

AMENDED
CITY OF NEW BERN
BOARD OF ALDERMEN MEETING
MAY 12, 2020 – 6:00 P.M.
CITY HALL COURTROOM
300 POLLOCK STREET

NOTICE: This meeting will be conducted in person, but is subject to the restriction imposed by the Governor's Executive Order prohibiting the mass gathering of more than 10 people at the same time in a single space. In order to comply with this Order and maintain the safety of residents, staff, and elected officials during the COVID-19 pandemic, the public may view the meeting by watching a livestream on the City's Facebook page (City of New Bern, NC Government), on Suddenlink Channel 3 (CityTV3 - the City's PEG channel), or on the City's website at www.newbernnc.gov.

Anyone desiring to speak under Request and Petition of Citizens must line up outside of the courtroom while practicing social distancing of 6 feet. At the appropriate time, each person will individually be called into the courtroom to address the Board.

1. Meeting opened by Mayor Dana E. Outlaw. Prayer Coordinated by Alderman Bengel. Pledge of Allegiance.
2. Roll Call.
3. Request and Petition of Citizens.

Consent Agenda

4. Consider Adopting a Resolution to Call for a Public Hearing to Amend Article XVI – Floodways, Floodplains, Drainage and Erosion of the Land Use Ordinance.
5. Approve Minutes.

6. Conduct a Public Hearing and Consider Adopting an Ordinance to Annex 203 Riverside Drive.

NOTE: *This public hearing will not be held and item will not be considered; to be continued to the June 9, 2020 meeting.*

7. Conduct a Public Hearing on the Rezoning of 2409 Oaks Road; and
 - a) Consider Adopting a Statement of Zoning Consistency or Inconsistency; and
 - b) Consider Adopting an Ordinance Rezoning 2409 Oaks Road.

NOTE: *This public hearing will not be held and item will not be considered; to be continued to the June 9, 2020 meeting.*

8. City Manager's Presentation of Fiscal Year 2020-2021 Budget.

9. Consider Adopting a Resolution Approving the Sale of 208 Daniels Street.
10. Consider Adopting a Resolution to Initiate the Upset Bid Process for 2203 Chestnut Avenue.
11. Consider Adopting a Resolution to Approve the 2014 Amended CDBG Citizen Participation Plan.
12. Consider Adopting a Resolution Approving Participation in a COVID-19 Small Business Loan Program.
13. Consider Adopting a Budget Ordinance Amendment for the FY2019-20 Operating Budget.
14. Consider Adopting an Ordinance to Establish Rates for the Consumption of Electricity Effective July 1, 2020.
15. Consider Adopting an Ordinance to Amend Section 6.2 – “Definitions” of Chapter 6 “Animals” of the Code of Ordinances.
16. Consider Adopting an Ordinance to Amend Chapter 66 “Streets, Sidewalks and Other Public Places” of the Code of Ordinances.
17. Consider Adopting a Resolution to Temporarily Close Portions of Middle Street, Pollock Street, and Craven Street to Vehicular Traffic.
18. Appointment(s).
19. Attorney’s Report.
20. City Manager’s Report.
21. New Business.
22. Closed Session.
23. Adjourn.

Aldermen

Sabrina Bengel
Jameesha Harris
Robert V. Aster
Johnnie Ray Kinsey
Barbara J. Best
Jeffrey T. Odham



Dana E. Outlaw
Mayor
Mark A. Stephens
City Manager
Brenda E. Blanco
City Clerk
Mary M. Hogan
Director of Finance

Memo to: Mayor and Board of Aldermen

From: Mark A. Stephens, City Manager

Date: May 7, 2020

Re: May 12, 2020 Agenda Explanations - AMENDED

1. Meeting opened by Mayor Dana E. Outlaw. Prayer Coordinated by Alderman Bengel. Pledge of Allegiance.
2. Roll Call.
3. Request and Petition of Citizens.

Consent Agenda

4. Consider Adopting a Resolution to Call for a Public Hearing to Amend Article XVI – Floodways, Floodplains, Drainage and Erosion of the Land Use Ordinance.

The floodplain maps for New Bern have been updated by FEMA, and the City is required to adopt the maps and accompanying Flood Damage Prevention Ordinance by June 19, 2020. The revised maps are more detailed and reflect a new flood elevation of 9-12 feet. A total of 694 structures will be added to the Special Flood Plain Area. The maps also require special construction methods in two new flood map zones. It is requested a hearing be held on May 26, 2020 to discuss these changes. A memo from Matthew Schelly, City Planner, is attached.

5. Approve Minutes.

Minutes from the April 28, 2020 meeting are provided for review and approval.

6. **Conduct a Public Hearing and Consider Adopting an Ordinance to Annex 203 Riverside Drive.**

NOTE: *This public hearing will not be held and item will not be considered; to be continued to the June 9, 2020 meeting.*

7. **Conduct a Public Hearing on the Rezoning of 2409 Oaks Road; and**
 - a) **Consider Adopting a Statement of Zoning Consistency or Inconsistency; and**
 - b) **Consider Adopting an Ordinance Rezoning 2409 Oaks Road.**

NOTE: *This public hearing will not be held and item will not be considered; to be continued to the June 9, 2020 meeting.*

8. **City Manager's Presentation of Fiscal Year 2020-2021 Budget.**

The recommended budget for Fiscal Year 2020-2021 will be distributed to the Board and a brief overview provided by the City Manager.

9. **Consider Adopting a Resolution Approving the Sale of 208 Daniels Street.**

(Ward 5) The Board adopted a resolution on March 10, 2020 to initiate the upset bid process for 208 Daniels Street after receiving an offer of \$9,500 from Jimmie Mangol. The offer was advertised, but no upset bids were received. The tax value of the half-acre lot is \$18,000, and the offer represents more than 50% of the value. A mobile home is situated on the lot. The property was acquired jointly by the City and County through tax foreclosure in August 2019. If the Board approves the sale, the County will receive approximately \$6,529.85 of the proceeds, and the City will receive approximately \$2,970.15. These estimates consider the cost of publishing the legal advertisement.

10. **Consider Adopting a Resolution to Initiate the Upset Bid Process for 2203 Chestnut Avenue.**

(Ward 2) In December 2019, the Board received an offer to purchase 2203 Chestnut Avenue and voted to initiate the upset bid process. The offer was advertised, and an upset bid was received. The Board voted to sell the property to the upset bidder, who subsequently decided against the purchase and failed to close on the property.

The original bidder has now tendered a bid to start a new upset bid process. The amount of the bid is \$375.00. The tax value of the vacant 0.06-acre lot is \$750.00, and the offer represents 50% of the value. The property was acquired jointly by the City and County through tax foreclosure in May of 2019. The Commissioner's Deed states the taxes, interest, and penalties due to the City at the time of the foreclosure were \$556.45, and the City contributed \$480.99 toward the cost of the foreclosure proceeding.

11. Consider Adopting a Resolution to Approve the 2014 Amended CDBG Citizen Participation Plan.

On February 25, 2014, the Board adopted the 2014 CDBG Citizen Participation Plan. Due to the spread of the COVID-19 pandemic, public access to City buildings has been closed. Per HUD guidelines, the City must continue to show efforts to engage with the public for the development of the 2020 Annual Action Plan. While working closely with HUD, staff discovered the current plan does not address emergency situations in the event of limited public access. Therefore, it is requested that the plan be amended to permit the City to host virtual meetings during special times of emergency as ordered by the President or State Governor. A memo from D'Aja Fulmore, Community Development Coordinator, is attached.

12. Consider Adopting a Resolution Approving Participation in a COVID-19 Small Business Loan Program.

As announced at the Board's April 28, 2020 meeting, Swiss Bear and the Chamber of Commerce are establishing a COVID-19 small business loan program for small businesses within the city limits of New Bern. The maximum loan amount will be \$5,000, and the program will be administered by the Chamber. The resolution provides for a \$20,000 contribution to the program from the City.

13. Consider Adopting a Budget Ordinance Amendment for the FY2019-20 Operating Budget.

This budget ordinance amendment makes an appropriation from fund balance to cover the purchase of property as approved at the April 28, 2020 meeting. It also appropriates funds from Administration and the Governing Board's budgets to provide the \$20,000 contribution referenced in the previous item. Additional appropriations are made to reallocate funds as described in the memo from Mary Hogan, Director of Finance.

14. Consider Adopting an Ordinance to Establish Rates for the Consumption of Electricity Effective July 1, 2020.

Revisions in the electric rate schedules are requested to revise payment terms, account for LED area lights and obsolete area lighting products, and the retirement of an underutilized street-light rate. With respect to the payment terms, the current schedules require customers to pay their bill "within 20 days from the date of the bill", which is not reasonable considering the time it takes to process and deliver the bill. The revised terms will clarify the due date and indicate payment is due "no earlier than 20 days". Obsolete street lighting products will continue in use until the product becomes unserviceable, at which time a LED product will be offered as replacement. This will net a positive contribution to the electric fund, but will not yield an increase in cost for any existing service. A more thorough description of the changes is outlined in a memo from Charles Bauschard, Director of Public Utilities.

15. Consider Adopting an Ordinance to Amend Section 6.2 – “Definitions” of Chapter 6 “Animals” of the Code of Ordinances.

A minor amendment is sought in the definition of “restraint” as listed in the chapter on animals in the City’s Code of Ordinances. The definition will clarify that restraint addresses all animals, not just dogs, and it will add the use of an attended leash as a means of restraint.

16. Consider Adopting an Ordinance to Amend Chapter 66 “Streets, Sidewalks and Other Public Places” of the Code of Ordinances.

Lynne Harakal, Executive Director of Swiss Bear, has requested that downtown restaurants be allowed to close to vehicular traffic a portion of specific streets for the purpose of allowing outdoor seating for restaurants. This action is aimed at helping the restaurants recover from the closures and reduced revenues associated with COVID-19. In order to facilitate the request, Chapter 66 of the City’s Code of Ordinances will need to be amended to allow for street cafes.

17. Consider Adopting a Resolution to Temporarily Close Portions of Middle Street, Pollock Street, and Craven Street to Vehicular Traffic.

(Ward 1) In relation to the previous item, this resolution would permit closures of one side of the 200-300 blocks of Middle Street, 300 block of Pollock Street, and the 200 block of Craven Street from 5 p.m. until 11 p.m. for the purpose of accommodating street cafes on specified dates between May 22, 2020 and August 1, 2020. A memo from Foster Hughes, Director of Parks and Recreation, is attached along with the request and additional information from Swiss Bear.

18. Appointment(s).

- a) Joseph Cannon’s term on the Appearance Commission has expired, and he is not interested in reappointment. Foster Hughes, Director of Parks and Recreation, has the name of someone who has expressed interest in serving on this commission. Please reach out to Mr. Hughes for additional information, if desired. Terms on the Appearance Commission are three years. When possible, appointees should have special training or experience in a design field, such as architecture, landscape design, horticulture, city planning, or a closely-related field.
- b) Ethel Staten has resigned from her seat on the New Bern-Craven County Library Board effective March 29, 2020. The Board is asked to make an appointment to fill the remainder of Ms. Staten’s term, which expires on December 1, 2020.
- c) Betty Blythe’s term on the Board of Directors for the Friends of New Bern Firemen’s Museum has just expired. Alderman Kinsey is asked to consider reappointing Ms. Blythe or to make a new appointment. The appointee will serve a three-year term.

- d) Henry Watson's term on the Board of Directors for the Friends of New Bern Firemen's Museum has just expired. Alderman Best is asked to consider reappointing Mr. Watson or to make a new appointment. The appointee will serve a three-year term.
- e) Carol Zink's term on the Board of Directors for the Friends of New Bern Firemen's Museum has just expired. Alderman Odham is asked to consider reappointing Ms. Zink or to make a new appointment. The appointee will serve a three-year term.
- f) James Woods' appointment to the Historic Preservation Commission will expire on May 15, 2020. He has not served two consecutive terms and is eligible for reappointment. Alderman Best is asked to consider reappointing him or, in the alternative, to make a new appointment. The appointee will serve a three-year term.
- g) Dr. Ruth Cox's appointment to the Historic Preservation Commission will expire on May 15, 2020. She has not served two consecutive terms and is eligible for reappointment. Alderwoman Harris is asked to consider reappointing her or, in the alternative, to make a new appointment. The appointee will serve a three-year term.

19. Attorney's Report.

20. City Manager's Report.

21. New Business.

22. Closed Session.

23. Adjourn.

AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider Adopting a Resolution to Call for a Public Hearing to Amend Appendix A, Article XVI Floodways, Floodplains, Drainage and Erosion of the Land Use Ordinance.

Date of Meeting: May 12, 2020	Ward # if applicable: N/A
Department: Development Services	Person Submitting Item: Matthew Schelly
Call for Public Hearing: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Date of Public Hearing: 5/26/2020

Explanation of Item:	Resolution calling for a Public Hearing to Amend Appendix A, Article XVI of the Land Use Ordinance.
Actions Needed by Board:	Adopt a Resolution
Backup Attached:	Memo, Resolution, Proposed 2020 Flood Damage Prevention Ordinance with Revisions

Is item time sensitive? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Will there be advocates/opponents at the meeting? <input type="checkbox"/> Yes <input type="checkbox"/> No

Cost of Agenda Item:
If this requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director? <input type="checkbox"/> Yes <input type="checkbox"/> No

Additional Notes:



MEMORANDUM

TO: Mayor Dana Outlaw, City of New Bern Board of Aldermen

FROM: Matthew Schelly, City Planner

DATE: April 30, 2020

SUBJECT: Consider Adopting a Resolution to Call for a Public Hearing to Amend Appendix A, Article XVI Floodways, Floodplains, Drainage and Erosion of the Land Use Ordinance.

BACKGROUND: FEMA has updated the floodplain maps for New Bern and the City is required to adopt these maps and the accompanying Flood Damage Prevention Ordinance by June 19, 2018. This ordinance replaces the existing similar ordinance in the Municipal Code which is codified as Article XVI of Appendix A. The maps are used to determine construction standards as well as which properties require flood insurance if a federally backed mortgage or loan is involved. The ordinance is also used to regulate development in the floodplains in order to reduce flood damage and to maintain or reduce the risks associated with the other buildings in or next to the floodplain. These maps and the accompanying ordinance are updated every 10 to 15 years. The last update was in 2004.

ANALYSIS: The maps show a mostly increased floodplain area (Special Flood Hazard Area, SFHA), increasing the number of affected buildings by 694 buildings that will be in the SFHA in addition to all the ones already in the SFHA. The types of structures that will be added into the expanded SFHA include:

- 1 School (Oaks Road Elementary)
- 2 Governmental (Electrical Bldg. & Senior Center)
- 7 Institutional (Hospital Offices/Banks)
- 13 Churches
- 37 Commercial Buildings
- 637 Residential Buildings

While the current maps reflect a flood elevation of 8 feet above sea level (NAVD 1988) almost throughout the floodplain, the new maps are more detailed with more variety of flood levels, and they also reflect a new flood elevation of 9 to 12 feet NAVD 1988. This increased depth and detail is why the area of the SFHA has increased.

In addition, the maps include two new flood map zones that require special construction methods. These two map zones account for the extra forces of large-sized and moderate-sized waves on structures. The large-wave category is called the VE (Velocity) Zone and the moderate-sized zone is called the LIMWA (Limit of Moderate Wave Action) zone. As a result, the ordinance will now include new sections for the special construction requirements for these new zones.

The vast majority of the text of the ordinance is required by the National Flood Insurance Program (NFIP) and was provided to us by the NC Department of Public Safety in the form of a model ordinance. Development Services staff have modified the model to be consistent with the City's Article while incorporating mandated language from the state.

Please contact Matthew Schelly at 639-7583 should you have questions or need additional information.

RESOLUTION CALLING FOR A PUBLIC HEARING

WHEREAS, the Board of Aldermen of the City of New Bern desires to conduct a public hearing to receive public comments on amending Appendix A, Article XVI "Floodways, Floodplains, Drainage and Erosion" of the City of New Bern Land Use Ordinance; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

That a public hearing will be conducted by the Board of Aldermen of the City of New Bern on May 26, 2020, in the City Hall Courtroom at 6:00 p.m., or as soon thereafter as the matter may be reached, on amending Appendix A, Article XVI "Floodways, Floodplains, Drainage and Erosion" of the City of New Bern Land Use Ordinance. All interested parties will be given an opportunity to be heard:

ADOPTED THIS 12th DAY OF MAY 2020.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

FLOOD DAMAGE PREVENTION ARTICLE

Article XVI. —FLOODWAYS, FLOODPLAINS, DRAINAGE, AND EROSION **Flood Damage Prevention**

PART I. - STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.

SECTION 15-266. - Statutory authorization.

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; ~~Parts 3, 5, and 8 of Article 196 of Chapter 160A; and 153A; Article 8 of Chapter 160A; and Articles 7, 9, and 11 of Chapter 160D (effective August 1, 2021) of the North Carolina General Statutes, delegated the responsibility to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.~~

SECTION 15-267. - Findings of fact.

- (a) —The flood prone areas within the jurisdiction of the City of New Bern are subject to periodic inundation which results in ~~less~~loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (b) —These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities; and by the occupancy in flood prone areas by ~~of~~ uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages. ~~hazards.~~

SECTION 15-268. - Statement of purpose.

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

- (1) ~~(1)~~—Restrict or prohibit uses ~~which~~that are dangerous to health, safety, and property due to water or erosion hazards; or ~~which~~that result in damaging increases in erosion, flood heights or velocities;
- (2) ~~(2)~~—Require that uses vulnerable to floods, including facilities ~~which~~that serve such uses, be protected against flood damage at the time of initial construction;
- (3) ~~(3)~~—Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of ~~flood waters;~~ floodwaters;
- (4) ~~(4)~~—Control filling, grading, dredging, and all other development ~~which~~that may increase erosion or flood damage; and—

- (5) ~~(5)~~—Prevent or regulate the construction of flood barriers ~~which~~that will unnaturally divert floodwaters, or which may increase flood hazards to other lands.

SECTION 15-269. - Objectives.

The objectives of this article are ~~to~~ to:

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

SECTION 15-270. - Definitions.

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

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

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

Alteration of a watercourse: a dam, impoundment, channel relocation, change in channel alignment,

channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

Appeal~~means~~: a request for a review of the Floodplain Administrator's interpretation of any provision of this ~~article~~ordinance.

Area of Shallow Flooding~~means~~: a designated Zone AO zone or AH on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of Special Flood Hazard~~See~~": see Special Flood Hazard Area (SFHA).

Base Flood: a flood having a one (1) percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE): a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area," it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard," establishes the "Regulatory Flood Protection Elevation."

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

Base flood~~means the flood having a one percent chance of being equaled or exceeded in any given year (also known as 100-year flood).~~

Breakaway Wall~~means~~: a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system. ~~A breakaway wall shall have a design safe loading resistance of not less than ten and no more than 20 pounds per square foot. A wall with loading resistance of more than 20 pounds per square foot requires an architect's or professional engineer's certificate.~~

Base flood elevation (BFE)~~means a determination as published in the flood insurance study of the water surface elevations of the base flood.~~

Building~~:~~ see *Structure*.

Chemical Storage Facility~~means~~: a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

Coastal Area Management Act (CAMA): The North Carolina Coastal Area Management Act. This act, along with the Dredge and Fill Law and the Federal Coastal Zone Management Act, is managed

through North Carolina Department of Environmental Quality (NCDEQ) Division of Coastal Management (DCM).

Coastal A Zone (CAZ): an area within a special flood hazard area, landward of a V zone or landward of an open coast without mapped V zones. In a Coastal A Zone, the principal source of flooding must be astronomical tides, storm surges, seiches, or tsunamis, not riverine flooding. During the base flood conditions, the potential for wave heights shall be greater than or equal to 1.5 feet. Coastal A Zones are not normally designated on FIRMs. (see Limit of Moderate Wave Action (LiMWA))

Coastal Barrier Resources System (CBRS): consists of undeveloped portions of coastal and adjoining areas established by the Coastal Barrier Resources Act (CoBRA) of 1982, the Coastal Barrier Improvement Act (CBIA) of 1990, and subsequent revisions, and includes areas owned by Federal or State governments or private conservation organizations identified as Otherwise Protected Areas (OPA).

Coastal High Hazard Area: a Special Flood Hazard Area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM, or other adopted flood map as determined in Section 15-272 of this article, as Zone VE.

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

Disposal. Defined as in N.C.G.S. 130A-290(a)(6).

Development Activity: any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

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

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

Elevated Building-means: a non-basement building which has its ~~reference level~~ lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Encroachment-means: the advance or infringement of uses, fill, excavation, buildings, ~~permanent~~ structures or development into a ~~floodplain~~ special flood hazard area, which may impede or alter the

flow capacity of a floodplain.

~~Existing manufactured home park or manufactured home subdivision means~~

Existing Building and Existing Structure: any building and/or structure for which the "start of construction" commenced before June 1, 1978, the effective date of the official FIRM.

Existing Manufactured Home Park or Manufactured Home Subdivision: a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) ~~is pre-FIRM. was completed~~ before June 1, 1978, the initial effective date of the floodplain management regulations adopted by the community.

FEMA: the Federal Emergency Management Agency.

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

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

Flood Boundary and Floodway Map (FBFM) means: an official map of a community, issued by ~~the Federal Emergency Management Agency FEMA,~~ on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

~~Flood hazard boundary map (FHBM) means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the special flood hazard areas have been defined as zone A.~~

~~Flood insurance means~~

Flood Insurance: the insurance coverage provided under the National Flood Insurance Program.

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

Flood Insurance Study (FIS) means: an examination, evaluation, and determination of flood ~~hazard~~ areashazards, corresponding water surface elevations (if appropriate), flood ~~insurance~~ hazard risk zones, and other flood data in a community issued by FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

Flood Prone Area: see Floodplain.

Flood Zone: a geographical area shown on a Flood Hazard Boundary Map or Flood ~~prone area~~ meansInsurance Rate Map that reflects the severity or type of flooding in the area.

Floodplain: any land area susceptible to being inundated by water from any source, ~~as shown on FIRM.~~

Floodplain Administrator: is the individual appointed to administer and enforce the floodplain management ~~means~~ regulations.

Floodplain Development Permit: any type of permit that is required in conformance with the provisions of this article prior to the commencement of any development activity.

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

~~Floodplain administrator is the individual appointed to administer and enforce the floodplain management regulations.~~

~~Floodplain regulations means~~

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

~~Floodproofing means: any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities, or structures with, and their contents, as done by a registered state architect or engineer.~~

~~Flood-prone area. See Floodplain.~~

Flood-Resistant Material: any building product, material, component, or system, capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbars are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*, and available from FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

Floodway means: the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

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

~~Floor. See Lowest floor.~~

Floodway Encroachment Analysis: an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and hydraulic models meeting the minimum requirement of the National Flood Insurance Program.

~~Freeboard means: the additional amount of height added to the Base Flood Elevation (BFE) to account for uncertainties in the determination of the many unknown factors that could contribute to flood elevations. See also heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, storm surge or precipitation exceeding the base flood, and the hydrological effect of urbanization of the watershed. The BFE plus the freeboard establishes the "Regulatory Flood Protection Elevation."~~

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

~~Hazardous Waste Management Facility means: as defined in N.C.G.S. §130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste as defined in N.C.G.S. Article 9 of Chapter 130A.~~

~~Highest Adjacent Grade (HAG) means: the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.~~

~~Historic Structure means: any structure that is:~~

- ~~(1) (1)—Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;~~
- ~~(2) (2)—Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;~~
- ~~(3)—Individually listed on a state inventory of historic places;~~
- ~~(4) (4)—Individually listed on a local inventory of historic places/landmarks in communities with historic preservation programs that have been certified by an a "Certified Local Government (CLG) Program"; or~~
- ~~(4) Certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program."~~

Certified Local Government (CLG) Programs are approved state program as determined by the Secretary US Department of Interior, or directly by the Secretary of the Interior in states without approved programs, cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

Letter of Map Change (LOMC): an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (1) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (2) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (3) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
- (4) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

Light Duty Truck: any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

- (1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle,
or
- (2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (3) Available with special features enabling off-street or off-highway operation and use.

Limit of Moderate Wave Action (LiMWA): the boundary line given by FEMA on coastal map studies marking the extents of Coastal A Zones (CAZ).

Lowest Adjacent Grade (LAG) means: the lowest elevation of the ground, sidewalk, or patio slab, or deck support immediately next to the building, or deck support, after completion of the building. For zone A and AO, use the natural grade elevation prior to construction.

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

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

Manufactured Home Park or Subdivision: a parcel (or contiguous parcels) of land divided into two or more manufactured home spaces or lots for rent or sale.

Map Repository: the location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed. In North Carolina, FEMA has recognized that the application of digital flood hazard data products carries the same authority as hard copy products. Therefore, the NCEM's Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data, the NC FRIS website (<http://FRIS.NC.GOV/FRIS>) is the map repository, and for historical flood hazard data the FloodNC website (<http://FLOODNC.GOV/NCFLOOD>) is the map repository.

~~Market Value means:~~ the building value, ~~excluding~~not including the land (as agreed to between a willing buyer and seller), as established by ~~what~~that of any accessory structures or other improvements on the local real estate market will bear~~lot~~. Market value ~~can~~may be established by independent certified appraisal; replacement cost depreciated ~~by~~for age of building (actual cash value)and quality of construction (Actual Cash Value); or adjusted ~~tax~~ assessed values.

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

~~New Construction means:~~ structures for which the "start of construction" commenced on or after June 1, 1978, the effective date of the ~~original version of this article~~initial floodplain management regulations, and includes any subsequent improvements to such structures.

~~Nonconforming building or development means any legally existing building or development which fails to comply with the current provisions of this article.~~

~~Non-encroachment area means~~Non-Conversion Restrictive Covenant: a document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is considered a violation of the ordinance and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement

must show the clerk's or recorder's stamps and/or notations that the filing has been completed.

Non-Encroachment Area (NEA): the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

~~Obstruction includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.~~

Otherwise Protected Area (OPA): see Coastal Barrier Resources System (CBRS).

Post-FIRM means: construction or other development ~~for which started~~ the "start of construction" occurred on or after ~~January~~ June 1, 1975 or on or after 1978, the effective date of the initial Flood Insurance Rate Map for the area, whichever is later.

Pre-FIRM means: construction or other development ~~for which started~~ the "start of construction" occurred before ~~January~~ June 1, 1975 or before 1978, the effective date of the initial Flood Insurance Rate Map for.

Primary Frontal Dune (PFD): means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the area, whichever is later. point where there is a distinct change from a relatively steep slope to a relatively mild slope. N/A

Principally Above Ground: a structure for which at least 51% of the actual cash value of the structure is above ground.

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

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

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

Reference level is (c) Is fully licensed and ready for highway use.

(For the portion purpose of a structure or other development this article, "Tiny Homes/Houses" and Park Models that must be compared to do not meet the regulatory flood protection elevation to determine regulatory compliance items listed above are not considered Recreational Vehicles and should meet the standards of such building and be permitted as Residential Structures.)

Reference Level: is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zones A1-A30A, AE, A, A99AH, AO, or AH, A99. The reference level is the top of the lowest floor, bottom of the lowest horizontal structural member of the lowest floor for structures within Special Flood Hazard Areas designated as Zone VE.

Regulatory Flood Protection Elevation means the elevation to which all structures and other development located within the special flood hazard areas must be elevated or flood proofed. Within areas: the "Base Flood Elevation" plus the "Freeboard." In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard. In areas in "Special Flood Hazard Areas" where no BFE has been established, all structures and other development must be elevated or flood proofed to this elevation shall be at least two (2) feet above the highest adjacent grade.

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

Repetitive loss means flood related damages sustained by a structure on two separate occasions during any ten year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Retrofitting means measures, such as floodproofing, elevation, and other modifications, taken on an existing building to protect it from flood damage.

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

Salvage Yard means: any non-residential property used for the storage, collection, and/or recycling of any type of equipment whatsoever, whether industrial or noneommercial, and including but not limited to vehicles, appliances and related machinery.

Special flood hazard area (SFHA) is the land in the floodplain subject to a one percent or greater chance of being flooded in any given year as determined in section 15-272 of this article.

Sand Dunes: means naturally occurring accumulations of sand in ridges or mounds landward of the beach. N/A

Shear Wall: walls used for structural support but not structurally joined or enclosed at the end (except by breakaway walls). Shear walls are parallel or nearly parallel to the flow of the water.

Solid Waste Disposal Facility~~means~~: any facility involved in the disposal of solid waste, as defined in N.C.G.S. §130A-290(a)(35).

Solid Waste Disposal Site: ~~as defined as in N.C.G.S. §130A-290(a)(36)-),~~ any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

Special Flood Hazard Area (SFHA): the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Section 15-272 of this article.

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

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

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

(a) ~~Substantial improvement means~~ Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

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

- (a) ~~(a)~~—Any correction of existing violations of state or community health, sanitary, ~~or~~ safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or—
- (b) ~~(b)~~—Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

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

Temperature Controlled: having the temperature regulated by a heating and/or cooling system, built-in or appliance.

Variance is: a grant of relief from the requirements of this article.

Violation—means: the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in ~~Articles IV~~ PARTS III and V is presumed to be in violation until such time as that documentation is provided.

Water Surface Elevation (WSE): the height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

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

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

PART II. - GENERAL PROVISIONS.

Section 15-271. —~~Area of jurisdiction.~~ Lands to which this article applies.

This article shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJ), ETJs as allowed by law, of the City— of New Bern.

Section 15-272. - Basis for establishing the special flood hazard areas.

The Special Flood Hazard Areas are those identified by the Federal Emergency Management Agency (FEMA) or produced under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its flood hazard boundary map (FHBM) or flood insurance study (FIS) and its accompanying flood maps such as the flood insurance rate map(s) (FIRM) and/or the flood boundary floodway map(s) (FBFM), for the city, dated July 2, 2004, which with accompanying supporting data, June 19, 2020 for Craven County and any revision thereto associated DFIRM panels, including letters any digital data developed as part of map amendment or revision, the FIS, which are adopted by reference and declared a part of this ordinance, and all revisions thereto after January 1, 2021. Future revisions to be a part of this article. The special flood hazard areas also include those defined through standard engineering analysis for private developments or by governmental agencies, but which have the FIS and DFIRM panels that do not yet been incorporated in the FIRM. This includes, but is not limited to, detailed flood change flood hazard data:-

generated as a requirement of Article 4, Section C(11 & 12) this article; preliminary FIRMs where more stringent than the effective FIRM; or post-disaster Flood Recovery Maps.

In addition, upon annexation to the city or inclusion in the extra-territorial jurisdiction (ETJ), the special Flood Hazard Areas identified by the Federal Emergency Management Agency (FEMA) and/or produced under the Cooperating Technical State agreement between the state and FEMA as stated above for the unincorporated areas within the jurisdictional authority of Craven County, with accompanying maps and other supporting data, and any revision thereto, the City of New Bern are also adopted by reference and declared to be a part of this article. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months.

Section 15-273. - Establishment of floodplain development permit.

A Floodplain Development Permit shall be required in conformance with the provisions of this article prior to the commencement of any development activities within Special Flood Hazard Areas as determined in accordance with the provisions of Section 15-272 of this article 3, section B.

Section 15-274. - Compliance.

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

Section 15-275. - Abrogation and greater restrictions.

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

Section 15-276. - Interpretation.

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

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

Section 15-277. - Warning and disclaimer of liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur ~~on rare occasions~~. Actual flood heights may be increased by man-made or natural ~~source~~ causes. This article does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the City of New Bern or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

Section 15-278. - Penalties for violation.

Violation of the provisions of this article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50100.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of New Bern from taking such other lawful action as is necessary to prevent or remedy any violation.

Sections 15-279—15-282. - Reserved.

PART III. - ADMINISTRATION.

Section 15-283. - Designation of floodplain administrator.

The Chief Building Inspector, hereinafter referred to as the "Floodplain Administrator", or their designee, is hereby appointed to administer and implement the provisions of this article. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this article, the Floodplain Administrator shall be responsible for the coordination and community's overall compliance with the National Flood Insurance Program and the provisions of this article.

Section 15-284. - Floodplain development application, permit and certification requirements.

- (a) ~~(a) — Plans and Application Requirements.~~ Application for a Floodplain Development Permit shall be made to the Floodplain Administrator ~~on forms furnished by him or her~~ prior to any development activities ~~proposed to be~~ located within flood-prone Special Flood Hazard Areas. The following items/information shall be presented to the Floodplain Administrator to apply for a Floodplain Development Permit:
- (1) ~~(1) —~~ A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - a. ~~a. —~~ The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, ~~the location of~~ utility systems, ~~proposed~~ grading/pavement areas, fill materials, storage areas, drainage facilities, and other ~~proposed~~ development;
 - b. ~~b. —~~ The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in ~~article 3, section B~~ Section 15-272, or a statement that the entire lot is within the Special Flood Hazard Area;
 - c. ~~c. —~~ Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in ~~article 3, section B~~ Section 15-272;
 - d. ~~d. —~~ The boundary of the floodway(s) or non-encroachment area(s) as determined in ~~article 3, section B~~ Section 15-272;
 - e. ~~e. —~~ The Base Flood Elevation (BFE) where provided as set forth in ~~article 3, section B~~ Section 15-272; ~~article 4, section C. (11. and 12.)~~ Section 15-285; or ~~article 5, sections C., D. and B.(5)~~ Section 15-299;
 - f. ~~f. —~~ The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
 - g. ~~Preparation of the point plan by or under the direct supervision of a registered land surveyor or professional engineer and certified by same.~~
 - g. ~~(2) —~~ The boundary and designation date of the Coastal Barrier Resource System (CBRS) area or Otherwise Protected Areas (OPA), if applicable.
 - (2) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:

- a. ~~a.~~—Elevation in relation to ~~mean sea level~~ NAVD 1988 of the proposed reference level (including basement) of all structures;
 - b. ~~b.~~—Elevation in relation to ~~mean sea level~~ NAVD 1988 to which any non-residential structure will be ~~flood-proofed~~; floodproofed;
 - c. ~~c.~~—Elevation in relation to ~~mean sea level~~ NAVD 1988 to which any proposed utility systems will be elevated or floodproofed;
- (3) ~~(3)~~—If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and back-up plans from a registered professional engineer or architect certifying an inspection and maintenance plan that the non-residential flood-proofed development will meet the flood-proofing criteria in article 5, section B.(2) and section C.(2). include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.
- (4) (4)—A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this article are met. These details include but are not limited to:
 - a. ~~a.~~—The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers); /piles/shear walls);
 - b. ~~b.~~—Should Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Section 15-297(4)(c) when solid foundation perimeter walls be are used in floodplains, details of sufficient openings to facilitate Zones A, AE, AH, AO, A99; and
 - ~~b.c.~~ The following, in Coastal High Hazard Areas, in accordance with the unimpeded movements provisions of floodwaters in accordance with article 5, section B.(4); Section 15-297(4)(e) and Section 15-302 and (Section 15-303 if applicable):
 1. ~~(5)~~—V-Zone Certification with accompanying plans and specifications verifying the engineered structure und any breakaway wall designs; In addition, prior to the Certificate of Compliance/Occupancy issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications and plans for VE Zone construction;
 2. Plans for open wood latticework or insect screening, if applicable; and
 3. Plans for non-structural fill, if applicable. If non-structural fill is proposed, it must be demonstrated through coastal engineering analysis that the proposed fill would not result in any increase in the BFE or otherwise cause adverse impacts by wave ramping and deflection on to the subject structure or adjacent properties.
- (5) Usage details of any enclosed ~~space~~ areas below the ~~regulatory flood protection elevation~~ lowest floor.
- (6) ~~(6)~~—Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;.
- (7) ~~(7)~~—Copy of Certification that all other Local, State and Federal permits required prior to Floodplain Development Permit issuance (~~i.e. Wetlands, erosion and sedimentation control,~~

~~riparian buffers, mining, etc.) have been received.~~

(8) ~~(8) If floodplain development permit is issued~~ Documentation for placement of Recreational Vehicles and/or Temporary Structures, ~~documentation when applicable, to ensure article 5, section B. (that the provisions of Section 15-297(6.) and (7.)) of this Code~~ article are met.

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

(b) ~~(b) Permit Requirements. The Floodplain Development Permit data requirements. The following information shall include, but not be provided at a minimum on the floodplain development permit limited to ensure compliance with this Code.:~~

(1) ~~(1) A complete description of all the development to be permitted under the Floodplain Development Permit issuance. (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).~~

(2) ~~(2) The Special Flood Hazard Area determination for the proposed development per in accordance with available data specified in article 3, section B. Section 15-272.~~

(3) ~~(3) The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.~~

(4) ~~(4) The Regulatory Flood Protection Elevation required for the protection of all public utilities.~~

(5) ~~(5) All certification submittal requirements with timelines.~~

~~(6) State A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, if applicable.~~

(6) ~~(7) If in an A, AO, AE or A1-30 zone, specify unless the minimum foundation opening requirements of Section 15-301 have been met.~~

(7) ~~(8) State The flood openings requirements, if in Zones A, AE, AH, AO, or A99.~~

~~(7)(8) Limitations of below BFE enclosure uses (if applicable). (i.e., parking, building access and limited storage only).~~

~~(e) (9) A statement, if in Zone VE, that there shall be no alteration of sand dunes which would increase potential flood damage. N/A~~

(9) A statement, if in Zone VE, that there shall be no fill used for structural support.

(10) A statement, that all materials below BFE/RFPE must be flood resistant materials.

(c) Certification Requirements.

(1) (1) Elevation Certificates

a. An Elevation Certificate (FEMA Form 81-31) or floodproofing certificate (FEMA form 81-65086-0-33) is required after prior to the reference level is completed. Within 21 calendar days of establishment of the reference level elevation, or floodproofing, by

~~whenever actual start of any new construction means, whichever is applicable.~~ It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, ~~or floodproofed elevation, whichever is applicable in relation to mean sea level.~~ Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. ~~When floodproofing is utilized, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.~~ Any work done within the 21-day calendar period and prior to submission of the certification shall be at the permit holder's risk in relation to NAVD 1988. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed the beginning of construction. Failure to submit the certification or failure to make said required corrections required shall be cause to ~~issuedeny~~ a stop-work order for the project. Floodplain Development Permit.

- b. ~~(2)~~—A final as-built Finished Construction Elevation Certificate (FEMA Form 81-34) or ~~floodproofing certificate (FEMA form 81-65086-0-33)~~ is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation ~~or floodproofed elevation of the reference level and all attendant utilities.~~ Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. ~~When floodproofing is utilized, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.~~ of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make said corrections required shall be cause to ~~withhold the issuance of a certificate of compliance/occupancy.~~ required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. The Finished Construction Elevation Certificate certifier shall provide at least 2 photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3 inches by 3 inches. Digital photographs are acceptable.

(2) (3)—Floodproofing Certificate.

- a. If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder

to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

- b. A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing Certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.

~~(2)(3)~~ If a manufactured home is placed within an Zones A, AE, AH, AO, AE, or A1-30 zone A99 and the elevation of the chassis is above more than 36 inches in height above grade, an engineered foundation certification is required per article 5, section B.(3). in accordance with the provisions of Section 15-297(3)(b).

~~(3)(4)~~ (4)—If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; an engineering a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a Floodplain Development Permit.

~~(4)(5)~~ (5)—Certification Exemptions. The following structures, if located within A Zones A, AE, AH, AO, AE or A1-30 zones A99, are exempt from the elevation/floodproofing certification requirements specified in items (1) and (2) above: of this subsection:

- a. a.—Recreational Vehicles meeting requirements of article 5, section B Section 15-297(6)(a);
- b. b.—Temporary Structures meeting requirements of article 5, section B.(Section 15-297(7); and
- c. e.—Accessory Structures less than that are 150 square feet or less or a minimal investment of \$5,000 or less and meeting requirements of Section 15-297(8).

(6) A V-Zone Certification with accompanying design plans and specifications is required prior

to issuance of a Floodplain Development permit within coastal high hazard areas. It shall be the duty of the permit applicant to submit to the Floodplain Administrator said certification to ensure the design standards of this article are met. A registered professional engineer or architect shall develop or review the structural design, plans, and specifications for construction and certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this article. This certification is not a substitute for an Elevation Certificate. In addition, prior to the Certificate of Compliance/Occupancy issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications and plans for VE Zone construction.

(d) Determinations for existing buildings and structures.

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Chief Building Inspector, shall:

- (1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
- (2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- (4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this article 5, section B.(8)-is required.

Section 15-285. - Duties and responsibilities of the Floodplain Administrator.

~~Duties of the floodplain administrator and/or his/her designee shall include~~

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

- (1) (1) — Review all floodplain development applications and issue permits for all proposed development with in flood prone within Special Flood Hazard Areas to assure that the requirements of this article have been satisfied.
- (2) — Advise permittee that additional federal or state permits (i.e., wetlands, erosion and sedimentation control, riparian buffers, mining, etc.) may be required, and if specific federal or state permits are known, require that copies of such permits be provided and maintained on file with the floodplain development permit.
- (2) (3) — Review all proposed development within Special Flood Hazard Areas to assure that all

necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

- (2)(3) Notify adjacent communities and the state North Carolina Department of ~~crime control and~~ Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse; and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (3)(4) (4)—Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is ~~not diminished.~~ maintained.
- (4)(5) (5)—Prevent encroachments ~~within~~into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of ~~article 5, section E.~~Section 15-301 are met.
- (5)(6) (6)—Obtain actual elevation (in relation to ~~mean sea level~~NAVD 1988) of the reference level (including basement) ~~of~~and all attendant utilities of all new ~~or~~and substantially improved structures, in accordance with ~~article 4, section B.(3).~~ the provisions of Section 15-284(c).
- (6)(7) (7)—Obtain ~~the~~ actual elevation (in relation to ~~mean sea level~~NAVD 1988) to which ~~the~~all new ~~or~~and substantially improved structures and all utilities have been floodproofed, in accordance with ~~article 4, section B.(3).~~ the provisions of Section 15-284(c).
- (7)(8) (8)—Obtain actual elevation (in relation to ~~mean sea level~~NAVD 1988) of all public utilities; in accordance with ~~article 4, section B.(3).~~ the provisions of Section 15-284(c).
- (8)(9) (9)—When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with ~~article 4, section B.(3)~~the provisions of Section 15-284(c) and ~~article 5, section B.(~~Section 15-297(2).
- (9)(10) (10)—Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, ~~floodways, or non-encroachment areas~~ (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (10)(11) (11)—When ~~base flood elevation (BFE)~~ data has not been provided in accordance with ~~article 3, section B.,~~the provisions of Section 15-272, obtain, review, and reasonably utilize any ~~base flood elevation (BFE)~~ data, along with floodway data ~~and/or~~ non-encroachment area data available from a federal, state, or other source, including data developed pursuant to ~~article 5, section C.(4)~~Section 15-299(2)(c), in order to administer the provisions of this article.
- (11)(12) (12)—When ~~base flood elevation (BFE)~~ data is provided but no floodway ~~nor~~or non-encroachment area data has been provided in accordance with ~~article 3,~~the provisions of Section ~~B.,~~15-272, obtain, review, and reasonably utilize any floodway data ~~and/or~~ non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this article.
- (13) ~~When the exact location of boundaries of the special flood hazard areas conflict with the current, natural topography information at the site, the property owner may apply~~

and be approved for a letter of map amendment (LOMA) by FEMA. A copy of the letter of map amendment issued from FEMA will be maintained by the floodplain administrator in the floodplain development permit file.

- (13) (14) — Permanently maintain all records that pertain to the administration of this article and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- (15) ~~Annexation. Provide the state department of crime control and public safety, division of emergency management, state coordinator for the National Flood Insurance Program with two copies of the maps delineating new corporate limits within six months from the date of annexation or change in corporate boundaries.~~

~~Section 15-286. Administrative procedures.~~

- (14) (a) — Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- (15) (b) — Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this article, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
- (16) (c) ~~Revocation of~~ Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the Floodplain Development Permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, ~~or~~ and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any Floodplain Development Permit mistakenly issued in violation of an applicable State or local law may also be revoked.
- (17) (d) — Make periodic inspections throughout ~~all~~ the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- (18) (e) — Follow through with corrective procedures of Section 15-286.
- (19) Review, provide input, and make recommendations for variance requests.
- (20) Maintain a repository for Letters of Map Change issued by FEMA.

(21) Review revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

Section 15-286. Corrective procedures.

- (a) *Violations to be corrected.* When the Floodplain Administrator finds violations of applicable state and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law ~~pertaining to their property, cited in such notification.~~
- (b) ~~(f)~~—*Actions in Event of Failure to Take Corrective Action.* If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
- (1) ~~(1)~~—That the building or property is in violation of the ~~flood damage prevention article;~~ floodplain management regulations;
 - (2) ~~(2)~~—That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten ~~(10)~~ days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and—
 - (3) ~~(3)~~—That following the hearing, the Floodplain Administrator may issue ~~such an~~ order to alter, vacate, or demolish the building; or to remove fill as ~~appears appropriate.~~ applicable.
- (c) ~~(g)~~—*Order to Take Corrective Action.* If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall ~~make issue~~ issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than ~~60 days.~~ sixty (60) calendar days, nor more than one-hundred-eighty (180) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.
- (d) ~~(h)~~—*Appeal.* Any owner who has received an order to take corrective action may appeal the order to the ~~city~~ Board of Adjustment by giving notice of appeal in writing to the Floodplain Administrator and the City Clerk within ten ~~(10)~~ days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The ~~local governing body~~ Board of Adjustment shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- (e) ~~(i)~~—*Failure to Comply with Order.* If the owner of a building or property fails to comply with an order to take corrective action ~~from for~~ which no appeal has been ~~taken,~~ made or fails to comply with an order of the ~~governing body~~ Board of Adjustment following an appeal, ~~he the owner~~ shall be guilty of a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58 and shall be punished ~~in at~~ the discretion of the court.

Section 15-287. - Variance procedures.

- (a) ~~(a)~~—The City Board of Adjustment as established by The City of New Bern, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this article.
- (b) ~~(b)~~—Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in N.C.G.S. Ch. 7A, Chapter 7A of the North Carolina General Statutes.
- (c) ~~(c)~~—Variances may be issued for:
- (1) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
 - (2) ~~(d)~~—Functionally dependent facilities if determined to meet the definition as stated in Section 15-270 of this article, provided provisions of Section 15-287(i)(2), (3), and (5) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
 - (3) Any other type of development provided it meets the requirements of this Section.
- ~~(e)(d)~~ In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this article, and:
- (1) ~~(1)~~—The danger that materials may be swept onto other lands to the injury of others;
 - (2) ~~(2)~~—The danger to life and property due to flooding or erosion damage;
 - (3) ~~(3)~~—The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (4) ~~(4)~~—The importance of the services provided by the proposed facility to the community;
 - (5) ~~(5)~~—The necessity to the facility of a waterfront location as defined under Section 15-270 of this article as a functionally dependent facility, where applicable;
 - (6) ~~(6)~~—The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (7) ~~(7)~~—The compatibility of the proposed use with existing and anticipated development;
 - (8) ~~(8)~~—The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (9) ~~(9)~~—The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (10) ~~(10)~~—The expected heights, velocity, duration, rate of rise, and sediment transport of the ~~flood waters~~floodwaters and the effects of wave action, if applicable, expected at the site; and—
 - (11) ~~(11)~~—The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

~~(d)(e)~~ ~~(e)~~—A written report addressing each of the above factors shall be submitted with the

application for a variance.

