

**CRAVEN COUNTY, NORTH CAROLINA**  
**ZONING AND HEIGHT CONTROL ORDINANCE**

**INTRODUCTION**

**ENACTMENT:**

AN ORDINANCE ESTABLISHING AIRPORT-RELATED ZONING AND HEIGHT CONTROL REGULATIONS FOR CERTAIN AREAS OF THE COUNTY OF CRAVEN, NORTH CAROLINA, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF NORTH CAROLINA GENERAL STATUTES 153A-340 THROUGH 153A-348 INCLUSIVE, AND FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH.

**PREAMBLE:**

WHEREAS, the General Statutes of North Carolina empowers Craven County to enact a zoning and height control ordinance and to provide for its administration, enforcement, and amendment, and

WHEREAS, the County Commissioners deem it necessary, for the purpose of promoting the health, safety, morals, or general welfare of the County to enact such an Ordinance, and

WHEREAS, the County Commissioners have appointed a Planning Board to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein, and

WHEREAS, airport hazards endanger the lives and property of users of airports and occupants and owners of property in their vicinity, and

WHEREAS, the creation or establishment of an airport hazard injures the community served by the airport in question, and

WHEREAS, in the interest of the public health, safety and general welfare, it is necessary that the creation or establishment of airport hazards be prevented, and

WHEREAS, the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of police power without compensation, and

WHEREAS, the Planning Board has given reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, with a view to preventing airport hazards and protecting public interests, and

WHEREAS, the Planning Board has submitted its final report to the County Commissioners, and

WHEREAS, the County Commissioners have given due public notice of hearings relating to the zoning district, regulations and restrictions, and have held such public hearings, and

WHEREAS, all requirements of the General Statutes of North Carolina, with regard to the preparation of the report of the Planning Board and subsequent action of County Commissioners have been met;

NOW, THEREFORE, BE IT ORDAINED BY CRAVEN COUNTY, NORTH CAROLINA, AS FOLLOWS:

## SECTION 1.0 GENERAL

### 1.1. Authority

The provisions of this Ordinance are adopted under authority granted by the General Assembly of North Carolina (General Statute 153A-340-348).

### 1.2. Jurisdiction

The regulations set forth in this Ordinance shall be applicable within the following area of Craven County: Please see map entitled "Craven County, North Carolina Zoning Boundary Map."

### 1.3. Conflicting Regulations

In the event of conflict between any airport zoning regulations and any other county regulations applicable to the same property, the more stringent limitation or regulation shall govern and prevail.

### 1.4. Title

This Ordinance shall be known as Craven County, North Carolina Zoning and Height Control Ordinance, and may be cited as the Zoning and Height Control Ordinance.

## SECTION 2.0 DEFINITIONS

### 2.1. General

For the purpose of this Ordinance certain terms or words used herein shall be interpreted as follows.

### 2.2. Tense and Number

- (1) The present tense includes the future tense and the future tense includes the present tense.
- (2) The singular number includes the plural number and the plural number includes the singular number.

### 2.3. Word Interpretations

- (1) The word "may" is permissive.
- (2) The words "shall" and "will" are mandatory.
- (3) The word "County" shall mean the County of Craven, North Carolina.
- (4) The words "Planning Board" shall mean the Planning Board of Craven County, North Carolina.
- (5) The words "County Commissioners" shall mean County Commissioners of Craven County, North Carolina.
- (6) The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
- (7) The words "used" or "occupied" include the words intended, designed, or arranged to be used or occupied.
- (8) The word "lot" includes the words plat or parcel.

## 2.4. Definitions

- (1) *Accessory Use*: A use incidental to, and on the same lot as, a principal use. Examples of accessory uses include, but are not limited to, detached garage, storage shed, deck, carport, swimming pool.
- (2) *Airport*: means Craven County Regional Airport.
- (3) *Airport Elevation*: means the highest point of an airport's usable landing area measured in feet from sea level.
- (4) *Airport Height Restriction Zones*: The definitions of these zones are set forth in Section 3.0 of this Ordinance.
- (5) *Approach Surface*: means a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the airport height restriction zones limitations set forth in Section 3.2. of this Ordinance. In plan view the perimeter of the approach surface coincides with the perimeter of the approach zone.
- (6) *Building Restriction Line (BRL)*: The BRL is the area as shown on the Craven County Regional Airport Airport Layout Plan, as adopted by the Craven County Regional Airport Authority, in existence on the date of adoption of this Ordinance, or as subsequently amended by the Craven County Regional Airport Authority. For clarification purposes, this ordinance may only be amended by the Craven County Board of Commissioners in accordance with Section 7 of this ordinance.
- (7) *Conical Zone*: means slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at one hundred fifty (150) feet above the airport elevation and extending to a height of three hundred fifty (350) feet above the airport elevation.
- (8) *Construction*: means the erection or alteration of any structure either of a permanent or temporary character.
- (9) *Craven County Planning Department*: means the administrative agency which has been designated by the Craven County Board of Commissioners to administer airport zoning regulations. The Zoning Administrator shall be the Craven County Planning Director or his/her designee.

- (10) *Duplex Dwelling Unit*: means a structure which contains two (2) dwelling units.
- (11) *Excepted Height Limitations*: means nothing in this Ordinance shall be construed as prohibiting the construction or maintenance of any structure to a height up to fifty (50) feet above the surface of the land. This exception would only apply to construction or maintenance of structures outside of the approach surface.
- (12) *Family*: means one (1) or more persons related by blood, marriage or adoption, and living together as a single housekeeping unit.
- (13) *Forestry*: means the cultivation and harvesting of trees. The term shall not include the retail sale of trees or similar products.
- (14) *Group Care Facility*: An establishment qualified for a license by the State of North Carolina for the provision of resident services of seven (7) or more individuals of whom one or more are unrelated, and who are either handicapped, aged, disabled, or who are runaway, disturbed, or emotionally deprived children and who are undergoing rehabilitation or extended care, and who are provided services to meet their needs. For the purposes of this definition included are group homes for all ages, halfway houses, boarding home for children, and convalescent and nursing homes.
- (15) *Hazard to Air Navigation*: means an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
- (16) *Height*: means the overall height of a structure, including any appurtenance thereon, and for the purpose of determining the height limitations set forth herein, the datum shall be mean sea level elevation unless otherwise specified.
- (17) *Home Occupation*: means a commercial activity that (i) is conducted by a person on the same lot (in the Airport Zone/ Airport Development - Mixed Use Zone) where such person resides; and (ii) is not so insubstantial or incidental or is not so commonly associated with the residential use as to be regarded as an accessory use, but that can be conducted without any significantly adverse impact on the surrounding

neighborhood. Home occupations may be located on detached structures provided that the use conforms to limitations imposed by this ordinance and does not exceed four hundred (400) square feet in total floor area or twenty-five (25%) percent of the primary structure whichever is less.

Without limiting the generality of the foregoing, a use may not be regarded as having an insignificantly adverse impact on the surrounding neighborhood if one or more of the following conditions exist: (i) goods, stock in trade, or other commodities are displayed; (ii) any on-premises retail sales occur; (iii) more than one (1) person not a resident on the premises is employed in connection with the purported home occupation; (iv) the use creates objectionable noise, fumes, odor, dust or electrical interference; or (v) more than twenty-five (25%) percent of the total gross floor area of residential buildings plus other buildings housing the purported home occupation, or more than five hundred (500) square feet of gross floor area (whichever is less), is used for home occupation purposes.

The following is a non-exhaustive list of enterprises that may be home occupations if they have met the above criteria: (i) the office or studio of a physician, dentist, artist, musician, lawyer, architect, teacher, or similar professions; (ii) workshops, greenhouses, or kilns; (iii) dressmaking or hairdressing studios.

- (18) *Horizontal Surface*: means a horizontal plane one hundred fifty (150) feet above the established airport elevation or at a height of one hundred sixty-nine (169.0) feet above mean sea level, the perimeter of which in plan coincides with the perimeter of the horizontal zone.
- (19) *Larger than Utility Runway*: means a runway that is constructed for and intended to be used by propeller driven aircraft of greater than twelve thousand five hundred (12,500) pounds maximum gross weight and jet powered aircraft.
- (20) *Lot*: means the least fractional part of subdivided lands, which have been duly recorded, having fixed boundaries, an assigned number, letter or other name through which it may be identified.
- (21) *Manufactured Home*: A manufactured building designed to be used as a single family dwelling unit which has been constructed and labeled

indicating compliance with the HUD administered National Manufactured Housing Construction and Safety Standards Act of 1974, as amended.

