STATE OF SOUTH CAROLINA)
) **ORDINANCE NO. 24-03**
COUNTY OF DARLINGTON)

AN ORDINANCE AUTHORIZING PURSUANT TO CHAPTER 44 OF TITLE 12, SOUTH CAROLINA CODE OF LAWS, 1976, AS AMENDED: (1) THE EXECUTION AND DELIVERY OF A FEE-IN-LIEU OF *AD VALOREM* TAXES AGREEMENT BETWEEN DARLINGTON COUNTY, SOUTH CAROLINA AND CEDAR CREEK SOLAR LLC, A COMPANY PREVIOUSLY IDENTIFIED AS PROJECT TREE, ACTING FOR ITSELF, ONE OR MORE AFFILIATES, AND/OR OTHER PROJECT SPONSORS; (2) OTHER RELATED ECONOMIC DEVELOPMENT INCENTIVES, INCLUDING SPECIAL SOURCE REVENUE CREDITS; AND (3) OTHER MATTERS RELATED THERETO.

WHEREAS, Darlington County, South Carolina, a political subdivision of the State of South Carolina (the "***County***"), acting by and through its County Council (the "***Council***"), is authorized and empowered (i) under Title 12, Chapter 44 of the Code of Laws of South Carolina, 1976, as amended (the ***"FILOT Act"***) to enter into agreements with qualifying companies to encourage investment in projects constituting economic development property through which the economic development of the State of South Carolina (the ***"State"***) will be promoted by inducing new and existing manufacturing and commercial enterprises to locate and remain in the State and to covenant with such industry to accept certain payments of fees in lieu of ad valorem taxes (***"FILOT"***) with respect to such investment (***"FILOT Payments"***); (ii) under Title 4, Chapter 1 of the Code of Laws of South Carolina 1976, as amended (the "***MCIP Act***") and Article VIII, Section 13 of the South Carolina Constitution to create multi-county industrial parks with one or more contiguous counties and include certain properties therein, and, in its discretion, include within the boundaries of these parks the property of qualifying industries, and under the authority provided in the MCIP Act and S.C. Const. art. VIII, §13, the County has created a multi-county park with Florence County, South Carolina; (iii) under Sections 4-1-175 and 4-29-68 of the Code of Laws of South Carolina, 1976, as amended (collectively, ***"Special Source Revenue Credit Act"***) to grant credits against FILOT Payments to qualifying companies to offset certain qualifying expenditures thereunder ("***Special Source Revenue Credits"***); and (iv) to make and execute contracts of the type hereinafter described pursuant to Section 4-9-30 of the Code of Laws of South Carolina, 1976, as amended;

WHEREAS, Cedar Creek Solar LLC, a North Carolina limited liability company previously identified as Project Tree, as Sponsor under the FILOT Act, along with any existing, or to-be-formed or acquired subsidiaries, or affiliated or related entities and any Sponsor Affiliates under the FILOT Act that the Sponsor may designate and have the County now approve or approve by subsequent resolution (collectively, ***"Company"***), contingent upon satisfaction of certain commitments made by and on behalf of the County as set forth herein and to be further set forth in future agreements, and, to the extent allowed by law, proposes to develop, install or operate, as applicable, solar energy generation facilities, which may include, but shall not be required to include, solar energy generation storage facilities, located in Darlington County, South Carolina (***"Project"***), which will result in new investment in real and personal property estimated to be approximately $79,550,000 (***"Investment"***) in the County;

WHEREAS, by its Resolution No. 772 adopted on January 2, 2024 (***"Resolution"***), the County identified the Project, as required by the FILOT Act; and

WHEREAS, in connection with the Project, the Company has requested the County to enter into incentive agreements, to the extent and subject to the conditions provided in those agreements, to establish the intention of the Company to make the Investment and the commitment of the County to provide certain incentives in connection with the Company's Project in the County; and

WHEREAS, the County has determined to provide: (i) a FILOT arrangement and, correspondingly, enter into a fee-in-lieu of ad valorem taxes agreement with the Company, the form of which is attached as **Exhibit A** (***"Fee Agreement"***), whereby the Company will make FILOT Payments to the County for Economic Development Property (as defined in the FILOT Act and the Fee Agreement), as further set forth in the Fee Agreement, and (ii) Special Source Revenue Credits against FILOT Payments made pursuant to the Fee Agreement under and pursuant to the Special Source Revenue Credit Act, as further set forth in the Fee Agreement; and

WHEREAS, the parties recognize and acknowledge that the offer of the Fee Agreement and accompanying Special Source Revenue Credits are a strong inducement for the Company to locate the Project and make the Investment in the County.

NOW, THEREFORE, BE IT ORDAINED, by the Council as follows:

Section 1. Project Finding. The County Council hereby finds and affirms, based on information provided by the Company: (i) the Project will benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally; (ii) the Project gives rise to no pecuniary liability of the County or any incorporated municipality and to no charge against its general credit or taxing power; (iii) the purposes to be accomplished by the Project are proper governmental and public purposes; (iv) the benefits of the Project to the public are greater than the costs to the public; and (v) the Project will provide a substantial public benefit to the County to qualify for the FILOT term extension set forth in Section 12-44-30 of the FILOT Act.

Section 2. Authorization to Execute and Deliver Fee Agreement. The Chair of County Council is authorized and directed to execute the Fee Agreement with any minor modifications and revisions as may be approved by the Chair of County Council, the County Administrator, and the County Attorney, in the name of and on behalf of the County, and the Clerk to County Council is authorized and directed to attest the same; and the Chair of County Council, the County Administrator, and the County Attorney are further authorized and directed to deliver the executed Fee Agreement to the Company.

Section 3. Inclusion within a Multi-County Industrial Park. Pursuant to the MCIP Act and the terms of the Agreement Governing the Darlington-Florence Industrial Park, effective as of April 21, 2016, between Darlington County and Florence County (***"MCIP Agreement"***), the Project, as described in the Fee Agreement, is included within the park established by the MCIP Agreement (the ***"Park"***), and the expansion of the Park's boundaries is complete upon the adoption of this ordinance by County Council and the adoption of a resolution by Florence County

authorizing the expansion of the Park with a description of the additional property included in the Park.

Section 4. No Recapitulation Required. Pursuant to Section 12-44-55(B) of the FILOT Act, the County hereby agrees that no recapitulation information, as set forth in Section 12-44-55(A) of the FILOT Act is required to be provided by the Company in the Fee Agreement, or in any other documents or agreements in connection with the fee-in-lieu of tax arrangement between the Company and the County, so long as the Company shall file a copy of the South Carolina Department of Revenue form PT-443, and any subsequent amendments thereto, and all filings required by the FILOT Act with the County after the execution of the Fee Agreement by the County and the Company.

Section 5. Further Acts. The County Council authorizes the County Administrator, other County staff, and the County Attorney, along with any designees and agents who any of these officials deems necessary and proper, in the name of and on behalf of the County (each an "***Authorized Individual***"), to take whatever further actions, and enter into whatever further agreements, as any Authorized Individual deems to be reasonably necessary and prudent to effect the intent of this Ordinance and induce the Company to locate the Project in the County.

Section 6. General Repealer. All ordinances, resolutions, and their parts in conflict with this Ordinance are, to the extent of that conflict repealed.

Section 7. Severability. Should any part, provision, or term of this Ordinance be deemed unconstitutional or otherwise unenforceable by any court of competent jurisdiction, such finding or determination shall not affect the rest and remainder of the Ordinance or any part, provision or term thereof, all of which is hereby deemed separable.

This Ordinance takes effect and is in full force only after the County Council has approved this Ordinance following three readings and a public hearing.

Done in meeting duly assembled this 6th day of May, 2024.

[End of Ordinance]

DARLINGTON COUNTY, SOUTH CAROLINA

By: [signature]
Bobby Hudson, Chairman
Darlington County Council

(SEAL)
ATTEST:

[signature]
J. JaNet Bishop, Clerk to Council
Darlington County Council

First Reading: January 2, 2024
Second Reading: April 1, 2024
Public Hearing: May 6, 2024
Third Reading: May 6, 2024

EXHIBIT A

FORM OF FEE AGREEMENT

See attached.

FEE-IN-LIEU OF *AD VALOREM* TAXES AND

INCENTIVE AGREEMENT

BETWEEN

CEDAR CREEK SOLAR LLC

AND

DARLINGTON COUNTY, SOUTH CAROLINA

DATED AS OF MAY 6, 2024

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FEE-IN-LIEU OF *AD VALOREM* TAXES AND INCENTIVE AGREEMENT

THIS FEE-IN-LIEU OF *AD VALOREM* TAXES AND INCENTIVE AGREEMENT (this "***Fee Agreement***") is made and entered into as of May 6, 2024 (the "***Effective Date***"), by and between Darlington County, South Carolina (the "***County***"), a body politic and corporate and a political subdivision of the State of South Carolina (the "***State***"), acting by and through the Darlington County Council (the "***County Council***") as the governing body of the County, and Cedar Creek Solar LLC, a North Carolina limited liability company previously identified as Project Tree, acting for itself, one or more affiliates, and/or other project sponsors (collectively, the "***Sponsor***").

WITNESSETH:

WHEREAS, the County is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44 (the "***Act***") of the Code of Laws of South Carolina 1976, as amended (the "***Code***") and Title 4, Chapter 1 of the Code (the "***Multi-County Park Act***"): (i) to enter into agreements with certain entities meeting the requirements of the Act to construct, operate, maintain, and improve certain industrial and commercial properties through which the economic development of the State of South Carolina will be promoted and trade developed by inducing corporate headquarters, manufacturing and commercial enterprises to locate and remain in the State of South Carolina and thus utilize and employ the manpower, agricultural products, and natural resources of the State; (ii) to covenant with such investors to accept certain payments in lieu of *ad valorem* taxes with respect to the project; (iii) to permit investors to claim special source revenue credits against such payments to reimburse such investors for expenditures in connection with infrastructure serving the County or improved or unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing or commercial enterprise in order to enhance the economic development of the County; and (iv) to maintain, create or expand, in conjunction with one or more other counties, a multi-county industrial park in order to afford certain enhanced income tax credits to such investors and to facilitate the grant of special source revenue credits;

WHEREAS, the Sponsor proposes to develop, install and/or operate, or cause to be developed, installed, and/or operated, a solar energy generating facility ("***PV Facility***"), which may include a solar energy generation storage facility ("***Storage Facility***"), at one or more locations in the County (the "***Project***");

WHEREAS, should the Sponsor's plans proceed as expected, the Project will involve an anticipated investment by the Sponsor and any Sponsor Affiliates of at least $79,550,000, and a committed aggregate investment in the Project by the Sponsor and any Sponsor Affiliates of at least $63,640,000 (without regard to depreciation or other diminution in value) ("***Project Commitment***"), which, but for this Fee Agreement, would be subject to *ad valorem* taxation, within the Investment Period, in satisfaction of the minimum investment requirement under the Act;

WHEREAS, pursuant to the Act, the County has determined that (a) the Project (as further defined herein) is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefit not otherwise adequately provided locally; (b) the Project gives rise to no pecuniary liability of the County or incorporated municipality and to no charge against its general credit or taxing power; (c) the purposes to be accomplished by the Project are proper

governmental and public purposes; (d) the benefits of the Project to the public are greater than the costs to the public; and (e) the Project will provide a substantial public benefit to the County;

WHEREAS, the County Council adopted an Inducement Resolution (Darlington County Resolution No. 772) on January 2, 2024, (the "***Resolution***"), wherein the County Council, as an inducement to the Sponsor to develop the Project, committed the County to enter into, and authorized the County Administrator, County Attorney and the Executive Director of the Darlington County Economic Development Partnership to negotiate with the Sponsor the terms of, this Fee Agreement;

WHEREAS, the County Council adopted Ordinance No. 24-03 on May 6, 2024, (the "***Fee Ordinance***"), as an inducement to the Sponsor to develop the Project and at the Sponsor's request, the County Council authorized the County to enter into this Fee Agreement as a fee-in-lieu of ad valorem tax agreement with the Sponsor which (among other things) identifies the property comprising the Project as Economic Development Property under the Act, subject to the terms and conditions hereof;

WHEREAS, the Project constitutes Economic Development Property within the meaning of the Act; and,

WHEREAS, for the purposes set forth above, the County has determined that it is in the best interests of the County to enter into this Fee Agreement with the Sponsor subject to the terms and conditions herein set forth.

NOW, THEREFORE, AND IN CONSIDERATION of the respective representations and agreements hereinafter contained, the parties hereto agree as follows, with the understanding that no obligation of the County described herein shall create a pecuniary liability or charge upon its general credit or taxing powers, but shall be payable solely out of the sources of payment described herein and shall not under any circumstances be deemed to constitute a general obligation to the County:

ARTICLE I
PROJECT OVERVIEW

Section 1.1. *Agreement to Waive Requirement of Recapitulation*. Pursuant to Section 12-44-55(B) of the Act, the County and the Sponsor agree to waive the requirement of including in this Fee Agreement the recapitulation information as set forth in Section 12-44-55(A) of the Act. If the Sponsor should be required to retroactively comply with the recapitulation requirements of Section 12-44-55 of the Act, then the County agrees, to the extent permitted by law, to waive all penalties of the County for the Sponsor's noncompliance that are within the County's control.

Section 1.2. *Rules of Construction; Defined Terms.* In addition to the words and terms elsewhere defined in this Fee Agreement, the terms defined in this Article shall have the meaning herein specified, unless the context clearly requires otherwise. The definition of any document shall include any amendments to that document, unless the context clearly indicates otherwise.

"Abandonment" shall mean the substantial cessation of operations at the Project for a period of one hundred eighty (180) consecutive days or more, provided that neither of the following conditions are true: (a) such failure was caused by a Force Majeure event which required the Sponsor to make significant repairs to the Project, and the Sponsor has diligently begun work on said repairs; or (b) the Sponsor has commenced retrofitting, repowering, or otherwise rebuilding the Project by exchanging all, or substantially all, of the fixtures, equipment, and/or associated improvements comprising the Project for

new, more advanced equipment. However, in the case of the foregoing conditions, the Project will nevertheless be considered Abandoned if the operations of the Project remain substantially ceased for a period of twenty-four (24) consecutive months.

"Act" shall mean Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended, and all future acts supplemental thereto or amendatory thereof.

"Administrative Expenses" shall mean the reasonable and necessary expenses, including attorneys' fees, incurred by the County with respect to the Project and this Fee Agreement.

"Chairman" shall mean the Chairman of the County Council of Darlington County, South Carolina.

"Code" shall mean the South Carolina Code of Laws, 1976, as amended.

"Commencement Date" shall mean the last day of the property tax year during which Economic Development Property is first placed in service, except that this date must not be later than the last day of the property tax year which is three years from the year in which the County and the Sponsor execute this Fee Agreement.

"Compliance Period" shall mean the period commencing with the first day that Economic Development Property is purchased or acquired, whether before or after the date of this Fee Agreement, and ending on the fifth anniversary of the Commencement Date, as set forth in Section 12-44-30(13) of the Act.

"County" shall mean Darlington County, South Carolina, a body politic and corporate and political subdivision of the State of South Carolina, its successors and assigns, acting by and through the Darlington County Council as the governing body of the County.

"County Administrator" shall mean the person appointed by the County Council to act as county administrator of the County at any one time during the Term, or in the event that the form of government of the County changes from that which is in place at the time of the execution of this Fee Agreement, the person who is authorized to perform the managerial and/or administrative duties presently assigned to the County Administrator.

"County Council" shall mean the Darlington County Council, the governing body of the County.

"Credit Eligible Entity" or "Credit Eligible Entities" shall have the meanings ascribed thereto in Section 4.1(a) hereof.

"Decommission" shall mean, with respect to the Project, the removal of solar panels, buildings, cabling, electrical components, and any other associated facilities below grade, all as set forth in greater detail in the Decommissioning Plan, and as defined in the Development Standards Ordinance.

"Decommissioning Plan" shall mean a decommissioning plan for the Project that meets the requirements of Section 19.4(22) of the Development Standards Ordinance.

"Decommission Security" shall have the meaning set forth in Section 2.3(b).

"Deficiency Payment" shall have the meaning set forth in Section 4.1(e).

"Development Standards Ordinance" shall mean the Development Standards Ordinance of the County in effect as of the Effective Date, a copy of which such Development Standards Ordinance is attached hereto as Exhibit C.

"Diminution in Value" in respect of any Phase of the Project shall mean any reduction in the value based on original fair market value as determined in Step 1 of Section 4.2 of this Fee Agreement, of the items which constitute a part of the Phase which may be caused by (i) the Sponsor's or any Sponsor Affiliate's removal of the Phase of the Project, or any part thereof, pursuant to Section 4.6 of this Fee Agreement, (ii) a Casualty to the Phase of the Project, or any part thereof, described in Section 4.7 of this Fee Agreement or (iii) a condemnation to the Phase of the Project, or any part thereof, described in Section 4.8 of this Fee Agreement.

"Economic Development Property" shall mean all items of real and tangible personal property comprising the Project which are eligible for inclusion as economic development property under the Act, which become subject to this Fee Agreement, and which are identified by the Sponsor or any Sponsor Affiliate in connection with its annual filing of a SCDOR PT-100, PT-300 or comparable form with the South Carolina Department of Revenue (as such filing may be amended from time to time) for each year within the Investment Period. Title to all Economic Development Property shall at all times remain vested in the Sponsor and/or any Sponsor Affiliate, except as may be necessary to take advantage of Section 12-44-160 of the Act.

"Equipment" shall mean all of the equipment, fixtures, and other tangible personal property, together with any and all additions, accessions, replacements and substitutions thereto or therefor to the extent such equipment, fixtures, and other tangible personal property becomes a part of the Project under this Fee Agreement.

"Existing Property" shall mean property which does not qualify for the Negotiated FILOT pursuant to Section 12-44-110 of the Act; provided, however, that Existing Property shall not include: (i) the Land; (ii) property acquired or constructed by or on behalf of the Sponsor or any Sponsor Affiliate during the Investment Period which has not been placed in service in this State prior to the commencement of the Investment Period notwithstanding that *ad valorem* taxes have heretofore been paid with respect to such property, or property which has been placed in service in the State pursuant to an inducement agreement or other preliminary approval by the County, including the Resolution, prior to execution of this Fee Agreement pursuant to Section 12-44-40(E) of the Act, which property shall qualify as Economic Development Property; (iii) property purchased by or on behalf of the Sponsor or any Sponsor Affiliate during the Investment Period in a transaction other than between any of the entities specified in Section 267(b) of the Internal Revenue Code, as defined under Chapter 6 of Title 12 of the Code as of the time of the transfer, to the extent that the Sponsor or such Sponsor Affiliate invests at least an additional $45,000,000 in the Project, exclusive of the property identified in this subsection (iii); or (iv) modifications which constitute an expansion of the real property portion of Existing Property.

"Event of Default" shall mean any Event of Default specified in Section 4.19 of this Fee Agreement.

"Fee Agreement" shall mean this Fee-In-Lieu of Ad Valorem Taxes and Incentive Agreement.

"Fee Term" shall mean the period from the date execution and delivery of this Fee Agreement by the Sponsor until the last Phase Termination Date unless sooner terminated or extended pursuant to the terms of this Fee Agreement.

"FILOT" shall mean fee-in-lieu of *ad valorem* property taxes.

"FILOT Payments" shall mean the FILOT payments to be made by the Sponsor or any Sponsor Affiliate with respect to its respective portion of the Project, whether made as Negotiated FILOT Payments pursuant to Section 4.2 of this Fee Agreement or as FILOT payments made pursuant to the Multi-County Park Act.

"Force Majeure" shall mean any event of Force Majeure as defined in Section 5.10 of this Fee Agreement.

"Gross Decommissioning Costs" shall mean all costs associated with the removal, collection, transportation, disposal (including reuse and/or recycling) of all fixtures, equipment and associated improvements comprising the Project, and any additional costs required to restore the Land to a reasonably meadow-like condition; provided, however, the term "Gross Decommissioning Costs" shall not include the following: (i) re-grading the Land beyond the removal of any access roads; (ii) replanting of trees or crops removed by the Project; and (iii) the cost of removing any equipment, fixtures, or improvements owned by any electric utility purchasing power from the Project.

"Investment Period" shall mean a period equal to the Compliance Period, unless extended by written agreement of the County and the Sponsor, all in accordance with Section 12-44-30(13) of the Act.

"Land" shall mean the real estate upon which the Project is to be located, as described on Exhibit A attached hereto, as Exhibit A may be supplemented from time to time in accordance with the provisions hereof.

"Minimum Statutory Investment Requirement" shall have the meaning set forth in Section 4.2(c).

"Modified Development Standards" shall have the meaning set forth in Section 2.3(a).

"Multi-County Park" shall mean that multi-county industrial/business park established pursuant to that certain Agreement Governing the Darlington-Florence Industrial Park, dated April 21, 2016, between the County and Florence County, South Carolina (the "***Multi-County Park Agreement***"), and any amendments thereto.

"Multi-County Park Act" shall mean Title 4, Chapter 1 of the Code, as amended through the date hereof.

"MWac" shall mean, collectively, the PV MWac and the Storage MWac, if any.

"Negotiated FILOT" or "Negotiated FILOT Payments" shall mean the FILOT payments due pursuant to Section 4.2 hereof with respect to that portion of the Project consisting of Economic Development Property.

"Net FILOT Payment" shall mean (i) for each of the first ten (10) tax years of the Fee Term, a total annual FILOT Payment equal to the greater of (a) $4,000 per PV MWac, plus $4,000 per Storage MWac (if any), or (b) $224,000, and (ii) for each of the following thirty (30) tax years of the Fee Term, a total annual FILOT Payment equal to the greater of (a) $3,500 per PV MWac, plus $3,500 per Storage MWac (if any), or (b) $196,000, all as further calculated according to Section 4.1(a). It is anticipated that the first

Net FILOT Payment due hereunder shall be the Net FILOT Payment due for tax year 2028, due and payable to the County on or before January 15, 2029.

"Non-Qualifying Property" shall mean that portion of the Project consisting of: (i) property as to which the Sponsor or any Sponsor Affiliate has placed in service prior to the Investment Period or, except as to Replacement Property, after the end of the Investment Period; (ii) Existing Property; and (iii) any released property or other property which fails or ceases to qualify for Negotiated FILOT Payments, including without limitation, Removed Components. The Sponsor agrees that the real estate improvements on the Land as of the date of this Fee Agreement, if any, shall constitute Non-Qualifying Property for purposes of this Fee Agreement.

"Phase" or "Phases" in respect of the Project shall mean the components of the Project that are placed in service during each year of the Investment Period.

"Phase Termination Date" shall mean, with respect to each Phase of the Project, the day forty (40) years after each such Phase of the Project becomes subject to the terms of this Fee Agreement, which such period shall be comprised of an initial period of thirty (30) years for each such Phase of the Project, together with an automatic extension of ten (10) years to such period, which such extension is hereby approved by the County and shall require no further actions or proceedings of the County or the County Council, all in accordance with Section 12-44-30(21) of the Act. Anything contained herein to the contrary notwithstanding, the last Phase Termination Date shall be no later than the later of: (a) December 31, 2068, unless the County and the Sponsor agree to an extension of the Investment Period, as set forth in the definition of "Investment Period", or (b) December 31 of the year of the expiration of the maximum period of years that the annual Negotiated FILOT Payment is available to the Sponsor under Section 12-44-30(21) of the Act and Step 2 of Section 4.2(a) of this Fee Agreement.

"Project" shall mean the Real Property and the Equipment, together with the acquisition and installation thereof as acquired, in Phases, and any Replacement Property.

"Project Commitment" shall have the meaning set forth in the recitals to this Fee Agreement.

"PV MWac" shall mean megawatts of photovoltaic alternating current generation capacity of the PV Facility, which such megawatts shall be measured, for purposes of determining the Net FILOT Payment for each tax year during the Fee Term, at the point of the Project's interconnection to the utility grid on the last day of each such tax year.

"Qualifying Infrastructure Costs" shall have the meaning set forth in Section 4.1 of this Fee Agreement.

"Real Property" shall mean the Land identified on Exhibit A, together with all and singular rights, members, hereditaments and appurtenances belonging or in any way incident or appertaining thereto to the extent such become a part of the Project under this Fee Agreement, all improvements now or hereafter situated thereon, including, without limitation, the Structures, and all fixtures now or hereafter attached thereto, to the extent such improvements and fixtures become part of the Project under this Fee Agreement.

"Removed Components" shall have the meaning set forth in Section 4.6 of this Fee Agreement.

"Replacement Property" shall mean any property which is placed in service as a replacement for any item of Real Property or Equipment which is scrapped or sold by the Sponsor or any Sponsor Affiliate and treated as a Removed Component under Section 4.6 hereof regardless of whether such property serves the same function as the property it is replacing and regardless of whether more than one piece of property replaces any item of Real Property or Equipment, but only to the extent that such property may be included in the calculation of the Negotiated FILOT pursuant to Section 4.2 hereof and Section 12-44-60 of the Code.

"Special Source Revenue Credit" or "Special Source Revenue Credits" shall mean the Special Source Revenue Credits described in Section 4.1 hereof.

"Sponsor" shall mean Cedar Creek Solar LLC, a North Carolina limited liability company previously identified as Project Tree, and any surviving, resulting, or transferee entity in any merger, consolidation, or transfer of assets; or any assignee hereunder which is designated by the Sponsor and approved or ratified by the County.

"Sponsor Affiliate" shall mean any individual or entity that joins with the Sponsor and that participates in the investment in, or financing of, the Project, or that otherwise has a contractual relationship with the Sponsor with respect to the Project, whose investment with respect to the Project shall qualify for Negotiated FILOT Payments pursuant to Section 4.2 hereof and Sections 12-44-30(20) and 12-44-130 of the Act, and who joins this Fee Agreement by delivering a Joinder Agreement in a form substantially similar to that attached hereto as Exhibit B. As of the original execution and delivery of this Fee Agreement, the only Sponsor Affiliates are: (i) Dunlap Forestry, L.L.C., a South Carolina limited liability company, with respect to those portions of the Land identified as "Parcel 1" and "Parcel 2" on Exhibit A attached hereto; (ii) Doyle W. O'Neal and Cynthia O'Neal, as joint tenants with rights of survivorship, in their individual capacities, with respect to those portions of the Land identified as "Parcel 3" and "Parcel 4" on Exhibit A attached hereto; (iii) Keith Thomas Bradshaw, in his individual capacity, with respect to that portion of the Land identified as "Parcel 5" on Exhibit A attached hereto; and, (iv) E.D. Pew III, in his individual capacity, with respect to that portion of the Land identified as "Parcel 6" on Exhibit A attached hereto.

"Storage MWac" shall mean maximum megawatts of alternating current electric energy the Storage Facility is capable of discharging to the electric grid at any one time, and such megawatts shall be measured, for purposes of determining the Net FILOT Payment for each tax year during the Fee Term, at the point of interconnection to the electric grid on the last day of each such tax year.

"Structures" shall mean the structures and other improvements to be constructed or installed upon the Land as part of the implementation of the Project.

"Term" shall mean the period commencing on the date on which the Sponsor executes and delivers this Fee Agreement and ending at midnight on the later of (i) the day the last FILOT Payment is made hereunder, or (ii) the day that all Special Source Revenue Credits due from the County hereunder have been fully provided by the County, unless sooner terminated or extended pursuant to the terms of this Fee Agreement.

Any reference to any agreement or document in this Article I or otherwise in this Fee Agreement shall be deemed to include any and all amendments, supplements, addenda, and modifications to such agreement or document.

ARTICLE II
REPRESENTATIONS, WARRANTIES, AND COVENANTS

Section 2.1. ***Representations of the County.*** The County hereby represents and warrants to the Sponsor as follows:

(a) The County is a body politic and corporate and a political subdivision of the State which acts through the County Council as its governing body and by the provisions of the Act is authorized and empowered to enter into the transactions contemplated by this Fee Agreement and to carry out its obligations hereunder. The County has duly authorized the execution and delivery of this Fee Agreement and any and all other agreements described herein or therein.

(b) The County, based on representations of the Sponsor, has determined that the Project will serve the purposes of the Act, and has made all other findings of fact required by the Act in order to designate the Project as Economic Development Property.

(c) The Project constitutes a "project" within the meaning of the Act.

(d) By proper action of the County Council, the County has duly authorized the execution and delivery of this Fee Agreement and any and all actions necessary and appropriate to consummate the transactions contemplated hereby.

(e) This Fee Agreement has been duly executed and delivered on behalf of the County.

(f) The County agrees to use its best faith efforts to cause the Land to be located within the Multi-County Park, and the County will diligently take all reasonable acts to ensure that the Project will continuously be included with the boundaries of the Multi-County Park or another multi-county park in order that the maximum tax benefits afforded by the laws of the State of South Carolina for projects in the County located within multi-county industrial parks will be available to the Sponsor and any Sponsor Affiliates, including, without limitation, the Special Source Revenue Credits.

(g) No actions, suits, proceedings, inquiries, or investigations known to the undersigned representatives of the County are pending or threatened against or affecting the County in any court or before any governmental authority or arbitration board or tribunal, which could materially adversely affect the transactions contemplated by this Fee Agreement or which could, in any way, adversely affect the validity or enforceability of this Fee Agreement.

Section 2.2. ***Representations of the Sponsor.*** The Sponsor hereby represents and warrants to the County as follows:

(a) The Sponsor is duly organized and in good standing under the laws of the State of North Carolina, has power to enter into this Fee Agreement, and by proper company action has duly authorized the execution and delivery of this Fee Agreement.

(b) The Sponsor's execution and delivery of this Fee Agreement and its compliance with the provisions hereof will not result in a default, not waived or cured, under any company restriction or any agreement or instrument to which the Sponsor is now a party or by which it is bound.

(c) The Sponsor intends to operate the Project as a "project" within the meaning of the Act as in effect on the date hereof. The Sponsor intends to operate the Project primarily for solar energy generation, including without limitation, associated energy storage facilities and other related activities, to conduct other legal activities and functions with respect thereto, and for such other purposes permitted under the Act as the Sponsor may deem appropriate.

(d) The availability of the payment in lieu of taxes with regard to the Economic Development Property authorized by the Act has induced the Sponsor to undertake the Project in the County.

(h) The Sponsor plans, together with any Sponsor Affiliates, to achieve the Project Commitment by the end of the Compliance Period.

(i) The income tax year of the Sponsor, and accordingly the property tax year, for federal income tax purposes, ends on December 31.

Section 2.3. ***Covenants of the County and Sponsor.***

(a) During the Fee Term, the Sponsor and the Project shall comply with Sections 19.4(3), 19.4(13), 19.4(14), and 19.4(22) of the Development Standards Ordinance. In the event that, following the Effective Date, the County modifies the Development Standards Ordinance, or enacts any additional ordinances and/or regulations for the regulation of any aspect of the development or use of property within the County ("***Modified Development Standards***"), the County hereby agrees that, to the maximum extent permitted by applicable law, such Modified Development Standards shall not apply to the Sponsor and/or the Project.

(b) Within six months of the first date upon which the Project produces electricity, Sponsor shall procure and deliver to the County a surety or performance bond, irrevocable letter of credit, parent guaranty deemed acceptable by the County upon review of the applicable parent entity's financial statements, or other equivalent security reasonably acceptable to the County ("***Decommission Security***") in the amount of (i) $50,000, or (ii) 125% of the estimated cost of Decommission, whichever is greater. For the purposes of this Section 2.3(b), the "cost of Decommission" shall equal Gross Decommissioning Costs. For avoidance of doubt, upon procurement and delivery to the County of the Decommission Security required under this Section 2.3(b), the Sponsor shall be deemed to have satisfied the security requirements set forth in Section 19.4(22) of the Development Standards Ordinance.

(c) In the event of Abandonment, whether during or after the Term of this Fee Agreement, the Sponsor shall Decommission the Project within two hundred seventy-five (275) days following the Abandonment. The obligations of the Sponsor under this paragraph shall specifically survive termination of this Fee Agreement.

ARTICLE III
COMMENCEMENT AND COMPLETION OF THE PROJECT

Section 3.1. ***The Project.***

(a) The Sponsor has made plans for the acquisition and/or installation of the Project. Pursuant to the Act, the Sponsor and the County hereby agree that the property comprising the Project shall be Economic Development Property as defined under the Act.

(b) The Sponsor may add to the Land such real property as the Sponsor deems useful or desirable with the written consent of the County Administrator. In such event, the Sponsor, at its expense, shall deliver an appropriately revised Exhibit A to this Fee Agreement, in form reasonably acceptable to the County.

(c) Notwithstanding anything herein to the contrary, and to the maximum extent permitted by law, investment in the Project by any and all Sponsor Affiliates shall, together with investment in the Project by the Sponsor, count toward all investment requirements, thresholds, and levels set forth in this Fee Agreement, including, without limitation, the Project Commitment and, to the full extent permitted by the Act, the Minimum Statutory Investment Requirement.

Section 3.2. ***Diligent Completion.*** The Sponsor agrees to use its reasonable efforts to cause the acquisition, construction and installation of the Project, as shall be determined in its sole discretion, to be completed as soon as practicable.

Section 3.3. ***Leased Property.*** To the extent that State law allows or is revised or construed to permit leased assets including a building, or personal property to be installed in a building, to constitute Economic Development Property, then any property leased by the Sponsor is, at the election of the Sponsor, deemed to be Economic Development Property for purposes of this Fee Agreement, subject, at all times, to the requirements of State law and this Fee Agreement with respect to property comprising Economic Development Property.

ARTICLE IV
PAYMENTS IN LIEU OF TAXES

Section 4.1. ***Special Source Revenue Credit.***

(a) The County hereby grants to the Sponsor and each Sponsor Affiliate (each, a "***Credit Eligible Entity***", and collectively, the "***Credit Eligible Entities***"), subject to the provisions herein, a Special Source Revenue Credits, in reimbursement of investment in Qualifying Infrastructure Costs as described below, to be applied against each such Credit Eligible Entity's annual FILOT Payment liability equal to an amount sufficient to reduce such aggregate FILOT Payment due under this Fee Agreement, including the Negotiated FILOT Payment calculated as set forth in Section 4.2 (but excluding any payments due under Section 4.1(d) or Section 4.2(c) hereof), for each tax year corresponding to the Fee Term such that the aggregate net FILOT Payment due from the Credit Eligible Entities for each such tax year, after such reduction, is equal to the Net FILOT Payment; provided, however, the aggregate annual Special Source Revenue Credits to which the Credit Eligible Entities are entitled for a tax year shall be applied initially against any FILOT Payments due for such tax year from any Sponsor Affiliates, and then secondarily and residually against any FILOT Payment due for such tax year from the Sponsor.

(b) The Credit Eligible Entities shall be entitled to receive, and the County shall provide, the Special Source Revenue Credit, starting with tax year for which the first Negotiated FILOT Payment is due hereunder, for each tax year corresponding to the Fee Term. For purposes of this Fee Agreement, "Qualifying Infrastructure Costs" shall include but not be limited to, the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the County or the Project, and for improved or unimproved real estate and personal property, including machinery and equipment, in connection with the Project, and any other expenditures authorized by Section 4-29-68 of the Code.

(c) In order to receive the Special Source Revenue Credit on the Non-Qualifying Property, the Sponsor agrees to waive the tax exemptions that otherwise may be applicable if the Non-Qualifying

Property were subject to ad valorem taxes, including the exemptions allowed pursuant to Section 3(g) of Article X of the Constitution of the State of South Carolina, and the exemptions allowed pursuant to Sections 12-37-220(B)(32) and (34) of the Code.

(d) If for any reason the aggregate FILOT Payment to be made by the Credit Eligible Entities with respect to any tax year during the Fee Term is, prior to application of the Special Source Revenue Credits, less than the Net FILOT Payment, thus resulting in a Special Source Revenue Credit that is a negative number, and if a court of competent jurisdiction holds or determines that a negative Special Source Revenue Credit is not permitted under the Multi-County Park Act, the Credit Eligible Entities shall not be entitled to receive the Special Source Revenue Credit with respect to such tax year and shall make an additional payment to the County that is equal to the difference between the Net FILOT Payment and such aggregate FILOT Payment due from the Credit Eligible Entities with respect to such tax year (but excluding from such calculation any payments due under Section 4.1(d) or Section 4.2(c) hereof, which such payments shall also be due, but calculated separately from any payments described in this Section 4.1(d)). Any payment made under the foregoing sentence shall be due at the time the corresponding FILOT Payment is due, shall be treated as a FILOT Payment under this Fee Agreement, and shall be subject to statutory interest if not paid when due pursuant to Section 12-54-25 of the Code of Laws of South Carolina 1976, as amended, as allowed under the Act.

(e) In the event (i) the Sponsor willfully terminates this Fee Agreement for any reason (except in the event of a Force Majeure), (ii) the County terminates this Fee Agreement due to a default hereunder by the Sponsor, subject to cure rights, or (iii) the Sponsor, together with any Sponsor Affiliates, fails to achieve the Project Commitment by the end of the Compliance Period, then, upon demand by the County in writing, the Sponsor and any Sponsor Affiliates shall pay to the County the difference between the total FILOT Payments actually paid theretofore by the Sponsor and such Sponsor Affiliates and the amount which would have been due theretofore had the property been subject to FILOT Payments determined under Section 4.2 (Steps 1-3 only) less a special source revenue credit of sixty-five percent (65%) for each year in which a FILOT Payment was theretofore actually paid by the Sponsor and such Sponsor Affiliates, with statutory interest on such amount calculated pursuant to Section 12-54-25 of the Code of Laws of South Carolina 1976, as amended (a "***Deficiency Payment***"). In the event that Section 4.1(e)(ii) is triggered and the Sponsor fails to comply with the terms of Section 2.3(c) hereof, the proceeds from any sale of Equipment comprising the Project pursuant to and in accordance with Section 4.20(c) shall offset any Deficiency Payment or any other monetary liability that may be due and payable by the Sponsor hereunder, provided that the County shall owe no duty of any kind to the Sponsor with respect to the Equipment (including any duty to preserve, safeguard, or maximize the proceeds of any sale of the Equipment. In the event that Section 4.1(e)(iii) is triggered but the Fee Agreement remains in effect, all future FILOT Payments due hereunder shall be calculated in accordance with Section 4.2 (Steps 1-3 only) less a special source revenue credit of sixty-five percent (65%), in lieu of the special source revenue credit described in Section 4.1(a).