~~(e)(f)~~(f) — Upon consideration of the factors listed above and the purposes of this article, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this article.

~~(g)~~ — ~~Variances shall not be issued within any designated floodway or non-encroachment area if any increase in flood levels during the base flood discharge would result.~~

~~(g)~~ (h) — Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property.

(h) The Floodplain Administrator shall maintain the records of all appeal actions.

~~(f)~~(i) Conditions for Variances:

(1) ~~(1)~~ — ~~Variances may~~shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.

~~(2)~~ (2) — Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

~~(2)(3)~~ — Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

~~(4)~~ (3) — Variances shall only be issued prior to development permit approval.

~~(3)(5)~~ — Variances shall only be issued upon:

a. ~~a.~~ — A showing of good and sufficient cause;

b. ~~b.~~ — A determination that failure to grant the variance would result in exceptional hardship; and

c. ~~e.~~ — A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws ~~of~~or ordinances.

~~(4)~~ — ~~Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced reference level elevation. Such notification shall be maintained with a record of all variance actions.~~

~~(5)~~ — ~~The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the state upon request.~~

(j) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.

(1) The use serves a critical need in the community.

(2) No feasible location exists for the use outside the Special Flood Hazard Area.

- (3) The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.
- (4) The use complies with all other applicable federal, state and local laws.
- (5) The City of New Bern has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

Sections 15-288— to 15-295. - Reserved.

PART IV. - PROVISIONS FOR FLOOD HAZARD REDUCTION.

Section 15-296. - General standards.

In all Special Flood Hazard Areas, the following provisions are required:

- (1) ~~(1)~~—All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, ~~or~~ and lateral movement of the structure.
- (2) ~~(2)~~—All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage— in accordance with the FEMA Technical Bulletin 2, Flood Damage-Resistant Materials Requirements.
- (3) ~~(3)~~—All new construction ~~or~~and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (4) ~~(4)~~—All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities/equipment shall be located at or above the RFPE or designed and ~~or~~ located so as installed to prevent water from entering or accumulating within the components during ~~condition~~the occurrence of flooding.the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, appliances (i.e., washers, dryers, refrigerator, etc.), hot water heaters. For electric outlets/switches, refer to Section 15-296(16).
 - a. ~~(5)~~—Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
 - b. Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of ~~flood waters~~floodwaters into the system.
- (6) ~~(6)~~—New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of ~~flood waters~~floodwaters into the systems and discharges from the

systems into flood waters.

- (7) ~~(7)~~—On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- ~~(8) Any alteration, repair, reconstruction, or improvements to a structure which is in compliance with the provisions of this article, shall meet the requirements of "new construction" as contained in this article.~~
- ~~(8) (9) Non-conforming structures or other development may not be enlarged, replaced, or rebuilt unless such enlargement or reconstruction is accomplished in conformance with the provisions of this article. Provided, however, Nothing in this article shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this article and located totally or partially within the floodway, non-encroachment area, or stream setback, provided that the bulk of the building or structure there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback is not increased, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this article.~~
- (9) ~~(10)~~—New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted ~~in special flood hazard areas~~, except by variance as specified in Section 15-287(j). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and ~~certified according to article 4, section B.(3) of this code. This provision is not subject to variance procedure in accordance with the provisions of Section 15-284(c).~~
- (10) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- (11) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (12) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (13) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (14) When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
- (15) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.
- (16) No more than four (4) electrical outlets and no more than four (4) electrical switches may be permitted below RFPE unless required by building code.

Section 15-297. - Specific standards.

In

In all Special Flood Hazard Areas where ~~base flood elevation (BFE)~~ data has been provided, as set forth in ~~article 3, section B., or article 4, section C.(11. and 12.).~~ Section 15-272, or Section 15-299, the following provisions, in addition to the provisions of Section 15-296, are required:

- (1) ~~(1)~~—*Residential Construction.* New construction ~~or~~ and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation—, as defined in Section 15-270 of this article.
- (2) ~~(2)~~—*Non-Residential Construction.* New construction ~~or~~ and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation—, as defined in Section 15-270 of this article. Structures located in Zones A, AE, AH, AO, AE, and A1-30 zones A99 may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the ~~required~~ Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Section 15-304(2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the ~~official~~ Floodplain Administrator as set forth in ~~article 4, section B.(3).~~ Section 15-284(c), along with the operational plan and the inspection and maintenance plan.
- (3) ~~(3)~~—*Manufactured Homes.*
 - a. ~~a.~~—New ~~or~~ and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation—, as defined in Section 15-270 of this article.
 - b. ~~b.~~—Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and ~~lateral~~ lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured/Mobile Homes, 1995 Edition, and any revision thereto adopted by the Commissioner of Insurance pursuant to N.C.G.S. §143-143.15 or a certified engineered foundation. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or ~~other engineered foundation elements of at least equivalent strength.~~ When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
 - c. ~~e.~~—All ~~foundation~~ enclosures or skirting ~~shall be in accordance with article 5, section B.(below the lowest floor meet the requirements of Section 15-297(4)).~~
 - d. ~~d.~~—An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved

by the Floodplain Administrator and the local Emergency Management Coordinator.

- ~~(4)~~ (4) — *Elevated Buildings.* Fully enclosed area, of new construction or substantial improvements of elevated buildings that include fully enclosed areas that are and substantially improved structures, which is below the regulatory flood protection elevation lowest floor or below the lowest horizontal structural member in VE zones:

Shall not be designed to ~~be or~~ used for human habitation, but shall ~~be designed to only~~ be used ~~only~~ for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises, ~~be constructed entirely of flood resistant materials below the regulatory flood protection level in A, AO, AE, and A1-30 zones and meet the following design criteria:~~

- a. ~~Measures for complying with this requirement shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. To meet this requirement, the foundation must either be certified by a professional engineer or architect or meet the following minimum design criteria:~~
- ~~1. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.~~
 - ~~2. The total net area of all openings must be at least one square inch for each square foot of each enclosed area subject to flooding.~~
 - ~~3. If a building has more than one enclosed area, each area must have openings on exterior walls to allow floodwater to directly enter.~~
 - ~~4. The bottom of all required openings shall be no higher than one foot above the adjacent grade; and,~~
 - ~~5. Openings may be equipped with screens, louvers, or other opening coverings or devices provided they permit the automatic flow of floodwaters in both directions.~~
 - ~~6. Foundation enclosures:~~
 - ~~A. Vinyl or sheet metal skirting is not considered an enclosure for regulatory and flood insurance rating purposes. Therefore such skirting does not require hydrostatic openings as outlined above. (Only in mobile home parks.)~~
 - ~~B. Masonry is considered an enclosure and requires hydrostatic openings as outlined above to comply with this article.~~
- a. ~~b.~~ Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned or finished into separate rooms, except to enclose storage areas;
- b. ~~(5)~~ Areas over 100 square feet shall not be temperature-controlled or conditioned; However, areas under 100 square feet intended to be used as entry to a living area may be temperature-controlled or conditioned.

- c. Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and
- d. Shall include, in Zones A, AE, AH, AO, A99 flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
 - 1. A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 - 2. The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
 - 3. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to directly automatically enter and exit;
 - 4. The bottom of all required flood openings shall be no higher than one (1) foot above the higher of the interior or exterior adjacent grade;
 - 5. Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
 - 6. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.
- e. Shall, in Coastal High Hazard Areas (Zone VE), meet the requirements of Section 15-302.
- f. Property owners shall be required to execute and record a non-conversion restrictive covenant prior to issuance of a building permit declaring that any area greater than 100 square feet below the lowest floor shall not be improved, finished, or otherwise converted to habitable space. The City of New Bern will have the right to inspect the enclosed area at the discretion of the Floodplain Administrator. This restrictive covenant shall be recorded with the Craven County Register of Deeds and shall transfer with the property in perpetuity.
- g. Release of restrictive covenant. If a property which is bound by a non-conversion restrictive covenant is modified to remove enclosed areas below BFE, then the owner may request release of the restrictive covenant after staff inspection and submittal of confirming documentation.

~~(4)(5)~~ Additions/Improvements.

- a. ~~a.~~ —Additions and/or improvements to pre-FIRM structures ~~whereas~~when the addition and/or improvements in combination with any interior modifications to the existing structure ~~are~~:
 - 1. ~~1.~~ —Are ~~Not a substantial improvement,~~ the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.

2. ~~2.~~ ~~Are~~ A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
 - b. ~~b.~~ Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction.
 - c. ~~e.~~ Additions and/or improvements to post-FIRM structures ~~whereas~~ when the addition and/or improvements in combination with any interior modifications to the existing structure ~~are:~~
 1. ~~1.~~ ~~Are~~ Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.
 2. ~~2.~~ ~~Are~~ A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
 - d. ~~Where a fire wall or independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.~~
 - d. (6) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one (1) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started, must comply with the standards for new construction. For each building or structure, the one (1) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this article. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:
 1. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.
 2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
- ~~(5)(6) Recreational Vehicles. Recreation~~ Recreational vehicles placed on sites within a special flood hazard area shall either:
- a. a. Temporary Placement
 1. Be on site for fewer than 180 consecutive days and; or

~~1.2.~~ Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and has no permanently attached additions).)

- b. ~~(7) Temporary structures.~~ Permanent Placement. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.

Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the ~~following requirements must be met:~~

~~(6)(7)~~ a. ~~Applicants~~ applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane or, flash flood or other type of flood warning notification. ~~The plan must include~~ The following information: shall be submitted in writing to the Floodplain Administrator for review and written approval:

- a. 1.—A specified time period for which the temporary use will be permitted; Time specified may not exceed three (3) months, renewable up to one (1) year;
 - b. 2.—The name, address, and phone number of the individual responsible for the removal of the temporary structure;
 - c. 3.—The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
 - d. 4.—A copy of the contract or other suitable instrument with ~~a trucking company to insure the availability of the entity responsible for physical removal equipment when needed of the structure;~~ and
 - e. 5.—Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.
- b. ~~The above information shall be submitted in writing to the floodplain administrator for review and written approval.~~

~~(7)(8)~~ (8)—Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- a. a.—Accessory structures shall not be used for human habitation (including ~~work~~working, sleeping, living, cooking or restroom areas);
- b. b.—Accessory structures shall not be temperature-controlled;
- ~~b.c.~~ c.—Accessory structures shall be designed to have low flood damage potential;
- ~~e.d.~~ d.—Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- ~~d.e.~~ e.—Accessory structures shall be firmly anchored in accordance with ~~article 5, section A.(1);~~ the provisions of Section 15-296(l);
- f. e.—Accessory structures, regardless of the size or cost, shall not be placed below elevated buildings in V and VE Zones;
- ~~e.g.~~ All service facilities such as electrical ~~and heating equipment~~ shall be installed in

accordance with ~~article 5, section A.~~(the provisions of Section 15-296(4); and

~~f.h.~~ f. — Flood openings to relieve hydrostatic pressure during a flood facilitate automatic equalization of flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with ~~article 5 section B.~~(the provisions of Section 15-297(4)(a)-d).

~~g.~~ —An accessory structure with a footprint less than 150 square feet does not require anor that is a minimal investment of \$5,000 or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing certificate standards of Section 15-297(2). Elevation or floodproofing certifications are required for all other accessory structures in accordance with ~~article 4, section B.(3).~~ Section 15-284(c).

~~Section 15-298. — Subdivisions, manufactured home parks and major developments.~~

~~All subdivision, manufactured home park and major development proposals located within special flood hazard areas shall:~~

- ~~(1) — Be consistent with the need to minimize flood damage;~~
- ~~(2) — Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;~~
- ~~(3) — Have adequate drainage provided to reduce exposure to flood hazards; and,~~
- ~~(4) — Have base flood elevation (BFE) data provided if development is greater than the lesser of five acres or 50 lots/manufactured home sites. Such base flood elevation (BFE) data shall be adopted by reference per article 3, section B. to be utilized in implementing this Code.~~
- (9) Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
 - a. Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
 - b. Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
 - c. Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section 15-297(2) of this ordinance shall not be permitted in V or VE Zones. Tanks may be permitted in other flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and

other flood forces acting on an empty tank during design flood conditions.

d. Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:

1. At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(10) Other Development.

- a. Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 15-301 of this article.
- b. Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 15-301 of this article.
- c. Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 15-301 of this article.
- d. Commercial storage facilities are not considered "limited storage" as noted in this article and shall be protected to the Regulatory Flood Protection Elevation as required for commercial structures.

Section 15-298. Reserved.

Section 15-299. - Standards for floodplains without established base flood elevations.

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in ~~article 3, section B,~~ Section 15-272, where no base flood elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Section 15-296, shall apply:

- (1) ~~(1)~~—No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty ~~(20)~~ feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) ~~(2)~~— If ~~article 5, section C.(1)~~ is satisfied and base flood elevation ~~(The BFE)~~ used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:

- a. When BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this article ordinance and shall be elevated or floodproofed in accordance with elevations established the standards in Sections 15-296 and 15-297.
- b. When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Sections 15-297 and 15-301.
- c. All subdivision, manufactured home park and other development proposals shall provide BFE data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with Section 15-272 and utilized in implementing this article 4, section C.(11. and 12.).
- a.d. When ~~base flood elevation (BFE)~~ data is not available from a Federal, State, or other source as outlined above, the reference level, including basement, shall be elevated at least two feet above the highest adjacent grade, or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Section 15-270. All other applicable provisions of Section 15-297 shall also apply.

Section 15-300. - Standards for riverine floodplains with BFE Base Flood Elevations but without established floodways or non-encroachment areas.

Along rivers and streams where ~~base flood elevation (BFE)~~ data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

(1) Standards of Sections 15-296 and 15-297; and

~~(1)~~ (2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

Section 15-300(a). 301. Floodways and non-encroachment areas.

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in article 3, section B. are areas designated as floodways or non-encroachment areas ~~Section 15-272.~~ The floodways and non-encroachment areas are extremely hazardous areas due to

the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Sections 15-296 and 15-297, shall apply to all development within such areas:

- (1) ~~(1)—No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood. Such certification and technical data shall be presented to the floodplain administrator prior to issuance of floodplain development permit.;~~
 - a. ~~(2)—If article 5, section F. (1) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or~~
 - b. A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six (6) months of completion of the proposed encroachment.
- (2) If Section 15-301(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this article.
- (3) ~~(3)—No Manufactured homes shall~~may be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision provided the following provisions are met:
 - a. ~~a.—The anchoring and the elevation standards of article 5, section B. (3) Section 15-297(3); and~~
 - b. ~~b.—The “no encroachment” standards of article 5, section F. (Section 15-301(1) are met.~~
 - c. Compliance with Article VIII of this Ordinance.

Section 15-300(b).—302. Coastal high hazard area (zone VE).

Coastal High Hazard Areas are Special Flood Hazard Areas established in Section 15-272 and designated as Zones VE. These areas have special flood hazards associated with high velocity waters from storm surges or seismic activity and, therefore, all new construction and substantial improvements shall meet the following provisions in addition to the provisions of Sections 15-296 and 15-297:

- (1) All new construction and substantial improvements shall:
 - a. Be located landward of the reach of mean high tide;
 - b. Comply with all applicable CAMA setback requirements.
- (2) All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in Coastal High Hazard Areas to satisfy the regulatory flood protection elevation

requirements.

- (3) All new construction and substantial improvements shall have the space below the bottom of the lowest horizontal structural member of the lowest floor either be free of obstruction or constructed with breakaway walls, open wood latticework or insect screening, provided they are not part of the structural support of the building and are designed so as to breakaway, under abnormally high tides or wave action without causing damage to the elevated portion of the building or supporting foundation system or otherwise jeopardizing the structural integrity of the building. The following design specifications shall be met:
- a. Material shall consist of open wood or plastic lattice having at least 40 percent of its area open, or
 - b. Insect screening; or
 - c. Breakaway walls shall meet the following design specifications:
 - 1. Breakaway walls shall have flood openings that allow for the automatic entry and exit of floodwaters to minimize damage caused by hydrostatic loads, per Section 15-297(4)(d)(1.-6.); and
 - 2. Design safe loading resistance shall be not less than 10 nor more than 20 pounds per square foot; or
 - 3. Breakaway walls that exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by State or local codes) shall be certified by a registered professional engineer or architect that the breakaway wall will collapse from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). The water loading values used shall be those associated with the base flood. The wind loading values used shall be those required by the North Carolina State Building Code.
- (4) All new construction and substantial improvements shall be securely anchored to pile or column foundations. All pilings and columns and the structure attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
- a. Water loading values used shall be those associated with the base flood.
 - b. Wind loading values used shall be those required by the current edition of the North Carolina State Building Code.
- (5) For concrete pads, including patios, decks, parking pads, walkways, driveways, pool decks, etc., the following is required:
- a. Shall be structurally independent of the primary structural foundation system of the structure and shall not adversely affect structures through redirection of floodwaters or debris; and
 - b. Shall be constructed to breakaway cleanly during design flood conditions, shall be frangible, and shall not produce debris capable of causing damage to any structure. (The

- installation of concrete in small segments (approximately 4 feet x 4 feet) that will easily break up during the base flood event, or score concrete in 4 feet x 4 feet maximum segments is acceptable to meet this standard); and
- c. Reinforcing, including welded wire fabric, shall not be used in order to minimize the potential for concreted pads being a source of debris; and
 - d. Pad thickness shall not exceed 4 inches; or
 - e. Provide a Design Professional's certification stating the design and method of construction to be used meet the applicable criteria of this section.
- (6) For swimming pools and spas, the following is required:
- a. Be designed to withstand all flood-related loads and load combinations.
 - b. Be elevated so that the lowest horizontal structural member is elevated above the RFPE;
or
 - c. Be designed and constructed to break away during design flood conditions without producing debris capable of causing damage to any structure; or
 - d. Be sited to remain in the ground during design flood conditions without obstructing flow that results in damage to any structure.
 - e. Registered design professionals must certify to local officials that a pool or spa beneath or near a VE Zone building will not be subject to flotation or displacement that will damage building foundations or elevated portions of the building or any nearby buildings during a coastal flood.
 - f. Pool equipment shall be located above the RFPE whenever practicable. Pool equipment shall not be located beneath an elevated structure.
- (7) All elevators, vertical platform lifts, chair lifts, etc., the following is required :
- a. Elevator enclosures must be designed to resist hydrodynamic and hydrostatic forces as well as erosion, scour, and waves.
 - b. Utility equipment in Coastal High Hazard Areas (VE Zones) must not be mounted on, pass through, or be located along breakaway walls.
 - c. The cab, machine/equipment room, hydraulic pump, hydraulic reservoir, counter weight and roller guides, hoist cable, limit switches, electric hoist motor, electrical junction box, circuit panel, and electrical control panel are all required to be above RFPE. When this equipment cannot be located above the RFPE, it must be constructed using flood damage-resistant components.
 - d. Elevator shafts/enclosures that extend below the RFPE shall be constructed of reinforced masonry block or reinforced concrete walls and located on the landward side of the building to provide increased protection from flood damage. Drainage must be provided for the elevator pit.
 - e. Flood damage-resistant materials can also be used inside and outside the elevator cab to reduce flood damage. Use only stainless steel doors and door frames below the BFE. Grouting in of door frames and sills is recommended.

- f. If an elevator is designed to provide access to areas below the BFE, it shall be equipped with a float switch system that will activate during a flood and send the elevator cab to a floor above the RFPE.
- (8) Accessory structures, regardless of size or cost, shall not be permitted below elevated structures.
- (9) Property owners shall be required to execute and record a non-conversion restrictive covenant prior to issuance of a building permit declaring that the area below the lowest floor, or the detached accessory building shall not be improved, or otherwise converted. The City of New Bern will have the right to inspect the enclosed area at the discretion of the Floodplain Administrator. This agreement shall be recorded with the Craven County Register of Deeds and shall transfer with the property in perpetuity.
- (10) Release of restrictive covenant. If a property which is bound by a non-conversion restrictive covenant is modified to remove enclosed areas below BFE, then the owner may request release of the restrictive covenant after staff inspection and submittal of confirming documentation.
- (11) A registered professional engineer or architect shall certify that the design, specifications, and plans for construction are in compliance with the provisions of Section 15-284 and Section 15-302(3) and (4), on the current version of the North Carolina V-Zone Certification form or equivalent local version. In addition, prior to the Certificate of Compliance/Occupancy issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications and plans for VE Zone construction.
- (12) Fill/Grading
- a. Minor grading and the placement of minor quantities of nonstructural fill may be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios, and walkways.
- b. The fill material must be similar and consistent with the natural soils in the area.
- c. The placement of site-compatible, non-structural fill under or around an elevated building is limited to two (2) feet. Fill greater than two (2) feet must include an analysis prepared by a qualified registered design professional demonstrating no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures.
- d. Nonstructural fill with finished slopes that are steeper than five (5) units horizontal to one (1) unit vertical shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave run up and wave reflection that would increase damage to adjacent elevated buildings and structures.
- e. Structural fill is prohibited in the VE Zone.
- ~~(13) There shall be no alteration of sand dunes or mangrove stands which would increase potential flood damage. N/A~~
- (13) No manufactured homes shall be permitted.
- (14) Recreational vehicles may be permitted in Coastal High Hazard Areas provided that they meet the Recreational Vehicle criteria of Section 15-297(6)(a).

- (15) A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the Regulatory Flood Protection Elevation and any supporting members that extend below the Regulatory Flood Protection Elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck. The increased loads must be considered in the design of the primary structure and included in the V-Zone Certification required under Section 15-284(c)(6).
- (16) A deck that is located below the Regulatory Flood Protection Elevation shall be structurally independent from buildings or structures and their foundation systems and shall be designed and constructed to remain intact and in place during design flood conditions.
- (17) In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:
- a. Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
 - b. Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters.
 - c. Docks, piers, and similar structures.

Section 15-303. Standards for Coastal A Zones (Zone CAZ) LiMWA

All development within the CAZ/LiMWA Zone shall meet the requirements of Section 15-302, with the following exceptions:

- (1) All new construction and substantial improvements shall not be required to be constructed on pile or column foundations.
- (2) Structural fill is prohibited in the CAZ/LiMWA Zone.

Section 15-304. Standards for areas of shallow flooding (Zone AO-zones)-).

Located within the Special Flood Hazard Areas established in ~~article 3, section B~~Section 15-272, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. The following provisions shall apply within such areas: In addition to Sections 15-296 and 15-297, all new construction and substantial improvements shall meet the following requirements:

- (1) ~~(1) All new construction and substantial improvements of all structures shall have the lowest floor, including basement, elevated to~~The reference level shall be elevated at least as high as the

depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade, or at least two (2) feet above the highest adjacent grade; if no depth number is specified, the lowest floor, including basement, shall be elevated at least to the regulatory flood protection elevation as defined for the special flood hazard areas where no BFE has been established.

- (2) ~~(2) All new construction and substantial improvements of Non-residential structures shall have the option to~~ may, in lieu of elevation, be completely floodproofed to the same level as required in Section 15-304(1) so that the structure, together with attendant utilities and sanitary facilities to or above that level so that any space below that level is ~~shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as per article 4, section B.~~ (3 in accordance with Section 15-284(c) and article 5, section B. ~~(Section 15-297(2).~~
- (3) Adequate drainage paths shall be provided around structures on slopes to guide floodwaters around and away from proposed structures.

Section 15-305. Standards for areas of shallow flooding (Zone AH).

Located within the Special Flood Hazard Areas established in Section 15-272 are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to Sections 15-296 and 15-297, all new construction and substantial improvements shall meet the following requirements:

- (1) Adequate drainage paths shall be provided around structures on slopes to guide floodwaters around and away from proposed structures.

Sections 15-306 to 15-309. Reserved.

PART V. - LEGAL STATUS PROVISIONS

Section 15-300(e). 310. Effect on rights and liabilities under the existing flood damage prevention ordinance.

This article in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted May 4, 1978, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this article shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of The City of New Bern enacted on July 2, 2004 ~~May 4, 1978~~, as amended, which are not reenacted herein are repealed.

The date of the initial Flood Damage Prevention Ordinance for Craven County is April 6, 1987.

Section 15-300(d). 311. Effect upon outstanding ~~building~~floodplain development permits.

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this article; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to ~~passage~~the date of this article or any revision thereto~~issuance of the~~ outstanding permit, construction or use shall be in conformity with the provisions of this article.

Sections 15-301—312 to 15-320. - Reserved.

SEVERABILITY.

If any section, clause, sentence, or phrase of the Article is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Article.

EFFECTIVE DATE.

This article shall become effective June 18, 2020.

ADOPTION CERTIFICATION.

I hereby certify that this is a true and correct copy of the Flood Damage Prevention Ordinance as adopted by the Board of Aldermen of The City of New Bern, North Carolina, on the _____ day _____ of _____, 2020.

WITNESS my hand and the official seal of _____, this the _____ day _____ of _____, 2020.

(signature)

FLOOD DAMAGE PREVENTION ARTICLE

[Replace the entire existing Appendix A – Land Use, Article XVI. Floodways, Floodplains, Drainage, and Erosion in its entirety with the following:]

Article XVI. Flood Damage Prevention

PART I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.

SECTION 15-266. Statutory authorization.

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of Chapter 153A; Article 8 of Chapter 160A; and Articles 7, 9, and 11 of Chapter 160D (effective August 1, 2021) of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare.

SECTION 15-267. Findings of fact.

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

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

SECTION 15-268. Statement of purpose.

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

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

SECTION 15-269. Objectives.

The objectives of this article are to:

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

SECTION 15-270. Definitions.

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

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

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

Alteration of a watercourse: a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

Appeal: a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

Area of Shallow Flooding: a designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of Special Flood Hazard: see *Special Flood Hazard Area (SFHA)*.

Base Flood: a flood having a one (1) percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE): a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area," it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard," establishes the "Regulatory Flood Protection Elevation."

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

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

Building: see *Structure*.

Chemical Storage Facility: a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

Coastal Area Management Act (CAMA): The North Carolina Coastal Area Management Act. This act, along with the Dredge and Fill Law and the Federal Coastal Zone Management Act, is managed through North Carolina Department of Environmental Quality (NCDEQ) Division of Coastal Management (DCM).

Coastal A Zone (CAZ): an area within a special flood hazard area, landward of a V zone or landward of an open coast without mapped V zones. In a Coastal A Zone, the principal source of flooding must be astronomical tides, storm surges, seiches, or tsunamis, not riverine flooding. During the base flood conditions, the potential for wave heights shall be greater than or equal to 1.5 feet. Coastal A Zones are not normally designated on FIRMs. (see Limit of Moderate Wave Action (LiMWA)).

Coastal Barrier Resources System (CBRS): consists of undeveloped portions of coastal and adjoining areas established by the Coastal Barrier Resources Act (CoBRA) of 1982, the Coastal Barrier Improvement Act (CBIA) of 1990, and subsequent revisions, and includes areas owned by Federal or State governments or private conservation organizations identified as Otherwise Protected Areas (OPA).

Coastal High Hazard Area: a Special Flood Hazard Area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from

storms or seismic sources. The area is designated on a FIRM, or other adopted flood map as determined in Section 15-272 of this article, as Zone VE.

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

Development Activity: any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

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

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

Elevated Building: a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Encroachment: the advance or infringement of uses, fill, excavation, buildings, structures or development into a special flood hazard area, which may impede or alter the flow capacity of a floodplain.

Existing Building and Existing Structure: any building and/or structure for which the "start of construction" commenced before June 1, 1978, the effective date of the official FIRM.

Existing Manufactured Home Park or Manufactured Home Subdivision: a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before June 1, 1978, the initial effective date of the floodplain management regulations adopted by the community.

FEMA: the Federal Emergency Management Agency.

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

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

Flood Boundary and Floodway Map (FBFM): an official map of a community, issued by FEMA, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

Flood Insurance: the insurance coverage provided under the National Flood Insurance Program.

Flood Insurance Rate Map (FIRM): an official map of a community, issued by FEMA, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. (see also DFIRM)

Flood Insurance Study (FIS): an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

Flood Prone Area: see *Floodplain*.

Flood Zone: a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

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

Floodplain Administrator: is the individual appointed to administer and enforce the floodplain management regulations.

Floodplain Development Permit: any type of permit that is required in conformance with the provisions of this article prior to the commencement of any development activity.

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

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

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

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

dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*, and available from FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

Floodway: the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

Floodway Encroachment Analysis: an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and hydraulic models meeting the minimum requirement of the National Flood Insurance Program.

Freeboard: the height added to the BFE to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, storm surge or precipitation exceeding the base flood, and the hydrological effect of urbanization of the watershed. The BFE plus the freeboard establishes the "Regulatory Flood Protection Elevation."

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

Hazardous Waste Management Facility: as defined in N.C.G.S. §130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

Highest Adjacent Grade (HAG): the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

Historic Structure: any structure that is:

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

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in

cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

Letter of Map Change (LOMC): an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (1) *Letter of Map Amendment (LOMA)*: An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (2) *Letter of Map Revision (LOMR)*: A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (3) *Letter of Map Revision Based on Fill (LOMR-F)*: A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
- (4) *Conditional Letter of Map Revision (CLOMR)*: A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

Light Duty Truck: any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

- (1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (3) Available with special features enabling off-street or off-highway operation and use.

Limit of Moderate Wave Action (LiMWA): the boundary line given by FEMA on coastal map studies marking the extents of Coastal A Zones (CAZ).

Lowest Adjacent Grade (LAG): the lowest elevation of the ground, sidewalk, or patio slab immediately next to the building, or deck support, after completion of the building.

Lowest Floor: the floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not

built so as to render the structure in violation of the applicable non-elevation design requirements of this article.

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

Manufactured Home Park or Subdivision: a parcel (or contiguous parcels) of land divided into two or more manufactured home spaces or lots for rent or sale.

Map Repository: the location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed. In North Carolina, FEMA has recognized that the application of digital flood hazard data products carries the same authority as hard copy products. Therefore, the NCEM's Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data, the NC FRIS website (<http://FRIS.NC.GOV/FRIS>) is the map repository; and for historical flood hazard data the FloodNC website (<http://FLOODNC.GOV/NCFLOOD>) is the map repository.

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

New Construction: structures for which the "start of construction" commenced on or after June 1, 1978, the effective date of the initial floodplain management regulations, and includes any subsequent improvements to such structures.

Non-Conversion Restrictive Covenant: a document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is considered a violation of the ordinance and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement must show the clerk's or recorder's stamps and/or notations that the filing has been completed.

Non-Encroachment Area (NEA): the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

Otherwise Protected Area (OPA): see *Coastal Barrier Resources System (CBRS)*.

Post-FIRM: construction or other development for which the "start of construction" occurred on or after June 1, 1978, the effective date of the initial Flood Insurance Rate Map.

Pre-FIRM: construction or other development for which the "start of construction" occurred before June 1, 1978, the effective date of the initial Flood Insurance Rate Map.

~~*Primary Frontal Dune (PFD):* means a continuous or nearly continuous mound or ridge of sand with~~

~~relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope. N/A~~

Principally Above Ground: a structure for which at least 51% of the actual cash value of the structure is above ground.

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

Recreational Vehicle (RV): a vehicle, which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck;
- (d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and
- (e) Is fully licensed and ready for highway use.

(For the purpose of this article, "Tiny Homes/Houses" and Park Models that do not meet the items listed above are not considered Recreational Vehicles and should meet the standards of and be permitted as Residential Structures.)

Reference Level: is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zones A, AE, AH, AO, A99. The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within Special Flood Hazard Areas designated as Zone VE.

Regulatory Flood Protection Elevation: the "Base Flood Elevation" plus the "Freeboard." In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet freeboard. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

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

Riverine: relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

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

~~*Sand Dunes:* means naturally occurring accumulations of sand in ridges or mounds landward of the beach.~~ N/A

Shear Wall: walls used for structural support but not structurally joined or enclosed at the end (except by breakaway walls). Shear walls are parallel or nearly parallel to the flow of the water.

Solid Waste Disposal Facility: any facility involved in the disposal of solid waste, as defined in N.C.G.S. §130A-290(a)(35).

Solid Waste Disposal Site: as defined in N.C.G.S. §130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

Special Flood Hazard Area (SFHA): the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Section 15-272 of this article.

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

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

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

- (a) Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Substantial Improvement: any combination of repairs, reconstruction, rehabilitation, addition, or other

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

- (a) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

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

Temperature Controlled: having the temperature regulated by a heating and/or cooling system, built-in or appliance.

Variance: a grant of relief from the requirements of this article.

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

Water Surface Elevation (WSE): the height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

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

PART II. GENERAL PROVISIONS.

Section 15-271. Lands to which this article applies.

This article shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs) as allowed by law, of the City of New Bern.

Section 15-272. Basis for establishing the special flood hazard areas.

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated June 19, 2020 for Craven County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance, and all revisions thereto after January 1, 2021. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of the City of New Bern are also adopted by reference and declared a part of this article. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months.

Section 15-273. Establishment of floodplain development permit.

A Floodplain Development Permit shall be required in conformance with the provisions of this article prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Section 15-272 of this article.

Section 15-274. Compliance.

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

Section 15-275. Abrogation and greater restrictions.

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

Section 15-276. Interpretation.

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

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

Section 15-277. Warning and disclaimer of liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This article does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the City of New Bern or by any

officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

Section 15-278. Penalties for violation.

Violation of the provisions of this article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of New Bern from taking such other lawful action as is necessary to prevent or remedy any violation.

Sections 15-279 – 15-282. Reserved.

PART III. ADMINISTRATION.

Section 15-283. Designation of floodplain administrator.

The Chief Building Inspector, hereinafter referred to as the "Floodplain Administrator," or their designee, is hereby appointed to administer and implement the provisions of this article. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this article, the Floodplain Administrator shall be responsible for the coordination and community's overall compliance with the National Flood Insurance Program and the provisions of this article.

Section 15-284. Floodplain development application, permit and certification requirements.

- (a) *Application Requirements.* Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a Floodplain Development Permit:
- (1) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - a. The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - b. The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 15-272, or a statement that the entire lot is within the Special Flood Hazard Area;

- c. Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 15-272;
 - d. The boundary of the floodway(s) or non-encroachment area(s) as determined in Section 15-272;
 - e. The Base Flood Elevation (BFE) where provided as set forth in Section 15-272; Section 15-285; or Section 15-299;
 - f. The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
 - g. The boundary and designation date of the Coastal Barrier Resource System (CBRS) area or Otherwise Protected Areas (OPA), if applicable.
- (2) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
- a. Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
 - b. Elevation in relation to NAVD 1988 to which any non-residential structure will be floodproofed;
 - c. Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed;
- (3) If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.
- (4) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this article are met. These details include but are not limited to:
- a. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);
 - b. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Section 15-297(4)(c) when solid foundation perimeter walls are used in Zones A, AE, AH, AO, A99; and
 - c. The following, in Coastal High Hazard Areas, in accordance with the provisions of Section 15-297(4)(e) and Section 15-302 and (Section 15-303 if applicable):
 - 1. V-Zone Certification with accompanying plans and specifications verifying the engineered structure and any breakaway wall designs; In addition, prior to the Certificate of Compliance/Occupancy issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications and plans for VE Zone construction;
 - 2. Plans for open wood latticework or insect screening, if applicable; and
 - 3. Plans for non-structural fill, if applicable. If non-structural fill is proposed, it must be demonstrated through coastal engineering analysis that the proposed fill would

not result in any increase in the BFE or otherwise cause adverse impacts by wave ramping and deflection on to the subject structure or adjacent properties.

- (5) Usage details of any enclosed areas below the lowest floor.
- (6) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
- (7) Certification that all other Local, State and Federal permits required prior to Floodplain Development Permit issuance have been received.
- (8) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Section 15-297(6) and (7) of this article are met.
- (9) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(b) *Permit Requirements.* The Floodplain Development Permit shall include, but not be limited to:

- (1) A complete description of all the development to be permitted under the Floodplain Development Permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
- (2) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Section 15-272.
- (3) The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.
- (4) The Regulatory Flood Protection Elevation required for the protection of all public utilities.
- (5) All certification submittal requirements with timelines.
- (6) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of Section 15-301 have been met.
- (7) The flood openings requirements, if in Zones A, AE, AH, AO, or A99.
- (8) Limitations of below BFE enclosure uses. (i.e., parking, building access and limited storage only).
- ~~(9) A statement, if in Zone VE, that there shall be no alteration of sand dunes which would increase potential flood damage. N/A~~
- (9) A statement, if in Zone VE, that there shall be no fill used for structural support.
- (10) A statement, that all materials below BFE/RFPE must be flood resistant materials.

(c) *Certification Requirements.*

- (1) Elevation Certificates

a. An Elevation Certificate (FEMA Form 086-0-33) is required prior to the actual start of

any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit.

- b. A final Finished Construction Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. The Finished Construction Elevation Certificate certifier shall provide at least 2 photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3 inches by 3 inches. Digital photographs are acceptable.

(2) Floodproofing Certificate.

- a. If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- b. A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the

floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing Certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.

- (3) If a manufactured home is placed within Zones A, AE, AH, AO, A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Section 15-297(3)(b).
- (4) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a Floodplain Development Permit.
- (5) Certification Exemptions. The following structures, if located within Zones A, AE, AH, AO, A99, are exempt from the elevation/floodproofing certification requirements specified in items (1) and (2) of this subsection:
 - a. Recreational Vehicles meeting requirements of Section 15-297(6)(a);
 - b. Temporary Structures meeting requirements of Section 15-297(7); and
 - c. Accessory Structures that are 150 square feet or less or a minimal investment of \$5,000 or less and meeting requirements of Section 15-297(8).
- (6) A V-Zone Certification with accompanying design plans and specifications is required prior to issuance of a Floodplain Development permit within coastal high hazard areas. It shall be the duty of the permit applicant to submit to the Floodplain Administrator said certification to ensure the design standards of this article are met. A registered professional engineer or architect shall develop or review the structural design, plans, and specifications for construction and certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this article. This certification is not a substitute for an Elevation Certificate. In addition, prior to the Certificate of Compliance/Occupancy issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications and plans for VE Zone construction.

(d) Determinations for existing buildings and structures.

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Chief Building Inspector, shall:

- (1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
- (2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- (4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this article is required.

Section 15-285. Duties and responsibilities of the Floodplain Administrator.

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

- (1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this article have been satisfied.
- (2) Review all proposed development within Special Flood Hazard Areas to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (3) Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- (5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 15-301 are met.
- (6) Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Section 15-284(c).
- (7) Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Section 15-284(c).
- (8) Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of Section 15-284(c).
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered

professional engineer or architect in accordance with the provisions of Section 15-284(c) and Section 15-297(2).

- (10) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (11) When BFE data has not been provided in accordance with the provisions of Section 15-272, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to Section 15-299(2)(c), in order to administer the provisions of this article.
- (12) When BFE data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Section 15-272, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this article.
- (13) Permanently maintain all records that pertain to the administration of this article and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- (14) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- (15) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this article, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
- (16) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the Floodplain Development Permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any Floodplain Development Permit mistakenly issued in violation of an applicable State or local law may also be revoked.
- (17) Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

- (18) Follow through with corrective procedures of Section 15-286.
- (19) Review, provide input, and make recommendations for variance requests.
- (20) Maintain a repository for Letters of Map Change issued by FEMA.
- (21) Review revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

Section 15-286. Corrective procedures.

- (a) *Violations to be corrected.* When the Floodplain Administrator finds violations of applicable state and local laws; it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- (b) *Actions in Event of Failure to Take Corrective Action.* If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
 - (1) That the building or property is in violation of the floodplain management regulations;
 - (2) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
 - (3) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.
- (c) *Order to Take Corrective Action.* If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than one-hundred-eighty (180) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.
- (d) *Appeal.* Any owner who has received an order to take corrective action may appeal the order to the Board of Adjustment by giving notice of appeal in writing to the Floodplain Administrator and the City Clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The Board of Adjustment shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- (e) *Failure to Comply with Order.* If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the Board of Adjustment following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58 and shall be punished at the discretion of the court.

Section 15-287. Variance procedures.

- (a) The City Board of Adjustment as established by The City of New Bern, hereinafter referred to as the "appeal board," shall hear and decide requests for variances from the requirements of this article.
- (b) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.
- (c) Variances may be issued for:
 - (1) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
 - (2) Functionally dependent facilities if determined to meet the definition as stated in Section 15-270 of this article, provided provisions of Section 15-287(i)(2), (3), and (5) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
 - (3) Any other type of development provided it meets the requirements of this Section.
- (d) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this article, and:
 - (1) The danger that materials may be swept onto other lands to the injury of others;
 - (2) The danger to life and property due to flooding or erosion damage;
 - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (4) The importance of the services provided by the proposed facility to the community;
 - (5) The necessity to the facility of a waterfront location as defined under Section 15-270 of this article as a functionally dependent facility, where applicable;
 - (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (7) The compatibility of the proposed use with existing and anticipated development;
 - (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (e) A written report addressing each of the above factors shall be submitted with the application for a variance.

- (f) Upon consideration of the factors listed above and the purposes of this article, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this article.
- (g) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property.
- (h) The Floodplain Administrator shall maintain the records of all appeal actions.
- (i) Conditions for Variances:
 - (1) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
 - (2) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
 - (3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (4) Variances shall only be issued prior to development permit approval.
 - (5) Variances shall only be issued upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship; and
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (j) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met:
 - (1) The use serves a critical need in the community.
 - (2) No feasible location exists for the use outside the Special Flood Hazard Area.
 - (3) The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.
 - (4) The use complies with all other applicable federal, state and local laws.
 - (5) The City of New Bern has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

Sections 15-288 to 15-295. Reserved.

PART IV. PROVISIONS FOR FLOOD HAZARD REDUCTION.

Section 15-296. General standards.

In all Special Flood Hazard Areas, the following provisions are required:

- (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, Flood Damage-Resistant Materials Requirements.
- (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (4) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, water heaters. For electric outlets/switches, refer to Section 15-296(16).
 - a. Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
 - b. Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (8) Nothing in this article shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this article and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this article.
- (9) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Section 15-287(j). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed

to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Section 15-284(c).

- (10) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- (11) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (12) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (13) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (14) When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
- (15) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.
- (16) No more than four (4) electrical outlets and no more than four (4) electrical switches may be permitted below RFE unless required by building code.

Section 15-297. Specific standards.

In all Special Flood Hazard Areas where BFE data has been provided, as set forth in Section 15-272, or Section 15-299, the following provisions, in addition to the provisions of Section 15-296, are required:

- (1) *Residential Construction.* New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Section 15-270 of this article.
- (2) *Non-Residential Construction.* New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Section 15-270 of this article. Structures located in Zones A, AE, AH, AO, A99 may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Section 15-304(2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section 15-284(c), along with the operational plan and the inspection and maintenance plan.

(3) *Manufactured Homes.*

- a. New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Section 15-270 of this article.
- b. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to N.C.G.S. §143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
- c. All enclosures or skirting below the lowest floor meet the requirements of Section 15-297(4).
- d. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

(4) *Elevated Buildings.* Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor or below the lowest horizontal structural member in VE zones:

- a. Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
- b. Areas over 100 square feet shall not be temperature-controlled or conditioned; However, areas under 100 square feet intended to be used as entry to a living area may be temperature-controlled or conditioned.
- c. Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and
- d. Shall include, in Zones A, AE, AH, AO, A99 flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
 1. A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 2. The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;

3. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to directly automatically enter and exit;
 4. The bottom of all required flood openings shall be no higher than one (1) foot above the higher of the interior or exterior adjacent grade;
 5. Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
 6. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.
- e. Shall, in Coastal High Hazard Areas (Zone VE), meet the requirements of Section 15-302.
 - f. Property owners shall be required to execute and record a non-conversion restrictive covenant prior to issuance of a building permit declaring that any area greater than 100 square feet below the lowest floor shall not be improved, finished, or otherwise converted to habitable space. The City of New Bern will have the right to inspect the enclosed area at the discretion of the Floodplain Administrator. This restrictive covenant shall be recorded with the Craven County Register of Deeds and shall transfer with the property in perpetuity.
 - g. Release of restrictive covenant. If a property which is bound by a non-conversion restrictive covenant is modified to remove enclosed areas below BFE, then the owner may request release of the restrictive covenant after staff inspection and submittal of confirming documentation.

(5) *Additions/Improvements.*

- a. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 1. Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
 2. A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.
- b. Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction.
- c. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure

are:

1. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.
 2. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- d. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one (1) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started, must comply with the standards for new construction. For each building or structure, the one (1) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this article. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:
1. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.
 2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
- (6) *Recreational Vehicles*. Recreational vehicles shall either:
- a. *Temporary Placement*.
 1. Be on site for fewer than 180 consecutive days; or
 2. Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and has no permanently attached additions.)
 - b. *Permanent Placement*. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.
- (7) *Temporary Non-Residential Structures*. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:
- a. A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months; renewable up to one (1) year;
 - b. The name, address, and phone number of the individual responsible for the removal of the temporary structure;

- c. The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
- d. A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
- e. Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

(8) *Accessory Structures.* When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- a. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
- b. Accessory structures shall not be temperature-controlled;
- c. Accessory structures shall be designed to have low flood damage potential;
- d. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- e. Accessory structures shall be firmly anchored in accordance with the provisions of Section 15-296(l);
- f. Accessory structures, regardless of the size or cost, shall not be placed below elevated buildings in V and VE Zones;
- g. All service facilities such as electrical shall be installed in accordance with the provisions of Section 15-296(4); and
- h. Flood openings to facilitate automatic equalization of flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Section 15-297(4)(d).

An accessory structure with a footprint less than 150 square feet or that is a minimal investment of \$5,000 or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Section 15-297(2). Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 15-284(c).

(9) *Tanks.* When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- a. *Underground tanks.* Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
- b. *Above-ground tanks, elevated.* Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
- c. *Above-ground tanks, not elevated.* Above-ground tanks that do not meet the elevation requirements of Section 15-297(2) of this ordinance shall not be permitted in V or VE

Zones. Tanks may be permitted in other flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.

- d. Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
 - 1. At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 - 2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(10) *Other Development.*

- a. Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 15-301 of this article.
- b. Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 15-301 of this article.
- c. Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 15-301 of this article.
- d. Commercial storage facilities are not considered "limited storage" as noted in this article and shall be protected to the Regulatory Flood Protection Elevation as required for commercial structures.