- (22) *Manufactured Home Lot:* A manufactured home lot is a piece of land within a manufactured home park whose boundaries are delineated in accordance with the requirements of this Ordinance.
- (23) *Manufactured Home Park or Courts:* A parcel, or contiguous parcels, of land divided into two (2) or more manufactured home lots for rent.
- (24) *Manufactured Home/Recreational Vehicle Space:* A plot of land within a MH/RV park designed for the accommodation of a single manufactured home/recreational vehicle.
- (25) *Manufactured Home/Recreational Vehicle Stand:* That portion of the manufactured home/recreational vehicle space designed for and used as the area occupied by the MH/RV proper.
- (26) *Multi-Family Dwelling:* means a structure which contains three (3) or more dwelling units.
- (27) *Nonconforming Use:* means any structure use of land which was lawfully in existence prior to the enactment of the regulations and which does not conform to these regulations.
- (28) *Non-Precision Instrument Runway:* means a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.
- (29) *Non-Residential:* means any building/structures over fifty (50) feet in height.
- (30) *Obstruction:* means any structure other object, including a mobile object, which exceeds a limiting height set forth in Section 3.3. of this Ordinance. Trees outside the transition zones are exempt.
- (31) *Person:* means any individual, firm, copartnership, corporation, company, association, joint-stock association, or body politic, and

includes any trustee, receiver, assignee or other similar representative thereof.

- (32) *Precision Instrument Runway*: means a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.
- (33) *Primary Surface*: means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Section 3.0 of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
- (34) *Residential Hotel*: A building or group of buildings providing lodging for persons, with or without meals, and intended and used for the accommodation of transient lodgers in suites designed in such a fashion that reflects the intended use for transient lodgers and not for permanent residential accommodation. Suites may have one or more rooms in addition to bathrooms, water closet compartments, laundry, pantry, foyer, communicating corridor, closets, or any dining alcove. Kitchen area separate from the living or sleeping areas shall be provided and cooking may be done only in the kitchen area. The definition of residential hotels shall not include housing units, but may include services ordinarily provided by hotels, such as maid, desk, and laundry services.
- (35) *Runway*: means a defined area on an airport prepared for landing and take-off of aircraft along its length.
- (36) *Runway Protection Zone (RPZ)*: The RPZ's function is to enhance the protection of people and property on the ground. This is achieved through airport owner control over RPZs. Such control includes clearing RPZ areas (and maintaining them clear) of incompatible objects and activities. This area is identified within the Craven Regional Airport's Airport Layout Plan.

- (37) *Single-Family Dwelling*: means a detached structure which is designed for or occupied exclusively as a residence for (1) one family.
- (38) *Structure*: means any object constructed or installed by man, including but not limited to buildings, towers, smokestacks, utility poles, and overhead transmission lines.
- (39) *Transitional Surfaces*: means surfaces extended outward at ninety (90°) degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of five thousand (5,000) feet measured seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of five thousand (5,000) feet measured at ninety (90°) degree angles to the extended runway centerline.
- (40) *Use*: means the purpose for which land or a building is arranged, designed, occupied, or maintained.
- (41) *Utility Runway*: means a runway that is constructed for and intended to be used by propeller driven aircraft of twelve thousand five hundred (12,500) pounds maximum gross weight and less.

## SECTION 3.0 ZONING AND HEIGHT RESTRICTIONS

### 3.1. General

Notwithstanding any other provisions of this Ordinance, no structure may be built within any zoned area established by this Ordinance which in any way endangers or interferes with the landing, takeoff, or maneuvering of aircraft intending to use the airport. In the interest of Aviation and Public Safety, the Craven County Regional Airport Authority will ensure that all aircraft operating within the zonal areas of this Ordinance comply with the Federal Aviation Administration requirements for normal flight activity in the immediate vicinity of the airport.

### 3.2. Airport Height Restriction Zones                      Map Attached.

In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to Craven County Regional Airport. Such zones are shown on the Craven County Zoning and Height Control Map consisting of one (1) sheet, prepared by Holland Consulting Planners, Inc., and dated \_\_\_\_\_, \_\_\_\_\_, which is by reference made a part of this Ordinance. A lot located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various height restriction zones are hereby established and defined as follows:

- (1) *Utility Runway Non-Precision Instrument Approach Zone (Runway 13 and Runway 31):* The inner edge of this approach zone coincides with the width of the primary surface and is five hundred (500) feet wide. The approach zone expands outward uniformly to a width of two thousand (2,000) feet at a horizontal distance of five thousand (5,000) feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- (2) *Non-Precision Instrument Approach Zone (Runway 22):* The inner edge of this approach zone coincides with the width of the primary surface and is one thousand (1,000) feet wide. The approach zone expands outward uniformly to a width of three thousand five hundred (3,500) feet at a horizontal distance of ten thousand (10,000) feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- (3) *Precision Instrument Runway Approach Zone (Runway 4):* The inner edge of this approach zone coincides with the width of the primary surface

and is one thousand (1,000) feet wide. The approach zone expands outward uniformly to a width of sixteen thousand (16,000) feet at a horizontal distance of fifty thousand (50,000) feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

- (4) *Transitional Zones:* The transitional zones are the areas beneath the transitional surfaces.
- (5) *Horizontal Zone:* The horizontal zone is established by swinging arcs of five thousand (5,000) feet radii for all runways designated utility or visual and ten thousand (10,000) feet for all others from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
- (6) *Conical Zone:* The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward from the horizontal zone at a slope of twenty (20) to one (1) for a distance of four thousand (4,000) feet.

### 3.3. Airport Height Zone Restrictions

Except as otherwise provided in this Ordinance, no structure shall be erected, altered, or maintained in any zone created by this Ordinance to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

- (1) *Utility Runway Visual Approach Zone:* Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of five thousand (5,000) feet along the extended runway centerline.
- (2) *Non-Precision Instrument Approach Zone:* Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of ten thousand (10,000) feet along the extended runway centerline.
- (3) *Precision Instrument Runway Approach Zone:* Slopes fifty (50) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance

of ten thousand (10,000) feet along the extended runway centerline; thence slopes outward forty (40) feet horizontally for each foot vertically to an additional horizontal distance of forty thousand (40,000) feet along the extended runway centerline.

- (4) *Transitional Zone:* Slopes seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of one hundred fifty (150) feet above the airport elevation, which is nineteen (19.0) feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of five thousand (5,000) feet measured at ninety (90°) degree angles to the extended runway centerline.
- (5) *Horizontal Zone:* Established at one hundred fifty (150) feet above the airport elevation or at a height of one hundred sixty-nine (169.0) feet above mean sea level.
- (6) *Conical Zone:* Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at one hundred fifty (150) feet above the airport elevation and extending to a height of three hundred fifty (350) feet above the airport elevation, three hundred sixty-nine (369.0) feet above mean sea level.
- (7) *Excepted Height Limitations:* Nothing in this Ordinance shall be construed as prohibiting the construction or maintenance of any structure to a height up to fifty (50) feet above the surface of the land. This exception would only apply to construction or maintenance of structures outside of the approach surface.

#### 3.4. Airport Zoning and Height Control Zones

In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones for the purpose of regulating zoning to prohibit uses which may be hazardous to the safe operation of aircraft. Such zones are shown on

the Craven County Zoning and Height Control Map consisting of one (1) sheet, prepared by Holland Consulting Planners, Inc., and The LPA Group of North Carolina, P.A., and dated \_\_\_\_\_, \_\_\_\_\_, which is by reference made a part of this Ordinance. A lot located in more than one (1) zoning and height control zone is considered to be only in the zone with the more restrictive limitation; the Airport Zone is more restrictive than the Airport Development - Mixed Use Zone. The various zoning and height control zones are hereby established and defined as follows:

- (1) *Airport Zone*: This zone is intended to be applied to properties which lie within the runway protection zones (RPZ), building restriction line, and all property owned by the Airport. The zone is intended to regulate the development of land uses which are incompatible with safe airport operation.
- (2) *Airport Development - Mixed Use Zone*: This zone allows the development of mixed land uses which will not be hazardous or in anyway detrimental to safe airport operation. The purpose of the zone is to protect the safety and welfare of the airport and the residents of Craven County.

### 3.5. Airport Zoning and Height Control Zone Restrictions

Airport and Airport Development-Mixed Use Zones shall allow permitted uses as defined by this section. All uses not specifically allowed as permitted uses are prohibited unless allowed as a conditional use as specified in section 3.5.1.b of this ordinance.

#### 3.5.1. Airport Zone

##### 3.5.1.a. Airport Zone Permitted Uses

The following uses are allowed unless the use would violate the height limitations as defined in Section 3.3:

- (1) All agricultural uses including the commercial raising of animals or fowl which would not adversely affect safe airport operations.
- (2) Landscape nursery, cemetery, and low intensity or open recreation areas, which do not include buildings or structures.
- (3) Roadways, parking areas, and storage yards when located in such a manner that vehicle lights will not make it difficult for pilots to

distinguish between landing lights and vehicle lights, result in glare, or in any other way impair visibility in the vicinity of the landing approach.

- (4) Game preserve or reservation.
- (5) Pipeline.
- (6) Underground utility wire.
- (7) Airports and accessory uses.
- (8) Government uses.