Section 4.2. ***Negotiated FILOT Payments.***

(a) Pursuant to Section 12-44-50 of the Act, the Sponsor and any Sponsor Affiliates, as applicable, are required to make FILOT Payments to the County with respect to the Project. Inasmuch as the Sponsor anticipates the Project will involve an initial investment of sufficient sums to qualify to enter into a fee in lieu of tax arrangement under Section 12-44-50(A)(1) of the Act, the County and the Sponsor have negotiated the amount of such FILOT Payments in accordance therewith. In accordance therewith, the Sponsor and any Sponsor Affiliates, as applicable, shall make FILOT Payments on all Economic Development Property which collectively comprise the Project and are placed in service within the

Investment Period, as follows: the Sponsor and any Sponsor Affiliates, as applicable, shall make payments in lieu of *ad valorem* taxes with respect to its respective portion of each Phase of the Project placed in service during the Investment Period, said payments to be made annually and to be due and payable and subject to penalty assessments on the same dates and in the same manner as prescribed by the County for *ad valorem* taxes. The amount of such annual FILOT Payments shall be determined by the following procedure (subject, in any event, to the required procedures under the Act and to Section 4.4 hereof):

Step 1: Determine the fair market value of the Phase of the Project placed in service in any given year for such year and for the following 39 years, which period includes an extension of ten (10) years under, and pursuant to, the Act, and which such extension is hereby consented to and approved by the County as required by the Act, using the original income tax basis for State income tax purposes for any Real Property without regard to depreciation (provided, the fair market value of real property, as the Act defines such term, and improvements that the Sponsor and any Sponsor Affiliates obtain by construction or purchase in an arms-length transaction is equal to the original income tax basis, and otherwise, the determination of the fair market value by appraisal) and the original income tax basis for State income tax purposes for any Equipment less depreciation for each year allowable for such Equipment as determined in accordance with Title 12 of the Code, as amended and in effect on December 31 of the year in which each Phase becomes subject to this Fee Agreement, except that no extraordinary obsolescence shall be allowable but taking into account all applicable property tax exemptions which would be allowed to the Sponsor and any Sponsor Affiliate, as applicable, under State law, if the property were taxable, except those exemptions specifically disallowed under Section 12-44-50(A)(2) of the Act, as amended and in effect on December 31 of the year in which each Phase becomes subject to this Fee Agreement. The County and Sponsor also agree pursuant to Section 12-44-50(A)(1) of the Act that the value of the Real Property included in any Phase of the Project shall be its fair market value as determined by appraisal but the fair market value of the Real Property shall be subject to reappraisal by the South Carolina Department of Revenue not more than once every five (5) years.

Step 2: Apply an assessment ratio of 6% to the fair market value as determined for each year in Step 1 to establish the taxable value of each Phase of the Project in the year it is placed in service and in each of the thirty-nine (39) years thereafter, which period includes an extension of ten (10) years under, and pursuant to, the Act, and which such extension is hereby consented to and approved by the County as required by the Act.

Step 3: Use a fixed millage rate of 336.6 mills, which is the combined millage rate applicable to the Land comprising the Project on June 30, 2023, to determine the amount of the FILOT Payments which would be due in each year of the Fee Term on the payment dates prescribed by the County for such payments or such longer period of years that the annual FILOT Payment is permitted to be made by the Sponsor and any Sponsor Affiliates, as applicable, under the Act, as amended.

Step 4: Increase or decrease the calculated amounts determined in the previous Steps, as described in Section 4.1 herein. The increase or decrease under Section 4.1 shall be shown on each bill sent by the County to each Credit Eligible Entity for each applicable tax year.

In the event that it is determined by a final order of a court of competent jurisdiction or by agreement of the parties that the FILOT Payment applicable to the Project is to be calculated differently than described above, the payment shall be reset at the permitted level so determined.

In the event that the Act and/or the above-described FILOT Payments are declared invalid or unenforceable, in whole or in part, for any reason, the parties express their intentions that such payments and this Fee Agreement be reformed so as to most closely effectuate the legal, valid, and enforceable intent thereof and so as to afford the Sponsor and any Sponsor Affiliates with the benefits to be derived hereof, it being the intention of the County to offer the Sponsor an inducement to locate the Project in the County. If the Project is deemed to be subject to *ad valorem* taxation, the payment in lieu of *ad valorem* taxes to be paid to the County by the Sponsor and any Sponsor Affiliates shall become equal to the amount which would result from taxes levied on the Project by the County, municipality or municipalities, school district or school districts, and other political units as if the Project was not and had not been Economic Development Property under the Act. In such event, any amount determined to be due and owing to the County from the Sponsor and any Sponsor Affiliates with respect to a year or years for which payments in lieu of *ad valorem* taxes have been previously remitted by the Sponsor and any Sponsor Affiliates to the County hereunder, shall be reduced by the total amount of FILOT Payments theretofore made by the Sponsor and any Sponsor Affiliates with respect to the Project pursuant to the terms hereof.

(b) The Sponsor agrees to waive the benefits of any future legislative enactment that reduces property taxes available to solar farm property to the extent such benefits are made available to the Project during the Fee Term. If Sponsor claims any such benefits in addition to the benefits provided in this Fee Agreement, such action shall constitute an early termination of this Fee Agreement by Sponsor.

(c) In the event the Sponsor and any Sponsor Affiliates have not invested at least $2,500,000.00 or, alternatively, at least $5,000,000.00 in the aggregate, by the end of the Compliance Period (the "***Minimum Statutory Investment Requirement***"), pursuant to and in accordance with Section 12-44-30 of the Code, the Sponsor and such Sponsor Affiliates shall owe the County retroactively the excess, if any, of *ad valorem* property taxes on the Project subject to payments in lieu of taxes under this Fee Agreement computed as if this Fee Agreement had not been in effect for such retroactive period, over the FILOT Payments made under this Fee Agreement for that retroactive period, taking into account exemptions and/or abatements from property taxes that would have been available to the Sponsor and any Sponsor Affiliates through and including the end of the Investment Period, including but not limited to any exemption and/or abatement provided pursuant to Section 12-37-220(A)(7) of the Code (hereinafter "***Retroactive Tax Payment***").

Section 4.3. ***Payments in Lieu of Taxes on Replacement Property.*** If the Sponsor or any Sponsor Affiliate elects to replace any Removed Components (as defined below) and to substitute such Removed Components with Replacement Property as a part of the Project, then, pursuant and subject to Section 12-44-60 of the Act, the Sponsor or such Sponsor Affiliate shall make statutory payments in lieu of *ad valorem* taxes with regard to such Replacement Property as follows (subject in all events to the applicable provisions of the Act):

(a) To the extent that the income tax basis of the Replacement Property (the "***Replacement Value***") is less than or equal to the original income tax basis of the Removed Components (the "***Original Value***") the amount of the FILOT Payments to be made by the Sponsor or such Sponsor Affiliate with respect to such Replacement Property shall be calculated in accordance with Section 4.2 hereof; provided, however, in making such calculations, the original cost to be used in Step 1 of Section 4.2 shall be equal to the lesser of (x) the Replacement Value and (y) the Original Value, and the number of annual FILOT payments to be

made with respect to the Replacement Property shall be equal to forty (40) (or, if greater, the maximum number of years for which the annual FILOT payments are available to the Sponsor or such Sponsor Affiliate for each portion of the Project under the Act, as amended) minus the number of annual FILOT payments which have been made with respect to the oldest Removed Components disposed of in the same property tax year as the Replacement Property is placed in service.

(b) To the extent that the Replacement Value exceeds the Original Value of the Removed Components (the "***Excess Value***"), the FILOT Payments to be made by the Sponsor or such Sponsor Affiliate with respect to the Excess Value shall be equal to the payment that would be due if the property were not Economic Development Property.

(c) Replacement Property does not have to serve the same function as the Economic Development Property it is replacing. More than one piece of property can replace a single piece of Economic Development Property.

Section 4.4. ***Reductions in Payments in Lieu of Taxes Upon Removal, Condemnation or Casualty.*** In the event of a Diminution in Value of any Phase of the Project, the FILOT Payment with regard to that Phase of the Project shall be reduced in the same proportion as the amount of such Diminution in Value bears to the original fair market value of that Phase of the Project as determined pursuant to Step 1 of Section 4.2 hereof.

Section 4.5. ***Place and Allocation of Payments in Lieu of Taxes.*** The Sponsor and any Sponsor Affiliates shall make the above-described FILOT Payments directly to the County in accordance with applicable law.

Section 4.6. ***Removal of Equipment.*** The Sponsor and any Sponsor Affiliates shall be entitled to remove the following types of components or Phases of the Project from the Project with the result that said components or Phases (the "***Removed Components***") shall no longer be considered a part of the Project and shall no longer be subject to the terms of this Fee Agreement: (a) components or Phases which become subject to statutory payments in lieu of *ad valorem* taxes; (b) components or Phases of the Project or portions thereof which the Sponsor, in its sole discretion, determines to be inadequate, obsolete, uneconomic, worn-out, damaged, unsuitable, undesirable or unnecessary; or (c) components or Phases of the Project or portions thereof which the Sponsor, in its sole discretion, elect to remove pursuant to Section 4.7(c) or Section 4.8(b)(iii) hereof.

Section 4.7. ***Damage or Destruction of Project.***

(a) *Election to Terminate*. In the event all or any portion of the Project is damaged by wind, floods, fires, hail, earthquakes, explosions, or other natural disasters, or any other casualty (a "***Casualty***"), the Sponsor and any Sponsor Affiliates shall be entitled to terminate this Fee Agreement with respect to all or such portion of the Project. For the tax year corresponding to the calendar year in which the Casualty occurs, the Sponsor or such Sponsor Affiliates are obligated to make FILOT Payments with respect to the damaged Economic Development Property only to the extent property subject to *ad valorem* taxes would have been subject to *ad valorem* taxes under the same circumstances for the period in question. If there has been only partial damage of the Project due to any Casualty and the Sponsor elects to terminate this Fee Agreement with respect to all of the Project in accordance with this Section 4.7(a), and the Sponsor, together with any Sponsor Affiliates, has failed to satisfy, or cause satisfaction of, the Minimum Statutory Investment Requirement at the time of termination, the Sponsor and such Sponsor Affiliates shall owe the County the Retroactive Tax Payment, but, to the extent permitted by law, if the Sponsor, together with any

Sponsor Affiliates, has satisfied, or caused to be satisfied, the Minimum Statutory Investment Requirement at the time of termination, the Sponsor and such Sponsor Affiliates shall owe no Retroactive Tax Payment.

(b) *Election to Rebuild.* In the event all or a portion of the Project is damaged by a Casualty, and if the Sponsor or any Sponsor Affiliate do not elect to terminate this Fee Agreement with respect to its respective portion of the Project, the Sponsor or such Sponsor Affiliate may in its sole discretion commence to restore the Project, or such portion thereof, with such reductions or enlargements in the scope of the Project, changes, alterations and modifications (including the substitution and addition of other property) as may be desired by the Sponsor or such Sponsor Affiliate. All such restorations and replacements shall be considered, to the extent permitted by law, substitutions of the destroyed portions of the Project and shall be considered part of the Project for all purposes hereof, including, but not limited to any amounts due by the Sponsor or such Sponsor Affiliate to the County under Section 4.2 hereof.

(c) *Election to Remove.* In the event the Sponsor or any Sponsor Affiliate elects not to terminate this Fee Agreement pursuant to subsection (a) and elect not to rebuild pursuant to subsection (b), the damaged portions of the Project shall be treated as Removed Components.

Section 4.8. ***Condemnation.***

(a) *Complete Taking.* If at any time during the Term title to or temporary use of the entire Project should become vested in a public or quasi-public authority by virtue of the exercise of a taking by condemnation, inverse condemnation or the right of eminent domain, or by voluntary transfer under threat of such taking, or in the event that title to a portion of the Project shall be taken rendering continued occupancy of the Project commercially infeasible in the judgment of the Sponsor (each, a "***Condemnation Event***"), the Sponsor shall have the option to terminate this Fee Agreement as of the time of vesting of title by sending written notice to the County within a reasonable period of time following such vesting.

(b) *Partial Taking.* In the event of a partial taking of a significant portion of the Project or transfer in lieu thereof, the Sponsor may elect: (i) to terminate this Fee Agreement with respect to all of the Project; provided, however, that if the Sponsor, together with any Sponsor Affiliates, has failed to satisfy, or cause satisfaction of, the Minimum Statutory Investment Requirement at the time of termination, the Sponsor and such Sponsor Affiliates shall owe the County the Retroactive Tax Payment, but, to the extent permitted by law, if the Sponsor, together with any Sponsor Affiliates, has satisfied, or caused to be satisfied, the Minimum Statutory Investment Requirement at the time of termination, the Sponsor and such Sponsor Affiliates shall owe no Retroactive Tax Payment; (ii) to repair and restore the Project, with such reductions or enlargements in the scope of the Project, changes, alterations and modifications (including the substitution and addition of other property) as may be desired by the Sponsor; or (iii) to treat the portions of the Project so taken as Removed Components.

(c) In the year in which the taking occurs, the Sponsor and any Sponsor Affiliate is obligated to make FILOT Payments with respect to the portion of the Project so taken only to the extent property subject to *ad valorem* taxes would have been subject to taxes under the same circumstances for the period in question.

Section 4.9. ***Merger of Sponsor with Related Party.*** The County agrees that, without again obtaining the approval of the County (to the extent permitted by the Act), the Sponsor may merge with or be acquired by a related party so long as the surviving company has an equal or greater net asset value of the Sponsor.

Section 4.10. ***Addition of Sponsor Affiliates.*** Upon request of and at the expense of the Sponsor, the County Council may by adoption of a resolution approve any future Sponsor Affiliate that qualifies under the Act for the benefits offered under this Fee Agreement and who agrees to be bound by the provisions hereof to be further evidenced by such future Sponsor Affiliate entering into a Joinder Agreement in the from substantially similar to that attached to this Fee Agreement subject to any reasonable changes not materially adverse to the County.

Section 4.11. ***Indemnification Covenants.***

(a) Except as provided in paragraph (c) below, the Sponsor shall and agrees to indemnify and save the County, its agents, officers, or employees harmless against and from all claims by or on behalf of any person, firm or corporation arising from the conduct or management of, or from any work or thing done on, the Project during the Term, and the Sponsor further, shall indemnify and save the County harmless against and from all claims arising during the Term from (i) any condition of the Project, (ii) any breach or default on the part of the Sponsor in the performance of any of its obligations under this Fee Agreement, (iii) any act of negligence of the Sponsor or any of its agents, servants, or employees on or with respect to the Project, (iv) any act of negligence of any assignee or sublessee of the Sponsor with respect to the Project, or of any agents, servants, or employees of any assignee or sublessee of the Sponsor with respect to the Project, or (v) any environmental violation, condition, or effect with respect to the Project. The Sponsor shall indemnify and save the County, its agents, officers, or employees harmless from and against all costs and expenses incurred in or in connection with any such claim arising as aforesaid in connection with the Project or in connection with any action or proceeding brought thereon, and upon notice from the County, the Sponsor shall defend them or either of them in any such action, prosecution or proceeding.

(b) Notwithstanding anything in this Section or this Fee Agreement to the contrary, the Sponsor is not required to indemnify the County, its agents, officers, or employees against or reimburse the County for costs arising from any claim or liability (i) occasioned by the acts of the County, its agents, officers, or employees, which are unrelated to the execution of this Fee Agreement, performance of the County's obligations under this Fee Agreement, or the administration of its duties under this Fee Agreement, or otherwise by virtue of the County having entered into this Fee Agreement; (ii) resulting from the County's, its agents', officers', or employees' own negligence, bad faith, fraud, deceit, or willful misconduct; or, (iii) any breach of this Fee Agreement by the County.

(c) The County, its agents, officers, or employees may not avail itself of the indemnification or reimbursement of costs provided in this Section unless it provides the Sponsor with prompt notice, reasonable under the circumstances, of the existence or threat of any claim or liability, including, without limitation, copies of any citation orders, fines, charges, remediation requests, or other claims or treats of claims, in order to afford the Sponsor notice, reasonable under the circumstances, within which to defend or otherwise respond to a claim.

(d) The Sponsor's liability under this Section shall not exceed an amount of $50,000 excluding attorneys' fees and costs of litigation.

These indemnification covenants shall be considered included in and incorporated by reference in subsequent documents related to this Fee Agreement or the incentives described herein after the closing which the County is requested to sign, and, unless agreed to otherwise by mutual agreement of the parties hereto, any other indemnification covenants in any subsequent documents shall not be construed to reduce or limit the above indemnification covenants.

Section 4.12. ***Confidentiality/Limitation on Access to Project.*** The County acknowledges and understands that the Sponsor and any Sponsor Affiliates may utilize confidential and proprietary "state-of-the-art" trade equipment and techniques and that a disclosure of any information relating to such equipment or techniques, including but not limited to disclosures of financial or other information concerning the Sponsor's or such Sponsor Affiliates' operations would result in substantial harm to the Sponsor or such Sponsor Affiliate and could thereby have a significant detrimental impact on the Sponsor's or such Sponsor Affiliates' employees and also upon the County. Therefore, the County agrees that, except as required by law and pursuant to the County's police powers and except as deemed reasonably necessary by the County in the performance of its duties as tax assessor and collector, and/or its duties as Auditor, neither the County nor any employee, agent or contractor of the County: (i) shall request or be entitled to receive any such confidential or proprietary information; (ii) shall disclose or otherwise divulge any such confidential or proprietary information to any other person, firm, governmental body or agency, or any other entity unless specifically required to do so by State law. In the event that the County is required to disclose any such confidential or proprietary information obtained from the Sponsor or any Sponsor Affiliates to any third party, the County agrees to provide the Sponsor and such Sponsor Affiliates, as applicable, with as much advance notice as is reasonably possible of such requirement before making such disclosure, and to cooperate reasonably with any attempts by the Sponsor and/or such Sponsor Affiliates to obtain judicial or other relief from such disclosure requirement. The County acknowledges and agrees that, prior to disclosing any confidential or proprietary information or allowing inspections of the Project or any property associated therewith, the Sponsor or any Sponsor Affiliates may require the execution of reasonable, individual, confidentiality and non-disclosure agreements by any officers, employees or agents of the County or any supporting or cooperating governmental agencies who would gather, receive or review such information or conduct or review the results of any inspections.

Section 4.13. ***Records and Reports.*** The Sponsor agrees to maintain or cause to be maintained and will make available to the County for inspection upon request of the County such books and records with respect to the Project as will permit the identification of each Phase placed in service in each property tax year during the Investment Period, the amount of investment with respect thereto, and its computations of all FILOT Payments made hereunder and to comply with all reporting requirements of the State of South Carolina and the County applicable to property subject to payments in lieu of taxes under the Act, including without limitation the reports required by Section 12-44-90 of the Act (collectively, "***Filings***").

Notwithstanding any other provision of this Section 4.13, the Sponsor may designate with respect to any Filings delivered to the County segments thereof that the Sponsor believes contain proprietary, confidential, or trade secret matters. The County shall conform, to the extent permitted by law, with all reasonable, written requests made by the Sponsor with respect to maintaining confidentiality of such designated segments.

The Sponsor and any Sponsor Affiliates shall make all required annual property tax/FILOT filings on the required PT-300 (or successor) form with the South Carolina Department of Revenue and shall cause copies of all such filings to be delivered to the County Auditor, Assessor, and Treasurer as required by Section 12-44-90 of the Act. Such filings shall be made on or before the due date for filing with the South Carolina Department of Revenue.

Section 4.14. ***Payment of Administrative Expenses.*** The Sponsor will reimburse, or cause the reimbursement of, the County from time to time for its Administrative Expenses promptly upon written request therefor, but in no event later than 60 days after receiving written notice from the County specifying the nature of such expense and requesting the payment of the same. In no event shall the Sponsor be responsible for the reimbursement of Administrative Expenses in excess of $2,000, in the

aggregate, in any year during the Term. The parties hereto understand that the County has incurred, or will incur, legal fees and other expenses in connection with the original execution and delivery of this Fee Agreement and all resolutions, ordinances and other documentation related thereto, including, but not limited to, documentation relating to the Multi-County Park Agreement, in an amount not to exceed $7,500.

Section 4.15. ***Collection and Enforcement Rights of County.*** The parties acknowledge that the County's right to receive all payments hereunder shall be the same as its rights conferred under Title 12 of the Code relating to the collection and enforcement of *ad valorem* property taxes and, for purposes of this application, all payments due hereunder shall be considered a property tax. Prior to the due date of the first FILOT Payment hereunder, the Sponsor shall provide a surety or performance bond, irrevocable letter of credit, parent guaranty deemed acceptable by the County upon review of the applicable parent entity's financial statements, or other equivalent security reasonably acceptable to the County ("***Performance Security***") to secure the performance of its obligations hereunder, including but not limited to any payment obligations that may arise pursuant to Sections 4.1(e) and 4.19. Coverage under such Performance Security shall be in the amounts set forth in Exhibit D. Such Performance Security shall be for the benefit of the County, and the issuer as well as the form and substance thereof must be agreeable to the County, as determined by the County Administrator, provided that consent may not be unreasonably withheld, conditioned, or delayed. If the Sponsor places in service only a solar power generation facility, a single Performance Security in the amounts set forth under the column labeled "Solar Power Generation Facility" on Exhibit D shall be required. If the Sponsor places in service both a solar power generation facility and a battery storage facility, two separate Performance Securities, each in the amounts set forth under the columns labeled "Solar Power Generation Facility" and "Battery Storage Facility", respectively, on Exhibit D, or, alternatively, a single Performance Security in the amounts sufficient to cover the amounts required in Exhibit D for both facilities, shall be required.

Section 4.16. ***Assignment, Transfer, and Subletting.*** This Fee Agreement may be assigned, the Project may be transferred, in whole or in part, and the Project may be subleased as a whole or in part by the Sponsor or any Sponsor Affiliate so long as such assignment, transfer, or sublease is made in compliance with Section 12-44-120 of the Act; provided, however, that in connection with any assignment, transfer, or total subleasing by the Sponsor in which the Sponsor requests the release of the Sponsor from this Fee Agreement, the consent of the County shall be required, which consent shall not be unreasonably withheld, conditioned, or delayed. The County hereby pre-approves and consents to transfers to sponsor affiliates (as such term is defined in the Act) or other financing-related transfers not requiring its consent under Section 12-44-120 of the Act. Any consent of the County required under Section 12-44-120 of the Act or otherwise requested by the Sponsor may be provided by the County by passage of a resolution. Subject to County consent when required under this Section, and at the expense of the Sponsor, the County agrees to take such further action or execute such further agreements, documents, and instruments as may be reasonably required to effectuate the assumption by any transferee of all or part of this Fee Agreement or the Economic Development Property and/or any release of the Sponsor pursuant to this Section. The County acknowledges that, notwithstanding anything contained in this Agreement to the contrary, the County has no right of consent or subsequent ratification to a change in the direct or indirect ownership of the Sponsor.

Section 4.17. ***County's Estoppel Certificates for Sponsor's or Sponsor Affiliate's Financing Transactions.*** The County agrees to deliver, and hereby authorizes the County Administrator to execute and deliver on behalf of the County without further action required on the part of the County Council, all at the expense of the Sponsor or any Sponsor Affiliate, as the case may be, any estoppel certificates, acknowledgements or other documents certifying the full force and effect of this Fee Agreement and the

absence of any default hereunder and acknowledging the continuing validity of this Fee Agreement after its transfer required in any financing related transfers authorized by Section 12-44-120 of the Act, as may be reasonably requested by the Sponsor, any Sponsor Affiliate, or any lender of the Sponsor or any Sponsor Affiliate from time to time in connection with any financing arrangement or financing related transfers made by the Sponsor or such Sponsor Affiliate as contemplated under Section 12-44-120 of the Act.

Section 4.18. ***Sponsor's Continuing Obligations After Termination by Sponsor.*** In the event the Sponsor terminates this Fee Agreement, the Sponsor shall continue to be obligated to the County for its indemnification covenants under Section 4.11, the payment of outstanding Administrative Expenses under Section 4.14, and any outstanding FILOT Payments under Article IV or retroactive payments required under this Fee Agreement or the Act, and all other payments due hereunder.

Section 4.19. ***Events of Default.*** The following shall be "***Events of Default***" under this Fee Agreement, and the term "***Events of Default***" shall mean, whenever used with reference to this Fee Agreement, any one or more of the following occurrences:

(a) Failure by the Sponsor or any Sponsor Affiliates to make, upon levy, the FILOT Payments described in Section 4.2 hereof when due, which failure shall not have been cured within thirty (30) days following receipt of written notice thereof from the County; provided, however, that the Sponsor and any Sponsor Affiliates shall be entitled to all redemption rights granted by applicable statutes; or

(b) Failure by the Sponsor or any Sponsor Affiliates to perform any of the other material terms, conditions, obligations or covenants of the Sponsor or such Sponsor Affiliates hereunder (other than those described in subsection (a) of this Section 4.19), which failure shall continue for a period of sixty (60) days after written notice from the County to the Sponsor or such Sponsor Affiliate specifying such failure and requesting that it be remedied, unless (i) the Sponsor or such Sponsor Affiliate shall have instituted corrective action within such time period and is diligently pursuing such action until the default is correction, in which case such 60-day period shall be extended to cover such additional period during which the Sponsor or such Sponsor Affiliate is diligently pursuing corrective action, or (ii) the County shall agree in writing to an extension of such 60-day period prior to its expiration.

In no event shall the Sponsor or any Sponsor Affiliates be liable to the County or otherwise for monetary damages resulting from the Sponsor's (together with any Sponsor Affiliates) failure to satisfy the Project Commitment other than as expressly set forth in this Fee Agreement.

Section 4.20. ***Remedies on Default.*** Whenever any Event of Default by the Sponsor or any Sponsor Affiliate (the "***Defaulting Entity***") shall have occurred and shall be continuing, the County, after having given written notice to the Defaulting Entity of such default and after the expiration of all applicable cure periods, may take any one or more of the following remedial actions:

(a) Terminate this Fee Agreement; or

(b) Take whatever action at law or in equity may appear necessary or desirable to collect the amounts due hereunder; or

(c) Solely with respect to a failure by the Sponsor to comply with the terms of Section 2.3(c) hereof, the County and its authorized employees, agents, and third party contractors shall have the right to enter upon the Land to complete the Decommission of the Project, and in such event the County shall have the

right to remove and dispose of the Equipment from the Land. Provided, that upon the expiration of the deadline set forth in Section 2.3(c) hereof, the County must provide written notice to the Sponsor at least ninety (90) days prior to entering upon the Land for the purposes of removing and disposing of the Equipment in accordance with this Section 4.20(c). The County shall owe no duty of any kind to the Company with respect to the Equipment (including any duty to preserve, safeguard, or maximize the proceeds of any sale of the Equipment), and the Company agrees to cooperate fully with the County in transferring title to the Equipment to any purchaser of the Equipment in such case (including the execution of any documents reasonably requested for such purpose). The rights of the County set forth in this Section 4.20(c) shall specifically survive the termination of this Fee Agreement.

Section 4.21. ***Remedies Not Exclusive.*** No remedy conferred upon or reserved to the County under this Fee Agreement is intended to be exclusive of any other available remedy or remedies, but each and every remedy shall be cumulative and shall be in addition to every other lawful remedy now or hereafter existing. No delay or omission to exercise any right or power accruing upon any continuing default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the County to exercise any remedy reserved to it, it shall not be necessary to give notice, other than such notice as may be herein expressly required and such notice required at law or equity which the Sponsor is not competent to waive.

Section 4.22. ***Default by County.*** Upon the default of the County in the performance of any of its obligations hereunder, the Sponsor and any Sponsor Affiliates may take whatever action at law or in equity as may appear necessary or desirable to enforce its rights under this Fee Agreement, including, without limitation, a suit for *mandamus* or specific performance.

ARTICLE V
MISCELLANEOUS

Section 5.1. ***Notices.*** Any notice, election, demand, request or other communication to be provided under this Fee Agreement shall be effective when delivered to the party named below or when deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, addressed as follows (or addressed to such other address as any party shall have previously furnished in writing to the other party), except where the terms hereof require receipt rather than sending of any notice, in which case such provision shall control:

AS TO THE COUNTY:

Darlington County, South Carolina
Attn: County Administrator
1Public Square, Room 210
Darlington, SC 29532
FAX: (843) 393-8539

WITH COPIES TO (does not constitute notice):

William R. Johnson
Haynsworth Sinkler Boyd, P.A.
201 Main Street, Suite 2200
Columbia, SC 29201

FAX: (803) 765-1243

AS TO THE SPONSOR:

Cedar Creek Solar LLC
Attn: Matt Delafield
5315 Highgate Drive, Suite 202
Durham, North Carolina 27713

WITH COPIES TO (does not constitute notice):

Maynard Nexsen PC
Attn: Tushar V. Chikhliker
1230 Main Street, Suite 700
Columbia, SC 29201

Section 5.2. ***Binding Effect.*** This Fee Agreement and each document contemplated hereby or related hereto shall be binding upon and inure to the benefit of the Sponsor, any Sponsor Affiliates, and the County and their respective successors and assigns. In the event of the dissolution of the County or the consolidation of any party of the County with any other political subdivision or the transfer of any rights of the County to any other such political subdivision, all of the covenants, stipulations, promises and agreements of this Fee Agreement shall bind and inure to the benefit of the successors of the County from time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of the County has been transferred.

Section 5.3. ***Counterparts.*** This Fee Agreement may be executed in any number of counterparts, and all of the counterparts taken together shall be deemed to constitute one and the same instrument.

Section 5.4. ***Governing Law.*** This Fee Agreement and all documents executed in connection herewith shall be construed in accordance with and governed by the laws of the State of South Carolina.

Section 5.5. ***Headings.*** The headings of the articles and sections of this Fee Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Fee Agreement.

Section 5.6. ***Amendments.*** The provisions of this Fee Agreement may only be modified or amended in writing by an agreement or agreements entered into between the parties.

Section 5.7. ***Further Assurance.*** From time to time the County agrees to execute and deliver to the Sponsor or any Sponsor Affiliates such additional instruments as the Sponsor or such Sponsor Affiliates may reasonably request to effectuate the purposes of this Fee Agreement.

Section 5.8. ***Severability.*** If any provision of this Fee Agreement is declared illegal, invalid or unenforceable for any reason, the remaining provisions hereof shall be unimpaired and such illegal, invalid or unenforceable provision shall be reformed so as to most closely effectuate the legal, valid and enforceable intent thereof and so as to afford the Sponsor and any Sponsor Affiliates with the maximum benefits to be derived herefrom, it being the intention of the County to offer the Sponsor the strongest inducement possible to locate the Project in the County.

Section 5.9. ***Limited Obligation.*** ANY OBLIGATION OF THE COUNTY CREATED BY OR ARISING OUT OF THIS FEE AGREEMENT SHALL BE A LIMITED OBLIGATION OF THE COUNTY, PAYABLE BY THE COUNTY SOLELY FROM THE PROCEEDS DERIVED UNDER THIS FEE AGREEMENT AND SHALL NOT UNDER ANY CIRCUMSTANCES BE DEEMED TO CONSTITUTE A GENERAL OBLIGATION OF THE COUNTY WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY LIMITATION.

Section 5.10. ***Force Majeure.*** Except for FILOT Payments under this Fee Agreement, the due dates of which are statutorily mandated, the Sponsor and any Sponsor Affiliates shall not be responsible for any delays in performance or nonperformance of its obligations under this Fee Agreement caused in whole or in part, directly or indirectly, by strikes, accidents, freight embargoes, fire, floods, inability to obtain materials, conditions arising from government orders, war or national emergency, acts of God, and any other cause, similar or dissimilar, beyond the reasonable control of the Sponsor or such Sponsor Affiliates, including, without limitation, any Casualty or Condemnation Event (each, a "***Force Majeure***").

Section 5.11. ***Execution Disclaimer.*** Notwithstanding any other provisions, the County is executing this Fee Agreement as a statutory accommodation to assist the Sponsor in achieving the intended benefits and purposes of the Act. The County has made no independent legal or factual investigation regarding the particulars of this transaction and it executes this Fee Agreement in reliance upon representations by the Sponsor that this document complies with all laws and regulations, particularly those pertinent to industrial development projects in South Carolina.

Section 5.12. ***Termination by Sponsor.*** The Sponsor is authorized to terminate this Fee Agreement at any time with respect to all or part of the Project upon providing the County with thirty (30) days' written notice; *provided, however,* that (i) any monetary obligations existing hereunder and due and owing at the time of termination to a party hereto shall survive termination; and (ii) any provisions which are intended to survive termination shall survive such termination. In the year following such termination, all such property shall be subject to *ad valorem* taxation or such other taxation or fee in lieu of taxation that would apply absent this Fee Agreement. The Sponsor's obligation to make FILOT Payments under this Fee Agreement shall terminate in the year following the year of such termination pursuant to this Section.

[Remainder of Page Intentionally Blank]

[Signature Pages Follow]

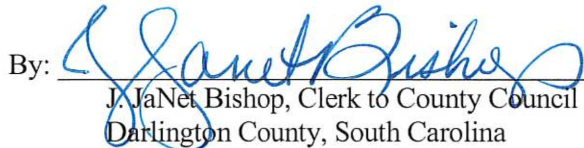
IN WITNESS WHEREOF, the County, acting by and through the County Council, has caused this Fee Agreement to be executed in its name and behalf by its Chairman and to be attested by the County Administrator; and the Sponsor has caused this Fee Agreement to be executed by its duly authorized officer, all as of the day and year first above written.

DARLINGTON COUNTY, SOUTH CAROLINA

(SEAL)

By:
Bobby Hudson, County Council Chair
Darlington County, South Carolina

ATTEST:

By: 
J. JaNet Bishop, Clerk to County Council
Darlington County, South Carolina

[*Signature page 1 to Fee-in-Lieu of* Ad Valorem *Taxes and Incentive Agreement*]

CEDAR CREEK SOLAR LLC

By: ______________________
Name: Matthew Delafield
Title: Authorized Person

[*Signature page 2 to Fee-in-Lieu of* Ad Valorem *Taxes and Incentive Agreement*]

Exhibit A

Description of Land

Parcel 1:
Tax Map Number: 155-00-01-026:

ALL that tract or parcel of land, with the improvements thereon in School District #13, Darlington County, South Carolina, subject to the variations hereinafter described, which is described in a deed by Margaret McCall Russell et al. to J. Harold Russell, dated May 22, 1933, recorded in the Office of the Clerk of Court for Darlington County in Deed Book 182 at page 439, wherein the said tract is described as follows:

> ALL that certain piece, parcel or tract of land containing two hundred twenty three and seventeen one-hundredths (223.17) acres, more or less, situate, lying and being in Society Hill Township, County of Darlington, State of South Carolina, having such shape, metes, courses and distances as will more fully appear by reference to a plat thereof made by T.E. Wilson, C.E., December 23, 1924, and attached to abstract now on file with the Federal Land Bank of Columbia, the same being bounded on the North by lands of the Estate of William Fountain and lands of Charity Bacote; on the Northeast and East by an old road separating it from lands of L.E. Carrigan; on the Southeast by road separating it from lands of Williams estate and other lands of L.E. Carrigan and from other lands of J.A. Russell, designated as the Crowley Hill Tract; on the South by lands of the Estate of W.C. Coker and lands of Ripon Bacot; on the Southwest by branch separating it from lands of the estate of W.C. Coker; on the West by said lands of the estate of W.C. Coker; and on the West and Northwest by run of Long Branch.

Since the said deed to J. Harold Russell was made, a county road has been laid out on the eastern boundary of this tract, leading from the Rosenwald School to Society Hill, and the said road, including the fee to the center thereof, constitutes the present eastern boundary of the lands hereby conveyed, this new road, as said eastern boundary, reducing the acreage of the whole tract approximately two acres. For copy of plat showing this tract before the opening of the new road, see Plat Book 7 Page 100, office of the Clerk of Court for Darlington County.

Parcel 2:
Tax Map Number: 155-00-01-049:

ALL that certain tract of land in the County of Darlington, State of South Carolina, containing 186.07 acres, with said tract being bounded now or formerly as follows: on the North by the run of branch separating it from land of Rogers; on the Northeast by lands of the Estate of J.A. Russell, deceased, the run of Long Branch being the line for a portion of the way and unnamed branch being the line for the remainder thereof; on the East by land of the Estate of J.A. Russell, deceased and by land of Della and Ripon Bacot; on the south by said land of Della and Ripon Bacot and by the public road leading from U.S. Highway 52 to Rosenwald School; and on the West by U.S. Highway No. 52 from Darlington to Society Hill. Said tract of land is a portion of the

tract of 187.02 acres delineated on a plat thereof made by T.E. Wilson, C.E. February 6, 1939 and recorded in the Office of the Clerk of Court for Darlington County in Plat Book 9, at page 158 with the following portions of the said 187.02 acre tract being excluded herefrom:

a) That small triangular parcel of .95 acre at the extreme Northwestern corner thereof bounded on the North by run of branch separating it from land of Rogers; on the East by the aforesaid highway; and on the West by old road.

b) That certain tract of 15 acres deeded to Fulton McLain by deed of Charles K. Dunlap, et al dated April 26, 1982 recorded April 29, 1982 in Deed Book 838, at page 400 in said Clerk's office.

Less and except the land conveyed by the following deeds to the SC DOT: Book 1094 Page 4026, 4031, 4036, 4041 and 4046.