Section 15-298. Reserved.

Section 15-299. Standards for floodplains without established base flood elevations.

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 15-272, where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of Section 15-296, shall apply:

- (1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that

such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

- (2) The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:
- a. When BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with the standards in Sections 15-296 and 15-297.
 - b. When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Sections 15-297 and 15-301.
 - c. All subdivision, manufactured home park and other development proposals shall provide BFE data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with Section 15-272 and utilized in implementing this article.
 - d. When BFE data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Section 15-270. All other applicable provisions of Section 15-297 shall also apply.

Section 15-300. Standards for riverine floodplains with Base Flood Elevations but without established floodways or non-encroachment areas.

Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- (1) Standards of Sections 15-296 and 15-297; and
- (2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point.

Section 15-301. Floodways and non-encroachment areas.

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Section 15-272. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Sections 15-296 and 15-297,

shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - a. It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or
 - b. A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six (6) months of completion of the proposed encroachment.
- (2) If Section 15-301(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this article.
- (3) No Manufactured homes may be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision provided the following provisions are met:
 - a. The anchoring and the elevation standards of Section 15-297(3); and
 - b. The "no encroachment" standards of Section 15-301(1) are met.
 - c. Compliance with Article VIII of this Ordinance.

Section 15-302. Coastal high hazard area (zone VE).

Coastal High Hazard Areas are Special Flood Hazard Areas established in Section 15-272 and designated as Zones VE. These areas have special flood hazards associated with high velocity waters from storm surges or seismic activity and, therefore, all new construction and substantial improvements shall meet the following provisions in addition to the provisions of Sections 15-296 and 15-297:

- (1) All new construction and substantial improvements shall:
 - a. Be located landward of the reach of mean high tide;
 - b. Comply with all applicable CAMA setback requirements.
- (2) All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in Coastal High Hazard Areas to satisfy the regulatory flood protection elevation requirements.
- (3) All new construction and substantial improvements shall have the space below the bottom of the lowest horizontal structural member of the lowest floor either be free of obstruction or constructed with breakaway walls, open wood latticework or insect screening, provided they are not part of the structural support of the building and are designed so as to breakaway, under abnormally high tides or wave action without causing damage to the elevated portion of the building or supporting foundation system or otherwise jeopardizing the structural integrity of

the building. The following design specifications shall be met:

- a. Material shall consist of open wood or plastic lattice having at least 40 percent of its area open, or
 - b. Insect screening; or
 - c. Breakaway walls shall meet the following design specifications:
 1. Breakaway walls shall have flood openings that allow for the automatic entry and exit of floodwaters to minimize damage caused by hydrostatic loads, per Section 15-297(4)(d)(1.-6.); and
 2. Design safe loading resistance shall be not less than 10 nor more than 20 pounds per square foot; or
 3. Breakaway walls that exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by State or local codes) shall be certified by a registered professional engineer or architect that the breakaway wall will collapse from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). The water loading values used shall be those associated with the base flood. The wind loading values used shall be those required by the North Carolina State Building Code.
- (4) All new construction and substantial improvements shall be securely anchored to pile or column foundations. All pilings and columns and the structure attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
- a. Water loading values used shall be those associated with the base flood.
 - b. Wind loading values used shall be those required by the current edition of the North Carolina State Building Code.
- (5) For concrete pads, including patios, decks, parking pads, walkways, driveways, pool decks, etc., the following is required:
- a. Shall be structurally independent of the primary structural foundation system of the structure and shall not adversely affect structures through redirection of floodwaters or debris; and
 - b. Shall be constructed to breakaway cleanly during design flood conditions, shall be frangible, and shall not produce debris capable of causing damage to any structure. (The installation of concrete in small segments (approximately 4 feet x 4 feet) that will easily break up during the base flood event, or score concrete in 4 feet x 4 feet maximum segments is acceptable to meet this standard); and
 - c. Reinforcing, including welded wire fabric, shall not be used in order to minimize the potential for concreted pads being a source of debris; and
 - d. Pad thickness shall not exceed 4 inches; or

- e. Provide a Design Professional's certification stating the design and method of construction to be used meet the applicable criteria of this section.
- (6) For swimming pools and spas, the following is required:
- a. Be designed to withstand all flood-related loads and load combinations.
 - b. Be elevated so that the lowest horizontal structural member is elevated above the RFPE; or
 - c. Be designed and constructed to break away during design flood conditions without producing debris capable of causing damage to any structure; or
 - d. Be sited to remain in the ground during design flood conditions without obstructing flow that results in damage to any structure.
 - e. Registered design professionals must certify to local officials that a pool or spa beneath or near a VE Zone building will not be subject to flotation or displacement that will damage building foundations or elevated portions of the building or any nearby buildings during a coastal flood.
 - f. Pool equipment shall be located above the RFPE whenever practicable. Pool equipment shall not be located beneath an elevated structure.
- (7) All elevators, vertical platform lifts, chair lifts, etc., the following is required :
- a. Elevator enclosures must be designed to resist hydrodynamic and hydrostatic forces as well as erosion, scour, and waves.
 - b. Utility equipment in Coastal High Hazard Areas (VE Zones) must not be mounted on, pass through, or be located along breakaway walls.
 - c. The cab, machine/equipment room, hydraulic pump, hydraulic reservoir, counter weight and roller guides, hoist cable, limit switches, electric hoist motor, electrical junction box, circuit panel, and electrical control panel are all required to be above RFPE. When this equipment cannot be located above the RFPE, it must be constructed using flood damage-resistant components.
 - d. Elevator shafts/enclosures that extend below the RFPE shall be constructed of reinforced masonry block or reinforced concrete walls and located on the landward side of the building to provide increased protection from flood damage. Drainage must be provided for the elevator pit.
 - e. Flood damage-resistant materials can also be used inside and outside the elevator cab to reduce flood damage. Use only stainless steel doors and door frames below the BFE. Grouting in of door frames and sills is recommended.
 - f. If an elevator is designed to provide access to areas below the BFE, it shall be equipped with a float switch system that will activate during a flood and send the elevator cab to a floor above the RFPE.
- (8) Accessory structures, regardless of size or cost, shall not be permitted below elevated structures.
- (9) Property owners shall be required to execute and record a non-conversion restrictive covenant prior to issuance of a building permit declaring that the area below the lowest floor, or the

detached accessory building shall not be improved, or otherwise converted. The City of New Bern will have the right to inspect the enclosed area at the discretion of the Floodplain Administrator. This agreement shall be recorded with the Craven County Register of Deeds and shall transfer with the property in perpetuity.

- (10) Release of restrictive covenant. If a property which is bound by a non-conversion restrictive covenant is modified to remove enclosed areas below BFE, then the owner may request release of the restrictive covenant after staff inspection and submittal of confirming documentation.
- (11) A registered professional engineer or architect shall certify that the design, specifications, and plans for construction are in compliance with the provisions of Section 15-284 and Section 15-302(3) and (4), on the current version of the North Carolina V-Zone Certification form or equivalent local version. In addition, prior to the Certificate of Compliance/Occupancy issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications and plans for VE Zone construction.
- (12) *Fill/Grading*
 - a. Minor grading and the placement of minor quantities of nonstructural fill may be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios, and walkways.
 - b. The fill material must be similar and consistent with the natural soils in the area.
 - c. The placement of site-compatible, non-structural fill under or around an elevated building is limited to two (2) feet. Fill greater than two (2) feet must include an analysis prepared by a qualified registered design professional demonstrating no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures.
 - d. Nonstructural fill with finished slopes that are steeper than five (5) units horizontal to one (1) unit vertical shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave run up and wave reflection that would increase damage to adjacent elevated buildings and structures.
 - e. Structural fill is prohibited in the VE Zone.
- ~~(13) There shall be no alteration of sand dunes or mangrove stands which would increase potential flood damage. N/A~~
- (13) No manufactured homes shall be permitted.
- (14) Recreational vehicles may be permitted in Coastal High Hazard Areas provided that they meet the Recreational Vehicle criteria of Section 15-297(6)(a).
- (15) A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the Regulatory Flood Protection Elevation and any supporting members that extend below the Regulatory Flood Protection Elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck. The increased loads must be considered in the design of the primary structure and included in the V-Zone Certification required under Section 15-284(c)(6).

- (16) A deck that is located below the Regulatory Flood Protection Elevation shall be structurally independent from buildings or structures and their foundation systems and shall be designed and constructed to remain intact and in place during design flood conditions.
- (17) In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:
 - a. Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
 - b. Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters.
 - c. Docks, piers, and similar structures.

Section 15-303. Standards for Coastal-A Zones (Zone CAZ) LiMWA

All development within the CAZ/LiMWA Zone shall meet the requirements of Section 15-302, with the following exceptions:

- (1) All new construction and substantial improvements shall not be required to be constructed on pile or column foundations.
- (2) Structural fill is prohibited in the CAZ/LiMWA Zone.

Section 15-304. Standards for areas of shallow flooding (Zone AO).

Located within the Special Flood Hazard Areas established in Section 15-272, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Sections 15-296 and 15-297, all new construction and substantial improvements shall meet the following requirements:

- (1) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade, or at least two (2) feet above the highest adjacent grade if no depth number is specified.
- (2) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Section 15-304(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Section 15-284(c) and Section 15-297(2).
- (3) Adequate drainage paths shall be provided around structures on slopes to guide floodwaters

around and away from proposed structures.

Section 15-305. Standards for areas of shallow flooding (Zone AH).

Located within the Special Flood Hazard Areas established in Section 15-272 are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to Sections 15-296 and 15-297, all new construction and substantial improvements shall meet the following requirements:

- (1) Adequate drainage paths shall be provided around structures on slopes to guide floodwaters around and away from proposed structures.

Sections 15-306 to 15-309. Reserved.

PART V. LEGAL STATUS PROVISIONS

Section 15-310. Effect on rights and liabilities under the existing flood damage prevention ordinance.

This article in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted May 4, 1978, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this article shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of The City of New Bern enacted May 4, 1978, as amended, which are not reenacted herein are repealed.

The date of the initial Flood Damage Prevention Ordinance for Craven County is April 6, 1987.

Section 15-311. Effect upon outstanding floodplain development permits.

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this article; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this article.

Sections 15-312 to 15-320. Reserved.

SEVERABILITY.

If any section, clause, sentence, or phrase of the Article is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Article.

EFFECTIVE DATE.

This article shall become effective June 18, 2020.

ADOPTION CERTIFICATION.

I hereby certify that this is a true and correct copy of the Flood Damage Prevention Ordinance as adopted by the Board of Aldermen of The City of New Bern, North Carolina, on the _____ day of _____, 2020.

WITNESS my hand and the official seal of _____, this the _____ day of _____, 2020.

(signature)

AGENDA ITEM COVER SHEET

Agenda Item Title:

Ordinance annexing contiguous property owned by Robert Yulick located at 203 Riverside Drive in Number Two Township

Date of Meeting: 5/12/2020	Ward # if applicable: 1
Department: City Attorney	Person Submitting Item: Scott Davis
Call for Public Hearing: <input type="checkbox"/> Yes <input type="checkbox"/> No *Hearing continued from 4/14/20	Date of Public Hearing: 5/12/2020

Explanation of Item:	Ordinance annexing contiguous property owned by Robert Yulick located at 203 Riverside Drive in Number Two Township, consisting of 0.40 acre
Actions Needed by Board:	Adopt ordinance
Backup Attached:	Annexation ordinance

Is item time sensitive? <input type="checkbox"/> Yes <input type="checkbox"/> No
Will there be advocates/opponents at the meeting? <input type="checkbox"/> Yes <input type="checkbox"/> No

Cost of Agenda Item: -0-
If this requires an expenditure, has it be budgeted and are funds available and certified by the Finance Director? <input type="checkbox"/> Yes <input type="checkbox"/> No

Additional Notes:



MEMORANDUM

TO: Mayor Dana Outlaw, City of New Bern Board of Aldermen

FROM: Jeff Ruggieri, Director Development Services

DATE: March 26, 2020

SUBJECT: Conduct a Public Hearing and Consider Adopting an Ordinance for the annexation request at 203 Riverside Drive.

Background

Property owner, Robert A. Yulick, is seeking annexation to the City of New Bern a parcel of land consisting of 0.40 acres, more or less, which said parcel is located at 203 Riverside Drive in Number Two (2) Township, Craven County.

Recommendation

Conduct a Public Hearing and Consider Adopting an Ordinance for the annexation request by property owner; Robert A. Yulick for property located at 203 Riverside Drive in Number Two (2) Township, Craven County Tax Parcel ID 2-036-081.

Please contact Jeff Ruggieri at 639-7587 should you have any questions or need additional information.

Prepared by:

Michael Scott Davis
DAVIS HARTMAN WRIGHT, PLLC
209 Pollock Street
New Bern, NC 28560

AN ORDINANCE ANNEXING TO THE CITY OF NEW BERN PROPERTY OF ROBERT A. YULICK, CONSISTING OF 0.40 ACRES, MORE OR LESS, LOCATED AT 203 RIVERSIDE DRIVE IN NUMBER TWO (2) TOWNSHIP

THAT WHEREAS, Robert A. Yulick filed a petition requesting the annexation to the City of New Bern of real property he owns located at 203 Riverside Drive in Number Two (2) Township, Craven County, North Carolina, said property being more particularly described on Exhibit A attached hereto and incorporated herein by reference, consisting of 0.40 acres, more or less, the boundaries of which are illustrated on a map prepared by City of New Bern Development Services Department, a copy of which is attached hereto as Exhibit B and incorporated herein by reference; and

WHEREAS, said petition was referred to the City Clerk for an investigation as to the sufficiency thereof; and

WHEREAS, the City Clerk certified the sufficiency of the petition in writing to the Board of Aldermen; and

WHEREAS, the Board of Aldermen called for a public hearing on the question of annexation of said territory; and

WHEREAS, pursuant thereto, notice of a public hearing to be held at 6:00 p.m. on April 14, 2020, in the City Hall Courtroom was duly caused to be published as required by law in the *Sun Journal*, a newspaper having general circulation in the City; and

WHEREAS, on April 14, 2020, at 6:00 p.m., a public hearing on the question of

annexation of the subject area was held by the Board of Aldermen of the City of New Bern, at which time all interested parties were given an opportunity to be heard; and

WHEREAS, it was then determined by the Board of Aldermen that the petition filed met the requirements of the General Statutes of North Carolina, and that the area described in the petition should be annexed.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

Section 1. That the subject petition meets the requirements of §160A-31 of the General Statutes of North Carolina.

Section 2. That the real property owned by Robert A. Yulick located at 203 Riverside Drive in Number Two (2) Township, Craven County, North Carolina, said property being more particularly described on Exhibit A attached hereto and incorporated herein by reference, consisting of 0.40 acres, more or less, the boundaries of which are illustrated on a map prepared by City of New Bern Development Services Department, a copy of which is attached hereto and incorporated herein by reference as Exhibit B, be and the same is hereby annexed to the City of New Bern.

Section 3. That the effective date of annexation shall be midnight on April 14, 2020.

Section 4. That the area to be annexed be and the same is hereby made a part of Ward One of the City of New Bern.

Section 5. That this ordinance, together with a plat reflecting the area being annexed, shall be recorded forthwith in the Office of the Register of Deeds of Craven County.

ADOPTED THIS 12th DAY OF MAY, 2020.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

EXHIBIT A

All that certain tract or parcel of land lying and being situate in Number Two (2) Township, Craven County, North Carolina, and being more particularly described as follows:

Being that certain lot or parcel of land lying and being situate in Number Two (2) Township, Craven County, North Carolina, designated as Lot Number Two (2) in Block A, in that certain subdivision known as Riverview Park, a map or plat of which said subdivision appears of record in the Office of the Register of Deeds of Craven County in Map Book 2 at Page 69 to which said map reference is hereby made for a more particular description of the aforesaid Lot Number Two (2) in Block A hereby conveyed.

EXHIBIT B



AGENDA ITEM COVER SHEET

Agenda Item Title:

Conduct a Public Hearing and Consider Adopting an Ordinance for the Rezoning of 2409 Oaks Road from R-6S to C-4.

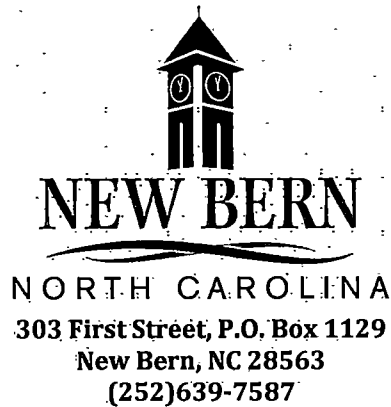
Date of Meeting: 05/12/2020	Ward # if applicable: Ward 5
Department: Development Services	Person Submitting Item: Jeff Ruggieri, Director of Development Services
Call for Public Hearing: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No *Hearing continued from 4/14/20	Date of Public Hearing: 5/12/2020

Explanation of Item:	Nasr Algaradi is requesting to rezone 2409 Oaks Road from R-6S Residential District to C-4 Neighborhood Business District.
Actions Needed by Board:	Conduct a Public Hearing and Consider Adopting an Ordinance
Backup Attached:	Memo, Ordinance, Consistency or Inconsistency Statements, Map

Is item time sensitive? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will there be advocates/opponents at the meeting? <input type="checkbox"/> Yes <input type="checkbox"/> No

Cost of Agenda Item: N/A
If this requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Additional Notes:



MEMORANDUM

TO: Mayor Dana Outlaw, City of New Bern Board of Aldermen

FROM: Jeff Ruggieri, Director Development Services

DATE: March 25, 2020

SUBJECT: Conduct a Public Hearing and Consider Adopting an Ordinance for the Rezoning of 2409 Oaks Road from R-6S to C-4.

Nasr Algaradi has requested consideration of an application to rezone a 0.25+/- acre tract located at 2409 Oaks Rd. The applicant has proposed to rezone the property from R-6S Residential District to C-4 Neighborhood Business District. On May 7th 2019, Mr. Algaradi came before the Planning and Zoning Board on a request to rezone this property to C-3 Commercial District, while the Planning and Zoning Board recommended approval to the Board of Aldermen, the Board of Aldermen denied this request to rezone the property due to the perceived impacts a vape/tobacco shop would have to the surrounding neighborhood. Mr. Algaradi has since amended his plans to instead use this property as a convenience store in the C-4 Neighborhood Business District. The C-4 Neighborhood Business District does not permit the use of the property as a tobacco/vape shop, thus addressing the concerns of neighboring property owners.

The parcel has historically been utilized as a commercial establishment and will provide neighborhood amenities for the surrounding residential area. In addition, commercially zoned parcels are directly across the street from the requested site.

During their March 3, 2020 meeting the Planning and Zoning Board unanimously voted in favor on the rezoning request from Mr. Algaradi.

Please contact Jeff Ruggieri at 639-7587 should you have questions or need additional information.

AN ORDINANCE TO AMEND THE ZONING MAP OF THE CITY OF NEW BERN SO AS TO CHANGE THE ZONING CLASSIFICATION OF PROPERTY OWNED BY NASR ABDO ALI ALGARADI CONSISTING OF APPROXIMATELY 0.25 ACRE LOCATED AT 2409 OAKS ROAD FROM THE ZONING CLASSIFICATION OF R-6S RESIDENTIAL DISTRICT TO C-4 NEIGHBORHOOD BUSINESS DISTRICT

THAT WHEREAS, Nasr Abdo Ali Algaradi owns real property at located 2409 Oaks Road in the City of New Bern, consisting of approximately 0.25 acre, more or less, and an application has been made to change the zoning classification of the subject property from R-6S Residential District to C-4 Neighborhood Business District consistent with the attached plat entitled “REZONING CASE: 2409 OAKS ROAD – Approx. 0.25+- Acres: PID: 8-019-008” prepared by the Development Services Department of the City of New Bern; and

WHEREAS, the Planning and Zoning Board unanimously recommended that said request be approved; and

WHEREAS, the Board of Aldermen of the City of New Bern conducted a duly advertised public hearing with respect to the proposed amendment on April 14, 2020, at which time all interested parties were given an opportunity to be heard; and

WHEREAS, the Board of Aldermen of the City of New Bern deems it advisable and in the public interest to effect said change, as the requested C-4 Neighborhood Business District classification is consistent with the City Land Use Plans and nearby land uses.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

Section 1. That the zoning map of the City of New Bern be and the same is hereby amended by changing the zoning classification of the subject property owned by Nasr Abdo Ali Algaradi located at 2409 Oaks Road in the City of New Bern, consisting of 0.25 acres, more or less, from R-6S Residential District to C-4 Neighborhood Business District as more specifically shown on the plat entitled “REZONING CASE: 2409 OAKS ROAD – Approx. 0.25+- Acres: PID: 8-019-008” prepared by the Development Services Department of the City of New Bern, a copy of which is attached hereto and incorporated herein by reference.

Section 2. That the Board deems it in the public interest to rezone the subject property consistent with the attached plat as the requested C-4 Neighborhood Business District classification is consistent with the City Land Use Plans and nearby land uses.

Section 3. That this ordinance shall be in full force and effect from and after its adoption and publication as required by law.

ADOPTED THIS 12th DAY OF MAY, 2020.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

Craven County Parcel ID #8-019-008

STATEMENT OF ZONING CONSISTENCY WITH ADOPTED PLANS

The Board of Aldermen of the City of New Bern finds the action to rezone Craven County Parcel ID #8-019-008 to C-4 Neighborhood Business District is reasonable and in the public interest, and consistent with the City Land Use Plans and nearby land uses. In that:

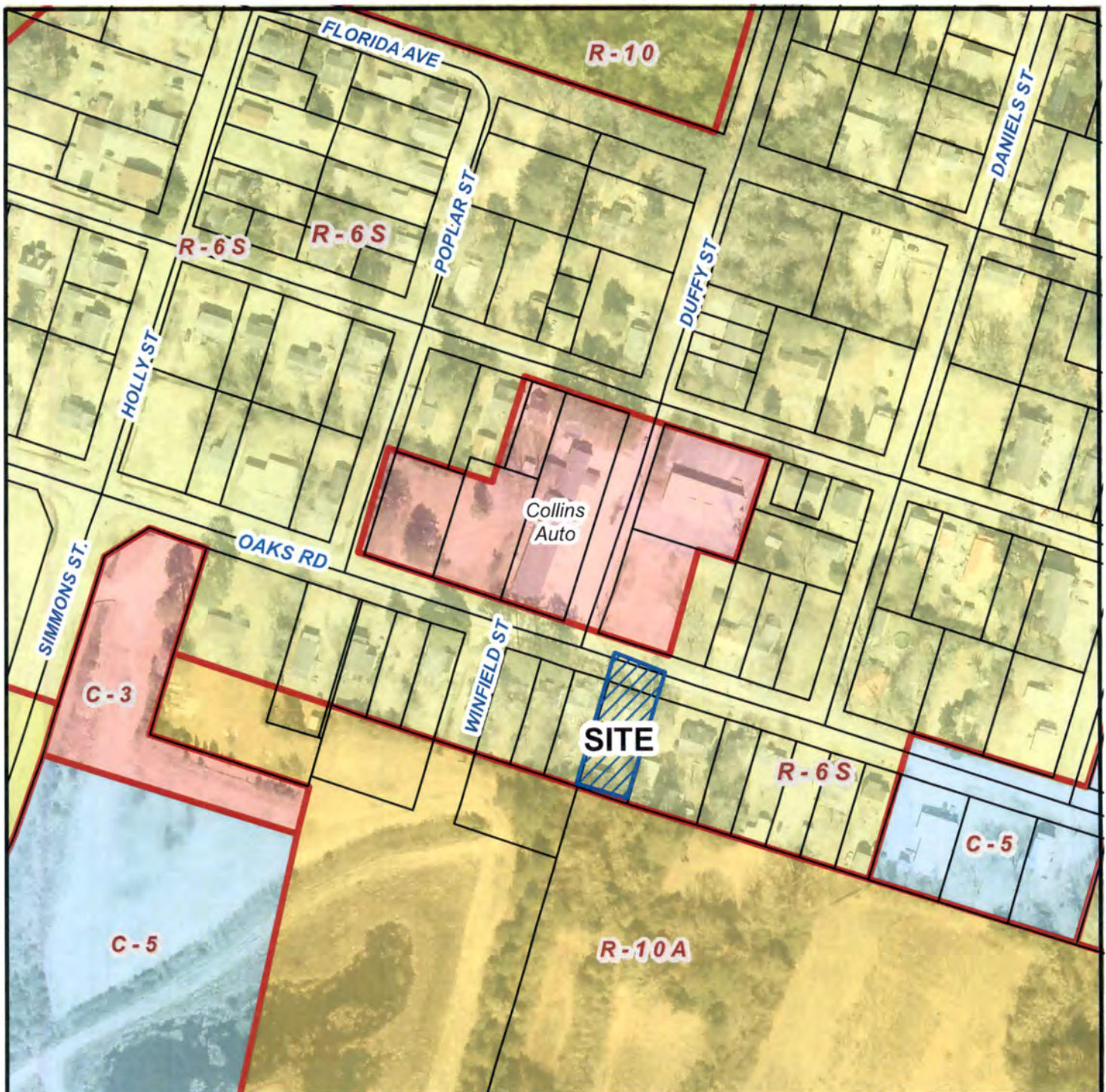
1. The C-4 Neighborhood Business District is deemed to be compatible with the "Developed" designation indicated in the Future Land Use Map found in the 2010 CAMA Regional Land Use Plan.
2. The proposed C-4 Neighborhood Business District is deemed to be compatible with adjacent zoning classifications.
3. The proposed C-4 Neighborhood Business District is deemed to be compatible with existing uses.

Craven County Parcel ID#8-019-008

STATEMENT OF ZONING INCONSISTENCY WITH ADOPTED PLANS

The Board of Aldermen of the City of New Bern finds the action to rezone Craven County Parcel ID #8-019-008 to C-4 Neighborhood Business District is not reasonable and is not in the public interest, and finds it to be inconsistent with the Regional Land Use Plan and nearby land uses in that the proposed C-4 Neighborhood Business District is incompatible with the uses permitted on nearby properties, and other properties in the vicinity. And that:

The proposed C-4 Neighborhood Business District would be incompatible with adjacent use and the Future Land Use Map found in the 2010 CAMA Regional Land Use Plan.



REZONING CASE: 2409 OAKS ROAD - Approx. 0.25+- Acres: PID: 8-019 -008

LOCATION: South side of Oaks Road near Duffy Street & east of Simmons Street



Existing Zone: R-6S
Proposed Zone: C-4

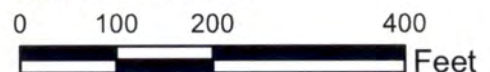


Zoning Boundaries

Imagery Early 2016

N CITY of NEW BERN
Development
Services

Scale: 1 = 200 ft



AGENDA ITEM COVER SHEET

Agenda Item Title:

City Manager's Presentation of Fiscal Year 2020-2021 Budget

Date of Meeting: May 12, 2020	Ward # if applicable: N/A
Department: Administration	Person Submitting Item: Mark Stephens
Call for Public Hearing: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date of Public Hearing:

Explanation of Item:	The recommended budget for Fiscal Year 2020-2021 will be distributed to the Board and a brief overview provided by the City Manager.
Actions Needed by Board:	Informational only at this point.
Backup Attached:	None

Is item time sensitive? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Will there be advocates/opponents at the meeting? <input type="checkbox"/> Yes <input type="checkbox"/> No

Cost of Agenda Item:
If this requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director? <input type="checkbox"/> Yes <input type="checkbox"/> No

Additional Notes: A budget hearing will be scheduled, as required by state statute.

AGENDA ITEM COVER SHEET

Agenda Item Title:

Resolution approving the sale of property at 208 Daniels Street owned by the City and Craven County

Date of Meeting: 5/12/2020	Ward # if applicable: 5
Department: City Attorney	Person Submitting Item: Scott Davis
Call for Public Hearing: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date of Public Hearing:

Explanation of Item:	Resolution to approve the sale of City/County owned property at 208 Daniels Street to Jimmie Mangol
Actions Needed by Board:	Adopt resolution
Backup Attached:	Resolution and Deed

Is item time sensitive? <input type="checkbox"/> Yes <input type="checkbox"/> No
Will there be advocates/opponents at the meeting? <input type="checkbox"/> Yes <input type="checkbox"/> No

Cost of Agenda Item: N/A
If this requires an expenditure, has it be budgeted and are funds available and certified by the Finance Director? <input type="checkbox"/> Yes <input type="checkbox"/> No

Additional Notes:

Aldermen

Sabrina Bengel
Jameesha Harris
Robert V. Aster
Johnnie Ray Kinsey
Barbara J. Best
Jeffrey T. Odham



NEW BERN
CITY OF NEW BERN

300 Pollock Street, P.O. Box 1129
New Bern, NC 28563-1129
(252) 636-4000

Dana E. Outlaw
Mayor

Mark A. Stephens
City Manager

Brenda E. Blanco
City Clerk

Mary M. Hogan
Director of Finance

MEMO TO: Mayor and Board of Aldermen
FROM: Brenda Blanco, City Clerk
DATE: Maya 1 2020
SUBJECT: Sale of 208 Daniels Street

The Board adopted a resolution on March 10, 2020 to initiate the upset bid process for 208 Daniels Street after receiving an offer of \$9,500 from Jimmie Mangol. The offer was advertised, but no upset bids were received. The tax value of the half-acre lot is \$18,000, and the offer represents more than 50% of the value. A mobile home is situated on the lot.

The property was acquired jointly by the City and County through tax foreclosure in August 2019. If the Board approves the sale, the County will receive approximately \$6,529.85 of the proceeds, and the City will receive approximately \$2,970.15. These estimates take into account the cost of publishing the legal advertisement.

/beb

RESOLUTION

THAT WHEREAS, the City of New Bern and Craven County have received an offer to purchase a parcel of property owned by the City and County identified as 208 Daniels Street, and being more particularly described herein; and

WHEREAS, the Board of Aldermen is authorized to sell the City's interest in the property pursuant to North Carolina General Statute §160A-269; and

WHEREAS, the offer to purchase was advertised as required by said statute; and

WHEREAS, the offer to purchase was in the sum of \$9,500.00 by Jimmie Mangol; that no increased bids were received; and

WHEREAS, the Board of Aldermen deems it advisable and in the best interest of the City to sell its interest in the subject property to the successful bidder and to convey its interest in said property by quitclaim deed.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

Section 1. That the last and highest bid of Jimmie Mangol in the sum of \$9,500.00 for said parcel identified as 208 Daniels Street, and being more particularly described herein, be and the same is hereby accepted as to the City's interest in said property, and the Mayor and the City Clerk be and they are hereby authorized and directed to execute a quitclaim deed to the purchaser for the City's interest in said property.

Section 2. That a copy of said quitclaim deed is attached hereto and incorporated herein by reference, and the original deed shall be delivered to said purchaser once the same has been executed on behalf of the City and County, upon payment of the purchase price.

Section 3. That the subject property is more particularly described as follows:

All that certain lot or parcel of land lying and being situate in Number Eight (8) Township, Craven County, North Carolina, and being more particularly described as follows:

All of Lots 4, 5 and 6 in Block I as shown in a general map of Oakside, plotted and planned by F. A. Fulcher, C.E. in April 1926 and which is recorded in the Office of the Register of Deeds of Craven County in Map Book 1, Page 88.

Being the same lots conveyed by deed dated May 5, 1947 from H. C. Armstrong et al. to John W. Odom and wife, Margaret P. Odom, and recorded in Book 412, Page 87, Craven County Registry.

Being also that same property conveyed to Craven County and the City of New Bern by Commissioner's Deed recorded August 28, 2019 in Book 3582 at Page 1242 of the Craven County Registry.

ADOPTED THIS 12th DAY OF MAY, 2020.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

Prepared by and return to:

Michael Scott Davis
DAVIS HARTMAN WRIGHT PLLC
209 Pollock Street
New Bern, NC 28560

Tax Parcel No. 8-018-063
Revenue Stamps: \$0.00

STATE OF NORTH CAROLINA

COUNTY OF CRAVEN

QUITCLAIM DEED

THIS QUITCLAIM DEED, made this 12th day of May, 2020, by and between the **CITY OF NEW BERN**, a municipal corporation of the State of North Carolina, and **CRAVEN COUNTY**, a body politic and corporate of the State of North Carolina (“Grantors”); to **JIMMIE MANGOL**, whose mailing address is 129 Lewis Farm Road, New Bern, NC 28560, (“Grantee”);

W I T N E S S E T H :

That said Grantors for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration to Grantors paid by the Grantee, the receipt of which is hereby acknowledged, have remised and released, and by these presents do remise, release and forever quitclaim unto the Grantee, Grantee’s heirs and assigns, the following described property, to wit:

SEE EXHIBIT A ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

The property herein conveyed does not include the primary residence of a Grantor.

DAVIS HARTMAN WRIGHT PLLC
Attorneys at Law
209 Pollock Street
New Bern, NC 28560

TO HAVE AND TO HOLD the above described lot or parcel of land and all privileges and appurtenances thereunto belonging to the Grantee, Grantee's heirs and assigns, free and discharged from all right, title, claim or interest of the said Grantors or anyone claiming by, through or under the Grantors.

IN TESTIMONY WHEREOF, the **CITY OF NEW BERN** has caused this instrument to be executed as its act and deed by its Mayor, attested by its City Clerk, and its seal to be hereunto affixed, all by the authority of its Board of Aldermen, and **CRAVEN COUNTY** has caused this instrument to be executed as its act and deed by the Chairman of its Board of Commissioners, attested by its Clerk, and its seal to be hereunto affixed, all by the authority of its Board of Commissioners, as of the day and year first above written.

CITY OF NEW BERN

(SEAL)

By: _____
DANA E. OUTLAW, MAYOR

ATTEST:

BRENDA E. BLANCO, CITY CLERK

STATE OF NORTH CAROLINA

COUNTY OF CRAVEN

I, _____, Notary Public in and for said County and State, do hereby certify that on the ____ day of May, 2020, before me personally appeared DANA E. OUTLAW, with whom I am personally acquainted, who, being by me duly sworn, says that he is the Mayor and that BRENDA E. BLANCO is the City Clerk for the City of New Bern, the municipal corporation described in and which executed the foregoing instrument; that he knows the common seal of said municipal corporation; that the seal affixed to the foregoing instrument is said common seal; that the name of the municipal corporation was subscribed thereto by the said Mayor; that the said common seal was affixed, all by order of the Board of Aldermen of said municipal corporation; and that the said instrument is the act and deed of said municipal corporation.

WITNESS my hand and official seal this the ____ day of May, 2020.

Notary Public

My Commission Expires:

CRAVEN COUNTY

(SEAL)

By: _____
Chairman, Craven County Board of
Commissioners

ATTEST:

Clerk, Craven County Board of
Commissioners

STATE OF NORTH CAROLINA

COUNTY OF CRAVEN

I, _____, Notary Public in and for said County and State, do hereby certify that on the ____ day of _____, 2020, before me personally appeared _____, with whom I am personally acquainted, who, being by me duly sworn, says that he is the Chairman of the Board of Commissioners for Craven County, and that NAN HOLTON is the Clerk of the Board of Commissioners for Craven County, the body politic and corporate described in and which executed the foregoing instrument; that he knows the common seal of said body politic and corporate; that the seal affixed to the foregoing instrument is said common seal; that the name of the body politic and corporate was subscribed thereto by the said Chairman; that the said common seal was affixed, all by order of the Board of Commissioners of said body politic and corporate; and that the said instrument is the act and deed of said body politic and corporate.

WITNESS my hand and official seal this the ____ day of _____, 2020.

Notary Public

My Commission Expires:

EXHIBIT A

All that certain lot or parcel of land lying and being situate in Number Eight (8) Township, Craven County, North Carolina, and being more particularly described as follows:

All of Lots 4, 5 and 6 in Block I as shown in a general map of Oakside, plotted and planned by F. A. Fulcher, C.E. in April 1926 and which is recorded in the Office of the Register of Deeds of Craven County in Map Book 1, Page 88.

Being the same lots conveyed by deed dated May 5, 1947 from H. C. Armstrong et al. to John W. Odom and wife, Margaret P. Odom, and recorded in Book 412, Page 87, Craven County Registry.

Being also that same property conveyed to Craven County and the City of New Bern by Commissioner's Deed recorded August 28, 2019 in Book 3582 at Page 1242 of the Craven County Registry.

Subject to restrictive covenants and easements of record.

NORTH CAROLINA

CRAVEN COUNTY

OFFER TO PURCHASE AND CONTRACT

Jimmie Mangol, as Buyer, hereby offers to purchase and **CRAVEN COUNTY and the CITY OF NEW BERN**, collectively as Seller, upon acceptance of said offer, agrees to sell and convey, all of that plot, piece or parcel of land described below (hereafter referred to as the "Property"), upon the following terms and conditions:

1. **REAL PROPERTY:** Located in or near the City of New Bern, Craven County, North Carolina, being known as and more particularly described as:

Street Address: 208 Daniels Street

Subdivision Name: 6

Tax Parcel ID No.: 8-018-083

Plat Reference: _____

Being all of that property more particularly described in Deed Book 3582, Page 1242 in the Craven County Registry.

2. **PURCHASE PRICE:** The purchase price is \$9,500.00 and shall be paid as follows:

(a) \$ 475.00, EARNEST MONEY DEPOSIT with this offer by ☒ cash ☐ bank check ☐ certified check to be held by Seller until the sale is closed, at which time it will be credited to Buyer, or until this contract is otherwise properly terminated. In the event this offer is not accepted, then all earnest monies shall be refunded to Buyer. In the event of breach of this contract by Seller, all earnest monies shall be refunded to Buyer upon Buyer's request. In the event of breach of this contract by Buyer, then all earnest monies shall be forfeited to Seller upon Seller's request, but such forfeiture shall not affect any other remedies available to Seller for such breach.

(b) \$ 9,025.00, BALANCE of the purchase price in cash or readily available funds at Closing.

3. **CONDITIONS:**

(a) This contract is not subject to Buyer obtaining financing.

(b) The Property must be in substantially the same or better condition at Closing as on the date of this offer, reasonable wear and tear excepted.

(c) The Property is being sold subject to all liens and encumbrances of record, if any.

(d) Other than as provided herein, the Property is being conveyed "as is".

(e) This contract is subject to the provisions of G.S. §160A-269. Buyer acknowledges that this contract is subject to certain notice provisions and the rights in others to submit upset bids in accordance therewith.

(f) Title shall be delivered at Closing by QUITCLAIM DEED

4. **SPECIAL ASSESSMENTS:** Seller makes no warranty or representation as to any pending or confirmed governmental special assessments for sidewalk, paving, water, sewer, or other improvements on or adjoining the Property, or pending or confirmed owners' association special assessments. Buyer shall take title subject to all pending assessments, if any.

5. **PAYMENT OF TAXES:** Any ad valorem taxes to which the Property is subject shall be paid in their entirety by Buyer.

6. **EXPENSES:** Buyer shall be responsible for all costs with respect to any title search, title insurance, recording of the deed, and its legal fees. Seller shall pay for preparation of a deed and all other documents necessary to perform Seller's obligations under this agreement, and for any excise tax (revenue stamps) required by law.

7. **EVIDENCE OF TITLE:** Not Applicable.

8. **CLOSING:** Closing shall be defined as the date and time of recording of the deed. All parties agree to execute any and all documents and papers necessary in connection with Closing and transfer of title within thirty (30) days of the granting of final approval of the sale by Craven County's Board of Commissioners and the City of New Bern's Board of Aldermen pursuant to G.S. §160A-269. The deed is to be made to Jimmie Mangol.

9. **POSSESSION:** Unless otherwise provided herein, possession shall be delivered at Closing.

10. **PROPERTY INSPECTION, APPRAISAL, INVESTIGATION:**

(a) This contract is not subject to inspection, appraisal or investigation, as the Property is being bought "as is." Seller makes no representation as to water, sewer, conditions, title, access, or fitness for any intended use.

(b) **CLOSING SHALL CONSTITUTE ACCEPTANCE OF THE PROPERTY IN ITS THEN EXISTING CONDITION.**

11. **RIGHT OF ENTRY, RESTORATION AND INDEMNITY:** Buyer and Buyer's agents and contractors shall not have the right to enter upon the Property for any purpose without advance written permission of the Seller. If such permission is given, Buyer will indemnify and hold Seller harmless from all loss, damage, claims, suits or costs, which shall arise out of any contract, agreement, or injury to any person or property as a result of any activities of Buyer and Buyer's agents and contractors relating to the Property. This indemnity shall survive this contract and any termination hereof.

12. **OTHER PROVISIONS AND CONDITIONS:** (ITEMIZE ALL ADDENDA TO THIS CONTRACT AND ATTACH HERETO.): None.

Buyer Initials J M Seller Initials _____

13. **RISK OF LOSS:** The risk of loss or damage by fire or other casualty prior to Closing shall be upon Seller.
14. **ASSIGNMENTS:** This contract may not be assigned without the written consent of all parties, but if assigned by agreement, then this contract shall be binding on the assignee and the assignee's heirs, successors or assigns (as the case may be).
15. **PARTIES:** This contract shall be binding upon and shall inure to the benefit of the parties, i.e., Buyer and Seller and their heirs, successors and assigns. As used herein, words in the singular include the plural and the masculine includes the feminine and neuter genders, as appropriate.
16. **SURVIVAL:** If any provision herein contained which by its nature and effect is required to be observed, kept or performed after the Closing, it shall survive the Closing and remain binding upon and for the benefit of the parties hereto until fully observed, kept or performed.
17. **ENTIRE AGREEMENT:** This contract contains the entire agreement of the parties and there are no representations, inducements or other provisions other than those expressed herein. All changes, additions or deletions hereto must be in writing and signed by all parties.
18. **NOTICE AND EXECUTION:** Any notice or communication to be given to a party herein may be given to the party or to such party's agent. This offer shall become a binding contract (the "Effective Date") when signed by both Buyer and Seller and such signing is communicated to the offering party. This contract is executed under seal in signed multiple originals, all of which together constitute one and the same instrument, with a signed original being retained by each party, and the parties adopt the word "SEAL" beside their signatures below.

BUYER:

(If an individual)

Jimmie Mangol (SEAL)

Name: Jimmie Mangol

Date: February 17, 2020

Address: 129 Lewis Farm Road
New Bern, NC 28560

252-571-7176

Phone: _____

SELLER

CRAVEN COUNTY

By: _____ (SEAL)

Its: _____

Date: _____

(If a business entity)

CITY OF NEW BERN

By: _____ (SEAL)

Its: _____

Date: _____

Address: _____

Phone: _____

By: _____ (SEAL)

Its: _____

Date: _____

Buyer Initials JM Seller Initials _____

Craven County Geographic Information System

Craven County does NOT warrant the information shown on this page and should be used ONLY for tax assessment purposes.

This report was created by Craven County GIS reporting services on 2/17/2020 2:49:38 PM

Parcel ID : 8-018 -063
Owner : CRAVEN COUNTY & NEW BERN-CITY
Mailing Address : 406 CRAVEN ST NEW BERN NC 28560
Property Address : 208 DANIELS ST
Description : 4-5-6 BLK 1 OAKSIDE
Lot Description : 150 X 150



Subdivision :

Assessed Acreage : 0.504 **Calculated Acreage :** 0.520
Deed Reference : 3582-1242 **Recorded Date :** 8 28 2019
Recorded Survey :
Estate Number :

Land Value : CALL **Tax Exempt :** Yes
*** Improvement Value :** APPRAISAL OFFICE **# of Improvements :** 1
Total Value : (252) 636-6640
City Name : NEW BERN **Fire tax District :**
Drainage District : **Special District :**
Land use : RES - MFG HOME AS REAL PROP

Recent Sales Information

SALE DATE	Sellers Name	Buyers Name	Sale Type	Sale Price
8/28/2019	WILLIAMS, JUANITA M HRS	CRAVEN COUNTY & NEW BERN-CITY	STRAIGHT TRANSFER	\$4,500
7/1/1994	BANKS, LEROY SR	WILLIAMS, JUANITA M	STRAIGHT TRANSFER	\$7,500
7/1/1994	WILLIAMS, JUANITA M	WILLIAMS, JUANITA M HRS	STRAIGHT TRANSFER	\$0

List of Improvements to Site

Type of Structure	Year Built	Base Area 1st Floor	Value
MANUFACTURED HOME - SINGLE WD	1993	1064	CALL APPRAISAL OFFICE

*Will be reevaluated by end of March, 2021. Current tax value is \$18,000 per Glen @ County.



Craven County GIS PID 8-018-063

Craven County does NOT warrant the information shown on this map and should be used ONLY for tax assessment purposes. Printed on February 17, 2020 at 10:18:40 AM



1 inch = 122 feet







AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider Adopting a Resolution to Initiate the Upset Bid Process for 2203 Chestnut Avenue

Date of Meeting: 5/12/2020	Ward # if applicable: 2
Department: City Clerk	Person Submitting Item: Brenda Blanco
Call for Public Hearing: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date of Public Hearing: N/A

Explanation of Item:	An offer of \$375.00 has been received for the purchase of 2203 Chestnut Avenue. This represents 50% of the tax value for the small, vacant lot.
Actions Needed by Board:	Consider adopting resolution
Backup Attached:	Memo, resolution, offer to purchase, maps of the property, tax property card, Copy of Commissioner's Deed, and estimate of proceeds

Is item time sensitive? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will there be advocates/opponents at the meeting? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Cost of Agenda Item:
If this requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director? <input type="checkbox"/> Yes <input type="checkbox"/> No

Additional Notes:



NEW BERN
CITY OF NEW BERN

300 Pollock Street, P.O. Box 1129
New Bern, NC 28563-1129
(252) 636-4000

Aldermen

Sabrina Bengel
Jameesha Harris
Robert V. Aster
Johnnie Ray Kinsey
Barbara J. Best
Jeffrey T. Odham

Dana E. Outlaw
Mayor
Mark A. Stephens
City Manager
Brenda E. Blanco
City Clerk
Mary M. Hogan
Director of Finance

Memorandum

TO: Mayor and Board of Aldermen
FROM: Brenda Blanco, City Clerk
DATE: May 1, 2020
SUBJECT: Offer to Purchase 2203 Chestnut Avenue

In December 2019, the Board received an offer to purchase 2203 Chestnut Avenue and voted to initiate the upset bid process. The offer was advertised, and an upset bid was received. The Board voted to sell the property to the upset bidder, who subsequently decided against the purchase and failed to close on the property.

The original bidder has now tendered a bid to start a new upset bid process. The amount of the bid is \$375.00. The tax value of the vacant 0.06-acre lot is \$750.00, and the offer represents 50% of the value. The property was acquired jointly by the City and County through tax foreclosure in May of 2019. The Commissioner's Deed states the taxes, interest and penalties due to the City at the time of the foreclosure were \$556.45, and the City contributed \$480.99 toward the cost of the foreclosure proceeding.