In addition to the permitted uses, all uses permitted in the Airport Development - Mixed Use zone shall be allowed as conditional uses within the Airport Zone **except for multi-family dwellings and manufactured home parks or courts which are strictly prohibited in the Airport Zone.** Section 6.0 provides the procedures and requirements for conditional use approval.

#### 3.5.1.b. Airport Zone Limitations

For any use not specifically permitted, an individual will have the right to request a conditional use permit. Following a review of the application by the Planning Board and the Craven Regional Airport, the Planning Board shall advise the Board of County Commissioners as to whether or not the use is compatible with future expansion of airport infrastructure and safe airport operations, and ensure that it does not violate the height limitations as defined in Section 3.3. A conditional use permit may be approved or denied by the Board of Commissioners based on these criteria. Examples of conditional uses included, but are not limited to, the following:

- (1) Places of public assembly not designed for airport patrons including theaters, museums, libraries, and stadiums.
- (2) Places of residence including, but not limited to: single-family homes\* and manufactured homes.
- (3) Recreational establishments with structures not designed to serve airport patrons.

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\* NOTE: In the Airport Zone, all single-family residential uses and associated accessory uses existing on the date of adoption of this Ordinance shall be exempt from all non-conforming requirements of Section 4.0 of this Ordinance, including those for which building permits have been issued.

- (4) Radio and television broadcasting facilities.
- (5) Landfills or quarries.
- (6) Except for essential airport operations, above ground bulk storage of explosive, hazardous, or flammable materials and related facilities which could pose a threat to the public in the event of an aircraft crash.
- (7) Storage yards for oxides, coal, stone, concrete mixing supplies, asphalt plants, building supplies and dismantled vehicles.
- (8) The following lighting is specifically prohibited:
  - (a) Any moving, pulsating, flashing, rotating, or oscillating light, which may interfere with air traffic other than navigational markings or lights marking potential obstructions in accordance with Federal Aviation Administration requirements.
  - (b) Flood lights, spot lights, or other lighting devices which are not shielded so as to prevent illumination in an upward direction.
  - (c) Any light which constitutes a "misleading light" within the meaning of Federal Aviation Administration regulations.
- (9) Any electronic impulse or signal which interferes with communications between aircraft and the airport, or which interferes with established navigational aids is prohibited.
- (10) Structures and signs of a height which obstructs the takeoff and landing of aircraft, as determined by the Federal Aviation Administration, are prohibited.

3.5.1.c. Additional Airport Zone Use Limitations

The following limitations shall apply to all uses within the airport zone:

- (1) No glare-producing materials shall be used on the exterior of any building or structure located within the airport zone.

- (2) The requirements of this section shall not be construed to require a property owner to remove, lower, or make other changes or alterations of any structure which legally existed prior to the effective date of this Ordinance. However, such structure shall be considered nonconforming if such structure is in conflict with these regulations.
- (3) The Craven County Regional Airport Manager shall have the opportunity to review applications for rezoning, subdivision, or site plan approval prior to a decision by the approving authority. In approving such applications for rezoning, subdivision, or site plan approval, the approving authority may consider recommendations from the Airport Manager.
- (4) Nonconforming uses may be continued subject to the regulations found elsewhere in this Ordinance. However, no building permit shall be issued which would allow a greater hazard (for example: more units, or brighter lighting) to airport safety than existed at the time of adoption of this Ordinance.

### 3.5.2. Airport Development - Mixed Use Zone

#### 3.5.2. a. Airport Development - Mixed Use Zone Permitted Uses

The following uses are permitted as a use-by-right unless the use would violate the height limitations as defined in Section 3.3:

- (1) *Residential* (including accessory uses):  
 Single-Family Dwellings (including manufactured homes)  
 Duplex; Manufactured Home Subdivisions
- (2) *Transportation, Communication, and Utilities*:  
 Railroad  
 Airport and Accessory Uses  
 Highway & Street Right-of-Way  
 Automobile Parking  
 Roadways, Parking Areas, and Storage Yards  
     when located in such a manner that vehicle lights will not  
     make it difficult for pilots to distinguish between landing

lights and vehicle lights, result in glare, or in any other way impair visibility in the vicinity of the landing approach

Communications

Utilities (except above ground transmission lines)

Above Ground Transmission Lines

Pipeline

Underground Utility Wire

(3) *Public and Quasi-Public Services:*

Government Services (excluding schools)

Educational Services; Cultural Activities;

Non-Profit Organizations (excluding schools)

Medical & Other Health Services

Cemeteries

(4) *Outdoor Recreation:*

Nature Exhibits

Spectator Sports Including Arenas

Golf Courses; Riding Stables

Water Based Recreational Areas

Game Preserve or Reservation

Entertainment Assembly; Amphitheater; Music Shell

Marinas, Public/Semi-Public

(5) *Resource Production, Extraction & Open Land:*

Agriculture Including Livestock Grazing

Livestock Farms; Animal Breeding

Agriculture Related Activities (excluding stock auction land)

Forestry Activities

Fishing Activities

Landscape Nursery, Cemetery, and Low Intensity or Open

Recreation Areas which do not include buildings or structures

Undeveloped Areas; Unused Land Areas; Permanent

Open Space; Water Areas

(6) *Personal & Business Services:*

Finance; Real Estate; Insurance; Personal

Services; Business Services; Professional

Services; Indoor Recreation Services

Repair Services; Contract Construction Services

The following uses are permitted as conditional uses unless the use would violate the height limitations as defined in Section 3.3 of this ordinance:

- (1) *Industrial/Manufacturing:*  
Food and Kindred Products; Textile Mill Products  
Apparel; Chemicals & Allied Products Activities;  
Petro Refining & Related Rubber & Misc. Plastic Products  
Lumber & Wood Products; Furniture & Fixtures  
Paper and Allied Products; Printing & Publishing; Stone,  
Clay & Glass Products; Primary Metal Industries; Fabricated  
Metal Products; Product Assembly; Motor Freight;  
Warehousing  
Professional, Scientific & Control Instruments
- (2) *Commercial/Retail Trade:*  
Wholesale Trade; Building Material and Supplies; Hardware; Farm  
Equipment (Retail); Auto, Marine, Aviation (Retail)  
General Merchandise (Retail); Food Retail; Apparel  
and Accessories (Retail)  
Furniture; Home Furnishing (Retail)  
Eating & Drinking Establishments  
Marinas, Commercial  
Automobile Service Stations
- (3) *Residential:*  
Multi-Family Dwellings; Manufactured Home Parks or Courts;  
Manufactured Home/Recreational Vehicle Stand;  
Group Care Facility; Residential Hotels including Transient Lodges

3.5.2. b. Airport Development - Mixed Use Zone Limitations

The following uses are specifically prohibited:

- (1) Correctional facilities or jails.
- (2) Radio and television broadcasting facilities.
- (3) Landfills or quarries.

- (4) Above ground bulk storage of explosive, hazardous, or flammable materials and related facilities which could pose a threat to the public in the event of an aircraft crash.
- (5) Storage yards for oxides, coal, stone, concrete mixing supplies, asphalt plants, building supplies and dismantled vehicles.

3.5.2. c. Additional Airport Development-Mixed Use Zone Use Limitations

The following limitations shall apply to all uses within the airport development mixed use zone:

- (1) No glare-producing materials shall be used on the exterior of any building or structure located within the airport development mixed use zone.
- (2) The requirements of this section shall not be construed to require a property owner to remove, lower, or make other changes or alterations of any structure which legally existed prior to the effective date of this Ordinance. However, such structure shall be considered nonconforming if such structure is in conflict with these regulations.
- (3) The Craven County Regional Airport Manager shall have the opportunity to review applications for rezoning, subdivision, or site plan approval prior to a decision by the approving authority. In approving such applications for rezoning, subdivision, or site plan approval, the approving authority may consider recommendations from the Airport Manager.
- (4) Nonconforming uses may be continued subject to the regulations found elsewhere in this Ordinance. However, no zoning permit shall be issued which would allow a greater hazard (for example, brighter lighting) to airport safety than existed at the time of adoption of this Ordinance.
- (5) The following lighting is specifically prohibited:
  - (a) Any moving, pulsating, flashing, rotating, or oscillating light, which may interfere with air traffic other than navigational markings or lights marking potential

obstructions in accordance with Federal Aviation Administration requirements.

- (b) Flood lights, spot lights, or other lighting devices which are not shielded so as to prevent illumination in an upward direction.
  - (c) Any light which constitutes a "misleading light" within the meaning of Federal Aviation Administration regulations.
- (6) Any electronic impulse or signal which interferes with communications between aircraft and the airport, or which interferes with established navigational aids is prohibited.
- (7) Structures and signs of a height which obstructs the takeoff and landing of aircraft, as determined by the Federal Aviation Administration are prohibited.