Parcel 3:
Tax Map Number: 155-00-01-002:

All that certain piece, parcel or tract of land with the improvements thereon situate, lying and being in the County of Darlington, State of South Carolina, lying on both sides of the public highway leading from Hartsville to Society Hill (now known as U.S. Highway #15), containing Three Hundred Sixty-one and 17/100 (361.17) acres, more or less, having such shape, metes, courses and distances as will more fully appear by reference to plat of tract 395.17 acres, (exclusive to right of way) of property know as E.T. Coker Plantation made by T.E. Wilson, C.E., January 31, 1955, amended to show a division into two tracts November 20, 1958, and recorded in the Office of the Clerk of Court for Darlington County in Plat Book 29 at page 43, on which said amended plat the tract hereby conveyed is designated as Tract A and is bounded according to said amended plat on the Northwest in part by branch separating it from land of Mrs. Laurie D. Coker, et al, and in part by high water mark of Old Mill Pond separating it from land of Mrs. Laurie D. Coker, et al; on the Northeast in part by the said high water mark of Old Mill Pond separating it from land of Mrs. Laurie D. Coker, et al, in part by the run of Gap Branch separating it from land of Rogers' Estate and land of Gardner and in part by land designated on said plat as Tract B; on the Southeast in part by the aforesaid public highway leading from Hartsville to Society Hill (now known as US. Highway #15) and in part by U.S. Highway #52 and #15-A leading from Darlington to Society Hill; on the Southwest and West by land of Mrs. Laurie D. Coker, et al.

Less and exception that land conveyed to SCDOT filed at Book 1094, Page 4228.

Parcel 4:
Tax Map Number: 155-00-01-003:

All that certain piece, parcel or tract of land with the improvements thereon, situate, lying and being in the County of Darlington, State of South Carolina, containing Twenty-nine (29) acres, more or less, having such shape, metes, courses and distances as will more fully appear by reference to plat of tract thereon prepared by J.E. Tucker, Jr., January 13, 1970, a copy of which is on file in Deed Book 640 at page 276, and according to said plat said parcel is bounded generally on the East in part by land of Thomas A. Aycock and in part by U.S. Highway 52 and 401 leading from Society Hill to Darlington; on the Southwest by other land of P.L. McCall, Jr., designated on aforesaid plat Peter L. McCall, Jr., on the Northwest by U.S. Highway 15 leading from Society Hill to Hartsville on the North and Northwest by branch separating it from the land of Thomas P. Aycock; same being known as "Coker Home Place".

SAVE and EXCEPT from Tract 2 that certain parcel of land conveyed by P.L. McCall, Jr. to Billy E. Gainey, which parcel contains 0.767 acres, which is shown on plat recorded in Darlington County Plat Book 87, at Page 199, with reference being made to deed of P.L. McCall, Jr., to Billy E. Gainey recorded July 31, 1981, in Darlington County Deed Book 827, at Page 521.

SAVE and EXCEPT ALSO from Tract 2 that certain parcel of land containing 0.26 acres conveyed unto P.L. McCall, Jr., unto Wanda B. Gainey and Kimberly A. Gainey, with said parcel being shown on plat recorded in Darlington County Plat Book 213 at page 396, with reference being made to deed to Wanda B. Gainey and Kimberly A. Gainey recorded April 8, 2016, in Darlington County Deed Book 1078, at Page 1789.

Less and except that property conveyed to the SC DOT by that deed filed at Book 1094, Page 8698.

Parcel 5:
Tax Map Number: 155-00-01-029

All that piece, parcel or tract of land lying, being and situate in Society Hill School District, in the County of Darlington, State of South Carolina, containing twelve (12) acres, more or less, and bounded: On the North by road leading from the factory to the Mill Plantation; on the East by land of J. Harold Russell formerly of Estate of McIntosh; on the south by land of J. Harold Russell, formerly of S.C. Williams, and on the West by road leading from Society Hill to Crowly Hill; being the land conveyed to the late L.E. Carrigan by Polly Jenkins, et al. by deed dated November 24, 1919 and recorded in the Office of the Clerk of Court for Darlington County in Book 122, at page 29.

This being a portion of the property Beatrice Keith Bradshaw inherited from G.W. Bradshaw. See Probate File Number 1984-ES16-208. See also deed recorded on January 8, 1969 in Deed Book 621 at page 257 in the Office of the Clerk of Court for Darlington County.
And
ALL that certain parcel or tract of land situate, lying and being in the County of Darlington, State of South Carolina, containing twenty-four and 34/100 (24.34) acres, more or less, delineated on a plat made by T.E. Wilson, C.E., dated April 7, 1944 and referred to on said plat as Tract A, and thereon shown to be bounded as follows: On the North by land now or formerly of Carrigan; on the East in part by land designated as Tract B on said plat, in part by land now or formerly of Scipio Williams and in part by land now or formerly of Bacote; on the South by land now or formerly of Carrigan; and on the West by public road;

ALSO all that certain parcel or tract of land situate, lying and being in the County of Darlington, State of South Carolina, somewhat triangular in shape, containing eight and 26/100 (8.26/100) acres more or less, delineated on a plat made by T.E. Wilson, C.E., dated April 7, 1944, referred to on said plat as Tract B, and thereon shown to be bounded as follows: On the North and East by public road; On the south by land now or formerly of Scipio Williams; and on the West in part by land designated as Tract A on said plat and in part by land now or formerly of Carrigan.

Saving and Excepting Therefrom 1.30 acres conveyed to William Howell and Judy S. Howell in on January 10, 1972 and recorded in Deed Book 696 at Page 507.

(NOTE: The above parcels were formerly 155-00-01-029, 155-00-01-030 and 155-00-01-031)

Parcel 6:
Tax Map Number: 155-00-01-019

All that certain piece, parcel or tract of land containing thirty (30) acres, more or less, bounded on the North by property of Simpson and Shepard; On the East by property of Elijah Pettiford, of Robert Brown and by property of William Fountain Estate; On the South by property of fountain, C.K. Dunlap, and by property of Simpson and Shepard; and On the West by property of Simpson and Shepard; and by property of Elizabeth Jackson.

(Note: This sub parcel was formerly known as parcel no. 155-00-01-019 which said parcel was combined with additional lands below)

And

All that certain piece, parcel or lot of land situate, lying and being in the County of Darlington, State of South Carolina, located South of the City of Society Hill and being bounded as follows:

North: By property, now or formerly of L.E. Carrigan;
East: By property, now or formerly of William Fountain Estate;
South: By property, now or formerly, of C.K. Dunlap, Jr.; and
West: By property, now or formerly of L.E. Carrigan.

(Note: This sub parcel was formerly known as parcel no. 155-00-01-025 which parcel was dropped into parcel 155-00-01-019)

And

All those two certain pieces, parcels or tracts of land, situate, lying and being near Society Hill, Darlington County, South Carolina, containing at least 8 acres each and known as the Robert Brown and William Fountain tracts, Darlington County TMS #s 155-00-01-022 and 155-00-01-024. Being all of Grantors' property located on the Western side of road known as Crowley Hill Road which runs in a Northerly direction perpendicular to SC Road 16-359.

(Note: This sub parcel was formerly known as Parcel No. 155-00-01-022 and 155-00-01-024 which parcels were dropped into parcel 155-00-01-019).

Exhibit B

Form of Joinder Agreement

JOINDER AGREEMENT

This Joinder Agreement dated _______________ is by and between Darlington County, South Carolina ("County"), Cedar Creek Solar LLC, a North Carolina limited liability company ("Sponsor"), and [joinder party name], as Sponsor Affiliate ("Sponsor Affiliate").

Reference is hereby made to the Fee-in-Lieu of *Ad Valorem* Taxes and Incentive Agreement, effective May 6, 2024 ("Fee Agreement"), between the County and the Sponsor.

1. Joinder to Fee Agreement.

Sponsor Affiliate, a [[STATE] [corporation]/[limited liability company]/[limited partnership] authorized to conduct business in the State of South Carolina] / [resident of [STATE]], hereby (a) joins as a party to, and agrees to be bound by and subject to all of the terms and conditions of, the Fee Agreement applicable to Sponsor Affiliates; (b) shall receive the benefits as provided under the Fee Agreement with respect to the Economic Development Property placed in service by the Sponsor Affiliate as if it were a Sponsor; (c) acknowledges and agrees that (i) according to the Fee Agreement, the undersigned has been designated as a Sponsor Affiliate by the Sponsor for purposes of the Project; and (ii) the undersigned qualifies or will qualify as a Sponsor Affiliate under the Fee Agreement and Section 12-44-30(20) and Section 12-44-130 of the Act.

2. Capitalized Terms.

Each capitalized term used, but not defined, in this Joinder Agreement has the meaning of that term set forth in the Fee Agreement.

3. Representations of the Sponsor Affiliate.

The Sponsor Affiliate represents and warrants to the County as follows:

(a) The Sponsor Affiliate is [in good standing under the laws of the state of its organization, is duly authorized to transact business in the State (or will obtain such authority prior to commencing business in the State), has power to enter into this Joinder Agreement, and has duly authorized the execution and delivery of this Joinder Agreement] / [a resident of [STATE]].

(b) The Sponsor Affiliate's execution and delivery of this Joinder Agreement, and its compliance with the provisions of this Joinder Agreement, do not result in a default, not waived or cured, under any agreement or instrument to which the Sponsor Affiliate is now a party or by which it is bound.

(c) The execution and delivery of this Joinder Agreement and the availability of the FILOT and other incentives provided by this Joinder Agreement has been instrumental in inducing the Sponsor Affiliate to join with the Sponsor in the Project in the County.

4. Request and Consent of Sponsor.

The Sponsor has requested and consents to the addition of Sponsor Affiliate as Sponsor Affiliate to the Fee Agreement.

5. **Filings by Sponsor Affiliate.**

Sponsor Affiliate shall timely file each year with the South Carolina Department of Revenue a PT-300 Property Tax Return with completed Schedule S attached, listing the Sponsor Affiliate's Project property as Economic Development Property to the extent such Project property qualifies as Economic Development Property.

6. **Consent of County.**

The County, through approval as authorized in the Fee Agreement, hereby consents to the addition of ____________________ as Sponsor Affiliate to the Fee Agreement.

7. **Governing Law.**

This Joinder Agreement is governed by and construed according to the laws, without regard to principles of choice of law, of the State of South Carolina.

8. **Notice.**

Notices to Sponsor Affiliate under Section 5.1 of the Fee Agreement shall be sent to:

[____________]

[Remainder of Page Intentionally Blank]

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned has executed this Joinder Agreement to be effective as of the date set forth above.

SPONSOR AFFILIATE:

[Name of Entity]

By: ___________________________________
Name:_________________________________
Its:___________________________________

____
[Name of Individual]

IN WITNESS WHEREOF, the Sponsor acknowledges it has requested and consented to the addition of the above-named [entity] / [individual] as a Sponsor Affiliate under the Fee Agreement effective as of the date set forth above.

SPONSOR:

CEDAR CREEK SOLAR, LLC

By: ___________________________________
Name:_________________________________
Its:___________________________________

IN WITNESS WHEREOF, the County acknowledges it has consented to the addition of the above-named [entity] / [individual] as a Sponsor Affiliate under the Fee Agreement effective as of the date set forth above.

COUNTY:

DARLINGTON COUNTY, SOUTH CAROLINA

By: ___________________________________
Name:_________________________________
Its:___________________________________

Exhibit C

Development Standards Ordinance

See attached.

APPENDIX A
DEVELOPMENT STANDARDS ORDINANCE[1]

ARTICLE ONE. AUTHORITY AND ENACTMENT CLAUSE

Sec. 1. Title.

This ordinance shall be known as the "Development Standards Ordinance of Darlington County, South Carolina."

Sec. 1.1. Authority.

This ordinance is adopted pursuant to the authority conferred by S.C. Code 1976, § 6-7-310, as amended.

Sec. 1.2. Purpose.

The purpose of this ordinance is to promote the public health, safety and general welfare; to preserve the environmental, historical and social heritage and character of the county; to protect public investment; and to facilitate the timely and adequate provision of transportation, water, sewage disposal, schools, parks and other public requirements.

ARTICLE TWO. ACTIVITIES GOVERNED BY THE ORDINANCE

Sec. 2. Jurisdiction.

This appendix and the provisions contained herein shall:

(1) Govern all land development within the established special districts of the county unless specifically provided otherwise and

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[1]Editor's note(s)—Printed herein is the Development Standards Ordinance of Darlington County, being Ordinance No. 130, as adopted by the county council on April 15, 1985, and effective the same date. Appendices to the Development Standards Ordinance are not printed herein but are on file and available for inspection in the county offices. Amendments to the original ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citation to state statutes, and expression of numbers in text has been used to conform to the Code of Ordinances. Additions made for clarity are indicated by brackets.

Cross reference(s)—Any zoning ordinance or development standards ordinance saved from repeal, § 1-10(9); parks and recreation, ch. 38; planning and development, ch. 42; streets, sidewalks and other public places, ch. 54.

(2) Be effective in all unincorporated areas of the county.

(Ord. No. 15-15, § 1, 6-1-15)

Sec. 2.1. Definition of development.

In absence of a more limiting provision, "development" means the performance of any mining operation, any building operation involving construction, reconstruction, construction of streets and drainage systems for the purpose of subdivisions development of right-of-way intended for public use and future public maintenance or alteration of the size of structure; a change to a more intensive use of any structure or land; or the division of land into two or more parcels.

2.1.1 The following activities or uses shall be considered development unless expressly excluded by other provisions of this ordinance.

(A) A change in type of use of a structure or land.

(B) A building operation involving construction, reconstruction, alteration of the size of the structure.

(C) A material increase in the intensity of use of land, such as an increase in the number of businesses, manufacturing establishments, roads and drainage, offices or dwelling units in a structure or on land.

2.1.2 The following operations or uses do not constitute development.

(A) Maintenance, repair or improvement of a public road, railroad or utility where the work is done within utility rights-of-way and involves no substantial engineering redesign.

(B) Internal alteration of any structure or exterior alteration of color and decorations only.

(C) The use of any land for the purpose of growing plants, crops, trees and other agricultural or forestry products or for other agricultural purposes.

(D) A transfer of title to land not involving the division of land into parcels.

(E) The division of land into parcels of five acres or more where no new street is involved and must be received as information by planning which shall indicate that fact on the plat. The subdivision shall be named for identification purposes.

(F) The creation or termination of leases, easements, or covenants concerning development of land, or other rights.

(G) The division of land into parcels for conveyance to other persons through the provisions of a will or similar codicil.

(H) The division of land into lots for the purpose of sale or transfer to members of one's own immediate family where no new street is involved.

(Ord. No. 15-15, § 2, 6-1-15)

Sec. 2.2. Nonconforming development.

Existing development which does not comply with the provisions of this ordinance shall be exempt from the regulations of this ordinance except that nonconforming development shall not be:

(A) Changed to another nonconforming use;

(B) Reused or reoccupied after discontinuance of use or occupance for a period of 30 days or more, or complete season in the case of a seasonal nonconforming use;

(C) Reestablishment, reoccupied or replaced with the same or similar building structure or manufactured home after physical removal or relocation from its specific site location at the time of passage of this ordinance;

(D) Repaired, rebuilt or altered after damage exceeding 50 percent of its replacement cost at the time of destruction. Reconstruction or repair, when legal, must begin within one year after damage is incurred. The owner may petition the planning commission for an extension of time to begin reconstruction activities. The planning commission may grant such extensions if it feels mitigating circumstances warrant an extension. No more than three one-year extensions will be granted;

(E) Enlarged or expanded by no more than ten percent. The allowable expansion must meet the latest standards and is one time only.

(Ord. No. 90-12, 8-20-90; Ord. No. 15-15, § 3, 6-1-15)

Sec. 2.3. Plat approval, recordation.

No land subdivision plat or land development plan within the county's unincorporated areas shall be filed or recorded with the county's clerk of court until such plat has been approved by the planning commission or its designee with its affixed stamp. The filing or recording of any subdivision plat or plan without planning commission approval, per S.C. Code 1976, § 6-29-1140, is a misdemeanor. All plats shall conform to the "Standards of Practice Manual for Surveying in South Carolina," under the most recent state code of regulations. In addition, the following are required:

- Subdivisions with three or more lots shall be named. The subdivision name must be approved by E911 Addressing such that there are no duplicate names in the county;
- No plat shall be recorded that does not bear the signature and seal of a registered land surveyor;
- Any subdivider of land who transfers or sells, or negotiates to sell such land using a subdivision plat which has not been approved by the planning commission and recorded in the office of the clerk of court shall be guilty of a misdemeanor;
- All plats shall show context of subject property. For the purpose of this article, context is defined as a plat with lines and text showing the relationship of the subject property to surrounding properties with complete accurate roads, and other public and private right-of-way with complete accurate street names;
- Certify whether or not any portion of the subject property is inside the FEMA designated flood zone referencing the current flood insurance rate map (FIRM) with its effective date;
- All new lots must have direct access, a legal right-of-way, or private easement to a public road. Private easements shall be defined and labeled "Easement for Access and Utilities, only: Not A Public Road." No more than six lots may be created off an access and utility easement (See Article 5, Section 5.8). All roads shall be privately maintained and is the sole responsibility of the affected property owners.
- Resurveys of existing lots or tracts are exempt from review. The plat shall state,

  "This is a Resurvey."

and placed in an obvious location on the plat; and,

- A flag lot is defined as a lot having a narrow private access strip as its only frontage on the public road. It often resembles a mailbox flag as it is drawn with the "flag" being the lot and the "pole" being the access driveway. Flag lots are prohibited except in cases where no other feasible alternative exists to use or develop the land in question. In other words, there is no other way to configure the new lot other than with a narrow strip of land connecting the lot to the public road. Flag lots, as a means to

develop residential property, are only allowed once from a single parcel, and only under the following conditions:

1. Any flag lot must be connected to and have access to a public street. Connections to a private access easement shall not be allowed.
2. Flag lot access must be a minimum 25 feet width with a minimum 50 feet of public road frontage.
3. Any flag lot entrance shall not exceed 750 feet in total length and shall serve a single lot.
4. Any flag lot access shall be privately owned and maintained.
5. Any flag lot shall be used for only one single-family residence per lot.
6. The connection of the driveway with the public road shall be approved by the state or county as appropriate.
7. No further subdivision of flag lots shall be permitted.

(Ord. No. 15-15, § 4, 6-1-15; Ord. No. 17-06, § I, 7-10-17 ; Ord. No. 17-09, § I, 10-2-17)

Sec. 2.4. Plat or plan submission appeal.

(A) The property owner may appeal staff's approval or disapproval of a plat or plan to the planning commission.

(B) The appeal process outlines the following procedures:

1. The party of interest shall submit in writing a request to appeal staff's decision with an explanation of fact why the party disagrees with staff's decision. The planning commission must act on the appeal within 60 days of receipt of the written request. The planning commission must render its decision in writing. If the applicant does not agree with the decision, he or she must file:
    a. a notice of appeal in the circuit court within 30 days after receiving the written notification of the planning commission's decision. Circuit court filings are made in the county office of the clerk of court; or,
    b. A notice of appeal with the circuit court accompanied by a request for pre-litigation mediation in accordance with S.C. Code 1976, § 6-29-1155 within 30 days after the planning commission's decision.
2. Any filing of an appeal from a particular planning commission decision pursuant to S.C. Code 1976, § 8-21-310(11)(a) must be given a single docket number, and the appellant must be assessed only one filing fee.
3. When an appeal includes no issues triable of right by jury or when the parties consent, the appeal must be placed on the nonjury docket. A judge, upon request by any party, may in his or her discretion give the appeal precedence over other civil cases. Nothing in this subsection prohibits a property owner from subsequently electing to assert a pre-existing right to trial by jury of any issue beyond the subject matter jurisdiction of the planning commission, such as, but not limited to, a determination of the amount of damages due for an unconstitutional taking. (S.C. Code 1976, § 6-29-1150)

(Ord. No. 15-15, § 4, 6-1-15)

Sec. 2.5. Development design.

All residential, commercial, and industrial developments shall be represented by a site/plot plan. A plot plan is not a recordable document. Site/plot plan is intended to show existing and proposed improvements to the land.

Exceptions are additions and accessory structures no more than 400 square feet. All site/plot plans may be hand-drawn or prepared by a registered land surveyor, landscape architect, engineer, or licensed contractor, except for land disturbing activities one acre or more or otherwise stated in other ordinances. The developer or agent must provide three 11-inch by 17-inch or larger scaled site/plot plans to the county planning department for review and approval. Before submitting a site/plot plan, parcels considered to be developed must part or all of a recorded plat.

A. Required elements of the site/plot plan are to include, but not be limited to:

1. Developer's name, address, and phone.
2. Property boundaries with dimensions, and identify adjacent property owners and land uses (i.e. residential, commercial, farmland, or wooded).
3. Complete accurate road(s) layout and public roads.
4. North arrow and vicinity map.
5. Identify existing and proposed structures, include dimensions (i.e. equipment location, fencing).
6. Tax map number, scale (engineer scale), and date.
7. Bodies of water (i.e. lakes, ponds, and streams), flood hazard areas, wetlands, adjacent ditches, and easements.
8. Proposed surface covers (i.e. grass, gravel, etc.), area and size of land disturbance, designated common/open space, and vegetated landscaping.

B. Developments with land disturbance activities of one acre or more require an engineered stormwater pollution prevention plan (SWPPP) per SC DHEC or Darlington County MS4 Overlay District. See Article Seventeen — Stormwater Management Protection District.

(Ord. No. 15-15, § 4, 6-1-15; Ord. No. 17-06, § 2, 7-10-17)

ARTICLE THREE. HOW DEVELOPMENT DISTRICTS ARE ESTABLISHED AND GOVERNED—AIRPORT DISTRICTS AND FLOOD HAZARD DISTRICTS

Sec. 3. Districts.

For the purpose of this ordinance, portions of Darlington County are hereby divided into districts.

3.0.1 *Airport district.* For the purpose of regulating land uses in the vicinity of airports to assure compatibility with aviation activity; prevent the encroachment of tall structures into required air space; reduce the impact of noise; and maintain clear zones and approach zones in accordance with Federal Aviation Administration requirements.

3.0.2 *Flood hazard district.* For the purpose of defining areas with flood potential in conformance with regulations established by the Federal Insurance Administration; reducing flood hazard to life and property; and maintaining areas sufficient to rapidly dissipate and absorb floodwaters.

Sec. 3.1. Establishment of the district map.

(A) The following districts are created within Darlington County and are shown on the official district map. This map, together with all explanatory matter thereon, is hereby adopted by reference and declared to be part of this ordinance.

(B) An official copy of the official district map of Darlington County shall be filed in the offices of the county clerk. This map shall bear the seal of Darlington County under the following words: "This is to certify that this is the Official District Map referred to in Article Three of the Development Standards Ordinance adopted by the Darlington County Council on ________."

Sec. 3.2. Interpretation of district boundaries.

Where uncertainty exists with respect to the boundary of any district shown on the official district map the following rules shall govern:

(A) Where any district boundary is indicated on the district map as following approximately the county boundary line or the corporate limits line of any incorporated place within the county, then such county boundary line or corporate limits line shall be construed to be such district boundary.

(B) Where indicated, district boundaries are parallel to the centerlines of streets, highways, or railroads, or the rights-of-way of same; property lines; streams or other bodies of water; or said lines extended at such distance therefrom as indicated on the district map. If no distance is given, such distance shall be determined by the use of the scale on said district map.

(C) Where district boundary lines are so indicated that they approximately follow property or lot lines, such property or lot lines shall be construed to be such boundary lines.

(D) Where a district boundary line divides a parcel or lot, the location of any such district boundary line, unless indicated by dimensions shown on the district map, shall be determined by the use of the scale on said district map.

Sec. 3.3. Airport districts.

These districts are established for two purposes: (1) to minimize the conflicts between airport users and residential owners while maintaining minimum safety, noise and light emission standards in the area; (2) to adequately protect valuable public facilities upon which large amounts of public monies have already been spent. The prevention of obstructions and safety hazards should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

Sec. 3.3.1. Definitions.

As used in this ordinance, unless the context otherwise requires:

(A) *Airport:* Means Hartsville Municipal Airport or Darlington County Airport, depending on context.

(B) *Airport elevation:* Means the established elevation of the highest point on the usable landing area.

(C) *Approach surface:* A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in section 3.3.2 of this ordinance. The perimeter of the approach surface coincides with the perimeter of the approach zone.

(D) *Airport hazard:* Means any overhead power line, not constructed, operated and maintained according to standard engineering practices in general use which interferes with radio communication or navigation between a publically owned airport and aircraft approaching or leaving same, or any structure or tree or use of land which obstructs the airspace required for the landing or takeoff of aircraft or impairs the utility of the airport.

(E) *Airport reference point:* Means the point established as the approximate geographic center of the airport landing area and so designated.

(F) *Height:* For the purpose of determining the height limits in all zones set forth in this ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

(G) *Landing area:* Means the area of the airport used for the landing, takeoff or taxiing of aircraft.

(H) *Nonconforming use:* Means any structure, tree, or use of land which is lawfully in existence at the time the regulation is prescribed in the ordinance or an amendment thereto becomes effective and does not then meet the requirements of said regulation.

(I) *Noninstrument runway:* Means a runway other than an instrument runway.

(J) *Nonprecision instrument runway:* A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

(K) *Person:* Means an individual, firm, partnership, corporation, company association, joint stock association or body politic, and includes a trustee, receiver, assignee, administrator, executor guardian, or other representative.

(L) *Runway:* Means the paved surface of an airport landing strip.

(M) *Structure:* Means an object constructed, or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

(N) *Tree:* Means any object of natural growth.

(O) *Utility runway:* A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

(P) *Visual runway:* A runway intended solely for the operation of aircraft using visual approach procedures.

Sec. 3.3.2. Airspace zones.

In order to carry out the provisions of this ordinance, there are hereby created and established certain zones which include all of the land lying beneath the primary, transitional, horizontal, approach and conical zones as they apply to the airport. Such areas and zones are shown on the airport district maps attached hereto and hereby incorporated into this ordinance and made a part thereof. The map for the Hartsville Municipal Airport District is a map prepared for the Darlington County Planning Commission dated October 1991 titled "Hartsville Municipal Airport, Hartsville, S.C. Approach and Vicinity Plan."

(A) *Primary zone.* All land along the runway that extends perpendicularly 250 feet from each side of the runway, and all land extending 200 feet from the end of any runway or proposed extension. The elevation of any point on the primary surface is in the same as the elevation of the nearest point on the runway centerline.

(B) *Transitional zone.* All land which lies directly under an imaginary surface extending outward and upward at a slope of 7 to 1 from the sides of the primary surfaces and from the sides of the approach surfaces, until they intersect the horizontal surface.

(C) *Horizontal zone.* All land which lies directly under an imaginary horizontal surface 150 feet above the established airport elevation—Hartsville, 365 feet from mean sea level; Darlington, 192 feet from mean sea level—and is established by swinging arcs 5000 feet from the ends of the primary surface along the extended runway centerline, then connecting the arcs by straight lines tangent to those arcs.

(D) *Approach zone.* All land which lies directly under an imaginary approach surface longitudinally centered on the extended centerline at each end of the runway. The inner edge of the approach surface is at the same width and elevation as, and coincides with, the end of the primary surface. The approach surface inclines outward and upward at a slope of 20 to 1 for a distance of 9000 feet from all ends of the

primary surface. The approach zone will be 2000 feet wide at a distance of 5000 feet from the end of the primary surface centered on the runway centerline.

(E) *Conical zone.* All land which lies directly under an imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4000 feet measured radially.

(Ord. No. 91-18, § 1, 11-4-91)

Sec. 3.3.3. Height restrictions.

Except as otherwise provided or as necessary to airport operations, no structure or tree shall be constructed, altered, maintained, or allowed to grow in any airspace zone created in section 3.3.2 so as to project above any of the imaginary airspace surfaces described. Where an area is covered by more than one height limitation, the more restrictive limitations shall prevail.

Sec. 3.3.4. Land use/safety zoning.

In order to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Hartsville and Darlington Airports; and to limit population and building density in the runway approach areas, thereby creating sufficient open space so as to protect life and property in case of an accident, there are hereby created and established the following land use safety zones:

(A) *Safety zone A.* All land in the approach zones of a runway, as defined in section 3.3.2, which extends outward from the end of the primary surface for a distance of 1,000 feet and is 800 feet wide at the outer edge and 500 feet wide at the inner end.

(B) *Safety zone B.* All land in that portion of the approach zones of the runway, as defined in section 3.3.2, which extends outward from safety zone A for a distance of 2,000 feet, and is 1,500 feet wide at the outer edge and 800 feet wide at the inner edge. This safety zone shall also encompass the land in that area defined as the transitional zone in section 3.3.2.

(C) *Safety zone C.* All land which is enclosed within the perimeter of the horizontal zone, as defined in section 3.3.2, and which is not included in safety zones A or B.

Sec. 3.3.5. Use restrictions.

(A) *General.* No land use in any of the safety zones shall:

(1) Create interferences with the operation of radio or electronic facilities on the airport or between airport and aircraft;

(2) Make it difficult for pilots to distinguish between airport lights and other lights;

(3) Result in glare in the eyes of pilots;

(4) Impair visibility in the vicinity of the airport;

(5) Otherwise endanger the landing, taking off, or maneuvering of aircraft; or

(6) Attract large numbers of birds; or

(7) Impair the utility of the airport in any other way.

(B) *Safety zone A.* Areas designated as safety zone A shall contain no buildings or temporary structures, and shall be restricted to those uses which will not create, attract, or bring together an assembly of persons thereon.

Permitted uses may include agriculture, light outdoor recreation (nonspectator), cemeteries and essential air-navigation equipment.

(C) *Safety zone B.* Areas designated as safety zone B shall be restricted in use as follows:

(1) Each use shall be on a site whose area shall not be less than three acres.

(2) Each use shall not create, attract, or bring together a site population that would exceed 15 times that of the site acreage.

(3) Each site shall have no more than one building plot upon which any number of structures may be erected.

(4) A building plot shall be single, uniform and noncontrived area, whose shape is uncomplicated and whose area shall not exceed the following minimum ratios with respect to the total site area:

Site area at least (acres)	But less than (acres)	Ratio of site area to bldg. plot area	Building plot area (sq. ft.)	Max. site population (15 persons/A)
3	4	12:1	10,900	45
4	6	10:1	17,400	60
6	10	8:1	32,600	90
10	20	6:1	72,500	150
20	and up	4:1	218,000	300

(5) The following uses are specifically prohibited in zone B: churches, hospitals, schools, theaters, stadiums, hotels and motels, trailer courts, campgrounds, and other places of public or semipublic assembly.

(D) *Zone C.* Zone C is subject only to height restrictions set forth in section 3.3.3, and to the general restrictions contained in section 3.3.5(A).

Sec. 3.3.6. Nonconforming uses.

(A) *Regulations not retroactive.* The regulations prescribed by this ordinance shall not be construed to require the removal, lowering, or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this ordinance, or otherwise interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this ordinance, and which is diligently prosecuted.

(B) *Marking and lighting.* Notwithstanding the preceding provision of this section, the owner of any nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the airport management to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the airport affected.

(C) Notwithstanding any preceding provision of this section, if, by a determination of the Federal Aviation Administration (FAA), the encroachment of any tree into regulated airspace is such that providing markers and lights is insufficient to protect the life and property of the flying public, the county planning commission shall institute steps to have such trees topped at the expense of the airport affected, if requested in writing by the governing authority of the airport. If unsuccessful in obtaining the cooperation of the parties involved,

the planning commission shall petition the county council to institute the appropriate legal action, possibly including condemnation, to insure the safety of the flying public in airspace regulated by this ordinance.

(Ord. No. 91-18, § 2, 11-4-91)

Sec. 3.4. Flood hazard districts.

Sec. 3.4.1. General provisions.

(A) *Statutory authorization.* The legislature of the State of South Carolina has in SC Code of Laws, Title 4, Chapters 9 (Article 1), 25, and 27, and amendments thereto, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the county council of Darlington County, South Carolina, does ordain as follows:

(B) *Findings of fact.* The flood hazard areas of Darlington County are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

Furthermore, 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 hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(C) *Statement of purpose and objectives.* It is the purpose of section 3.4 of the Development Standards Ordinance to protect human life and health, maintain water quality, minimize property damage, and encourage appropriate construction practices to minimize public and private losses due to flood conditions by requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction. Uses of the floodplain which are dangerous to health, safety, and property due to water or erosion or pollution hazards, or which increase flood heights, velocities, or erosion are restricted or prohibited. These provisions attempt to control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters, and control filling, grading, dredging, and other development which may increase flood damage, pollution or erosion. Additionally, section 3.4 prevents or regulates the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

The objectives of section 3.4 are to protect human life and health, maintain water quality, to help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize flood blight areas, and to insure that potential home buyers are notified that property is in a flood area. The provisions of section 3.4 are intended to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets and bridges located in the floodplain, and prolonged business interruptions. Also, an important floodplain management objective of section 3.4 is to minimize expenditure of public money for costly flood control projects and rescue and relief efforts associated with flooding.

Floodplains are an important asset to the community. They perform vital natural functions such as temporary storage of floodwaters, moderation of peak flood flows, maintenance of water quality, groundwater recharge, prevention of erosion, habitat for diverse natural wildlife populations, recreational opportunities, and aesthetic quality. These functions are best served if floodplains are kept in their natural state. Wherever possible, the natural characteristics of floodplains and their associated wetlands and water bodies should be preserved and enhanced. Decisions to alter floodplains, especially floodways and stream channels, should be the result of careful planning processes which evaluate resource conditions and human needs.

(D) *Lands to which section 3.4 applies.*Section 3.4 shall apply to all areas of special flood hazard within the unincorporated areas of the county as identified by the Federal Emergency Management Agency in its flood insurance study, dated February 6, 2013, for the county with accompanying maps and other supporting data, which are hereby adopted by reference and declared to be a part of section 3.4.

(E) *Establishment of development permit.* A development permit shall be required in conformance with the provisions of section 3.4 prior to the commencement of any development activities.

(F) *Compliance.* No structure or land shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of section 3.4 and other applicable regulations.

(G) *Interpretation.* In the interpretation and application of section 3.4, all provisions shall be considered as minimum requirements, liberally construed in favor of the governing body, and deemed neither to limit nor repeal any other powers granted under state law. Section 3.4 is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where section 3.4 and other ordinance provisions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(H) *Partial invalidity and severability.* If any part of section 3.4 of the Development Standards Ordinance is declared invalid, the remainder of this section shall not be affected and shall remain in force.

(I) *Warning and disclaimer of liability.* The degree of flood protection required by section 3.4 is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. Section 3.4 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. Section 3.4 shall not create liability on the part of Darlington County or by any officer or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made hereunder.

(J) *Enforcement.* The building inspection/codes enforcement department personnel are hereby appointed as code enforcement officers for the purpose of the enforcement of section 3.4 of the Development Standards Ordinance. Planning department personnel are also given authority to enforce section 3.4. Persons empowered to enforce section 3.4 may, upon witnessing violations, issue written notices or uniform ordinance summons.

(K) *Penalties for violation.* Violation of the provisions of section 3.4 of the Development Standards Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates section 3.4 or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $500.00 per day or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein shall prevent Darlington County from taking such other lawful action as necessary to prevent or remedy any violation.

(Ord. No. 04-11, § 2, 9-7-04; Ord. No. 12-16, § I, 12-3-12)

Sec. 3.4.2. Definitions.

(A) *General.* Unless specifically defined below, words or phrases used in section 3.4 shall be interpreted so as to give them meaning they have in common usage and to give this section its most reasonable application.

(B) *Definitions.*

Accessory structure (appurtenant structure). Structures that are 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. Accessory structures should constitute a minimal investment, may not be used for human habitation, and be designed to have minimal

flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

Addition (to an existing building). An extension or increase in the floor area or height of a building or structure. Additions to existing buildings shall comply with the requirements for new construction regardless as to whether the addition is a substantial improvement or not. Where a firewall or load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and must comply with the standards for new construction.

Agricultural structure. A structure used solely for agricultural purposes in which the use is exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock. Agricultural structures are not exempt from the provisions of section 3.4.

Appeal. A request for a review of the local administrator's interpretation of any provision of section 3.4.

Area of shallow flooding. A designated AO Zone on a community's flood insurance rate map (FIRM) with base flood depths of one to three feet 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. The land in the floodplain within a community subject to one percent or greater chance of being equaled or exceeded in any given year.

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

Base flood elevation (BFE). The water surface elevation of a flood having a one percent chance of being equaled or exceeded in any given year. This elevation is measured in the datum designated on the flood insurance rate map.

Basement. Means any enclosed area of a building which is below grade on all sides.

Building. Any structure built for support, shelter, or enclosure for any occupancy or storage.

Critical development. Development that is critical to the community's public health and safety, is essential to the orderly functioning of a community, store or produce highly volatile, toxic or water-reactive materials, or house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical development include jails, hospitals, schools, fire stations, nursing homes, wastewater treatment facilities, water plants, and gas/oil/propane storage facilities.

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.

Elevated building. A nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns, piers, or shear walls parallel to the flow of water.

Executive order 11988 (floodplain management). Issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified special flood hazard areas, unless there is no practicable alternative.

Existing construction. Means, for the purposes of determining rates, structures for which the start of construction commenced before June 3, 1991.

Existing manufactured home park or manufactured home subdivision. A manufactured home park or subdivision for which the construction of facilities 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 a final site grading or the pouring of concrete pads) is complete before May 2, 1988.

Expansion to an existing manufactured home park or subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs).

Flood. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, or the unusual and rapid accumulation of runoff of surface waters from any source.

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

Flood insurance rate map (FIRM). An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood insurance study. The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the flood boundary floodway map and the water surface elevation of the base flood.

Flood-resistant material. Any building material capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage which requires more than low-cost cosmetic repair. Any material which 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 lumber are acceptable flooring materials. Sheet-type flooring coverings which restrict evaporation from below and materials which are impervious, but dimensionally unstable are not acceptable. Materials which absorb or retain water excessively after submergence are not flood-resistant. Please refer to technical bulletin 2, Flood Damage-Resistant Materials Requirements, dated 8/08, and available from the Federal Emergency Management Agency. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

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

Freeboard. A factor of safety usually expressed in feet above a flood level for purposes of flood plain management. "Freeboard" tends to compensate 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, bridge openings, and the hydrological effect of urbanization of the watershed.

Functionally dependent use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade. The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

Historic structure. Any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of the Interior (DOI) or preliminarily determined by the Secretary of the Interior as meeting the requirements individual listing on the national register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district;

(c) Individually listed on a state inventory of historic places;

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified:

(1) By an approved state program as determined by the Secretary of Interior; or

(2) Directly by the Secretary of Interior in states without approved programs. Some structures or districts listed on the state or local inventories may not be "historic" as cited above, but have been included on inventories because it was believed that the structures or districts have the potential for meeting the "historic" structure criteria of the DOI. In order for these structures to meet NFIP historic structure criteria, it must be demonstrated and evidenced that the South Carolina Department of Archives and History has individually determined that the structure or district meets DOI historic structure criteria.