/beb

RESOLUTION

THAT WHEREAS, the City of New Bern and Craven County own certain real property identified as 2203 Chestnut Avenue, Craven County parcel identification number 8-037-001; and

WHEREAS, North Carolina General Statute § 160A-269 permits the City to sell property by upset bid after receipt of an offer for the property; and

WHEREAS, the City and Craven County have received an offer to purchase the above described property in the amount of \$375.00, submitted by JK Investment Holding, LLC; and

WHEREAS, JK Investment Holding, LLC has paid the required five percent (5%) deposit on the offer.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

Section 1. The Board of Aldermen of the City of New Bern authorizes the sale of its interest in the property described above through the upset bid procedure of North Carolina General Statute § 160A-269.

Section 2. The City Clerk shall cause a notice of the proposed sale to be published. The notice shall describe the property and the amount of the offer, and shall state the terms under which the offer may be upset.

Section 3. Persons wishing to upset the offer that has been received shall submit a sealed bid with their offer to the office of the City Clerk within ten (10) days after the notice of sale is published. At the conclusion of the 10-day period, the City Clerk shall open the bids, if any, and the highest such bid will become the new offer. If there is more than one bid in the highest amount, the first such bid received will become the new offer.

Section 4. If a qualifying higher bid is received, the City Clerk shall cause a new notice of upset bid to be published, and shall continue to do so until a 10-day period has passed without any qualifying upset bid having been received. At that time, the amount of the final high bid shall be reported to the Board of Aldermen.

Section 5. A qualifying higher bid is one that raises the existing offer by not less than ten percent (10%) of the first \$1,000.00 of that offer and five percent (5%) of the remainder of that offer.

Section 6. A qualifying higher bid must also be accompanied by a deposit in the amount of five percent (5%) of the bid; the deposit may be made in cash, cashier's check or certified check. The City will return the deposit on any bid not accepted, and will return the deposit on an offer subject to upset bid if a qualifying higher bid is received. If the City and County accept the final high bid, the deposit of the final high bidder will be applied to the purchase price at closing, and if the final high bidder is unable to complete the purchase of the property, the deposit shall be forfeited.

Section 7. The terms of the final sale are:

(a) The Board of Aldermen must approve the final high offer before the sale is closed, which it may do within thirty (30) days after the final upset bid period has passed; and

(b) The buyer must pay with cash at the time of closing.

Section 8. The City reserves the right to withdraw the property from sale at any time before the final high bid is accepted, and the right to reject all bids at any time, specifically including the initial offer.

Section 9. If no qualifying upset bid is received after the initial public notice, and if the offer set forth above has not been subsequently rejected, the offer set forth above is hereby accepted, and the appropriate city officials are authorized to execute the instruments necessary to convey the property to JK Investment Holding, LLC.

ADOPTED THIS 12th DAY OF MAY, 2020.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

NORTH CAROLINA

CRAVEN COUNTY

OFFER TO PURCHASE AND CONTRACT

JK INVESTMENT HOLDINGS LLC, as Buyer, hereby offers to purchase and CRAVEN COUNTY and the CITY OF NEW BERN, collectively as Seller, upon acceptance of said offer, agrees to sell and convey, all of that plot, piece or parcel of land described below (hereafter referred to as the "Property"), upon the following terms and conditions:

1. **REAL PROPERTY:** Located in or near the City of New Bern, Craven County, North Carolina, being known as and more particularly described as:

Street Address: 2203 CHESTNUT AVE

Subdivision Name: PEMBROKE

Tax Parcel ID No.: 8-037-001

Plat Reference: _____

Being all of that property more particularly described in Deed Book 3569, Page 529 in the Craven County Registry.

2. **PURCHASE PRICE:** The purchase price is \$ 375.00 and shall be paid as follows:

(a) \$ 20.00, EARNEST MONEY DEPOSIT with this offer by ☒ cash ☐ bank check ☐ certified check to be held by Seller until the sale is closed, at which time it will be credited to Buyer, or until this contract is otherwise properly terminated. In the event this offer is not accepted, then all earnest monies shall be refunded to Buyer. In the event of breach of this contract by Seller, all earnest monies shall be refunded to Buyer upon Buyer's request. In the event of breach of this contract by Buyer, then all earnest monies shall be forfeited to Seller upon Seller's request, but such forfeiture shall not affect any other remedies available to Seller for such breach.

(b) \$ 355.00, BALANCE of the purchase price in cash or readily available funds at Closing.

3. **CONDITIONS:**

(a) This contract is not subject to Buyer obtaining financing.

(b) The Property must be in substantially the same or better condition at Closing as on the date of this offer, reasonable wear and tear excepted.

(c) The Property is being sold subject to all liens and encumbrances of record, if any.

(d) Other than as provided herein, the Property is being conveyed "as is".

(e) This contract is subject to the provisions of G.S. §160A-269. Buyer acknowledges that this contract is subject to certain notice provisions and the rights in others to submit upset bids in accordance therewith.

(f) Title shall be delivered at Closing by QUITCLAIM DEED

4. **SPECIAL ASSESSMENTS:** Seller makes no warranty or representation as to any pending or confirmed governmental special assessments for sidewalk, paving, water, sewer, or other improvements on or adjoining the Property, or pending or confirmed owners' association special assessments. Buyer shall take title subject to all pending assessments, if any.

5. **PAYMENT OF TAXES:** Any ad valorem taxes to which the Property is subject shall be paid in their entirety by Buyer.

6. **EXPENSES:** Buyer shall be responsible for all costs with respect to any title search, title insurance, recording of the deed, and its legal fees. Seller shall pay for preparation of a deed and all other documents necessary to perform Seller's obligations under this agreement, and for any excise tax (revenue stamps) required by law.

7. **EVIDENCE OF TITLE:** Not Applicable.

8. **CLOSING:** Closing shall be defined as the date and time of recording of the deed. All parties agree to execute any and all documents and papers necessary in connection with Closing and transfer of title within thirty (30) days of the granting of final approval of the sale by Craven County's Board of Commissioners and the City of New Bern's Board of Aldermen pursuant to G.S. §160A-269. The deed is to be made to JK INVESTMENT HOLDINGS LLC.

9. **POSSESSION:** Unless otherwise provided herein, possession shall be delivered at Closing.

10. **PROPERTY INSPECTION, APPRAISAL, INVESTIGATION:**

(a) This contract is not subject to inspection, appraisal or investigation, as the Property is being bought "as is." Seller makes no representation as to water, sewer, conditions, title, access, or fitness for any intended use.

(b) CLOSING SHALL CONSTITUTE ACCEPTANCE OF THE PROPERTY IN ITS THEN EXISTING CONDITION.

11. **RIGHT OF ENTRY, RESTORATION AND INDEMNITY:** Buyer and Buyer's agents and contractors shall not have the right to enter upon the Property for any purpose without advance written permission of the Seller. If such permission is given, Buyer will indemnify and hold Seller harmless from all loss, damage, claims, suits or costs, which shall arise out of any contract, agreement, or injury to any person or property as a result of any activities of Buyer and Buyer's agents and contractors relating to the Property. This indemnity shall survive this contract and any termination hereof.

12. **OTHER PROVISIONS AND CONDITIONS:** (ITEMIZE ALL ADDENDA TO THIS CONTRACT AND ATTACH HERETO.): None.

Buyer Initials KDL Seller Initials _____

13. RISK OF LOSS: The risk of loss or damage by fire or other casualty prior to Closing shall be upon Seller.

14. ASSIGNMENTS: This contract may not be assigned without the written consent of all parties, but if assigned by agreement, then this contract shall be binding on the assignee and the assignee's heirs, successors or assigns (as the case may be).

15. PARTIES: This contract shall be binding upon and shall inure to the benefit of the parties, i.e., Buyer and Seller and their heirs, successors and assigns. As used herein, words in the singular include the plural and the masculine includes the feminine and neuter genders, as appropriate.

16. SURVIVAL: If any provision herein contained which by its nature and effect is required to be observed, kept or performed after the Closing, it shall survive the Closing and remain binding upon and for the benefit of the parties hereto until fully observed, kept or performed.

17. ENTIRE AGREEMENT: This contract contains the entire agreement of the parties and there are no representations, inducements or other provisions other than those expressed herein. All changes, additions or deletions hereto must be in writing and signed by all parties.

18. NOTICE AND EXECUTION: Any notice or communication to be given to a party herein may be given to the party or to such party's agent. This offer shall become a binding contract (the "Effective Date") when signed by both Buyer and Seller and such signing is communicated to the offering party. This contract is executed under seal in signed multiple originals, all of which together constitute one and the same instrument, with a signed original being retained by each party, and the parties adopt the word "SEAL" beside their signatures below.

BUYER:

(If an individual)

_____(SEAL)

Name: _____

Date: _____

Address: _____

Phone: _____

(If a business entity)

By: KYLE T. KATOVINE (SEAL)

Its: OWNER

Date: 04/01/2020

Address: 2600 NEW BERN AVE

NEW BERN NC 28562

Phone: 877-368-2620

SELLER

CRAVEN COUNTY

By: _____ (SEAL)

Its: _____

Date: _____

CITY OF NEW BERN

By: _____ (SEAL)

Its: _____

Date: _____

Buyer Initials KTC Seller Initials _____

Craven County Geographic Information System

Craven County does NOT warrant the information shown on this page and should be used ONLY for tax assessment purposes.

This report was created by Craven County GIS reporting services on 12/5/2019 12:05:10 PM

Parcel ID : 8-037 -001
Owner : CRAVEN COUNTY & NEW BERN-CITY OF
Mailing Address : PO BOX 1128 NEW BERN NC 28563
Property Address : 2203 CHESTNUT AVE
Description : 408 PEMBROKE
Lot Description :



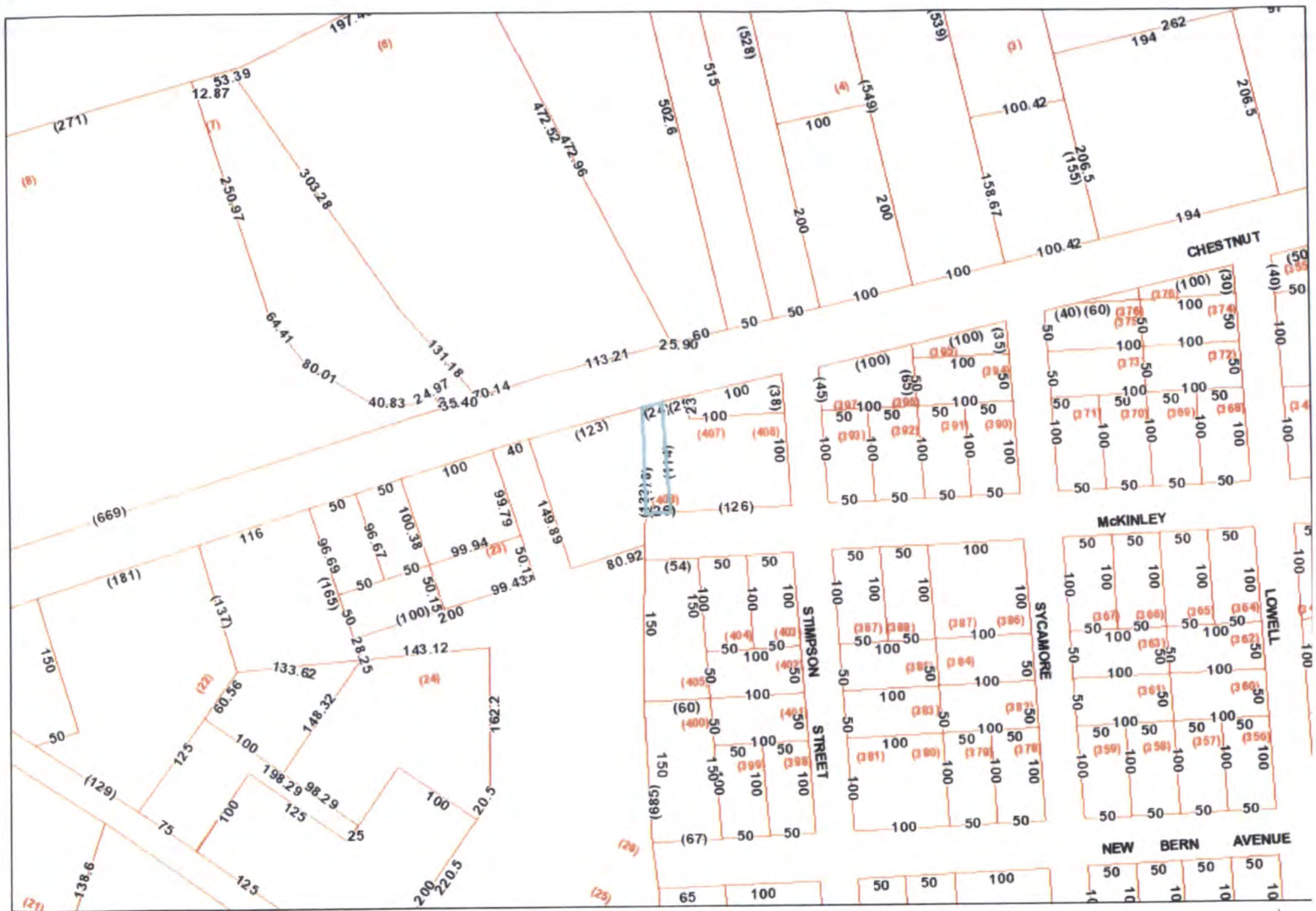
Assessed Acreage :	0.061	Calculated Acreage :	0.060
Deed Reference :	3569-0529	Recorded Date :	5 3 2019
Recorded Survey :	5-2-		
Estate Number :			
Land Value :	\$750	Tax Exempt :	Yes
Improvement Value :	\$0	# of Improvements :	0
Total Value :	\$750		
City Name :	NEW BERN	Fire tax District :	
Drainage District :		Special District :	
Land use :	VACANT-RESIDENTIAL TRACT		

Recent Sales Information

SALE DATE	Sellers Name	Buyers Name	Sale Type	Sale Price
5/3/2019	ROBINSON, WILLIAM JAMES HRS	CRAVEN COUNTY & NEW BERN-CITY OF	STRAIGHT TRANSFER	\$4,500
1/1/1969	ROBINSON, WILLIAM JAMES	ROBINSON, WILLIAM JAMES HRS	MULTI-PARCEL- SALE	\$0

List of Improvements to Site

No improvements listed for this parcel



Craven County GIS 2203 Chestnut Ave

Craven County does NOT warrant the information shown on this map and should be used ONLY for tax assessment purposes. Printed on December 5, 2019 at 9:55:40 AM



1 inch = 130 feet



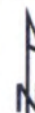


Craven County GIS 2203 Chestnut Ave

Craven County does NOT warrant the information shown on this map and should be used ONLY for tax assessment purposes. Printed on December 5, 2019 at 9:56:49 AM



1 inch = 130 feet







AGENDA ITEM COVER SHEET

Agenda Item Title:

Adopt a resolution to approve the amended 2014 CDBG Citizen Participation Plan

Date of Meeting: May 12, 2020	Ward # if applicable:
Department: Development Services	Person Submitting Item: D'Aja Fulmore
Call for Public Hearing: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date of Public Hearing: N/A

Explanation of Item:	The Mayor and Board of Aldermen are being asked to review and adopt the amended 2014 Citizens Participation Plan. This plan has been updated to permit the City of New Bern to host virtual meetings during special emergency times ordered by the President or State Governor.
Actions Needed by Board:	Adopt a resolution to approve an amendment to the 2014 CDBG Citizen Participation Plan.
Backup Attached:	Memo, Plan, Resolution

Is item time sensitive? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Will there be advocates/opponents at the meeting? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Cost of Agenda Item:
If this requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director? <input type="checkbox"/> Yes <input type="checkbox"/> No

Additional Notes: Board of Aldermen must approve amendment to Citizen Participation Plan to enable City staff to host virtual hearings during current COVID-19 pandemic.

Aldermen

Sabrina Bengel
Jameesha Harris
Robert V. Aster
Johnnie Ray Kinsey
Barbara J. Best
Jeffrey T. Odham



300 Pollock Street, P.O. Box 1129
New Bern, NC 28563-1129
(252) 636-4000

Dana E. Outlaw
Mayor
Mark A. Stephens
City Manager
Brenda E. Blanco
City Clerk
Mary M. Hogan
Director of Finance

MEMORANDUM

TO: Mayor Outlaw and Board of Aldermen

FROM: D'Aja Fulmore
Community Development Coordinator

DATE: April 13, 2020

SUBJECT: To review and adopt a resolution to approve the amended 2014 CDBG Citizen Participation Plan

Background

The Mayor and Board of Aldermen are being asked to review and adopt the amended 2014 Citizens Participation Plan. This plan was originally adopted on February 25, 2014 as a plan to describe how the City of New Bern will encourage citizen participation, while also adhering to specific policies and procedures related to the Community Development Block Grant.

Due to the spread of the COVID-19 pandemic, all public access to City buildings has been closed. Per HUD guidelines, the City must continue to show efforts to engage with the public for the development of the 2020 Annual Action Plan. While working closely with HUD, staff discovered that the current plan did not address emergency situations in the event of limited public access.

This amended plan provides updated information on how the City will move forward to continue public engagement in the event of current or future Declarations of Emergency ordered by the President of the United States or the Governor of North Carolina. This grants the City the ability to host virtual meetings when deemed necessary.

Please contact D'Aja Fulmore at 252-639-7586 or Amanda Ohlensehlen at 252-639-7580 if you have questions or need additional information.

RESOLUTION

BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

That the document entitled "City of New Bern Community Development Block Grant Citizen Participation Plan," a copy of which is attached hereto and incorporated herein by reference, be and the same is hereby adopted and approved, and the Mayor is hereby authorized and directed to execute the same for and on behalf of the City.

ADOPTED THIS 12TH DAY OF MAY, 2020.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

CITY OF NEW BERN
Community Development Block Grant
CITIZEN PARTICIPATION PLAN
Amended May 12, 2020

1. Introduction

The Citizen Participation Plan provides for and encourages citizens, organizations, businesses and other stakeholders to participate in the development of the Consolidated Plan, any substantial amendments to the consolidated plan, and the annual performance report. This plan describes how the City of New Bern encourages and promotes participation through the establishment of policies and procedures for participation in the implementation of the Community Development Block Grant (CDBG).

The City of New Bern is required to adopt a Citizen Participation Plan that meets HUD's minimum requirements as set forth in the regulations for "Consolidated Submission for Community Planning and Development Programs" (24 CFR 91 Subpart B). In carrying out these requirements the City of New Bern understands that participation on the part of its citizens, organizations, businesses and other stakeholders is vital to the effectiveness of all Consolidated Plan activities.

The Citizen Participation Plan outlines procedures by which each of the requirements set forth in 91:105 of the Federal Regulations are carried out. This Plan is effective as of May 12, 2020 and remains in effect until such time as all activities assisted are completed, or until superseded by a new Plan.

2. Goals of the Citizen Participation Plan

- A. To provide for involvement of citizens, organizations, businesses and other stakeholders in the identification of community development needs and housing; review of proposed activities and assessment of program performance in accordance with the schedule that is adopted each year.
- B. To enable the City to respond to the needs of its citizens through community development and housing programs, policies and plans.
- C. To encourage citizens, particularly very low, low and moderate income persons, residents of blighted neighborhoods, members of minority groups, nonprofit agencies, public housing residents, the business and civic community, and special populations, to submit their comments, questions and proposals regarding the City of New Bern's Community Development Program.

3. Development of the Consolidated Plan

The Citizen Participation Plan requires that before adoption of the Consolidated Plan the City will provide the following information:

- A. The amount of assistance the City expects to receive from any grant funds and program income.
- B. The range of activities that may be undertaken including the estimated amount that will benefit very low, low-and-moderate income persons.
- C. The City's plans to minimize displacement.
- D. The City's specific action steps to end chronic homelessness.
- E. The City's long-term and short-term objectives for neighborhood revitalization strategies.
- F. The percentage of funds dedicated to target areas.
- G. The City's public hearing calendar and process for developing and submitting the Consolidated Plan.
- H. Provisions for receiving public comments on the proposed Plan.

4. The Participation Process

The participation process will be conducted both at a community wide-level and in neighborhoods where redevelopment activity is proposed or underway. The community wide process involves consultations with businesses, developers, community and faith-based organizations, and other interested citizens concerning housing and redevelopment issues.

- A. Agency Consultation Process:** Agency consultations will be a part of the ongoing process that includes service providers, advocacy groups and coordinating bodies responsible for providing services, especially to populations with special housing needs. City staff will meet throughout the year with a number of local housing, social service, homeless, and economic development agencies to determine the housing needs of specific populations and groups. The City also will consult with local health agencies to examine lead-based paint hazards within the local community.
- B. Public Housing Residents:** The City will consult with the New Bern Housing Authority (NBHA) staff, Board, and residents of public and assisted housing developments to provide information about consolidated plan activities related to

its developments and surrounding communities so that the housing authority can make this information available at their annual public hearing required under the Comprehensive Grant program.

The City also will consult with NBHA to define and address the housing needs of its residents. The NBHA resident councils will also be informed of the Community and Economic Development Division's planned activities and benefits. This consultation also helps to ensure that activities with regard to local illegal drug activity elimination, neighborhood improvement programs, resident programs and services funded under the public housing program are coordinated to achieve comprehensive community development goals.

C. Neighborhood Based Citizen Committees: The City will meet with citizen's groups such as neighborhood associations and residents' councils, primarily in redevelopment areas. The City may also meet with other neighborhood associations and citizen groups as needed.

D. Community Development Advisory Committee (CDAC): The Board of Aldermen will appoint a committee to advise the staff and to assure that the citizen participation plan encourages the participation of all its citizens, including minorities and non-English speaking persons, as well as persons with disabilities. The CDAC will consist of private citizens appointed for three (3) year terms.

This process and schedule will be the established operating procedure for citizen participation and may be affected from one fiscal year to the next in regard to the date of the public hearings, which is at the discretion of Board of Aldermen, as well as the timetable for the City of New Bern budget development.

5. Consolidated Plan Public Meetings

Each year the City will schedule at least two (2) public meetings for the development of an annual Action Plan for the City's housing and community development programs. The first of these will be held in the community as a "listening session" and the last as a public hearing at a Board of Aldermen meeting. The State of North Carolina's Open Meeting Law will be followed.

A. First Public Meeting: The first meeting or ("listening session will occur at the beginning of the planning process to review past program performance, to obtain views on community development and housing needs and to identify general strategic priorities for projected funding. The purpose of this meeting is to let very low, low- and moderate-income persons and residents of blighted neighborhoods offer their perceptions of problems within their neighborhoods and in the community at large and present proposals aimed at solving the problems. This meeting will take place at a community facility located within the areas where housing and community development activities are underway or

planned. Other meetings may be scheduled for the purpose of receiving input on housing needs and program priorities and funding.

B. Public Hearing: The public hearing is held after staff has drafted the proposed annual budget and Consolidated Plan (or annual Action Plan) but prior to Board of Aldermen approval of the Plan. This public hearing will be held in the City Hall Courtroom.

C. Public Notice: Notices of all public meetings will be advertised in the Sun Journal, no later than 10 days prior to the hearing. Public notices will indicate the date, time and location of the hearing, and the topics to be covered. The City will also post informational flyers about the public meeting at the New Bern-Craven County Public Library and recreation and community centers. Mailings (electronic where appropriate) will be sent to interested persons and entities and the public meeting notices will be posted on the City of New Bern's website at <https://www.newbernnc.gov>.

D. Accessibility: All public meetings will be held at locations providing accessibility for persons with physical disabilities and take place in locations convenient to residents.

6. Public Comment Period

The Consolidated Plan and each annual Action Plan will be made available in draft form to receive public comments at least thirty (30) days before final approval by the Board of Aldermen.

The draft Consolidated Plan will be available at the New Bern-Craven County Public library. The library is open weekend and evening hours and is accessible to the physically challenged. Copies of the draft Plan will also be available at the Development Services Department, the City Hall, and the Stanley White Recreation Center. The draft plan will also be posted the City's website at <https://www.newbernnc.gov>.

The proposed plan will include public comments made either orally or in writing. A summary of these comments or views and a summary of any comments or views not accepted and the rationale for not accepting the comments will be attached to the final Consolidated Plan. Written responses will be provided to all written comments including complaints and grievances and/or proposals submitted during the Citizen Participation Planning process. The City will make every reasonable effort to provide a written response to all written comments within fifteen days of receipt of the comment. A concise summary of citizen participation and consultation process, including efforts to broaden public participation, will be included in the Consolidated or annual Action Plan.

7. Adequate and Timely Information

All aspects of citizen participation in the City of New Bern government are conducted in an open manner, with freedom of access for all interested persons or groups. Information pertinent to the activities of the Community and Economic Development Division will be circulated to the public and made available for review in the Development Services Department during normal business hours of the City. This information will be made public subject to all applicable laws regarding confidentiality and person privacy in the Community Development office. Access to all documents is open except where prohibited by law. There may be a reproduction cost charged to persons requesting personal copies of Community Development documents. Every attempt is made to respond to written requests for information within 15 days of receipt.

8. Non-English Speaking Persons

Where a significant number of very low, low and moderate income residents of blighted neighborhoods speak and read a primary language other than English, public hearing notices and basic information summaries will be produced and made available in the appropriate language(s).

Also, bilingual opportunities when appropriate will be made available at the public hearings. Informational material will be sent as appropriate to non-profit and social service organizations that serve non-English speaking residents.

9. Persons with Disabilities

The Community and Economic Development Division will take steps to ensure that individuals with disabilities are able to participate in the public hearing and the consolidated planning process.

For public hearings in the City Hall Courtroom, persons with disabilities should contact (252) 639-7586. It is the responsibility of the Community and Economic Development Department to request this service when required.

10. Annual Performance Assessment and Reports

The Consolidated Annual Performance and Evaluation Report (CAPER) is a summary of Community Development Block Grant accomplishments for the past fiscal year. The CAPER will be sent to HUD ninety days after the completion of the program year. Prior to its submission, the Community and Economic Development Division will inform the public of the CAPER's availability for comment through the Sun Journal, the City's website (<https://www.newbernnc.gov>), and electronic notices.

Citizens will have 15 days to examine the report and provide comments prior to its submission to HUD. A summary of all comments or views will be attached to the CAPER submitted to HUD.

11. Program Amendments

From time to time, the Consolidated Plan may be substantially amended to reflect changes in program activities and priorities. The following are considered substantial changes:

- A. Addition of a new activity or new priority (see D. below for threshold) not previously described,
- B. Cancellation of an activity category or deletion of a priority,
- C. A change in the purpose, scope, location, or beneficiaries of an activity, and
- D. A substantial change in the allocation or distribution of funds is defined as when the dollar amount of that change is equal to or greater than 20% of the City's current fiscal year federal budget by source (e.g., CDBG is undergoing a substantial change when 20% or more of that year's CDBG allocation plus CDBG program income is affected).

Prior to amending the Consolidated Plan, citizens will be given reasonable notice of, and opportunity to comment on, such proposed changes and the re-use of funds. The process to substantially amend the plan will include a minimum 10-day public notice prior to a public hearing (held in accordance with section 5c above) and a thirty-day (30) comment period to receive citizen comments on the proposed amendment prior to implementation.

Citizens' comments, orally or in writing, will be considered. A summary of the comments and the rationale for not accepting any comments will be attached to the substantial amendment of the Consolidated Plan.

12. Technical Assistance

Technical assistance will be provided to citizen organizations and very low, low- and moderate-income persons upon request.

Examples of assistance include information on the CDBG law, neighborhood planning, review of accomplishments, briefings on community development requirements and opportunities, development of neighborhood goals and objectives, and design of neighborhood proposals.

13. Complaint Procedure

Written or oral complaints or grievances concerning the Consolidated Planning process or the CDBG program should first be directed to the City's Community and Economic Development Division. It is the policy of the City to provide a procedure for the acknowledgement, presentation, consideration, investigation, and disposition of complaints received concerning Community Development programs.

The Community and Economic Development Division will make every effort to respond to all complaints within fifteen (15) days of receipt by sending a written response. Should the complainant not be satisfied, the complainant may arrange a meeting with the Development Services Director to discuss the complaint. If the complaint can still not be satisfied, a written complaint may be submitted in writing to the City Manager. Any citizen may make an oral or written petition to the Board of Aldermen to discuss problems not resolved at the staff level.

14. Relocation Plan and Anti-Displacement Policy

Displacement will be minimized but when it is unavoidable, any person(s) displaced due to the activities of the Consolidated Plan programs will receive relocation assistance and relocation payments in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act). The Community Development staff will provide information and assistance one-on-one to prospective displaced persons.

15. Declaration of an Emergency

When a Declaration of an Emergency has been ordered by the President of the United States, or the Governor of North Carolina, the City of New Bern will follow the following process concerning public hearings and public display of plans.

- A. If the City is unable to hold open public hearings in person, the City will be allowed to instead hold virtual public hearings through conference calls or an online video conference call platforms as long as the public is able to provide public comments during the virtual public hearing.
- B. If the City is not able to publicly place the plans on public display at the locations referenced in the Citizen Participation Plan, the City will put the plans on the City's website (<https://www.newbernnc.gov>) and will also email copies of the plans to any person who will request a copy of the plans via email upon request.
- C. If the City Council is unable to conduct an open public forum type meeting, the City then can approve the plans at a City Council meeting through an on-line virtual

City Council meeting, if an in-person Council meetings are not happening because of the Emergency.

**COMMUNITY AND ECONOMIC DEVELOPMENT DIVISION
DEVELOPMENT SERVICES DEPARTMENT
CITIZEN PARTICIPATION ACTIVITIES
JANUARY 1st THROUGH JUNE 30th**

Monthly	Community Development Advisory Committee Meeting
February - March	Public Meetings and Listening Sessions to receive comments for development of Citizen Participation Plan, Consolidated Plan and Annual Action Plan. Conduct Needs Assessment to develop priorities for Annual Action Plan
End of February	Public Hearing to receive input from citizens on proposed Citizen Participation Plan
April	National Community Development Week- Proclamation to be adopted by Board or Aldermen to raise awareness of community and economic development programs. Public Comment period and Public Hearing on Consolidated Plan and Annual Action Plan.
Middle of May	Information booth at DUFFEST.
July	Public information meeting - Community and Economic Development Programs.
October	Information booth at MUMFEST.
January - February	Public Meetings and Listening Sessions to receive comments for development of Annual Action Plan.
March - April	National Community Development Week- Proclamation to be adopted by Board or Aldermen to raise awareness of community and economic development programs.
April - May	Public comment period and Public Hearing on Consolidated Plan amendment (if needed) and Annual Action Plan.
May	Information Booth at DUFFEST.

**CITY OF NEW BERN
Community Development Block Grant
CITIZEN PARTICIPATION PLAN
Amended May 12, 2020**

1. Introduction

The Citizen Participation Plan provides for and encourages citizens, organizations, businesses and other stakeholders to participate in the development of the Consolidated Plan, any substantial amendments to the consolidated plan, and the annual performance report. This plan describes how the City of New Bern encourages and promotes participation through the establishment of policies and procedures for participation in the implementation of the Community Development Block Grant (CDBG).

The City of New Bern is required to adopt a Citizen Participation Plan that meets HUD's minimum requirements as set forth in the regulations for "Consolidated Submission for Community Planning and Development Programs" (24 CFR 91 Subpart B). In carrying out these requirements the City of New Bern understands that participation on the part of its citizens, organizations, businesses and other stakeholders is vital to the effectiveness of all Consolidated Plan activities.

The Citizen Participation Plan outlines procedures by which each of the requirements set forth in 91:105 of the Federal Regulations are carried out. This Plan is effective as of May 12, 2020 and remains in effect until such time as all activities assisted are completed, or until superseded by a new Plan.

2. Goals of the Citizen Participation Plan

- A. To provide for involvement of citizens, organizations, businesses and other stakeholders in the identification of community development needs and housing; review of proposed activities and assessment of program performance in accordance with the schedule that is adopted each year.
- B. To enable the City to respond to the needs of its citizens through community development and housing programs, policies and plans.
- C. To encourage citizens, particularly very low, low and moderate income persons, residents of blighted neighborhoods, members of minority groups, nonprofit agencies, public housing residents, the business and civic community, and special populations, to submit their comments, questions and proposals regarding the City of New Bern's Community Development Program.

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The Citizen Participation Plan requires that before adoption of the Consolidated Plan the City will provide the following information:

- A. The amount of assistance the City expects to receive from any grant funds and program income.
- B. The range of activities that may be undertaken including the estimated amount that will benefit very low, low-and-moderate income persons.
- C. The City's plans to minimize displacement.
- D. The City's specific action steps to end chronic homelessness.
- E. The City's long-term and short-term objectives for neighborhood revitalization strategies.
- F. The percentage of funds dedicated to target areas.
- G. The City's public hearing calendar and process for developing and submitting the Consolidated Plan.
- H. Provisions for receiving public comments on the proposed Plan.

4. The Participation Process

The participation process will be conducted both at a community wide-level and in neighborhoods where redevelopment activity is proposed or underway. The community wide process involves consultations with businesses, developers, community and faith-based organizations, and other interested citizens concerning housing and redevelopment issues.

- A. Agency Consultation Process:** Agency consultations will be a part of the ongoing process that includes service providers, advocacy groups and coordinating bodies responsible for providing services, especially to populations with special housing needs. City staff will meet throughout the year with a number of local housing, social service, homeless, and economic development agencies to determine the housing needs of specific populations and groups. The City also will consult with local health agencies to examine lead-based paint hazards within the local community.
- B. Public Housing Residents:** The City will consult with the New Bern Housing Authority (NBHA) staff, Board, and residents of public and assisted housing developments to provide information about consolidated plan activities related to

its developments and surrounding communities so that the housing authority can make this information available at their annual public hearing required under the Comprehensive Grant program.

The City also will consult with NBHA to define and address the housing needs of its residents. The NBHA resident councils will also be informed of the Community and Economic Development Division's planned activities and benefits. This consultation also helps to ensure that activities with regard to local illegal drug activity elimination, neighborhood improvement programs, resident programs and services funded under the public housing program are coordinated to achieve comprehensive community development goals.

C. Neighborhood Based Citizen Committees: The City will meet with citizen's groups such as neighborhood associations and residents' councils, primarily in redevelopment areas. The City may also meet with other neighborhood associations and citizen groups as needed.

D. Community Development Advisory Committee (CDAC): The Board of Aldermen will appoint a committee to advise the staff and to assure that the citizen participation plan encourages the participation of all its citizens, including minorities and non-English speaking persons, as well as persons with disabilities. The CDAC will consist of private citizens appointed for three (3) year terms.

This process and schedule will be the established operating procedure for citizen participation and may be affected from one fiscal year to the next in regard to the date of the public hearings, which is at the discretion of Board of Aldermen, as well as the timetable for the City of New Bern budget development.

5. Consolidated Plan Public Meetings

Each year the City will schedule at least two (2) public meetings for the development of an annual Action Plan for the City's housing and community development programs. The first of these will be held in the community as a "listening session" and the last as a public hearing at a Board of Aldermen meeting. The State of North Carolina's Open Meeting Law will be followed.

A. First Public Meeting: The first meeting or ("listening session will occur at the beginning of the planning process to review past program performance, to obtain views on community development and housing needs and to identify general strategic priorities for projected funding. The purpose of this meeting is to let very low, low- and moderate-income persons and residents of blighted neighborhoods offer their perceptions of problems within their neighborhoods and in the community at large and present proposals aimed at solving the problems. This meeting will take place at a community facility located within the areas where housing and community development activities are underway or

planned. Other meetings may be scheduled for the purpose of receiving input on housing needs and program priorities and funding.

B. Public Hearing: The public hearing is held after staff has drafted the proposed annual budget and Consolidated Plan (or annual Action Plan) but prior to Board of Aldermen approval of the Plan. This public hearing will be held in the City Hall Courtroom.

C. Public Notice: Notices of all public meetings will be advertised in the Sun Journal, no later than 10 days prior to the hearing. Public notices will indicate the date, time and location of the hearing, and the topics to be covered. The City will also post informational flyers about the public meeting at the New Bern-Craven County Public Library and recreation and community centers. Mailings (electronic where appropriate) will be sent to interested persons and entities and the public meeting notices will be posted on the City of New Bern's website at <https://www.newbernnc.gov>.

D. Accessibility: All public meetings will be held at locations providing accessibility for persons with physical disabilities and take place in locations convenient to residents.

6. Public Comment Period

The Consolidated Plan and each annual Action Plan will be made available in draft form to receive public comments at least thirty (30) days before final approval by the Board of Aldermen.

The draft Consolidated Plan will be available at the New Bern-Craven County Public library. The library is open weekend and evening hours and is accessible to the physically challenged. Copies of the draft Plan will also be available at the Development Services Department, the City Hall, and the Stanley White Recreation Center. The draft plan will also be posted the City's website at <https://www.newbernnc.gov>.

The proposed plan will include public comments made either orally or in writing. A summary of these comments or views and a summary of any comments or views not accepted and the rationale for not accepting the comments will be attached to the final Consolidated Plan. Written responses will be provided to all written comments including complaints and grievances and/or proposals submitted during the Citizen Participation Planning process. The City will make every reasonable effort to provide a written response to all written comments within fifteen days of receipt of the comment. A concise summary of citizen participation and consultation process, including efforts to broaden public participation, will be included in the Consolidated or annual Action Plan.

7. Adequate and Timely Information

All aspects of citizen participation in the City of New Bern government are conducted in an open manner, with freedom of access for all interested persons or groups. Information pertinent to the activities of the Community and Economic Development Division will be circulated to the public and made available for review in the Development Services Department during normal business hours of the City. This information will be made public subject to all applicable laws regarding confidentiality and person privacy in the Community Development office. Access to all documents is open except where prohibited by law. There may be a reproduction cost charged to persons requesting personal copies of Community Development documents. Every attempt is made to respond to written requests for information within 15 days of receipt.

8. Non-English Speaking Persons

Where a significant number of very low, low and moderate income residents of blighted neighborhoods speak and read a primary language other than English, public hearing notices and basic information summaries will be produced and made available in the appropriate language(s).

Also, bilingual opportunities when appropriate will be made available at the public hearings. Informational material will be sent as appropriate to non-profit and social service organizations that serve non-English speaking residents.

9. Persons with Disabilities

The Community and Economic Development Division will take steps to ensure that individuals with disabilities are able to participate in the public hearing and the consolidated planning process.

For public hearings in the City Hall Courtroom, persons with disabilities should contact (252) 639-7586. It is the responsibility of the Community and Economic Development Department to request this service when required.

10. Annual Performance Assessment and Reports

The Consolidated Annual Performance and Evaluation Report (CAPER) is a summary of Community Development Block Grant accomplishments for the past fiscal year. The CAPER will be sent to HUD ninety days after the completion of the program year. Prior to its submission, the Community and Economic Development Division will inform the public of the CAPER's availability for comment through the Sun Journal, the City's website (<https://www.newbernnc.gov>), and electronic notices.

Citizens will have 15 days to examine the report and provide comments prior to its submission to HUD. A summary of all comments or views will be attached to the CAPER submitted to HUD.

11. Program Amendments

From time to time, the Consolidated Plan may be substantially amended to reflect changes in program activities and priorities. The following are considered substantial changes:

- A. Addition of a new activity or new priority (see D. below for threshold) not previously described,
- B. Cancellation of an activity category or deletion of a priority,
- C. A change in the purpose, scope, location, or beneficiaries of an activity, and
- D. A substantial change in the allocation or distribution of funds is defined as when the dollar amount of that change is equal to or greater than 20% of the City's current fiscal year federal budget by source (e.g., CDBG is undergoing a substantial change when 20% or more of that year's CDBG allocation plus CDBG program income is affected).

Prior to amending the Consolidated Plan, citizens will be given reasonable notice of, and opportunity to comment on, such proposed changes and the re-use of funds. The process to substantially amend the plan will include a minimum 10-day public notice prior to a public hearing (held in accordance with section 5c above) and a thirty-day (30) comment period to receive citizen comments on the proposed amendment prior to implementation.

Citizens' comments, orally or in writing, will be considered. A summary of the comments and the rationale for not accepting any comments will be attached to the substantial amendment of the Consolidated Plan.

12. Technical Assistance

Technical assistance will be provided to citizen organizations and very low, low- and moderate-income persons upon request.

Examples of assistance include information on the CDBG law, neighborhood planning, review of accomplishments, briefings on community development requirements and opportunities, development of neighborhood goals and objectives, and design of neighborhood proposals.

13. Complaint Procedure

Written or oral complaints or grievances concerning the Consolidated Planning process or the CDBG program should first be directed to the City's Community and Economic Development Division. It is the policy of the City to provide a procedure for the acknowledgement, presentation, consideration, investigation, and disposition of complaints received concerning Community Development programs.

The Community and Economic Development Division will make every effort to respond to all complaints within fifteen (15) days of receipt by sending a written response. Should the complainant not be satisfied, the complainant may arrange a meeting with the Development Services Director to discuss the complaint. If the complaint can still not be satisfied, a written complaint may be submitted in writing to the City Manager. Any citizen may make an oral or written petition to the Board of Aldermen to discuss problems not resolved at the staff level.

14. Relocation Plan and Anti-Displacement Policy

Displacement will be minimized but when it is unavoidable, any person(s) displaced due to the activities of the Consolidated Plan programs will receive relocation assistance and relocation payments in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act). The Community Development staff will provide information and assistance one-on-one to prospective displaced persons.

15. Declaration of an Emergency

When a Declaration of an Emergency has been ordered by the President of the United States, or the Governor of North Carolina, the City of New Bern will follow the following process concerning public hearings and public display of plans.

- A. If the City is unable to hold open public hearings in person, the City will be allowed to instead hold virtual public hearings through conference calls or an online video conference call platforms as long as the public is able to provide public comments during the virtual public hearing.
- B. If the City is not able to publicly place the plans on public display at the locations referenced in the Citizen Participation Plan, the City will put the plans on the City's website (<https://www.newbernnc.gov>) and will also email copies of the plans to any person who will request a copy of the plans via email upon request.
- C. If the City Council is unable to conduct an open public forum type meeting, the City then can approve the plans at a City Council meeting through an on-line virtual

City Council meeting, if an in-person Council meetings are not happening because of the Emergency.

DRAFT

**COMMUNITY AND ECONOMIC DEVELOPMENT DIVISION
DEVELOPMENT SERVICES DEPARTMENT
CITIZEN PARTICIPATION ACTIVITIES
JANUARY 1st THROUGH JUNE 30th**

Monthly	Community Development Advisory Committee Meeting
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February - March	Public Meetings and Listening Sessions to receive comments for development of Citizen Participation Plan, Consolidated Plan and Annual Action Plan. Conduct Needs Assessment to develop priorities for Annual Action Plan
End of February	Public Hearing to receive input from citizens on proposed Citizen Participation Plan
April	National Community Development Week- Proclamation to be adopted by Board or Aldermen to raise awareness of community and economic development programs. Public Comment period and Public Hearing on Consolidated Plan and Annual Action Plan.
Middle of May	Information booth at DUFFEST.
July	Public information meeting - Community and Economic Development Programs.
October	Information booth at MUMFEST.
January - February	Public Meetings and Listening Sessions to receive comments for development of Annual Action Plan.
March - April	National Community Development Week- Proclamation to be adopted by Board or Aldermen to raise awareness of community and economic development programs.
April - May	Public comment period and Public Hearing on Consolidated Plan amendment (if needed) and Annual Action Plan.
May	Information Booth at DUFFEST.

AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider Adopting a Resolution Approving Participation in a COVID-19 Small Business Loan Program

Date of Meeting: 05/12/20	Ward # if applicable:
Department: Administration	Person Submitting Item: Mark Stephens
Call for Public Hearing: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date of Public Hearing:

Explanation of Item:	As announced at the Board's last meeting, Swiss Bear and the Chamber of Commerce are establishing a COVID-19 small business loan program for small businesses within the city limits of New Bern. The maximum loan amount is \$5,000, and the program will be administered by the Chamber. The resolution provides for a \$20,000 contribution from the City.
Actions Needed by Board:	Consider adopting the resolution
Backup Attached:	Resolution

Is item time sensitive? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Will there be advocates/opponents at the meeting? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Cost of Agenda Item: \$20,000
If this requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director? <input type="checkbox"/> Yes <input type="checkbox"/> No

Additional Notes: Unspent travel funds from the Governing Board and Administration budgets will be used to fund the contribution.

**RESOLUTION TO PARTICIPATE IN FUNDING THE NEW BERN AREA CHAMBER
OF COMMERCE COVID-19 SMALL BUSINESS LOAN PROGRAM**

THAT WHEREAS, the New Bern Area Chamber of Commerce has initiated and is implementing a small business loan program ("Program") to assist small businesses located within New Bern's city limits; and

WHEREAS, the Board of Aldermen desires to contribute \$20,000 to the Program, which shall be loaned to small businesses within New Bern's city limits pursuant to the terms and conditions of the Program.

NOW, THEREFORE, BE IT RESOLVED THAT THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN hereby approves a \$20,000 contribution to the New Bern Area Chamber of Commerce to be used specifically to fund the Program.

ADOPTED THIS 12TH DAY OF MAY, 2020.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider Adopting a Budget Ordinance Amendment to the 2019-20 Operating Budget

Date of Meeting: 5/12/2020	Ward # if applicable:
Department: Finance	Person Submitting Item: Mary Hogan, Director of Finance
Call for Public Hearing: <input type="checkbox"/> Yes <input type="checkbox"/> No	Date of Public Hearing:

Explanation of Item:	Consider Adopting a Budget Ordinance Amendment to include appropriations for the purchase of property and COVID-19 small business loans, and the reallocation of funds.
Actions Needed by Board:	Adopt Ordinance
Backup Attached:	Memo; Budget Ordinance Amendment

Is item time sensitive? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will there be advocates/opponents at the meeting? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Cost of Agenda Item:
If this requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Additional Notes:

Aldermen

Sabrina Bengel
Jameesha Harris
Robert V. Aster
Johnnie Ray Kinsey
Barbara J. Best
Jeffrey T. Odham



300 Pollock Street, P.O. Box 1129
New Bern, NC 28563-1129
(252) 636-4000

Dana E. Outlaw
Mayor
Mark A. Stephens
City Manager
Brenda E. Blanco
City Clerk
Mary M. Hogan
Director of Finance

TO: City Manager, Honorable Mayor and Members of the Board of Aldermen
FROM: Mary Hogan, Director of Finance
DATE: May 1, 2020
RE: Amend the FY2019-20 Operating Budget

The following are amendments to the Fiscal Year 2019-20 Operating Budget:

General Fund:

Recognizes insurance proceeds of \$64,661.00 received for a damaged a fire vehicle and Mobark chipper, which will be used for repairs. Appropriates \$500,000 for the acquisition of land and \$20,000 for COVID-19 small business loans. A reduction to Governing Board of \$16,000 and General Administration of \$4,000 will fund the COVID-19 small business loans. Reallocates \$4,400 between Police and Parking based on actual expenditures to date and reduces Public Works Stormwater appropriations by \$1,000,000.