## SECTION 4.0 NONCONFORMING SITUATIONS

### 4.1. General

After the effective date of this Ordinance, land or structures, or the uses of land or structures which would be prohibited under the regulations for the zone in which it is located and which were existing prior to the effective date of this Ordinance, shall be considered as non-conforming. It is the intent of this Ordinance to permit these non-conformities to continue until they are removed, but not to encourage their continual use. Non-conforming structures or uses may be continued provided they conform to the provisions of this Ordinance. **In the Airport Zone, all single-family residential uses and associated accessory uses existing on the date of adoption of this Ordinance shall be exempt from all non-conforming requirements of Section 4.0 of this Ordinance, including those for which building permits have been issued.**

The regulations prescribed herein shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date hereof. However, if such alterations were to be required by the Craven County Regional Airport or the Federal Aviation Administration, expenses shall be the responsibility of the Airport Authority.

### 4.2. Definitions

Unless the context clearly indicates otherwise, the terms defined below are used in this article in the following manner:

- (1) *Non-Conforming Situation*: means a situation that occurs when, on the effective date of this Ordinance or any amendment hereto, an existing lot or structure, or use of an existing lot or structure, does not conform to one (1) or more of the regulations applicable to the zone in which the lot or structure is located.
- (2) *Non-Conforming Use*: means a non-conforming situation that occurs when property is used for a purpose or in a manner made unlawful by the permitted use regulations applicable to the zone in which the property is located.
- (3) *Non-Conforming Building or Structure (Dimensional Non-Conformity)*: means a non-conforming situation that occurs when the height, design,

building material or lighting of a building does not conform to the regulations applicable to the zone in which the property is located.

- (4) *Non-Conforming Project*: means any structure, development or undertaking that is incomplete at the effective date of this Ordinance and would be inconsistent with any regulation applicable to the zone in which it is located if completed as proposed or planned.

#### 4.3. Completion of Non-Conforming Projects

The construction or erection of any non-conforming project may be completed provided all construction is done pursuant to a validly issued building permit.

#### 4.4. Extension or Enlargement of Non-Conforming Situations

- (1) Except as specifically provided in this subsection, it shall be unlawful for any person to engage in any activity that causes an increase in the extent of non-conformity of a non-conforming situation.
- (2) Subject to Subsection (4), a non-conforming use may be extended throughout any portion of a completed building that, when the use was made non-conforming by this Ordinance, was manifestly designed or arranged to accommodate such use. However, subject to Subsection (5) of this section, a non-conforming use may not be extended to additional buildings or to land outside the original building.
- (3) Subject to Section 4.3., a non-conforming use of open land may not be extended to cover more land than was occupied by that use when it became non-conforming, except that a use that involves the removal of natural materials from the lot (e.g., a quarry) may be expanded to the boundaries of the lot where the use was established at the time it became non-conforming, if ten (10%) percent or more of the earth products had already been removed at the effective date of this Ordinance.
- (4) Where a non-conforming situation exists, the equipment or processes may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind and no violations of other paragraphs of this subsection occur.

- (5) Physical alteration of structures or the placement of new structures on open land are unlawful if they result in:
  - (a) An increase in the total amount of space devoted to a non-conforming use; or
  - (b) Greater non-conformity with respect to dimensional restrictions such as height limitations, or density requirements.
- (6) Minor repairs to and routine maintenance of property where non-conforming situations exist is permitted and encouraged.
- (7) Notwithstanding Section 4.5, any structure used for single-family residential purposes and maintained as a non-conforming use may be replaced with a similar structure of a larger size. In particular, a mobile home may be replaced with a larger mobile home, and a "single-wide" mobile home may be replaced with a "double-wide." This paragraph is subject to the limitations stated in Section 4.6 - "Abandonment and Discontinuance of Non-Conforming Situations."
- (8) A structure that is non-conforming in any respect or a structure that is used in a non-conforming manner may be reconstructed or replaced if partially or totally destroyed, subject to the following restrictions:
  - (a) A letter of intent is received by the Craven County Planning Department within six (6) months from the time of such destruction;
  - (b) A Building permit is obtained from the Craven County Planning and Inspections Department within one (1) year from the time the damage or destruction took place;
  - (c) The total amount of space devoted to a non-conforming use may not be increased, except that a larger, single-family residential structure may be constructed in place of a smaller one and a larger mobile home intended for residential use may replace a smaller one;
  - (d) The reconstructed building shall eliminate height limitation, building material and/or lighting non-conformities if that can reasonably be accomplished without unduly burdening the reconstruction

process or limiting the right to continue the non-conforming use of such building.

- (9) Whenever the Craven County Planning Department determines that a nonconforming structure has been more than eighty (80%) percent torn down, no permit shall be granted that would allow such structure to exceed the applicable height limits as specified in Section 3.0 or otherwise deviate from the zoning and height control ordinance regulations.

#### 4.5. Change in Kind of Non-conforming Use

- (1) A non-conforming use may be changed to a conforming use. Thereafter, the property may not revert to a non-conforming use.
- (2) A non-conforming use may be changed to another non-conforming use only in accordance with a conditional use permit issued by the Board of Commissioners. The Board shall issue such approval if it finds that the proposed use will be more compatible with the surrounding neighborhood than the use in operation at the time the approval is applied for and that the proposed use will not adversely effect safe airport operations. If a non-conforming use is changed to any use other than a conforming use without obtaining approval pursuant to this paragraph, that change shall constitute a discontinuance of the non-conforming use, and the property involved may thereafter be used only for conforming purposes.
- (3) A non-conforming accessory use of a building may only be changed to another non-conforming accessory use or building according to subsection 4.5 (2) of this Ordinance. Changes in a principal use are also considered as changes to any accessory use or building.
- (4) If a non-conforming use and a conforming use, or any combination of a conforming and non-conforming use, or any combination of non-conforming uses exist in one (1) lot, the use made of the property may be changed substantially (except to a conforming use), only in accordance with approval issued by the Board of Commissioners. The Board shall issue such approval if it finds that the proposed use will be more compatible with the surrounding neighborhood than the use or combination of uses in operation at the time the approval is applied for.

#### 4.6. Abandonment and Discontinuance of Non-conforming Situations

- (1) When a non-conforming use is discontinued for a consecutive period of one hundred eighty (180) days, the property involved may thereafter be used only for conforming purposes.
- (2) For purposes of determining whether a right to continue a non-conforming situation is lost pursuant to this subsection, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one (1) apartment in a non-conforming apartment building or one (1) space in a non-conforming mobile home park for one hundred eighty (180) days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building or mobile home park as a whole is continuously maintained. But if a non-conforming use is maintained in conjunction with a conforming use, discontinuance of a non-conforming use for the required period shall terminate the right to maintain it thereafter.

And so, if a mobile home is used as a non-conforming use on a residential lot where a conforming residential structure also is located, removal of that mobile home for one hundred eighty (180) days terminates the right to replace it.

- (3) When a structure or operation made non-conforming by this Ordinance is vacant or discontinued at the effective date of this Ordinance, the one hundred eighty (180) day period for purposes of this subsection begins to run at the effective date of this Ordinance.

#### 4.7. Marking and Lighting

Notwithstanding the preceding provision of this Section, the owner of any existing non-conforming structure is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Airport Manager to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. This requirement shall not apply to trees located outside the transition zone. Such markers and lights shall be installed, operated, and maintained at the expense of the Craven County Regional Airport Authority.

## SECTION 5.0 ADMINISTRATION AND ENFORCEMENT

### 5.1. Administration and Enforcement

The Craven County Planning Director, or his designee, shall administer and enforce this Ordinance. He may be provided with assistance of such other persons as the County Commissioners may direct.

If the Planning Director, or his designee, shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violation indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.

### 5.2. Zoning Permit Requirements

After the adoption of this Ordinance, no new uses shall be established unless a zoning permit is applied for and issued by the Craven County Planning Department. No permit shall be issued except in conformity with the provisions of this Ordinance, except after written order from the Board of Adjustment.

### 5.3. Application for Zoning Permit

All applications for zoning permits shall be accompanied by plans in duplicate, drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration and evidence of Craven County Board of Health's approval of the sewage disposal system. The application shall include such other information as may be required by the Craven County Planning Department including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families or rental units the building is designed to accommodate; conditions existing on the lot; for property located within the airport zone the elevation of all structures and utility lines taller than fifty (50) feet as determined by a licensed surveyor; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, this Ordinance.

One (1) copy of the plans shall be returned to the applicant by the Craven County Planning Department after he shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. Should the Craven County Planning Department disapprove an application for a building permit, the reasons for disapproval shall be listed on the application. The second copy of the plans, similarly marked, shall be retained by the Craven County Planning Department.

#### 5.4. Expiration of Zoning Permit

If the work described in any zoning permit has not begun within 180 days from the date of issuance thereof, said permit shall expire; it shall be canceled by the Craven County Planning Department and written notice thereof shall be given to persons affected.

