asked if it was correct that someone had been hired to work in Planning & Inspections that would be in charge of special projects. Ms. Shook replied that Jessica Mitchell had been

hired as a long-range and special projects planner. She noted that Ms. Mitchell would not be in charge of permitting or enforcement. Ms. Shook stated that the building inspectors were the code enforcement officers and senior planners provided backup on zoning related issues. She stated that only so many responsibilities could be added to the existing staff before the work and the people doing the work would start to suffer.

Ms. Shook asked Commission members if they agreed to the suggestion that a full-time resident of a dwelling unit could rent out their dwelling unit for up to two weeks in any calendar year and that rental would be deemed an incidental use not requiring approval or permit. Chair Shay replied that she was comfortable with the once-a-year, two-week rental. Commission Member Veno agreed that two weeks was a reasonable limitation.

Ms. Shook referred to Subsection 15.14.01 regarding posting the permit number and asked Commission members for their feedback. Vice-Chair Plaag suggested having both a minimum and a maximum sign size so that someone did not try to post an index card in the window or erect a gigantic sign. He also suggested that operators of vacation rentals should not be allowed to post their property as no trespassing. Vice-Chair Plaag felt this would allow neighbors the ability to walk onto the property to view the sign without fear of prosecution. Ms. Shook replied that she had concerns about including language regarding no trespassing signs and would need to check with the Town Attorney.

Ms. Shook referred to Subsection 15.14.13 regarding an alternative to a registry on the Town's website. Ms. Shook noted that the Town was not allowed to create certain types of registries. She felt that requiring signage that listed the permit number and a contact phone number for complaints would be the better solution. Vice-Chair Plaag stated that the sign ordinance might have to be updated to clarify that vacation rental signs were allowed.

Ms. Shook then referred to Vice-Chair Plaag's list of seven items he wished to include in the proposed text. She noted that two parking spaces were required for a dwelling unit. Ms. Shook felt it should be made clear that the parking for the homestay would be in addition to the minimum required parking and if existing parking on the lot was insufficient any expanded parking would only be allowed to the side or rear of the dwelling to limit the conversion of front yards into parking lots.

Vice-Chair Plaag referred to the suggestion of allowing only one vacation rental per district. He stated that this concept could create some legal non-conformities due to the vacation rentals that were currently in existence. Vice-Chair Plaag suggested that a person could operate and register only one vacation rental within 1500' of any other vacation rental operated by that individual. He felt this would prevent someone from using an entire block for the business of vacation rentals. Chair Shay stated that while that might prevent the same person from using a block of properties as vacation rentals, it would not stop other owners in that same block from operating vacation rentals, so there could still be clusters. Vice-Chair Plaag felt that was a valid point and suggested instead that vacation rentals not be allowed within 1500' of each other. Ms. Shook stated she would have to consult the Town attorney regarding that suggested regulation and its implementation.

Vice-Chair Plaag stated that he had used Airbnb many times but had stopped using it after he had some horrible experiences with unsatisfactory accommodations. He felt that having a local inspection requirement would limit the possibility of substandard housing issues.

Discussion ensued on inspections. Stacey Miller stated that he and the Town attorney would be working to change the minimum housing code soon. He noted that the minimum housing code applied to single-family homes. Mr. Miller stated that if the inspection requirement for short-term rentals was adopted, some type of minimum housing inspection should be implemented for those rentals.

Ms. Shook stated that the topic of minimum housing would be on the next public hearing agenda. She explained that 160-D required any changes to the minimum housing code even though it was in the Town Code and not the UDO to be approved through the same process as a UDO text amendment.

First Motion and Vote

Vice-Chair Plaag made a motion that the proposed amendment to the Town's zoning ordinance regarding vacation rentals only, with the inclusion of the seven items previously discussed and amended, is consistent with the Town's comprehensive plans and any other adopted plan(s) of the Town that are applicable because it complies with:

Comprehensive Plan Policy 2.1.1 Economic Development

A. The Town shall protect and enhance a high quality of life, image, cultural amenities, and natural beauty as the most effective, long term component of an economic development strategy.

Comprehensive Plan Policy 2.3.3 Housing and Neighborhoods

A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.

C. Proposed residential development which would expose residents to harmful effects of incompatible development or to environmental hazards shall be prohibited.

E. Factors in determining preferred locations for high density residential development shall include: close proximity to the university, employment or shopping centers; access to major thoroughfares and the transit system; the availability of public services and facilities; and compatibility with adjacent land uses.

F. The affordable housing needs of area residents, particularly elderly and low to moderate income residents, shall be recognized in Town policies and actions regarding residential development.