Grants Fund

Reduce appropriations by \$15,000 for the Duke Energy Foundation Grant, which is now part of the Resiliency and Hazard Mitigation Fund. Amend the Wal-Mart grants funding source previously identified as Fund Balance Appropriated to Grant Revenue.

Requested Action

It is recommended that the Board adopt the attached budget amendment at its meeting to be held on May 12, 2020.

CITY OF NEW BERN, NORTH CAROLINA
REQUESTED AMEDMENT TO
Fiscal Year 2019-2020

FROM: Mary Hogan, Director of Finance

MEETING DATE: May 12, 2020

EXPLANATION: General Fund - Recognize insurance proceeds of \$64,661.00 for a fire vehicle & chipper, which will be used for repairs. Establishes \$500,000 appropriations for land acquisition and \$20,000 for COVID-19 small business loans. Reallocates \$4,400 between Police and Parking based on actual expenditures to date and reduces Public Works Stormwater appropriations by \$1,000,000. Grants Fund - Reduce appropriations by \$15,000 transfer of Duke Energy Foundation Grant to the Resiliency and Hazard Mitigation Fund; recognize grant proceeds received and appropriated on the 4/14/20 ordinance amendment from Wal-Mart as Grant Revenue; funding source was inadvertently identified as Fund Balance Appropriated.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN THAT THE 2019-2020 Annual Budget ORDINANCE IS AMENDED AS FOLLOWS:

Section 1 - Appropriations

Schedule A - General Fund

Increase:	Special Appropriations	\$ 520,000
	Parking	4,400
	Public Works	
	Insurance	64,661
Decrease:	Governing Board	(16,000)
	Administration	(4,000)
	Police	(4,400)
	Public Works	
	Stormwater	(1,000,000)
		<u>\$ (435,339)</u>

Schedule K - Grants Fund

Decrease:	Development Services- SRF	<u>\$ (15,000)</u>
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Section 2 - Estimated Revenues

Schedule A - General Fund

Increase:	Miscellaneous Revenue	\$ 64,661
Decrease:	Fund Balance Appropriated	(500,000)
		<u>\$ (435,339)</u>

Schedule K - Grants Fund

Decrease	Grants Revenue	\$ (10,000)
	Fund Balance Appropriated	(5,000)
		<u>\$ (15,000)</u>

NATURE OF TRANSACTION:

☒ ADDITIONAL REVENUE AVAILABLE FOR APPROPRIATION

☒ TRANSFER WITHIN ACCOUNTS OF SAME FUND

_____ OTHER:

APPROVED BY THE BOARD OF ALDERMEN AND

ENTERED ON MINUTES DATED _____

AGENDA ITEM NUMBER _____

BRENDA E. BLANCO, CITY CLERK

AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider Adopting Ordinance for Electric Rate Schedule Changes

Date of Meeting: 5/12/2020	Ward # if applicable: N/A
Department: Public Utilities	Person Submitting Item: Charles Bauschard
Call for Public Hearing: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date of Public Hearing: N/A

Explanation of Item:	City of New Bern Public Utilities is requesting the Board of Aldermen and Mayor Outlaw to consider changes to the electric rate schedules.
Actions Needed by Board:	Approval of Request
Backup Attached:	Memo, Ordinance to Establish the Rates for the Consumption of Electricity Applicable to Customers of the City of New Bern, both redline and final

Is item time sensitive? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Will there be advocates/opponents at the meeting? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Cost of Agenda Item: N/A
If this requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director? <input type="checkbox"/> Yes <input type="checkbox"/> No

Additional Notes: N/A



NEW BERN

CITY OF NEW BERN
DEPARTMENT OF PUBLIC UTILITIES
210 Kale Road, P.O. Box 1129
New Bern, NC 28563-1129

TO: Mayor Dana Outlaw, City of New Bern Board of Aldermen

FROM: Charles D. Bauschard, Director of Public Utilities

COPIES: Mark Stephens, City Manager; File

SUBJECT: Electric Rate Schedule Changes

DATE: April 29, 2020

The City of New Bern Department of Public Utilities staff requests your consideration towards adopting changes to the electric rate schedules. This includes revising payments terms, introduction of LED area lighting products, retirement of obsolete area lighting products and the retirement of an underutilized street light rate. The following is a summary of the proposed changes:

Payments - The current electric rate schedules require the customer to pay their bill “within 20 days from the date of the bill”. This is not a reasonable requirement considering the time to process and deliver a bill. Additionally, this leaves the customer very little time to make payment. As an alternative, revised terms are recommended to better align with the billing process, clarifying the “due” date and extending the customer “no earlier than 20 days” to pay the bill. This will improve the billing process, customer payment terms and have a neutral impact on the electric fund.

Area Lighting Schedule 4 - This schedule is intended to serve private locations. The recommended change introduces LED area lighting products and retires obsolete area lighting products. Customers will continue using the obsolete product until it is no longer serviceable. The LED product is offered as a replacement. Additionally, all requests for new service would be offered as an LED product. The proposed change would net a positive contribution to the electric fund, and does not increase the cost for any existing service.

Street Lighting Service Schedule 32 – This schedule is intended for municipally owned locations. The schedule is underutilized, redundant, of a higher cost, and recommended for retirement. The schedule presently serves no customers. Additionally, the availability of this schedule is identical to Schedule 32 A; however, 32A excludes “municipally owned and operated public parking lots” and is a lower cost rate schedule. The proposed change would have no impact on the electric fund or Public Works’ operating budget.

Street Lighting Service Schedule 32A – This schedule is intended for municipally owned locations. Recommend adding the availability of “municipally owned and operated public

parking lots” into the rate schedule. This would account for the services retired in Schedule 32. The proposed change would have no impact on the Electric Fund or Public Works’ operating budget.

Street Lighting Service Schedule 32B and 32C – These schedules are intended for private streets and developing locations. No change is recommended at this time. Further consideration will be given throughout the next fiscal year.

The revised schedules, both the redline changes and the final schedule, are attached for your consideration and approval.

Please let me know if you have any questions or need additional information.

**AN ORDINANCE TO ESTABLISH THE RATES FOR THE CONSUMPTION OF ELECTRICITY
APPLICABLE TO CUSTOMERS OF THE CITY OF NEW BERN**

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

SECTION 1. That there are hereby established rates for the consumption of energy to be charged to electric utility customers of the City of New Bern **effective July 1, 2020**, summarized as follows:

Residential - Schedule 01		Rate
Customer Charge (Per Month)		\$ 9.95
Energy (Per kWh)	First 300 kWh	\$ 0.1018
Energy (Per kWh)	All additional kWh	\$ 0.1175
Three Phase Charge (In addition to monthly Customer Charge, if applicable)		\$ 13.67

Residential - Schedule 07		Rate
Customer Charge (Per Month)		\$ 9.95
Energy (Per kWh)	First 300 kWh	\$ 0.0968
Energy (Per kWh)	All additional kWh	\$ 0.1116
Three Phase Charge (In addition to monthly Customer Charge, if applicable)		\$ 13.67

Small General Service #1 Schedule 03		Rate
Customer Charge (Per Month)		\$ 20.64
Energy (Per kWh)	First 2325 kWh	\$ 0.1260
Energy (Per kWh)	Next 1000 kWh	\$ 0.0960
Energy (Per kWh)	All over 3325 kWh	\$ 0.0900
Three Phase Charge (In addition to monthly Customer Charge, if applicable)		\$ 13.67

Small General Service #2 Schedule 04		Rate
Customer Charge (Per Month)		\$ 20.64
Demand (Per kW)		\$ 2.31
Energy (Per kWh)	First 2325 kWh	\$ 0.1013
Energy (Per kWh)	Next 1000 kWh	\$ 0.0956
Energy (Per kWh)	All over 3325 kWh	\$ 0.0887
Three Phase Charge (In addition to monthly Customer Charge, if applicable)		\$ 13.67

Economic Development Rate #5		Rate
Customer Charge (Per Month)		\$ 197.00
CP Demand (Per kW)		\$ 26.84
Excess Demand (Per kW)		\$ 3.94
Energy (Per kWh)		\$ 0.0444

Large General Service #1 CP Schedule 13		Rate
Customer Charge (Per Month)		\$ 166.06
CP Demand (Per kW)		\$ 26.84
Excess Demand (Per kW)		\$ 4.43
Energy (Per kWh)		\$ 0.0561

Medium General Service #1 Schedule 08		Rate
Customer Charge (Monthly)		\$ 22.80
Demand (Per kW)		\$ 8.08
Energy (Per kWh)		\$ 0.0842

Small Wholesale Schedule 09		Rate
Customer Charge (Per Month)		\$ 21.78
Demand (Per kW)		\$ 6.69
Energy (Per kWh)		\$ 0.0859
Three Phase Charge (In addition to monthly Customer Charge, if applicable)		\$ 13.67

Large General Service #2 CP Rate Schedule 6		Rate
Customer Charge (Per Month)		\$ 1,214.06
CP Demand (Per kW)	First 3200 kW	\$ 26.84
Demand (Per kW)	All additional kW	\$ 14.94
Excess Demand (Per kW)		\$ 4.19
Energy (Per kWh)	First 1,700,000 kWh	\$ 0.0529
Energy (Per kWh)	All additional kWh	\$ 0.0445

Medium General Service #2 Schedule 10		Rate
Customer Charge (Per Month)		\$ 22.80
Demand (Per kW)		\$ 8.95
Energy (Per kWh)		\$ 0.0800
Three Phase Charge (In addition to monthly Customer Charge, if applicable)		\$ 13.67

Medium General Service TOU Schedule 11		Rate
Customer Charge (Per Month)		\$ 56.78
Peak Demand (Per kW)		\$ 21.57
Excess Demand (Per kW)		\$ 5.19
Energy (Per kWh)		\$ 0.0592

Medium General Service CP Schedule 12		Rate
Customer Charge (Per Month)		\$ 82.24
CP Demand (Per kW)		\$ 22.12
Excess Demand (Per kW)		\$ 5.24
Energy (Per kWh)		\$ 0.0601

Residential - Schedule 40		Rate
Customer Charge (Per Month)		\$ 9.95
Energy (Per kWh)	First 300 kWh	\$ 0.1018
Energy (Per kWh)	300 kWh to 800 kWh	\$ 0.1175
Energy (Per kWh)	All additional kWh	\$ 0.1013
Three Phase Charge (In addition to monthly Customer Charge, if applicable)		\$ 13.67

Residential - Schedule 50		Rate
Customer Charge (Per Month)		\$ 9.95
Energy (Per kWh)	First 300 kWh	\$ 0.0968
Energy (Per kWh)	300 kWh to 800 kWh	\$ 0.1116
Energy (Per kWh)	All additional kWh	\$ 0.0948
Three Phase Charge (In addition to monthly Customer Charge, if applicable)		\$ 13.67

Extra Facilities Charge – Generation Schedule 70		Rate
Facilities Charge	Per kW based on Generator Nameplate Rating	\$ 2.96

Renewable Resource Facilities Credit Schedule 60		Rate
Energy	Credit Per kWh generated	\$ 0.0487

Area Lighting Schedule 04		New Rate
High Pressure Sodium		
Monthly Rate	150w (Obsolete – Not Available for new or replacement service)	\$18.74
Monthly Rate	250w (Obsolete – Not Available for new or replacement service)	\$21.32
Metal Halide		
Monthly Rate	400w (Obsolete – Not Available for new or replacement service)	\$33.15
Monthly Rate	1000w (Obsolete – Not Available for new or replacement service)	\$44.60
LED		
Monthly Rate	50w	\$18.74
Monthly Rate	300w	\$33.15
Area Lighting Poles		
Monthly Rate	Wood	\$2.93
Monthly Rate	Special Metal or fiberglass Post	\$6.94
Underground Service		
	One time contribution per pole	\$246.51
Monthly Rate	Increase per pole	\$4.90

Street Lighting Poles		
Monthly Rate	Wood	\$2.01
Monthly Rate	Special Metal or fiberglass Post	\$3.51
Underground Service		
	One time contribution per pole	\$246.51
Monthly Rate	Increase per pole	\$4.90

St. Lighting Service Schedule 32-A		Rate
Metal Halide		
Monthly Rate	70w	\$8.44
Monthly Rate	400w	\$13.18
Monthly Rate	1000w	\$14.47
High Pressure Sodium		
Monthly Rate	150w	\$8.44
Monthly Rate	250w	\$10.77
Monthly Rate	70w LED/LED Retro-Fit	\$8.44

St. Lighting Service Schedule 32-B		Rate
Overhead Distribution Area		
<i>Bracket-mounted, enclosed luminaries on approved wood pole</i>		
	<i>1 light per 10 customers or major fraction thereof</i>	
per customer	150w High Pressure Sodium	\$1.47
	<i>1 light per 5 customers or major fraction thereof</i>	
per customer	150w High Pressure Sodium	\$2.94
Underground Distribution Area		
<i>Bracket-Mounted, enclosed luminaries on approved wood pole</i>		
	<i>1 Light per 10 customers or major fraction thereof</i>	
per customer	150w High Pressure Sodium	\$2.09
	<i>1 Light per 5 customers or major fraction thereof</i>	
per customer	150w High Pressure Sodium	\$4.18
<i>Bracket-Mounted, enclosed luminaries on standard metal pole</i>		
	<i>1 Light per 10 customers or major fraction thereof</i>	
per customer	150w High Pressure Sodium	\$2.38
per customer	9,500 lumen sodium vapor	\$2.38
	<i>1 Light per 6 customers or major fraction thereof</i>	
per customer	150w High Pressure Sodium	\$3.99
	<i>1 Light per 3 customers or major fraction thereof</i>	
per customer	150w High Pressure Sodium	\$7.98
<i>Approved Post-Mounted type Luminaries</i>		
	<i>1 Light per 10 customers or major fraction thereof</i>	
per customer	150w High Pressure Sodium	\$2.38
	<i>1 Light per 6 customers or major fraction thereof</i>	
per customer	150w High Pressure Sodium	\$3.99
	<i>1 Light per 3 customers or major fraction thereof</i>	
per customer	150w High Pressure Sodium	\$7.98

St. Lighting Service Schedule 32-C		Rate
High Pressure Sodium		
Monthly Rate	150w	\$8.44
Monthly Rate	250w	\$10.77

SECTION 2. That the following Residential Service #1 Schedule 01 and Schedule 07 are hereby adopted **effective July 1, 2020:**

CITY OF NEW BERN
Residential Service #1
Schedule 01, Schedule 07

AVAILABILITY

Service under this schedule is available for separately metered and billed supply of alternating electric current to single family residences, including a residential farm where the farm uses are not taken through a separate meter.

This schedule is not available for (a) individual motors rated on 15 HP; (b) commercial use as in hotels, public inns, motels, auto courts, tourist camps, and trailer camps; (c) separately metered accessory buildings or equipment on residential property not suitable for residential use; or (d) bulk barns and other seasonal high use facilities.

Non-fossil energy sources caused by acts of nature, such as wind or solar, are permitted as supplements to customer's energy requirements provided the City is granted the right to install, operate, and monitor special equipment to measure the customer's load, or any part thereof, and to obtain any other data necessary to determine the operating characteristics and effects of the installation.

APPLICABILITY

The schedule is applicable to all electric service of the same available type supplied to the customer's premises at one point of delivery through a one kilowatt-hour meter in accordance with Schedule 01 and Schedule 07 below.

ADDITIONAL POINTS OF DELIVERY

Additional points of delivery installed on structures at same premises for other than residential dwelling purposes shall be billed under the appropriate rate schedule.

TYPE OF SERVICE

The types of service to which this schedule is applicable are alternating current, 60 hertz, either single-phase two or three wires, or three-phase four wires at City's standard voltages of 240 volts or less.

SCHEDULE 01

MONTHLY RATES

For Single-Phase Service

Basic Customer Charge	\$9.95
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Energy Charges

For the first 300 kilowatt hours	\$0.1018
For all additional kilowatt hours	\$0.1175

For Three-Phase Service

The bill computed for single-phase service plus \$13.67.

SCHEDULE 07 (Energy Efficient Residential Rate)

ENERGY CONSERVATION DISCOUNT

Where Customer notifies company and customer's dwelling complies with the thermal requirements herein, participates fully in the City of New Bern Load Management program, and operates no fossil fuel burning appliances for the purpose of heating or production of hot water, the Schedule E01 kWh charges will be discounted by 5% per kWh.

MONTHLY RATES

For Single-Phase Service

Basic Customer Charge	\$9.95
<i>Energy Charges</i>	
For the first 300 kilowatt hours	\$ 0.0968
For all additional kilowatt hours	\$ 0.1116 (See E50)

For Three-Phase Service

The bill computed for single-phase service plus \$13.67.

THERMAL REQUIREMENTS

CONVENTIONAL HOUSING

In no case shall the structure's heat loss, including duct heat loss, be greater than 0.1 watts (.34 Btuh) per square foot of net heated floor area per degree Fahrenheit temperature difference. Generally, the criteria may be satisfied if the following provisions are met:

- A. Ceilings with an installed insulation thermal resistance value of R-30.
- B. Exterior walls with an installed insulation thermal resistance value of R-13.
- C. Floors over crawlspaces with an installed insulation thermal resistance value of R-19.
- D. All windows should be insulated double pane glass or single pane glass with storm windows.
- E. All exterior doors should be wood with storm doors or insulated metal doors.
- F. Adequate natural or mechanical attic ventilation should be provided.
- G. Effective with building permits issued 7/1/02, the dwelling is all electric (range-oven, heating, air conditioning, water heater, dryer).

MANUFACTURED HOUSING

In no case shall the structure's heat loss, including duct loss, be greater than 0.125 watts (0.43 Btuh), per square foot of net heated floor area per degree Fahrenheit temperature difference.

Generally, this criteria may be satisfied if the following provisions are met:

- A. Ceilings with an installed insulation thermal resistance value of R-19.
- B. Exterior walls with an installed insulation thermal resistance value of R-13.
- C. Floors over crawlspaces with an installed insulation thermal resistance value of R-19.
- D. All windows should be insulated double pane glass or single pane glass with storm windows.
- E. All exterior doors should be wood with storm doors or insulated metal doors.
- F. Effective with building permits issued 7/1/02, the dwelling is all electric (range-oven, heating, air conditioning, water heater, dryer).

A copy of the manufacturer's certificate stating that the manufactured home in question meets or exceeds the above thermal requirements shall be submitted to the City's Electric Utilities Department in order to obtain the 5% energy efficient discount.

PAYMENTS

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. If any bill is not so paid, the City has the right to suspend service in accordance with its service regulations.

SALES TAX

To the above charges will be added any applicable North Carolina sales tax.

CONTRACT PERIOD

The contract period shall not be less than one year.

GENERAL

Service rendered under this schedule is subject to the provisions of the City's service regulations, and any changes therein, substitutions therefore, or additions thereto lawfully made.

SECTION 3. That the following Small General Service #1 Schedule 03 is hereby adopted **effective July 1, 2020:**

CITY OF NEW BERN
Small General Service #1
Schedule 03

AVAILABILITY

This schedule is available for electric service at a single point of delivery, at one of the City's standard voltages, used by any non-residential customer with monthly energy readings of less than 2500 kWh for a least ten of the preceding twelve months. When the customer's monthly energy has equaled or exceeds 2500 kWh for at least three of the preceding twelve months, the City may

install a demand meter to determine the maximum 15-minute demand and begin billing the customer for demand under Small General Service Schedule 04.

This schedule is not available: (1) for residential service; (2) for resale service; or (3) whenever the monthly energy equals or exceeds 2500 kWh for at least three of the preceding twelve months. In order to determine the applicable rate schedule for a customer, the City will review that customer's monthly readings once a year in one-year increments from the month that the customer first started receiving bills under a new schedule.

When the customer has installed generating or converting equipment that can operate in parallel with the City's service, the Customer shall install the protective equipment acceptable to the City that will protect the City's employees, its other customers, and its distribution system. The City shall have the right to suspend delivery of electricity to the customer with such generating or converting equipment until the customer has installed the protective equipment.

APPLICABILITY

This schedule is applicable to all electric service of the same available type supplied to the customer's premises at one point of delivery through one meter.

MONTHLY RATES

For Single-Phase Service

Customer Charge	\$20.64
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Energy Charges

First 2325 kWh	\$0.1260 per kWh
Next 1000 kWh	\$0.0960 per kWh
All over 3325 kWh	\$0.0900 per kWh

For Three-Phase Service

Bill for single-phase service plus \$13.67

SALES TAX

To the above charges will be added any applicable North Carolina sales tax.

PAYMENTS

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. If any bill is not so paid, the City has the right to suspend service in accordance with its service regulations.

CONTRACT PERIOD

The contract period shall not be less than one year, except for short-term, construction, or temporary service, in which case the contract period may be for the period requested by the customer, provided the customer agrees:

1. That the service supplied shall be for a continuous period until discontinued, and
2. That where it is necessary for City to extend lines, erect transformers, or do any work necessary to supply service, except for the installation of a self-contained

meter, the customer shall pay for the line extension in accordance with the City's customer service policies as may be amended from time to time.

GENERAL

Service rendered under this schedule is subject to the provisions of the City's service regulations, and any changes therein, substitutions therefore, or additions thereto lawfully made.

SECTION 4. That the following Small General Service #2 Schedule 04 is hereby adopted effective July 1, 2020:

CITY OF NEW BERN Small General Service #2 Schedule 04

AVAILABILITY

This schedule is available for electric service at a single point of delivery, at one of the City's standard voltages, used by any non-residential customer with monthly energy readings of 2500 kWh or greater for a least three of the preceding twelve months but with demand readings of less than 35 kW for at least eleven of the preceding twelve months.

This schedule is not available: (1) for residential service; (2) for resale service; or (3) whenever the monthly demand equals or exceeds 35 kW for at least two of the preceding twelve months. In order to determine the applicable rate schedule for a customer, the City will review that customer's monthly readings once a year, in one-year increments from the month that the customer first started receiving bills under a new schedule.

When the customer has installed generating or converting equipment that can operate in parallel with the City's service, the customer shall install the protective equipment acceptable to the City that will protect the City's employees, its other customers, and its distribution system. The City shall have the right to suspend delivery of electricity to the customer with such generating or converting equipment until the customer has installed the protective equipment.

APPLICABILITY

This schedule is applicable to all electric service of the same available type supplied to the customer's premises at one point of delivery through one meter.

MONTHLY RATES

For Single-Phase Service

Customer Charge	\$20.64
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Energy Charges

First 2325 kWh	\$0.1013 per kWh
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Next 1000 kWh	\$0.0956 per kWh
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All over 3325 kWh	\$0.0887 per kWh
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Demand Charge	\$2.31
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For Three-Phase Service

Bill for single-phase service plus \$13.67.

BILLING DEMAND

The billing demand shall be the maximum kW registered on computed by or from the City's metering facilities during any 15-minute interval within the current billing month.

SALES TAX

To the above charges will be added any applicable North Carolina sales tax.

PAYMENTS

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. If any bill is not so paid, the City has the right to suspend service in accordance with its service regulations.

CONTRACT PERIOD

The contract period shall not be less than one year, except for short-term, construction, or temporary service, in which case the contract period may be for the period requested by the customer, provided the customer agrees:

1. That the service supplied shall be for a continuous period until discontinued, and
2. That where it is necessary for City to extend lines, erect transformers, or do any work necessary to supply service, except for the installation of a self-contained meter, the Customer shall pay for the line extension in accordance with the City's customer service policies as may be amended from time to time.

GENERAL

Service rendered under this schedule is subject to the provisions of the City's service regulations, and any changes therein, substitutions therefore, or additions thereto lawfully made.

SECTION 5. That the following Economic Development CP Rate Schedule EDR4 is hereby adopted effective July 1, 2020:

CITY OF NEW BERN
Economic Development CP Rate
Large General Service
Minimum Demand = 350kW
Schedule EDR5

APPLICABILITY

The Economic Development (ED) Rate set forth in this schedule is available to new loads or load expansions of commercial or industrial customers which meet the following requirements:

1. Have at least a 350 kW annual peak demand;
2. In the case of new loads, have not been served by the City prior to the date on which service of such load under this ED Rate commences, except as necessary to maintain a minimum level of service prior to full operation;
3. In the case of load expansions, are at least an incremental addition of 200 kW to the facility's highest Non-Coincidental Peak Demand for the previous twelve (12)

months of service and are the result of adding new full-time employees to the organization of at least 100 persons;

4. Are individually metered;
5. Are served under the provision of a service agreement with the City; and
6. Are approved by the Board of Aldermen and the City Manager.

CONTRACT PERIOD

Service under this rate is only available to new loads or load expansions for a period of five (5) years, following the date of full operation.

At the end of the customer's eligibility for this rate, the customer will then be switched to the appropriate standard rate schedule based on load size and characteristics.

MONTHLY RATES

- | | | |
|----|---|----------------------------|
| A. | Customer Charge | \$197.00 per billing month |
| B. | KW Demand Charge | |
| | All Coincident Peak (CP) Demand | \$26.84 per CP kW |
| C. | Energy Charge | |
| | All kWh | \$0.0444 per kWh |
| D. | Excess Demand | \$3.94 per kW |
| E. | The minimum charge shall be such as may be contracted for, but not less than the sum of the charges in A, B, C and D above. | |

DEFINITIONS

Coincident Peak (CP) Demand: The Coincident Peak (CP) Demand shall be the customer's contribution to the City's 60-minute interval which is used by the North Carolina Eastern Municipal Power Agency (NCEMPA) for wholesale billing purposes during the current calendar month.

Excess Demand: Excess Demand shall be the difference between the maximum 15-minute demand recorded during the current billing month and the Coincident Peak (CP) Demand for the same billing month.

KWh: The letters kWh of energy consumption shall be the total usage of electricity during the current billing month.

NOTIFICATION BY THE CITY

The City will use diligent effort to predict each monthly system peak and notify the customer in advance; however, the City is not able to guarantee an accurate prediction, and notice will be provided. Notification by the City will be provided to the customer by direct telephone communications or automatic signal, as mutually agreed. The customer will hold the City harmless in connection with its response to notification.

SALES TAX

To the above charges will be added any applicable North Carolina sales tax.

PAYMENTS

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. If any bill is not so paid, the City has the right to suspend service in accordance with its service regulations.

GENERAL

Service rendered under this schedule is subject to the provisions of the City's service regulations, and any changes therein, substitutions therefore, or additions thereto lawfully made.

SECTION 6. That the following Large General Service #1 - CP Schedule 13 is hereby adopted effective July 1, 2020:

CITY OF NEW BERN Large General Service #1 – CP Schedule 13

AVAILABILITY

This schedule is available for electric service at a single point of delivery at one of the City's standard voltages, used by any non-residential customer with a monthly demand between 750 kW and 2,000 kW for at least two of the preceding twelve months.

This schedule is not available for (1) residential service; (2) breakdown, standby, or supplementary service unless used in conjunction with applicable standby or generation service rider for a continuous period of not less than one year; (3) resale service; or (4) whenever the monthly demand exceeds 100,000 kW. In order to determine the applicable rate schedule for a customer, the City will review that customer's monthly readings once a year, in one-year increments from the month that the customer first started receiving bills under a new schedule.

MONTHLY RATES

Customer Charge	\$166.06 per month
Energy Charge	
All kWh	\$0.0561 per kWh
Demand Charges	
Coincident Peak Demand	\$26.84 per kW
Excess Demand	\$4.43 per kW

DETERMINATION OF BILLING DEMAND

Coincident Peak Demand shall be the average kW demand measured in the 60-minute interval used by the North Carolina Eastern Municipal Power Agency for wholesale billing purposes during the corresponding month of the customer's billing.

Excess Demand shall be the highest 15-minute demand recorded during the current billing month, less the Monthly Coincident Peak Demand for the current billing month.

NOTIFICATION BY THE CITY

The City will use diligent effort to predict each monthly system peak and notify the customer in advance; however, the City is not able to guarantee an accurate prediction, and notice will be provided. Notification by the City will be provided to the customer by direct telephone communication or automatic signal, as mutually agreed. The customer will hold the City harmless

in connection with its response to notification.

POWER FACTOR CORRECTION

Where the power factor of the consumer's installation is less than 85%, the City may correct kWh consumption for the month by multiplying by 85 and dividing by the actual power factor.

SALES TAX

To the above charges will be added any applicable North Carolina sales tax.

PAYMENT

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. If any bill is not so paid, the City has the right to suspend service in accordance with its service regulations.

CONTRACT PERIOD

The contract period shall not be less than one year, except for short-term, construction, or temporary service, in which case the contract period may be for the period requested by the customer, provided the customer agrees:

1. That the service supplied shall be for a continuous period until discontinued, and
2. That where it is necessary for City to extend lines, erect transformers, or do any work necessary to supply service, except for the installation of a self-contained meter, the Customer shall pay for the line extension in accordance with the City's customer service policies as may be amended from time to time.

GENERAL

Service rendered under this schedule is subject to the provisions of the City's service regulations, and any changes therein, substitutions therefore, or additions thereto lawfully made.

SECTION 7. That the following Medium General Service #1 Schedule 08 is hereby adopted effective July 1, 2020:

CITY OF NEW BERN
Medium General Service #1
Schedule 08

AVAILABILITY

This schedule is available for electric service used at a single point of delivery, at one of the City's standard voltages, used by any non-residential customer with a monthly demand of 35 kW or greater for at least two of the preceding twelve months, but less than 100 kW for 11 of the preceding twelve months.

This schedule is not available for: (1) residential service; (2) breakdown, standby, or supplementary service unless used in conjunction with applicable standby or generation service rider for a continuous period of not less than one year; (3) resale service; (4) or whenever the registered or computed demand equals or exceeds 100 kW. In order to determine that applicable rate schedule for a customer, the City will review that customer's monthly readings once a year in

one-year increments from the month that customer first started receiving bills under a new schedule.

MONTHLY RATES

For Single-Phase Service

Customer Charge	\$22.80
Energy Charge	\$0.0842 per kWh
Demand Charge	\$8.08 per kW

For Three-Phase Service

Bill computed for single-phase service plus \$13.67.

BILLING DEMAND

The billing demand shall be the maximum kW registered or computed by or from the City's metering facilities during any 15-minute interval within the current billing month.

SALES TAX

To the above charges will be added any applicable North Carolina sales tax.

PAYMENT

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. If any bill is not so paid, the City has the right to suspend service in accordance with its service regulations.

CONTRACT PERIOD

The contract period shall not be less than one year, except for short-term, construction, or temporary service, in which case the contract period may be for the period requested by the customer, provided the customer agrees:

1. That the service supplied shall be for a continuous period until discontinued, and
2. That where it is necessary for City to extend lines, erect transformers, or do any work necessary to supply service, except for the installation of a self-contained meter, the Customer shall pay for the line extension in accordance with the City's customer service policies as may be amended from time to time.

GENERAL

Service rendered under this Schedule is subject to the provisions of the City's Service Regulations, and any changes therein, substitutions therefore, or additions thereto lawfully made.

SECTION 8. That the following Small Wholesale Customer Rate Schedule 09 is hereby adopted effective July 1, 2020:

CITY OF NEW BERN
Small Wholesale Customer Rate
Schedule 09

AVAILABILITY

This schedule is available for electric service used by a nonresidential customer at a single point of

delivery at one of the City's standard voltages with a contract demand or a registered or computed demand of 1 kW and greater but less than 750 kW.

This schedule is not available for (1) residential service; (2) breakdown, standby, or supplementary service unless used in conjunction with the applicable standby or generation service rider for a continuous period of not less than one year; (3) a new customer with a contract demand of 750 kW or more, or whenever the registered or computed demand equals or exceeds 1,000 kW in two or more of the preceding twelve months.

MONTHLY RATES

For Single-phase Service

Customer Charge	\$21.78 per month
Billing Demand	\$6.69 per kW
Kilowatt-Hour Energy Charge	\$.0859 per kWh for all kWh

For Three-phase Service

The bill computed for single-phase service plus \$13.67.

CONTRACT DEMAND

The contract demand shall be the kW of demand specified in the service agreement.

BILLING DEMAND

The billing demand shall be the greater of the maximum kW registered or computed by or from the City's metering facilities during any 15-minute interval within the current billing month or 30 kW.

SALES TAX

To the above charges will be added any applicable North Carolina sales tax.

PAYMENTS

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. If any bill is not so paid, the City has the right to suspend service in accordance with its service regulations.

CONTRACT PERIOD

The contract period shall not be less than one year, except for short-term, construction, or temporary service, in which case the contract period may be for the period requested by the customer, provided the customer agrees:

1. That the service supplied shall be for a continuous period until discontinued, and
2. That where it is necessary for City to extend lines, erect transformers, or do any work necessary to supply service, except for the installation of a self-contained meter, the Customer shall pay for the line extension in accordance with the City's customer service policies as may be amended from time to time.

GENERAL

Service rendered under this schedule is subject to the provisions of the City's service regulations,

and any changes therein, substitutions therefore, or additions thereto lawfully made.

SECTION 9. That the following Large General Service #2-CP Schedule 06 is hereby adopted **effective July 1, 2020:**

CITY OF NEW BERN
Large General Service #2-CP
Schedule 06

AVAILABILITY

This schedule is available for electric service at a single point of delivery at one of the City's standard voltages, used by any non-residential customer with a monthly demand of 2000 kW or greater for at least two of the preceding 12 months.

This schedule is not available for (1) residential service; (2) breakdown, standby, or supplementary service unless used in conjunction with applicable standby or generation service rider for a continuous period of not less than one year; (3) resale service; or (4) whenever the monthly demand exceeds 100,000 kW. In order to determine the applicable rate schedule for a customer, the City will review that customer's monthly readings once a year, in one-year increments from the month that the customer first started receiving bills under a new schedule.

MONTHLY RATES

Customer Charge	\$1,214.06 per month
Energy Charge	
First 1,700,000 kWh	\$0.0529 per kWh
Additional kWh	\$0.0445 per kWh
Demand Charges	
Coincident Peak Demand	
First 3200 kW	\$26.84 per kW
Additional kW	\$14.94 per kW
Excess Demand	\$4.19 per kW

DETERMINATION OF BILLING DEMAND

Coincident Peak Demand shall be the average kW demand measured in the 60-minute interval used by the North Carolina Eastern Municipal Power Agency for wholesale billing purposes during the corresponding month of the customer's billing.

Excess Demand shall be the highest 15-minute demand recorded during the current billing month, less the Monthly Coincident Peak Demand for the current billing month.

NOTIFICATION BY THE CITY

The City will use diligent effort to predict each monthly system peak and notify the customer in advance; however, the City is not able to guarantee an accurate prediction, and notice will be provided. Notification by the City will be provided to the customer by direct telephone communications or automatic signal, as mutually agreed. The customer will hold the City harmless in connection with its response to notification.

POWER FACTOR CORRECTION

Where the power factor of the consumer's installation is less than 85%, the City may correct kWh

consumption for the month by multiplying by 85 and dividing by the actual power factor.

SALES TAX

To the above charges will be added any applicable North Carolina sales tax.

PAYMENT

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. If any bill is not so paid, the City has the right to suspend service in accordance with its service regulations.

CONTRACT PERIOD

The contract period shall not be less than one year, except for short-term, construction, or temporary service, in which case the contract period may be for the period requested by the customer, provided the customer agrees:

1. That the service supplied shall be for a continuous period until discontinued, and
2. That where it is necessary for City to extend lines, erect transformers, or do any work necessary to supply service, except for the installation of a self-contained meter, the Customer shall pay for the line extension in accordance with the City's customer service policies as may be amended from time to time.

GENERAL

Service rendered under this schedule is subject to the provisions of the City's service regulations, and any changes therein, substitutions therefore, or additions thereto lawfully made.

SECTION 10. That the following Medium General Service #2 Schedule 10 is hereby adopted effective July 1, 2020:

CITY OF NEW BERN
Medium General Service #2
Schedule 10

AVAILABILITY

This Schedule is available for electric service used at a single point of delivery, at one of the City's standard voltages, used by any non-residential customer with a monthly demand of 100 kW or greater for at least two of the preceding twelve months, but less than 750 kW for at least eleven of the preceding twelve months.

This schedule is not available for: (1) residential service; (2) breakdown, standby, or supplementary service unless used in conjunction with applicable standby or generation service rider for a continuous period of not less than one year; (3) resale service; (4) or whenever the monthly demand has equaled or exceeded 750 kW for at least two of the preceding twelve months. In order to determine the applicable rate schedule for a customer, the City will review that customer's monthly readings once a year in one-year increments from the month that Customer first started receiving bills under a new schedule.

MONTHLY RATES

For Single-Phase Service

Customer Charge	\$22.80
Energy Charge	\$0.0800 per kWh
Demand Charge	\$8.95 per kW

For Three-Phase Service

Bill computed for single-phase service plus \$13.67.

BILLING DEMAND

The billing demand shall be the maximum kW registered or computed by or from the City's metering facilities during any 15-minute interval within the current billing month.

SALES TAX

To the above charges will be added any applicable North Carolina sales tax.

PAYMENT

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. If any bill is not so paid, the City has the right to suspend service in accordance with its service regulations.

CONTRACT PERIOD

The contract period shall not be less than one year, except for short-term, construction, or temporary service, in which case the contract period may be for the period requested by the customer, provided the customer agrees:

1. That the service supplied shall be for a continuous period until discontinued, and
2. That where it is necessary for City to extend lines, erect transformers, or do any work necessary to supply service, except for the installation of a self-contained meter, the Customer shall pay for the line extension in accordance with the City's customer service policies as may be amended from time to time.

GENERAL

Service rendered under this schedule is subject to the provisions of the City's Service Regulations, and any changes therein, substitutions therefore, or additions thereto lawfully made.

SECTION 11. That the following Medium General Service (Time-of-Use) Schedule 11 is hereby adopted **effective July 1, 2020:**

CITY OF NEW BERN
Medium General Service (Time-of-Use)
Schedule 11

AVAILABILITY

This schedule is available on a voluntary basis for electric service at a single point of delivery at one of the City's standard voltages used by any non-residential customer with a monthly demand of 30kW or greater, but less than 750 kW for at least 3 of the preceding 12 months. Also, this schedule is available to those customers who were being served under the City's small general service (time-of-use) schedule as of November 15, 1993.

TYPE OF SERVICE

Delivery of service under this schedule shall be to the customer's premises at one point of delivery through one meter.

MONTHLY RATES

Customer Charge	\$56.78 per month
Energy Charge	\$0.0592 per kWh
Demand Charges	
On-Peak Demand	\$21.57 per kW
Excess Demand	\$5.19 per kW

DETERMINATION OF BILLING DEMAND

The on-peak demand for billing purposes each month shall be the maximum kW demand registered or computed by or from the City's metering facilities during any 15-minute interval within the peak hours of the billing month. The peak hours are the hours falling within the time periods every Monday through Friday (excluding holidays) listed by months below:

Summer period – Coincident with April 15 through October 15: 1:00 – 6:00 p.m.

Winter period – Coincident with October 16 through April 14: 7:00 – 9:00 a.m.

Excess demand is the maximum demand registered or computed from the City's metering facilities used during any 15-minute interval in the off-peak hours of the current month, less the on-peak demand. If on-peak demand is greater than the off-peak demand, the excess demand charge will be zero.

SALES TAX

To the above charges will be added any applicable North Carolina sales tax.

CONTRACT PERIOD

The contract period shall not be less than one year, except for short-term, construction, or temporary service, in which case the contract period may be for the period requested by the customer, provided the customer agrees:

1. That the service supplied shall be for a continuous period until discontinued, and
2. That where it is necessary for City to extend lines, erect transformers, or do any work necessary to supply service, except for the installation of a self-contained meter, the Customer shall pay for the line extension in accordance with the City's customer service policies as may be amended from time to time.

PAYMENT

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. If any bill is not so paid, the City has the right to suspend service in accordance with its service regulations.

GENERAL

Service rendered under this schedule is subject to the provisions of the City's service regulations,

and any changes therein, substitutions therefore, or additions thereto lawfully made.

SECTION 12. That the following Medium General Service – CP Rate Schedule 12 is hereby adopted **effective July 1, 2020:**

CITY OF NEW BERN
Medium General Service–CP Rate
Schedule 12

AVAILABILITY

This schedule is available on a volunteer basis for electric service used at a single point of delivery, at one of the City's standard voltages, used by any non-residential customer with a monthly demand of less than 750 kW for at least three of the preceding 12 months. Also, this schedule is available as an alternative to those customers who are currently being served under the Medium General Service rates (Schedules 4, 8 and 10) and Medium General Service Time-of-Use rates (Schedule 11).

This schedule is not available for: (1) residential service; (2) breakdown, standby, or supplementary service unless used in conjunction with applicable standby or generation service rider for a continuous period of not less than one year; (3) resale service; (4) or whenever the monthly demand exceeds 750 kW for at least three months. In order to determine the applicable rate schedule for a customer, the City will review that customer's monthly readings once a year in one-year increments from the month that the customer first started receiving bills under a new schedule.

INITIAL FEES

The customer will be billed for the actual cost for the City to purchase and install the CP meter facilities, communications equipment, and any associated load management equipment as required by the City.

MONTHLY RATES

Customer Charge	\$82.24 per month
Energy Charge	
All kWh	\$0.0601 per kWh
Demand Charges	
Coincident Peak Demand	\$22.12 per kW
Excess Demand	\$5.24 per kW

DETERMINATION OF BILLING DEMAND

Coincident Peak Demand shall be the average kW demand measured in the 60-minute interval used by the North Carolina Eastern Municipal Power Agency for wholesale billing purposes during the corresponding month of the Customer's billing.

Excess Demand shall be the highest 15-minute demand recorded during the current billing month, less the Monthly Coincident Peak Demand for the current billing month.

NOTIFICATION BY THE CITY

The City will use diligent effort to predict each monthly system peak and notify the customer in advance; however, the City is not able to guarantee an accurate prediction, and notice will be

provided. Notification by the City will be provided to the customer by direct telephone communication or automatic signal, as mutually agreed. The customer will hold the City harmless in connection with its response to notification.

POWER FACTOR CORRECTION

Where the power factor of the consumer's installation is less than 85%, the City may correct kWh consumption for the month by multiplying by 85 and dividing by the actual power factor.

SALES TAX

To the above will be added any applicable North Carolina sales tax.

PAYMENT

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. If any bill is not so paid, the City has the right to suspend service in accordance with its service regulations.

CONTRACT PERIOD

The contract period shall not be less than one year, except for short-term, construction, or temporary service, in which case the contract period may be for the period requested by the customer, provided the customer agrees:

1. That the service supplied shall be for a continuous period until discontinued, and
2. That where it is necessary for City to extend lines, erect transformers, or do any work necessary to supply service, except for the installation of a self-contained meter, the Customer shall pay for the line extension in accordance with the City's customer service policies as may be amended from time to time.

GENERAL

Service rendered under this Schedule is subject to the provisions of the City's Service Regulations, and any changes therein, substitutions therefore, or additions thereto lawfully made.

SECTION 13. That the following Residential Service Schedule 40 and Schedule 50 is hereby adopted **effective July 1, 2020:**

CITY OF NEW BERN Residential Service Schedule 40, Schedule 50

AVAILABILITY

Service under this schedule is available for separately metered and billed supply of alternating electric current to single family residences, including a residential farm where the farm uses are not taken through a separate meter.

A one-ton minimum central air conditioner must be present at these services, and these services must be participating in the 100% Air Conditioner Load Control Program. Under the 100% control, an air conditioner's compressor is turned off for the duration of every load management period. All applicable appliances must have load-management switches installed to participate in this rate schedule.

This schedule is not available for (a) individual motors rated on 15 HP; (b) commercial use as in hotels, public inns, motels, auto courts, tourist camps, and trailer camps; (c) separately metered accessory buildings or equipment on residential property not suitable for residential use; or (d) bulk barns and other seasonal high use facilities.

Non-fossil energy sources caused by acts of nature, such as wind or solar, are permitted as supplements to customer's energy requirements provided City is granted the right to install, operate, and monitor special equipment to measure customer's load or any part thereof and to obtain any other data necessary to determine the operating characteristics and effects of the installation.

APPLICABILITY

The schedule is applicable to all electric service of the same available type supplied to the customer's premises at one point of delivery through one kilowatt-hour meter in accordance with Schedule 40 and Schedule 50 below.

ADDITIONAL POINTS OF DELIVERY

Additional points of delivery installed on structures at same the premises for other than residential dwelling purposes shall be billed under the appropriate General Service Rate Schedule.

TYPE OF SERVICE

The types of service to which this schedule is applicable are alternating current, 60 hertz, either single-phase two or three wires, or three-phase four wires at City's standard voltages of 240 volts or less.

SCHEDULE 40 (Residential 100% A/C Control)

100% Air Condition Control Discount

For services participating in the 100% Air Conditioner Control, all energy usage over 800 kWh will be discounted 15% based on the Schedule E01 (Standard Residential Service) rate.

MONTHLY RATES

For Single-Phase Service

Basic Customer Charge	\$9.95
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Energy Charges

For the first 300 kilowatt hours	\$0.1018
For >300 to 800 kilowatt hours	\$0.1175
For all additional kilowatt hours	\$0.1013

For Three-Phase Service

The bill computed for single-phase service plus \$13.67.

SCHEDULE 50 (Energy Efficient Residential 100% A/C Control Rate)

Energy Conservation Discount

Where Customer notifies company and customer's dwelling complies with the thermal and load management requirements referenced in Schedule E07, all energy usage will be discounted by 5% based on the Schedule E01 (Residential Service) rate in addition to the 100% Air Conditioner Control discount above.

MONTHLY RATES

For Single-Phase Service

Basic Customer Charge	\$9.95
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Energy Charges

For the first 300 kilowatt hours	\$0.0968
For >300 to 800 kilowatt hours	\$0.1116
For all additional kilowatt hours	\$0.0948

For Three-Phase Service

The bill computed for single-phase service plus \$13.867.

THERMAL REQUIREMENTS

CONVENTIONAL HOUSING

In no case shall the structure's heat loss, including duct heat loss, be greater than 0.1 watts (.34 Btuh) per square foot of net heated floor area per degree Fahrenheit temperature difference. Generally, the criteria may be satisfied if the following provisions are met:

- A. Ceilings with an installed insulation thermal resistance value of R-30.
- B. Exterior walls with an installed insulation thermal resistance value of R-13.
- C. Floors over crawlspaces with an installed insulation thermal resistance value of R-19.
- D. All windows should be insulated double pane glass or single pane glass with storm windows.
- E. All exterior doors should be wood with storm doors or insulated metal doors.
- F. Adequate natural or mechanical attic ventilation should be provided.
- G. Effective with building permits issued 7/1/02, the dwelling is all electric (range-oven, heating, air conditioning, water heater, dryer).