Increased cost of compliance (ICC). Applies to all new and renewed flood insurance policies effective on and after June 1, 1997. The NFIP shall enable the purchase of insurance to cover the cost of compliance with land use and control measures established under Section 1361. It provides coverage for the payment of a claim to help pay for the cost to comply with state or community floodplain management laws or ordinances after a flood event in which a building has been declared substantially or repetitively damaged.

Limited storage. An area used for storage and intended to be limited to incidental items, which can withstand exposure to the elements and have low flood damage potential. Such an area must be of flood resistant or breakaway material, which can withstand exposure to the elements and have low flood damage potential. Such an area must be of flood resistant or breakaway material, void of utilities except for essential lighting and cannot be temperature controlled. If the area is located below the base flood elevation in an A, AE and A1-A30 zone it must meet the requirements of section 3.4.4(B)(5).

Lowest adjacent grade (LAG). Is an elevation of the lowest ground surface that touches any deck support, exterior walls of a building or proposed building walls.

Lowest floor. The lowest floor of the lowest enclosed area. Any unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or 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 other provisions of section 3.4.

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

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

Mean sea level. Means, for the purpose of this section, the national geodetic vertical datum (NGVD) of 1929, North American vertical datum (NAVD) of 1988, or other datum, to which the base flood elevations shown on a community's flood insurance rate maps (FIRM) are shown.

National geodetic vertical datum (NGVD). As corrected in 1929, elevation reference points set by national geodetic vertical datum based on mean sea level.

North American vertical datum (NAVD). Vertical control, as corrected in 1988, used as the reference datum on flood insurance rate maps.

New construction. Structure for which the start of construction commenced after May 2, 1988. The term also includes any subsequent improvements to such structure.

New manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or pouring of concrete slabs) is completed on or after May 2, 1988.

Recreational vehicle. A vehicle which is:

(a) Built on a single chassis;

(b) Four hundred square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently tow able by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Repetitive loss. A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions during a ten-year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25 percent of the market value of the building at the time of each such flood event.

Section 1316 of the National Flood Insurance Act of 1968. The act provides that no new flood insurance shall be provided for any property found by the Federal Emergency Management Agency to have been declared by a state or local authority to be in violation of state or local ordinances.

Start of construction. For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348), includes new construction and substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, 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 footings, piers, 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, including a gas or liquid storage tank that is principally above ground.

Substantial damage. Damage of any origin sustained by a structure 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. Please refer to the definition of "substantial improvement". Such repairs may be undertaken successively and their costs counted cumulatively.

Substantial improvement. Any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, 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: (1) any project of improvement to a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions (does not include American with Disabilities Act compliance standards); or (2) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure. Permits shall be cumulative for a period of five years. If the improvement project is conducted in phases, the total of all costs associated with each phase, beginning with the issuance of the first permit, shall be utilized to determine whether "substantial improvement" will occur.

Substantially improved existing manufactured home park or subdivision. Where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before repair, reconstruction, or improvement commenced.

Variance. Is a grant of relief from a term or terms of this section.

Violation. The failure of a structure or other development to be fully compliant with these regulations.

(Ord. No. 04-11, § 2, 9-7-04; Ord. No. 12-16, § I, 12-3-12)

Sec. 3.4.3. Administration.

(A) *Designation of local administrator.* The planning director and/or his designee is hereby appointed to administer and implement the provisions of section 3.4.

(B) *Adoption of letter of map revisions (LOMR).* All LOMRs that are issued in the areas identified in section 3.4.1(D) are hereby adopted.

(C) *Development permit and certification requirements.* Application for a development permit shall be made to the local administrator on forms furnished by him or her prior to any development activities. The development permit may include, but not be limited to, plans in duplicate drawn to scale showing; the nature, location, dimensions, and elevations of the area in question; existing or proposed structures; and the location of fill materials, storage areas, and drainage facilities. Specifically, the following information is required:

(1) A plot plan that shows the 100-year (one percent) floodplain contour or a statement that the entire lot is within the floodplain must be provided by the development permit applicant when the lot is within or appears to be within the floodplain as mapped by the Federal Emergency Management Agency or the floodplain identified pursuant to either section 3.4.3(C)(10) or sections 3.4.4(C) and 3.4.4(D). The plot plan must be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same.

(2) The plot plan required by section 3.4.3(B)(1) must show the floodway, if any, as identified by the Federal Emergency Management Agency or the floodway identified pursuant to either section 3.4.3(C)(9) or 3.4.4(C) and 3.4.4(D).

(3) Where base flood elevation data is provided as set forth in section 3.4.1(D) or section 3.4.3(C)(10), the application for a development permit within the flood hazard area shall show:

a. The elevation (in relation to mean sea level) of the lowest floor of all new and substantially improved structures, and

b. If the structure will be floodproofed in accordance with section 3.4.4(B)(2), the elevation (in relation to mean sea level) to which the structure will be floodproofed.

(4) If no base flood elevation data is provided as set forth in section 3.4.1(D) or section 3.4.3(C)(9), the application for a development permit must show construction of the lowest floor at least two (2) feet above the base flood elevation (BFE) determined by one of the methods referred to in section 3.4.4(C)(2).

(5) Where any watercourse will be altered or relocated as a result of proposed development, the application for a development permit shall include a description of the extent of watercourse alteration or relocation, an engineering study to demonstrate that the flood- carrying capacity of the altered or relocated watercourse is maintained and a map showing the location of the proposed watercourse alteration or relocation.

(6) When a structure is floodproofed, the applicant shall provide certification from a registered, professional engineer or architect that the nonresidential, floodproofed structure meets the floodproofing criteria in section 3.4.4(B)(2).

(7) *Certification during construction.* A lowest floor elevation or floodproofing certification is required after the lowest floor is completed. As soon as possible after completion of the lowest floor and before any further vertical construction commences, or floodproofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the local floodplain administrator a certification of the elevation of the lowest floor, or floodproofed elevation, whichever is applicable, as built, 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 it. Any work done prior to submission of the certification shall be at the permit holder's risk. The local floodplain administrator shall review the floor elevation survey data submitted. The permit holder immediately and prior to further progressive work being permitted to proceed shall correct deficiencies detected by such review. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

(8) *As-built certification.* Upon completion of the development a registered professional engineer, land surveyor or architect, in accordance with state law, shall certify according to the requirements of subsections (B)(6), and (B)(7) that the development is built in accordance with the submitted plans and previous pre-development certifications.

(9) If the proposed project will impact the configuration of the watercourse, floodway, or base flood elevation for which a detailed flood insurance study has been developed, the applicant shall apply for and must receive approval for a conditional letter of map revision with the Federal Emergency Management Agency prior to actual construction.

(10) Within 60 days of the completion of an alteration of a watercourse, referenced in section 3.4.3(B)(9), the applicant shall submit as-built certification, by a registered engineer, to the Federal Emergency Management Agency.

(11) Where no base flood elevation is established and it cannot be determined whether proposed development will be located within the special flood hazard area, a plot plan must be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. The plot plan shall show the proposed location of the development and the edge of the special flood hazard area. If it is determined that the development will be located outside the special flood hazard area, the same development, once foundation work (or permanent construction) has commenced, must be certified that it has been sited outside the special flood hazard area. Otherwise, all other provisions in section 3.4 for development in the floodplain would apply.

(D) *Duties and responsibilities of the local administrator.* Duties of the local administrator shall include, but not be limited to:

(1) Review all development permits to assure that the requirements of section 3.4 have been satisfied.

(2) Review proposed development to assure that all necessary permits have been received from those governmental agencies from 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.

(3) Notify adjacent communities and the state department of natural resources, land, water and conservation division, 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.

(4) In addition to the notifications required in section 3.4.3(C)(3), written reports of maintenance records must be maintained to show that maintenance has been provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished. This maintenance must consist of a comprehensive program of periodic inspections, and routine channel clearing and dredging, or other related functions. The assurance shall consist of a description of maintenance

activities, frequency of performance, and the local official responsible for maintenance performance. Records shall be kept on file for FEMA inspection.

(5) Prevent encroachments within floodways unless the certification and flood hazard reduction provisions of section 3.4.4 are met.

(6) Obtain actual elevation (in relation to mean sea level) of the lowest floor of all new or substantially improved structures, in accordance with section 3.4.3(B)(7).

(7) Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed, in accordance with section 3.4.3(B)(7).

(8) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with section 3.4.4(B)(2).

(9) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (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 reasonable opportunity to appeal the interpretation as provided in this article.

(10) When base flood elevation data or floodway data has not yet been provided in accordance with section 3.4.1(D), obtain, review, and reasonably utilize best available base flood elevation data and floodway data available from a federal, state, or other source, including data developed pursuant to sections 3.4.4(C)(2) and 3.4.4(D)(3), in order to administer the provisions of section 3.4. Data from preliminary, draft, and final flood insurance studies constitutes best available data from a federal, state or other source. Data must be developed using hydraulic models meeting the minimum requirement of NFIP approved model. If an appeal is pending on the study in accordance with 44 CFR Ch. 1, Part 67.5 and 67.6, the data does not have to be used.

(11) When the exact location of boundaries of the areas special flood hazards conflict with the current, natural topography information at the site; the site information takes precedence when the lowest adjacent grade is at or above the BFE, the property owner may apply and be approved for a letter of map amendment (LOMA) by FEMA. The local floodplain administrator in the permit file will maintain a copy of the letter of map amendment issued from FEMA.

(12) Make on-site inspections of projects in accordance with section 3.4.3(D).

(13) Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with section 3.4.3(D).

(14) Maintain all records pertaining to the administration of section 3.4 and make these records available for public inspection.

(15) *Adjoining floodplains.* Cooperate with neighboring communities with respect to the management of adjoining floodplains and/or flood-related erosion areas in order to prevent aggravation of existing hazards.

(16) *Notifying adjacent communities.* Notify adjacent communities prior to permitting substantial commercial developments and large subdivisions to be undertaken in areas of special flood hazard and/or flood-related erosion hazards.

(17) *Prevailing authority.* Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations for flood protection elevations (as found on an elevation profile, floodway data table, etc.) shall prevail. The correct information should be submitted to FEMA as per the map maintenance activity requirements outlined in section 3.4.4.B(8)(b).

(18) *Annexations and detachments.* Notify the state department of natural resources land, water and conservation division, state coordinator for the national flood insurance program within six months, of any annexations or detachments that include special flood hazard areas.

(19) *Federally funded development.* The President issued executive order 11988, Floodplain Management, May 1977. Executive order 11988 directs federal agencies to assert a leadership role in reducing flood losses and losses to environmental values served by floodplains. Proposed developments must go through an eight-step review process. Evidence of compliance with the executive order must be submitted as part of the permit review process.

(20) *Substantial damage determination.* Perform an assessment of damage from any origin to the structure using FEMA's residential substantial damage estimator (RSDE) software to determine if the damage equals or exceeds 50 percent of the market value of the structure before the damage occurred.

(21) *Substantial improvement determinations.* Perform an assessment of permit applications for improvements or repairs to be made to a building or structure that equals or exceeds 50 percent of the market value of the structure before the start of construction. Cost of work counted for determining if and when substantial improvement to a structure occurs shall be cumulative for a period of five years. If the improvement project is conducted in phases, the total of all costs associated with each phase, beginning with the issuance of the first permit, shall be utilized to determine whether "substantial improvement" will occur. The market values shall be determined by one of the following methods:

a. The current assessed building value as determined by the county's assessor's office or the value of an appraisal performed by a licensed appraiser at the expense of the owner within the past six months.

b. One or more certified appraisals from a registered professional licensed appraiser in accordance with the laws of the state. The appraisal shall indicate actual replacement value of the building or structure in its pre-improvement condition, less the cost of site improvements and depreciation for functionality and obsolescence.

c. Real estate purchase contract within six months prior to the date of the application for a permit.

(E) *Administrative procedures.*

(1) *Inspections of work in progress:* As the work pursuant to a permit progresses, the local administrator or designated representatives 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 section 3.4 and the terms of the permit. In exercising this power, the administrator has the right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.

(2) *Stop work orders:* Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of section 3.4, the administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Violations of a stop-work order constitutes a misdemeanor.

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

(4) *Periodic inspections:* The local administrator and each member of his 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.

(5) *Violations to be corrected:* When the local administrator finds violations of applicable state and local laws, it shall be his duty to notify the owner or occupant of the building of violation. The owner or occupant shall immediately remedy each of the violations of law on the property he owns.

(6) *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 administrator shall give him written notice, by certified or registered mail to his last known address or by personal service that:

  a. The building or property is in violation of section 3.4 of the Development Standards Ordinance;

  b. A hearing will be held before the local administrator at a designated place and time, not later than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

  c. Following the hearing, the local administrator may issue such order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.

(7) *Order to take corrective action:* If, upon a hearing held pursuant to the notice prescribed above, the local administrator shall find that the building or development is in violation of section 3.4 of the Development Standards Ordinance, he shall make an order in writing to the owner, requiring the owner to remedy the violation within such period the administrator may prescribe (not less than 60 days); provided that, where the administrator finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.

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

(9) *Failure to comply with order:* If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been take, or fails to comply with an order of the governing body following an appeal, he shall be found guilty of a misdemeanor and shall be punished in the discretion of the court.

(10) *Denial of flood insurance under the NFIP.* If a structure is declared in violation of this section and after all other penalties are exhausted to achieve compliance with this section then the local floodplain administrator shall notify the Federal Emergency Management Agency (FEMA) to initiate a Section 1316 of the National Flood insurance Act of 1968 action against the structure upon the finding that the violator refuses to bring the violation into compliance with this section. Once a violation has been remedied the local floodplain administrator shall notify FEMA of the remedy and ask that the Section 1316 be rescinded.

(11) The following documents are incorporated by reference and may be used by the local floodplain administrator to provide further guidance and interpretation of this section as found on FEMA's website at www.fema.gov:

  a. FEMA 55 Coastal Construction Manual.

  b. All FEMA Technical Bulletins.

  c. All FEMA Floodplain Management Bulletins.

d. FEMA 348 Protecting Building Utilities from Flood Damage.

e. FEMA 499 Home Builder's Guide to Coastal Construction Technical Fact Sheets.

(Ord. No. 04-11, § 2, 9-7-04; Ord. No. 09-13, § I, 10-5-09; Ord. No. 12-16, § I, 12-3-12)

Sec. 3.4.4. Provisions for flood hazard reduction.

(A) *General standards.* Development Services will review all permit applications to determine whether proposed building sites will be reasonable safe from flooding. Development may not occur in the special flood hazard area (SFHA) where alternative locations exist due to the inherent hazards and risks involved. Before a permit is issued, the applicant shall demonstrate that new structures cannot be located out of the SFHA and that encroachments onto the SFHA are minimized. In all areas of special flood hazard the following provisions are required:

(1) *Anchoring.* All new construction and substantial improvements shall be anchored to prevent flotation, collapse, and lateral movement of the structure.

(2) *Flood resistant materials and equipment.* All new construction and substantial improvements shall be constructed with flood resistant materials and utility equipment resistant to flood damage in accordance with technical bulletin 2, Flood Damage-Resistant Materials Requirements, dated 8/08, and available from the Federal Emergency Management Agency.

(3) *Minimize flood damage.* All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

(4) *Critical development.* Shall be elevated to the 500-year flood elevation or be elevated to the highest known historical flood elevation (where records are available), whichever is greater. If no data exists establishing the 500-year flood elevation or the highest known historical flood elevation, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates 500-year flood elevation data.

(5) *Utilities.* Electrical, ventilation, plumbing, heating and air conditioning equipment (including ductwork), and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of the base flood plus two feet.

(6) *Water supply systems.* All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(7) *Sanitary sewage systems.* New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters, On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(8) *Gas* or *liquid storage tanks.* All gas or liquid storage tanks, either located above ground or buried, shall be anchored to prevent floatation and lateral movement resulting from hydrodynamic and hydrostatic loads.

(9) *Alteration, repair, reconstruction,* or *improvements.* Any alteration, repair, reconstruction, or improvement to a structure that is in compliance with the provisions of section 3.4, shall meet the requirements of "new construction" as contained in section 3.4. This includes post-FIRM development and structures.

(10) *Non-conforming buildings* or *uses.* Non-conforming buildings or uses may not be enlarged, replaced, or rebuilt unless such enlargement or reconstruction is accomplished in conformance with the provisions of section 3.4. Provided, however, nothing in section 3.4 shall prevent the repair, reconstruction, or

replacement of an existing building or structure located totally or partially within the floodway, provided that the bulk of the building or structure below base flood elevation in the floodway is not increased and provided that such repair, reconstruction, or replacement meets all of the other requirements of section 3.4.

(11) *American with Disabilities Act (ADA).* A building must meet the specific standards for floodplain construction outlined in subsection (B), as well as any applicable ADA requirements. The ADA is not justification for issuing a variance or otherwise waiving these requirements. Also, the cost of improvements required to meet the ADA provisions shall be included in the costs of the improvements for calculating substantial improvement.

(B) *Specific standards.* In all areas of special flood hazard where base flood elevation data has been provided, as set forth in section 3.4.1(D) or section 3.4.3(C)(9), the following provisions are required:

(1) *Residential construction.* New construction and substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor elevated no lower than two feet above the base flood elevation. No basements are permitted. Should solid foundation perimeter walls be used to elevate a structure, flood openings sufficient to automatically equalize hydrostatic flood forces, shall be provided in accordance with the elevated buildings requirements in subsection (B)(5).

(2) *Non-residential construction.*

a. New construction and substantial improvement of any commercial, industrial, or non-residential structure (including manufactured homes) shall have the lowest floor elevated no lower than two feet above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, flood openings sufficient to automatically equalize hydrostatic flood forces, shall be provided in accordance with the elevated buildings requirements in subsection (B)(5). No basements are permitted. Structures located in A-zones may be floodproofed in lieu of elevation provided that all areas of the structure below the required 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.

b. A registered, professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in the floodproofing certification requirements in sections 3.4.3(B)(6)—(8). A variance may be considered for wet-floodproofing agricultural structures in accordance with the criteria outlined in section 3.4.5(D). Agricultural structures not meeting the criteria of section 3.4.5(D) must meet the non-residential construction standards and all other applicable provisions of this section. Structures that are floodproofed are required to have an approved maintenance plan with an annual exercise. The local floodplain administrator must approve the maintenance plan and notification of the annual exercise shall be provided to it.

(3) *Manufactured homes.*

a. Manufactured homes that are placed or substantially improved on sites outside a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated no lower than two feet above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

b. Manufactured homes that are to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions of section

3.4.4(B)(3)(a) of the Development Standards Ordinance must be elevated so that the lowest floor of the manufactured home is elevated no lower than two feet above the base flood elevation, and be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement.

c. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. For the purpose of this requirement, manufactured homes must be anchored to resist flotation, collapse, or lateral movement in accordance with Section 40-29.10 of the South Carolina Manufactured Housing Board Regulations. Additionally, when the elevation requirement would be met by an elevation of the chassis at least 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or other foundation elements of at least equivalent strength. When the elevation of the chassis is above 36 inches in height an engineering certificate is required.

d. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within floodprone areas. This plan shall be filed with and approved by the local administrator and the local emergency preparedness coordinator.

(4) *Recreational vehicles.* A recreational vehicle is ready for highway use if it is on wheels or a jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions. Recreational vehicles placed on sites shall either be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use, or meet the requirements of section 3.4.3(B) and sections 3.4.4(A) and 3.4.4(B)(3).

(5) *Elevated buildings.* New construction and substantial improvements of elevated buildings that include fully enclosed areas that are usable solely for the parking of vehicles, building access, or storage in an area other than a basement, and which are subject to flooding shall be designed to preclude finished space and be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

1. Provide a minimum of two openings on different walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

2. The bottom of each opening must be no more than one-foot above the higher of the interior or exterior grade immediately under the opening.

3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwaters in both directions; and

4. Fill placed around foundation walls must be graded so that the grade inside the enclosed area is equal to or higher than the adjacent grade outside the building on at least one side of the building.

5. Only the portions of openings that are below the base flood elevation (BFE) can be counted towards the required net open area.

b. Hazardous velocities. Hydrodynamic pressure must be considered in the design of any foundation system where velocity waters or the potential for debris flow exists. If flood velocities are excessive (greater than five feet per second), foundation systems other than solid foundations walls should be considered so that obstructions to damaging flood flows are minimized.

c. 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).

d. The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, must be void of utilities except for essential lighting as required for safety, and cannot be temperature controlled.

e. One wet location switch and / or outlet connected to a ground fault interrupt breaker may be installed below the required lowest floor elevation specified in subsections (B)(1)—(3).

f. All construction materials below the required lowest floor elevation specified in the specific standards outlined in subsections (B)(1)—(3) and (B)(5) should be of flood resistant materials.

(6) *Accessory structures.* A detached accessory structure or garage, the cost of which is greater than $3,000.00, must comply with the requirements as outlined in FEMA's technical bulletin 7-93, Wet Floodproofing Requirements, or be elevated in accordance with subsections (B)(1) and (B)(5) or dry floodproofed in accordance with subsection (B)(2). If accessory structures of $3,000.00 or less are to be placed in the floodplain, the following criteria shall be met:

a. Accessory structures shall not be used for human habitation (including work, sleeping, living, cooking or restroom areas);

b. Accessory structures shall be designed to have low flood damage potential;

c. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

d. Accessory structures shall be firmly anchored to prevent flotation, collapse, or lateral movement of the structure;

e. Service facilities such as electrical and heating equipment shall be installed in accordance with section 3.4.4(A)(4); and

f. Openings to relieve hydrostatic pressure during a flood shall be provided below base flood elevation in accordance with section 3.4.4(B)(5).

g. Accessory structures shall be built with flood resistant materials in accordance with technical bulletin 2, Flood Damage-Resistant Materials Requirements, dated 8/08, and available from the Federal Emergency Management Agency. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

(7) *Floodways.* Located within areas of special flood hazard established in section 3.4.1(D), are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris and potential projectiles and has erosion potential. The following provisions shall apply within such areas:

a. No encroachments, including fill, new construction, substantial improvements, additions, and other developments shall be permitted unless:

1. 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 local floodplain administrator.

2. A conditional letter of map revision (CLOMR) has been approved by FEMA. A letter of map revision (LOMR) must be obtained upon completion of the proposed development.

b. If section 3.4.4(B)(8)(a) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of section 3.4.4.

c. No manufactured homes shall be permitted, except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and the elevation standards of subsection (B)(3) and the encroachment standards of subsection (B)(8)a. are met.

d. Permissible uses within floodways may include: general farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, wildlife, and related uses. Also, lawns, gardens, play areas, picnic grounds, and hiking and horseback riding trails are acceptable uses, provided that they do not employ structures or fill. Substantial development of a permissible use may require a no impact certification. The uses listed in this subsection are permissible only if and to the extent that they do not cause any increase in base flood elevations or changes to the floodway configuration.

(8) *Fill.* Fill is discouraged because storage capacity is removed from floodplains. Elevating buildings by other methods must be considered. An applicant shall demonstrate that fill is the only alternative to raising the building to at least two feet above the base flood elevation, and that the amount of fill used will not affect the flood storage capacity or adversely affect adjacent properties. The following provisions shall apply to all fill placed in the special flood hazard area:

a. Fill may not be placed in the floodway unless it is in accordance with section 3.4.4(B)(8)(a);

b. Fill may not be placed in tidal or nontidal wetlands without the required state and federal permits;

c. Fill must consist of soil and rock materials only. Dredged materials may be used as fill only upon suitability by a registered professional geotechnical engineer. Landfills, rubble fills, dumps, and sanitary fills are not permitted in the floodplain;

d. Fill used to support structures must comply with ASTM standard D-698, and its suitability to support structures certified by a registered, professional engineer;

e. Fill slopes shall be no greater than two horizontal to one vertical. Flatter slopes may be required where velocities may result in erosion; and

f. The use of fill shall not increase flooding or cause drainage problems on neighboring parties.

g. Will meet the requirements of FEMA technical bulletin 10-01, Ensuring that Structures Built on Fill in or Near Special Flood Hazard Areas are Reasonably Safe from Flooding.

(9) *Map maintenance activities.* The national flood insurance program (NFIP) requires flood data to be reviewed and approved by FEMA. This ensures that flood maps, studies and other data identified in section 3.4.1(D) accurately represent flooding conditions so appropriate floodplain management criteria are based on current data. The following map maintenance activities are identified:

a. Requirement to submit new technical data.

1. For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical or scientific data reflecting such changes be submitted to FEMA as soon as practicable, but no later than six months of the date such information becomes available. These development proposals include; but not limited to:

i. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;

ii. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;

iii. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and

iv. Subdivision or large scale development proposals requiring the establishment of base flood elevations in accordance with subsection (C)(3).

2. It is the responsibility of the applicant to have technical data, required in accordance with subsection (B)(9), map maintenance activities, prepared in a format required for a conditional letter of map revision or letter of map revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall also be the responsibility of the applicant.

   i. The local floodplain administrator shall require a conditional letter of map revision prior to the issuance of a floodplain development permit for:

      A. Proposed floodway encroachments that increase the base flood elevation; and

      B. Proposed development which increases the base flood elevation by more than one-foot in areas where FEMA has provided base flood elevations but no floodway.

      C. Floodplain development permits issued by the local floodplain administrator shall be conditioned upon the applicant obtaining a letter of map revision from FEMA for any development proposal subject to subsection (B)(9), map maintenance activities.

3. Right to submit new technical data. The floodplain administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the local jurisdiction and may be submitted at any time.

(10) *Swimming pool utility equipment rooms.* If the building cannot be built at or above the BFE, because of functionality of the equipment then a structure to house the utilities for the pool may be built below the BFE with the following provisions:

   a. Meet the requirements for accessory structures in subsection (B)(6).

   b. The utilities must be anchored to prevent flotation and shall be designed to prevent water from entering or accumulating within the components during conditions of the base flood.

(11) *Elevators.*

   a. Install a float switch system or another system that provides the same level of safety necessary for all elevators where there is a potential for the elevator cab to descend below the BFE during a flood per FEMA's technical bulletin 4-93, Elevator Installation for Buildings Located in Special Flood Hazard Areas.

   b. All equipment that may have to be installed below the BFE such as counter weight roller guides, compensation cable and pulleys, and oil buffers for traction elevators and the jack assembly for a hydraulic elevator must be constructed using flood-resistant materials where possible per FEMA's technical bulletin 4-93, Elevator Installation for Buildings Located in Special Flood Hazard Areas.

(C) *Standards for streams without base flood information and floodways.* Located within the areas of special flood hazard established in section 3.4.1(D) are small streams where no base flood data has been provided and where no floodways have been identified. The following provisions apply within such areas:

(1) No encroachments, including fill, new construction, substantial improvements and new development shall be permitted within 100 feet of the stream bank 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) If section 3.4.4(C)(1) is satisfied and base flood elevation data is available from other sources, all new construction and substantial improvements within such areas shall comply with all applicable flood hazard district provisions of section 3.4 and shall be elevated or floodproofed in accordance with elevations established in accordance with section 3.4.3(C)(10). Data from preliminary, draft, and final flood insurance studies constitutes best available data. Refer to FEMA Floodplain Management Technical Bulletin 1-98, Use of Flood Insurance Study (FIS) Data as Available Data. If an appeal is pending on the study in accordance with 44 CFR Ch. 1, Part 67.5 and 67.6, the data does not have to be used. When base flood elevation (BFE) data is not available from a federal, state, or other source, one of the following methods may be used to determine a BFE (for further information regarding the methods for determining BFEs listed below, refer to FEMA's manual Managing Floodplain Development in Approximate Zone A Areas):

a. *Contour interpolation.*

1. Superimpose approximate Zone A boundaries onto a topographic map and estimate a BFE.

2. Add to the BFE one-half of the contour interval of the topographic map that is used.

b. Data extrapolation. A BFE can be determined if a site is within 500 feet upstream of a reach of a stream reach for which a 100-year profile has been computed by detailed methods, and the floodplain and channel bottom slope characteristics are relatively similar to the downstream reaches. No hydraulic structures shall be present.

c. Hydrologic and hydraulic calculations. Perform hydrologic and hydraulic calculations to determine BFEs using FEMA approved methods and software.

(3) In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and other proposed developments containing at least 50 lots or five acres, whichever is less. Development of detailed floodway data will be required should the applicant wish to appeal the setbacks of subsection (C)(1).

(D) *Standards for subdivision proposals and other development.*

(1) All subdivision proposals and other proposed new development shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations.

(2) All subdivision proposals and other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(3) All subdivision proposals and other proposed new development shall have adequate drainage provided to reduce exposure to flood damage.

(4) The applicant shall meet the requirement to submit technical data to FEMA in subsection (B)(8) when a hydrologic and hydraulic analysis is completed that generates base flood elevations.

(E) *Standards for areas of shallow flooding (AO Zones).* Located within areas of special flood hazard established in section 3.4.1(D), are areas designated as shallow flooding. The following provisions shall apply within such areas:

(1) All new construction and substantial improvements of residential structures shall have the lowest floor elevated to the depth number specified on the flood insurance rate map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor shall be elevated at least three feet above the highest adjacent grade.

(2) All new construction and substantial improvements of nonresidential structures shall:

a. Have the lowest floor elevated to the depth number specified on the flood insurance rate map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor shall be elevated at least three feet above the highest adjacent grade; or

b. Be completely flood proofed together with attendant utility and sanitary facilities to or above the level specified in subsection (E)(2)a. so that any space below that level is 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 stated in section 3.4.3(B).

(3) All structures on slopes must have drainage paths around them to guide water away from the structures.

(F) *Standards for streams with established base flood elevations but without floodways.* Along rivers and streams where base flood elevation (BFE) data is provided but no floodway is identified for a special flood hazard area on the FIRM or in the FIS.

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

(Ord. No. 04-11, § 2, 9-7-04; Ord. No. 09-13, § II, 10-5-09; Ord. No. 12-16, § I, 12-3-12; Ord. No. 13-03, § I, 3-4-13; Ord. No. 17-01, § I, 3-6-17)

Sec. 3.4.5. Variance procedures.

(A) *Establishment of appeal board.* The appeal board as established by Darlington County shall hear and decide requests for variances from the requirements of section 3.4 of the Development Standards Ordinance. The appeals board is hereby established as the Darlington County planning commission and its designated advisors.

(B) *Right to appeal.* Any person aggrieved by the decision of the appeal board or any taxpayer may appeal such decision to the court.

(C) *Historic structures.* Variances may be issued for 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 the variance is the minimum necessary to preserve the historic character and design of the structure.

(D) *Agricultural structures.* Variances may be issued to wet floodproof an agricultural structure in accordance with technical bulletin 7-93, dated 12/93 (or latest revision), and available from the Federal Emergency Management Agency. In order to minimize flood damages during the base flood and the threat to public health and safety, the structure must meet all of the conditions and considerations of section 3.4.5(H)(4), this section, and the following standards:

(1) Use of the structure must be limited to agricultural purposes as listed below:

a. Pole frame buildings with open or closed sides used exclusively for the storage of farm machinery and equipment;

b. Steel grain bins and steel frame corn cribs;

c. General purpose barns for the temporary feeding of livestock which are open on at least one side;

d. For livestock confinement buildings, poultry houses, dairy operations, and similar livestock operations, variances may not be issued for structures which were substantially damaged. New construction or substantial improvement of such structures must meet the elevation requirements of section 3.4.4(B)(2) of the Development Standards Ordinance; and

e. Detached garages and storage sheds solely used for parking and limited storage in connection with agricultural uses only, which are no greater than 400 square feet in area.

(2) The agricultural structure must be built or rebuilt, in the case of an existing building which is substantially damaged, with flood-resistant materials for the exterior and interior building components and elements below the base flood elevation;

(3) The agricultural structure must be adequately anchored to prevent flotation, collapse, or lateral movement. All of the structure's components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, hydrodynamic, and debris impact forces. Where flood velocities exceed five feet per second, fast moving floodwaters can exert considerable pressure on the building's enclosure walls or foundation walls;

(4) The agricultural structure must meet the venting requirement of section 3.4.4(B)(5)(a) of the Development Standards Ordinance;

(5) Any mechanical, electrical, or other utility equipment must be located above the base flood elevation so that they are contained within a watertight, floodproofed enclosure which is capable of resisting damage during flood conditions. The structure must comply with section 3.4.4(A)(4) of this ordinance;

(6) The agricultural structure must comply with the floodway encroachment provisions of section 3.4.5(B)(8) of the Development Standards Ordinance; and

(7) Major equipment, machinery, or other contents must be protected. Such protection may include protective watertight floodproofed areas within the building, the use of equipment hoists for readily elevating contents, permanently elevating contents on pedestals or shelves above the base flood elevation, or determining that property owners can safely remove contents without risk to lives and that the contents will be located to a specified site out of the floodplain.

(E) *Considerations.* In passing such applications, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of section 3.4 of the Development Standards Ordinance; 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, and the safety of access to the property in times of flood for ordinary and emergency vehicles;

(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, 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, and the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(8) 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;

(9) The costs of providing governmental services during and after flood conditions including the maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges; and

(10) Agricultural structures must be located in wide, expansive floodplain areas, where no other alternative location for the agricultural structure exists. The applicant must demonstrate that the entire farm acreage, consisting of a contiguous parcel of land on which the structure is to be located, must be in the special flood hazard area and no other alternative locations for the structure are available.

(F) *Findings.* Findings listed above shall be submitted to the appeal board, in writing, and included in the application for a variance. Additionally, comments from the Department of Natural Resources, Land Water and Conservation District, State Coordinator's Office, must be taken into account and included in the permit file.

(G) *Floodways.* Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result unless a CLOMR is obtained prior to issuance of the variance. In order to ensure the project is built in compliance with the CLOMR for which the variance is granted the applicant must provide a bond for 100 percent of the cost to perform the development.

(H) *Conditions.* Upon consideration of the factors listed above and the purposes section 3.4 of the Development Standards Ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of section 3.4. The following conditions shall apply to all variances:

(1) Variances may 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 only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(3) Variances shall only be issued upon a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship, and a determination that the granting of a variance will not result in additional threats to public safety, degradation of water quality, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(4) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation 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 lowest floor elevation. Such notification shall be maintained with a record of all variance actions.

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

(6) Variances shall not be issued for non-permitted development or other development that is not in compliance with the provisions of section 3.4 of the Development Standards Ordinance. Violations must be corrected in accordance with section 3.4.3(D)(5).

(I) *Functionally dependant uses.* Variances may be issued for development necessary for the conduct of a functionally dependant use, provided the criteria of section 3.4.5 are met, no reasonable alternative exist, and the development is protected by methods that minimize flood damage and create no additional threat to public safety.

(Ord. No. 04-11, § 2, 9-7-04; Ord. No. 12-16, § I, 12-3-12)

Section 3.4.6 Legal status provisions.

(A) *Effect on rights and liabilities under the existing section 3.4 of the Development Standards Ordinance.* This replacement of section 3.4 of the Development Standards Ordinance in part comes forward by reenactment of some of the provisions of the existing section 3.4 of the Development Standards Ordinance (Ord. No. 174) enacted May 2, 1988, 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 there under are reserved and may be enforced. The enactment of this replacement of section 3.4 of the Development Standards Ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the existing section 3.4 of the Development Standards Ordinance (Ord. No. 174) enacted May 2, 1988, as amended, which are not reenacted herein are repealed.

(B) *Effect on outstanding building permits.* Nothing herein contained shall require any change in the plans, construction, size or designated use of any building, structure or part thereof for which a building permit has been granted by the chief building inspector or his/her authorized agents before the time of passage of this replacement of section 3.4 of the Development Standards Ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of 60 days subsequent to passage of this replacement of section 3.4 of the Development Standards Ordinance, construction or use shall be in conformity with the provisions of this replacement of section 3.4 of the Development Standards Ordinance.

(Ord. No. 04-11, § 2, 9-7-04)

ARTICLE FOUR. BUILDING CODES AND PERMITS

Sec. 4. Standards.

All construction and repair or improvement to any existing building in the unincorporated portions of Darlington County shall conform to the law as to degree, type of construction and with the following codes governing such work, as they may be amended from time to time:

All applicable codes as shown in Chapter 8 of the Code of Ordinances for Darlington County, South Carolina

All construction, repair or improvements within an airport district or flood hazard district must meet specific building permit requirements outlined in article three. In addition, any development within an industrial park district is controlled by the guidelines in the industrial park development district ordinance.

(Ord. No. 02-15, § 1, 10-7-02)

Sec. 4.1. Reserved.

Editor's note(s)—Ord. No. 02-15, § 2, adopted Oct. 7, 2002, repealed the former § 4.1 which pertained to affidavits required for building permit and derived from Ord. No. 137 adopted Feb. 17, 1986 and Ord. No. 90-12 adopted Aug. 20, 1990.

ARTICLE FIVE. DEVELOPMENT DESIGN STANDARDS

Sec. 5. Purpose and intent.

All development undertaken within Darlington County shall be in conformance with the standards set forth in this ordinance unless expressly exempt from obtaining a permit as specified by Article Six. Further, the purpose and intent is to adopt state standards, as applicable in Darlington County, as determined by the planning commission and as reflected in the development permit applications.

(Ord. No. 91-3, § 1, 5-20-91)

Sec. 5.1. Street standards.

All streets hereafter constructed shall conform to the standards of this section.

(A) Layout and alignment:

(1) Proposed streets shall be coordinated with the street system in the surrounding area and where possible shall provide for the continuation of existing streets abutting the proposed development.

(2) The arrangement of streets shall be such as will not cause hardship to owners of adjoining property in providing convenient access.

(3) All proposed streets shall intersect existing or proposed streets at a 90-degree angle. The perpendicular intersection of two roads shall provide a minimum 50-foot setback from the right-of-way intersection to provide adequate sight distance of oncoming traffic.

(4) In order to insure safety at street intersections, all interactions will be marked to indicate where each stop or yield sign will be placed.