The motion was seconded by Commission Member Warren.

Ms. Shook asked about the items that were noted for consideration.

Vice-Chair Plaag then wished to restate his motion.

Revised First Motion and Vote

Vice-Chair Plaag made a motion that the proposed amendment to the Town's zoning ordinance, as amended for this evening's meeting with respect to vacation rentals only and inclusive of the following items:

1. Accept change in Section 15.14 "Notwithstanding the foregoing, the full-time resident of a dwelling unit (as defined at section 15.05.02 above) may rent out his or her dwelling unit for up to two weeks in any calendar year and such rental shall not be deemed a vacation rental under this section 15.14 but rather shall be considered an incidental use of the dwelling that does not require approval or permitting under this Article."
2. Accept change in Subsection 15.14.01 "provided, that if the permit number cannot be viewed from a private or public street, it shall be displayed where it can be viewed from the public or private street adjoining the primary façade of the dwelling unit"

Recommendation includes to set a minimum/maximum size for sign with permit number and consider not allowing operators to post their properties "no trespass" so that neighbors can access information; may want to see if language in 15.14.13 can be merged into one section for signage.

3. Accept change in Subsection 15.14.13 "A telephone number for such complaints or emergencies shall be posted on the subject property in a location easily viewable from the exterior of the structure; provided, that if the telephone number cannot be viewed from a private or public street, it shall be displayed where it can be viewed from the public or private street adjoining the primary façade of the dwelling unit."

See comment about merging this subsection with subsection on signage for permit number. Consider if Article 26 has to be modified to allow such signs.

4. Add language to require operator to carry liability insurance (\$500,00 or \$1,000,000).
5. Add language to state vacation rental permits are not transferable; each new full-time resident must apply on their own merits.
6. Add language to require rental operators to maintain records of guests and those records shall be available for audit by the Town.

Note: perhaps locate requirement in Subsection 15.14.12 regarding taxes.

7. Add language that requires a separation distance of 1,500 feet from any other vacation rental.

Note: will have to discuss policy for administration of permits.

8. Add language to clarify parking requirements so that it is clear the vacation rental parking should utilize existing parking and any expanded parking may only be to the side or rear to limit the conversions of front yards into parking lots.
9. Add language to require the vacation rental to undergo an inspection for issuance and annual renewal.

is consistent with the Town's comprehensive plans and any other adopted plan(s) of the Town that are applicable because it complies with:

Comprehensive Plan Policy 2.1.1 Economic Development

A. The Town shall protect and enhance a high quality of life, image, cultural amenities, and natural beauty as the most effective, long term component of an economic development strategy.

Comprehensive Plan Policy 2.3.3 Housing and Neighborhoods

A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.

C. Proposed residential development which would expose residents to harmful effects of incompatible development or to environmental hazards shall be prohibited.

E. Factors in determining preferred locations for high density residential development shall include: close proximity to the university, employment or shopping centers; access to major thoroughfares and the transit system; the availability of public services and facilities; and compatibility with adjacent land uses.

F. The affordable housing needs of area residents, particularly elderly and low to moderate income residents, shall be recognized in Town policies and actions regarding residential development.

The motion was seconded by Commission Member Warren.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote

Vice-Chair Plaag made a motion that the Planning Commission recommends approval of the proposed amendment and believes approval is reasonable and in the public interest because the proposed amendment will not only strengthen the vacation rental ordinance for an industry that is already active in Town, but it will also do more than the present ordinance does to ensure the viability of residential housing stock located in the district where vacation rentals are currently permitted. The motion was seconded by Commission Member Veno.

Vote: Aye – All
Nay – None

The motion passed.

Chair Shay noted that Planning Commission would now need to address homestay rentals.

Vice-Chair Plaag asked Ms. Shook if it was correct that the homestay rental section was new and there was currently no homestay ordinance in place. Ms. Shook stated that was correct.

Chair Shay asked, in the absence of this proposed ordinance, if people would just rent out rooms anyway. Ms. Shook replied that the evidence shown during the public meeting demonstrated that this was something that was already happening within Town limits.

Vice-Chair Plaag referred to Subsection 15.05.07 regarding cooking facilities. He asked how a homestay rental would be any different from a bed & breakfast. Ms. Shook stated that there was a bed & breakfast category 1 and a category 2. Category 1 allowed up to three bedrooms for guest lodging, and category 2 allowed more than three bedrooms. Ms. Shook stated that there could be some overlap between a homestay rental and a bed & breakfast category 1. Still, she thought the idea of a homestay was a lesser degree than bed & breakfast category 1.