MANUFACTURED HOUSING

In no case shall the structure's heat loss, including duct loss, be greater than 0.125 watts (0.43 Btuh), per square foot of net heated floor area per degree Fahrenheit temperature difference. Generally, this criteria may be satisfied if the following provisions are met:

- A. Ceilings with an installed insulation thermal resistance value of R-19.
- B. Exterior walls with an installed insulation thermal insulation thermal resistance value of R-13.
- C. Floors over crawlspaces with an installed insulation thermal resistance value of R-19.

- D. All windows should be insulated double pane glass or single pane glass with storm windows.
- E. All exterior doors should be wood with storm doors in insulated metal doors.
- F. Effective with building permits issued 7/1/02, the dwelling is all electric (range/oven, heating, air conditioning, water heater, dryer).

A copy of the manufacturer's certificate stating that the manufactured home in question meets or exceeds the above thermal requirements shall be submitted to the City's Electric Utilities Department in order to obtain the 5% energy efficient discount.

PAYMENT

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. If any bill is not so paid, the City has the right to suspend service in accordance with its service regulations.

SALES TAX

To the above charges will be added any applicable North Carolina sales tax.

CONTRACT PERIOD

The contract period shall not be less than one year.

GENERAL

Service rendered under this schedule is subject to the provisions of the City's service regulations, and any changes therein, substitutions therefore, or additions thereto lawfully made.

SECTION 14. That the following Extra Facilities Charges - Generation Schedule 70 is hereby adopted **effective July 1, 2020:**

CITY OF NEW BERN Extra Facilities Charges - Generation Schedule 70

AVAILABILITY

Service under this schedule is intended to be in conjunction with the following rate schedules: Medium General Service CP – Schedule 12, Large General Service #2 CP - Schedule 6, and Large General Service #1 CP – Schedule 13. This schedule is available for parallel operation of City-owned, operated and maintained generation systems located on the customer's premises for the purpose of demand reduction during load management periods. This schedule is to be used in conjunction with the provisions of a generation agreement with the City.

This schedule is available on a first-come, first-serve basis provided that the aggregate capacity of all the recognized generators operating on the City's electric system shall not exceed that of the City of New Bern's generation allocation as required by the North Carolina Eastern Municipal Power Agency policy. If a customer's proposed installation results in exceeding the aforementioned threshold, the customer will be notified that service under this schedule will not be available.

MONTHLY RATES

Existing City Owned Generator

Based on Generator Nameplate Rating:
kW Capacity Rating

\$2.96 per kW

New City Owned Generator

All new generator installations or new replacement generator installations shall be billed in accordance with the City of New Bern Customer Service policies for “Extra Facilities” under Schedule 70.

CONTRACT PERIOD

Service will be provided under this rider only after a generation agreement is executed including special terms and conditions for the customer’s requirements, if any, which are satisfactory to the City.

PAYMENT

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. If any bill is not so paid, the City has the right to suspend service in accordance with its service regulations.

GENERAL

Service rendered under this rider is subject to the provisions of the City’s service regulations and any changes therein, substitutions therefore, or additions thereto lawfully made.

SECTION 15. That the following Renewable Resource Facilities Credit Schedule 60 is hereby adopted **July 1, 2020:**

CITY OF NEW BERN Renewable Resource Facilities Credit Schedule 60

AVAILABILITY

Service under this schedule is intended to be in conjunction with the applicable rate schedule, and is available for parallel operation of non City-owned, single phase, small generation systems, which are rated at 10 kW or less for residential customers, and 100 kW or less for non-residential customers. These systems shall be derived from renewable resources including photovoltaic, wind-powered, or bio-mass-fueled generating systems without battery storage located at the customer’s primary residence or business. The generating system that is used in parallel operation with service from the City and located on the customer’s premises must be manufactured, installed, and operated in accordance with all governmental and industry standards, meet all requirements of the local code official, and must fully conform with City of New Bern’s applicable renewable energy interconnection interface criteria. Customers with qualified systems may apply for NC GreenPower credits.

This schedule is available on a first-come, first-serve basis provided that the aggregate capacity of all the customer generators operating pursuant to this schedule shall not exceed 5% of the City of New Bern's retail peak load for the prior calendar year. If a customer's proposed installation results in exceeding the aforementioned 5% threshold, the customer will be notified that service under this schedule is not available.

TYPE OF SERVICE

The only type of service to which this Schedule is applicable is alternating current, 60 hertz, single-phase, or three phase, two, three, or four wires at company's standard voltages of 480 volts or less.

MONTHLY CREDIT

Energy Credit:

All kWh delivered \$0.0487 per kWh

CONTRACT PERIOD

Service will be provided under this schedule only after a service agreement is executed including special terms and conditions for the customer's requirements, if any, which are satisfactory to the City.

SPECIAL CONDITIONS

1. Renewable energy generators, non-fossil energy sources caused by acts of nature such as wind or solar, are permitted as supplements to the customer's energy requirements provided the City is granted the right to install, operate, and monitor special equipment to measure the customer's load or any part thereof, and can obtain any other data necessary to determine the operating characteristics and effects of the installation.

2. All installations of non City-owned, small generation systems to be operated in parallel with the City electric system shall be required to comply with the North Carolina Utilities Commission (NCUC) "Standard for Interconnecting Small Generation 100 kW or Less with Electric Power Systems (EPS)." It is the customer's responsibility to ensure compliance with all such NCUC requirements, file all applications, and resolve all fees associated with the NCUC's interconnection standard prior to the parallel operation of any installed equipment.

3. Customers with renewable energy generators, as outlined above, that are designed to operate in excess of the customer's load at any time are required to function in compliance with the City's Supplemental Power Supply contract with the North Carolina Eastern Municipal Power Agency. Under this requirement, each customer will be required to enter into a unique Electric Service Agreement with the City detailing the specifications of the installation and the rate schedule to be followed for the power supplied by the renewable resource generator. The customer's service shall be metered with two meters—one to measure all energy provided by the City and used by the customer, and the other to measure the amount of energy generated by the customer's renewable energy generator.

4. All customers applying for installations of photovoltaic non City-owned, small generation systems to be operated in parallel with the City electric system shall be required to complete and comply with the City of New Bern's Application and Procedures for Interconnecting a Certified Photovoltaic Generating Facility ("Application"). The customer must complete the Application and submit the same to the City prior to receiving service under this schedule.

5. All customers who install non City-owned, small generation systems to be operated in parallel with the City electric system shall be required to submit a certification of general liability insurance naming the City as additional insured in the amount of \$100,000 per occurrence. Certifications are to be submitted for review and approval by the City on an annual basis as long as the renewable resource generator is interconnected with the City's electric system.

6. In the event that the City determines that it is necessary to install a dedicated transformer or other equipment to protect the safety and adequacy of electric service provided to other City customers, the customer shall pay a Monthly Facilities Charge of 2% of the total installed cost of such additional facilities. The Monthly Facilities Charge shall not be less than \$25.00.

7. The City reserves the right to test the customer's alternative energy generator for compliance with the applicable interface criteria. Should the City determine that the customer's installation is in violation of such criteria, the City will disconnect the alternative energy generator from the City's electric distribution system. The customer's alternative energy generator will remain disconnected until the installation is brought back into compliance with the applicable interface criteria.

GENERAL

Service rendered under this schedule is subject to the provisions of the City's service regulations and any changes therein, substitutions therefore, or additions thereto lawfully made.

SECTION 15. That the following Area Lighting Schedule 04 is hereby adopted **effective July 1, 2020:**

CITY OF NEW BERN Area Lighting Schedule Schedule 04

AVAILABILITY

This schedule is available for service supplied to the lighting of outdoor areas, private streets, and private driveways by means of mercury vapor or sodium vapor lighting units. Lighting units will be bracket mounted on City-owned poles, and the mercury vapor lamps will be color corrected.

This Schedule is not available for the lighting of dedicated streets or highways.

SERVICE

Prior to installing area lighting facilities, the customer and the City must execute the City's form entitled "Application for Area Lighting Service." The service supplied by the City will include the installation and operation, according to City standards and requirements, of the area lighting units, and will include the furnishing of electricity required for the illumination of the lamps from dusk to dawn. After the customer has notified the City that a lamp is not burning, the City will perform, as soon as practicable during regular working hours, the necessary maintenance to restore illumination. The lumen rating of the lighting units listed under the Monthly Rate indicates the class of lamp.

MONTHLY RATES

Overhead Service

BASIC RATE: The basic rate per fixture defined below will be billed for installations of standard area lighting fixtures installed on City's system distribution poles. The basic rate does not include the monthly charges for additional facilities, area lighting poles, underground service or any contribution required under this Schedule:

	Monthly Charge <u>Per Fixture</u>	Monthly kWh <u>Per Fixture</u>
Mercury Vapor (Obsolete – Not Available for new or replacement service)		
7,000 lumen semi-enclosed 175w	\$11.40	69
7,000 lumen 175 w	\$13.27	69
21,000 lumen 400w	\$20.70	149
21,000 lumen 400w flood	\$25.58	160
60,000 lumen 1000w	\$40.70	382
60,000 lumen flood 1000w flood	\$44.60	
Sodium Vapor (Obsolete – Not Available for new or replacement service)		
5,000 lumen semi-enclosed	\$9.28	
9,500 lumen 100w	\$15.12	46
22,000 lumen 150w	\$18.74	86
27,500 lumen flood 250w	\$21.32	109
50,000 lumen 400w	\$29.54	152
50,000 lumen flood 400w	\$33.15	168
Retrofit Sodium Vapor (*Retrofitted Prior to September 19, 1983) (Obsolete – Not Available for new or replacement service)		
12,000 lumen 150w	\$17.09	59
38,000 lumen	\$24.34	135
Metal Halide (Obsolete – Not Available for new or replacement service)		
500w cobra head	\$33.15	168
1000w flood	\$44.60	382
*A retrofit sodium vapor unit is a mercury vapor unit retrofitted with a sodium vapor lamp.		
LED		
50w	\$18.74	18
300w Flood	\$33.15	108

Underground Service

For underground service, the monthly bill will be increased by \$4.90 per pole, in lieu thereof, a one-time contribution of \$246.51 per pole. The monthly pole charge, if selected, may be terminated at any time upon payment by Customer of the one-time contribution. The monthly pole charge defined below will also be applicable to underground service.

Area Lighting Poles

Monthly Charge Per Pole

Wood	\$2.93
Special Metal or fiberglass Post	\$6.94

SALES TAX

To the above charges will be added any applicable North Carolina sales tax.

ADDITIONAL FACILITIES

1. Multiple area lighting fixtures may be installed per pole subject to the City's review and approval. The monthly charge for each additional fixture will be the charge in accordance with the Monthly Rate for that fixture plus 2% of the estimated installed cost of the facilities necessary to serve the multiple fixture installation in excess of that normally required to provide standard area lighting service.
2. For each distribution transformer and/or primary conductor extension, 2% of the estimated installed cost of the required facilities.
3. For an underground circuit in excess of 250 feet for an area lighting pole, 2% of the estimated installed cost of the excess circuit.
4. For a metal pole, 2% of the estimated installed cost of overhead or underground metal poles requiring special construction of features which are in excess of the estimated installed cost of standard underground metal poles.
5. When more energy efficient and otherwise more practical lighting units become available to the City, they will be made available for use under this schedule. The appropriate charge for such units will be developed by the City Electric Department. Said charges are to be incorporated by amendment to this Schedule by the City.

NON-REFUNDABLE CONTRIBUTION

1. In the event that rock, unstable soil, or other conditions require the use of materials and methods of installation other than the City's normal materials and methods, the customer will contribute the additional cost incurred as a result thereof.
2. The customer will contribute the estimated cost of installing cables under paved or landscaped surface areas; however, the customer may cut and replace the pavement or surface in lieu of making the contribution.
3. Service supplied under the Monthly Rate in this schedule does not include the conversion of existing overhead secondary conductors to underground. Should the customer desire such a conversion under this schedule, the customer will contribute to City, in addition to the applicable contribution above, the estimated net loss in salvage value of the overhead facilities being removed. The customer will thereafter pay the applicable rate for underground service.

PAYMENT

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. If any bill is not so paid, the City has the right to suspend service in accordance with its service regulations.

CONTRACT PERIOD

The contract period shall be not less than three years for overhead service and not less than five years for underground service, and shall extend from year to year thereafter until terminated by the customer or the City. The customer may terminate the agreement before the expiration of the

initial contract period by paying to the City a sum of money equal to 40% of the bills which otherwise would have been rendered for the unexpired months of the initial contract period.

The City may require the customer to initially make a termination deposit which will not exceed the termination amount computed in accordance with the above paragraph. Such termination deposit will be refunded in equal amounts at the end of each full year service is rendered. This annual refund will be the termination deposit divided by the number of years in the contract period.

GENERAL

Service rendered under this schedule is subject to the provisions of the City of New Bern Customer Service Policies.

SECTION 16. That the following Street Lighting Service Schedule 32-A is hereby adopted effective July 1, 2020:

**CITY OF NEW BERN
Street Lighting Service
Schedule 32-A**

AVAILABILITY

This schedule is available for service supplied in the lighting of dedicated public streets, highways, and municipally owned and operated public parks and public parking lots, by lighting fixtures mounted on City-owned poles for the City of New Bern.

SERVICE

The service supplied by the City will include the installation of a street lighting system, according to the City's standards and requirements, which will be owned, maintained, and operated by the City, including the furnishing of the electricity required for the illumination of the lamps from dusk to dawn. The lumen ratings of lighting units listed under the monthly rate indicates the general class of the lamp.

MONTHLY RATES

Overhead Service

Basic Rate: The basic rate per fixture defined below will be billed for installations of standard street lighting fixtures installed on the City's electric system distribution poles. The basic rate does not include the monthly charges for additional facilities, street lighting poles, underground service, or any contribution required under this schedule and under the City of New Bern Customer Service Policies.

Monthly Charge Per Fixture

Mercury Vapor

7,000 Lumen semi-enclosed (175w)	\$8.44
7,000 Lumen (175w)	\$8.44
21,000 Lumen (400w)	\$13.18

Metal Halide

400w Flood	\$13.18
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1000w Flood	\$14.47
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Sodium Vapor

9,500 Lumen (100w)	\$7.79
22,000 Lumen (150w)	\$8.44
27,500 Lumen (250w)	\$10.77
50,000 Lumen (400w)	\$13.18
50,000 Lumen (400w Flood)	\$14.47

ADDITIONAL FACILITIES

1. Special poles and lighting fixtures normally not provided by the utility can be provided at the City's cost for fixtures.
2. For each primary conductor extension, 2% of the estimated installed cost of the required facilities.
3. For a bracket or mast arm in excess of 6 feet for underground service or 16 feet for overhead service, 2% of the estimated installed cost of the required facilities of that for standard facilities.
4. For an underground circuit in excess of 250 feet for a street lighting pole, 2% of the estimated installed cost of the excess circuit. Customer has the option of making a non-refundable contribution of the estimated installed cost of an underground circuit in excess of 250-feet per span in lieu of paying the monthly facilities charge for such excess circuit.
5. For a metal pole, 2% of the estimated installed cost of overhead or underground metal poles requiring special construction or features which are in excess of the estimated installed cost of standard underground metal poles.
6. When more energy-efficient and better-suited lighting units become available to the City, they will be made available for use under this schedule. The appropriate charges for such units will be developed by the City Electric Department. Said charges are to be incorporated by amendment to this schedule by the City.

NON-REFUNDABLE CONTRIBUTION

1. In the event that rock, unstable soil, or other conditions require the use of materials and methods of installation other than City's normal materials and methods, the customer will contribute the additional cost incurred as a result thereof.
2. The customer will contribute the estimated cost of installing cables under paved or landscaped surface areas; however, the customer may cut and replace the pavement or surface in lieu of making the contribution.
3. Service supplied under the Monthly Rate in this schedule does not include the conversion of existing overhead street-lighting circuits to underground. Should the customer desire such a conversion under this schedule, customer will pay to the City, in addition to the applicable contribution and charges herein, the estimated net investment depreciated, plus removal cost, less salvage value of the overhead conductor being removed.

SALES TAX

To the above charges will be added any applicable North Carolina sales tax.

PAYMENT

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. If any bill is not so paid, the City has the right to suspend service in accordance with its service regulations.

SECTION 17. That the following Street Lighting Service Schedule 32-B is hereby adopted effective July 1, 2020:

CITY OF NEW BERN
Street Lighting Service
Schedule 32-B
(Residential Subdivision)

AVAILABILITY

This schedule is available for service supplied in the lighting of residential dedicated public streets by means of mercury vapor or sodium vapor lighting units installed within residential subdivisions, consisting of single or duplex dwelling units, located outside the corporate limits of a municipality at the time of the installation. This schedule is not available to supply service for the lighting of parking lots, shopping centers, other public or commercial areas within the residential subdivision, or areas not specifically provided for by the provisions herein.

SERVICE

The service supplied by the City will include the installation of a street lighting system, according to the City's standards and requirements, which will be owned, maintained, and operated by the City, including the furnishing of the electricity required for the illumination of the lamps from dusk to dawn. Lighting units will be located by the City to provide the most uniform lighting possible in the residential area. The lumen ratings of the lighting units furnished under the monthly rate indicate the class of lamp.

MONTHLY RATES

The following amount will be added to each monthly bill rendered for residential electric service within the subdivision:

Overhead Distribution Area

Bracket-mounted, enclosed luminaire on approved wood pole

1 light per 10 customers or major fraction thereof	
7,000 lumen mercury vapor	\$1.47 per customer
9,500 lumen sodium vapor	\$1.47 per customer
1 light per 5 customers or major fraction thereof	
7,000 lumen mercury vapor	\$2.94 per customer
9,500 lumen sodium vapor	\$2.94 per customer

Underground Distribution Area

Bracket-Mounted, enclosed luminaires on approved wood pole

1 Light per 10 customers or major fraction thereof	
7,000 lumen mercury vapor	\$2.09 per customer

9,500 lumen sodium vapor	\$2.09 per customer
1 Light per 5 customers or major fraction thereof	
7,000 lumen mercury vapor	\$4.18 per customer
9,500 lumen sodium vapor	\$4.18 per customer

Bracket-Mounted, enclosed luminaries on standard metal pole

1 Light per 10 customers or major fraction thereof	
7,000 lumen mercury vapor	\$2.38 per customer
9,500 lumen sodium vapor	\$2.38 per customer
1 Light per 6 customers or major fraction thereof	
7,000 lumen mercury vapor	\$3.99 per customer

Approved Post-Mounted type Luminaries

1 Light per 10 customers or major fraction thereof	
7,000 lumen mercury vapor	\$2.38 per customer
9,500 lumen sodium vapor	\$2.38 per customer
1 Light per 6 customers or major fraction thereof	
7,000 lumen mercury vapor	\$3.99 per customer
9,500 lumen sodium vapor	\$3.99 per customer

ANNEXATION CONSIDERATION

If any of the following conditions exist, the developer of the subdivision will be required to obtain from the municipal governing agency, its written approval of the street lighting service being provided under this schedule, and the number and location of the lights to be installed.

1. The subdivision abuts a boundary of the municipality.
2. It is known that the subdivision will be annexed into the municipality.
3. The municipal governing agency has enacted a subdivision control ordinance that applies to the subdivision or any portion thereof.

If the subdivision is subsequently annexed and the municipality accepts the street lighting under a street lighting service contract on the rate for the equivalent lighting unit, the following will apply:

1. Overhead Distribution: If the municipality accepts the street lighting service under Street Lighting Service Schedule, no monthly customer charge will be applied to the subdivision residents.
2. Underground Distribution: If the municipality accepts the street lighting service under Street Lighting Service Schedule and agrees to pay the contribution under the schedule for the street lighting system, no monthly customer charge will be applied to the subdivision residents.

If the subdivision is subsequently annexed and the municipality does not accept the installed street lighting under a street lighting service contract, the service will continue to be provided under this Schedule with the applicable monthly charge.

SECTION 18. That the following Street Lighting Service Schedule 32-C is hereby adopted effective July 1, 2020:

CITY OF NEW BERN
Street Lighting Service
Schedule 32-C

AVAILABILITY

This Schedule is available for service supplied in the lighting of residential dedicated public streets by means of sodium vapor lighting units installed within residential subdivisions, consisting of single or duplex dwelling units, located within the city limits of the City of New Bern. This Schedule applies to all developments in which streets have not been accepted for maintenance by the City under the Land Use Ordinance. This Schedule is not available to supply service for the lighting of parking lots, shopping centers, other public or commercial areas within the residential subdivision, or areas not specifically provided for by the provisions herein.

SERVICE

The service supplied by City will include the installation of a street lighting system, according to City's standards and requirements, which will be owned, maintained, and operated by the City, including the furnishing of the electricity required for the illumination of the lamps from dusk to dawn. Lighting units will be located by City to provide the most uniform lighting possible in the residential area. The lumen ratings of the lighting units furnished under the monthly rate indicate the class of lamp.

The developer shall open a street lighting account and sign a standard lighting contract with the City of New Bern.

The developer shall pay for all street lights per City of New Bern Schedule 32-C until the street or streets within the development are accepted for maintenance under the Land Use Ordinance of the City of New Bern, at which time the City of New Bern will assume the cost of the lighting.

All street lights shall be made operational once the electric system is energized, at which time the developer will become responsible for a monthly payment to the City of New Bern per the City of New Bern Street Lighting Service Schedule 32-C.

MONTHLY RATES

Overhead Service

Basic Rate: The basic rate per fixture defined below will be billed for installations of standard street lighting fixtures installed on City's system distribution poles. The basic rate does not include the monthly charges for additional facilities, street lighting poles, underground service, or any contribution required under this Schedule and under the Street Lighting Service Regulations.

Monthly Charge Per Fixture

Sodium Vapor

22,000 Lumen (150w)	\$8.44
50,000 Lumen (400w)	\$13.18
50,000 Lumen (400w Flood)	\$14.47

ADDITIONAL FACILITIES

1. For primary conductor extensions, 2% of the estimated installed cost of the required facilities will be charged to the Customer as outlined in the Customer Service Policies section regarding additional facilities.
2. For a bracket or mast arm in excess of 6 feet for underground service or 16 feet for overhead service, 2% of the estimated installed cost of the required facilities of that for standard facilities will be charged to the Customer as outlined in the Customer Service Policies section regarding additional facilities.
3. For an underground circuit in excess of 250 feet for the installation of a street lighting pole, 2% of the estimated installed cost will be considered an additional facility. Customer has the option of making a non-refundable contribution of the estimated installed cost of an underground circuit in excess of 250 feet per span in lieu of paying the monthly facilities charge for each excess circuit.
4. For a metal pole, 2% of the estimated installed cost of overhead or underground metal poles requiring special construction or features which are in excess of the estimated installed cost of standard underground metal poles will be charged to the Customer as outlined in the Customer Service Policies section regarding additional facilities.
5. When more energy-efficient and better-suited lighting units become available to the City, they will be made available for use under this Schedule. The appropriate charges for such units will be developed by the City Electric Utility Department. Said charges are to be incorporated by amendment to this Schedule by the City.

NON-REFUNDABLE CONTRIBUTION

1. In the event that rock, unstable soil, or other conditions require the use of materials and methods of installation other than City's normal materials and methods, Customer will contribute the additional cost incurred thereby.
2. Customer will contribute the estimated cost of installing cables under paved or landscaped surface areas; however, Customer may cut and replace the pavement or surface in lieu of making the contribution.
3. Service supplied under the Monthly Rate in this Schedule does not include the conversion of existing overhead street-lighting circuits to underground. Should the Customer desire such a conversion under this Schedule, Customer will pay to the City, in addition to the applicable contribution and charges herein, the estimated net investment depreciated, plus removal cost, less salvage value of the overhead conductor being removed.

SALES TAX

To the above charges will be added any applicable North Carolina sales tax.

PAYMENT

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. If any bill is not so paid, the City has the right to suspend service in accordance with its service regulations.

CONTRACT PERIOD

The Contract Period shall not be less than 10 years.

GENERAL

Service rendered under this Schedule is subject to the provisions of City's Street Lighting Service Regulations filed at City Hall.

SECTION 19. That the foregoing ordinance be kept on file in the Office of the City Clerk.

SECTION 20. That previous ordinances in conflict with this ordinance are hereby repealed.

SECTION 21. That the rates established by this Ordinance shall be in full force and effect on **July 1, 2020.**

ADOPTED THIS 12th DAY OF MAY, 2020.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

**AN ORDINANCE TO ESTABLISH THE RATES FOR THE CONSUMPTION OF ELECTRICITY
APPLICABLE TO CUSTOMERS OF THE CITY OF NEW BERN**

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

Section 1. That there are hereby established rates for the consumption of energy to be charged to electric utility customers of the City of New Bern **effective July 1, 2020**, summarized as follows:

Residential - Schedule 01		Rate
Customer Charge (Per Month)		\$ 9.95
Energy (Per kWh)	First 300 kWh	\$ 0.1018
Energy (Per kWh)	All additional kWh	\$ 0.1175
Three Phase Charge (In addition to monthly Customer Charge, if applicable)		\$ 13.67

Residential - Schedule 07		Rate
Customer Charge (Per Month)		\$ 9.95
Energy (Per kWh)	First 300 kWh	\$ 0.0968
Energy (Per kWh)	All additional kWh	\$ 0.1116
Three Phase Charge (In addition to monthly Customer Charge, if applicable)		\$ 13.67

Small General Service #1 Schedule 03		Rate
Customer Charge (Per Month)		\$ 20.64
Energy (Per kWh)	First 2325 kWh	\$ 0.1260
Energy (Per kWh)	Next 1000 kWh	\$ 0.0960
Energy (Per kWh)	All over 3325 kWh	\$ 0.0900
Three Phase Charge (In addition to monthly Customer Charge, if applicable)		\$ 13.67

Small General Service #2 Schedule 04		Rate
Customer Charge (Per Month)		\$ 20.64
Demand (Per kW)		\$ 2.31
Energy (Per kWh)	First 2325 kWh	\$ 0.1013
Energy (Per kWh)	Next 1000 kWh	\$ 0.0956
Energy (Per kWh)	All over 3325 kWh	\$ 0.0887
Three Phase Charge (In addition to monthly Customer Charge, if applicable)		\$ 13.67

Economic Development Rate #5		Rate
Customer Charge (Per Month)		\$ 197.00
CP Demand (Per kW)		\$ 26.84
Excess Demand (Per kW)		\$ 3.94
Energy (Per kWh)		\$ 0.0444

Large General Service #1 CP Schedule 13		Rate
Customer Charge (Per Month)		\$ 166.06
CP Demand (Per kW)		\$ 26.84
Excess Demand (Per kW)		\$ 4.43
Energy (Per kWh)		\$ 0.0561

Medium General Service #1 Schedule 08		Rate
Customer Charge (Monthly)		\$ 22.80
Demand (Per kW)		\$ 8.08
Energy (Per kWh)		\$ 0.0842

Small Wholesale Schedule 09		Rate
Customer Charge (Per Month)		\$ 21.78
Demand (Per kW)		\$ 6.69
Energy (Per kWh)		\$ 0.0859
Three Phase Charge (In addition to monthly Customer Charge, if applicable)		\$ 13.67

Large General Service #2 CP Rate Schedule 6		Rate
Customer Charge (Per Month)		\$ 1,214.06
CP Demand (Per kW)	First 3200 kW	\$ 26.84
Demand (Per kW)	All additional kW	\$ 14.94
Excess Demand (Per kW)		\$ 4.19
Energy (Per kWh)	First 1,700,000 kWh	\$ 0.0529
Energy (Per kWh)	All additional kWh	\$ 0.0445

Medium General Service #2 Schedule 10		Rate
Customer Charge (Per Month)		\$ 22.80
Demand (Per kW)		\$ 8.95
Energy (Per kWh)		\$ 0.0800
Three Phase Charge (In addition to monthly Customer Charge, if applicable)		\$ 13.67

Medium General Service TOU Schedule 11		Rate
Customer Charge (Per Month)		\$ 56.78
Peak Demand (Per kW)		\$ 21.57
Excess Demand (Per kW)		\$ 5.19
Energy (Per kWh)		\$ 0.0592

Medium General Service CP Schedule 12		Rate
Customer Charge (Per Month)		\$ 82.24
CP Demand (Per kW)		\$ 22.12
Excess Demand (Per kW)		\$ 5.24
Energy (Per kWh)		\$ 0.0601

Residential - Schedule 40		Rate
Customer Charge (Per Month)		\$ 9.95
Energy (Per kWh)	First 300 kWh	\$ 0.1018
Energy (Per kWh)	300 kWh to 800 kWh	\$ 0.1175
Energy (Per kWh)	All additional kWh	\$ 0.1013
Three Phase Charge (In addition to monthly Customer Charge, if applicable)		\$ 13.67

Residential - Schedule 50		Rate
Customer Charge (Per Month)		\$ 9.95
Energy (Per kWh)	First 300 kWh	\$ 0.0968
Energy (Per kWh)	300 kWh to 800 kWh	\$ 0.1116
Energy (Per kWh)	All additional kWh	\$ 0.0948
Three Phase Charge (In addition to monthly Customer Charge, if applicable)		\$ 13.67

Extra Facilities Charge – Generation Schedule 70		Rate
Facilities Charge	Per kW based on Generator Nameplate Rating	\$ 2.96

Renewable Resource Facilities Credit Schedule 60		Rate
Energy	Credit Per kWh generated	\$ 0.0487

Area Lighting Schedule 04		New Rate
High Pressure Sodium		
Monthly Rate	150w <u>(Obsolete – Not Available for new or replacement service)</u>	\$18.74
Monthly Rate	250w <u>(Obsolete – Not Available for new or replacement service)</u>	\$21.32
Metal Halide		
Monthly Rate	400w <u>(Obsolete – Not Available for new or replacement service)</u>	\$33.15
Monthly Rate	1000w <u>(Obsolete – Not Available for new or replacement service)</u>	\$44.60
LED		
<u>Monthly Rate</u>	<u>50w</u>	<u>\$18.74</u>
<u>Monthly Rate</u>	<u>300w</u>	<u>\$33.15</u>
Area Lighting Poles		
Monthly Rate	Wood	\$2.93
Monthly Rate	Special Metal or fiberglass Post	\$6.94
Underground Service		
	One time contribution per pole	\$246.51
Monthly Rate	Increase per pole	\$4.90

St. Lighting Service Schedule 32		Rate
High Pressure Sodium		
Monthly Rate	150w	\$16.68
Monthly Rate	250w	\$19.33
Metal Halide		
Monthly Rate	400w	\$23.09
Monthly Rate	1000w	\$36.12

Street Lighting Poles		
Monthly Rate	Wood	—\$2.01
Monthly Rate	Special Metal or fiberglass Post	—\$3.51
Underground Service		
—	One time contribution per pole	\$246.51
Monthly Rate	Increase per pole	—\$4.90

St. Lighting Service Schedule 32-A		Rate
Metal Halide		
Monthly Rate	70w	\$8.44
Monthly Rate	400w	\$13.18
Monthly Rate	1000w	\$14.47
High Pressure Sodium		
Monthly Rate	150w	\$8.44
Monthly Rate	250w	\$10.77
Monthly Rate	70w LED/LED Retro-Fit	\$8.44

St. Lighting Service Schedule 32-B		Rate
Overhead Distribution Area		
<i>Bracket-mounted, enclosed luminaries on approved wood pole</i>		
	<i>1 light per 10 customers or major fraction thereof</i>	
per customer	150w High Pressure Sodium	\$1.47
	<i>1 light per 5 customers or major fraction thereof</i>	
per customer	150w High Pressure Sodium	\$2.94
Underground Distribution Area		
<i>Bracket-Mounted, enclosed luminaries on approved wood pole</i>		
	<i>1 Light per 10 customers or major fraction thereof</i>	
per customer	150w High Pressure Sodium	\$2.09
	<i>1 Light per 5 customers or major fraction thereof</i>	
per customer	150w High Pressure Sodium	\$4.18
<i>Bracket-Mounted, enclosed luminaries on standard metal pole</i>		
	<i>1 Light per 10 customers or major fraction thereof</i>	
per customer	150w High Pressure Sodium	\$2.38
per customer	9,500 lumen sodium vapor	\$2.38
	<i>1 Light per 6 customers or major fraction thereof</i>	
per customer	150w High Pressure Sodium	\$3.99
	<i>1 Light per 3 customers or major fraction thereof</i>	
per customer	150w High Pressure Sodium	\$7.98
<i>Approved Post-Mounted type Luminaries</i>		
	<i>1 Light per 10 customers or major fraction thereof</i>	
per customer	150w High Pressure Sodium	\$2.38
	<i>1 Light per 6 customers or major fraction thereof</i>	
per customer	150w High Pressure Sodium	\$3.99
	<i>1 Light per 3 customers or major fraction thereof</i>	
per customer	150w High Pressure Sodium	\$7.98

St. Lighting Service Schedule 32-C		Rate
High Pressure Sodium		
Monthly Rate	150w	\$8.44
Monthly Rate	250w	\$10.77

Section 2. That the following Residential Service #1 Schedule 01 and Schedule 07 are hereby

adopted **effective July 1, 2020:**

CITY OF NEW BERN
Residential Service #1
Schedule 01, Schedule 07

AVAILABILITY

Service under this schedule is available for separately metered and billed supply of alternating electric current to single family residences, including a residential farm where the farm uses are not taken through a separate meter.

This schedule is not available for (a) individual motors rated on 15 HP; (b) commercial use as in hotels, public inns, motels, auto courts, tourist camps, and trailer camps; (c) separately metered accessory buildings or equipment on residential property not suitable for residential use; or (d) bulk barns and other seasonal high use facilities.

Non-fossil energy sources caused by acts of nature, such as wind or solar, are permitted as supplements to customer's energy requirements provided the City is granted the right to install, operate, and monitor special equipment to measure the customer's load, or any part thereof, and to obtain any other data necessary to determine the operating characteristics and effects of the installation.

APPLICABILITY

The schedule is applicable to all electric service of the same available type supplied to the customer's premises at one point of delivery through a one kilowatt-hour meter in accordance with Schedule 01 and Schedule 07 below.

ADDITIONAL POINTS OF DELIVERY

Additional points of delivery installed on structures at same premises for other than residential dwelling purposes shall be billed under the appropriate rate schedule.

TYPE OF SERVICE

The types of service to which this schedule is applicable are alternating current, 60 hertz, either single-phase two or three wires, or three-phase four wires at City's standard voltages of 240 volts or less.

SCHEDULE 01

MONTHLY RATES

For Single-Phase Service

Basic Customer Charge	\$9.95
<i>Energy Charges</i>	
For the first 300 kilowatt hours	\$0.1018
For all additional kilowatt hours	\$0.1175

For Three-Phase Service

The bill computed for single-phase service plus \$13.67.

SCHEDULE 07 (Energy Efficient Residential Rate)

ENERGY CONSERVATION DISCOUNT

Where Customer notifies company and customer's dwelling complies with the thermal requirements herein, participates fully in the City of New Bern Load Management program, and operates no fossil fuel burning appliances for the purpose of heating or production of hot water, the Schedule E01 kWh charges will be discounted by 5% per kWh.

MONTHLY RATES

For Single-Phase Service

Basic Customer Charge	\$9.95
<i>Energy Charges</i>	
For the first 300 kilowatt hours	\$ 0.0968
For all additional kilowatt hours	\$ 0.1116 (See E50)

For Three-Phase Service

The bill computed for single-phase service plus \$13.67.

THERMAL REQUIREMENTS

CONVENTIONAL HOUSING

In no case shall the structure's heat loss, including duct heat loss, be greater than 0.1 watts (.34 Btuh) per square foot of net heated floor area per degree Fahrenheit temperature difference. Generally, the criteria may be satisfied if the following provisions are met:

- A. Ceilings with an installed insulation thermal resistance value of R-30.
- B. Exterior walls with an installed insulation thermal resistance value of R-13.
- C. Floors over crawlspaces with an installed insulation thermal resistance value of R-19.
- D. All windows should be insulated double pane glass or single pane glass with storm windows.
- E. All exterior doors should be wood with storm doors or insulated metal doors.
- F. Adequate natural or mechanical attic ventilation should be provided.
- G. Effective with building permits issued 7/1/02, the dwelling is all electric (range-oven, heating, air conditioning, water heater, dryer).

MANUFACTURED HOUSING

In no case shall the structure's heat loss, including duct loss, be greater than 0.125 watts (0.43 Btuh), per square foot of net heated floor area per degree Fahrenheit temperature difference. Generally, this criteria may be satisfied if the following provisions are met:

- A. Ceilings with an installed insulation thermal resistance value of R-19.
- B. Exterior walls with an installed insulation thermal resistance value of R-13.
- C. Floors over crawlspaces with an installed insulation thermal resistance value of R-19.
- D. All windows should be insulated double pane glass or single pane glass with storm windows.
- E. All exterior doors should be wood with storm doors or insulated metal doors.
- F. Effective with building permits issued 7/1/02, the dwelling is all electric (range-oven, heating, air conditioning, water heater, dryer).

A copy of the manufacturer's certificate stating that the manufactured home in question meets or exceeds the above thermal requirements shall be submitted to the City's Electric Utilities Department in order to obtain the 5% energy efficient discount.

PAYMENTS

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. ~~Bills are due when rendered and are payable within 20 days from the date of the bill.~~ If any bill is not so paid, the City has the right to suspend service in accordance with its service regulations.

SALES TAX

To the above charges will be added any applicable North Carolina sales tax.

CONTRACT PERIOD

The contract period shall not be less than one year.

GENERAL

Service rendered under this schedule is subject to the provisions of the City's service regulations, and any changes therein, substitutions therefore, or additions thereto lawfully made.

Section 3. That the following Small General Service #1 Schedule 03 is hereby adopted **effective July 1, 2020:**

CITY OF NEW BERN Small General Service #1 Schedule 03

AVAILABILITY

This schedule is available for electric service at a single point of delivery, at one of the City's standard voltages, used by any non-residential customer with monthly energy readings of less than 2500 kWh for a least ten of the preceding twelve months. When the customer's monthly energy has equaled or exceeds 2500 kWh for at least three of the preceding twelve months, the City may

install a demand meter to determine the maximum 15-minute demand and begin billing the customer for demand under Small General Service Schedule 04.

This schedule is not available: (1) for residential service; (2) for resale service; or (3) whenever the monthly energy equals or exceeds 2500 kWh for at least three of the preceding twelve months. In order to determine the applicable rate schedule for a customer, the City will review that customer's monthly readings once a year in one-year increments from the month that the customer first started receiving bills under a new schedule.

When the customer has installed generating or converting equipment that can operate in parallel with the City's service, the Customer shall install the protective equipment acceptable to the City that will protect the City's employees, its other customers, and its distribution system. The City shall have the right to suspend delivery of electricity to the customer with such generating or converting equipment until the customer has installed the protective equipment.

APPLICABILITY

This schedule is applicable to all electric service of the same available type supplied to the customer's premises at one point of delivery through one meter.

MONTHLY RATES

For Single-Phase Service

Customer Charge	\$20.64
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Energy Charges

First 2325 kWh	\$0.1260 per kWh
Next 1000 kWh	\$0.0960 per kWh
All over 3325 kWh	\$0.0900 per kWh

For Three-Phase Service

Bill for single-phase service plus \$13.67

SALES TAX

To the above charges will be added any applicable North Carolina sales tax.

PAYMENTS

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. ~~Bills are due when rendered and are payable within 20 days from the date of the bill.~~ If any bill is not so paid, City has the right to suspend service in accordance with its service regulations.

CONTRACT PERIOD

The contract period shall not be less than one year, except for short-term, construction, or temporary service, in which case the contract period may be for the period requested by the customer, provided the customer agrees:

1. That the service supplied shall be for a continuous period until discontinued, and
2. That where it is necessary for City to extend lines, erect transformers, or do any work necessary to supply service, except for the installation of a self-contained

meter, the customer shall pay for the line extension in accordance with the City's customer service policies as may be amended from time to time.

GENERAL

Service rendered under this schedule is subject to the provisions of the City's service regulations, and any changes therein, substitutions therefore, or additions thereto lawfully made.

Section 4. That the following Small General Service #2 Schedule 04 is hereby adopted **effective July 1, 2020:**

CITY OF NEW BERN Small General Service #2 Schedule 04

AVAILABILITY

This schedule is available for electric service at a single point of delivery, at one of the City's standard voltages, used by any non-residential customer with monthly energy readings of 2500 kWh or greater for a least three of the preceding twelve months but with demand readings of less than 35 kW for at least eleven of the preceding twelve months.

This schedule is not available: (1) for residential service; (2) for resale service; or (3) whenever the monthly demand equals or exceeds 35 kW for at least two of the preceding twelve months. In order to determine the applicable rate schedule for a customer, the City will review that customer's monthly readings once a year, in one-year increments from the month that the customer first started receiving bills under a new schedule.

When the customer has installed generating or converting equipment that can operate in parallel with the City's service, the customer shall install the protective equipment acceptable to the City that will protect the City's employees, its other customers, and its distribution system. The City shall have the right to suspend delivery of electricity to the customer with such generating or converting equipment until the customer has installed the protective equipment.

APPLICABILITY

This schedule is applicable to all electric service of the same available type supplied to the customer's premises at one point of delivery through one meter.

MONTHLY RATES

For Single-Phase Service

Customer Charge	\$20.64
<i>Energy Charges</i>	
First 2325 kWh	\$0.1013 per kWh
Next 1000 kWh	\$0.0956 per kWh
All over 3325 kWh	\$0.0887 per kWh
Demand Charge	\$2.31

For Three-Phase Service

Bill for single-phase service plus \$13.67.

BILLING DEMAND

The billing demand shall be the maximum kW registered on computed by or from the City's metering facilities during any 15-minute interval within the current billing month.

SALES TAX

To the above charges will be added any applicable North Carolina sales tax.

PAYMENTS

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. ~~Bills are due when rendered and are payable within 20 days from the date of the bill.~~ If any bill is not so paid, City has the right to suspend service in accordance with its service regulations.

CONTRACT PERIOD

The contract period shall not be less than one year, except for short-term, construction, or temporary service, in which case the contract period may be for the period requested by the customer, provided the customer agrees:

1. That the service supplied shall be for a continuous period until discontinued, and
2. That where it is necessary for City to extend lines, erect transformers, or do any work necessary to supply service, except for the installation of a self-contained meter, the Customer shall pay for the line extension in accordance with the City's customer service policies as may be amended from time to time.

GENERAL

Service rendered under this schedule is subject to the provisions of the City's service regulations, and any changes therein, substitutions therefore, or additions thereto lawfully made.

Section 5. That the following Economic Development CP Rate Schedule EDR4 is hereby adopted **effective July 1, 2020:**

CITY OF NEW BERN
Economic Development CP Rate
Large General Service
Minimum Demand = 350kW
Schedule EDR5

APPLICABILITY

The Economic Development (ED) Rate set forth in this schedule is available to new loads or load expansions of commercial or industrial customers which meet the following requirements:

1. Have at least a 350 kW annual peak demand;
2. In the case of new loads, have not been served by the City prior to the date on which service of such load under this ED Rate commences, except as necessary to maintain a minimum level of service prior to full operation;
3. In the case of load expansions, are at least an incremental addition of 200 kW to the

facility's highest Non-Coincidental Peak Demand for the previous twelve (12) months of service and are the result of adding new full-time employees to the organization of at least 100 persons;

4. Are individually metered;
5. Are served under the provision of a service agreement with the City; and
6. Are approved by the Board of Aldermen and the City Manager.

CONTRACT PERIOD

Service under this rate is only available to new loads or load expansions for a period of five (5) years, following the date of full operation.

At the end of the customer's eligibility for this rate, the customer will then be switched to the appropriate standard rate schedule based on load size and characteristics.

MONTHLY RATES

- | | | |
|----|---|----------------------------|
| A. | Customer Charge | \$197.00 per billing month |
| B. | KW Demand Charge | |
| | All Coincident Peak (CP) Demand | \$26.84 per CP kW |
| C. | Energy Charge | |
| | All kWh | \$0.0444 per kWh |
| D. | Excess Demand | \$3.94 per kW |
| E. | The minimum charge shall be such as may be contracted for, but not less than the sum of the charges in A, B, C and D above. | |

DEFINITIONS

Coincident Peak (CP) Demand: The Coincident Peak (CP) Demand shall be the customer's contribution to the City's 60-minute interval which is used by the North Carolina Eastern Municipal Power Agency (NCEMPA) for wholesale billing purposes during the current calendar month.

Excess Demand: Excess Demand shall be the difference between the maximum 15-minute demand recorded during the current billing month and the Coincident Peak (CP) Demand for the same billing month.

KWh: The letters kWh of energy consumption shall be the total usage of electricity during the current billing month.

NOTIFICATION BY THE CITY

The City will use diligent effort to predict each monthly system peak and notify the customer in advance; however, the City is not able to guarantee an accurate prediction, and notice will be provided. Notification by the City will be provided to the customer by direct telephone communications or automatic signal, as mutually agreed. The customer will hold the City harmless in connection with its response to notification.

SALES TAX

To the above charges will be added any applicable North Carolina sales tax.

PAYMENTS

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. ~~Bills are due when rendered and are payable within 20 days from the date of the bill.~~ If any bill is not so paid, City has the right to suspend service in accordance with its service regulations.

GENERAL

Service rendered under this schedule is subject to the provisions of the City's service regulations, and any changes therein, substitutions therefore, or additions thereto lawfully made.

Section 6. That the following Large General Service #1 - CP Schedule 13 is hereby adopted effective July 1, 2020:

CITY OF NEW BERN Large General Service #1 – CP Schedule 13

AVAILABILITY

This schedule is available for electric service at a single point of delivery at one of the City's standard voltages, used by any non-residential customer with a monthly demand between 750 kW and 2,000 kW for at least two of the preceding twelve months.

This schedule is not available for (1) residential service; (2) breakdown, standby, or supplementary service unless used in conjunction with applicable standby or generation service rider for a continuous period of not less than one year; (3) resale service; or (4) whenever the monthly demand exceeds 100,000 kW. In order to determine the applicable rate schedule for a customer, the City will review that customer's monthly readings once a year, in one-year increments from the month that the customer first started receiving bills under a new schedule.

MONTHLY RATES

Customer Charge	\$166.06 per month
Energy Charge	
All kWh	\$0.0561 per kWh
Demand Charges	
Coincident Peak Demand	\$26.84 per kW
Excess Demand	\$4.43 per kW

DETERMINATION OF BILLING DEMAND

Coincident Peak Demand shall be the average kW demand measured in the 60-minute interval used by the North Carolina Eastern Municipal Power Agency for wholesale billing purposes during the corresponding month of the customer's billing.