(B) Visibility at intersections: On a corner at any intersection, nothing shall be erected, placed, planted or allowed to grow in such a manner as to impede vision between a height of 2½ and ten feet above the centerline grades of the intersecting streets. Height limits will apply to the area bounded by the highway right-of-way lines on each corner lot and a line joining points along the street lines 50 feet from the point of the intersection.

5.1.1. *Speed limits on county maintained roads.* Speed limits on county maintained roads may be established by the planning commission according to the procedures specified in Appendix G: Procedures for Setting Speed Limits on County Maintained Road.

(Ord. No. 91-3, § 2, 5-20-91; Ord. No. 93-26, § 1, 11-1-93)

Sec. 5.2. Street construction standards.

All proposed street and roadways shall be designed, constructed and surfaced in accordance with the following requirements; provided, however, no street or roadway shall have a right-of-way width of less than 66 feet, unless the street or roadway is designed with paved valley gutters, as shown in Appendix D.

If subsequent phases of a previously approved subdivision are within 1,000 feet of a paved road, the developer shall be required to pave the entrances from the paved road to the proposed phase. To be eligible to

construct additional dirt roads in a subsequent phase of a dirt road subdivision, that phase must have been presented and approved as part of the original subdivision application as reflected in the official files and meeting records of the planning commission and must be located more than 1,000 feet from a paved road and must be built to roadway standards in effect in March 1996. To be eligible to construct a dirt road on a right-of-way recorded in the office of the clerk of court prior to April 15, 1985, that right-of-way must be located more than 1,000 feet from a paved road and must be built to roadway standards in effect in March 1996, except for the requirement of a minimum right-of-way exceeding 40 feet.

In the event abnormal conditions occur to which such standards and specifications do not apply, the affected property owner(s) may petition for a waiver of such standards and specifications. The absolute minimum standards and conditions for such a waiver is provided in Appendix F "Orphan Roads Program."

(A) *Construction materials.* For a standard paved road:

(1) *Typical cross section.* The roadbed shall be 22 feet wide, crowned at the centerline with slope of 48:1 for 11 feet from the centerline to the shoulder. The shoulder shall be six feet with a slope no greater than 12:1 to the ditchbank or setback. The ditch centerline or setback line shall not be less than 44 feet from the centerline of the opposite ditch. See typical road cross section, Appendix D.

(2) *Subgrade and base course preparation.* All materials used in the base and surface courses must meet all SCDOT Standard Specifications as amended, for quality and gradation. Traffic surface is to be prepared by stripping off top soil, compacting subgrade on site to a depth of six inches (minimum), providing an eight-inch depth (minimum) of macadam base course, or SCDOT acceptable crushed rock substitute, rolled to a compaction of 97 percent Standard Proctor at optimum moisture. Unsuitable or boggy conditions will require additional removal of unacceptable material, backfilling, and placing a compacted, acceptable base on the road in accordance with SCDOT Standard Specifications, as amended. All new material shall be placed in eight-inch layers.

(3) *Surfacing.* One and one-half inches (minimum) paved surface shall be constructed upon a primed base course of macadam, crushed rock, sand clay or SCDOT acceptable base course and shall be a minimum of 150 lbs. of asphalt per square yard of base course surface in accordance with SCDOT Standard Specifications, as amended. If there is any question about the actual thickness of the pavement placed, the contractor shall provide up to three corings per development and/or one per 500 feet of road, whichever is greater. If the thickness is less than required, the contractor shall overlay the substandard area(s) with the greater of either one inch thickness of plant mix or the thickness shortfall plus one-half inches.

(4) *Ground water.* The ground water table must be at least 36 inches below the base course. Subsurface drainage is to be provided in areas having a high water table (particularly in cut areas) to intercept seepage that could affect slope stability, bearing strength or create undesirable wetness.

(5) *Driveways.* In a new subdivision with paved roads under county maintenance, a property owner will be responsible for a paved driveway apron which meets SCDOT specifications as amended.

(B) *Street design standards.* Design standards shall meet the requirements as outlined in Table 1:

TABLE 1.
DESIGN STANDARDS FOR ROADS

	Development Density			
	Residential		Nonresidential	
Improvement	Low	Medium	High	Business—Industrial
Lot size in acres:	≥2.0	>.5 to <2.0	≤.5	
Minimum width right-of-way (in feet)				
Local road	66	66	66	66
Collector road	66	66	80	66
Secondary arterial	66	80	80	80
Primary arterial	80	80	100	100
Minimum width traveled route (in feet)				
Local road	22 W/S*	30 W/C**	32 W/C**	30 W/C**
Collector road	22 W/S	32 W/C	32 W/C	40 W/C
Secondary arterial	24 W/S	40 W/C	44 W/C	44 W/C
Primary arterial	44 W/S	48 W/C	48 W/C	48 W/C

* With shoulders (roll type curb)

** With curbs (concrete vertical firm curbs) If W/S, minimum width remains 20 ft. for local road.

	Residential		Nonresidential Business—Industrial	
Maximum grade (per cost)				
Improvement:	Low	Medium	High	Industrial
Local road	10	10	8	6
Collector road	8	8	8	6
Secondary arterial	6	6	6	5
Primary arterial	6	6	6	5
Minimum grade	1	1	1	1

	Residential		Nonresidential	
Improvement	Low	Medium	High	
Lot size in acres:	≥2.0	>.5 to <2.0	≤.5	
Minimum radius of curve (in feet)				
	Low	*Medium*	*High*	*Industrial*
Local road	100	100	100	200
Collector road	100	100	100	200
Secondary arterial	300	300	300	400
Primary arterial	500	500	500	500
Minimum length of vertical curves				

Local road Collector road Second arterial Primary arterial	100 feet, but not less than 20 feet for each algebraic difference in grade; 200 feet, but not less than 50 feet for each 1 percent; 300 feet, but not less than 50 feet for each algebraic difference in grade			

	Development Density			
	Residential		Nonresidential	
Improvement:	Low	Medium	High	Business—Industrial
Lot size in acres:	≥2.0	>.5 to <2.0	≤.5	
Minimum length of tangents between reverse curves (in feet)				
Local road	100	100	150	200
Collector road	100	100	150	200
Secondary arterial	200	200	250	300
Primary arterial	300	300	350	400
Minimum sight distance (in feet)				
Local roads	200	200	200	250
Collector road	200	240	240	250
Secondary arterial	275	275	300	300
Primary arterial	275	300	300	400
Intersection	Across Corners—75 feet Back Intersection			
Minimum turnaround (in feet)				
Local road right-of-way diameter	120	120	140	160
Pavement	100	100	120	140
Center island diameter (if required)	40	40	50	60
Design speed (miles per hour)				
Local roads	30	30	25	30
Collector roads	35	35	30	35
Secondary arterial	65	60	55	55
Primary arterial	70	65	60	55
Maximum length of cul-de-sac				
Permanent	Six times minimum lot width, serving no more than 14 families and not exceeding 500 feet in length.			
Temporary	12 times minimum lot width, serving no more than 25 families and not exceeding 1,000 feet in length.			
	Residential		*Nonresidential Business—*	

Minimum radius (in feet)	*Low*	*Medium*	*High*	*Industrial*
At right-of-way	30	30	50	50
At pavement	25	25	45	45

(Ord. No. 156, 4-20-87; Ord. No. 90-12, 8-20-90)

(C) *County roads.* Roads which have been dedicated the county and which are constructed to the standards outlined in this ordinance shall be accepted into the county road maintenance system. Before acceptance is approved, the following provisions must be met, as applicable:

(1) *Inspection.* A registered engineer must inspect and certify satisfactory completion of the following inspection steps. In addition, once notified that an inspection step has been completed, the county will inspect the quality or construction within two working days. This inspection must be conducted before starting construction on the next step. Any corrections must be completed at the expense of the developer before approval or acceptance.

a. At completion of clearing and grubbing operations. Right-of-ways must be clearly staked, including slope easements:

b. At completion of rough grading.

c. At completion of subgrade. All required compaction test results will be reviewed at this time. Utilities to be installed prior to acceptance must be present at this time.

d. At completion of base course.

e. Before and after all primer applications.

f. During final pavement application. Copies of asphalt tickets must be submitted.

g. Final acceptance inspection. Stand of grass must be present or an escrow agreement may be executed in an amount determined to be adequate to cover the cost to re-grass all county disturbed areas if the stand of grass has not taken hold within one year from the date of acceptance by the county. If an acceptable stand of grass is established within the one-year period, the escrow amount will be returned to the developer. If not, the full amount will be distributed to the county to be used to establish the required stand of grass.

(2) *Compaction and testing requirements.*

a. Compaction of embankments, subgrade and base course shall conform to requirements of the most recent edition of SCDOT Standard Specifications, as amended, except that where no percentage is stated, 97 percent of a Standard Proctor Test will be required.

b. Compaction and/or sieve analysis tests for subgrade and base course will be at the expense of the developer and must be performed by an independent geotechnical engineering/testing firm. Where SCDOT specifications have no requirements, the frequency of density testing shall be no less than one test for every 500 linear feet of roadway centerline or fraction thereof for base courses.

c. All fill soils deeper than 24 inches shall be tested for compaction. This includes all fill soils in a wetland area. The frequency of testing shall be at the discretion of the planning commission.

d. Backfill material placed in eight-inch layers in all utility trenches, service lines and storm drain lines installed within the designated road right-of-way shall be compacted to a minimum of 97 percent of a Standard Proctor Test. Compaction testing shall be at the expense of the developer and performed by an independent engineering/testing firm. The frequency of testing shall be at the discretion of the planning commission.

(3) *Clearing of right-of-way.* All right-of-way shall be cleared and all improvements to property such as fences, shrubs, trees, etc., removed from the right-of-way.

(4) *Maximum slope ratio.* Slopes created by cut or fill operations shall be no steeper than 2:1 (two horizontal to one vertical). In cases where the toe of the slopes extend beyond the right-of-way, additional right-of-way or sloping easements to encompass all right-of-way needed to maintain the 2:1 slope must be shown on the plans.

(5) *Cul-de-sac requirement.* For emergency and road maintenance purposes, all dead end streets shall be constructed with a temporary or permanent cul-de-sac or an approved turnaround.

(6) *Turn around requirements.* The allowable length of a proposed dead end street and whether intermediate turnarounds are required shall be determined by the International Fire Code in effect at the time of application and the approval of the appropriate fire official with the jurisdiction of the particular site location.

(7) *Traffic control signs.* To insure public safety and proper identification, all intersections shall have proper traffic flow signs, to include stop and yield signs and street name signs, provided and erected by the developer.

(8) *Flooding.* No street shall be approved which is subject to frequent flooding. Positive drainage must be obtained in all cases.

(Ord. No. 91-3, §§ 3—7, 5-20-91; Ord. No. 96-12, § 6, 5-20-96; Ord. No. 07-14, § II, 8-6-07; Ord. No. 09-18, §§ I, II, 1-5-10)

Sec. 5.3. Street classification: definitions.

(A) *Local road:* A road intended to provide access to other roads from individual properties and to provide right-of-way beneath it for sewer, water and storm drainage. These roads are designed to be included exclusively within a subdivision, with a design speed of 55 m.p.h. or less.

(B) *Collector road:* A road designed to move traffic from local roads to secondary arterials. A collector road serves a subdivision of 50 lots or more or a residential neighborhood, and should be designed so that no residential properties face onto it. These roads are designed to lead into or out of a subdivision or neighborhood with a design speed of up to 55 m.p.h.

(C) *Secondary arterial:* A road intended to collect and distribute traffic in a manner similar to primary arterials, except that these roads service minor traffic generating areas such as community-commercial areas, primary and secondary schools, hospitals, major recreational areas, churches and offices. They should channel traffic from collector streets to the system of primary arterials. These roads are intracounty roads within the state or county system with a design speed of 55 m.p.h. The average traffic count for a secondary arterial is 2,500—5,000 cars per day. These roads have restricted access regulations as outlined in section 5.4 of this ordinance.

(D) *Primary arterial:* A road intended to move through traffic to and from such major attractors as central business districts, regional shopping centers, colleges, major industrial areas and similar traffic generators. They are a route for traffic between communities or larger areas. These roads are intercounty, interstate or US Highways with design speeds of 55 m.p.h. or greater. The average traffic count for a primary arterial is greater than 5,000 cars per day. These roads have restricted access regulations as outlined in section 5.4 of this ordinance.

Sec. 5.4. Restrictions of access.

No street or driveway shall enter a primary or secondary arterial as designated on the official road map of Darlington County at a point nearer than 500 feet from an existing street, or driveway. When a proposed development abuts upon or contains an existing or proposed primary or secondary arterial, the street plan shall provide vehicular access to each or abutting said primary or secondary arterial by use of a parallel collector road. All abutting lots shall be separated from said primary or secondary arterial by a non-access easement at least one foot in depth. See appendix A for a list of secondary and primary arterials with restricted access.

Sec. 5.5. Conformance to standards and regulations.

All development shall conform with all applicable standards, regulations, specifications and permitting procedures established by any duly authorized governmental body or its authorized agents for the purpose of regulating utilities and services. It shall be the responsibility of the developer to show that the development is in conformance with all such standards, regulations, specifications and permitting procedures.

Sec. 5.6. Drainage standards.

It is intended by this section that the improvements of drainage shall be the responsibility of the developer. The developer of the land or improvements within an area shall design, plan and carry out his development in a manner that will not interfere with or restrict the natural flow of water or materially change the condition of the run off. Increased runoff and changes in channels which are created by such development within drainage areas shall be made in accordance with the provisions of this section. All drainage right-of-way will be cleared and grubbed by the developer and all improvements to the property such as fences, shrubs, trees, etc. removed from the right-of-way. The developer is responsible for any damage to the drainage facilities during construction operations regardless of source of damage. The developer will remain responsible for any damage to storm drain works occurring after acceptance by Darlington County until development of said property has progressed to 80 percent sale of the lots; or until two years after the sale of lots have been authorized.

(A) *Runoff to adjoining property restricted.* Surface runoff shall be dissipated by retention/detention on the development parcel, and/or by transport by natural drainage, improved channel or conduit to an approved point of discharge. Runoff calculations shall address the impact of saturated soils at a 25-year storm event. Retention/detention facilities must provide for overflow from a 100-year storm event. Engineered plans must include the 100-year flood boundary or high water mark for the facility. A standard detail is provided as Appendix (Temporarily 1).

(B) *Maintaining natural drainage.* New development shall not hinder drainage from adjacent properties. If filling, other construction activities or improvements will destroy drainage features, the developer will install whatever drainage ways and systems are necessary to maintain the flow equal to but not to exceed the original, predevelopment capacity. In all cases, developers must comply with SCDHEC stormwater management and erosion control requirements in addition to the provisions of this ordinance.

(1) All natural primary and major drainage channels which are located within, or along the property line of an improvement, development or subdivision shall be protected and improved by the developer.

(2) The existing channel lying within or along the property line of the subdivision or parcel of land proposed for development or redevelopment shall be cleared and grubbed to provide for the free flow of water, and the channel shall be straightened, widened, and improved to the extent required to prevent overflow, resulting from a 25-year frequency rainfall, beyond the limits of the dedicated drainage easement provided for in this section.

(3) Whenever channel improvements are carried out, sodding, seeding, mulching, backsloping, and other bank protection shall be designed and constructed to control erosion from the anticipated conditions and flow resulting from a 25-year frequency rainfall.

(4) No open natural storm drainage course shall be permitted within 50 feet from the side of any habitable building measured from the top of the outside edge of ditch or channel, unless exceptional site planning opportunity is afforded and the improvement will not be jeopardized by flooding or erosion.

(C) *Off-street drainage.* The design of the off-street drainage system shall include the watershed affecting the development and shall be extended to a watercourse or drainage ditch adequate to receive the storm drainage flow resulting from a 25-year frequency rainfall.

(1) When the drainage system is outside of the street right-of-way, the developer shall provide all required easements in accordance with this section.

(2) Open ditch drainage may be used, provided that such ditches are "V" of trapezoidal ditches in cross section with side slopes no steeper than 1:2 ratio, (1 horizontal to 2 vertical). The maximum depth for open ditches shall be five feet and shall have a longitudinal slope of not less than 1.0 percent. Where open ditches meeting these requirements are not adequate to provide satisfactory storm drainage, an underground piped system or paved invert ditch shall be installed as required by Darlington County. These open ditches shall be protected from erosion by either sodding, hydroseeding or seeding and mulching as approved by Darlington County.

(3) Any detention/retention facility to be conveyed to the county as part of a public road or site drainage system must be completely fenced by the developer prior to acceptance of the road or drainage facility by county council. The minimum fence height shall be six feet. At least one 15-foot wide double swing gate entrance must be provided at a location agreed to by the county. Fence and gate material shall be composed of galvanized steel in accordance with SCDOT Section 806 and SCDOT Drawings 806-2 and 806-5. The fence must be located at least three feet within the 25-foot easement surrounding the retention/detention facility.

a. Any detention/retention facility to be completely located and maintained on private property, including industrial, commercial or residential sites, shall not be required to fence these pond facilities.

b. Detention/retention pond facilities on private property which have fencing at the time of the ordinance from which this section is derived will be allowed to remove the pond fence.

(D) *Drainage easements.* Where development is traversed by drainage works, adequate areas for storm drainage, including ponding, shall be recorded on the final plat, conforming substantially with the lines of such drainage works, and of sufficient width to carry off storm drainage and provide for maintenance and improvements. Adequate access for maintenance and equipment will be required. Generally, for underground storm drain pipe, the minimum width of the easement should be not less than 20 feet or the outside diameter of the pipe(s) in feet plus ten feet on each side of the pipe. Where open improved drainage channels, paved or unpaved, are permitted, the width of the easement shall

be a minimum of five feet on one side measured at the intersection of the existing ground and channel cut plus the width of the channel at the top ground level plus 20 feet on the opposite side to allow equipment to enter for maintenance operations. See Easement Sketch SK-1 in appendix B.

(E) *Street drainage.* Drainage system must be adequate to transport at least the 25-year frequency flood.

(1) The location of any surface or underground drainage pipe or structure shall not be changed without the approval of Darlington County.

(2) Where adequate existing public drainage structures, ditches and pipes are accessible, Darlington County shall require that the system proposed for the land being developed be connected thereto.

(3) Any existing manmade waterway shall be cleaned, graded and/or piped at the time of development depending upon drainage study requirements and subject to approval by Darlington County.

(4) Drainage pipe shall be minimum 18 inch diameter RCP, Class III, approved and stamped by S.C.D.H.P.T., joined with flexible plastic sealant, standard rubber O-ring or mortar mix conforming to S.C.D.H.P.T. Standard Specifications. Drainage pipeline crossing public roads shall be laid to the centerline of roadside ditches, at a minimum of 44 feet length and provide a minimum 12 inches of cover over pipelines for entire roadway width.

(5) Drainage ditches shall be designed and constructed with side slopes no steeper than 2:1 (two horizontal to one vertical). Roadside ditch depth may not exceed 3.65 feet measured from the elevation of the street centerline.

(6) Stormwater velocity in grass lined roadside and outfall ditches may not exceed three feet per second. Additional erosion control (rip rap) will be required for any ditch section(s) where the velocity exceeds three feet per second. Rip rap shall be placed in accordance with SCDOT standards.

(F) *Calculating stream flow and runoff.* An engineering report which includes the calculations for stormwater flow and runoff prepared by an engineer registered in South Carolina shall be furnished with the final plan submittal. The report shall provide calculations and map(s) designating appropriate floodplain boundaries (federal floodplain maps may be submitted when available) as well as the watershed boundaries for the project. Minimum design frequencies for calculating rainfall runoff shall be outlined below:

	Years
Residential	25
Light industrial and commercial	25
Heavy industrial and high value commercial	50
Flood protection works	100

Variance in design frequency shall depend upon the density of development, existing and expected; value of development; and cost effectiveness of design. The following criteria shall be used for calculating all stream flow and runoff for the policies and regulations established herein:

(1) Runoff from drainage areas of 500 acres or less shall be determined by the rational formula:

$Q = CiA$

(2) Runoff from drainage areas greater than 500 acres will be determined by use of hydrography or other engineering methods as approved by the county.

(3) The size of closed storm sewers, open channels, culverts, and bridges shall be determined by using the appropriate methods and formulas reported in the *Hydraulic Design of Highway Culverts* (Hydraulic Design Series No. 5), *Design of Roadside Drainage Channels* (Hydraulic Design Series No. 4), Federal Highway Administration publication, latest edition. Quality and erosion control may require rip rap, check dams and slope protection at some outfalls and shall be provided in conformance with Section 804 SCDOT Standard Specifications and Best Management Practices compiled by SC Land Resources and Conservation Commission.

(G) *Flood prevention.* The county reserves the right to require improvements to preclude any backup of tail water inundating any areas outside the dedicated drainage easements in the subdivision or development as a result of a 50-year frequency flood. Specific flood prevention guidelines are outlined in article three of this ordinance.

(H) *Erosion control.* Whenever graded earthen slopes are steeper than 4:1 (4 horizontal to 1 vertical), and in other areas where erosion is deemed potentially damaging by the county, grass seed shall be planted by hydroseeding, placing sod mats or seeding by hand and mulching.

(1) Hydroseeded grassing shall be performed using Method C (wood cellulose fiber tackifer) in accordance with S.C.D.H.P.T. Standard Specifications section 810.18. Grass seeded from August 15 - March 1 to be 90 lbs. per acre common bermuda (unhulled) and 30 lbs. per acre annual rye grass. Grass seeded from March 1 - August 15 is to be 60 lbs. per acre common bermuda (hulled) and 50 lbs. per acre brown top millet. Rate of 10-10-10 fertilizer application to be at 1000 lbs. per acre and agricultural lime shall be applied at a rate of 2500 lbs. per acre.

(2) Stand of grass shall comply with S.C.D.H.P.T. Standard Specifications section 810.13.

(3) Additional erosion control measures may be necessary where excessive siltation of drainage works occurs and where longitudinal slopes exceed five percent. Special drainage provisions must be approved by the county and may include silt fences, riprap, piping, silt dams, etc.

(I) *Storm drain pipe.*

(1) Storm drainage lines shall be staked at each box or at intervals of no less than 200 feet to check alignment and grade of the construction with the approved plans. This proposed use of any type of pipe, other than RCP, shall be considered on a case by case basis.

(2) The minimum allowable slope for storm drainage pipe shall be one-half of one percent.

(3) Any open storm drainage crossline pipe shall extend out to the toe of the roadway embankment. In no case will the end of the pipe be permitted within the roadway shoulder.

(4) Storm drainage pipe discharging into a retention/detention facility to include a pond or lake shall have the discharge invert above the 25-year storm elevation and rip rap shall be placed from the outlet point to the water level.

(5) A minimum of one foot of cover over the pipe shall be provided.

(6) An asphalt joint wrap shall be provided at all joints.

(J) *Headwalls.*

(1) All exposed ends of pipes shall be protected by a flared end section (limited to pipes 36 inches or less in diameter) or one of the following type headwalls.

(2) A poured concrete, or precast concrete, headwall. For pipe greater than 24 inches in diameter, wing walls are required.

(3) A rip rap headwall is acceptable for pipes 24 inches or less if both filter fabric and grout are used.

(4) Rip rap must extend up the side slopes and in front of the pipe for a distance of four times the diameter of the pipe.

(K) *Catch basins, drop inlets and junction boxes.*

(1) Materials and construction shall be as specified in Section 719 of the SCDOT specifications.

(2) Side inlet catch basins or junction boxes with concrete covers shall have a metal ring and cover cast within the top for easy access.

(3) When the depth of a catch basin or junction box exceeds four feet, rungs/steps shall be provided for ascent and descent. Steps are to be ASTM-C-478 or equivalent.

(4) The interior dimensions shall be three feet by three feet for pipes up to 24 inches in diameter. For pipes larger than 24 inches in diameter, the interior dimensions shall be at a minimum the diameter of the pipe plus one foot. Sides of brick structure shall be plastered with grout.

(5) All pipe entering or leaving shall not protrude more than four inches into the box.

(6) In the absence of a catch basin, junction boxes with stub pipes shall be required at both ends of a crossline pipe. Junction boxes will be required where stormwater changes direction.

(7) Catch basins and junction boxes shall contain a minimum drop of 0.2 feet from invert in to invert out.

(8) Floors are to be of concrete, and formed troughs to help channel flow are required.

(9) Within the catch basin or junction box, the elevation at the crown of any inlet pipe shall be equal to or greater than the crown of the outlet pipe.

(10) Catch basins and junction boxes shall be field staked.

(11) Area around all catch basins shall be backfilled in 12-inch lifts compacted to 97 percent Standard Proctor.

(L) *Detention ponds.*

(1) Detention ponds shall be designed using a traditional reservoir routing procedure.

(2) Outlet control structures shall be designed to limit the outflow to the predevelopment peak for a 25-year storm unless the pond is located on or adjacent to a significant drainage channel, in which case, the design shall be for a 100-year storm.

(3) Multiple outlets or the use of variable opening(s) such as a multi-staged discharge outlet control box(es), or "V-notched" weir is required.

(4) If the outlet control structure is less than 18 inches in diameter, the required size pipe shall be stubbed into a concrete box and an 18-inch pipe shall exit the box to the desired outfall point.

(5) All detention ponds shall have an emergency spillway designed to withstand the 100-year storm if the storage capacity is exceeded, larger ponds which fall under the Dams and Reservoirs Safety Act must comply with those regulations.

(6) All detention ponds shall have a minimum of one foot of freeboard.

(7) Detention pond side shall have side slopes 2:1 or flatter.

(M) *Retention ponds.*

(1) As a minimum, retention ponds shall provide storage capacity for a 25-year storm event and shall have an emergency spillway capable of withstanding a 100-year storm event.

(2) Retention ponds shall have side slopes of 2:1 or flatter.

(Ord. No. 92-15, § 4, 10-5-92; Ord. No. 96-12, §§ 8—18, 5-20-96; Ord. No. 06-1, § II, 2-6-06; Ord. No. 09-17, § I, 1-5-10; Ord. No. 12-05, § II, 6-4-12)

Sec. 5.7. Pollution, nuisance and hazard.

No development shall unreasonably contribute to pollution of the land, air or water, constitute a nuisance, or pose a hazard to life or property. Conformance with all existing local, state and federal statutes shall be construed as conformance with this provision.

(Ord. No. 156, 4-20-87; Ord. No. 90-12, 8-20-90)

Sec. 5.8. Lot and parcel design requirements.

All development subject to the ordinance involving the first division of land into lots or parcels on designated restricted access highways shall be submitted the planning commission for approval prior to the division of the property. All development subject to this ordinance involving the division of land into lots or parcels shall include, as a minimum, 20 feet of frontage on a publicly maintained road; provided, however, that the access to the 20-foot road frontage may take the form of an easement for up to six lots if the easement is shown on a plat to be recorded and referenced in a deed which plat clearly shows the easement and labels it as follows "Easement for Access and Utilities, only: Not A Public Road." Such easements may not exceed 200 feet in length unless the requirement is formally waived by the planning commission. Development sales beyond six lots do not take place along such easements. Any problems shall be reported to the Planning Commission.

(Ord. No. 92-15, § 8, 10-5-92; Ord. No. 96-12, § 17, 5-20-96; Ord. No. 17-09, § 2, 10-2-17)

ARTICLE SIX. HOW DEVELOPMENT PERMITS ARE REVIEWED AND APPROVED

Sec. 6. Development subject to permit.

All development, unless expressly exempted in section 6.1, shall be authorized by a permit approved in accordance with the provisions of this ordinance and issued by the Director of Planning as the duly Development Official of Darlington County.

(Ord. No. 07-15, § I, 10-15-07)

Sec. 6.1. Development exempt from permit.

To streamline the development process, exemptions may be issued through the summary review process outlined below. In all cases, summary approvals must be reported to the planning commission.

(A) The Development Official may issue summary approval for the following conditions:

(1) Any single-family residential structure on a tract of five acres or more on a public road, unless the tract is located within a special district as delineated in article three of the Development Standards Ordinance.

(2) All farm and farm-related structures, unless regulated by Chapter 3 (Agriculture) of the Darlington County [Code of] Ordinances.

(3) Development of up to five contiguous lots (including lots separated by a road or right-of-way), if located on an existing state or accepted county road which is shown on a plat prepared by a registered land surveyor using primary control points, including bearings, etc., and including normal certifications of accuracy.

   (a) No contiguous lot subdivision shall be approved by the Planning Official within two years of the approval of any three to five lot subdivision created by the same developer. This includes any additional lot(s) contiguous to said approved subdivision out of the same parent tract, whether created or existing. Any such further development shall be approved by the Planning Commission. The intent is to encourage developers to submit phased plans.

(Ord. No. 07-15, § II, 10-15-07; Ord. No. 15-01, § I, 4-6-15)

Sec. 6.2. Approval by planning commission required.

The Development Official shall issue no development permit for a subdivision and communications towers under the provisions of this ordinance without the approval of the Darlington County Planning Commission. The Development Official shall be authorized to issue a development permit for other developments covered by this ordinance, including but not limited to, mobile home parks, developments in the floodplain, outdoor advertising signs, and nonresidential site developments. If approval is granted, the permit shall authorize the applicant to:

(A) Commence all improvements to the land and the construction of all support facilities according to the approved plans.

   1. After all improvements to the land (such as road and drainage construction) are completed according to the approved plans and approved by the Development Official, the subdivision plat may be recorded.

(B) Commence the construction of all buildings and facilities on the approved site once a Building Permit is issued.

(Ord. No. 07-15, § III, 10-15-07)

Sec. 6.3. Conditions for subdivision or development plan approval.

(A) The applicant has complied with the procedures of this ordinance and has furnished all information and data required by this ordinance.

(B) The development plan or subdivision complies, as a whole and in part, with the provisions of the Development Standards Ordinance.

(C) The applicant has established adequate legal safeguards to insure compliance with the approved development plan, and to provide for adequate management of the development regardless of future ownership or control of the land or facilities thereon.

(D) The applicant has posted all bonds and performance guarantees specified by the permit.

(E) The applicant is required to meet applicable DHEC regulations in order to receive septic tank approval for all proposed lots in the subdivision, or approved phase thereof, prior to submitting the plat to the Darlington County Clerk of Court's office for recording. This requirement shall not apply to lots which will be served by public sewer.

(F) The applicant is required to meet all other local, state or federal regulations which are applicable to the development.

(G) The applicant has paid all required fees prior to plan review. The county assesses a nonrefundable fee according to the following schedule (unless exempted by state or federal law or by this ordinance):

DARLINGTON COUNTY DEVELOPMENT FEES			
Development Activity	**Fee**	**Development Activity**	**Fee**
Subdivision Reviews		***Plan Reviews***	
Plat Review (1—2 lots)	$25.00	Residential (1 lot)	$25.00
3—5 lots (no new streets)	$100.00	*Commercial	$500.00 $250.00 For Churches and Non-Profit Organizations
6+ lots (no new streets)	$100.00 +$10.00/lot	Industrial	$500
S/D w/ new pubic streets	$400.00 +$25.00/lot	Mobile Home Park	$250.00
S/D w/ new private streets	$300.00 + $20.00/lot	Billboards	reserved
Street Name Application	$25.00	Variance	reserved
Street Signs	Cost of signs	Floodplain	$250.00
Camper Site/Camper Park		***Renewable Energy***	
Mini-Camper Site	$30.00	Solar/Wind Farms	$400.00 plus costs
Camper Park	$100.00	Integrated Systems	$25.00
Mixed-Use Camper Park	$150.00	***Stormwater (land disturbance 1 or more acres)***	
Cell Towers		Countywide	$125
New Towers	$2,000.00 plus costs	MS4 District only	$300.00 +$100.00/acre
Upgrade & Co-locations	$500.00	As-Builts	$25.00

* Commercial includes, but not limited to, apartments, multi-family dwellings, churches, office, and uses where commerce takes place.

(Ord. No. 94-18, § 1, 12-19-94; Ord. No. 07-15, § IV, 10-15-07; Ord. No. 15-14, §§ 1—3, 6-1-15; Ord. No. 17-13, § 1, 11-6-17)

Sec. 6.4. Denial of permit.

The planning commission shall deny approval of a development permit only if it finds that the proposed development does not comply with the provisions of this ordinance.

Sec. 6.5. Rights attaching to development permits.

(A) Changes in a development ordinance which becomes effective after an application for a development permit has been filed but before the permit has been granted will not apply to the pending application unless the ordinance provides otherwise.

(B) The expectation that a development permit could be obtained does not create any rights that prevent change of a development ordinance. A change in a development ordinance which becomes effective after a development permit has been granted will not affect the developer's right to begin or complete development in accordance with the permit.

(C) A development permit is assignable but an assignment does not discharge any assignor from any obligation owed to the local government in connection with the development, unless the Darlington County Council consents to the discharge of the obligation.

Sec. 6.6. Expiration of development permit.

Any permit approved under the provisions of this ordinance shall become invalid two calendar years from the date of its issue.

The development official will follow the guidelines of Article 14, Vested Rights, for the extension of the development permit.

(Ord. No. 15-14, § 4, 6-1-15)

Sec. 6.7. Variances.

6.7.1. [*Generally.*] The planning commission may approve development not in compliance with the provisions of articles four, five, seven (section 7.9.1.2), nine, twelve, and thirteen (section 13.12.2) of this appendix, if compliance with these provisions would cause practical difficulties as defined below, and if the proposed development:

(A) Differs from development which would be permitted under the general development provisions no more than is necessary to overcome the practical difficulties;

(B) The granting of the variance will not be detrimental to the public health, safety and welfare, or injurious to other property.

Practical difficulties:

(1) The parcel has unusual physical characteristics shape or topography in relation to surrounding parcels.

(2) The unusual physical characteristics existed at the time regulations were adopted.

(3) The unusual physical characteristics were created after ordinance adoption by natural forces or by government action for which no compensation was paid.

6.7.2. *Orphan roads program.* The planning commission may approve development not in compliance with the provisions of articles four, five and nine of this ordinance if the planning commission deems it eligible for classification as an orphan road project. Eligibility for classification, development and acceptance of orphan roads shall be governed by Appendix F, Orphan Roads Program.

6.7.3. *Connector roads open to and in continuous use by the public since April 15, 1965, orbefore.* The planning commission may grant variances from the requirements of this ordinance in recommending to county council the acceptance of existing roads which have been open to and in continuous use by the public for 20 years or more prior to the adoption of this Ordinance No. 130. Minimum right-of-way width requirements shall be enforced with no variance below 50 feet, unless under the orphan road program. In recommending acceptance of a road under this variances provision, the planning commission shall find that acceptance of the road meets the following criteria:

(A) The road connects two other public roads which are maintained by the county or the state;

(B) The road has, within the right-of-way or available existing drainage facilities, positive drainage which at least approximates the standards set forth herein;

(C) The planning commission finds that the benefit and use to be ensured to the public at large by public maintenance of such a road is substantial, according to criteria it shall establish, which may include implementation and/or furtherance of the goals of the official Darlington County transportation improvement plan; and

(D) The planning commission has obtained from adjacent property owners the necessary surveyed plats of road and drainage rights-of-way and that an irrevocable conveyance of such rights-of-way have been properly executed by persons having any possible claim to the property involved and that such conveyances are in the possession of the planning commission for recording in the office of the clerk of court subsequent to council's acceptance of the right-of-way.

Where controversy or questions exist about the eligibility of such roads, affidavits of persons owning property along the road since April 15, 1965, or persons routinely using the road since that time shall be placed on file with the commission.

(Ord. No. 90-12, 8-20-90; Ord. No. 91-3, § 8, 5-20-91; Ord. No. 92-15, §§ 7, 8, 10, 10-5-92; Ord. No. 01-1, § 1, 4-2-01, Ord. No. 04-12, § 1, 10-4-04)

Sec. 6.8. The county as developer.

(A) *Policy.* The county will not build roads except in exceptional circumstances or in bona fide emergency situation. Any road building or development project must be approved by county council on the following basis:

(1) Plans for the construction of the road and supporting drainage system must be approved by the planning commission according to the procedures established in Ordinance No. 130, Development Standards Ordinance. These procedures provide for the permanent and irrevocable transfer of the road right-of-way to the county as is to be depicted on a surveyed plat. Said plat also shall depict the necessary drainage easements. The plat and conveyance shall be recorded in the office of the clerk of court of Darlington County after construction of the public improvements according to the approved plans.

(2) The public benefit and use must be substantial in considering whether the county should construct or develop a road. All roads so constructed or developed shall be done according to the procedures and standards of this ordinance, except for temporary roads constructed in emergency situations or for service roads connecting public facilities on publicly owned tracts of land. Categories of roads which may be considered of substantial benefit to the public include those developed for:

(a) Industrial development projects;

(b) Orphan road projects;

(c) Connector roads; and

(d) Emergency access roads

(3) All subdivision roads must be constructed by the landowner or developer according to the standards and procedures of this ordinance before any agreement to maintain the same would be entered into by the county. The county shall not construct new subdivision roads or private driveways and lanes.

(B) *Industrial development.* The county may serve as owner/developer for purposes of developing public improvements under the provisions of Ordinance No. 130 if such development is under the auspices of the Darlington County development board. The board shall report its findings to county council concerning any such project as follows:

(1) The ultimate goal or benefit to the public intended by the project (i.e., generating a certain number of jobs, facilitating so many dollars capital investment, implementing approved industrial infrastructure plans, etc.);

(2) A determination that the public will be primary beneficiaries of the project, including the reasons for this determination;

(3) The extent to which the project is or is not speculative in nature, and why; and

(4) The probability that the project ultimately will serve the public interest, and to what degree.

(C) *Orphan road projects.*

(1) Improving and providing public facilities in existing substandard neighborhoods for low-to-moderate income facilities is a public purpose recognized and institutionalized by state, federal and local governments.

(2) Orphan road projects shall be implemented only on eligible rights-of-way and according to the standards and procedures established in Appendix F.

D. *Connector roads.*

(1) Improving vehicular traffic flow, diverting traffic from congested areas, and decreasing traffic in highly populated areas is a recognized public purpose.

(2) The county may acquire right-of-way and develop roads connecting two existing publicly maintained roads, following the procedures and standards established herein if county council finds that:

(a) The current or projected daily traffic count on at least one of the two existing roads to be connected is 2500 per day;

(b) The planning commission recommends and the county council determines that the general traveling public will be the primary beneficiaries of the project; and

(c) The project is consistent with the county transportation improvement plan or an industrial development project under the auspices of the economic development board.