Vice-Chair Plaag stated there were already people living in R1 neighborhoods who were feeling pressured by illegal non-conformities. He felt the Town did not have an adequate number of staff to enforce the illegal non-conformities currently taking place. Vice-Chair Plaag noted that creating another exception to the rule for how R1 neighborhoods were supposed to function by allowing homestay rentals would only add to the difficulty of enforcement. He added that allowing homestay rentals would bring some money in through taxes.

Ms. Shook felt there could be merit to the homestay rental use based upon where it was allowed and the standards that were applied. Ms. Shook referred to Appendix B Comparative Tables. She noted that the new homestay rental use was proposed in all zoning districts except the education districts.

Commission Member Veno stated that the burden of enforcement had typically been on the neighborhoods and felt it still would be. However, he thought it was good for the neighborhood to help the Town and be a responsible and concerned neighbor.

Ms. Shook stated it was important to recognize the inherent challenges of enforcing occupancy. She explained that tenants were skilled with their responses regarding the people living in a dwelling unit. Counting cars in the driveway was not a true indicator of too many people living in a dwelling. Ms. Shook noted that all complaints received were investigated but were often difficult to substantiate. She stated

that the proposed homestay rentals would require a permit and hopefully be more easily regulated and enforced.

Chair Shay stated she was really torn regarding homestay rentals. She wondered if there was a way to make it more difficult to operate a homestay rental during the academic year and then allow them more easily during the summer. Chair Shay felt like there needed to be some type of creative solution other than saying there was a problem, trying to regulate it, and then just seeing how it went.

Commission Member Tippetts stated he had spoken with neighbors who indicated they did not want homestay rentals in the R1 neighborhoods. He asked if it would be possible for zoning district residents to petition the Town instead of Neighborhood Conservation District residents. Ms. Shook felt it could be problematic to identify the boundaries within a zoning district that would be allowed to participate in the petition. She stated it would be easier to identify the people who lived in a Neighborhood Conservation District than those who lived in an R1 district. Ms. Shook noted that other neighborhoods in Town were not zoned R1 but still contained low-density housing.

Vice-Chair Plaag noted that the Town was already regulating the bed & breakfast category 1, which was very similar to a homestay rental. He suggested a hybrid of the bed & breakfast category 1 and the vacation rental requirements. Vice-Chair Plaag stated that a homestay rental could be permitted in an R1 and R1A with a special use permit, in the R2 and R4 with a 50' transitional zone, and in the B2 and B3 with a 75' transitional zone. He felt that allowing homestay rentals to only be permitted in the same zoning districts as bed & breakfast category 1 would create a more restricted use.

Ms. Shook verified the following:

- Allow in the RA subject to a 75' transitional zone
- Allow in the R1 and R1A with a special use permit
- Do not allow in the RR or R1S
- Allow in the R2 subject to a 50' transitional zone
- Allow in the R4 subject to a 50' transitional zone
- Do not allow in the MH
- Allow in the R3 subject to a 75' transitional zone
- Do not allow in the RS or OI
- Allow in the B1 Core and B1 Downtown Interface subject to a 75' transitional zone
- Allow in the B2 subject to a 75' transitional zone
- Allow in the B3 subject to a 75' transitional zone
- Do not allow in the WD or M1
- Do not allow in the Education districts

Vice-Chair Plaag stated he was trying to accomplish the goal of monitoring and imposing some requirements on the existing homestay rental operations in Town. At the same time, he wanted to protect residential neighborhoods by having homestay rentals meet the same standards as the most similar use of bed & breakfast category 1. Ms. Shook expressed some concern with possible transitional zone requirements that could be placed on permits. She explained that if many permits had special conditions applied to them, then staff would have to ensure compliance with those special conditions and the regular Ordinance requirements on each permit issued. Ms. Shook felt this could pose an issue due to the possible

quantity. Vice-Chair Plaag stated his goal was to make it difficult to operate a homestay rental in the R1 and R1A neighborhoods. He felt that forcing the rental operator to demonstrate that they were committed to meeting all the rules and requirements would cause them to operate more responsibly. Ms. Shook stated that the requirement for an applicant to demonstrate compliance with the Ordinance was the same whether it was demonstrated to staff or the Board of Adjustment. She noted the only difference would be that the Board of Adjustment could place additional conditions on a permit that staff could not.

Commission Member Tippettt agreed with the idea of trying to minimize impacts to the R1 and R1A neighborhoods. He also expressed concern with how many permit requests might have to go before the Board of Adjustment and the extra strain administratively. Ms. Shook replied that every permit request within a residential zone would be subject to a transitional zone.

Commission Member Veno stated he would be willing to go with Vice-Chair Plaag's suggestion.