If after commencement the work is discontinued for a period of twelve (12) months, the permit therefore shall immediately expire and be canceled by the Craven County Planning Department and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new building permit has been obtained.

#### 5.5. Zoning Permit for New or Altered Uses

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a zoning permit has been issued by the Craven County Planning Department stating the requirements of this Ordinance.

The Craven County Planning Department shall maintain a record of all zoning permits and a summary of all permits issued shall be available to the public.

#### 5.6. Duties of Craven County Planning Department, Board of Adjustment, Courts and County Commissioners as to Matters of Appeal

It is the intention of this Ordinance that all questions arising in connection with the enforcement of this Ordinance shall be presented first to the Craven County Planning Department and that such questions shall be presented to the Board of Zoning Adjustment only on appeal from the Craven County Planning Department; and that from the decision of the Board of Adjustment recourse shall be to courts as provided by law.

It is further the intention of this Ordinance that the duties of the County Commissioners in connection with the Ordinance shall not include the hearing and passing of disputed questions that may arise in connection with the enforcement thereof, but only considering and passing upon any proposed amendment, conditional use, or repeal of the Ordinance.

## SECTION 6.0 ZONING AND CONDITIONAL USE PERMIT APPROVAL

### 6.1. Permits Required

- (1) The use made of property may not be substantially changed, substantial clearing, grading, or excavation may not be commenced, and buildings or other substantial structures may not be constructed, erected, moved, or substantially altered except in accordance with and pursuant to one of the following permits:
  - (a) A zoning permit issued by the administrator.
  - (b) A conditional-use permit issued by the Board of Commissioners.
- (2) Zoning permits and conditional-use permits are issued under this Ordinance only when a review of the application submitted, including any required plans contained therein, indicates that the development will comply with the provisions of this Ordinance if completed as proposed. Such plans and applications as are finally approved are incorporated into any permit issued, and except as otherwise provided in Section 6.12., all development shall occur strictly in accordance with such approved plans and applications.
- (3) Physical improvements to land to be subdivided may not be commenced except in accordance with a conditional-use permit issued by the Board of Commissioners.
- (4) A zoning permit or conditional-use permit shall be issued in the name of the applicant (except that applications submitted by an agent shall be issued in the name of the principal and shall be accompanied by a signed affidavit designating such agent), shall identify the property involved and the proposed use, shall incorporate by reference the plans submitted, and shall contain any special conditions or requirements lawfully imposed by the permit-issuing authority.

### 6.2. No Occupancy, Use, or Sale of Lots Until Requirements Fulfilled

Issuance of a conditional-use or zoning permit authorizes the recipient to commence the activity resulting in a change in use of the land or (subject to obtaining a building permit) to commence work designed to construct, erect, move, or

substantially alter building or other substantial structures or to make necessary improvements to a subdivision. However, except as provided in Section 6.9., the intended use may not be commenced, no building may be occupied, and in the case of subdivisions, no lots may be sold until all of the requirements of this Ordinance and all additional requirements imposed pursuant to the issuance of a conditional-use permit have been complied with.

### 6.3. Who May Submit Permit Applications

- (1) Applications for zoning or conditional-use permits will be accepted only from persons having the legal authority to take action in accordance with the permit. By way of illustration, in general this means that applications should be made by the owners or lessees of property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this Ordinance, or the agents of such persons (who may make application in the name of such owners, lessees, or contract vendees).
- (2) The administrator may require an applicant to submit evidence of his authority to submit the application in accordance with Subsection (1) whenever there appears to be a reasonable basis for questioning this authority.

### 6.4. Applications To Be Complete

- (1) All applications for zoning or conditional-use permits must be completed before the permit-issuing authority is required to consider the application.
- (2) An application is complete when it contains all of the information that is necessary for the permit-issuing authority to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this Ordinance.
- (3) The administrator shall make every effort to develop application forms, instructional sheets, checklists, or other techniques or devices to assist applicants in understanding the application requirements and the form and type of information that must be submitted. In cases where a minimal amount of information is necessary to enable the administrator to determine compliance with this Ordinance, such as applications for zoning permits to construct single-family or two-family houses, the

administrator shall develop standard forms that will expedite the submission of the necessary plans and other required information.

6.5. Staff Consultation After Application Submitted

- (1) Upon receipt of a formal application for a zoning or conditional-use permit, the administrator shall review the application and confer with the applicant to ensure that he understands the planning staff's interpretation of the applicable requirements of this Ordinance, that he has submitted all of the information that he intends to submit, and that the application represents precisely and completely what he proposes to do.
- (2) If an application is for a conditional-use permit, the administrator shall place the application on the agenda of the appropriate board when the applicant indicates that the application is as complete as he intends to make it. However, if the administrator believes that the application is incomplete, he shall recommend to the appropriate board that the application be denied on that basis.

6.6. Zoning Permits

- (1) A completed application form for a zoning permit shall be submitted to the administrator by filing a copy of the application with the administrator in the planning department.
- (2) The administrator shall issue the zoning permit unless he finds, after reviewing the application, that:
  - (a) The requested permit is not within his jurisdiction according to the Table of Permissible Uses, or
  - (b) The application is incomplete, or
  - (c) If completed as proposed in the application, the development will not comply with one or more requirements of this Ordinance (not including those requirements when a variance has been granted or those the applicant is not required to comply with under the circumstances specified in Section 4.0, (Nonconforming Situations)).

- (3) If the administrator determines that the development for which a zoning permit is requested will have or may have substantial impact on surrounding properties, he shall, at least 10 days before taking final action on the permit request, send a written notice to those persons who have listed for taxation real property any portion of which is within 150 feet of the lot that is the subject of the application, informing them that:
  - (a) An application has been filed for a permit authorizing identified property to be used in a specified way,
  - (b) All persons wishing to comment on the application should contact the administrator by a certain date, and
  - (c) Persons wishing to be informed of the outcome of the application should send a written request for such notification to the administrator.

6.7. Authorizing Use or Occupancy Before Completion of Development Under Zoning Permit

In cases when, because of weather conditions or other factors beyond the control of the zoning-permit recipient (exclusive of financial hardship), it would be unreasonable to require the zoning-permit recipient to comply with all requirements of this Ordinance prior to commencing the intended use of the property or occupying any buildings, the administrator may authorize the commencement of the intended use or the occupancy of buildings (insofar as the requirements of this Ordinance are concerned) if the permit recipient provides a performance bond or other security satisfactory to the administrator to ensure that all of the requirements of the Ordinance will be fulfilled within a reasonable period (not to exceed 12 months) determined by the administrator.

6.8. Authorizing Use, Occupancy, or Sale Before Completion of Development Under Conditional-Use Permits

- (1) In cases when, because of weather conditions or other factors beyond the control of the conditional-use permit recipient (exclusive of financial hardship) it would be unreasonable to require the permit recipient to comply with all of the requirements of this Article before commencing the intended use of the property or occupying any buildings or selling lots in a subdivision, the permit-issuing board may authorize the

commencement of the intended use or the occupancy of buildings or the sale of subdivision lots (insofar as the requirements of this section are concerned) if the permit recipient provides a performance bond or other security satisfactory to the board to ensure that all of these requirements will be fulfilled within a reasonable period (not to exceed 12 months).

- (2) When the developer proposes in the plans submitted to install amenities beyond those required by this Article, the Board may authorize the permittee to commence the intended use of the property or to occupy any building or to sell any subdivision lots before the additional requirements are fulfilled or the amenities installed if it specifies a date by which or a schedule according to which such requirements must be met or each amenity installed and if it concludes that compliance will be ensured as the result of any one or more of the following:

- (a) A performance bond or other security satisfactory to the Board is furnished;

- (b) A condition is imposed establishing an automatic expiration date on the permit, thereby ensuring that the permit recipient's compliance will be reviewed when application for renewal is made;

- (c) The nature of the requirements or amenities is such that sufficient assurance of compliance is given by Section 10.3. (Penalties for Violations).

- (3) With respect to subdivisions in which the developer is selling only undeveloped lots, the Board may authorize final plat approval and the sale of lots before all the requirements of this Article are fulfilled if the subdivider provides a performance bond or other security satisfactory to the Board to ensure that all of these requirements will be fulfilled within not more than 12 months after final plat approval.

#### 6.9. Completing Developments in Phases

- (1) If a development is constructed in phases or stages in accordance with this section, then, subject to Subsection (3), the provisions of Section 6.2. (No Occupancy, Use, or Sale of Lots Until Requirements Fulfilled) and Section 6.9. (exceptions to Section 6.2.) shall apply to each phase as if it were the entire development.