E. *Emergency access roads.*

(1) County council may exercise its emergency powers under Ordinance No. 151, as amended, to direct that a temporary access road be constructed on private property for response to emergency situations anticipated by the Darlington County emergency operations plan.

(2) The county administrator may direct county forces to construct a temporary access road on private property in response to an emergency situation as directed by a legally authorized state or federal official.

(Ord. No. 92-5, § 8(6.8), 10-5-92)

ARTICLE SEVEN. ADMINISTRATION, ENFORCEMENT, APPEAL COMPLAINTS AND REMEDIES

Sec. 7. Purpose.

This article establishes an agency responsible for the administration and enforcement of this ordinance; specifies the powers of the agency; sets forth procedures for the filing of development applications and the

issuance of permits including the establishment of time limits; establishes the foundation and procedures for the appeal of rulings made under this ordinance; and sets forth remedies and penalties for violation.

Sec. 7.1. Powers of the administering agency.

The Darlington county council delegates the authority for administration and enforcement of this ordinance to the county administrator or county employee designated by the county administrator as the county development official. The county development official shall exercise the following duties:

(A) The preparation and publication of rules of procedure relating to the administration and enforcement of this ordinance, as approved by the planning commission.

(B) The issuance of permits in accordance with the provisions of this ordinance.

(C) All other responsibilities and powers granted by the ordinance.

Sec. 7.2. Powers of the planning commission.

The planning commission shall exercise all authority lawfully delegated to it by the enabling statute under which this ordinance is enacted. More explicitly, the planning commission shall:

(A) Review, and approve or disapprove all permit applications in accordance with the provisions of this ordinance.

(B) Review and recommend action to the Darlington county council pertaining to any proposed amendment to the ordinance.

Sec. 7.3. Permit applications.

All applications for development permits under the provisions of this ordinance shall conform to the procedures and requirements of this section.

All applications and accompanying plans must be received by the planning commission office at least two weeks prior to the desired planning commission meeting date.

Applications for preliminary or final approval expire one year after submittal. The date of submittal is defined as the date which the planning commission granted approval of the application. To receive consideration, an expired application must be resubmitted in accordance with the current requirements of this ordinance.

(Ord. No. 91-3, § 9, 5-20-91; Ord. No. 92-15, § 6, 10-5-92)

Sec. 7.4. Preliminary conference.

Prior to the filing of a formal application, the applicant is encouraged to consult with the development official for comments and advice on the procedures, specifications, and standards required by the ordinance. The development official or a designated representative shall be available for such purposes at the request of the applicant at a time mutually agreeable to both parties.

Sec. 7.5. Preliminary application.

The owner, developer or otherwise responsible agent may initiate the permitting procedure by filing a preliminary application with the development official in accordance with the provisions of this section.

7.5.1. *Filing fees.* The preliminary application shall be accompanied by such filing fee as set by Darlington county council. The filing fee may consist of a general fee per application, plus a fee per lot or acre. No action by the development official shall be taken until the filing fee is paid. This fee shall not be refunded should the applicant fail to file final application for the development permit or should the preliminary application be disapproved.

7.5.2. *Format and content.* The preliminary application shall contain:

(A) The names and addresses of the owner(s) of record and the applicant if different from the owner.

(B) The proposed name of the development.

(C) Names of the owners of contiguous parcels and an indication of whether or not contiguous parcels are developed.

(D) A map showing:

(1) The general location, dimensions, name and description of all existing or recorded streets, alleys, reservations, easements, or other public rights-of-way within the tract, intersecting or contiguous with its boundaries or forming such boundaries.

(2) The general location, description and name of all existing or recorded parks, public areas, permanent structures and other sites within or contiguous with the tract.

(3) The general location, dimensions, description and flow line of existing watercourses and drainage structures within the tract or on contiguous tracts.

(4) The location of municipal limits or county lines and district boundaries if they traverse the tract, form part of the boundary of the tract, or are contiguous to such boundary.

(5) The general drainage plan and ultimate destination of water runoff, and possible storm sewer, water, gas, electric, and sanitary sewer connections.

(6) The proposed road names. A developer may reserve needed road names upon the approval of the preliminary development application. All street names must meet the guidelines specified in the Street Naming and Property Numbering Ordinance (Ordinance 89-10). These street names will be reserved for a maximum of two years.

(7) The approximate location of any floodplain as identified on the county's flood insurance rate maps (FIRM).

(E) A site plan showing:

(1) The general location, dimension, description and name of all proposed buildings, streets, alleys, utility structures, parks, other public areas, reservations, easements or other rights-of-way, blocks, lots and other sites within the tract.

(2) Topographical information at contour interval of not more than five feet.

7.5.3. *Preliminary application processing.*

(A) Upon receipt of the preliminary application, the development official shall review the application for conformity with the format, and content requirements of this section. If discrepancies are found, the development official shall within ten working days notify the applicant of all discrepancies and return the application for correction.

(B) If the development official finds that the preliminary application conforms to the format and content provisions of this section, the development official shall record the application and the date of its receipt, and shall submit the application to the planning commission at its next scheduled meeting. This submittal to the planning commission shall constitute the filing date.

(C) The planning commission shall review all preliminary applications and may, at its discretion, call a public hearing in accordance with the provisions of this article. Within 30 working days of the application filing date, the planning commission shall take one of the following actions.

(1) Approve the preliminary application.

(2) Approve the preliminary application with conditions.

(3) Disapprove the preliminary application.

(D) The applicant shall be notified in writing of the action by the development official. If the preliminary application is disapproved, the written notice to the applicant shall specify the reasons for the disapproval.

7.5.4 *Right attaching to preliminary application approval.* Approval of the preliminary application by the planning commission shall be deemed an expression of approval of the development concept and site design submitted, and authorizes the applicant to proceed with more detailed planning and design. Approval of the preliminary application to record a subdivision plat, or to commence development activity of any kind.

Sec. 7.6. Final application.

The applicant may initiate the final approval procedure by filing a final application with the development official in accordance with the provisions of this section.

7.6.1 *Filing fees.* The final application shall be accompanied by such filing fee as set by Darlington county council. The filing fee may consist of a general fee per application, plus a fee per lot or acre. No action by the development official shall be taken until the filing fee is paid. This fee shall not be refunded should the final application be disapproved. Amendments required by the planning commission will be reviewed with no further cost to the developer. Amendments submitted by the developer will be charged the regular per lot or acre fee.

7.6.2 *Bonding requirements.* At the time of filing for final application, the planning commission may require the applicant to post a performance bond in an amount estimated by the planning commission as sufficient to secure the satisfactory construction, installation and dedication of the incompleted portion of required improvements. These improvements would include streets and curbs, sidewalks, utilities, drainage systems and other necessary public facilities. Bonds will not be required on residential or commercial structures.

7.6.3 *Format and content.*

(A) A final plan and accompanying data conforming to the preliminary plan conditionally approved by the planning commission, incorporating any and all changes, modifications, alterations, corrections and conditions imposed by the planning commission.

(B) A legal description of the property and boundary survey with computed acreage of the tract bearing the seal of a registered land surveyor shall be submitted with the final plan and shall include:

(1) Identification features:

—Approved name of subdivision, including phase as applicable and street names conforming to 911 requirement

—Name and complete mailing address of developer

—Name, complete mailing address and registration number of surveyor

—Name, complete mailing address and registration number of engineer, if the subdivision required engineered drawings

—Plat date and revision date if any

—Tax map number(s) of project's parent parcel(s)

—Total acreage to be subdivided

—Total number of lots

—Scaled vicinity map

(2) Survey details:

—All bearings, distances and labels for the project perimeter boundary, individual parcel boundaries, areas dedicated to public use, right-of-way and easements including off-site easements.

—Sufficient data to determine readily and reproduce the ground location, bearing and length of every road centerline, subdivision boundary line, lot and block line, whether curved or straight. This shall include the radius, central angle and tangent distance for the centerline of curved streets. Curved property lines shall show the arc or chord distance radii. Provide coordinates for the main entrance road intersection compatible with the State Plane Coordinate System.

—All dimensions to the nearest 0.01 of a foot and angle to the nearest minute.

—Locations and description of all monuments.

—Scaled layout of all existing or proposed water or drainage features to include 100-year flood boundaries or 100-year high water marks. Plats that include a 100-year high water mark must bear the seal of a registered engineer in the State of South Carolina.

—Deed record names and locations of property owners adjacent to project perimeter boundary.

—Individual lot acreage.

(C) The location of primary control points or descriptions, and ties to such control points to which all dimensions, angles, bearings, block numbers and similar data shall be referred. The primary control point shall be a public road intersection or other approved permanent feature. Plats will be tied to existing public road intersections by traversing to the point of centerline intersection and showing the directions of the centerlines of the intersecting roads. In all cases, plats will follow the guidelines established in the South Carolina Coordinates Act.

(D) A site plan showing:

(1) The exact location, dimensions, description and name of all proposed buildings, streets, alleys, utility structures, parks, other public areas, reservations, easements or other rights-of-way, blocks, lots and other sites within the tract.

(2) Topographical information at a contour interval of not more than two vertical feet based on U.S.G.S. mean sea level (MSL) datum, with benchmark description and location indicated. (Road intersections of known MSL elevation are acceptable.)

(3) The certification by a registered surveyor that the site does not contain any area within a floodplain as regulated in article three of this ordinance or the exact location, dimension and description of flood prevention data to include the floodplain, base flood elevations, the area of special flood hazard and the floodway as defined on the county flood rate

insurance maps (FIRM). The flood rate insurance maps are filed in the county tax assessors office.

(E) The following site improvement data. All plans and engineering calculations shall bear the seal of a registered professional civil engineer and shall conform to all special conditions imposed by special district requirements as delineated in Article Three.

If the subdivision will be developed in phases, a composite of the lot layout, street layout, drainage plan and topographic information must be provided for the entire site (all phases) at the time that the first phase is submitted for approval to include as a minimum:

(1) Plan sheets/drawings shall be a standard size of 24 inches by 36 inches, having the profile at the bottom and plan with topographic overlay (two vertical foot intervals) at the top.

(2) All elevations shall be in the datum of mean sea level.

(3) Scales shall be: Vertical one inch equals two feet minimum and horizontal one inch equals 50 feet minimum.

(4) All profiles shall be submitted on full sized sheets.

(5) Each sheet must show a plan above the proposed profile on which must be shown:

(a) Stations along the centerline of the proposed road with appropriate ties at intersecting street.

(b) The width of the right-of-way and name of the proposed roads and existing roads shown.

(c) Alignment information, including curve data with P.C., P.T. and P.I., angle points, angles at intersections and other related pertinent information.

(d) Arrows showing the direction of drainage along drainage way and at intersections.

(e) Existing utility lines, utility structures and drainage structures with type and size together with existing drainage rights-of-way.

(f) Proposed utility lines, drainage structures and drainage rights-of-way.

(g) Bench marks with locations, descriptions and datum, etc.

(6) Profiles shall show:

(a) The existing street centerline plotted from elevations taken, showing all breaks in grade, but in no case more than 100 feet apart. Profile shall include existing street to which tie is being made for a distance of at least 200 feet.

(b) Proposed street centerline profile with centerline elevation every 50 feet on vertical curves, at 100-foot stations along straight grades and at intersections.

(c) Vertical curve data.

(d) Proposed and existing storm drains, sanitary sewers, water mains, pipe underdrains and crossline pipes, including storm drainage profiles.

(e) Related and pertinent drainage data including drainage area, runoff coefficient, time of concentration (with computations), average rainfall intensity, runoff, and slope (feet per foot) for each line of pipe and each ditch or canal, unless this information is shown on a separate detailed drainage sheet.

(f) Existing and proposed grades of all ditches and swales on site to include existing and proposed outfall drainage ways.

(F) Deed restrictions, articles of incorporation, bylaws of a homeowner's association and other legal documents pertaining to the operation and management of the proposed development.

(G) Documentation of compliance with all appropriate county, state and federal regulations and permitting procedures. This shall include SCDHEC certification of suitability for septic tanks, if applicable. It shall also include documentation of compliance with regulations governing flood damage prevention, mining, wetlands protection, etc., as applicable.

7.6.4 *Final application processing.*

(A) Upon presentation of the final application, the development official shall record the application and the date of its receipt. Within ten working days, the application will be reviewed by the development official for conformity with format and content requirements. If discrepancies are found, the development official will notify the developer of all discrepancies and return the application for correction.

(B) If the final application conforms to the format and content provisions of this ordinance, the development official shall submit the application to the planning commission for final review at its next scheduled meeting. Such submittal to the planning commission shall constitute the filing date.

(C) Within 30 working days after receipt of the final application from the development official, the planning commission shall take one of the following actions.

(1) Approve the application;

(2) Disapprove the application; or

(3) Approve the application with conditions.

With respect to Item (3), the approval and subsequent issuance of the development permit is to be withheld until all specified conditions are sufficiently met, to be determined by the development official. Should the fulfillment of the outstanding condition(s) require that the original application be altered, the conditional final approval will be null and void, and the applicant will be required to resubmit a revised application to the planning commission for it to consider for approval during a regularly scheduled meeting. The number of conditions is limited to two.

Alteration of the original application shall mean, but not be limited to mean, changes in property lines, changes in driveway or road locations, deviation from original grading plan or drainage design.

(D) In the event the planning commission approves the application, the development official shall issue a permit authorizing the applicant to commence development.

(E) If the permit is denied, the development official shall notify the applicant of such action in writing specifying the reasons for such denial.

(F) In the event the planning commission does not take action within 30 working days of receipt of the final application, the application shall [be] considered approved and a certificate to that effect shall be issued by the planning commission upon demand.

(Ord. No. 96-12, §§ 18, 19, 5-20-96; Ord. No. 08-24, § I, 12-15-08)

Sec. 7.7. Documentation of rulings.

Any ruling made by the Darlington county council, the development official or the planning commission under the provisions of this ordinance shall be issued in writing and shall include written findings of fact and

conclusions, together with the reasons therefor to the extent practicable. Conclusions based on any provision of this ordinance shall contain a reference to the provision relied on.

Sec. 7.8. Prohibitions to filing for development.

(A) No subdivision plat or development plan shall be filed unless a valid development permit has been approved under the provisions of this ordinance.

(B) No building permit shall be issued by the county unless a valid development permit has been approved under the provisions of this ordinance.

(C) No agency, public or private, shall repair, maintain, install or provide any streets or public utility services to any development unless a valid development permit has been approved under the provisions of this ordinance.

(D) No agency, public or private, shall sell or supply any water, gas, electricity, or sewer service within any development unless a valid development permit has been approved under the provisions of this ordinance.

Sec. 7.8.1. Enforcement.

The responsibility for the enforcement of this ordinance is delegated to the development official.

(A) Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall properly record such complaint, immediately investigate, and take whatever action is necessary to assure compliance with this ordinance.

(B) If the development official shall find that any of the provisions for this ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it.

(C) In case any development is undertaken in violation of this ordinance, the development official, the county council or its agent, or any person aggrieved may, in addition to other remedies provided by law, institute an injunction, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful development.

Sec. 7.8.2. Penalties.

Any person violating any provisions of this ordinance shall be guilty of a misdemeanor and shall be prosecuted according established for misdemeanors for each offense. Each day such violation continues, after notice, shall constitute a separate offense.

Sec. 7.8.3. Appeals.

Pursuant to S.C. Code 1976, § 6-29-1150.

(Ord. No. 23-19 , § 1, 1-2-24)

Sec. 7.9. Acceptance of public improvements.

7.9.1. *Private and planned unit development.* Street and drainage improvements primarily or solely within planned unit developments (private manufactured home parks, apartment complexes, condominium complexes, etc.) will not be accepted into the county system. Article X, section 5, of the South Carolina Constitution provides

that the expenditure of public funds (for road maintenance, etc.) may be for public purposes only. By definition, work within planned unit developments and on private property primarily benefits the private property owner(s).

7.9.1.1 *Private subdivision.* A subdivision, paved or unpaved, intended for the exclusive use by the developer, the lot owners and their guests. For the purpose of this definition, "the public" may not be privileged to the use of this area and shall not be responsible or liable for street and drainage repair, or any other maintenance normally provided by public tax dollars. No private subdivision in Darlington County shall exceed eight lots in size under section 7.9.1.2 of this ordinance.

7.9.1.2 *Small private development standards.*

(A) Restrictions of development:

(1) There will be only one (1) small private development permitted to be developed on any one individual tract of land, regardless of size of tract.

(Definition of "Tract": a continuous expanse of land with boundaries that are specified by a survey, or in the event there is no survey, by agreement of affected property owners.)

(2) This type of development is to be restricted to one of the two following conditions:

a. To divisions where lots are created to be conveyed to family members only. (For the purpose of this restriction, "family" is to be defined as members of one's family by blood or by marriage or by agreement of the family member(s) who own(s) the property to be divided. Discretion is given to the planning commission to decide whether the intent of this restriction [is] met.)

b. To divisions where there is a common interest, to include common ownership of the roads and rights-of-way, between grantor and grantees. (For the purpose of this restriction, the grantor and grantees and common ownership must be identified before final approval for this development. Furthermore, there must be a written agreement identifying the common interest and how it will be carried out signed by all parties.)

(3) There will be only one roadway constructed within the development, whether a 35-foot (35') right-of-way (1- to 4-lot development) or a 66-foot right-of-way (over 5- to 8-lot development) - (see below for individual requirements).

(4) The above referred-to development may contain up to a maximum of eight (8) lots with one new roadway serving all lots within development.

(5) A development may begin with one (1) to four (4) lots with a thirty-five-foot (35') roadway right-of-way, then upgraded to the maximum eight-lot development provided the following requirements are met:

1. The existing 35-foot (35') roadway right-of-way is developed into a 66-foot road right-of-way (see requirements for 5- to 8-lot development) meaning existing lot owners will have to be willing to provide the additional right-of-way (by deeding to homeowners association) with the 66-foot right-of-way extending back to provide access to all lots located within the development

2. At such time a development is extended beyond the 1- to 4-lot development the requirements of the "5 to a maximum of 8 lots" development as listed below must be met.

3. A survey showing a 66-foot road right-of-way with new lot layout is submitted to planning commission for "approval" along with proof the additional road right-of-way has been secured from the existing property owners located along the previously thirty-five-foot (35') road right-of way.

(B) Small developments defined as one (1) to four (4) lots, with access to lots within development not fronting on a publicly maintained highway shall comply with the following:

(1) The roadway for the development shall be privately owned and maintained.

(2) The roadway shall be the property of a homeowners association held in common (all property owners within development being part of the homeowners association). The homeowners association will be solely responsible for the perpetual maintenance of the roadway and any improvements to the said roadway that is located within the development as well as the annual real estate taxes for area of the roadway right-of-way.

(3) The creation of the Homeowners Association (HOA) shall include the following:

- A statement that a major purpose of the HOA is to own and maintain the road.
- An operation and maintenance plan for the road.
- A statement that, upon the transfer of title to a lot in the subdivision, each new lot owner (grantee) automatically becomes a member of the HOA.
- A statement that the HOA is authorized to assess and collect regular fees sufficient for the ongoing maintenance of the road and its drainage.

(4) The roadway shall originate at a public road at one end only in order to eliminate through traffic.

(5) If two (2) or more acres total, including lots and roadways, are involved in the development, storm water permits shall be required from DHEC.

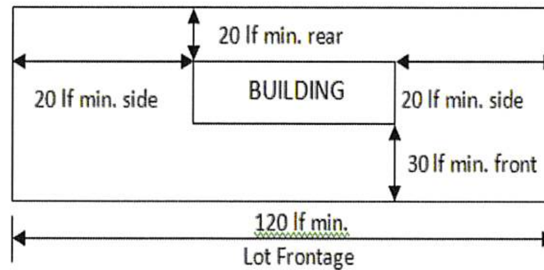
(6) An original survey with surveyor's seal shall be required showing the development's lot and road layout as well as listing tax map number parcel is being derived from. Roadway must be labeled as "privately maintained" roadway on survey. Road "name" must also be shown on survey with road "name" having received prior approval by Darlington County E-911 Addressing Technician. This will be the survey "approved" by planning commission for recording in the Office of the Clerk of Court for Darlington County.

(7) Each lot is to contain one (1) single-family residence only. No additional housing units such as mobile homes or apartments shall be permitted.

(8) Lot size and setback requirements:

a. Lot road frontage widths are to be a minimum of one hundred and twenty (120) feet with a depth to accommodate a building setback requirement of twenty (20) feet from lot's back property line as well as DHEC lot size requirement for septic systems. Lots located on a cul-de-sac may have a minimum road frontage of fifty (50) feet. The number of lots on the cul-de-sac shall be limited to five (5).

b. Building setback lines are to be shown on survey of lot layout with distances to be linear distances measured from property lines inward with setback requirements for each lot to be a minimum of thirty (30)lf measured from the front property line and a minimum setback of twenty (20)lf from each side property line with the setback from the back property line being a minimum of twenty (20) lf also, as shown below:



c. Residences or other principal structures such as garages, pools, etc. may not intrude over building setback lines.

d. Each lot is subject to two (2) types of setback requirements which are:

1. Road right-of-way along the front property line; and

2. The above described building setback lines.

e. A building setback area may be used for an accessory activity such as parking, unless otherwise provided in the ordinance.

(9) Septic tank approval from DHEC for each lot must be submitted to planning commission prior to development being approved by planning commission.

(10) The road(s) in these small private developments shall meet the following standards:

a. No road shall exceed one thousand feet (1,000') in length.

b. The road(s) shall have a minimum driving surface of twenty feet (20') in width.

c. The road(s) shall have a minimum of three inches (3") of slag or stone base so as to provide all-weather driving capabilities.

1. Family transfers are exempt from this requirement.

d. All roads in private subdivisions shall be posted at the beginning of the road with a sign that reads "PRIVATE ROAD - NOT COUNTY MAINTAINED".

1. The developer of the road shall be responsible for stop and street sign(s) as required for 911 response and safety purposes.

e. The road(s) shall be crowned or graded such that stormwater will run off the 20 feet driving surface.

f. The road(s) shall have as a minimum one (1) turnaround at the dead end of the road as approved by the fire district with jurisdiction.

g. The travel area shall be maintained so as to provide a minimum clearance of 20 feet in width and 13½ feet in height.

h. The road(s) shall be compacted so as support the imposed loads of fire apparatus equipment.

i. The radius of any curve in the road(s) shall not be less than 100 feet.

j. The new subdivision road shall have an approved connection to the public road as authorized under encroachment permit by either SCDOT or the county.

(C) Small developments of five (5) lots to a maximum of eight (8) lots shall comply with the following requirements:

(D) Each lot deed as well as all surveys, whether for an individual lot or survey for entire development, must have the following statement included as part of said documents:

7.9.2. *Street dedication.* All streets designed to be incorporated into the county road maintenance system must have rights-of-way deeded to the county before maintenance will begin. (See appendix C-1 for right-of-way deed application and appendix C-2 for memorandum of agreement and acceptance).

(Ord. No. 90-12, 8-20-90; Ord. No. 91-3, 5-20-91; Ord. No. 96-12, § 19, 5-20-96; Ord. No. 98-22, 12-7-98; Ord. No. 00-5, § 1, 5-15-00; Ord. No. 06-16, § II, 9-5-06; Ord. No. 07-10, § II, 6-4-07; Ord. No. 09-14, §§ II, III, 11-16-09; Ord. No. 11-03, §§ II—IV, 6-6-11; Ord. No. 11-16, § 2—12, 11-7-11)

ARTICLE EIGHT. AMENDMENTS

Sec. 8. Introductions.

This ordinance including the official district map may be amended from time to time by the Darlington county council in accordance with the provisions of this article.

Sec. 8.1. Review by planning commission required.

The Darlington county council shall not adopt an amendment to this ordinance until the proposed amendment has been transmitted to the Darlington county planning commission for comments and recommendations and either:

(A) The Darlington county planning commission has transmitted its comments and recommendations to the Darlington county council and these comments have been made available to the public at least 15 calendar days prior to adoption of the amendment; or

(B) Ninety calendar days have elapsed since the proposed amendment was submitted to the Darlington county council.

Sec. 8.2. Public hearing required.

The Darlington county council shall not adopt any amendment to this ordinance until at least one public hearing has been held.

Sec. 8.3. Public hearing.

Public hearings required or called under the provisions of this ordinance shall proceed in accordance with this section.

(A) At least 15 calendar days in advance of a hearing the development official shall publish notice of the hearing in a newspaper of general circulation, and shall give notice individually to the following:

(1) The developer, property-owner or applicant;

(2) Any other person, agency, or organization that has filed with the development official a request to receive notices of hearings and has paid a reasonable fee therefore;

(3) Any other person, agency or organization that may be designated by this ordinance.

(B) The notice shall:

(1) Give the time and place of the hearing;

(2) Contain a statement describing the subject matter of the hearing; and

(3) Specify the officer or employee of the development official from whom additional information can be outlined.

(C) The notice shall specify the governmental authority, commission, agency or officer responsible for conduct of the hearing and before which the hearing shall be held, and shall designate the presiding officer.

(D) A written statement giving the name and address of the person making the appearance, signed by him or by his attorney, and filed with the presiding officer, constitutes appearance of record. The parties to a hearing shall be any of the following persons who has entered an appearance of record either prior to commencement of the hearing or then permitted by the presiding officer.

(1) A person entitled to notice under (A) subsection (1).

(2) The representatives of any department or agency of Darlington County.

(3) A person who satisfies the presiding officer that he has a significant interest in the subject matter of the hearing.

(E) The development official shall make or have made a record of the hearing. Such record shall be made available to any person under reasonable time and condition.

ARTICLE NINE. ENCROACHMENT PERMITS

Sec. 9. Conformance.

When it is necessary for any individual, corporation, firm and/or their contractors and agents to install or construct utility lines, services, and appurtenances within a county right-of-way or to pursue any construction operation, a written permit shall be obtained from the county. If a state permit is required in connection with the work, then a county permit will not be necessary, except for that part of work, if any, which is solely on county right-of-way. (Note: Encroachment for agricultural purposes is not considered necessary, and any cases of such on county right-of-way will [be] subject to enforcement of the penalties of this ordinance.)

Affected roads. Prior to the requirement of any permit pursuant to Article 9 of Ordinance 130, the county shall compile a complete list of county roads, which list shall be continuously updated. Right-of-way width information also shall be listed, as available. (Note: Right-of-way problems may include: old plats not being recorded; rights-of-way of varying widths; prescriptive right-of-way only as wide as the scraped surface; etc.)

(Ord. No. 91-3, § 12, 5-20-91)

Sec. 9.1. Application process.

If a permit is required prior to beginning work, the applicant shall prepare a drawing of the proposed work showing the location and details of such work. This shall be submitted to the county at least two weeks prior to the date the permit is desired. Simple service connections will be given a high priority and will be returned within seven days.

This permit shall be kept at the work site at all times while said work is under way and must be shown to any representative of the county or law enforcement officer on demand.

(Ord. No. 91-3, § 12, 5-20-91)

Sec. 9.2. Standards of construction.

A. Protection of highway traffic. Adequate provisions shall be made for the protection of the highway traffic at all times. Necessary detours, barricades, warning signs and watchmen shall be provided by and at the expense of the applicant. The work shall be planned and carried out so that there will be the least possible inconvenience to the highway traffic. The applicant agrees to observe all SCDHPT and OSHA rules and regulations while carrying on the work contemplated herein and take all other precautions that circumstances warrant.

B. Standards of construction. All work shall conform to recognized standards of construction and shall be performed in a workmanlike manner. Adequate provisions shall be made for maintaining the proper drainage of the highway. All work for which a permit is required shall be subject to the supervision and satisfaction of the county.

1. Pipes, conduits, and other placements.

    a. Service and other small diameter pipes shall be jacked, driven or otherwise forced, not washed, underneath the pavement on any surfaced road without disturbing said pavement. The minimum ground cover for both dirt and paved roads shall be 24 inches. In the cases of structures being placed under ditches or swales, 36-inch minimum cover will be provided.

    b. Complete tunnelling shall not be permitted.

    c. All pipes and conduits under the highway shall be placed at approximately right angles to the centerline of the highway.

    d. Road cuts. No open cuts in paved roads will be permitted except by the permission of the roads and bridges supervisor in the following circumstances: 1. other utility lines in place make it impractical to bore; 2. obstructions in the right-of-way prevent boring, i.e., tree stumps; 3. physical limitations preventing equipment from being placed safely in a position to bore; 4. safety hazard prevents boring; and 5. any emergency situation which endangers life or property. Where road is to be cut, the work shall be done in clear weather when traffic is lightest. Materials and methods of compaction shall be adapted to achieve prompt restoration of traffic service. Signing and warning devices will be supplied by the utility company or its contractor and will be in compliance with the "South Carolina Manual on Uniform Traffic Control Devices." Traffic will be maintained at all times and lane closures will only be permitted after a traffic control plan is approved by the roads and bridges supervisor. Driveways will be maintained so as to permit ingress and egress to properties adjacent to the roadway. Blocking or closing of a driveway will not be tolerated without the approval of the property owner. Restoration will be performed to return the road to the specifications in article five of this ordinance. Initial restoration shall be maintained in good condition by the permittee for the period prior to resurfacing and repairs as necessary shall be made immediately following notification; however, permittee shall not wait for notification to perform necessary repairs.

    e. Where there is at least three feet of right-of-way beyond the travel surface and drainage setback, underground cable installed parallel to the roadway may not be placed closer than three feet to the paved roadway or scraped surface.

2. Inspection. In order that visual inspection can be performed during construction, the roads and bridges supervisor is to be notified 24 hours prior to commencement of work. The line, road cut, or boring repair must be inspected and approved by the roads and bridges supervisor upon completion of the project and again one year from that date. During this period, the applicant and/or owner shall remain liable for the cost of repairs and any damages which may be due to the county arising from the work performed originally by the applicant. For pavement cuts, the applicant will remain liable for two years

following approval of the repair for any repairs or damages which may be due to the county arising from the work until the road cut is repaired.

(Ord. No. 91-3, § 12, 5-20-91; Ord. No. 92-15, § 2, 10-5-92)

Sec. 9.3. Activities not requiring encroachment permits.

1. Overhead installation. A permit will not be required for aerial service connections from an existing line on county right-of-way unless it is anticipated that such connections will entail alterations for traffic flow.
2. Underground installation. A permit will not be required for a service connection from a line on county right-of-way where the excavation is to be on the back slope of the ditch or swale. If the installation will involve undue interference with the normal flow of traffic, if drainage facilities or appurtenances are affected, or if a road crossing is involved, a permit will be necessary; provided, however, that the roads and bridges supervisor may approve a variance based on site conditions and good engineering practices.
3. Maintenance. A permit will not be required for normal or emergency maintenance on overhead or underground facilities such as replacing poles, piping, cables, pedestals, markers, etc., unless such repairs will entail alterations of normal traffic flow. Normal maintenance which will entail replacement of more than 300 feet of underground line will require a permit. Repairs or replacements will conform to standards specified in section 9.2 and compaction standards set forth in article five of this ordinance.

(Ord. No. 91-3, § 12, 5-20-91; Ord. No. 92-15, § 3, 10-5-92)

Sec. 9.4. Public convenience and safety.

The developer, his agents and/or contractors shall at all times conduct the permitted work within the county right-of-way in such a manner as to provide for and insure the safety and convenience of the traveling public and the residents along and adjacent to the road, street or highway and to offer the least practicable obstruction to the flow of traffic. The road or any portion of it will not be closed by the developer, his agents and/or contractors unless written permission has been received by the county administrator.

(Ord. No. 91-3, § 12, 5-20-91)

Sec. 9.5. Revocation of permit.

Failure to comply with the provisions of this section shall be grounds for revocation of this permit and reason for not issuing future permits to the contractor or developer concerned. Should the developer not respond to a notice, written or oral, that corrective action is needed within 24 hours, it shall be deemed grounds for revocation. When circumstances beyond the developer's control prohibit correction and a temporary solution can be agreed upon between the county administrator, the roads and bridges supervisor and the developer, a written extension may be granted.

(Ord. No. 91-3, § 12, 5-20-91)

Sec. 9.6. Effective date and extensions.

Encroachment permits shall be valid for a period of six months from the date of issue. One extension may be granted by the county administrator upon written request from the applicant not to exceed an additional six months. All other extensions shall require reapplication for a new permit.

(Ord. No. 91-3, § 12, 5-20-91)

Sec. 9.7. Fees. (Suspended for one year of evaluation.)

At the time of filing the application, a $25.00 permit fee to cover the inspection shall be paid to the county administrator's office. Refer to appendix E-1 for a nonutility encroachment permit form and appendix E-2 for a utility encroachment permit form.

(Ord. No. 91-3, § 12, 5-20-91)

ARTICLE TEN. LEGAL STATUS PROVISIONS

Sec. 10. Conflict with other laws.

Whenever the provisions of this ordinance impose more restrictive standards than are required under other statutes, the requirements of this ordinance shall govern. Whenever the provisions of any other statute require more restrictive standards than are required by this ordinance, the provisions of such statute shall govern.

Sec. 10.1. Validity.

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

Sec. 10.2. Repeal of conflicting ordinances.

All ordinances and parts of ordinances in conflict herewith are repealed to the extent necessary to give this ordinance full force and effect.

Sec. 10.3. Effective date.

This ordinance shall take effect and be in force from and after the date of its adoption by the Darlington county council.

ARTICLE ELEVEN. JETPORT SAFETY AND HEIGHT ZONING REGULATIONS[2]

Sec. 11. Short title.

This article shall be known and may be cited as the "Darlington County Jetport Safety and Height Zoning Ordinance."

(Ord. No. 97-8, § I, 5-5-97)

[2]Editor's note(s)—Ord. No. 97-8, adopted May 5, 1997, did not specifically amend this Code, hence, codification of §§ I—XIV of said ordinance as §§ 11—11.13 herein was at the editor's discretion.

Sec. 11.1. Definitions.

[The following words, terms and phrases, as used in this article, shall have the meanings respectively ascribed to them in this section, unless the context clearly indicates otherwise:]

Approach surface. A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in section 11.3 of this article. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

Approach, transitional, horizontal, and conical zones. These zones are set forth in section 11.2 of this article.

Conical surface. A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

Established jetport elevation. One hundred ninety-two feet above mean sea level.

Hazard to air navigation. An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

Height. For the purpose of determining the height limits in all zones set forth in this article and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

Horizontal surface. A horizontal plane 150 feet above the established jetport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal plane.

Jetport means the Darlington County Jetport.

Larger than utility runway. A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

Noise impacts. The noise contour from the FAA integrated noise model fosters land use compatibility by restricting residential and other noise sensitive development in the 55 LDN and higher noise contours.

Nonconforming use. Any preexisting structure, object of natural growth, or use of land which is inconsistent with the provisions of this article or an amendment thereto.

Nonprecision instrument runway. A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

Obstruction. Any structure, growth, or other object, including a mobile object which exceeds a limiting height set forth in section 11.3 of this article.

Person. An individual, firm, partnership, corporation, company, association, joint stock association or government entity; includes a trustee, a receiver, an assignee, or a similar representation or any of them.

Precision instrument runway. A runway having an existing precision instrument approach procedure. It also means a runway for which a precision approach procedure is planned and is so indicated on an approved jetport layout plan or any other planning document.

Primary surface. A surface longitudinally centered in a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface is set forth in section 11.2 of this article. The elevation of any point on the primary surface is the same as the elevation of the nearest point in the runway centerline.

Runway. A defined area on an airport prepared for landing and takeoff of aircraft along its length.

Safety zones. As established in sections 11.4 and 11.5 are zones which limits population and building density and overlay the height limitation and noise impact zones provided in other sections of this article.

Structure. An object, including a mobile object, constructed or installed by man, including but without limitation, building, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

Transitional surfaces. These surfaces extend outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90-degree angles to the extended runway centerline.

Tree. An object of natural growth.

Utility runway. A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

Visual runway. A runway intended solely for the operation of aircraft using visual approach procedures.

(Ord. No. 97-8, § II, 5-5-97)

Sec. 11.2. Zones and zoning map.

In order to carry out the provisions of this article, the appropriate airspace surfaces as contained in FAR Part 77, Subpart C, and defined in section 11.1 of this article are hereby converted to zones. These established zones include the land lying beneath the associated airspace surface which include the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces. Such zones are shown on Darlington County Jetport Zoning Maps consisting of two sheets, and dated January 1995, which are attached to Ordinance No. 97-8 and made a part hereof [by reference]. The safety zones have been included, as modified, from Darlington County Development Ordinance No. 130. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. *Runway larger than utility visual approach zone.* The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway. This approach zone is applicable to each end of Runway 10/28.
2. *Runway larger than utility with a visibility minimum greater than ¾-mile nonprecision instrument approach zone.* The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline runway. This approach zone is applicable to each end of Runway 16/34.
3. *Precision instrument runway approach zone.* The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway. This approach zone is applicable to each end of Runway 5/23.
4. *Transitional zones.* The transitional zones are the zones beneath the transitional surfaces.

5. *Horizontal zone.* The horizontal zone is established by swinging arcs of 10,000 feet from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawings lien tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

6. *Conical zone.* The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

(Ord. No. 97-8, § III, 5-5-97)

Sec. 11.3. Height limitations.

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

1. *Runway larger than utility visual approach zone.* Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline. This approach zone is applicable to each end of Runway 10/28.

2. *Runway larger than utility with a visibility minimum greater than ¾-mile nonprecision instrument approach zone.* Slopes 34 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline. This approach zone is applicable to each end of Runway 16/34.

3. *Precision instrument runway approach zone.* Slopes 50 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward 40 feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline. This approach zone is applicable to each end of Runway 5/23.

4. *Transitional zones.* Slope seven feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the jetport elevation which is 192 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven feet outward for each foot upward beginning at the side so and the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90-degree angles to the extended runway centerline.

5. *Horizontal zone.* Established at 150 feet above the jetport elevation or at a height of 342 feet above mean sea level for the Darlington County Jetport.

6. *Conical zone.* Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the jetport elevation and extending to a height of 350 feet above the airport elevation.