Chair Shay stated she liked the idea of using existing structure to partially carry the weight of new work. She stated she also worried about driving illicit activity when things were made too complicated, increasing the need for enforcement.

Ms. Shook noted that most of the jurisdictions that had adopted short-term rental regulations had modified them within a year. She felt that whatever recommendations Planning Commission made regarding the proposed text, this would not be the final time this topic would be discussed.

Commission Member Veno stated he lived in a Neighborhood Conservation District, and if homestay rentals became a problem in his neighborhood, they could petition the Council. He expressed concern for other neighborhoods that were not located in a Neighborhood Conservation District and would not have the same ability to petition Town Council.

Ms. Shook suggested that, if adopted, staff do some reporting on the numbers of permits processed and any issues experienced in an effort to get an understanding of what was or was not working.

First Motion and Vote

Commission Member Tippettt made a motion that the proposed amendment to the Town's zoning ordinance regarding UDO text amendments for homestay rentals only and inclusive of the following items:

1. Add language to require operator to carry liability insurance (\$500,00 or \$1,000,000).
2. Add language to state homestay rental permits are not transferable; each new full-time resident must apply on their own merits.
3. Add language to require rental operators to maintain records of guests and those records shall be available for audit by the Town.

Note: perhaps locate requirement in Subsection 15.14.12 regarding taxes.

4. Add language to clarify parking requirements so that it is clear the homestay rental parking is in addition to the minimum parking requiries and should utilize existing parking to the extent possible and any expanded parking may only be to the side or rear to limit the conversions of front yards into parking lots.
5. Add language to require the vaction rental to undergo an inspection for issuance and annual renewal.

6. Add language which would limit the cumulative days of the homestay use to 90 days during the permit year.
7. Modify how and where the homestay rental use is allowed within UDO Appendix B Comparative Tables as follows:
 - Allow in the RA subject to a 75' transitional zone
 - Allow in the R1 and R1A with a special use permit
 - Do not allow in the RR or R1S
 - Allow in the R2 subject to a 50' transitional zone
 - Allow in the R4 subject to a 50' transitional zone
 - Do not allow in the MH
 - Allow in the R3 subject to a 75' transitional zone
 - Do not allow in the RS or OI
 - Allow in the B1 Core and B1 Downtown Interface subject to a 75' transitional zone
 - Allow in the B2 subject to a 75' transitional zone
 - Allow in the B3 subject to a 75' transitional zone
 - Do not allow in the WD or M1
 - Do not allow in the Education districts

is consistent with the Town's comprehensive plans and any other adopted plan(s) of the Town that are applicable because it complies with:

Comprehensive Plan Policy 2.1.1 Economic Development

A. The Town shall protect and enhance a high quality of life, image, cultural amenities, and natural beauty as the most effective, long term component of an economic development strategy.

Comprehensive Plan Policy 2.3.3 Housing and Neighborhoods

A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.

C. Proposed residential development which would expose residents to harmful effects of incompatible development or to environmental hazards shall be prohibited.

E. Factors in determining preferred locations for high density residential development shall include: close proximity to the university, employment or shopping centers; access to major thoroughfares and the transit system; the availability of public services and facilities; and compatibility with adjacent land uses.

F. The affordable housing needs of area residents, particularly elderly and low to moderate income residents, shall be recognized in Town policies and actions regarding residential development.

The motion was seconded by Commission Member Halbert.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote

Commission Member Tippet made a motion that the Planning Commission recommends approval of the proposed amendment and believes approval is reasonable and in the public interest because it provides structure for lodging requirements that are currently occurring in Town for visitors. It does support local residents to supplement incomes with rental income, requires homestay operators to pay their fair share of occupancy taxes, and it safeguards the peaceful residential character of the Town's residential neighborhoods. The motion was seconded by Commission Member Behrend.

Vote: Aye – All
Nay – None

The motion passed.

Chair Shay called for a break in the meeting from 8:43 p.m. until 8:50 p.m. Commission Member Halbert left the meeting at 8:43 p.m.

Case PL05188-100821 Definition of Family and Occupancy Regulations – UDO Text Amendment

Amend UDO Articles 7, 14, 24 and 34 to modify and clarify regulations regarding residential occupancy controls, including but not limited to the definitions of family and unrelated persons, the permissible number of occupants of residential dwellings, and parking requirements.

Ms. Shook noted a change to the proposed language under the definition of family for child and children that added 'other legal dependent, or other person who is or has been in a child-parent relationship with an adult in the family.'