- (2) As a prerequisite to taking advantage of the provisions of Subsection (1), the developer shall submit plans that clearly show the various phases or stages of the proposed development and the requirements of this Article that will be satisfied with respect to each phase or stage.
- (3) If a development that is to be built in phases or stages includes improvements that are designed to relate to, benefit, or be used by the entire development (such as a swimming pool or tennis courts in a residential development) then, as part of his application for development approval, the developer shall submit a proposed schedule for completion of such improvements. The schedule shall relate completion of such improvements to completion of one or more phases or stages of the entire development. Once a schedule has been approved and made part of the permit by the permit-issuing authority, no land may be used, no buildings may be occupied, and no subdivision lots may be sold except in accordance with the schedule approved as part of the permit, provided that:
  - (a) If the improvement is one required by this Article then the developer may utilize the provisions of Section 6.9.(1) or (3).
  - (b) If the improvement is an amenity not required by this Article or is provided in response to a condition imposed by the Board, then the developer may utilize the provisions of Section 6.9.(2).

6.10. Expiration of Permits (Vested Right Provisions are provided in Section 9.0)

- (1) Zoning or conditional-use permits shall expire automatically if, within six (6) months after the issuance of such permits, the use authorized by such permits has not commenced, in circumstances where no substantial construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use.
- (2) If, after some physical alteration to land or structures begins to take place, such work is discontinued for a period of one year, then the permit authorizing such work shall immediately expire. However, expiration of the permit shall not affect the provisions of Section 6.11.

6.11. Effect of Permit on Successors and Assigns

- (1) Zoning or conditional-use permits authorize the permittee to make use of land and structures in a particular way. Such permits are transferable. However, so long as the land or structures or any portion thereof covered under a permit continues to be used for the purposes for which the permit was granted, then:
  - (a) No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit, and;
  - (b) The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit is obtained, but also with respect to persons who subsequently obtain any interest in all or part of the covered property and wish to use it for or in connection with purposes other than those for which the permit was originally issued.

#### 6.12. Amendments to and Modifications of Permits

- (1) Insignificant deviations from the permit (including approved plans) issued by the Board of Commissioners, the Board of Adjustment, or the administrator are permissible and the administrator may authorize such insignificant deviations. A deviation is insignificant if it has no discernable impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.
- (2) Minor design modifications or changes in permits (including approved plans) are permissible with the approval of the permit-issuing authority. Such permission may be obtained without a formal application, public hearing, or payment of any additional fee. For purposes of this section, minor design modifications or changes are those that have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.
- (3) All other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the Planning Board, Board of Commissioners or Board of Adjustment, new conditions may be imposed, but the applicant retains the right to reject

such additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit.

- (4) The administrator shall determine whether amendments to and modifications of permits fall within the categories set forth above in Subsections (1), (2), and (3).
- (5) A developer requesting approval of changes shall submit a written request for such approval to the administrator, and that request shall identify the changes. Approval of all changes must be given in writing.

#### 6.13. Reconsideration of Board Action

- (1) Whenever (i) the Board of Commissioners disapproves a conditional-use permit application, or (ii) the Board of Adjustment disapproves an application for a variance, on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the respective board at a later time unless the applicant clearly demonstrates that:
  - (a) Circumstances affecting the property that is the subject of the application have substantially changed, or
  - (b) New information is available that could not with reasonable diligence have been presented at a previous hearing. A request to be heard on this basis must be filed with the administrator within the time period for an appeal to superior court (see Section 8.3.). However, such a request does not extend the period within which an appeal must be taken.
- (2) Notwithstanding Subsection (1), the Board of Commissioners or Board of Adjustment may at any time consider a new application affecting the same property as an application previously denied. A new application is one that differs in some substantial way from the one previously considered.

#### 6.14. Applications to be Processed Expeditiously

Recognizing that inordinate delays in acting upon appeals or applications may impose unnecessary costs on the appellant or applicant, the county shall make every reasonable effort to process appeals and permit applications as expeditiously as

possible, consistent with the need to ensure that all development conforms to the requirements of this Ordinance.

#### 6.15. Maintenance of Common Areas, Improvements, and Facilities

The recipient of any zoning or conditional-use permit, or his successor, shall be responsible for maintaining all common areas, improvements, or facilities required by this Ordinance or any permit issued in accordance with its provisions, except those areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority. As illustrations, and without limiting the generality of the foregoing, this means that private roads and parking areas, water and sewer lines, and recreational facilities must be properly maintained so that they can be used in the manner intended, and required vegetation and trees used for screening, landscaping, or shading must be replaced if they die or are destroyed.

#### 6.16. Conditional-Use Permits Objectives and Purpose

Conditional uses add flexibility to the Zoning Ordinance. Subject to high standards of planning and design, certain property uses are allowed in the zones established within this ordinance where those uses would not otherwise be applicable. By means of controls exercised through the conditional use permit procedures, property uses which would otherwise be undesirable in certain zones can be developed to minimize any bad effects they might have on surrounding properties. Approval of a conditional use permit is made the duty of the Board of Commissioners subject to recommendations of the Planning Board.

The uses for which conditional use permits are required are listed in Section 6.17, along with a detailed description of the procedures which must be followed in the approval of each such permit. Uses specified in this section shall be permitted only upon the issuance of a conditional use permit.

#### 6.17. Procedure for Conditional Use Permit Granted by the Craven County Board of Commissioners on Recommendation of the Planning Board

Conditional use permits may be issued by the Planning Director, or his designee, after approval by the Board of Commissioners, for uses designated in this ordinance as conditional uses and after Planning Board review and recommendations (refer to Sections 3.5.1(b) and 3.5.2(a) for designated conditional uses). The petition for a conditional use permit and the accompanying plans shall be submitted to the Administrator at least three (3) weeks prior to the regular monthly Planning Board

meeting at which it is to be heard. Such application shall include all of the requirements pertaining to it as specified in this section. The Planning Board shall forward the application and its recommendations to the Board of Commissioners within thirty (30) days after its review of the application. On receiving the application and the recommendations of the Planning Board, the Board of Commissioners shall give notice of a public hearing ten (10) days prior to the date of the public hearing. At the public hearing, all interested persons shall be permitted to testify. The Board of Commissioners shall consider the application and said recommendations of the Planning Board, and may approve or deny the requested conditional use permit.

The conditional use permit, if approved, shall include approval of plans as may be required. In approving the permit, the Board of Commissioners and Planning Board shall find as a specific finding of fact and reflect in their minutes that the permit will comply with the following four facts:

- (1) That the use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved;
- (2) That the use meets all required conditions and specifications;
- (3) That the use will not adversely affect the use or any physical attribute of adjoining or abutting property, or that the use is a public necessity; and
- (4) That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located. The conditional use shall demonstrate conformance to the Land Use Plan or other plan in effect at the time and address impacts of the project as required by GS 160A-382(b).

As a condition(s) of the issuance of a conditional use permit, the following are prohibited:

- (1) Any moving, pulsating, flashing, rotating, or oscillating light, which may interfere with air traffic other than navigational markings or lights marking potential obstructions in accordance with Federal Aviation Administration requirements.

- (2) Flood lights, spot lights, or other lighting devices which are not shielded so as to prevent illumination in an upward direction.
- (3) Any light which constitutes a "misleading light" within the meaning of Federal Aviation Administration regulations.
- (4) Any electronic impulse or signal which interferes with communications between aircraft and the airport, or which interferes with established navigational aids.
- (5) Structures and signs of a height which obstructs the takeoff and landing of aircraft, as determined by the Federal Aviation Administration.

In approving the conditional use permit, the Planning Board may recommend, and the Board of Commissioners may designate, such conditions in addition and in connection therewith as will, in its opinion, assure that the use in its proposed location will be harmonious with the area in which it is proposed to be located and with the spirit of this Ordinance. All such additional conditions shall be entered in the minutes of the meeting at which the conditional use permit is granted and also on the conditional use permit approving, and on the approved plans submitted therewith. All specific conditions shall run with the land and shall be binding on the original applicant for the conditional use permit, the heirs, successors, and assigns. In order to ensure that such conditions and requirements for each conditional use permit will be fulfilled, the petitioner for the conditional use permit may be required to enter into a contract with Craven County providing for the installation of the physical improvements required as a basis for the issuance of the conditional use permit. Performance of said contract shall be secured by cash or surety bond which will cover the total estimated cost of the improvements as determined by Craven County; provided, however, that said bond may be waived by the Board of Commissioners within its discretion.

If the Planning Board recommends the disapproval of the conditional use permit, and if the Board of Commissioners denies the permit, each body shall enter the reason for its action in the minutes of the meeting at which the action is taken.

No appeal may be taken to the Board of Adjustment from this action of the Board of Commissioners in granting or denying a conditional use permit. Any such action by the Board of Commissioners shall be considered as the equivalent of action on a proposed zoning amendment and shall be reviewable only in the same manner as action on a proposed amendment.

In addition to the conditions specifically imposed by the Board of Commissioners, conditional uses shall comply with the height, area, and parking regulations of the zone in which they are located.