7. *Excepted height limitations.* Except as defined in section 11.4, nothing in this article shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree, to a height of 50 feet above the surface of the land. Such potential obstructions should be resolved through the purchase of property in easement, or in fee simple.

(Ord. No. 97-8, § IV, 5-5-97)

Sec. 11.4. Land use and safety zoning map.

In order to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Darlington County Jetport; and to limit population and building density in the runway approach areas, thereby creating sufficient open space so as to protect life and property in case of an accident, there are hereby created and established the following safety zones:

1. *Safety zone A—Runway 5/23.* All land in the approach zones of the runway which extends outward from the end of the primary surface for a distance of 2,500 feet and is 1,750 feet wide at the outer edge and 1,000 feet wide at the inner end.
2. *Safety zone A—Runway 16/34.* All land in the approach zones of the runway, which extends outward from the end of the primary surface for a distance of 1,700 feet and is 1,010 feet wide at the outer edge and 500 feet wide at the inner end.
3. *Safety zone B—Runway 5/23.* All land in that position of the approach zone of the runway which extends outward from zone A for a distance of 2,500 feet and is 2,500 feet wide at the outer edge and 1,750 feet wide at the inner edge.
4. *Safety zone B—Runway 16/34.* All land in that portion of the approach zones of the runway, which extends outward from safety zone A for a distance of 3,300 feet and is 2,000 feet wide at the outer edge and 1,010 feet wide at the inner edge.
5. *Safety zone C.* All land which is enclosed within the perimeter of the horizontal zone, as defined in section 11.2 jetport zones and zoning map, and which is not included in safety zones A or B.

(Ord. No. 97-8, § V, 5-5-97)

Sec. 11.5. Safety zone use limitations.

Notwithstanding any other provisions of this chapter, no use may be made of land or water within any zone established by this article in such a manner as to create electrical interference with navigational signals or radio communication between the jetport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of the pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the jetport. In addition, safety zones listed below define permitted uses in the designated areas.

1. *Safety zone A.* Areas designated as safety zone A shall contain no buildings or temporary structures, and shall be restricted to those uses which will not create, attract, or bring together an assembly of persons thereon. Permitted uses may include agriculture and essential air-navigation equipment.
2. *Safety zone B.* Areas designated as safety zone B shall be restricted in use as follows:
   A. Each use shall be on a site whose area shall not be less than ten acres.

   B. Each use shall not create, attract, or bring together a site population that would exceed the number on the table listed below.

   C. Each site shall have no more than one building plot upon which any number of structures may be erected.

   D. A building plot shall be single, uniform and noncontrived area, whose shape is uncomplicated and whose area shall not exceed the following area:

Site Area as Least (Acres)	But Less Than (Acres)	Building Plot Area (sq. ft.)	Max. Site Population (persons/A)
10	20	72,500	60
20	and up	145,000	120

E. The following uses are specifically prohibited in zone B: churches, hospitals, schools, theaters, stadiums, hotels and motels, trailer courts, camp grounds, and other places of public or semipublic assembly.

3. *Zone C.* Zone C is subject only to height restrictions set forth in section 11.3 of this zoning ordinance, and to the general restrictions contained in article 4, Building Codes and Permits of Development Ordinance No. 130.

(Ord. No. 97-8, § VI, 5-5-97)

Sec. 11.6. Nonconforming uses.

1. *Regulations not retroactive.* The regulations prescribed in this article shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this article, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this article, and is diligently prosecuted and completed within one year thereof.
2. *Obstruction marking and lighting.* Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the zoning administrator to indicate to the operators of aircraft in the vicinity of the aircraft obstructions. See FAA Advisory Circular 70-7460-1H for further guidance. Such markers and lights shall be installed, operated, and maintained at the expense of the airport sponsor.
3. [*Tree topping.*] Notwithstanding any preceding provision of this section, if, by a determination of the Federal Aviation Administration (FAA), the encroachment of any tree into regulated airspace is such that providing markers and lights is insufficient to protect the life and property of the flying public, the county planning commission shall institute steps to have such trees topped at the expense of the airport, if requested in writing by the county jetport commission. If unsuccessful in obtaining the cooperation of the parties involved, the planning commission shall petition the county council to institute the appropriate legal action, possibly including condemnation, to insure the safety of the flying public in airspace regulated by this article.

(Ord. No. 97-8, § VII, 5-5-97)

Sec. 11.7. Permits.

1. *Future uses.* Except as specifically provided in (1), (2), and (3) hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use

inconsistent with the provisions of this article shall be granted unless a variance has been approved in accordance with section 11.7 4.

A. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

B. In areas lying within the limits of the approach zones but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.

C. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than 75 feet or vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this article except as set forth in section 11.3 7.

2. *Existing uses.* No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this article or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

3. *Nonconforming uses abandoned or destroyed.* Whenever the zoning administrator determines that a nonconforming tree or structure has been abandoned or more than 50 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit otherwise deviate from the zoning regulations.

4. *Variances.* Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this article, may apply to the board of adjustment for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances may be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and that the relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this article.

Additionally, no application for variance to the requirements of this article may be considered by the board of adjustment unless a copy of the application has been furnished to the jetport commission for advice as to the aeronautical effects of the variance. If the jetport commission does not respond to the application within 60 days after receipt, the board of adjustment may act on its own to grant or deny said application.

5. *Obstruction marking and lighting.* Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this article and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the board of adjustment, this condition may be modified to require the airport sponsor, at its own expense, to install, operate, and maintain the necessary markings and lights. FAA Advisory Circular 70-7460-1H provides further guidance to meet the requirement.

(Ord. No. 97-8, § VIII, 5-5-97)

Sec. 11.8. Enforcement.

It shall be the duty of the zoning administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the zoning administrator upon a form published for that purpose. Applications required by this article to be submitted to the zoning administrator shall be promptly considered and granted or denied. Application for action by the board of adjustment shall be forthwith transmitted by the zoning administrator.

(Ord. No. 97-8, § IX, 5-5-97)

Sec. 11.9. Board of adjustment.

1. There is hereby created a board of adjustment to have and exercise the following powers: (1) to hear and decide appeals from any order, requirement, decision, or determination made by the zoning administrator in the enforcement of this article; (2) to hear and decide special exceptions to the terms of this article upon which board of adjustment under such regulations may be required to pass; and, (3) to hear and decide specific variances.
2. The board of adjustment shall consist of three members appointed by the county council and each shall serve for a term of three years until a successor is duly appointed and qualified. Of the members first appointed, one shall be appointed for a term of one year, one for a term of two years, and one for a term of three years. Members shall be removable by the appointing authority for cause, upon written charges, after a public hearing.
3. The board of adjustment shall adopt rules for its governance and in harmony with the provisions of this article. Meetings of the board of adjustment shall be held at the call of the chairperson and at such other times as the board of adjustment may determine. The chairperson or, in the absence of the chairperson, the acting chairperson may administer oaths and compel the attendance of witnesses. All hearings of the board of adjustment shall be public. The board of adjustment shall keep minutes of its proceedings showing the vote of each member upon each question; or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the county clerk and on due cause shown.
4. The board of adjustment shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this article.
5. The concurring vote of majority of the members of the board of adjustment shall be sufficient to reverse any order, requirement, decision, or determination of the zoning administrator or decide in favor of the applicant on any matter upon which it is required to pass under this article, or to effect variation to this article.

(Ord. No. 97-8, § X, 5-5-97)

Sec. 11.10. Appeals.

1. Any person aggrieved, or any taxpayer affected, by any decision of the zoning administrator made in the administration of the article, may appeal to the board of adjustment.
2. All appeals hereunder must be taken within a reasonable time as provided by the rules of the board of adjustment, by filing with the zoning administrator a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board of adjustment all the papers constituting the record upon which the action appealed from was taken.

3. An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board of adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would in the opinion of the zoning administrator cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the board of adjustment or notice to the zoning administrator and on due cause shown.
4. The board of adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.
5. The board of adjustment may, in conformity with the provisions of this article, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination as may be appropriate under the circumstances.

(Ord. No. 97-8, § XI, 5-5-97)

Sec. 11.11. Judicial review.

Any person aggrieved, or any taxpayer affected, by any decision of the board of adjustment, may appeal to the circuit court as provided in applicable public laws.

(Ord. No. 97-8, § XII, 5-5-97)

Sec. 11.12. Penalties.

Each violation of this article or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and be punishable as provided by section 1-8 of the Darlington County Code.

(Ord. No. 97-8, § XIII, 5-5-97)

Sec. 11.13. Conflicting regulations.

Where there exists a conflict between any of the regulations or limitations prescribed in this article and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

(Ord. No. 97-8, § XIV, 5-5-97)

ARTICLE TWELVE. COMMUNICATION TOWERS

Sec. 12.1. Purpose and intent.

This article is designed to control the construction, placement, or modification of communication towers in the County of Darlington. It is the intent of this article to create regulations which allow for the harmonious co-existence of communication towers with other land uses. It is also the intent of this article to minimize the overall negative impact of communication towers by: 1) reducing the number of communication towers needed through a policy of encouraging co-location; and 2) if co-location is not feasible, encouraging the location of communication equipment on existing tall structures.

(Ord. No. 97-30, § 1, 11-3-97)

Sec. 12.2. Definitions.

A. *Communication tower,* as used in this appendix, shall mean a tower, pole or similar structure of any size which supports communication equipment, transmission or reception, and is utilized by government, commercial, or other public or quasi-public purposes above ground in a fixed location, freestanding or on a building. This does not include television reception antennas and satellite dishes or "communications towers" for amateur radio operations licensed by the Federal Communication Commission which are exempt from municipal zoning restrictions. Also not included are "communication towers" under 100 feet in height used solely for educational communication or federal, state, or local government purposes (such as the county or SCDOT) to improve the health, safety, and welfare of the citizens of the county.

B. *Telecommunication,* as defined in the Federal Telecommunications Act of 1996, means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as set or received.

C. *Antenna* means a device, dish, or array used to transmit or receive "telecommunication" signals.

D. *Height* of a "communication tower" is defined as the distance from the base of the tower to the top of the structure.

E. *Residential area* is defined as an area comprised of primarily single-family or multifamily dwellings at a minimum density of at least 25 residentially developed lots within a half-mile radius from the base of the proposed tower. This area also extends to those areas identified as Future Residential on the Future Land Use Map of the Comprehensive Plan.

(Ord. No. 97-30, § 1, 11-3-97; Ord. No. 01-2, §§ 1—7, 4-2-01; Ord. No. 11-02, § II, 6-6-11; Ord. No. 13-28, § I, 1-7-14)

Sec. 12.3. Co-location on existing towers and structures.

A. *Co-location effort and allowance of co-location.* The applicant shall make reasonable attempt to co-locate on existing communications towers, buildings, or other structures and the applicant shall be willing to allow other users to co-locate on the proposed communications tower in the future, subject to engineering capabilities of the structure, frequency considerations, and proper compensation from the additional user. Exception: Should Darlington County, the Darlington County Water and Sewer Authority, the Darlington County School District, or any general purpose unit of local government within Darlington County desire to locate an antenna on the proposed communications tower and it meets the above criteria it shall be approved without compensation;

B. *Co-location application.* Proposed communications equipment co-locating on existing towers and structures would only require a review by the planning department and an electrical permit from the codes enforcement office once the planning department review and approval is complete. During the initial review process, a digital copy of the plans may be submitted to the planning commission department, along with the appropriate supporting documentation. Three paper copies of the following information must be submitted to the planning commission department and approved prior to the issuance of said permits by codes enforcement:

  (1) Site plans and specifications;

  (2) Site location and vicinity maps.

  (3) Site location E-911 address verified and confirmed by E-911 addressing office.

  (4) Tax map number and owner of tower location parcel.

(5) Written authorization by the tower owner allowing co-location.

(6) Application fee of $500.00.

(7) Structural analysis indicating sufficient capacity for proposed new equipment signed and sealed by a professional engineer.

C. *Antenna and equipment upgrades.* Proposed antenna and equipment upgrades to existing equipment by a co-locator or tower anchor tenant will only require a review by the planning department and an electrical permit unless plans call for building an equipment cabinet, which would require a building permit at the discretion of the director of codes enforcement or his or her designee. Should a tower be filled to capacity by an anchor tenant and co-locators, the structural analysis must provide a statement that includes pre-, mid-, and post-/end-project calculations sealed by a professional engineer which ensures that, during equipment transfer, the tower will not become stressed beyond the design capacity. Three paper copies of the following information must be submitted to the planning department prior to the issuance of said electrical permit by the codes enforcement department:

(1) Site plans and specifications.

(2) Site location and vicinity maps.

(3) Site location E-911 address verified and confirmed by E-911 addressing office.

(4) Tax map number and owner of tower location parcel.

(5) Written authorization by the tower owner allowing upgrade.

(6) Application fee of $500.00.

(7) Structural analysis signed and sealed by a professional engineer.

D. *Modification to tower structure and/or foundation application.* Proposed modifications to the foundation or tower structure itself require a review by planning commission staff to determine compliance with the development standards ordinance. Once planning review is complete and all requirements are met, building codes will issue the appropriate permits, based upon receipt of approved documents from planning and E-911 addressing and once their review is complete. During the initial review process, a digital copy of the plans may be submitted to the planning commission department, along with the appropriate supporting documentation. Three paper copies, two 11 × 17 and one 8.5 × 11, of the following information must be submitted to the planning commission department and approved prior to the issuance of said permits by codes enforcement:

(1) Site plans and specifications.

(2) Site location and vicinity maps.

(3) Site location E-911 address verified and confirmed by E-911 addressing office.

(4) Tax map number and owner of tower location parcel.

(5) A structural analysis sealed by a registered structural professional engineer with modification specifications and drawings.

(6) Detailed drawings of foundation and/or tower modifications.

(7) Application fee of $500.00.

(8) Once the modifications are complete, a written as-built certification by the registered engineer of record that the modifications were completed according to the approved plan design must be submitted. Said certification with the engineer's seal should be mailed to both the planning and the codes enforcement department. If the upgrades vary from the approved plans, the engineer of record

must submit a statement and corroborating data for the change indicating that the intent of the original design was accomplished.

(Ord. No. 97-30, § 2, 11-3-97; Ord. No. 01-2, § 8, 4-2-01; Ord. No. 13-28, § I, 1-7-14; Ord. No. 14-10, § I, 8-8-14; Ord. No. 15-02, § II, 3-2-15)

Sec. 12.4. Communication towers and antennas permitted as conditional use.

A. *Planning commission approval criteria:*

1. *Height requirement:* The allowable tower height shall be determined by the definitions as written in Section 12.2 (A) and (E), as well as the requirements found in Sections 3.3 (Hartsville Airport District) and 3.4.4 (provisions for flood hazard reduction), Article 11 (airport district); and Article 17 (where applicable). As defined in Section 12.2(E), the character of the surrounding area from the base of the tower is determined as below:

   (a) *Residential areas:* A free-standing or guyed tower shall not exceed 195 feet, including antennae. The lightning rod may extend above the tower at a height accepted by industry standards;

   (b) *All other areas:* A free-standing or guyed tower or antenna shall not exceed 300 feet, including antennae. The lightning rod may extend above the tower at a height accepted by industry standards;

2. *Proximity to structures:* The base of the communications tower or antenna shall be located no closer to a residential or commercial structure than a distance equal to one and one-half feet for each one foot in height of the proposed tower or antenna. This requirement may be waived by the owner of the residential or commercial structure. If a property owner refuses to grant a waiver, then the application must be put on hold until the tower location has been resolved. If the location and proximity cannot be resolved, then the application must be denied;

3. *Proximity to property lines and public right-of-ways:* The proposed communications tower or antenna shall be located at an adequate setback distance (fall zone), as defined and certified by a licensed structural engineer in the State of South Carolina, to prevent the tower or antenna's fall from encroaching onto public rights-of-way or adjoining properties. (Engineer's certification to be in the form of a letter which includes the engineer's signature and seal);

4. *Setbacks, aesthetics:* The proposed communications tower or antenna and associated improvements shall meet all applicable setbacks, landscaping, and aesthetic requirements;

5. *Location/visual impact:* The proposed communications tower, antenna or accessory structure will be placed in a reasonably available location which will minimize the visual impact on the surrounding area and allow the facility to function in accordance with minimum standards imposed by applicable communications regulations and applicant's technical design requirements;

6. *Paint and illumination:* A communications tower or antenna shall not be painted or illuminated unless otherwise required by state or federal regulations. Night time strobe lighting shall not be incorporated unless required by the FAA, or other regulatory agencies;

7. *Fencing:* The proposed communications tower and associated structures shall be appropriately secured by means of at least a six-foot non-climbable fence. Guy wires may be fenced separately;

8. *Distance from existing tower:* A permit for a proposed tower or antenna site within 1,000 feet of an existing tower shall not be issued unless the applicant certifies that the existing tower does not meet the applicant's structural specifications and design requirements, or that a co-location agreement could not be obtained;

9. *Signage/identification:* No signage of any nature shall be placed on any portion of the tower, except as required by applicable state or federal law, rule, or regulation. Signs for the purpose of identification, warning, emergency function, or contact may be placed as required by standard industry practice;
10. *National Register of Historic Places/Scenic corridors:* The proposed communications tower shall not substantially detract from properties listed in the National Register of Historic Places, or from a road or river which has been officially designated as a scenic corridor;
11. *Maintenance:* The communications tower or antenna shall be maintained by common corrosion control procedures so it continuously maintains a minimum visual impact on surrounding properties.

(Ord. No. 97-30, § 3, 11-3-97; Ord. No. 01-2, § 9, 4-2-01; Ord. No. 13-28, § I, 1-7-14)

Sec. 12.5. Application requirements.

The applicant for a permit for construction of a communications tower shall provide to the planning commission department the following:

1. *Application fee:* $2,000.00 plus costs (e.g. copying, mailing, and advertising costs);
2. *Co-location/alternate site statement:* Applicant shall provide disclosure of all co-location and alternate sites that were considered, including written justification for rejection of the other sites. Planning commission may require additional information to determine that co-location was unfeasible;
3. *Specifications:* Three copies of typical specifications for the proposed structure and/or antenna, including description and elevation drawings showing typical design characteristics, materials to be used, height, color and lighting and include documentation showing the structural capability of the communications tower to accommodate co-location;
4. *Site plan:* Three sets of identical plans on 11 inches by 17 inches sheets of a plan drawn to scale (such as one-inch equals 400 feet) showing property boundaries and right-of-ways, location of the proposed communications tower, guy wires and anchors (if applicable), existing structures, proposed structures, parking, driveways (access), fencing, protected landmark trees affected by the proposed improvements, existing adjacent land uses and property owners;
5. *Tower location map:* A current map, or updated existing map showing the location of the applicant's tower or antenna, facilities, existing towers, and proposed towers which are reflected in the public records serving any property within the County of Darlington, South Carolina;
6. *RF coverage prediction maps:* A current RF coverage prediction map showing the area to be served before the addition of the new cell and an RF coverage prediction map that shows coverage after the new site is operational. Technical detail should be sufficient for an engineer to determine signal levels from the maps.
7. *Antenna capacity wind load:* A report from a structural engineer registered in South Carolina showing the tower antenna capacity by type and number and a certification that the tower is designed to withstand wind in accordance with ANSI/EIA/TIA222 (latest revision) standards;
8. *Antenna owners:* Identification of the owners of all antennae and equipment to be located on site;
9. *Design for multiple users:* The applicant must show documentation that proposed communications tower or antenna is designed to accommodate additional antennae equal in number to the applicant's present and future requirements and applicant must be willing for co-location to take place;
10. *Inability to locate on existing structures:* The applicant must show documentation that a proposed antenna and equipment can not be accommodated and function as required by applicable regulations and the applicant's technical design requirements without unreasonable modifications on any existing

structure or tower under control of applicant, or to locate on an available and suitable tower at reasonable costs (i.e., at or below local area rent average);

11. *Necessity for location in residential area:* The applicant must show that the portion of the county intended to receive coverage cannot be adequately served by a communications tower or antenna placed in a non-residential area for valid technical reasons. This requirement can be accomplished in narrative form referring to Section 12.5(6) RF coverage prediction maps or other like means;
12. *Safety codes met:Applicant must show all applicable health, nuisance, fire, building, and life safety code requirements are met;*
13. *Owner authorization:* Written authorization from the site owner for the application;
14. *FCC license:* Evidence that a valid FCC license for the proposed activity has been issued;
15. *Aesthetics:* Provide documentation that screening exists or will be installed either by vegetation or opaque screening;
16. *Visual impact analysis:* A line of site analysis showing visual and aesthetic impacts on adjacent residential areas;
17. *Indemnity and claims resolution:* The applicant must show by certification from a registered professional engineer that the proposed facility will contain only equipment meeting FCC rules, and must file with the planning commission a written indemnification of the County of Darlington and proof of liability insurance or financial ability to respond to claims up to $1,000,000.00 dollars per occurrence which may arise from operation of the facility during its life, at no cost to the county, in a form approved by the county attorney;
18. *Tower abandonment/removal:* A surety bond in the amount of $25,000.00 for tower removal and a written agreement to remove communication tower and/or antenna within 180 days after cessation of use. Tower owner to notify, in writing, the planning commission within 120 days of cessation of use (with no new application on file for any communication user);
19. *Surrounding property owner list:* A list in Excel spreadsheet format or currently accepted database technology of all current property owners within a 1,500-foot radius of the base of the tower with the corresponding tax map numbers, along with one set of mailing labels with property owners' addresses identified in the county tax database, accompanied by a site map (aerial) identifying those same properties in relation to the location of the base of the tower;
20. *Additional information:* Documentation providing additional information as may be required by the planning commission to allow adequate review of approval criteria (i.e. aerial photographs or balloon height test).
21. *Engineer's certification:* The tower applicant must submit a written certification by the registered engineer of record that the tower that was built, along with specifications and requirements, is the same tower approved for site construction by the planning commission. This second certification must be prior to a release by codes enforcement for operation.

(Ord. No. 97-30, § 4, 11-3-97; Ord. No. 01-2, § 10, 4-2-01; Ord. No. 13-28, § I, 1-7-14; Ord. No. 14-10, § I, 8-8-14)

Sec. 12.6. Public notification.

Within 15 working days of receipt of a completed application for a communication tower permit, the Darlington County Planning staff shall send by first class mail a notice of the application to all property owners within a 1,500 foot radius from the base of the tower. The notification shall include projected date of the public

hearing (regularly scheduled planning commission meeting) to be held by the planning commission, the projected issue date of the communication tower permit and the county's appeal procedure.

A public hearing will be held within 45 working days of receipt of the completed application.

(Ord. No. 97-30, § 5, 11-3-97; Ord. No. 01-2, § 11, 4-2-01)

Sec. 12.7. Tower abandonment.

A communication tower not used for communication purposes for more than 120 days (with no new application on file for any communication user) shall be presumed to be out of service. The owner of such tower shall notify the planning commission staff and remove the tower within 60 days after the initial 120 days has elapsed. To assure the removal of communication towers which do not meet requirements for continued use or proper maintenance, a statement of financial responsibility and a $25,000.00 surety bond shall be submitted for each tower. Should the county be required to perform removal due to the tower owner's failure to do so, the removal cost shall be charged to the communication tower owner. Further, the communication tower owner, same is not the property owner, must affirm that its lease with the property owner places responsibility for the cost of removal of such communication tower on the tower owner.

(Ord. No. 97-30, § 6, 11-3-97)

ARTICLE THIRTEEN. REQUIREMENTS FOR MOBILE AND MANUFACTURED HOMES

Sec. 13. Definitions.

As used in this ordinance, the term "mobile home" or "manufactured home" shall be interpreted to mean a vehicle or structure that is designed to be movable on its own chassis for conveyance on public thoroughfares and designed without a permanent foundation. A manufactured home may consist of one (1) or more components that can be disassembled for towing purposes or two (2) or more units that can be towed separately, but designed to be attached as one (1) integral unit. The Department of Housing and Urban Development must inspect all manufactured homes produced since June 15, 1976, during the manufacturing process and display an emblem of approval on the manufactured home. No manufactured home produced before June 15, 1976, shall be brought into and located in Darlington County.

(Ord. No. 01-14, § 1, 8-6-01)

Sec. 13.1. Scope and jurisdiction.

1. Sworn Codes Enforcement personnel of the County [of Darlington] shall enforce all applicable requirements of this ordinance upon reasonable request and notification.
2. Upon notice from the Code Enforcement Department, placement of a mobile home or manufactured home contrary to the provisions of this ordinance shall be immediately ceased. Such notice shall be in writing and shall be transmitted to the owner of the mobile home or manufactured home in violation. Notice shall state the violation and the conditions under which the violation shall be corrected. Written notice shall be sufficient if mailed by registered mail, hand delivered, or accepted by an agent or relative of the owner of the mobile home or manufactured home in violation.
3. It shall be unlawful for any public utility to provide service to any mobile home or manufactured home where a permit is required under this ordinance prior to the issuance of required permit(s) or to

maintain any such service upon notification by the Code Enforcement Department that such violation was made against the provisions of this ordinance.

(Ord. No. 01-14, § 2, 8-6-01)

Sec. 13.2. Duty of owner.

Each owner of a mobile home or manufactured home located within Darlington County shall obtain and display a county registration decal as required by state law within 15 days of either purchase or change of ownership of a mobile home or manufactured home or if the home is relocated. The decal must be displayed on the mobile home or manufactured home in such manner as to be visible from the street or driveway to which the mobile home or manufactured home is addressed. It is the responsibility of the landowner/landlord to make sure the tenant registers their mobile home.

Exceptions:

1. A mobile home or manufactured home temporarily located within Darlington County for the express pre-determined purpose of conveyance outside of the county within thirty (30) days after arrival; or
2. A mobile home or manufactured home held for display or exhibition purposes by a mobile home dealer licensed by the State of South Carolina as such; or
3. A mobile home or manufactured home passing through Darlington County on a public street, road, or highway for conveyance elsewhere.
4. Temporary registration may be obtained for mobile homes moved and stored for evictions, repossessions and other court orders. Proof of court order or affidavit of repossession required.
5. Temporary registration may be obtained by individual owners for a period not to exceed one hundred eighty (180) days where circumstances do not allow for completion of all of the requirements for permanent registration in accordance with this ordinance.

(Ord. No. 01-14, § 3, 8-6-01; Ord. No. 03-02, § 1, 3-17-03; Ord. No. 19-04 , § I, 6-3-19)

Sec. 13.3. Registration.

Registration shall occur when the mobile home or manufactured home is properly listed with the Darlington County Tax Assessor's Office for ad valorem tax purposes within fifteen (15) days as specified herein Section 13.2; and upon such listing the Darlington County Tax Assessor's Office shall issue a numbered decal to the person registering said mobile home or manufactured home. The decal shall be displayed as stated herein Section 13.2. Prior to the registration decal being issued, the following information must be submitted to the Darlington County Assessor's Office:

1. Sales contract, notarized bill of sale, or other title document evidencing ownership.
2. Lien holder's name and address, if any.
3. Copy of the moving permit. (If the mobile home or manufactured home has been moved from one site to another.)
4. SC DHEC permit to construct for new septic systems, septic tank affidavit for existing systems or document showing connection to city or county service.
5. Name of the owner and person to be in possession, if other than owner.
6. Year, make, model, size and complete serial number of the mobile home or manufactured home.

7. Name and address of the owner of the land where the mobile home or manufactured home will be located.
8. Payment of a registration fee and late fee, if applicable. The fee schedule will be on file in the Darlington County Tax Assessor's Office and the Darlington County Codes Enforcement Office.

A registration decal shall be valid until title to such mobile home or manufactured home is transferred to a new owner or until the mobile home or manufactured home is relocated. The State-mandated registration fee shall be charged for the replacement of a registration decal (fee on file in the County's Tax Assessor's Office and Codes Enforcement Department).

(Ord. No. 01-14, § 4, 8-6-01; Ord. No. 20-05 , § 1, 11-2-20)

Sec. 13.4. Moving permit requirements.

1. Prior to the movement of any mobile home or manufactured home being transported into, out of, or within the boundaries of Darlington County for any reason, a "Moving Permit" must be displayed at the rear of the mobile home or manufactured home during the entire transit period. Failure to acquire and display this permit will place the mobile home or manufactured home hauler and the owner in violation of this article.
2. Before issuing a moving permit, the Tax Assessor's Office shall require receipts from the county treasurer and the county tax collector indicating that all prior taxes and fees have been paid on the mobile home or manufactured home. If the mobile home or manufactured home is to be moved outside the boundaries of Darlington County, all current taxes and fees must be paid in addition to prior taxes and fees. For advance taxes, the current value of the mobile home or manufactured home shall be assessed by the assessor and the auditor shall base the taxes on the prior year's millage.
3. This requirement for a moving permit shall not apply to mobile home or manufactured home dealers moving a mobile home from their lot to a customer's lot when the delivery is required by the terms of the sale, or bringing a mobile home or manufactured home into the state for resale purposes. However, a moving permit is required for any other reason including, but not limited to repossession of a mobile home or manufactured home by or for a mobile home dealer.

(Ord. No. 01-14, § 5, 8-6-01)

Sec. 13.5. Dealer responsibility.

Each mobile home or manufactured home dealer shall complete in full a bill of sale form on every unit sold for placement in Darlington County. The bill of sale form must reflect all trade-ins, make, model, year, size, serial number, date of sale, and the purchaser's name. A copy of the bill of sale form shall be mailed to the Darlington County Tax Assessor's Office within fifteen (15) working days of the date of the sale. Mobile home or manufactured home dealers shall report all repossessions from the county, which are taken back into inventory. An affidavit of repossession must be completed in full and mailed within fifteen (15) days from the date of repossession. Dealers must remove trade-ins from private lots within thirty (30) days of transaction date.

(Ord. No. 01-14, § 6, 8-6-01; Ord. No. 03-02, § 2, 3-17-03)

Sec. 13.6. Exceptions.

The provisions of this article shall not apply to transactions involving the sale and purchase of mobile homes or manufactured homes between manufacturers and licensed dealers as such are defined in state law.

(Ord. No. 01-14, § 7, 8-6-01)

Sec. 13.7. Habitability.

No mobile home or manufactured home shall be permitted, used, or occupied, nor shall public utilities be extended to or activated in any such home unless and until the home has been inspected and found to be habitable by the Codes Enforcement Department.

The term "habitable" as used herein means that there is no defect, damage, or deterioration to the home which creates a dangerous or unsafe situation or condition; that the plumbing, heating, and electrical systems are in safe working order; that the walls, floor, and roof are free from any holes, breaks, loose or rotting boards and are structurally sound; and that all exterior doors and windows are in place and free from breaks. Further, the term habitable shall include the provisions of the following facilities:

1. *Sanitary facilities.* Every mobile home or manufactured home shall contain not less than a kitchen sink, lavatory, tub or shower, and a water closet all in good working condition and properly connected to an approved water and sewer system. Every plumbing fixture and water and waste pipe shall be properly installed and free from defects, leaks, and obstructions.
2. *Hot and cold water supply.* Every mobile home or manufactured home shall have connected to the kitchen sink, lavatory, and tub or shower cold and hot running water. All water shall be supplied through an approved system connected to a potable water supply.
3. *Heating facilities.* Every mobile home or manufactured home shall have heating facilities, which are properly installed and maintained in safe and good working condition, and are capable of safely and adequately heating all habitable rooms and bathrooms. Where a central heating system is not provided, each mobile home or manufactured home shall be provided with an alternative system, approved by the Codes Enforcement Department.
4. *Cooking and heating equipment.* All cooking and heating equipment and facilities shall be installed in accordance with the Federal Manufactured Home Construction and Safety Standards.
5. *Smoke detector.* Every mobile home and manufactured home shall be provided with an approved listed smoke detector, installed in accordance with the manufacturer's recommendations and listing. When activated, the detector shall provide an audible alarm.

(Ord. No. 01-14, § 8, 8-6-01)

Sec. 13.8. Compliance required.

No mobile home or manufactured home shall be used or occupied unless and until the home has been installed in accordance with these regulations and inspected for compliance by the Codes Enforcement Department.

Where upon inspection by the Codes Enforcement Department, a mobile home or manufactured home is found not to meet the minimum requirements of habitability described herein, said official shall take appropriate action to require owner to make the necessary improvements to render the unit habitable; or block the use and placement of said unit by denying electricity to the unit, and/or requiring the removal of said unit at the owners' expense.

Failure to secure inspection and approval prior to occupying such unit shall be a violation of this Ordinance.

The Codes Enforcement Department may grant exceptions to this requirement in hardship cases, not to exceed thirty (30) days.

(Ord. No. 01-14, § 9, 8-6-01)

Sec. 13.9. Manufactured housing set-up.

Manufactured home, residentially designed. A single-family dwelling built according to the Federal Manufactured Housing Construction and Safety Standards (24 CFR 3280) HUD Code, provided the structure meets or exceeds the following criteria.

Manufactured housing, where permitted by this Ordinance, shall:

1. Be installed in accordance with the Manufacturer's Installation Manual. In the absence of such a Manual, the home must be installed in accordance with the requirements of Section 19-425.39 of the South Carolina Manufactured Housing Board Regulations.
2. Have skirting or a curtain wall around the entire home with brick, masonry, vinyl, or similar materials designed and manufactured for permanent outdoor installation.
3. Have steps installed with landings and handrails, in accordance with applicable Building Codes.
4. Have all moving or towing apparatus removed or concealed including hitch, wheels and axles.
5. Be provided with sanitary sewer system approved by DHEC. Evidence of such approval shall accompany each and every permit request to install a manufactured home.
6. Be served by a separate electric meter. It shall be unlawful for any such home to receive electricity except by use of a separate meter. Any existing home not in compliance with this section upon the effective date of this Ordinance shall be served by a separate meter within one hundred eighty (180) days of the effective date, or be declared by the Codes Enforcement Department to be in violation of this Ordinance.

It shall be unlawful for any public utility or electrical supplier to connect power to any manufactured home in the absence of an approved permit issued by the Codes Enforcement Department to establish said home.

(Ord. No. 01-14, § 10, 8-6-01; Ord. No. 20-05 , § 2, 11-2-20)

Sec. 13.10. Mobile homes.

A mobile home, as defined by this ordinance, prior to being manufactured June 15, 1976, shall not be established within the unincorporated area of Darlington County on the effective date of this ordinance. However the use of an existing mobile home may be continued in accordance with the provisions of this ordinance, and/or relocated to another site, lot or parcel provided:

1. The mobile home is currently registered in Darlington County.
2. The mobile home is currently being used as a residence.
3. The mobile home meets all requirements in Sections 13.6, 13.7, 13.8 and 13.9 of this ordinance.

(Ord. No. 01-14, § 11, 8-6-01)

Sec. 13.11. Fees.

A fee schedule is hereby established to cover the cost of registration and inspections for compliance with the provisions of this Ordinance, and is on file in the Darlington County Tax Assessor's Office and Codes Enforcement Department.

(Ord. No. 01-14, § 12, 8-6-01)

Sec. 13.12. Manufactured home parks.

The establishment and operation of a manufactured home park shall comply with the following design and development standards:

1. The park site and all roads servicing the park must be named. The names must be approved by E911 Addressing.
2. The park site shall be not less than three (3) acres, and have not less than two hundred (200) feet of frontage on a public maintained road.
3. The park shall be served by public water and sewer systems or other systems approved by DHEC, a system of stormwater drainage, and refuse disposal facilities, plans of which shall be approved by DHEC officials.
4. All dead-end roadways shall have a cul-de-sac with a 50-foot radius.
5. Turnarounds shall be located every five hundred (500) feet.
6. All dwelling spaces shall abut upon an interior all weather roadway of crushed stone asphalt, cochina [coquina], concrete slag or other all weather material of not less than twenty (20) feet in width which shall have unobstructed access to a public street.
7. A copy of the proposed homeowner association or other group maintenance agreement must be submitted to and approved by the Darlington County Planning Commission.
8. All on-site roadway intersections shall be provided with a street light and proper signage.
9. Lots in parks shall be sized and arranged so that there will be at least fifty (50) feet of spacing between the manufactured homes, and at least thirty-five (35) feet from the right-of-way of any street or drive providing common circulation.
10. All homes shall be installed in accordance with the installation requirements of Section 19-425.39 of the South Carolina Manufactured Housing Board Regulations.
11. All homes shall have skirting or a curtain wall.
12. All homes shall have installed or constructed and attached firmly to the home and anchored securely to the ground, permanent landing steps at each exterior doorway, in accordance with applicable Building Codes.
13. Not less than ten (10) percent of the park site shall be set aside and developed for common open space and recreation usage.
14. Permanent space numbers shall be established for each mobile or manufactured home space and shall be located so as to be visible from the street or roadway. Signs identifying space locations shall be erected at each street or roadway intersection.

15. No manufactured home space shall have direct access to a public street, but shall instead access an internal street system.

16. Manufactured home parks shall be limited to no more than two (2) entrances off a public roadway, provided the entrances must meet South Carolina Department of Transportation or the County [of Darlington] spacing and size requirements.

17. The maximum number of manufactured home spaces shall not exceed four (4) per acre with county water and not to exceed two (2) per acre with well and septic tank or current DHEC standards.

18. Two parking spaces shall be provided for each designated manufactured home parking space. Parking may be provided at a designated space or in community parking areas.

19. In the development of a park, existing trees and other natural site features shall be preserved to the extent feasible.

20. A surveyed site plan showing the above required data and in all other aspects meeting the minimum requirements for a building permit shall accompany all applications to establish a manufactured home park with plans being submitted to the Planning Commission Office for approval.

(Ord. No. 01-14, § 13, 8-6-01)

Sec. 13.13. Failure to comply with notice.

Upon the failure or refusal of the owner, tenant or dealer, so notified in section 13.1 of violations of this ordinance to comply with said violations, the Codes Enforcement Department shall issue a uniform summons for the ordinance violation or institute legal action under the appropriate state statute.

(Ord. No. 03-02, § 3, 3-17-03)

Sec. 13.14. Penalties.

Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable by fine of not more than two hundred ($200.00) dollars. Each day of violation after the expiration of time provided herein for compliance after notification of a violation shall be considered a separated violation.

(Ord. No. 03-02, § 4, 3-17-03)

ARTICLE FOURTEEN. VESTED RIGHTS

Sec. 14. Purpose.