Excess Demand shall be the highest 15-minute demand recorded during the current billing month, less the Monthly Coincident Peak Demand for the current billing month.

NOTIFICATION BY THE CITY

The City will use diligent effort to predict each monthly system peak and notify the customer in advance; however, the City is not able to guarantee an accurate prediction, and notice will be

provided. Notification by the City will be provided to the customer by direct telephone communication or automatic signal, as mutually agreed. The customer will hold the City harmless in connection with its response to notification.

POWER FACTOR CORRECTION

Where the power factor of the consumer's installation is less than 85%, the City may correct kWh consumption for the month by multiplying by 85 and dividing by the actual power factor.

SALES TAX

To the above charges will be added any applicable North Carolina sales tax.

PAYMENT

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. ~~Bills are due when rendered and are payable within 20 days from the date of the bill.~~ If any bill is not so paid, City has the right to suspend service in accordance with its service regulations.

CONTRACT PERIOD

The contract period shall not be less than one year, except for short-term, construction, or temporary service, in which case the contract period may be for the period requested by the customer, provided the customer agrees:

1. That the service supplied shall be for a continuous period until discontinued, and
2. That where it is necessary for City to extend lines, erect transformers, or do any work necessary to supply service, except for the installation of a self-contained meter, the Customer shall pay for the line extension in accordance with the City's customer service policies as may be amended from time to time.

GENERAL

Service rendered under this schedule is subject to the provisions of the City's service regulations, and any changes therein, substitutions therefore, or additions thereto lawfully made.

Section 7. That the following Medium General Service #1 Schedule 08 is hereby adopted effective July 1, 2020:

CITY OF NEW BERN
Medium General Service #1
Schedule 08

AVAILABILITY

This schedule is available for electric service used at a single point of delivery, at one of the City's standard voltages, used by any non-residential customer with a monthly demand of 35 kW or greater for at least two of the preceding twelve months, but less than 100 kW for 11 of the preceding twelve months.

This schedule is not available for: (1) residential service; (2) breakdown, standby, or supplementary service unless used in conjunction with applicable standby or generation service

rider for a continuous period of not less than one year; (3) resale service; (4) or whenever the registered or computed demand equals or exceeds 100 kW. In order to determine that applicable rate schedule for a customer, the City will review that customer's monthly readings once a year in one-year increments from the month that customer first started receiving bills under a new schedule.

MONTHLY RATES

For Single-Phase Service

Customer Charge	\$22.80
Energy Charge	\$0.0842 per kWh
Demand Charge	\$8.08 per kW

For Three-Phase Service

Bill computed for single-phase service plus \$13.67.

BILLING DEMAND

The billing demand shall be the maximum kW registered or computed by or from the City's metering facilities during any 15-minute interval within the current billing month.

SALES TAX

To the above charges will be added any applicable North Carolina sales tax.

PAYMENT

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. ~~Bills are due when rendered and are payable within 20 days from the date of the bill.~~ If any bill is not so paid, City has the right to suspend service in accordance with its service regulations.

CONTRACT PERIOD

The contract period shall not be less than one year, except for short-term, construction, or temporary service, in which case the contract period may be for the period requested by the customer, provided the customer agrees:

1. That the service supplied shall be for a continuous period until discontinued, and
2. That where it is necessary for City to extend lines, erect transformers, or do any work necessary to supply service, except for the installation of a self-contained meter, the Customer shall pay for the line extension in accordance with the City's customer service policies as may be amended from time to time.

GENERAL

Service rendered under this Schedule is subject to the provisions of the City's Service Regulations, and any changes therein, substitutions therefore, or additions thereto lawfully made.

Section 8. That the following Small Wholesale Customer Rate Schedule 09 is hereby adopted effective July 1, 2020:

CITY OF NEW BERN
Small Wholesale Customer Rate
Schedule 09

AVAILABILITY

This schedule is available for electric service used by a nonresidential customer at a single point of delivery at one of the City's standard voltages with a contract demand or a registered or computed demand of 1 kW and greater but less than 750 kW.

This schedule is not available for (1) residential service; (2) breakdown, standby, or supplementary service unless used in conjunction with the applicable standby or generation service rider for a continuous period of not less than one year; (3) a new customer with a contract demand of 750 kW or more, or whenever the registered or computed demand equals or exceeds 1,000 kW in two or more of the preceding twelve months.

MONTHLY RATES

For Single-phase Service

Customer Charge	\$21.78 per month
Billing Demand	\$6.69 per kW
Kilowatt-Hour Energy Charge	\$.0859 per kWh for all kWh

For Three-phase Service

The bill computed for single-phase service plus \$13.67.

CONTRACT DEMAND

The contract demand shall be the kW of demand specified in the service agreement.

BILLING DEMAND

The billing demand shall be the greater of the maximum kW registered or computed by or from the City's metering facilities during any 15-minute interval within the current billing month or 30 kW.

SALES TAX

To the above charges will be added any applicable North Carolina sales tax.

PAYMENTS

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. ~~Bills are due when rendered and are payable within 20 days from the date of the bill.~~ If any bill is not so paid, City has the right to suspend service in accordance with its service regulations.

CONTRACT PERIOD

The contract period shall not be less than one year, except for short-term, construction, or temporary service, in which case the contract period may be for the period requested by the customer, provided the customer agrees:

1. That the service supplied shall be for a continuous period until discontinued, and

2. That where it is necessary for City to extend lines, erect transformers, or do any work necessary to supply service, except for the installation of a self-contained meter, the Customer shall pay for the line extension in accordance with the City's customer service policies as may be amended from time to time.

GENERAL

Service rendered under this schedule is subject to the provisions of the City's service regulations, and any changes therein, substitutions therefore, or additions thereto lawfully made.

Section 9. That the following Large General Service #2-CP Schedule 06 is hereby adopted **effective July 1, 2020:**

CITY OF NEW BERN
Large General Service #2-CP
Schedule 06

AVAILABILITY

This schedule is available for electric service at a single point of delivery at one of the City's standard voltages, used by any non-residential customer with a monthly demand of 2000 kW or greater for at least two of the preceding 12 months.

This schedule is not available for (1) residential service; (2) breakdown, standby, or supplementary service unless used in conjunction with applicable standby or generation service rider for a continuous period of not less than one year; (3) resale service; or (4) whenever the monthly demand exceeds 100,000 kW. In order to determine the applicable rate schedule for a customer, the City will review that customer's monthly readings once a year, in one-year increments from the month that the customer first started receiving bills under a new schedule.

MONTHLY RATES

Customer Charge	\$1,214.06 per month
Energy Charge	
First 1,700,000 kWh	\$0.0529 per kWh
Additional kWh	\$0.0445 per kWh
Demand Charges	
Coincident Peak Demand	
First 3200 kW	\$26.84 per kW
Additional kW	\$14.94 per kW
Excess Demand	\$4.19 per kW

DETERMINATION OF BILLING DEMAND

Coincident Peak Demand shall be the average kW demand measured in the 60-minute interval used by the North Carolina Eastern Municipal Power Agency for wholesale billing purposes during the corresponding month of the customer's billing.

Excess Demand shall be the highest 15-minute demand recorded during the current billing month, less the Monthly Coincident Peak Demand for the current billing month.

NOTIFICATION BY THE CITY

The City will use diligent effort to predict each monthly system peak and notify the customer in

advance; however, the City is not able to guarantee an accurate prediction, and notice will be provided. Notification by the City will be provided to the customer by direct telephone communications or automatic signal, as mutually agreed. The customer will hold the City harmless in connection with its response to notification.

POWER FACTOR CORRECTION

Where the power factor of the consumer's installation is less than 85%, the City may correct kWh consumption for the month by multiplying by 85 and dividing by the actual power factor.

SALES TAX

To the above charges will be added any applicable North Carolina sales tax.

PAYMENT

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. ~~Bills are due when rendered and are payable within 20 days from the date of the bill.~~ If any bill is not so paid, City has the right to suspend service in accordance with its service regulations.

CONTRACT PERIOD

The contract period shall not be less than one year, except for short-term, construction, or temporary service, in which case the contract period may be for the period requested by the customer, provided the customer agrees:

1. That the service supplied shall be for a continuous period until discontinued, and
2. That where it is necessary for City to extend lines, erect transformers, or do any work necessary to supply service, except for the installation of a self-contained meter, the Customer shall pay for the line extension in accordance with the City's customer service policies as may be amended from time to time.

GENERAL

Service rendered under this schedule is subject to the provisions of the City's service regulations, and any changes therein, substitutions therefore, or additions thereto lawfully made.

Section 10. That the following Medium General Service #2 Schedule 10 is hereby adopted **effective July 1, 2020:**

CITY OF NEW BERN
Medium General Service #2
Schedule 10

AVAILABILITY

This Schedule is available for electric service used at a single point of delivery, at one of the City's standard voltages, used by any non-residential customer with a monthly demand of 100 kW or greater for at least two of the preceding twelve months, but less than 750 kW for at least eleven of the preceding twelve months.

This schedule is not available for: (1) residential service; (2) breakdown, standby, or supplementary service unless used in conjunction with applicable standby or generation service

rider for a continuous period of not less than one year; (3) resale service; (4) or whenever the monthly demand has equaled or exceeded 750 kW for at least two of the preceding twelve months. In order to determine the applicable rate schedule for a customer, the City will review that customer's monthly readings once a year in one-year increments from the month that Customer first started receiving bills under a new schedule.

MONTHLY RATES

For Single-Phase Service

Customer Charge	\$22.80
Energy Charge	\$0.0800 per kWh
Demand Charge	\$8.95 per kW

For Three-Phase Service

Bill computed for single-phase service plus \$13.67.

BILLING DEMAND

The billing demand shall be the maximum kW registered or computed by or from the City's metering facilities during any 15-minute interval within the current billing month.

SALES TAX

To the above charges will be added any applicable North Carolina sales tax.

PAYMENT

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. ~~Bills are due when rendered and are payable within 20 days from the date of the bill.~~ If any bill is not so paid, City has the right to suspend service in accordance with its service regulations.

CONTRACT PERIOD

The contract period shall not be less than one year, except for short-term, construction, or temporary service, in which case the contract period may be for the period requested by the customer, provided the customer agrees:

1. That the service supplied shall be for a continuous period until discontinued, and
2. That where it is necessary for City to extend lines, erect transformers, or do any work necessary to supply service, except for the installation of a self-contained meter, the Customer shall pay for the line extension in accordance with the City's customer service policies as may be amended from time to time.

GENERAL

Service rendered under this schedule is subject to the provisions of the City's Service Regulations, and any changes therein, substitutions therefore, or additions thereto lawfully made.

Section 11. That the following Medium General Service (Time-of-Use) Schedule 11 is hereby adopted **effective July 1, 2020:**

CITY OF NEW BERN
Medium General Service (Time-of-Use)
Schedule 11

AVAILABILITY

This schedule is available on a voluntary basis for electric service at a single point of delivery at one of the City's standard voltages used by any non-residential customer with a monthly demand of 30kW or greater, but less than 750 kW for at least 3 of the preceding 12 months. Also, this schedule is available to those customers who were being served under the City's small general service (time-of-use) schedule as of November 15, 1993.

TYPE OF SERVICE

Delivery of service under this schedule shall be to the customer's premises at one point of delivery through one meter.

MONTHLY RATES

Customer Charge	\$56.78 per month
Energy Charge	\$0.0592 per kWh
Demand Charges	
On-Peak Demand	\$21.57 per kW
Excess Demand	\$5.19 per kW

DETERMINATION OF BILLING DEMAND

The on-peak demand for billing purposes each month shall be the maximum kW demand registered or computed by or from the City's metering facilities during any 15-minute interval within the peak hours of the billing month. The peak hours are the hours falling within the time periods every Monday through Friday (excluding holidays) listed by months below:

Summer period – Coincident with April 15 through October 15: 1:00 – 6:00 p.m.

Winter period – Coincident with October 16 through April 14: 7:00 – 9:00 a.m.

Excess demand is the maximum demand registered or computed from the City's metering facilities used during any 15-minute interval in the off-peak hours of the current month, less the on-peak demand. If on-peak demand is greater than the off-peak demand, the excess demand charge will be zero.

SALES TAX

To the above charges will be added any applicable North Carolina sales tax.

CONTRACT PERIOD

The contract period shall not be less than one year, except for short-term, construction, or temporary service, in which case the contract period may be for the period requested by the customer, provided the customer agrees:

1. That the service supplied shall be for a continuous period until discontinued, and
2. That where it is necessary for City to extend lines, erect transformers, or do any work necessary to supply service, except for the installation of a self-contained

meter, the Customer shall pay for the line extension in accordance with the City's customer service policies as may be amended from time to time.

PAYMENT

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. ~~Bills are due when rendered and are payable within 20 days from the date of the bill.~~ If any bill is not so paid, City has the right to suspend service in accordance with its service regulations.

GENERAL

Service rendered under this schedule is subject to the provisions of the City's service regulations, and any changes therein, substitutions therefore, or additions thereto lawfully made.

Section 12. That the following Medium General Service – CP Rate Schedule 12 is hereby adopted **effective July 1, 2020:**

CITY OF NEW BERN
Medium General Service–CP Rate
Schedule 12

AVAILABILITY

This schedule is available on a volunteer basis for electric service used at a single point of delivery, at one of the City's standard voltages, used by any non-residential customer with a monthly demand of less than 750 kW for at least three of the preceding 12 months. Also, this schedule is available as an alternative to those customers who are currently being served under the Medium General Service rates (Schedules 4, 8 and 10) and Medium General Service Time-of-Use rates (Schedule 11).

This schedule is not available for: (1) residential service; (2) breakdown, standby, or supplementary service unless used in conjunction with applicable standby or generation service rider for a continuous period of not less than one year; (3) resale service; (4) or whenever the monthly demand exceeds 750 kW for at least three months. In order to determine the applicable rate schedule for a customer, the City will review that customer's monthly readings once a year in one-year increments from the month that the customer first started receiving bills under a new schedule.

INITIAL FEES

The customer will be billed for the actual cost for the City to purchase and install the CP meter facilities, communications equipment, and any associated load management equipment as required by the City.

MONTHLY RATES

Customer Charge	\$82.24 per month
Energy Charge	
All kWh	\$0.0601 per kWh
Demand Charges	
Coincident Peak Demand	\$22.12 per kW
Excess Demand	\$5.24 per kW

DETERMINATION OF BILLING DEMAND

Coincident Peak Demand shall be the average kW demand measured in the 60-minute interval used by the North Carolina Eastern Municipal Power Agency for wholesale billing purposes during the corresponding month of the Customer's billing.

Excess Demand shall be the highest 15-minute demand recorded during the current billing month, less the Monthly Coincident Peak Demand for the current billing month.

NOTIFICATION BY THE CITY

The City will use diligent effort to predict each monthly system peak and notify the customer in advance; however, the City is not able to guarantee an accurate prediction, and notice will be provided. Notification by the City will be provided to the customer by direct telephone communication or automatic signal, as mutually agreed. The customer will hold the City harmless in connection with its response to notification.

POWER FACTOR CORRECTION

Where the power factor of the consumer's installation is less than 85%, the City may correct kWh consumption for the month by multiplying by 85 and dividing by the actual power factor.

SALES TAX

To the above will be added any applicable North Carolina sales tax.

PAYMENT

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. ~~Bills are due when rendered and are payable within 20 days from the date of the bill.~~ If any bill is not so paid, City has the right to suspend service in accordance with its service regulations.

CONTRACT PERIOD

The contract period shall not be less than one year, except for short-term, construction, or temporary service, in which case the contract period may be for the period requested by the customer, provided the customer agrees:

1. That the service supplied shall be for a continuous period until discontinued, and
2. That where it is necessary for City to extend lines, erect transformers, or do any work necessary to supply service, except for the installation of a self-contained meter, the Customer shall pay for the line extension in accordance with the City's customer service policies as may be amended from time to time.

GENERAL

Service rendered under this Schedule is subject to the provisions of the City's Service Regulations, and any changes therein, substitutions therefore, or additions thereto lawfully made.

Section 13. That the following Residential Service Schedule 40 and Schedule 50 is hereby adopted **effective July 1, 2020:**

CITY OF NEW BERN
Residential Service
Schedule 40, Schedule 50

AVAILABILITY

Service under this schedule is available for separately metered and billed supply of alternating electric current to single family residences, including a residential farm where the farm uses are not taken through a separate meter.

A one-ton minimum central air conditioner must be present at these services, and these services must be participating in the 100% Air Conditioner Load Control Program. Under the 100% control, an air conditioner's compressor is turned off for the duration of every load management period. All applicable appliances must have load-management switches installed to participate in this rate schedule.

This schedule is not available for (a) individual motors rated on 15 HP; (b) commercial use as in hotels, public inns, motels, auto courts, tourist camps, and trailer camps; (c) separately metered accessory buildings or equipment on residential property not suitable for residential use; or (d) bulk barns and other seasonal high use facilities.

Non-fossil energy sources caused by acts of nature, such as wind or solar, are permitted as supplements to customer's energy requirements provided City is granted the right to install, operate, and monitor special equipment to measure customer's load or any part thereof and to obtain any other data necessary to determine the operating characteristics and effects of the installation.

APPLICABILITY

The schedule is applicable to all electric service of the same available type supplied to the customer's premises at one point of delivery through one kilowatt-hour meter in accordance with Schedule 40 and Schedule 50 below.

ADDITIONAL POINTS OF DELIVERY

Additional points of delivery installed on structures at same the premises for other than residential dwelling purposes shall be billed under the appropriate General Service Rate Schedule.

TYPE OF SERVICE

The types of service to which this schedule is applicable are alternating current, 60 hertz, either single-phase two or three wires, or three-phase four wires at City's standard voltages of 240 volts or less.

SCHEDULE 40 (Residential 100% A/C Control)

100% Air Condition Control Discount

For services participating in the 100% Air Conditioner Control, all energy usage over 800 kWh will be discounted 15% based on the Schedule E01 (Standard Residential Service) rate.

MONTHLY RATES

For Single-Phase Service

Basic Customer Charge	\$9.95
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Energy Charges

For the first 300 kilowatt hours	\$0.1018
For >300 to 800 kilowatt hours	\$0.1175
For all additional kilowatt hours	\$0.1013

For Three-Phase Service

The bill computed for single-phase service plus \$13.67.

SCHEDULE 50 (Energy Efficient Residential 100% A/C Control Rate)

Energy Conservation Discount

Where Customer notifies company and customer's dwelling complies with the thermal and load management requirements referenced in Schedule E07, all energy usage will be discounted by 5% based on the Schedule E01 (Residential Service) rate in addition to the 100% Air Conditioner Control discount above.

MONTHLY RATES

For Single-Phase Service

Basic Customer Charge	\$9.95
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Energy Charges

For the first 300 kilowatt hours	\$0.0968
For >300 to 800 kilowatt hours	\$0.1116
For all additional kilowatt hours	\$0.0948

For Three-Phase Service

The bill computed for single-phase service plus \$13.867.

THERMAL REQUIREMENTS

CONVENTIONAL HOUSING

In no case shall the structure's heat loss, including duct heat loss, be greater than 0.1 watts (.34 Btuh) per square foot of net heated floor area per degree Fahrenheit temperature difference. Generally, the criteria may be satisfied if the following provisions are met:

- A. Ceilings with an installed insulation thermal resistance value of R-30.
- B. Exterior walls with an installed insulation thermal resistance value of R-13.
- C. Floors over crawlspaces with an installed insulation thermal resistance value of R-19.
- D. All windows should be insulated double pane glass or single pane glass with storm windows.
- E. All exterior doors should be wood with storm doors or insulated metal doors.
- F. Adequate natural or mechanical attic ventilation should be provided.
- G. Effective with building permits issued 7/1/02, the dwelling is all electric (range-

oven, heating, air conditioning, water heater, dryer).

MANUFACTURED HOUSING

In no case shall the structure's heat loss, including duct loss, be greater than 0.125 watts (0.43 Btuh), per square foot of net heated floor area per degree Fahrenheit temperature difference. Generally, this criteria may be satisfied if the following provisions are met:

- A. Ceilings with an installed insulation thermal resistance value of R-19.
- B. Exterior walls with an installed insulation thermal resistance value of R-13.
- C. Floors over crawlspaces with an installed insulation thermal resistance value of R-19.
- D. All windows should be insulated double pane glass or single pane glass with storm windows.
- E. All exterior doors should be wood with storm doors in insulated metal doors.
- F. Effective with building permits issued 7/1/02, the dwelling is all electric (range/oven, heating, air conditioning, water heater, dryer).

A copy of the manufacturer's certificate stating that the manufactured home in question meets or exceeds the above thermal requirements shall be submitted to the City's Electric Utilities Department in order to obtain the 5% energy efficient discount.

PAYMENT

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. ~~Bills are due when rendered and are payable within 20 days from the date of the bill.~~ If any bill is not so paid, City has the right to suspend service in accordance with its service regulations.

SALES TAX

To the above charges will be added any applicable North Carolina sales tax.

CONTRACT PERIOD

The contract period shall not be less than one year.

GENERAL

Service rendered under this schedule is subject to the provisions of the City's service regulations, and any changes therein, substitutions therefore, or additions thereto lawfully made.

Section 14. That the following Extra Facilities Charges - Generation Schedule 70 is hereby adopted **effective July 1, 2020:**

CITY OF NEW BERN
Extra Facilities Charges - Generation
Schedule 70

AVAILABILITY

Service under this schedule is intended to be in conjunction with the following rate schedules: Medium General Service CP – Schedule 12, Large General Service #2 CP - Schedule 6, and Large General Service #1 CP – Schedule 13. This schedule is available for parallel operation of City-owned, operated and maintained generation systems located on the customer's premises for the purpose of demand reduction during load management periods. This schedule is to be used in conjunction with the provisions of a generation agreement with the City.

This schedule is available on a first-come, first-serve basis provided that the aggregate capacity of all the recognized generators operating on the City's electric system shall not exceed that of the City of New Bern's generation allocation as required by the North Carolina Eastern Municipal Power Agency policy. If a customer's proposed installation results in exceeding the aforementioned threshold, the customer will be notified that service under this schedule will not be available.

MONTHLY RATES

Existing City Owned Generator

Based on Generator Nameplate Rating:
kW Capacity Rating

\$2.96 per kW

New City Owned Generator

All new generator installations or new replacement generator installations shall be billed in accordance with the City of New Bern Customer Service policies for "Extra Facilities" under Schedule 70.

CONTRACT PERIOD

Service will be provided under this rider only after a generation agreement is executed including special terms and conditions for the customer's requirements, if any, which are satisfactory to the City.

PAYMENT

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. If any bill is not so paid, City has the right to suspend service in accordance with its service regulations.

GENERAL

Service rendered under this rider is subject to the provisions of the City's service regulations and any changes therein, substitutions therefore, or additions thereto lawfully made.

Section 15. That the following Renewable Resource Facilities Credit Schedule 60 is hereby adopted **July 1, 2020:**

CITY OF NEW BERN Renewable Resource Facilities Credit Schedule 60

AVAILABILITY

Service under this schedule is intended to be in conjunction with the applicable rate schedule, and is available for parallel operation of non City-owned, single phase, small generation systems, which are rated at 10 kW or less for residential customers, and 100 kW or less for non-residential customers. These systems shall be derived from renewable resources including photovoltaic, wind-powered, or bio-mass-fueled generating systems without battery storage located at the customer's primary residence or business. The generating system that is used in parallel operation with service from the City and located on the customer's premises must be manufactured, installed, and operated in accordance with all governmental and industry standards, meet all requirements of the local code official, and must fully conform with City of New Bern's applicable renewable energy interconnection interface criteria. Customers with qualified systems may apply for NC GreenPower credits.

This schedule is available on a first-come, first-serve basis provided that the aggregate capacity of all the customer generators operating pursuant to this schedule shall not exceed 5% of the City of New Bern's retail peak load for the prior calendar year. If a customer's proposed installation results in exceeding the aforementioned 5% threshold, the customer will be notified that service under this schedule is not available.

TYPE OF SERVICE

The only type of service to which this Schedule is applicable is alternating current, 60 hertz, single-phase, or three phase, two, three, or four wires at company's standard voltages of 480 volts or less.

MONTHLY CREDIT

Energy Credit:

All kWh delivered	\$0.0487 per kWh
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CONTRACT PERIOD

Service will be provided under this schedule only after a service agreement is executed including special terms and conditions for the customer's requirements, if any, which are satisfactory to the City.

SPECIAL CONDITIONS

1. Renewable energy generators, non-fossil energy sources caused by acts of nature such as wind or solar, are permitted as supplements to the customer's energy requirements provided the City is granted the right to install, operate, and monitor special equipment to measure the customer's load or any part thereof, and can obtain any other data necessary to determine the operating characteristics and effects of the installation.

2. All installations of non City-owned, small generation systems to be operated in parallel with the City electric system shall be required to comply with the North Carolina Utilities Commission (NCUC) "Standard for Interconnecting Small Generation 100 kW or Less with Electric Power Systems (EPS)." It is the customer's responsibility to ensure compliance with all such NCUC requirements, file all applications, and resolve all fees associated with the NCUC's interconnection standard prior to the parallel operation of any installed equipment.

3. Customers with renewable energy generators, as outlined above, that are designed to operate in excess of the customer's load at any time are required to function in compliance with the City's Supplemental Power Supply contract with the North Carolina Eastern Municipal Power Agency. Under this requirement, each customer will be required to enter into a unique Electric Service Agreement with the City detailing the specifications of the installation and the rate schedule to be followed for the power supplied by the renewable resource generator. The customer's service shall be metered with two meters—one to measure all energy provided by the City and used by the customer, and the other to measure the amount of energy generated by the customer's renewable energy generator.

4. All customers applying for installations of photovoltaic non City-owned, small generation systems to be operated in parallel with the City electric system shall be required to complete and comply with the City of New Bern's Application and Procedures for Interconnecting a Certified Photovoltaic Generating Facility ("Application"). The customer must complete the Application and submit the same to the City prior to receiving service under this schedule.

5. All customers who install non City-owned, small generation systems to be operated in parallel with the City electric system shall be required to submit a certification of general liability insurance naming the City as additional insured in the amount of \$100,000 per occurrence. Certifications are to be submitted for review and approval by the City on an annual basis as long as the renewable resource generator is interconnected with the City's electric system.

6. In the event that the City determines that it is necessary to install a dedicated transformer or other equipment to protect the safety and adequacy of electric service provided to other City customers, the customer shall pay a Monthly Facilities Charge of 2% of the total installed cost of such additional facilities. The Monthly Facilities Charge shall not be less than \$25.00.

7. The City reserves the right to test the customer's alternative energy generator for compliance with the applicable interface criteria. Should the City determine that the customer's installation is in violation of such criteria, the City will disconnect the alternative energy generator from the City's electric distribution system. The customer's alternative energy generator will remain disconnected until the installation is brought back into compliance with the applicable interface criteria.

GENERAL

Service rendered under this schedule is subject to the provisions of the City's service regulations and any changes therein, substitutions therefore, or additions thereto lawfully made.

Section 15. That the following Area Lighting Schedule 04 is hereby adopted **effective July 1, 2020:**

CITY OF NEW BERN Area Lighting Schedule Schedule 04

AVAILABILITY

This schedule is available for service supplied to the lighting of outdoor areas, private streets, and

private driveways by means of mercury vapor or sodium vapor lighting units. Lighting units will be bracket mounted on City-owned poles, and the mercury vapor lamps will be color corrected.

This Schedule is not available for the lighting of dedicated streets or highways.

SERVICE

Prior to installing area lighting facilities, the customer and the City must execute the City's form entitled "Application for Area Lighting Service." The service supplied by the City will include the installation and operation, according to City standards and requirements, of the area lighting units, and will include the furnishing of electricity required for the illumination of the lamps from dusk to dawn. After the customer has notified the City that a lamp is not burning, the City will perform, as soon as practicable during regular working hours, the necessary maintenance to restore illumination. The lumen rating of the lighting units listed under the Monthly Rate indicates the class of lamp.

MONTHLY RATES

Overhead Service

BASIC RATE: The basic rate per fixture defined below will be billed for installations of standard area lighting fixtures installed on City's system distribution poles. The basic rate does not include the monthly charges for additional facilities, area lighting poles, underground service or any contribution required under this Schedule:

	Monthly Charge Per Fixture	Monthly kWh Per Fixture
Mercury Vapor <u>(Obsolete – Not Available for new or replacement service)</u>		
7,000 lumen semi-enclosed 175w	\$11.40	69
7,000 lumen 175 w	\$13.27	69
21,000 lumen 400w	\$20.70	149
21,000 lumen 400w flood	\$25.58	160
60,000 lumen 1000w	\$40.70	382
60,000 lumen flood 1000w flood	\$44.60	
Sodium Vapor <u>(Obsolete – Not Available for new or replacement service)</u>		
5,000 lumen semi-enclosed	\$9.28	
9,500 lumen 100w	\$15.12	46
22,000 lumen 150w	\$18.74	86
27,500 lumen flood 250w	\$21.32	109
50,000 lumen 400w	\$29.54	152
50,000 lumen flood 400w	\$33.15	168
Retrofit Sodium Vapor (*Retrofitted Prior to September 19, 1983) <u>(Obsolete – Not Available for new or replacement service)</u>		
12,000 lumen 150w	\$17.09	59
38,000 lumen	\$24.34	135
Metal Halide <u>(Obsolete – Not Available for new or replacement service)</u>		
500w cobra head	\$33.15	168
1000w flood	\$44.60	382
*A retrofit sodium vapor unit is a mercury vapor unit retrofitted with a sodium vapor lamp.		
LED		
50w	\$18.74	18

Underground Service

For underground service, the monthly bill will be increased by \$4.90 per pole, in lieu thereof, a one-time contribution of \$246.51 per pole. The monthly pole charge, if selected, may be terminated at any time upon payment by Customer of the one-time contribution. The monthly pole charge defined below will also be applicable to underground service.

Area Lighting Poles
Monthly Charge Per Pole

Wood	\$2.93
Special Metal or fiberglass Post	\$6.94

SALES TAX

To the above charges will be added any applicable North Carolina sales tax.

ADDITIONAL FACILITIES

1. Multiple area lighting fixtures may be installed per pole subject to the City's review and approval. The monthly charge for each additional fixture will be the charge in accordance with the Monthly Rate for that fixture plus 2% of the estimated installed cost of the facilities necessary to serve the multiple fixture installation in excess of that normally required to provide standard area lighting service.
2. For each distribution transformer and/or primary conductor extension, 2% of the estimated installed cost of the required facilities.
3. For an underground circuit in excess of 250 feet for an area lighting pole, 2% of the estimated installed cost of the excess circuit.
4. For a metal pole, 2% of the estimated installed cost of overhead or underground metal poles requiring special construction of features which are in excess of the estimated installed cost of standard underground metal poles.
5. When more energy efficient and otherwise more practical lighting units become available to the City, they will be made available for use under this schedule. The appropriate charge for such units will be developed by the City Electric Department. Said charges are to be incorporated by amendment to this Schedule by the City.

NON-REFUNDABLE CONTRIBUTION

1. In the event that rock, unstable soil, or other conditions require the use of materials and methods of installation other than the City's normal materials and methods, the customer will contribute the additional cost incurred as a result thereof.
2. The customer will contribute the estimated cost of installing cables under paved or landscaped surface areas; however, the customer may cut and replace the pavement or surface in lieu of making the contribution.
3. Service supplied under the Monthly Rate in this schedule does not include the conversion

of existing overhead secondary conductors to underground. Should the customer desire such a conversion under this schedule, the customer will contribute to City, in addition to the applicable contribution above, the estimated net loss in salvage value of the overhead facilities being removed. The customer will thereafter pay the applicable rate for underground service.

PAYMENT

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. ~~Bills are due when rendered and are payable within 20 days from the date of the bill.~~ If any bill is not so paid, City has the right to suspend service in accordance with its service regulations.

CONTRACT PERIOD

The contract period shall be not less than three years for overhead service and not less than five years for underground service, and shall extend from year to year thereafter until terminated by the customer or the City. The customer may terminate the agreement before the expiration of the initial contract period by paying to the City a sum of money equal to 40% of the bills which otherwise would have been rendered for the unexpired months of the initial contract period.

The City may require the customer to initially make a termination deposit which will not exceed the termination amount computed in accordance with the above paragraph. Such termination deposit will be refunded in equal amounts at the end of each full year service is rendered. This annual refund will be the termination deposit divided by the number of years in the contract period.

GENERAL

Service rendered under this schedule is subject to the provisions of the City of New Bern Customer Service Policies.

~~**Section 16.** That the following Street Lighting Service Schedule 32 is hereby adopted effective July 1, 2017:~~

CITY OF NEW BERN Street Lighting Service Schedule 32

AVAILABILITY

~~This schedule is available for service supplied in the lighting of dedicated public streets, highways, municipally owned and operated public parking lots, and municipally owned and operated public parks by lighting fixtures mounted on City owned poles.~~

SERVICE

~~The service supplied by the City will include the installation of a street lighting system, according to standards and requirements, which will be owned, maintained, and operated by the City, including the furnishing of the electricity required for the illumination of the lamps from dusk to dawn. The lumen ratings of lighting units listed under the Monthly Rate indicates the general class of lamp.~~

MONTHLY RATES

Overhead Service

BASIC RATE: The basic rate per fixture defined below will be billed for installations of standard street lighting fixtures installed on the City's system distribution poles. The basic rate does not include the monthly charges for additional facilities, street lighting poles, underground service, or any contribution required under this schedule and under the City of New Bern Customer Service Policies.

	Monthly Charge	Monthly kWh
	<u>Per Fixture</u>	<u>Per Fixture</u>
Ineandeseent (Installed prior to 12/1/79)		
2,500 lumen	\$8.31	68
6,000 lumen	\$12.76	151
Mercury Vapor		
7,000 lumen semi-enclosed 175w	\$10.96	69
7,000 lumen 175w	\$11.90	69
21,000 lumen 400w	\$17.97	149
60,000 lumen 1000w	\$36.12	332
Sodium Vapor		
5,800 lumen semi-enclosed	\$8.29	29
9,800 lumen 100w	\$11.74	46
22,000 lumen 150w	\$16.68	86
27,500 lumen 250w	\$19.33	
50,000 lumen 400w	\$23.09	152

Underground Service

For underground service, the monthly bill will be increased by \$4.90 per pole, or in lieu thereof, a one-time contribution of \$246.51 per pole. The monthly charge, if selected, may be terminated at any time upon payment by customer of the one-time contribution. The monthly pole charge defined below will also be applicable to underground service.

	Street Lighting Poles
	Monthly Charge
	<u>Per Pole</u>
Wood	\$2.01
Special Metal or Fiberglass Post	\$3.51

ADDITIONAL FACILITIES

1. Multiple street lighting fixtures may be installed per pole subject to the City's review and approval. The monthly charge for each additional fixture will be the charge in accordance with the Monthly Rate for that fixture plus 2% of the estimated installed cost of the facilities necessary to service the multiple fixture installation in excess of that normally required to provide standard street lighting service.
2. For each primary conductor extension, 2% of the estimated installed cost of the required facilities.
3. For a bracket or mast arm in excess of 6 feet for underground service or 16 feet for

~~overhead service, 2% of the estimated installed cost of the required facilities in excess of that for standard facilities.~~

~~4. — For an underground circuit in excess of 250 feet for a street lighting pole, 2% of the estimated installed cost of the excess circuit. The customer has the option of making a non-refundable contribution of the estimated installed cost of an underground circuit in excess of 250 feet per span in lieu of paying the monthly facilities charge for such excess circuit.~~

~~5. — For a metal pole, 2% of the estimated installed cost of overhead or underground metal poles requiring special construction or features which are in excess of the estimated installed cost of standard underground metal poles.~~

~~6. — When more energy efficient and better suited lighting units become available to the City, they will be made available for use under this schedule. The appropriate charges for such units will be developed by the City Electric Department. Said charges are to be incorporated by amendment to this schedule by the City.~~

~~NON-REFUNDABLE CONTRIBUTION~~

~~1. — In the event that rock, unstable soil, or other conditions require the use of materials and methods of installation other than the City's normal materials and methods, the customer will contribute the additional cost incurred as a result thereof.~~

~~2. — The customer will contribute the estimated cost of installing cables under paved or landscaped surface areas. However, the customer may cut and replace the pavement or surface in lieu of making the contribution.~~

~~3. — Service supplied under the Monthly Rate in this schedule does not include the conversion of existing overhead street lighting circuits to underground. Should the customer desire such a conversion under this schedule, the customer will pay to the City, in addition to the applicable contribution and charges herein, the estimated net investment depreciated, plus removal cost, less salvage value of the overhead conductor being removed.~~

~~SALES TAX~~

~~To the above charges will be added any applicable North Carolina sales tax.~~

~~PAYMENT~~

~~Bills are due when rendered and are payable within 20 days from the date of the bill. If any bill is not so paid, City has the right to suspend service in accordance with its service regulations.~~

~~CONTRACT PERIOD~~

~~The Contract Period shall not be less than 10 years.~~

~~GENERAL~~

~~Services rendered under this schedule is subject to the provisions of the City of New Bern Customer Service Policies.~~

Section 176. That the following Street Lighting Service Schedule 32-A is hereby adopted effective July 1, 2020:

CITY OF NEW BERN
Street Lighting Service
Schedule 32-A

AVAILABILITY

This schedule is available for service supplied in the lighting of dedicated public streets, highways, and municipally owned and operated public parks and public parking lots, by lighting fixtures mounted on City-owned poles for the City of New Bern.

SERVICE

The service supplied by the City will include the installation of a street lighting system, according to the City's standards and requirements, which will be owned, maintained, and operated by the City, including the furnishing of the electricity required for the illumination of the lamps from dusk to dawn. The lumen ratings of lighting units listed under the monthly rate indicates the general class of the lamp.

MONTHLY RATES

Overhead Service

Basic Rate: The basic rate per fixture defined below will be billed for installations of standard street lighting fixtures installed on the City's electric system distribution poles. The basic rate does not include the monthly charges for additional facilities, street lighting poles, underground service, or any contribution required under this schedule and under the City of New Bern Customer Service Policies.

Monthly Charge Per Fixture

Mercury Vapor

7,000 Lumen semi-enclosed (175w)	\$8.44
7,000 Lumen (175w)	\$8.44
21,000 Lumen (400w)	\$13.18

Metal Halide

400w Flood	\$13.18
1000w Flood	\$14.47

Sodium Vapor

9,500 Lumen (100w)	\$7.79
22,000 Lumen (150w)	\$8.44
27,500 Lumen (250w)	\$10.77
50,000 Lumen (400w)	\$13.18
50,000 Lumen (400w Flood)	\$14.47

ADDITIONAL FACILITIES

1. Special poles and lighting fixtures normally not provided by the utility can be provided at the City's cost for fixtures.
2. For each primary conductor extension, 2% of the estimated installed cost of the required facilities.

3. For a bracket or mast arm in excess of 6 feet for underground service or 16 feet for overhead service, 2% of the estimated installed cost of the required facilities of that for standard facilities.
4. For an underground circuit in excess of 250 feet for a street lighting pole, 2% of the estimated installed cost of the excess circuit. Customer has the option of making a non-refundable contribution of the estimated installed cost of an underground circuit in excess of 250-feet per span in lieu of paying the monthly facilities charge for such excess circuit.
5. For a metal pole, 2% of the estimated installed cost of overhead or underground metal poles requiring special construction or features which are in excess of the estimated installed cost of standard underground metal poles.
6. When more energy-efficient and better-suited lighting units become available to the City, they will be made available for use under this schedule. The appropriate charges for such units will be developed by the City Electric Department. Said charges are to be incorporated by amendment to this schedule by the City.

NON-REFUNDABLE CONTRIBUTION

1. In the event that rock, unstable soil, or other conditions require the use of materials and methods of installation other than City's normal materials and methods, the customer will contribute the additional cost incurred as a result thereof.
2. The customer will contribute the estimated cost of installing cables under paved or landscaped surface areas; however, the customer may cut and replace the pavement or surface in lieu of making the contribution.
3. Service supplied under the Monthly Rate in this schedule does not include the conversion of existing overhead street-lighting circuits to underground. Should the customer desire such a conversion under this schedule, customer will pay to the City, in addition to the applicable contribution and charges herein, the estimated net investment depreciated, plus removal cost, less salvage value of the overhead conductor being removed.

SALES TAX

To the above charges will be added any applicable North Carolina sales tax.

PAYMENT

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. If any bill is not so paid, City has the right to suspend service in accordance with its regulations.

Section 187. That the following Street Lighting Service Schedule 32-B is hereby adopted effective July 1, 2020:

CITY OF NEW BERN
Street Lighting Service
Schedule 32-B
(Residential Subdivision)

AVAILABILITY

This schedule is available for service supplied in the lighting of residential dedicated public streets by means of mercury vapor or sodium vapor lighting units installed within residential subdivisions, consisting of single or duplex dwelling units, located outside the corporate limits of a municipality at the time of the installation. This schedule is not available to supply service for the lighting of parking lots, shopping centers, other public or commercial areas within the residential subdivision, or areas not specifically provided for by the provisions herein.

SERVICE

The service supplied by the City will include the installation of a street lighting system, according to the City's standards and requirements, which will be owned, maintained, and operated by the City, including the furnishing of the electricity required for the illumination of the lamps from dusk to dawn. Lighting units will be located by the City to provide the most uniform lighting possible in the residential area. The lumen ratings of the lighting units furnished under the monthly rate indicate the class of lamp.

MONTHLY RATES

The following amount will be added to each monthly bill rendered for residential electric service within the subdivision:

Overhead Distribution Area

Bracket-mounted, enclosed luminaire on approved wood pole

1 light per 10 customers or major fraction thereof	
7,000 lumen mercury vapor	\$1.47 per customer
9,500 lumen sodium vapor	\$1.47 per customer
1 light per 5 customers or major fraction thereof	
7,000 lumen mercury vapor	\$2.94 per customer
9,500 lumen sodium vapor	\$2.94 per customer

Underground Distribution Area

Bracket-Mounted, enclosed luminaries on approved wood pole

1 Light per 10 customers or major fraction thereof	
7,000 lumen mercury vapor	\$2.09 per customer
9,500 lumen sodium vapor	\$2.09 per customer
1 Light per 5 customers or major fraction thereof	
7,000 lumen mercury vapor	\$4.18 per customer
9,500 lumen sodium vapor	\$4.18 per customer

Bracket-Mounted, enclosed luminaries on standard metal pole

1 Light per 10 customers or major fraction thereof	
7,000 lumen mercury vapor	\$2.38 per customer
9,500 lumen sodium vapor	\$2.38 per customer
1 Light per 6 customers or major fraction thereof	
7,000 lumen mercury vapor	\$3.99 per customer

Approved Post-Mounted type Luminaries

1 Light per 10 customers or major fraction thereof	
7,000 lumen mercury vapor	\$2.38 per customer

9,500 lumen sodium vapor	\$2.38 per customer
1 Light per 6 customers or major fraction thereof	
7,000 lumen mercury vapor	\$3.99 per customer
9,500 lumen sodium vapor	\$3.99 per customer

ANNEXATION CONSIDERATION

If any of the following conditions exist, the developer of the subdivision will be required to obtain from the municipal governing agency, its written approval of the street lighting service being provided under this schedule, and the number and location of the lights to be installed.

1. The subdivision abuts a boundary of the municipality.
2. It is known that the subdivision will be annexed into the municipality.
3. The municipal governing agency has enacted a subdivision control ordinance that applies to the subdivision or any portion thereof.

If the subdivision is subsequently annexed and the municipality accepts the street lighting under a street lighting service contract on the rate for the equivalent lighting unit, the following will apply:

1. Overhead Distribution: If the municipality accepts the street lighting service under Street Lighting Service Schedule, no monthly customer charge will be applied to the subdivision residents.
2. Underground Distribution: If the municipality accepts the street lighting service under Street Lighting Service Schedule and agrees to pay the contribution under the schedule for the street lighting system, no monthly customer charge will be applied to the subdivision residents.

If the subdivision is subsequently annexed and the municipality does not accept the installed street lighting under a street lighting service contract, the service will continue to be provided under this Schedule with the applicable monthly charge.

Section 198. That the following Street Lighting Service Schedule 32-C is hereby adopted effective July 1, 2020:

CITY OF NEW BERN Street Lighting Service Schedule 32-C

AVAILABILITY

This Schedule is available for service supplied in the lighting of residential dedicated public streets by means of sodium vapor lighting units installed within residential subdivisions, consisting of single or duplex dwelling units, located within the city limits of the City of New Bern. This Schedule applies to all developments in which streets have not been accepted for maintenance by the City under the Land Use Ordinance. This Schedule is not available to supply service for the lighting of parking lots, shopping centers, other public or commercial areas within the residential subdivision, or areas not specifically provided for by the provisions herein.

SERVICE

The service supplied by City will include the installation of a street lighting system, according to City's standards and requirements, which will be owned, maintained, and operated by the City, including the furnishing of the electricity required for the illumination of the lamps from dusk to dawn. Lighting units will be located by City to provide the most uniform lighting possible in the residential area. The lumen ratings of the lighting units furnished under the monthly rate indicate the class of lamp.

The developer shall open a street lighting account and sign a standard lighting contract with the City of New Bern.

The developer shall pay for all street lights per City of New Bern Schedule 32-C until the street or streets within the development are accepted for maintenance under the Land Use Ordinance of the City of New Bern, at which time the City of New Bern will assume the cost of the lighting.

All street lights shall be made operational once the electric system is energized, at which time the developer will become responsible for a monthly payment to the City of New Bern per the City of New Bern Street Lighting Service Schedule 32-C.

MONTHLY RATES

Overhead Service

Basic Rate: The basic rate per fixture defined below will be billed for installations of standard street lighting fixtures installed on City's system distribution poles. The basic rate does not include the monthly charges for additional facilities, street lighting poles, underground service, or any contribution required under this Schedule and under the Street Lighting Service Regulations.

Monthly Charge Per Fixture

Sodium Vapor

22,000 Lumen (150w)	\$8.44
50,000 Lumen (400w)	\$13.18
50,000 Lumen (400w Flood)	\$14.47

ADDITIONAL FACILITIES

1. For primary conductor extensions, 2% of the estimated installed cost of the required facilities will be charged to the Customer as outlined in the Customer Service Policies section regarding additional facilities.
2. For a bracket or mast arm in excess of 6 feet for underground service or 16 feet for overhead service, 2% of the estimated installed cost of the required facilities of that for standard facilities will be charged to the Customer as outlined in the Customer Service Policies section regarding additional facilities.
3. For an underground circuit in excess of 250 feet for the installation of a street lighting pole, 2% of the estimated installed cost will be considered an additional facility. Customer has the option of making a non-refundable contribution of the estimated installed cost of an underground circuit in excess of 250 feet per span in lieu of paying the monthly facilities charge for each excess circuit.