In the event of failure to comply with the plans approved by the Board of Commissioners or with any other conditions imposed upon the conditional use permit, the permit shall thereupon immediately become void and of no effect. No building permits for further construction nor a certificate of compliance under this conditional use permit shall be issued, and the use of all completed structures shall immediately cease and such completed structures not thereafter be used for any purpose other than a use-by-right as permitted by the zone in which the property is located.

Where plans are required to be submitted and approved as part of the application for a conditional use permit, modifications of the original plans may be authorized by the Board of Commissioners after review and recommendation by the Planning Board.

#### 6.18. Regulations for Conditional Uses

The following information must be submitted with the request for conditional use permit approval in the district specified:

- (1) *Site Plan*: A site plan at the scale of 1" = 100' showing the location of all structures and lighting. Plans must show:
  - (a) *Structures*: Location of structures and the height of all proposed structures above mean sea level.
  - (b) *Lighting*: Lighting plan, inclusive of wattage, illumination, and location.
  - (c) *Construction Materials*: Description of exterior construction materials for all structures.
- (2) *Airport Certification*: Certification from the Craven County Regional Airport Manager or its designee that the proposed use does not propose a hazard to safe operation of the Craven County Regional Airport or aviation. This may include and be based on consultation with the United States Federal Aviation Administration.

- (3) *Other Requirements:* The Planning Board and Board of Commissioners may provide additional requirements as it deems necessary in order to make the proposed project more compatible with adjacent areas and existing or proposed traffic patterns.

## SECTION 7.0 ZONING AMENDMENTS

### 7.1. Amending the Ordinance

The County Board of Commissioners may amend the text regulations and zoning map according to the following procedures. The following action shall be taken by the applicant:

- (1) *Initiation of Amendments:* Proposed amendments may be initiated by the County Commissioners, Planning Board, Board of Adjustment, or by one (1) or more interested parties.
- (2) *Application:* An application for any amendment shall contain a description of the proposed zoning regulation or district boundary to be applied. Such application shall be filed with the Planning Department not later than fifteen (15) working days prior to the Planning Board meeting at which consideration of the application is requested.
- (3) *Fee.* A fee to be established by the County Commissioners shall be paid to Craven County, North Carolina, to cover necessary administrative costs and advertising costs.
- (4) *Letter of Notification:* Whenever any property is petitioned for rezoning or application for Conditional Use Permit, all such petitions shall be accompanied by letters of notification in the following manner:
  - (a) A letter of notification for each property owner as shown on the Craven County tax listing within two hundred (200) feet from any and all points of the property in question shall be prepared for first class mailing by the Planning Department staff to the last addresses listed for such owners on the Craven County tax records. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the public hearing. The person or persons mailing such notices shall certify to the Board of Commissioners that fact, and such certificate shall be deemed conclusive in the absence of fraud;
  - (b) The letter shall contain adequate information to notify such owners and residents of the specific request of the applicant as well as the time, date, and location of public hearing;

- (c) Such letters are to be placed in unsealed, stamped and addressed envelopes ready for mailing. The return address of the Planning Department must appear on the envelopes;
  - (d) A list of all persons and their addresses to whom the letters are to be sent must accompany all such applications; and
  - (e) Failure of any addressee of such letter of notification to receive same shall not in any way invalidate or affect subsequent action on the petition for rezoning.
- (5) The first class mail notice required under subsection (4) of this section shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the county elects to use the expanded published notice provided for in this subsection. In this instance, Craven County may elect to either make the mailed notice provided for in subsection (4) of this section or may as an alternative elect to publish once a week for two successive calendar weeks in a newspaper having general circulation in the area an advertisement of the public hearing that shows the boundaries of the area affected by the proposed zoning map amendment and explains the nature of the proposed change. The advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the addresses listed on the most recent property tax listing for the affected property, shall be notified by first class mail pursuant to this section. The person or persons mailing the notices shall certify to the Board of Commissioners that fact, and the certificates shall be deemed conclusive in the absence of fraud.
- (6) When a zoning map amendment is proposed, Craven County shall prominently post a notice of the public hearing on the site proposed for rezoning or on an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the county shall post sufficient notices to provide reasonable notice to interested persons.

## 7.2. Action by the Planning Board

The Planning Director, or his designee, will immediately submit petitions for rezoning to the Airport Manager for review and recommendation. No petition for rezoning shall be acted on by the Planning Board until a written recommendation is received from the Airport Manager. However, failure of the Airport Manager to provide a recommendation within forty-five (45) days of his receipt of the rezoning application shall be considered a recommendation for approval.

*Planning Board Consideration:* The Planning Board shall consider and make written recommendations to the County Commissioners concerning each proposed zoning text and/or map amendment. The Planning Board shall advise and comment on whether the proposed amendment is consistent with any Comprehensive Plan or other officially adopted applicable plan. The Planning Board shall review any proposed amendment at a regularly scheduled meeting held and advertised in accordance with its Rules of Procedure then in effect. In lieu of separate consideration, the Planning Board may review an amendment in a joint meeting with the County Commissioners at a public hearing held in conformity with the requirements of Section 7.3. of this Ordinance.

## 7.3. Action by the County Commissioners

*Notice and Public Hearing:* No amendment shall be adopted by the County Commissioners until after public notice and hearing. Notice of public hearing shall be published once a week for two (2) successive calendar weeks in the local newspapers. The notice shall be published the first time not less than ten (10) days nor more than twenty-five (25) days before the date fixed for the hearing. Public notice may also be posted on the property concerned indicating the proposed change and date of public hearing.

A Board of Commissioners member shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct substantial, and readily identifiable financial impact on the member.

*Action by County Commissioners:* Before taking such lawful action as it may deem advisable, the County Commissioners shall consider the Planning Board's recommendation on each proposed zoning amendment. Prior to adopting or rejecting any zoning amendment, the Board of Commissioners shall adopt a statement describing whether its action is consistent with the adopted Airport Layout Plan and explain why the board considers the action taken to be reasonable and in the public interest.

- (1) Petitions for amendment that receives favorable recommendation of the Planning Board, or petitions on which the Planning Board fails to make its recommendation within thirty (30) days after the Planning Board's public hearing, shall be scheduled for public hearing before the County Commissioners. Such public hearing shall be duly advertised.
- (2) Petitions for amendments that receive an unfavorable or adverse recommendation of the Planning Board may be appealed within ten (10) days of the date of such adverse decision to the County Commissioners by filing with the Clerk of the Board a notice, in writing, stating therein the action of the Planning Board and the amendment requested. Before taking action on any proposed amendment, the County Commissioners shall hold a public hearing. Public Hearings on proposed zoning amendments will be held at such times as the County Commissioners shall decide.

#### 7.4. Resubmission of a Denied Petition

No resubmission of a denied petition may be resubmitted within six (6) months of its previous denial. A petition which is withdrawn after action by the Planning Board, but before action by the County Commissioners shall not be resubmitted prior to a period of six (6) months from the date of original submission to the Planning Board.

## SECTION 8.0 BOARD OF ADJUSTMENT

### 8.1. Creating the Board of Adjustment

The Craven County Board of Commissioners shall provide for the appointment of the Craven County Board of Adjustment (hereinafter called the Board). Insofar as possible, members of the Board shall be appointed as follows: at least three (3) residents of the area which is zoned shall be appointed to the Board; however, the Board shall consist of a minimum of five (5) members. Insofar as possible, initial appointment to the Board shall be as follows: one-third (1/3) for a term of three (3) years; one-third (1/3) for a term of two (2) years; and one-third (1/3) for a term of one (1) year. Two (2) alternate members may be appointed for a term of three (3) years to serve in the absence or temporary disqualification of any regular members or to fill a vacant seat pending appointment of a member. The successor to the regular and the alternate members shall be appointed for three (3) year terms. Vacancies shall be filled for the unexpired term only. Members of the Board of Adjustment may be removed for cause by the County Commissioners upon written charges and after public hearing.

A member of the Board shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change; undisclosed ex parte communications; a close familial, business, or other associational relationship with an affected person; or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not excuse himself or herself, the remaining members shall by majority vote rule on the objection.

Vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the board" for calculation of the requisite supermajority if there are no qualified alternates available to take the place of such members.

### 8.2. Meetings

The Board shall elect one (1) of its members as Chairman and another as Vice-Chairman who shall serve for one (1) year. The Craven County Planning Department shall serve as secretary to the Board of Adjustment. The Board shall draw up and adopt the rules of procedures under which it will operate. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may

determine. The Chairman, or in his absence, the Acting Chairman, may administer oaths. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or his absence or failure to vote, indicating such fact, and also keep records of its examination and any other official action.