Ms. Shook then referred to optional language regarding unlimited families living in a dwelling and the allowance for roomer(s)/boarder(s). She noted that currently in the UDO a family was counted as one person, so someone could technically have two families living in a dwelling unit and still meet the regulation of no more than two unrelated people in a dwelling unit. Ms. Shook stated that the proposed text would change the allowance of unlimited families to one family. Planning Commission would also need to decide if they would like to allow roomers or boarders and, if so, how many.

Chair Shay stated she was disappointed to see cousins removed from the definition of a family unit. She felt it was too constraining. Vice-Chair Plaag replied that the rationale for removing cousins was that people were claiming to be cousins and enforcement of that claim was difficult. Ms. Shook wished to clarify that proving claims that occupants were cousins was done by requiring copies of birth certificates, which was not terribly difficult. She explained that most cousin situations were within student rentals versus other living situations. Ms. Shook asked Mr. Miller and Ms. Turner if they recalled any instances regarding cousins that were not within a student rental. Mr. Miller and Ms. Turner replied that they did not recall any other instances outside of student rentals.

Commission Member Warren stated he had agreed with Chair Shay about the removal of cousins from the definition of family until he heard that it was removed more for the sake of students.

Chair Shay stated her concern about the cousins was a mild part of her position. She stated she was disappointed that the Planning Commission did not get to consider some of the alternatives that were inadvertently left in the meeting packet, specifically the option of regulating impacts rather than defining households. Chair Shay noted that she was not completely comfortable defining households or families. She liked the idea of a performance zoning approach, although it was hard to monitor. Chair Shay stated that she would like to work toward ordinances that described qualities the Town would like to have in certain environments and neighborhoods instead of describing what they felt was not a household or family.

Commission Member Behrend stated she liked Chair Shay's approach but did not know how it could be enforced or how there could be consistent requirements from one neighborhood to another. Chair Shay replied that she realized it was tricky. She stated there were families next to whom she did not want to live and unrelated people next to whom she would want to live. Chair Shay stated that the Town looked at families as units of people who would be more likely to take good care of their property. In contrast, unrelated people were viewed as those less likely to take good care of the property. She noted, in general, that was most likely the case, and she understood why owner occupancy was valued. However, Chair Shay stated she would like to look at other ways of doing things in the future.

Vice-Chair Plaag referred to the options regarding roomer(s)/boarder(s). He suggested that two roomers/boarders be allowed in the R3, B3, and M1 districts and 1 roomer/boarder be allowed in all other districts. Commission Member Tippettt stated he could support those suggested numbers.

First Motion and Vote

Commission Member Tippettt made a motion that the proposed amendment to the Town's zoning ordinance regarding a UDO text amendment for the definition of family and occupancy regulations is consistent with the Town's comprehensive plans and any other adopted plan(s) of the Town that are applicable because it complies with:

Comprehensive Plan Policy 2.1.1 Economic Development

A. The Town shall protect and enhance a high quality of life, image, cultural amenities, and natural beauty as the most effective, long term component of an economic development strategy.

The motion was seconded by Commission Member Behrend.

Commission Member Veno asked if the motion needed to include the suggested changes related to roomer(s)/boarder(s).

Commission Member Tippettt then amended his motion to include the allowance of two roomers/boarders in the R3, B3, and M1 and 1 roomer/boarder in all other districts. Commission Member Behrend accepted the amendment.

Vice-Chair Plaag wished to amend the motion to add:

Comprehensive Plan Policy 2.3.3 Housing and Neighborhoods

F. The affordable housing needs of area residents, particularly elderly and low to moderate income residents, shall be recognized in Town policies and actions regarding residential development.

Commission Members Tippettt and Behrend accepted the amendment.

Vote: Aye – 5
Nay – 1 (Shay)

The motion passed.

Second Motion and Vote

Commission Member Tippettt made a motion that the Planning Commission recommends approval of the proposed amendment and believes approval is reasonable and in the public interest because the UDO should be modified to be more inclusive and better reflect and accommodate diverse family structures and housing needs and preferences. The motion was seconded by Commission Member Behrend.

Vote: Aye – 5
Nay – 1 (Shay)

The motion passed.

Other Matters

Ms. Shook noted that Town Council had scheduled a special meeting on December 8, 2021 to take action on the cases to be heard at the November 22, 2021 public hearing.

Commission Member Behrend stated she would be coming back from out of town on November 22 but hoped to be back in time to join the meeting that night.

Adjournment

Vice-Chair Plaag made a motion to adjourn the meeting at 9:14 p.m. The motion was seconded by Commission Member Veno.

Vote: Aye – All
Nay – None
The motion passed.

Elizabeth Shay, Planning Commission Chair

Brenda Henson, Board Secretary