4 For a metal pole, 2% of the estimated installed cost of overhead or underground metal poles requiring special construction or features which are in excess of the estimated installed cost of standard underground metal poles will be charged to the Customer as outlined in the Customer Service Policies section regarding additional facilities.

5 When more energy-efficient and better-suited lighting units become available to the City, they will be made available for use under this Schedule. The appropriate charges for such units will be developed by the City Electric Utility Department. Said charges are to be incorporated by amendment to this Schedule by the City.

NON-REFUNDABLE CONTRIBUTION

1. In the event that rock, unstable soil, or other conditions require the use of materials and methods of installation other than City's normal materials and methods, Customer will contribute the additional cost incurred thereby.

2. Customer will contribute the estimated cost of installing cables under paved or landscaped surface areas; however, Customer may cut and replace the pavement or surface in lieu of making the contribution.

3. Service supplied under the Monthly Rate in this Schedule does not include the conversion of existing overhead street-lighting circuits to underground. Should the Customer desire such a conversion under this Schedule, Customer will pay to the City, in addition to the applicable contribution and charges herein, the estimated net investment depreciated, plus removal cost, less salvage value of the overhead conductor being removed.

SALES TAX

To the above charges will be added any applicable North Carolina sales tax.

PAYMENT

Bills are due and payable no later than the due date reflected on the bill, which shall be no earlier than twenty (20) days from the date of the bill. ~~Bills are due when rendered and are payable within 20 days from the date of the bill.~~ If any bill is not so paid, City has the right to suspend service in accordance with its service regulations.

CONTRACT PERIOD

The Contract Period shall not be less than 10 years.

GENERAL

Service rendered under this Schedule is subject to the provisions of City's Street Lighting Service Regulations filed at City Hall.

Section 2019. That the foregoing ordinance be kept on file in the Office of the City Clerk.

Section 240. That previous ordinances in conflict with this ordinance are hereby repealed.

Section 221. That the rates established by this Ordinance shall be in full force and effect on **July 1, 2020.**

ADOPTED THIS 12th DAY OF MAY, 2020.

DANA E. OUTLAW, Mayor

BRENDA E. BLANCO, City Clerk

AGENDA ITEM COVER SHEET

Agenda Item Title:

Ordinance amending Section 6-2. "Definitions" of Chapter 6 "Animals" of the Code of Ordinances

Date of Meeting: 5/12/2020	Ward # if applicable: N/A
Department: City Attorney	Person Submitting Item: Scott Davis
Call for Public Hearing: <input type="checkbox"/> Yes <input type="checkbox"/> No	Date of Public Hearing:

Explanation of Item:	Ordinance amending the definition of "restraint" to include an animal on an attended leash
Actions Needed by Board:	Adopt ordinance
Backup Attached:	Ordinance

Is item time sensitive? <input type="checkbox"/> Yes <input type="checkbox"/> No
Will there be advocates/opponents at the meeting? <input type="checkbox"/> Yes <input type="checkbox"/> No

Cost of Agenda Item: N/A
If this requires an expenditure, has it be budgeted and are funds available and certified by the Finance Director? <input type="checkbox"/> Yes <input type="checkbox"/> No

Additional Notes:

**AN ORDINANCE TO AMEND SECTION 6-2. "DEFINITIONS" OF CHAPTER 6
"ANIMALS" OF THE CODE OF ORDINANCES OF THE CITY OF NEW BERN**

THAT WHEREAS, the Board of Alderman of the City of New Bern deems it advisable and in the public interest to amend Section 6-2. "Definitions" of Chapter 6 "Animals" of the Code of Ordinances of the City of New Bern.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

SECTION 1. That Section 6-2. "Definitions" of Chapter 6 "Animals" of the Code of Ordinances of the City of New Bern be and the same is hereby amended by deleting subsection (13) and inserting in its stead the following:

"(13) *Restraint*: An animal is under restraint within the meaning of the chapter if:

- (a) It is on or within a vehicle being driven or parked;
- (b) It is within a secure enclosure;
- (c) It is controlled by means of an attended leash;
- (d) It is controlled by means of a tether, provided such tether complies with the requirements established in Section 6-9; or
- (e) It is on the premises of the custodian and attended by and under the control of a competent person."

SECTION 2. That this ordinance shall be effective from and after the date of its adoption.

ADOPTED THIS 12th DAY OF MAY, 2020.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

AN ORDINANCE TO AMEND SECTION 6-2. "DEFINITIONS" OF CHAPTER 6 "ANIMALS" OF THE CODE OF ORDINANCES OF THE CITY OF NEW BERN

THAT WHEREAS, the Board of Alderman of the City of New Bern deems it advisable and in the public interest to amend Section 6-2. "Definitions" of Chapter 6 "Animals" of the Code of Ordinances of the City of New Bern.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

SECTION 1. That Section 6-2. "Definitions" of Chapter 6 "Animals" of the Code of Ordinances of the City of New Bern be and the same is hereby amended by deleting subsection (13) and inserting in its stead the following:

"(13) *Restraint:* ~~A dog~~ An animal is under restraint within the meaning of the chapter if:

- (a) It is on or within a vehicle being driven or parked;
- (b) It is within a secure enclosure;
- (c) It is controlled by means of an attended leash;
- ~~(ed)~~ It is controlled by means of a tether, provided such tether complies with the requirements established in Section 6-9; or
- ~~(de)~~ It is on the premises of the custodian and attended by and under the control of a competent person."

SECTION 2. That this ordinance shall be effective from and after the date of its adoption.

ADOPTED THIS 12th DAY OF MAY, 2020.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider Adopting an Ordinance to Amend 66 "Streets, Sidewalks and Other Public Places" of the Code of Ordinances

Date of Meeting: 05/12/20	Ward # if applicable:
Department: City Attorney	Person Submitting Item: Scott Davis
Call for Public Hearing: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date of Public Hearing:

Explanation of Item:	Lynne Harakal, Executive Director of Swiss Bear, has requested that downtown restaurants be allowed to close a portion of the streets to vehicular traffic for the purpose of allowing outdoor seating for restaurants.
Actions Needed by Board:	Consider amending the ordinance to permit street cafes
Backup Attached:	Proposed ordinance, request from Swiss Bear

Is item time sensitive? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Will there be advocates/opponents at the meeting? <input type="checkbox"/> Yes <input type="checkbox"/> No

Cost of Agenda Item:
If this requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director? <input type="checkbox"/> Yes <input type="checkbox"/> No

Additional Notes:

AN ORDINANCE TO AMEND CHAPTER 66 “STREETS, SIDEWALKS AND OTHER PUBLIC PLACES” OF THE CODE OF ORDINANCES OF THE CITY OF NEW BERN

THAT WHEREAS, the Board of Alderman of the City of New Bern deems it advisable and in the public interest to effect certain revisions to Chapter 66 “Streets, Sidewalks and Other Public Places” of the Code of Ordinances of the City of New Bern.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

SECTION 1. That Article III “Obstructions” of Chapter 66 “Streets, Sidewalks and Other Public Places” of the Code of Ordinances of the City of New Bern be and the same is hereby amended by adding Section 66-71 “Street cafés.” as follows:

“Sec. 66-71. Street cafés.

(a) *Definitions.* The following definitions shall apply in this section:

(1) *Alcoholic beverage* means any beverage regulated by Chapter 18B – “Regulation of Alcoholic Beverages” of the North Carolina General Statutes that a restaurant may lawfully serve or sell for consumption in a street as defined herein while operating as a street café.

(2) *Restaurant* means any establishment engaged in the business of regularly and customarily selling food, primarily to be eaten on the premises, including businesses that are referred to as restaurants, cafés, grills and other establishments that have a food counter where food is sold.

(3) *Restaurant operator* means the person, firm, or corporation operating a restaurant and associated street café. This definition includes the owner, and manager if different from the owner, of the restaurant and associated street café.

(4) *Street* means that portion of a city street between the curb lines, or between the lateral lines of the street if there is no curb.

(b) *Street café permit generally.* The city manager or his designee may issue permits for the serving of food and beverages on a designated portion of a street to be effective only during such periods that the board of aldermen closes a street for the purpose of allowing street cafés.

(c) *Application.* Any restaurant desiring to operate a street café shall prepare and file an application with the city manager or his designee which shall contain the following information:

(1) The name, address, and telephone number of the restaurant desiring to operate a street café.

(2) The name, address, telephone number, and email address of the restaurant operator.

- (3) A current and valid Tax ID.
 - (4) The type of food, beverage, or food product to be sold and served at the street café. If alcoholic beverages are to be sold, the type of such alcoholic beverages.
 - (5) The hours of operation of the restaurant and the proposed hours of operation of the street café.
 - (6) A scaled drawing or site plan showing the following:
 - a. The section of street to be used; and
 - b. The proposed placement of the tables, chairs and other furnishings on the street. If modifications of the original drawing or site plan are desired by either the city or the applicant, a new drawing must be submitted and approved by the city manager or his designee.
 - (7) Evidence that the applicant has obtained and will maintain a general liability and workers compensation insurance policy in the amount of one million dollars (\$1,000,000) for the operation of a street café which names the city as an additional insured.
 - (8) An indemnity statement, approved by the city attorney, whereby the restaurant operator agrees to indemnify and hold harmless the city and its officers, agents, and employees from any claim arising from the operation of the street café.
 - (9) A copy of all permits and licenses issued by the state or the city, including health and ABC permits and business licenses, necessary for the operation of the restaurant business, or a copy of the application for the permit if no permit has been issued. This requirement includes any permits or certificates issued by the city for exterior alterations or improvements to the restaurant.
 - (10) A sworn statement describing any violation by the restaurant operator of any laws, regulations, or ordinances relating to the possession, sale, consumption, or transportation of intoxicating beverages or controlled substances during the five (5) years immediately preceding the date of the permit application.
 - (11) Such additional information as may be requested by the city manager or his designee to determine compliance with this section.
 - (12) A fee as provided in the City of New Bern fee schedule to cover the cost of processing and investigating the application and issuing the permit.
- (d) *Issuance of permit.* No permit for the operation of a street café may be issued unless the application is complete and unless the following requirements are met:
- (1) The street café must be associated with an operating restaurant such that it is under

the same management and shares the same food preparation facilities, restroom facilities, and other customer convenience facilities as the restaurant. The street café must be operated under the same name as the restaurant and may not be open or operated at any time when the restaurant is not open for business.

(2) The operation of the street café must be clearly incidental to the associated restaurant business. The cumulative seating capacity of the street café, associated restaurant business, and any associated sidewalk café may not be more than one hundred (100%) percent of the interior seating capacity of the associated restaurant. In addition, no more patrons than can be accommodated by the actual seats provided in the street café can occupy the area of the street café.

(3) All furnishings used for street café use pursuant to this section:

- a. Shall comply with the American with Disabilities Act;
- b. Shall not be placed at any location which obstructs underground utility access points, ventilation areas, meters, accessible ramps or other facilities provided for physically challenged persons, a building access or exit, or any emergency access or exit way;
- c. Shall not extend beyond the street café area as designated in the application.

(4) The restaurant seeking to operate the street café must front on and open onto the street proposed for the street café.

(5) Tables, chairs, and other furnishings utilized for sidewalk cafés shall be of a type that can be easily removed from the street. Tables, chairs, and other furnishings used in the operation of the street café must be removed no later than the time specified in any street closing ordinance for the street to reopen. If such items are not removed by such time, the city shall have the right to remove and dispose of these items and may assess the restaurant operator for the cost of such removal and disposal. These items shall not be permanently affixed to the street and must remain within the designated boundaries as delineated by street markers. The city shall also have the right to remove such items immediately in emergency situations. The city shall not be responsible for damage to street café furnishings under any circumstances.

(6) Except as elsewhere permitted, the operation or furnishing of the street café shall not involve any permanent alteration to or encroachment upon any street, sidewalk, or to the exterior of the associated restaurant. The owner of the street café shall be responsible for repairing any incidental damage to streets or public sidewalks resulting from the operation of the street cafe.

(7) No person shall operate a street café later than 11:00 p.m. After such hour, the area of the street café shall be open to the public and shall not be considered part of the premises of the restaurant. Any person consuming alcoholic beverages in a street café after such hour shall be subject to the provisions Section 46-5 of the city code.

(8) The approved site plan for the street café must be maintained within the place of business at all times.

(9) All restaurants operating a street café shall keep the approved site area clean.

(10) The restaurant seeking to operate the street café shall meet other reasonable conditions that may be necessary as determined by the city manager or his designee.

(11) Alcoholic beverages may be served at street cafés provided the following additional requirements are met:

a. The street café shall be part of a restaurant and shall otherwise be authorized, permitted, or licensed under the state law and the city code to serve and sell alcoholic beverages for on-premises consumption.

b. The portion of the street café where alcohol is or may be served shall be enclosed by clearly visible barricades and shall have not more than two (2) points of ingress and egress.

c. The street café must be included as part of the premises for which an ABC permit for a restaurant, as defined in G.S. § 18B-1000(6), is issued, pursuant to G.S. § 18B-1001, for the purpose of applying and enforcing state laws regarding the sale or consumption of alcoholic beverages on-premises.

d. Signs shall be posted, visible at all exit points from the street café, that it is unlawful to remove alcoholic beverages in open or unsealed containers from the premises.

e. The restaurant operator shall not have violated any law, regulation, or ordinance relating to the possession, sale, transportation or consumption of intoxicating beverages or controlled substances for the five (5) years preceding the commencement of the sale of alcoholic beverages at the street café.

f. The applicant shall obtain and maintain an insurance policy in the amount of one million dollars (\$1,000,000.00) for liquor liability, and shall name the city as additional-insured.

(e) *Denial or revocation of street café permit.*

(1) The city manager or his designee may deny or revoke a permit, pursuant to this section, if he finds that the granting or continuation of the permit would not be in the public's interest, or if he finds that the operator of the business or establishment has:

a. Made a deliberate misrepresentation or provided false information in the application;

b. Used the street in such a manner as to create a public nuisance or constitute a hazard to the public health, safety, or welfare;

- c. Failed to keep the street or alley clean and free of refuse;
- d. Failed to maintain any health, business or other permit or license required by law for the operation of the business or establishment;
- e. Violated any of the terms of this ordinance, or violated any law, regulation, or ordinance regarding the possession, sale, transportation or consumption of intoxicating beverages or controlled substances;
- f. Failed to maintain the amount and type of insurance required herein; or
- g. Failed to uphold the terms of the permit.

(2) The applicant may appeal the denial of the permit to the board of aldermen within fifteen (15) working days after the date of the written denial and the board of aldermen may take such corrective action as it shall find necessary. The findings and determination of the board of aldermen shall be final.

(3) Before the revocation of a permit, the city manager shall notify the permit holder of his intent to revoke the permit and the reasons therefor and shall afford the permit holder a reasonable opportunity to appear and be heard on the question of such revocation. After the hearing, the city manager shall notify the permit holder in writing of this decision and the reasons therefor. A decision of the city manager to revoke a permit may be appealed to the board of aldermen in accordance with the provisions of subsection (2) herein.

(f) *Reservation of rights.* The city reserves the right to require any street café established pursuant to this article to cease part or all of its operation in order to allow for construction, maintenance, or repair of any street, sidewalk, utility, or public building by the city, its agents or employees, or by any other governmental entity or public utility; and to allow for use of the street or sidewalk in connection with parades, civic festivals, and other events of a temporary nature as permitted by the city. The city further reserves the right to amend, alter, or change the permit as provided for in this article upon further review and consideration for reasons of public safety, adopted public policy, or operational concerns without any costs to the city. In such event, the city manager or his designee will notify the applicant by email of amendments to the permit. These amendments will require issuance of a new permit within the time period specified in the notice. If the new permit is issued prior to the expiration of the original permit that is being amended, the fee shall be waived for the amended permit. Failure to comply with the amended permit pursuant to this section will result in automatic termination of the street café permit.

(g) *Term, transfer, renewal, etc.* Permits issued in accordance with the provisions of this section shall:

(1) Be issued for the period beginning July 1 and expiring June 30 of each year and in all events will automatically expire on June 30, but shall only be effective during periods when the board of aldermen closes a public street for the purpose of allowing street cafés;

- (2) Be renewed on a year-to-year basis;
- (3) Be in addition to the annual privilege license, if any, required pursuant to the city's fee schedule;
- (4) Not be transferable or assignable;
- (5) Specifically provide whether the sale and consumption of alcohol is permitted under the permit; and
- (6) Be subject to site inspection prior to initial permit issuance as well as annual permit renewal. If such street café permit is approved, a fee shall be levied for each separate annual issuance of the permit in accordance with the city's adopted fee schedule."

SECTION 2. This ordinance shall be effective from and after its date of adoption.

ADOPTED THIS 12th DAY OF MAY, 2020.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

Subject: Request for street closures

From: Lynne Harakal, Executive Director, Swiss Bear, Inc.

Date: May 6, 2020

Swiss Bear is requesting that the following streets be closed to vehicular traffic from 5pm – 11pm Fridays and Saturdays for the duration of North Carolina's phase 2 reopen plan:

- 200-300 Middle St.
- 200 Craven St. from Morgan's Tavern & Grill to Pollock St.
- 300 Pollock St.

The purpose of street closures is to allow additional outdoor seating for downtown restaurants (seated table service for restaurants, with capacity limitations, begins in Phase 2) to help them recover from COVID-19 related closures and reduced revenues. ALL restaurants have been harshly affected by COVID-19, but many restaurants outside of Downtown have dedicated parking that can be used for expanded outdoor seating during Phase 2. In the absence of dedicated restaurant parking, Downtown restaurants are further challenged. By closing streets during evening hours on Fridays and Saturdays in Phase 2, Downtown restaurants will be able to safely serve more customers and rehire more employees.

On Monday, May 4 Swiss Bear emailed Downtown restaurants on Middle, Craven and Pollock to determine their interest levels. As of Wednesday, May 6 the following restaurants responded:

- The Chelsea Restaurant – YES
- Beer Army Burger Co. – YES
- Baker's Kitchen – YES
- Cypress Hall – YES
- Prohibition – YES
- MJ's Raw Bar and Grill - YES
- Morgan's Tavern & Grill – YES
- Captain Ratty's – NO
- Bella's – NO (closes at 4pm)

The following restaurants have not yet responded Cow Café, Bay Leaf, and Thai Angel.

Swiss Bear is not requesting street closures for S. Front since it is a major thoroughfare for traffic. Swiss Bear will work with S. Front St. restaurants for other solutions.

Swiss Bear recommends the following:

- set-up tables on the west side of Middle St. allowing the east side to be open to emergency vehicles.
- set-up tables on the west side of Craven St. allowing the east side to be open to emergency vehicles.

- temporarily amend City Ordinance Sec. 46-5 to allow wine and beer ONLY to be served by participating Downtown restaurants as outlined in this request and following ALE rules and guidelines.

The Craven County Health Department has no issue as long as indoor and outdoor seating does not exceed normal service capacity. The New Bern Fire Department has no issue as long there is emergency vehicle access and sufficient outdoor lighting. ALE has no issue as long as there is a temporary ordinance change and all ALE rules are followed for street seating:

- Wine and beer only.
- Wine and beer are sold in their original packaging and are not opened by staff but by customers at their tables.

This request is made with the understanding that there may be additional Phase 2 directives from Governor Cooper.

AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider adopting a Resolution to temporarily close portions of Middle Street, Pollock Street, and Craven Street to vehicular traffic.

Date of Meeting: 5/12/2020	Ward # if applicable: Ward 1
Department: Parks & Recreation	Person Submitting Item: Foster Hughes, CPRE
Call for Public Hearing: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date of Public Hearing:

Explanation of Item:	Lynne Harakal, with Swiss Bear Downtown Development Corporation has made a request to close the 200-300 blocks of Middle Street, 300 block of Pollock Street, and the 200 block of Craven Street from 5:00 p.m. until 11:00 p.m. for a street café on the following dates: Friday, May 22 through Monday, May 25, 2020; Friday, May 29 through Saturday, May 30, 2020; Friday, June 5 through Saturday, June 6, 2020; Friday, June 12 through Saturday, June 13, 2020; Friday, June 19 through Saturday, June 20, 2020; Friday, June 26 through Saturday, June 27, 2020; Friday, July 3 through Saturday, July 4, 2020; Friday, July 10 through Saturday, July 11, 2020; Friday, July 17 through Saturday, July 18, 2020; Friday, July 24 through Saturday, July 25, 2020, and Friday, July 31 through Saturday, August 1, 2020.
Actions Needed by Board:	Adopt the Resolution
Backup Attached:	Resolution – Memo – Application –

Is item time sensitive? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Will there be advocates/opponents at the meeting? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Cost of Agenda Item:
If this requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director? <input type="checkbox"/> Yes <input type="checkbox"/> No

Additional Notes:



Aldermen

Sabrina Bengel
Jameesha Harris
Bobby Aster
Johnnie Ray Kinsey
Barbara J. Best
Jeffrey T. Odham

Foster Hughes, CPRE
Director of Parks & Recreation



Dana E. Outlaw
Mayor

Mark A. Stephens
City Manager

Memo To: Mayor and Board of Aldermen

From: Foster Hughes, CPRE
Director of Parks & Recreation

Re: Adopt the Resolution to temporarily close portions of Middle Street, Pollock Street, and Craven Street to vehicular traffic

Background Information:

Lynne Harakal, with Swiss Bear Downtown Development Corporation, has made a request to close the 200-300 blocks of Middle Street, 300 block of Pollock Street, and the 200 block of Craven Street from Morgan's Tavern & Grill to Pollock Street from 5:00 p.m. until 11:00 p.m. for restaurants to set up a street cafe on the following dates:

Friday, May 22 through Monday, May 25, 2020; Friday, May 29 through Saturday, May 30, 2020; Friday, June 5 through Saturday, June 6, 2020; Friday, June 12 through Saturday, June 13, 2020; Friday, June 19 through Saturday, June 20, 2020; Friday, June 26 through Saturday, June 27, 2020; Friday, July 3 through Saturday, July 4, 2020; Friday, July 10 through Saturday, July 11, 2020; Friday, July 17 through Saturday, July 18, 2020; Friday, July 24 through Saturday, July 25, 2020; and Friday, July 31 through Saturday, August 1, 2020.

Recommendation:

The Parks and Recreation Department recommends approval and requests the Board adopt a Resolution approving the request.

If you have any questions concerning this matter, please call.

1307 Country Club Rd
New Bern, NC 28562
Office 252 639-2901
Fax 252 636-4138

**RESOLUTION TO TEMPORARILY CLOSE PORTIONS OF MIDDLE STREET,
POLLOCK STREET, AND CRAVEN STREET TO VEHICULAR TRAFFIC**

THAT WHEREAS, the Board of Aldermen of the City of New Bern desires to temporarily close certain portions of Middle Street, Pollock Street, and Craven Street to vehicular traffic, all as illustrated on the map attached hereto and incorporated herein as Exhibit A (such closed portions of streets being referred to as "Closed Streets"), to allow for the operation of street cafes pursuant to city code Section 66-71; and

WHEREAS, the Board desires to temporarily close such Closed Streets to vehicular traffic between the hours of 5:00 p.m. and 11:00 p.m. on the following dates:

- Friday, May 22 through Monday, May 25, 2020,
- Friday, May 29 through Saturday, May 30, 2020,
- Friday, June 5 through Saturday, June 6, 2020,
- Friday, June 12 through Saturday, June 13, 2020,
- Friday, June 19 through Saturday, June 20, 2020,
- Friday, June 26 through Saturday, June 27, 2020,
- Friday, July 3 through Saturday, July 4, 2020,
- Friday, July 10 through Saturday, July 11, 2020,
- Friday, July 17 through Saturday, July 18, 2020,
- Friday, July 24 through Saturday, July 25, 2020, and
- Friday, July 31 through Saturday, August 1, 2020.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

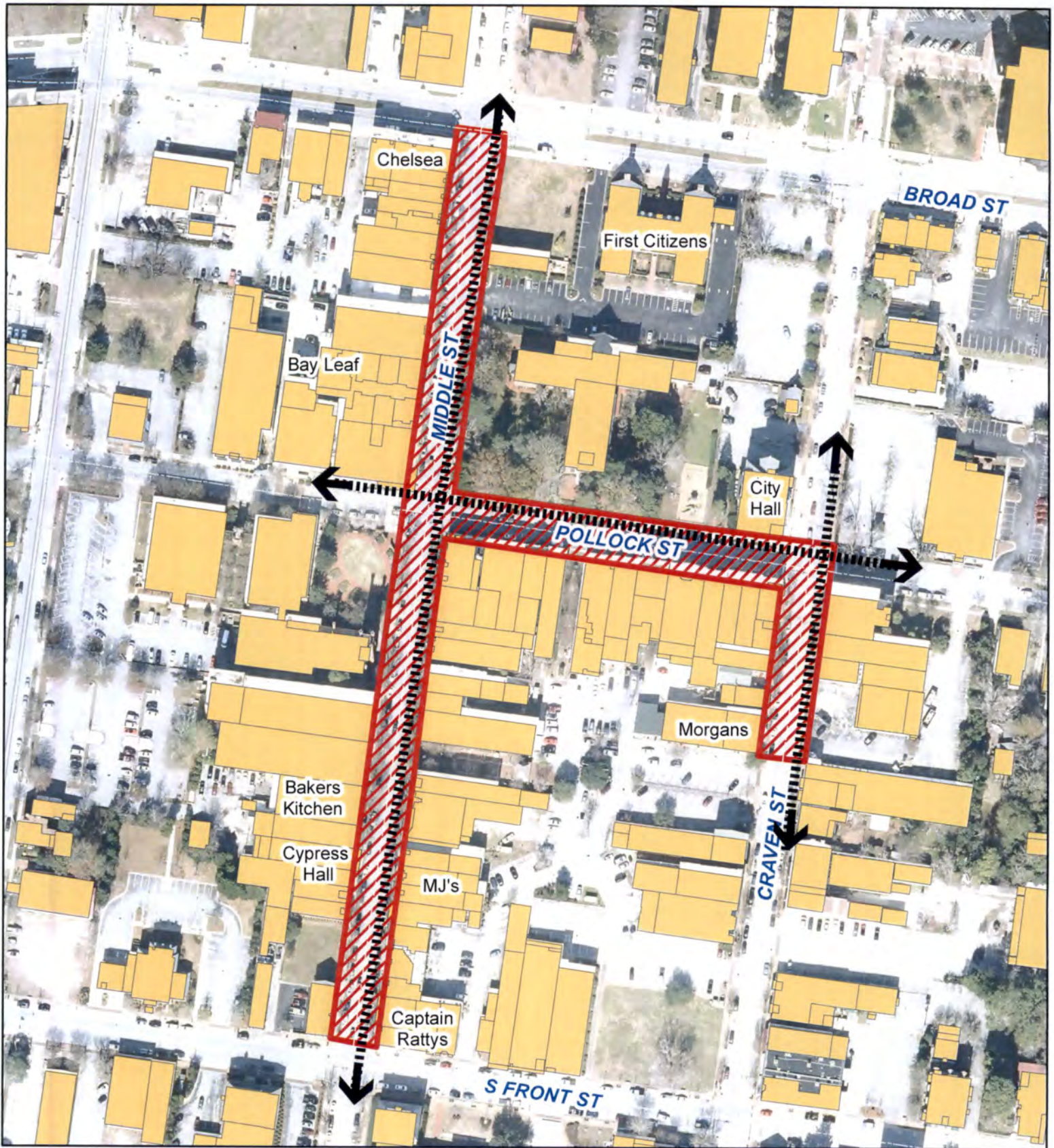
That the Closed Streets shall be temporarily closed to vehicular traffic between the hours of 5:00 p.m. and 11:00 p.m. on the following dates:

- Friday, May 22 through Monday, May 25, 2020,
- Friday, May 29 through Saturday, May 30, 2020,
- Friday, June 5 through Saturday, June 6, 2020,
- Friday, June 12 through Saturday, June 13, 2020,
- Friday, June 19 through Saturday, June 20, 2020,
- Friday, June 26 through Saturday, June 27, 2020,
- Friday, July 3 through Saturday, July 4, 2020,
- Friday, July 10 through Saturday, July 11, 2020,
- Friday, July 17 through Saturday, July 18, 2020,
- Friday, July 24 through Saturday, July 25, 2020, and
- Friday, July 31 through Saturday, August 1, 2020.

ADOPTED THIS 12TH DAY OF MAY 2020.

DANA E. OUTLAW, MAYOR

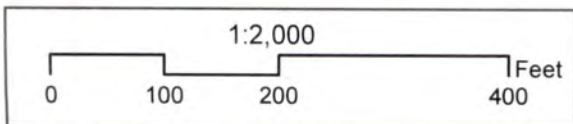
BRENDA E. BLANCO, CITY CLERK



Area to be
Temporarily Closed



Egress & Regress
for Emergency Vehicles



"EXHIBIT A" Temporary Street Closings

Closed Streets:
Craven Street - 200 Block Partial
Pollock Street- 300 Block All
Middle Street - 200 & 300 Blocks All

CITY OF NEW BERN

APPLICATION FOR PUBLIC ASSEMBLY, PARADE & SPECIAL EVENTS IN CITY PARKS

This application is hereby made for a permit to hold a Public Assembly and/or Parade as described in the City of New Bern
Code of Ordinances (Sec. 66-85; 66-86; and 66-87) – Public Assemblies and Parades.

This application along with attachments must be presented at least **60 days prior** to the event date.

Festival – A concert, fair, festival, exhibit, athletic event, promotion, community event, block party, or similar event.

Parade – A march, ceremony, pageant, procession or other similar activities consisting of persons, animals, vehicles or things, or any combination thereof, that disrupts the normal flow of traffic upon any public street.

Public Assembly – A festival or demonstration which is reasonably anticipated to obstruct the normal flow of traffic upon any public street and that is collected together in one place; or a festival in any city-controlled park.

Name of Event/Activity: Restaurant Street Seating / Downtown.
Organization Name: Swiss Bear, Inc.
Responsible Contact: Lynne Haraka
Address: 316 S. Front St.
City: New Bern State: NC Zip code: 28560
Phone: 252-626-6280(c) Alternate Phone: 252-288-9825 (o)
Email: director@swissbear.org

- Type of Event: ☐ Demonstration ☐ Festival ☐ Parade ☒ Other
- Date of Event: See attachment Proposed Rain Date: None
- Event Set up time: 5pm Event Tear Down Completed Time: 11pm
- Event Start Time: 5:30pm Event End Time: 10:30pm
- Are you selling any goods or services? ☒ Yes* ☐ No
- Are you charging an admission fee or collecting donations? ☐ Yes* ☒ No

What is the specific location and/or route of the proposed event? (Attach additional information if needed)

200-300 blocks middle St., 300 block ~~State~~ Pollock St., 200 block
Craven St from Morgan's to Pollock St.

Note: A detailed map of the proposed route as well as a specific list of streets is required. The specific location of the Public Assembly must include the aerial overview with location marked. **Festivals/Events require detailed aerial map with complete layout.**

What is the purpose of this event? Please be detailed in your description - (Attach additional information if needed)

To provide extra table service for restaurants to assist with recovery
from COVID-19 revenue loss.

Estimated attendance: 400; Attendance not to exceed: 800.

**Note: If more than 1,000 in attendance is expected 1) Proof of Crowd Manager Training Certification is required. Training is available at the following link: http://www.newbernnc.gov/departments/fire_department/crowd_manager_training.php 2) Public Safety Plan is required. Information must be submitted with application. For additional info, please contact the Fire Marshall at 252-639-2931.*

Tents # 0 Sizes _____ Provide additional info as needed (Note: Tents 700 sq. ft. or bigger must be inspected by Fire Marshall).

How will you handle trash generated from the event?

We are requesting # _____ trash cans.

☒ We will provide our own bags & dispose of any trash generated ourselves.

☐ We request that City Staff dispose of all trash generated. We understand additional fees will be charged for this service, including the cost of labor, and materials (bags, etc.) used.

Are you requesting any City of New Bern Street Closures?

☒ Yes*

☐ No

*Any street closures require approval of the Board of Aldermen. Street closures must be received **at least 60 days in advance** for consideration. Street closures require barricades. A fee of \$5.00 per barricade must be paid 48 business hours prior to the event.

*What Street(s) are you requesting to close? Be specific: 200-300 blocks middle St.,
300 block Pollock St., 200 block Craven St from Morgan's to
Pollock.

Are you requesting any State Road or Bridge closures? ☐ Yes*

☒ No

*If yes, a 90 day notice and application is required by the NCDOT for in order to consider state roads or bridges. For additional information, please call NCDOT Office at 252-439-2816. The State Road/Bridge Closure permit must be attached to this application.

If this event includes the use of floats, vehicles, placards, loud speakers, or mechanical devices of any type, please provide a detailed explanation of their use, purpose and number. _____

Will Inflatables or other Play features be part of this event? ☐ Yes ☒ No (Additional insurance may be required)

Will Food Vendors or Commercial/Non-Profit vendors be part of this event? ☐ Yes ☒ No

(If you answered YES, Additional Fees apply. A detailed list of all vendors is required.)

The following items are required and must be attached at the time of Application:

- ☒ A detailed map – including the location, route with beginning and ending point and street names included.
- ☒ Written Statement of how and when business's/residents affected are (were) informed of road closure.

The following items are required within **two (2) business days of the event or event shall be cancelled:**

- ☒ Certificate of Insurance from organizer & vendors – Listing the City of New Bern, PO Box 1129, New Bern, NC as "Additional Insured". - Restaurants to provide.
- ☐ List of all food/commercial/non-profit vendors.
- ☐ Payment in full of applicable fees and charges.

I attest that I am authorized on behalf of this group/organization to request the permit for the activities prescribed herein. I understand that this application must be submitted with full details and attachments. I understand that additional fees and charges may be incurred. Those charges include set-up tear down time for staff, rental of barricades, Public Safety, Trash collection, damages, etc. I further understand that failure to provide the requested information within the specified timelines shall result in application being denied. I agree to indemnify and hold harmless the City of New Bern, its departments, agents, employees, officials and volunteers for any injury, illness or damage to person or property during this activity.

The following items must be submitted with Application:

- ☒ Completed & Signed Application
- ☒ Detailed maps of parade route and/or festival (Event) layout
- ☒ Notification statement to residents/businesses (if road closure is requested)
- ☐ Proof of Crowd Manager training & Public Safety Plan (if attendance is 1,000 or more)

Sydney Havel
Authorized Signature

5/8/2020
Date

All documents have been provided and this application is recommended for approval

U. Matlock
Administrative Support Supervisor

5/11/2020
Date

This application has been approved.

Test H
Director of Parks & Recreation

5-8-2020
Date

Total Anticipated Charges

Barricades: # 12
\$ 60.00
per closure

Trash Collection: \$ _____

City Staff: # _____
\$ _____

Vendor Fees # _____
\$ _____

Park/Facility Rental: \$ _____

Total Due: \$

- ☐ Have HOA's been notified? ☐ Yes ☐ No Spoke with: _____
- ☒ Approved by Department Date: 5-8-2020 Staff Initials: TH
- ☒ Submitted for Board Approval Date: 5-8-2020 Staff Initials: TH
- ☒ All Paperwork collected Date: _____ Staff Initials: _____
- ☐ All fees collected \$ _____ Date: _____ Staff Initials: _____

City Sponsored Event

☐ Yes ☒ No



Subject: Request for street closures

From: Lynne Harakal, Executive Director, Swiss Bear, Inc.

Date: May 6, 2020

Swiss Bear is requesting that the following streets be closed to vehicular traffic from 5pm – 11pm Fridays and Saturdays for the duration of North Carolina's phase 2 reopen plan:

- 200-300 Middle St.
- 200 Craven St. from Morgan's Tavern & Grill to Pollock St.
- 300 Pollock St.

The purpose of street closures is to allow additional outdoor seating for downtown restaurants (seated table service for restaurants, with capacity limitations, begins in Phase 2) to help them recover from COVID-19 related closures and reduced revenues. ALL restaurants have been harshly affected by COVID-19, but many restaurants outside of Downtown have dedicated parking that can be used for expanded outdoor seating during Phase 2. In the absence of dedicated restaurant parking, Downtown restaurants are further challenged. By closing streets during evening hours on Fridays and Saturdays in Phase 2, Downtown restaurants will be able to safely serve more customers and rehire more employees.

On Monday, May 4 Swiss Bear emailed Downtown restaurants on Middle, Craven and Pollock to determine their interest levels. As of Wednesday, May 6 the following restaurants responded:

- The Chelsea Restaurant – YES
- Beer Army Burger Co. – YES
- Baker's Kitchen – YES
- Cypress Hall – YES
- Prohibition – YES
- MJ's Raw Bar and Grill - YES
- Morgan's Tavern & Grill – YES
- Captain Ratty's – NO
- Bella's – NO (closes at 4pm)

The following restaurants have not yet responded Cow Café, Bay Leaf, and Thai Angel.

Swiss Bear is not requesting street closures for S. Front since it is a major thoroughfare for traffic. Swiss Bear will work with S. Front St. restaurants for other solutions.

Swiss Bear recommends the following:

- set-up tables on the west side of Middle St. allowing the east side to be open to emergency vehicles.
- set-up tables on the west side of Craven St. allowing the east side to be open to emergency vehicles.

- temporarily amend City Ordinance Sec. 46-5 to allow wine and beer ONLY to be served by participating Downtown restaurants as outlined in this request and following ALE rules and guidelines.

The Craven County Health Department has no issue as long as indoor and outdoor seating does not exceed normal service capacity. The New Bern Fire Department has no issue as long there is emergency vehicle access and sufficient outdoor lighting. ALE has no issue as long as there is a temporary ordinance change and all ALE rules are followed for street seating:

- Wine and beer only.
- Wine and beer are sold in their original packaging and are not opened by staff but by customers at their tables.

This request is made with the understanding that there may be additional Phase 2 directives from Governor Cooper.



Subject: Street Closure Dates

From: Lynne Harakal, Executive Director, Swiss Bear, Inc.

Date: May 8, 2020

Swiss Bear is requesting permission to close 200-300 blocks of Middle St., 300 block Pollock St., and 200 block Craven St. from Morgan's to Pollock St. from 5PM-11PM on the following dates:

- Friday May 22, Saturday May 23, Sunday May 24, Monday May 25
- Friday May 29, Saturday May 30
- Friday June 5, Saturday June 6
- Friday June 12, Saturday June 13
- Friday June 19, Saturday June 20
- Friday June 26, Saturday June 27
- Friday July 3, Saturday July 4
- Friday July 10, Saturday July 11
- Friday July 17, Saturday July 18
- Friday July 24, Saturday July 25
- Friday July 31, Saturday August 1



Subject: Plan for adhering to Phase 2 Guidelines from the Governor

From: Lynne Harakal, Executive Director, Swiss Bear, Inc.

Date: May 8, 2020

Swiss Bear and the restaurants participating in Phase 2 weekend evening street seating realize that the proposed plan and request for street closures is contingent upon following all directives from Governor Cooper. We expect directives to include but not be limited to safety guidelines for food service and social distancing for inside service, which will be expanded to include outside service. As of May 8 these directives have not been provided.



Subject: Outdoor Beer and Wine Service During Street Closures

From: Lynne Harakal, Executive Director, Swiss Bear, Inc.

Date: May 8, 2020

Unless otherwise amended through ALE directives, beer and wine service for outdoor street seating will follow the ALE requirements as outlined below:

- Only beer and wine can be served. Alcoholic beverages will be handled as packaged goods by the restaurant providing food service or bar providing service.
- Restaurants/bars licensed to serve alcohol can serve bottles/cans/growlers of beer, bottles of wine, and individually sealed 'glasses' of wine.
- Servers CAN deliver the beer and wine to the table, but beverages must be served in their original sealed packaging and opened at the table by the customer.
- No liquor may be served.
- Restaurants/bars with sidewalk café permits may continue to serve sidewalk tables as outlined in their permits.
- Street service of alcoholic beverages is contingent upon temporarily amending City ordinance Sec. 66-86.



Subject: Store notification of Downtown street closures
From: Lynne Harakal, Executive Director, Swiss Bear, Inc.
Date: May 8, 2020

Swiss Bear and the Downtown Business Council have worked together to notify all Downtown businesses of the request for street closures on Fridays and Saturdays from 5pm to 11pm during Phase 2 of reopening the State. Danny Batten, Chair of the Downtown Business Council, has been speaking with business owners in effort to let them know the plan. Swiss Bear sent an email on May 7 to all businesses in Downtown explaining the details of the street closure plan and encouraging merchants to remain open Friday and Saturday evenings in Phase 2 to provide a more comprehensive experience for visitors.

May 6, 2020

Mark Stephens
City Manager
City of New Bern
300 Pollock Street
New Bern, NC 28560

Dear Mr. Stephens,

As Chair of the Downtown Business Council, I am writing on behalf of the downtown businesses in support of street closures in the core downtown business district starting at 5pm on Friday evenings and 5pm on Saturday evenings (dates to be determined). We recognize the importance of keeping both our visitors and employees safe as NC moves into phase two and three of opening our business district. The street closures will allow our restaurants to expand seating and better adhere to DHHS recommendations while also allowing enough customers to ensure our downtown restaurants remain viable as a profitable business. Thank you for your continued support of our downtown historic district.

Sincerely,

Danny Batten
Owner Surf, Wind and Fire
Chair Downtown Business Council

Aldermen

Sabrina Bengel
Jameesha Harris
Robert V. Aster
Johnnie Ray Kinsey
Barbara J. Best
Jeffrey T. Odham



NEW BERN

CITY OF NEW BERN

300 Pollock Street, P.O. Box 1129
New Bern, NC 28563-1129
(252) 636-4000

Dana E. Outlaw
Mayor

Mark A. Stephens
City Manager

Brenda E. Blanco
City Clerk

Mary M. Hogan
Director of Finance

Memorandum

TO: Mayor and Board of Aldermen
FROM: Brenda Blanco, City Clerk *BBB*
DATE: February 28, 2020
SUBJECT: Appointment to Appearance Commission

Joseph Cannon's term on the Appearance Commission has expired, and he is not interested in reappointment. Foster Hughes, Director of Parks and Recreation, has the name of someone who has expressed interest in serving on this commission. Please reach out to Mr. Hughes for additional information, if desired.

Terms on the Appearance Commission are three years. When possible, appointees should have special training or experience in a design field, such as architecture, landscape design, horticulture, city planning, or a closely-related field.

/beb

Aldermen

Sabrina Bengel
Jameesha Harris
Robert V. Aster
Johnnie Ray Kinsey
Barbara J. Best
Jeffrey T. Odham



Dana E. Outlaw
Mayor
Mark A. Stephens
City Manager
Brenda E. Blanco
City Clerk
Mary M. Hogan
Director of Finance

Memorandum

TO: Mayor and Board of Aldermen

FROM: Brenda Blanco, City Clerk

DATE: April 15, 2020

SUBJECT: Appointment to New Bern-Craven County Library Board

Ethel Staten has resigned from her seat on the New Bern-Craven County Library Board effective March 29, 2020. You are asked to make an appointment to fill out the remainder of her term, which expires on December 1, 2020.

/beb

Aldermen

Sabrina Bengel
Jameesha Harris
Robert V. Aster
Johnnie Ray Kinsey
Barbara J. Best
Jeffrey T. Odham



300 Pollock Street, P.O. Box 1129
New Bern, NC 28563-1129
(252) 636-4000

Dana E. Outlaw
Mayor
Mark A. Stephens
City Manager
Brenda E. Blanco
City Clerk
Mary M. Hogan
Director of Finance

MEMO TO: Alderman Johnnie Ray Kinsey
FROM: Brenda Blanco, City Clerk
DATE: May 1, 2020
SUBJECT: Appointment to Friends of Firemen's Museum

In July 2019, you appointed Betty Blythe to serve the remainder of Juleon Dove's term on the Friends of New Bern Firemen's Museum Board of Directors. That term has just expired, and you are asked to consider reappointing Ms. Blythe to a full term or make a new appointment. The appointee will serve a three-year term.

/beb



NEW BERN
CITY OF NEW BERN

300 Pollock Street, P.O. Box 1129
New Bern, NC 28563-1129
(252) 636-4000

Aldermen

Sabrina Bengel
Jameesha Harris
Robert V. Aster
Johnnie Ray Kinsey
Barbara J. Best
Jeffrey T. Odham

Dana E. Outlaw
Mayor
Mark A. Stephens
City Manager
Brenda E. Blanco
City Clerk
Mary M. Hogan
Director of Finance

MEMO TO: Alderman Barbara Best
FROM: Brenda Blanco, City Clerk
DATE: May 1, 2020
SUBJECT: Appointment to Friends of Firemen's Museum

In April 2018, you appointed Henry Watson to serve the remainder of Dell Simmons' term on the Friends of New Bern Firemen's Museum Board of Directors. That term has just expired, and you are asked to consider reappointing Mr. Watson to a full term or make a new appointment. The appointee will serve a three-year term.

/beb

Aldermen

Sabrina Bengel
Jameesha Harris
Robert V. Aster
Johnnie Ray Kinsey
Barbara J. Best
Jeffrey T. Odham



NEW BERN
CITY OF NEW BERN

300 Pollock Street, P.O. Box 1129
New Bern, NC 28563-1129
(252) 636-4000

Dana E. Outlaw
Mayor
Mark A. Stephens
City Manager
Brenda E. Blanco
City Clerk
Mary M. Hogan
Director of Finance

MEMO TO: Alderman Jeffrey Odham
FROM: Brenda Blanco, City Clerk
DATE: May 1, 2020
SUBJECT: Appointment to Friends of Firemen's Museum

Carol Zink's term on the Friends of New Bern Firemen's Museum Board of Directors has just expired. You are asked to consider reappointing Ms. Zink or make a new appointment to fill her seat. The appointee will serve a three-year term.

/beb

Aldermen

Sabrina Bengel
Jameesha Harris
Robert V. Aster
Johnnie Ray Kinsey
Barbara J. Best
Jeffrey T. Odham



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MEMO TO: Alderman Barbara Best

FROM: Brenda Blanco, City Clerk

DATE: May 1, 2020

SUBJECT: Appointment to Historic Preservation Commission

James Woods' appointment to the Historic Preservation Commission ("HPC") will expire on May 15, 2020. He is eligible for reappointment as he has not served two consecutive terms. Please consider reappointing Mr. Woods or making a new appointment to fill this seat. The appointee will serve a three-year term.

/beb



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MEMO TO: Alderwoman Jameesha Harris
FROM: Brenda Blanco, City Clerk
DATE: May 1, 2020
SUBJECT: Appointment to Historic Preservation Commission

Dr. Ruth Cox's appointment to the Historic Preservation Commission ("HPC") will expire on May 15, 2020. She is eligible for reappointment as she has not served two consecutive terms. Please consider reappointing Dr. Ruth or making a new appointment to fill this seat. The appointee will serve a three-year term.

/beb