### 8.3. Filing and Notice for an Appeal

Appeals from the enforcement and interpretation of this Ordinance and appeals for variances may be taken to the Board of Adjustment by any person aggrieved or by any office, department, board or bureau of the County affected. Notice of an appeal to the Board of Adjustment shall be filed with the Craven County Planning Department. An appeal stays all proceedings in furtherance of the action from, unless the Craven County Planning Department files a Certificate stating that by reason of facts stated in the Certificate a stay would, in his opinion, interfere with enforcement of the Ordinance because the violation is transitory in nature, or would cause imminent peril to life and property. The Craven County Planning Department shall have one (1) copy of said certificate delivered by registered mail or by personal service to the appellant and to each member of the Board within ten (10) calendar days from the date the appeal is filed with the Craven County Planning Department. The Certificate shall also be placed on file in the office of the Craven County Planning Department for public inspection and recorded in the minutes of the next meeting of the Board. Where said Certificate is filed by the Craven County Planning Department, proceedings in furtherance of the original order shall not be stayed otherwise than by a restraining order, which may be granted by a court of record in Craven County.

*Hearing of the Appeal:* After receipt of notice of an appeal, the Board Chairman shall schedule the time for a hearing, which shall be at a regular or special meeting.

*Notice:* At least ten (10) days prior to the date of the hearing, the Craven County Planning Department shall furnish all adjoining property owners with written notices of the hearing. Notice of Public Hearing shall be published once a week for two (2) consecutive calendar weeks in the local newspaper. Public notice shall also be posted on the property concerned indicating the proposed change and date of public hearing.

*Fees for Appeals/Variances:* A fee to be established by the County Commissioners shall be paid to Craven County, North Carolina, to cover the necessary administrative costs and advertising expenses.

#### 8.4. Powers and Duties

The Zoning Board of Adjustment shall have the following powers and duties:

- (1) To hear and decide appeals where it is alleged by the appellant that there is error in any decision made by the Craven County Planning Department or other administrative officials in the carrying out or enforcing of any provision of the Ordinance. A concurring vote of four-fifths (4/5) of the members of the Board shall be necessary to reverse, wholly or partly, any such decision.
- (2) To authorize upon appeal in specific cases such variances from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Ordinance. A concurring vote of four-fifths (4/5) of the members of the Board shall be necessary to grant a variance. A variance from the terms of this Ordinance shall not be granted by the Board unless and until the following findings are made:
  - (a) That special condition and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures or buildings in the same zone;
  - (b) That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zone under the terms of this Ordinance;
  - (c) That the special conditions and circumstances do not result from the actions of the applicant;
  - (d) That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other land, structures, or buildings in the same district.
  - (e) That the application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or

enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Ordinance. Additionally, no application for variance to the requirements of this Ordinance may be considered by the Board of Adjustment unless a copy of the application has been furnished to the Airport Manager for advice as to the aeronautical effects of the variance. If however, failure of the Airport Manager to provide a recommendation within forty-five (45) days of his receipt of the variance request shall be considered a recommendation for approval.

- (3) A simple majority of regular members may conduct a meeting when NO variances or interpretations are going to be heard. As required by GS 160A-381(c), when deciding conditional use permits quasi-judicial proceedings shall be used. No vote greater than a majority vote shall be required. Vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the board" for calculation of the requisite majority.

#### 8.5. Appeal from the Board of Adjustment

An appeal from the decision of the Zoning Board of Adjustment shall be subject to review by the Superior Court by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be filed with the Clerk of Superior Court within thirty (30) days after the decision of the Board is filed in the Office of the Clerk to the Board, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Clerk or Chairman or the Board at the time of the hearing of the case, whichever is later.

## SECTION 9.0 VESTED RIGHT PROVISIONS

The purpose of this section is to implement the provisions of G.S. 160A-385.1 pursuant to which a statutory zoning vested right is established upon the approval of a site specific development plan.

Neither a variance, a sketch plan nor any other document that fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall constitute a site specific development plan.

### 9.1. Establishment of a Zoning Vested Right

- (1) A zoning vested right shall be deemed established upon the valid approval, or conditional use approval, by the Board of Commissioners or Board of Adjustment, as applicable, of a site specific development plan, following notice and public hearing.
- (2) The approving authority may approve a site specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare.
- (3) Notwithstanding Subsections 9.1.(1) and 9.1.(2), approval of a site specific development plan with the condition that a variance be obtained shall not confer a zoning vested right unless and until the necessary variance is obtained.
- (4) A site specific development plan shall be deemed approved upon the effective date of the approval authority's action or ordinance relating thereto.
- (5) The establishment of a zoning vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land-use regulation by Craven County, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new or amended regulations shall become effective with respect to property that is subject to a site specific development plan upon the expiration or termination of the vested right in accordance with this section.

- (6) A zoning vested right is not a personal right, but shall attach to and run with the applicable property. After approval of a site specific development plan, all successors to the original landowner shall be entitled to exercise such right while applicable.

## 9.2. Approval Procedures and Approval Authority

- (1) Except as otherwise provided in this section, an application for site specific development plan approval shall be processed in accordance with the procedures established by ordinance and shall be considered by the designated approval authority for the specific type of zoning permit, conditional use permit, building permit, or variance approval for which application is made.
- (2) Notwithstanding the provisions of Subsection 9.1.(1), if the authority to issue a particular zoning or conditional use, building, or variance permit or approval has been delegated by ordinance to a board, committee or administrative official other than the Craven County Board of Commissioners, Board of Adjustment, or other planning agency designated to perform any or all of the duties of the Board of Adjustment, in order to obtain a zoning vested right, the applicant must request in writing at the time of application that the application be considered and acted on by the Craven County Board of Commissioners or Board of Adjustment, following notice and a public hearing as provided in G.S. 160A-364.
- (3) In order for a zoning vested right to be established upon approval of a site specific development plan, the applicant must indicate at the time of application, on a form to be provided by Craven County, that a zoning vested right is being sought.
- (4) Each map, plat, site plan or other document evidencing a site specific development plan shall contain the following notation: "Approval of this plan establishes a zoning vested right under G.S. 160A-385.1. Unless terminated at an earlier date, the zoning vested right shall be valid until (date)."
- (5) Following approval or conditional approval of a site specific development plan, nothing in this chapter shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms

and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval.

- (6) Nothing in this chapter shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or the zoning ordinance.

### 9.3. Duration

- (1) A zoning right that has been vested as provided in this chapter shall remain vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site specific development plan unless expressly provided by the approval authority at the time the amendment or modification is approved.
- (2) Upon issuance of a building permit, the expiration provisions of G.S. 160A-418 and the revocation provisions of G.S. 160A-422 shall apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding.

### 9.4. Termination

A zoning right that has been vested as provided in this chapter shall terminate:

- (1) at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;
- (2) with the written consent of the affected landowner;
- (3) upon findings by the Craven County Board of Commissioners, by ordinance after notice and a public hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific development plan;
- (4) upon payment to the affected landowner of compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees

incurred after approval by Craven County, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action;

- (5) upon findings by the Craven County Board of Commissioners, by ordinance after notice and a hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority of the site specific development plan; or
- (6) upon the enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the site specific development plan, in which case the approval authority may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the plan, by ordinance after notice and a hearing.

#### 9.5. Limitations

Nothing in this chapter is intended or shall be deemed to create any vested right other than those established pursuant to G.S. 160A-385.1.

#### 9.6. Repealer

In the event that G.S. 160A-385.1 is repealed, Section 9.0 shall be deemed repealed and the provisions hereof no longer effective.

## SECTION 10.0      LEGAL PROVISIONS

### 10.1. Provisions of Ordinance Declared to be Minimum Requirements

The provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted regulations, the most restrictive or that imposing the higher standards, shall govern.

### 10.2. Complaints Regarding Violations

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Craven County Planning Department. He shall record properly such complaint, immediately investigate, and take action thereon as provided by this Ordinance.

### 10.3. Penalties for Violation

Violation of the provisions of this Ordinance or failure to comply with any of its requirements shall constitute a misdemeanor and shall be punishable pursuant to the provisions of NCGS 14-4 which provides that violation of a County Ordinance is a misdemeanor punishable by either a maximum fine of fifty dollars (\$50.00) or imprisonment for not more than thirty (30) days as amended. Each day such violation continues shall be considered a separate offense.

The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

In addition to an injunction, the County may petition the court to enter an order of abatement as part of the judgment in the cause. Such petition may request that buildings or other structures on the property be closed, demolished or removed; that fixtures, furniture or other chattel be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this Ordinance.

If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt and the County may execute the order of abatement. If the County executes the order, it has a lien on the property, in the nature of a mechanic's or material man's lien, for the costs of executing the order.

Nothing herein contained shall prevent the Craven County from taking such other lawful action as is necessary to prevent or remedy any violation.

10.4. Separability Clause

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decisions shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

10.5. Effective Date

This Ordinance shall take effect and be in force from and after its adoption by the Craven County Board of Commissioners, North Carolina, this the 1st day of July, 2006.

By:

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

Attested:

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