The purpose of this ordinance is to provide for the establishment of vested rights to allow for the commencement, completion, and use of property pursuant to an approved site specific development plan or an approved phased development plan in order to help insure that developers who expend significant funds in planning and development costs to meet existing standards will not have regulations changed to alter their ability to proceed. This would give developers the vested right to build their proposed development under the standards and regulations in effect at the time they perform a "significant act" towards development; limiting the "significant act" to final approval of development plans and/or extending the vested right only to the phase of the project being approved in a phased development plan. The article provides for an initial two-year term and up to five (5) annual renewals of the vested right.

(Ord. No. 05-12, § 1, 6-6-05)

Sec. 14.1. Definitions.

1. *County* shall mean the unincorporated area of the county.
2. *Approved* means a final review and approval, in accordance with its established procedures by Darlington County, of a site specific development plan. Phased development plans remain subject to review of all phases prior to being vested.
3. *Building permit* means a written warrant or license issued by a local building official that authorizes the construction or renovation of a building or structure at a specified location.
4. *Conditionally approved* or *conditional approval* means an interim action taken by a local governing body that provides authorization for a site specific development plan or a phased development plan, but is subject to further approval.
5. *Darlington County Planning Commission* means the five-member body appointed by the Darlington County Council. This does not include the director of planning or any other planning commission staff personnel.
6. *Landowner* means an owner of a legal or equitable interest in real property including heirs, devisees, successors and assigns, and personal representatives of the owner. It may include a person holding a valid option to purchase real property pursuant to a contract with the owner to act as his agent or representative for purposes of submitting a proposed development plan.
7. *Land development ordinances* are those ordinances that address the development of land and may include, but are not limited to, developments, subdivisions, mobile home parks, telecommunication towers, special flood hazard areas, airport districts, road construction and dedications, or other ordinances in effect in Darlington County.
8. *Local governing body* means: (a) the governing body of Darlington County or (b) a county body authorized by statute or by the governing body of Darlington County to make land-use decisions.
9. *Person* means an individual, corporation, business or land trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any legal entity as defined by South Carolina laws.
10. *Phased development plan* means a development plan submitted to Darlington County Planning Commission by a landowner that shows the types and density or intensity of uses for a specific property or properties to be developed in stages.
11. *Real property* or *property* means all real property that is subject to the land use and development ordinances or regulations of the Darlington County governing body, and includes the earth, water, and air, above, below, or on the surface, and includes improvements or structures customarily regarded as a part of real property.
12. *Site specific development plan* means a plan submitted to Darlington County Planning Commission by a landowner which describes with reasonable certainty the types and density or intensity of uses for specific property. The plan may be in the form of, but is not limited to, the following plans or approvals: site development plans, subdivisions, mobile home parks, telecommunication towers, or other plan approval designations as are used by Darlington County.
13. *Vested right* means the right to undertake and complete the development of property under the terms and conditions of a site specific development plan or phased development plan as provided in this ordinance, in the vested rights act, and in the Darlington County land development ordinances or regulation.

(Ord. No. 05-12, § 2, 6-6-05)

Sec. 14.2. Establishment of vested right.

1. A vested right is established for two years upon the final approval of a site specific development plan.
2. The Darlington County Planning Commission may, but shall not be required to, grant a vested right to a phased development plan. If the Darlington County Planning Commission decides to establish such vested right for a phased development plan, such vested right shall be for two years and shall be specifically and expressly approved by the Darlington County Planning Commission in writing when the phased development plan is approved. Unless otherwise specified, the vested right shall only apply to the specific phase being approved and does not apply to subsequent phases.
3. A landowner of real property with a vested right may apply before the end of the vesting period, but not thereafter, to the Darlington County Planning Commission for an annual extension of the vested right. Darlington County Planning Commission must approve applications for at least five annual extensions of the vested right if a timely application for such an extension has been filed with the Darlington County Planning Commission; unless an amendment to the land development ordinances or regulations has been adopted that prohibits approval. If the application is not made in a timely order by the landowner to the Darlington County Planning Commission for an annual extension, the vested period or annual extension applicable to such real property shall expire at the end of the vested period or the annual extension thereof.
4. A vested right in a site specific development plan or phased development plan shall not attach until all plans have been received and approved and all fees paid in accordance with the procedure outlined in this ordinance. All administrative appeals must be resolved in favor of the applicant before a vested right attaches. Upon approval, such vested right must attach prior to the issuance of a building permit, but not later that authorization to proceed with investments in infrastructure.
5. The Darlington County Board of Zoning Appeals, if and when established, shall not be authorized to grant or approve a vested right and no vested right shall be established, created, or accrue as a result of any decision of the zoning board of appeals.

(Ord. No. 05-12, § 3, 6-6-05)

Sec. 14.3. Conditions and limitations of vested rights.

1. A vested right established by this ordinance shall be in accordance with the standards and procedures of the Darlington County land use codes, ordinances, and regulations.
2. The form and content of a site specific development plan or phased development plan submitted by a landowner must conform and comply with the Darlington County planning, stormwater management and sediment control, building, electrical, mechanical, fire, flood hazard, and other land-use codes, ordinances and regulations.
3. No vested right in a site specific development plan or phased development plan shall be established except in conformity with the Darlington County planning, stormwater management and sediment control, building, electrical, mechanical, flood hazard, and other land-use codes, ordinances and regulations.
4. A vested right established under a conditionally approved site specific development plan or conditionally approved phased development plan may be terminated by the Darlington County Planning Commission upon the determination following notice and a public hearing that the landowner has failed to meet the terms of the conditional approval.
5. A vested right established in accordance with the provisions of this ordinance shall be vested upon the approval of the Darlington County Planning Commission of the site specific development plan or phased development plan that authorizes the developer or landowner to proceed with investing in grading,

installation of utilities, street/roads or other infrastructure and to undertake other specific expenditures necessary to prepare for application for a building permit. No developer or landowner shall proceed with investment in grading, installation of utilities, street/roads or other infrastructure, or shall undertake other significant expenditures necessary to prepare for application for a building permit before a site specific development plan or phased development plan authorizing such improvements and expenditures has been approved by the Darlington County Planning Commission. No investment in grading, installation of utilities, streets/roads or other infrastructure, or other significant expenditures shall give rise to or establish a vested right until the Darlington County Planning Commission has approved the site specific development plan or phased development plan that authorizes the developer or landowner to proceed with improvements or undertake other significant expenditures on the real property which is proposed for development.

6. A site specific development plan or phased development plan for which a variance is necessary does not qualify and may not claim or receive vested rights status unless and until the variance is obtained.

7. The Darlington County Planning Commission shall designate the vested point for a phased development plan as the date of approval of the phased development plan. The vested right shall only attach to the phase being approved unless otherwise specified in the approval.

8. Upon expiration of a vested right, a building permit may be issued for development only in accordance with applicable land development ordinances and regulations in effect at the time of the building permit application.

9. A vested site specific development plan or vested phased development plan which has been approved by the Darlington County Planning Commission may be amended if the amendments are approved by the Darlington County Planning Commission pursuant to the provisions of the applicable Darlington County Land Development Ordinance and regulations in effect at the time of the amendment.

10. A valid permit does not expire or is not revoked upon expiration or termination of a vested right, except for public safety reasons or as prescribed by applicable building codes in effect at the time.

11. A vested site specific development plan or vested phased development plan which has been approved by the Darlington County Planning Commission may be revoked by the Darlington County Planning Commission upon its determination, after notice and a public hearing, that there was material misrepresentation by the landowner or substantial noncompliance with the terms and conditions of the original or amended approval.

12. A vested site specific development plan or vested phased development plan is subject to later enacted federal, state, or local laws or ordinances adopted to protect public health, safety, and welfare, including but not limited to, building, fire, plumbing, electrical and mechanical codes, and nonconforming structures and use regulations which do not provide for grand-fathering of the vested rights. The issuance of the building permit vests the specific construction project authorized by building, fire, plumbing, electrical, mechanical codes in force at the time of the issuance of the building permit.

13. If a vested site specific development plan or vested phased development plan which has been approved by the Darlington County Planning Commission is annexed, the governing body of the municipality to which the real property has been annexed must determine, after public notice and public hearing in which the landowner is allowed to present evidence, if the vested right is effective after annexation.

14. The Darlington County Council, the Darlington County Planning Commission, or local planning and building codes officials shall not require a landowner to waive his vested rights as a condition of approval of a site specific development plan or phased development plan.

(Ord. No. 05-12, § 4, 6-6-05)

Sec. 14.4. Nature of the vested right.

1. A vested right pursuant to this ordinance or the Vested Rights Act is not a personal right but attaches to and runs with the applicable real property. The landowner and all successors to the landowner who secure a vested right pursuant to the Vested Rights Act or this ordinance may rely upon and exercise the vested right for its duration, subject, however to applicable federal, state, and local laws adopted for public health, safety, and welfare, including, but not limited to, building, fire, plumbing, electrical and mechanical codes and nonconforming structures and use regulations which do not provide for grand-fathering of the vested rights. Nothing contained herein shall preclude judicial determination that a vested right exists pursuant to other statutory provisions.

(Ord. No. 05-12, § 5, 6-6-05)

Sec. 14.5. Severability.

1. The provisions of this ordinance are hereby declared to be severable, and if any provision or section of this ordinance is declared to be unconstitutional or unenforceable by a court of competent jurisdiction, such declaration shall not effect the constitutionality, legality or enforceability of any other section or provision of this ordinance.

(Ord. No. 05-12, § 6, 6-6-05)

ARTICLE FIFTEEN. OUTDOOR ADVERTISING SIGNAGE

Sec. 15. Purpose.

The purpose of this ordinance is to allow legitimate business opportunities for individuals to own, lease, and sell outdoor advertising signs within Darlington County, to prevent future incompatible or undesirable locations of outdoor advertising signs within the county; and to preserve the quality of life, community aesthetics, and property values in Darlington County.

(Ord. No. 05-13, § 1, 6-6-05)

Sec. 15.1. Definitions.

1. *Monopole* means a single steel pole support structure.
2. *Outdoor advertising signs* means signage, of any type, placed with the express intent of directing traffic, of any sort, to a specific business, event or location, either public or private, or to provide a public message. Outdoor advertising signs shall be considered separately from on-premises signs.
3. *Qualified business* means a permanent or physical building from which the qualifying business operation shall be conducted. A qualified business must:
    A. Must have been in operation for at least twelve (12) months prior to submitting an application for an outdoor advertising sign permit.
    B. Must have a least one employee at the site and available to the public for at least thirty-six (36) hours a week, four (4) days per week, and forty-six (46) weeks per year.

C. Must have electricity, telephone service, running water, an indoor restroom, permanent flooring, and adequate heating.

4. *Reader signs* mean a sign that has illuminated words that change or move across the area of the sign.

5. *On-premises signs* mean signage/signs located on the same parcel as the business or activity for which it is advertising. On-premises signs are not regulated by this ordinance.

6. *Digital Sign* means an off-site sign or billboard that utilizes digital or light-emitting diodes (LEDs) or similar electronic methods to create a changeable image display area.

7. *Electronically changing message sign* means a sign or portion thereof designed to accommodate frequent message changes composed of characters or letters, and that can be changed or rearranged electronically without altering the face or surface of such sign.

8. *Sign illumination* means illuminated signs shall not directly shine on abutting properties. No illumination simulating traffic control devices or emergency vehicles shall be used, nor shall lights which are intermittently switched on and off, changed in intensity or color, or otherwise displayed to create the illusion of flashing or movement be permitted.

(Ord. No. 05-13, § 2, 6-6-05; Ord. No. 06-3, § II, 4-3-06; Ord. No. 18-08 , § 1, 8-13-18)

Sec. 15.2. Obscene or indecent billboards prohibited.

This section is as outlined in S.C. Code 1976 § 57-25-20, as amended.

1. No billboard shall be erected or displayed containing obscene or indecent words, photographs, or depictions.

2. Obscene words, photographs, or depictions must be defined and interpreted as provided in S.C. Code 1976 § 16-15-305 (B), (C), (D), and (E).

3. A billboard is indecent when:

   A. Taken as a whole, it describes, in a patently offensive way, as determined by contemporary community standards, sexual acts, excretory functions, or parts of the human body; and

   B. Taken as a whole, it lacks serious literary, artistic, political, or scientific value.

(Ord. No. 05-13, § 3, 6-6-05)

Sec. 15.3. Requirements for locating outdoor advertising signs in the unincorporated areas of the county.

1. No outdoor advertising sign shall be located within one thousand two hundred (1,200) feet of any other outdoor advertising sign including those signs on opposite sides of the road.

   A. If located on an interstate highway, an outdoor advertising sign shall only be allowed on the side of the highway where the qualified business exists.

2. All outdoor advertising signs shall be set back from front and side property lines not less than ten (10) feet.

3. All outdoor advertising signs must be within six hundred (600) feet of a qualified business operation (permanent building).

4. All outdoor advertising signs must be located within six hundred (600) feet of the right-of-way along the interstate.

(Ord. No. 05-13, § 4, 6-6-05)

Sec. 15.4. Maximum face area square footage.

1. The maximum square footage of the face of any outdoor advertising sign shall not exceed three hundred-seventy-eight (378) square feet except on an interstate highway:

   A. The sign face shall not exceed six hundred-seventy-two (672) square feet when located along an interstate highway.

   B. An outdoor advertising sign may include extensions or cutouts totaling no more than one hundred fifty (150) square feet.

(Ord. No. 05-13, § 5, 6-6-05)

Sec. 15.5. Maximum height.

1. The maximum height of any outdoor advertising sign shall not exceed forty (40) feet in height measured from the average roadway grade level to the top of the sign face except on an interstate highway:

   A. The sign may have maximum height of one hundred (100) feet measured from the average roadway grade level to the top of the sign when located along an interstate highway.

(Ord. No. 05-13, § 6, 6-6-05)

Sec. 15.6. Structure designs.

1. Any outdoor advertising sign with a sign face area greater than thirty-two (32) square feet shall be designed and constructed with a monopole support structure, meeting the standards as set forth by the local building code with respect to wind loads and foundation design.

2. No stacked (double decked) sign faces or side-by-side sign faces shall be allowed.

(Ord. No. 05-13, § 7, 6-6-05)

Sec. 15.7. Digital and electronic changing message signs.

1. Digital and electronic changing message signs are permitted as off-site signs, including preexisting nonconforming off-premises billboards may be digital signs or electronic changeable message sign subject to the following provisions:

   A. All messages, images, or displays on a digital sign or electronically changing message sign shall remain unchanged for a minimum of six seconds.

   B. The time interval used to change from one complete message, image, or display to the next complete message, image, or display shall be a maximum of (1) one second.

   C. There shall be no appearance of visual dissolve or fading, in which any part of one message, image, or display appears simultaneously with a part of a second message, image, or display.

   D. There shall be no appearance of flashing or sudden bursts of light, and no appearance of video motion, animation, movement, or flow of the message, image, or display within the sign.

   E. The intensity and contrast of light levels shall remain constant and throughout the sign face.

F. Each digital sign or electronically changeable message sign shall be equipped with automatic day/night dimming software, to reduce the illumination intensity of the sign from one hour after sunset to one hour prior to sunrise.

G. The conversion of a preexisting nonconforming off-site sign to a digital sign or electronically changeable message sign, including structural improvements related thereto, is permitted and shall not be considered as a removal, replacement, change, expansion, or restoration of a nonconformity. Any necessary modifications to a preexisting nonconforming off-site sign to a digital sign or electronically changing message sign, including structural alterations, shall be allowed as long as all dimensions of the sign display shall stay the same as the current dimension of the sign display. These conditions are based upon existing permit holders permit.

H. Each digital display or electronically changing message sign shall include a light-sensing device that will adjust the brightness as ambient light conditions change.

I. No scrolling text messages.

(Ord. No. 18-08 , § 2, 8-13-18)

Editor's note(s)—Ord. No. 18-08 , §§ 2, 3, adopted Aug. 13, 2018, added a new § 15.7 and renumbered the former §§ 15.7—15.10 as §§ 15.8—15.11. The historical notations have been kept with the amended provisions for reference purposes.

Sec. 15.8. Lighting restrictions.

1. Outdoor advertising signs that are lighted must be constructed and maintained in order to effectively shield or prevent beams or rays of light from being directed at any portion the street or road on which the sign is directing the message.
2. No outdoor advertising sign shall be permitted with lighting of such brilliance or intensity as to cause glare or impair the vision of the drivers of any motor vehicle, or which otherwise interferes with any driver's operation of a motor vehicle.
3. No ground mounted lighting fixtures shall be permitted to illuminate any outdoor advertising sign.
4. Lighting for outdoor advertising signs shall be indirect, and non-flashing.
5. Lightening levels will not increase by more than 0.3 foot candles (over ambient levels) as measured using a foot candle meter at a pre-set distance.

(Ord. No. 05-13, § 8, 6-6-05; Ord. No. 09-1, § 1, 3-2-09; Ord. No. 18-08 , § 3, 8-13-18)

Editor's note(s)—See the editor's note to § 15.7.

Sec. 15.9. Nonconforming structures.

1. Existing, lawfully erected, outdoor advertising signs that do not meet the ordinance regulations shall be classified as legal non-conforming and shall be grandfathered. However:

   A. If there are any changes in ownership, modification, alteration, enlargement or relocation of a legal nonconforming sign structure, said structure shall be required to meet the standards of this ordinance with the following exception:

      1) The owner of a legal non-conforming outdoor advertising sign that was originally constructed by means other than a monopole as required by this ordinance shall be permitted to upgrade the

sign with a monopole support structure in the same location only. All other aspects of the new sign's construction must conform to the requirements of this ordinance.

(Ord. No. 05-13, § 9, 6-6-05; Ord. No. 18-08 , § III, 8-13-18)

Editor's note(s)—See the editor's note to § 15.7.

Sec. 15.10. Sign maintenance.

1. All outdoor advertising signs must be structurally safe and maintained in a good state of repair, which includes but not limited to:
   - A. The sign face must be maintained free of peeling, chipping, rusting, wearing and fading so as to be fully legible at all times.
   - B. All parts of the sign, including any cutouts, extensions, borders, trim, and sign structure must be maintained in a safe manner, free from rusting, rotting, breaking or other deterioration.
   - C. The sign face must not have any vegetation growing upon it, touching or clinging to it.

(Ord. No. 05-13, § 10, 6-6-05; Ord. No. 18-08 , § 3, 8-13-18)

Editor's note(s)—See the editor's note to § 15.7.

Sec. 15.11. Permitting process.

1. All applications shall include:
   - A. A site map to scale showing the location of the proposed sign and any other outdoor advertising signs within two thousand five hundred (2,500) feet of the proposed location.
   - B. Site map showing the distance to the qualified business, property line setbacks and outdoor advertising signs within one thousand two hundred (1,200) feet.
   - C. Detailed plans of the sign to include the height, support structure, face size and lighting plan.
   - D. Tax map parcel number and ownership information of the proposed sign location.
   - E. Detailed information describing the qualified business.
   - F. Property lease agreement, if applicable.
2. The applicant shall obtain a sign permit from the planning department prior to obtaining a building permit. The applicant shall obtain a building permit from the building codes office prior to submitting for a sign permit from the South Carolina Department of Transportation (SCDOT).
3. In addition to the county regulations, any outdoor advertising sign must also obtain a permit from South Carolina Department of Transportation prior to the erection of any sign along any interstate or US or SC Route or where required by state law.
4. The regulations set forth in the ordinance shall apply to all unincorporated areas within Darlington County.

(Ord. No. 05-13, § 11, 6-6-05; Ord. No. 18-08 , § 3, 8-13-18)

Editor's note(s)—See the editor's note to § 15.7.

ARTICLE SIXTEEN. TATTOO FACILITIES

Sec. 16. Purpose.

The purpose of this ordinance is to allow tattoo facilities in the unincorporated areas of Darlington County.

(Ord. No. 06-13, § I, 7-3-06)

Sec. 16.1. Definitions.

Tattoo facility means any room, space, location, area, structure, or business, or any part of these places where tattooing is practiced or where the business of tattooing is conducted.

Tattoo or *tattooing* means to indelibly mark or color the skin by subcutaneous introduction of nontoxic dyes or pigments.

(Ord. No. 06-13, § II, 7-3-06)

Sec. 16.2. Location.

Tattoo facilities shall be located no closer than one thousand (1,000) feet from the following:

A. Church;

B. School;

C. Playground.

(Ord. No. 06-13, § III, 7-3-06)

Sec. 16.3. Service provided.

Tattoo facility may only provide tattooing and may not engage in any other retail business including, but not limited to, the sale of goods or performing any form of body piercing other than tattooing.

(Ord. No. 06-13, § IV, 7-3-06)

ARTICLE SEVENTEEN. STORMWATER MANAGEMENT PROTECTION DISTRICT

Sec. 17. Municipal separate storm sewer system (MS4) area stormwater management protection overlay district.

[This article provides for the establishment of a municipal separate storm sewer system (MS4) area stormwater management protection overlay district to protect water quality, to define the regulations, enforcement, and administration within the district boundaries, and to establish the effective date of this article.]

(Ord. No. 07-13, § 1, 8-20-07)

Sec. 17.1. Purpose and intent.

The purpose of this article is to protect water quality by encouraging the promotion, protection, and improvement of the general health, safety, and welfare of the people, and to encourage the conservation of

natural resources within the regulated MS4 of Darlington County as designated by the Environmental Protection Agency (EPA) and South Carolina Department of Health and Environmental Control (SCDHEC) based upon the Urbanized Area (UA). In order to protect the quality of water discharging from the regulated MS4 of Darlington County, these regulations are enacted to minimize the erosion of soils, reduce the sedimentation of streams, regulate stormwater runoff coming from developing areas, reduce the damage potential of floodwater, protect properties near land disturbing activities, minimize the clogging of ditches, reduce the silting of water bodies, strive to provide unobstructed and sanitary channels for stormwater runoff, reduce flooding caused by the encroachment of buildings or other structures on natural waterways and drainage channels, minimize pollution of surface water and groundwater, prohibit illicit discharges and promote groundwater recharge.

The requirements set forth in this article are not intended to negate any preexisting county ordinances, nor should they be interpreted in such a way that contradicts state or federal regulations. If this article conflicts with another county ordinance, state or federal regulations, the most stringent requirements shall apply. Development in Darlington County must also comply with the earlier sections of Appendix A—Development Standards Ordinance.

(Ord. No. 07-13, § 1, 8-20-07)

Sec. 17.2. Establishing MS4 area stormwater management protection overlay district map.

A. The MS4 Area Stormwater Management Protection District is created within Darlington County and is shown on the official district map. This map, together with all explanatory matter thereon, is hereby adopted by reference and declared to be part of this article.

B. An official copy of the official district map of Darlington County shall be filed in the Office of the Clerk of Court in Plat Book 204 at page 45. This map shall bear the seal of Darlington County under the following word: "*This is to certify that this is the Official District Map referred to in Article Seventeen of the Development Standards Ordinance adopted by the Darlington County Council on August 20, 2007.*

C. The official district map shall be revised as necessary as District boundaries change as a result of new Census data revising the boundaries of the UA within Darlington County or as deemed necessary by Darlington County. The revised map shall then be filed with the Office of the Clerk of Court to replace the previously filed map.

(Ord. No. 07-13, § 1, 8-20-07)

Sec. 17.3. Definitions and references.

17.3.A. *Definitions.*

Best management practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to surface waters of the state. BMPs also include treatment requirements, operating procedures, and practice to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs are broadly defined by the South Carolina Department of Health and Environmental Control (SCDHEC) as stormwater management and conservation practices that prevent or reduce the discharge of pollutants to waters of the state of South Carolina. These practices have been demonstrated to effectively control the movement of pollutants and to prevent degradation of soil and water resources. See the latest version of SCDHEC's Stormwater Management BMP Handbook for examples.

Control measure as used in this permit, refers to any BMP or other method used to prevent or reduce the discharge of pollutants to waters of the state of South Carolina.

County means Darlington County, or the office or department designated by the county administrator of Darlington County to have authorized responsibility for particular requirements such as receiving applications, reviewing SWPPPs, enforcement, etc.

CWA means the Clean Water Act or the Federal Water Pollution Control Act, 33 U.S.C. section 1251 et seq.

Designated watershed means a watershed designated by a local government and approved by the commission, Department of Health and Environmental Control and the South Carolina Water Resources Commission and identified as having an existing or potential stormwater, sediment control, or non-point source (NPS) pollution problem. The concept of designated watersheds is intended, not only to prevent existing water quantity and water quality problems from getting worse, but also to reduce existing flooding problems and to improve existing water quality or meet state water quality standards through a reduction of the impacts of NPS pollution in selected watersheds. Further, the designation of watersheds under this section may also be used to protect watersheds which do not currently have significant water quality or quantity problems, but which require protection in order to avoid or mitigate the occurrence of future problems which might impair current or protected multiple water uses or important water resources within the watershed.

DHEC means the South Carolina Department of Health and Environmental Control's Office of Environmental Quality Control (sometimes referred to as SCDHEC or "the department").

Director of planning means the Director of the Darlington County Planning Department or his/her designated representative (also referred to as "the director").

Discharge when used without qualification means the "discharge of a pollutant."

Eligible means qualified for authorization to discharge stormwater under General Permit No. SCR030000.

EPA means United States Environmental Protection Agency.

Facility or *activity* means any "point source" or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the NPDES program. In reference to stormwater management, this would include land disturbing activities as well as other facilities or activities with potential to impact stormwater runoff.

Final stabilization means that:

1. All soil-disturbing activities at the site have been completed and either of the two following criteria are met:
    a. A uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70 percent of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures; or
    b. Equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.
2. For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land, staging areas for highway construction, etc.), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to "waters of the state of South Carolina," and areas which are not being returned to their preconstruction agricultural use must meet the final stabilization criteria 1. above.

General permit means an NPDES permit issued under section 122.28 of SCR 61-9 authorizing a category of discharges or activities under the CWA within a geographical area.

Illicit connection is defined as either of the following:

1. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system, including, but not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system. This also includes any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
2. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Illicit/illegal discharge means any discharge to a municipal or county separate storm sewer system (stormwater drainage system) that is not composed entirely of stormwater runoff (except for non-polluting discharges that may be allowed under a permit or by exemption).

Impervious surface means a ground covering surface that does not allow the percolation or penetration of rainwater into the ground (e.g. a concrete parking area or driveway, the roof of a building). A pervious surface allows rainfall to percolate into the ground (e.g. grassed or landscaped areas, pervious pavement).

Inflow and infiltration is the result of groundwater or stormwater entering into a sanitary sewer system as a result of damaged collection lines or manholes or from direct stormwater connections, such as from catch basins or roof drains.

Hazardous materials are any substances that, because of its quantity, concentration, or physical or chemical characteristics, pose a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. Hazardous materials post a threat to stormwater, the environment, and citizens of the community if not maintained, handled, and disposed of in an appropriate manner. The list of hazardous materials includes, but is not limited to, the following:

Oils
Fuels/propane
Paints/paint thinners
Cleaning products
Pesticides

Land disturbance activity means any use of the land by any person that results in a change in the natural cover or topography that may cause erosion and contribute to sediment and alter the quality and quantity of stormwater runoff.

Large construction activity includes clearing, grading, and excavating resulting in a land disturbance that will disturb equal to or greater than five acres of land or will disturb less than five acres of total land area but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than five acres. Large construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the site.

Municipal separate storm sewer system or *MS4* means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

1. Owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Clean Water Act that discharges into waters of the United States;

2. Designed or used for collecting or conveying stormwater;

3. Which is not a combined sewer; and

4. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

NOI is an abbreviation for *notice of intent* and is the mechanism used to request coverage under a general permit.

Nonpoint source pollution or *NPS pollution* means pollution contained in stormwater runoff from ill-defined, diffuse sources. NPS pollution is caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into lakes, rivers, wetlands, coastal waters, and even our underground sources of drinking water. These pollutants include, but are not limited to: excess fertilizers, herbicides, and insecticides from agricultural lands and residential areas; oil, grease, and toxic chemicals from urban runoff and energy production; sediment from improperly managed construction sites, crop and forest lands, and eroding stream banks; salt from irrigation practices and acid drainage from abandoned mines; bacteria and nutrients from livestock, pet wastes, and faulty septic systems.

NPDES means National Pollutant Discharge Elimination System.

NOT is an abbreviation for "notice of termination" and is the mechanism used to request termination of coverage under a general permit once the conditions of the approved Stormwater Pollution Prevention Plan (SWPPP) have been met for a permittee or co-permittee.

Operator for the purpose of this permit and in the context of stormwater associated with construction activity, means any party associated with a construction project that meets either of the following two criteria:

1. The party has operational control over construction plans and specifications; or

2. The party has day-to-day operational control of those activities at a project that are necessary to ensure compliance with a SWPPP for the site or other permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the SWPPP or comply with other permit conditions). This definition is provided to inform permittees of EPA's interpretation of how the regulatory definitions of "owner or operator" and "facility or activity" are applied to discharges of stormwater associated with construction activity.

Owner or *operator* means the owner or operator of any "facility or activity" subject to regulation under the NPDES program.

Point source means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

Pollutant is defined at §122.2 of SC Regulation 61-9. A partial listing from this definition includes: dredged spoil, solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial or municipal waste.

Receiving water means the "Waters of the State of South Carolina" as defined in §122.2 of S.C. Regulation 61-9 into which the regulated stormwater discharges.

Site means the land or water area where any "facility or activity" is physically located or conducted, including adjacent land used in connection with the "facility or activity."

Small construction activity includes clearing, grading, and excavating that result in land disturbance of equal to or greater than one acre and less than five acres (but not for single-family homes which are not part of a subdivision development), that result in any land disturbance less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of

development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

SSO is an abbreviation for "sanitary sewer overflow" and is defined as raw, untreated sewage that discharges from the sanitary sewer system without first passing through a wastewater treatment plant. A typical SSO may occur at a manhole during wet weather, but can also occur in dry weather for a variety of reasons. An SSO is a public health hazard and a violation of federal, state, and local discharge regulations.

Stormwater means stormwater runoff, snowmelt runoff, and surface runoff and drainage.

SWPPP means stormwater pollution prevention plan (also referred to as SWP3).

Total maximum daily load (TMDL) is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards. In other words, it is the sum of the allowable loads of a single pollutant from all contributing point and nonpoint sources and includes a margin of safety and consideration of seasonal variations. In addition, a TMDL contains the reductions needed to meet water quality standards and allocates those reductions among the sources in the watershed. The calculation must include a margin of safety to ensure that the waterbody can be used for the purposes that have been designated. The calculation must also account for seasonal variation in water quality. Water quality standards for South Carolina are promulgated by the Department of Health and Environmental Control with approval by the S.C. General Assembly. They identify the uses for each waterbody, for example, drinking water supply, contact recreation (swimming), and aquatic life support (fishing) as well as the scientific criteria to support these uses. Streams, lakes, and other waterbodies that do not meet the standards are impaired and are required by the Clean Water Act to be listed as such (the 303d list). Section 303(d) also requires development of TMDLs for listed waters. TMDLs are an important step in the restoration of these impaired waterbodies.

Urbanized area (UA) means a densely populated area (built up area). The Bureau of the Census determines UAs by applying a detailed set of published UA criteria to the latest decennial Census data. Although the full UA definition is complex, the Bureau of the Census' general definition of a UA, is based on population and population density. The UA is independent of corporate city or regional government boundaries. The regulated MS4 district boundary is defined by the official district map and can be larger than the actual UA to include designated watersheds or as deemed necessary by the county.

Waters of the State of South Carolina means lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial limits of the state, and all other bodies of surface or underground water, natural or artificial, public or private, inland or coastal, fresh or salt, which are wholly or partially within or bordering the state or within its jurisdiction.

17.3.B. *References.*

SCR030000 — State of South Carolina NPDES General Permit for Storm Water Discharges from Regulated Small Municipal Separate Storm Sewer Systems (MS4s).

SCR100000 — South Carolina NPDES General Permit for Storm Water Discharges from Large and Small Construction Activities.

R. 72-305 and R 72-307 of SC DHEC's Standards for Stormwater Management and Sediment Reduction Regulation.

SCR 61-9 — SC DHEC's Water Pollution Control Permits Regulation 61-9.

Compliance and Implementation Monitoring of Forestry Best Management Practices for Harvesting in South Carolina, 2004-2005 — SC Forestry Commission, July 2006.

Copies of all the above-listed references can be found in the Darlington County Planning Department.

(Ord. No. 07-13, § 1, 8-20-07; Ord. No. 08-20, § 1, 9-2-08)

Sec. 17.4. Illicit discharge detection and elimination.

Sec. 17.4.1. Purpose and intent. The purpose of this section is to regulate nonstormwater discharges to the storm drainage system as required by federal and state law. This section establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the NPDES permit process. The objectives of this section are:

A. To regulate the contribution of pollutants to the MS4 by stormwater discharges by any user;

B. To prohibit illicit connections and discharges to the MS4; and

C. To establish the legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with these regulations.

Sec. 17.4.2. Exemptions. The commencement, conduct, or continuance of any nonstormwater discharge to the storm drain system is prohibited, except as follows:

A. The following discharges are exempt from discharge prohibitions established by this section: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, uncontaminated rising groundwater, groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, uncontaminated springs, noncommercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated - typically less than one mg/L chlorine), firefighting activities, and any other water source not containing pollutants.

B. Any nonstormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

C. Discharges specified in writing by Darlington County as being necessary to protect public health and safety.

Sec. 17.4.3. Requirements.

A. Darlington County prohibits illicit discharges and illicit connections, as defined in Section 17.3.A. of this article.

B. The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

C. A person is considered to be in violation of these regulations if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

D. Encroachment permits shall be required before the construction of any connection to the county's publicly owned stormwater management system.

Sec. 17.4.4. Industrial or Construction Activity Discharges.

A. All persons subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit shall be required in a form acceptable to Darlington County prior to the allowing of discharges to the MS4.

B. Darlington County shall be permitted to enter and inspect facilities subject to these regulations as often as may be necessary to determine compliance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access by county representatives.

C. Facility operators shall allow Darlington County ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

D. Darlington County shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the county to conduct monitoring and/or sampling of the facility's stormwater discharges.

E. Darlington County has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

F. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of Darlington County and shall not be replaced. The costs of clearing such access shall be borne by the operator.

G. Unreasonable delays in allowing Darlington County access to a permitted facility is a violation of a stormwater discharge permit and of these regulations. A person who is the operator of a facility with an NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Ordinance.

H. If Darlington County has been refused access to any part of the premises from which stormwater is discharged, and it is able to demonstrate probable cause to believe that there may be a violation of these regulations, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with these regulations or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then Darlington County may seek issuance of a search warrant from any court of competent jurisdiction.

Sec. 17.4.5. Requirement to Prevent, Control, and Reduce Stormwater Pollutants by the Use of Best Management Practices.

A. Darlington County reserves the right to require Best Management Practices (BMPs) for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the state.

B. The owner or operator of a commercial or industrial establishment shall provide, at his expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of structural and nonstructural BMPs.

C. Any person responsible for a property or premises which has been determined to contribute to an illicit discharge shall be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system.

D. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. The associated BMPs shall be part of a Stormwater Pollution Prevention Plan (SWPPP), as necessary for compliance with requirements of the NPDES permit.

Sec. 17.4.6. Protection of Open Stormwater Conveyances and Designated Waterways. Every person owning property through which an open stormwater conveyance or designated waterway passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water. In addition, the owner or lessee shall maintain existing privately owned structures within these areas, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

Sec. 17.4.7. Sanitary sewer overflows (SSO) and inflow and infiltration (I&I).

A. The county shall notify all persons, firms, corporations, or other entities where sewer service lines or sewer collection systems are found to have excessive inflow or infiltration that their service line or sewer collection system must be repaired so as to eliminate such violation. Such repairs must be completed within 60 days of notification by the county, or within such other time schedule as prescribed by the county.

B. All private and public sanitary sewer systems that are operated within Darlington County shall report any SSO or any incident with the potential to impact surface waters occurring in Darlington County, to stormwater management in the Darlington County Planning Department. This reporting requirement shall be in addition to any other state or local SSO reporting requirement.

C. Every person, firm, corporation or other entity using a sanitary sewer system located in the unincorporated portions of Darlington County, or pipelines connected to said system, shall maintain all sewer lines connected to the said sewer system, or privately owned sewer collection systems which are connected to said system, in good condition so that the sewer will not:

   1. Permit any leakage of stormwater or other surface water or groundwater into the sewer service lines or sewer collection lines system either by visual observation or low pressure leakage test.

   2. Receive rainwater flow from roof downspout connections, yard drains, uncovered building area drains, sump pumps or other sources of rainwater flow and any other source of inflow/infiltration.

   3. Permit any leakage of sewage into any stormwater conveyance, other surface water or groundwater whereby stormwater, surface or groundwater is contaminated by sewage or waste water.

Sec. 17.4.8. Notification of spills.

A. Notwithstanding other requirements of law, as soon as any person responsible for the operation or emergency response of a facility has information pertaining to any known or suspected release of materials which may result in an illegal discharge, the responsible person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release.

   1. In the event of a release of hazardous materials, said person shall immediately notify the appropriate emergency response agencies of the occurrence via emergency dispatch services.

   2. In the event of a release of non-hazardous materials, said person shall notify the director of planning or his designee in person or by phone, fax, or email no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the director of planning or his designee within three business days of the phone notice.

B. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Sec. 17.4.9. Enforcement.

A. *Administrative procedures.*

1. Investigations of potential illicit discharges. Darlington County has the right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection of a suspected illicit discharge or other enforcement action.
2. Revocation of permits. Any permitted user who violates the following conditions of this section, or applicable state and federal regulations, is subject to having its MS4 encroachment permit terminated:
    a. Failure to report a pollutant discharge;
    b. Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or
    c. Violation of any conditions of the permit.
3. Violations to be corrected. When Darlington County finds a violation of section 17.4 of this article, it shall be the Director of Planning or his designee's duty to notify the user who has violated the requirements of this section. The user shall immediately remedy each of the violations of this section.
4. Actions in event of failure to take corrective action. If the user in violation of section 17.4 of this article shall fail to take prompt corrective action, the director of planning or his designee shall give him written notice by certified or registered mail to his last known address or by personal service that:
    a. The user is discharging to the MS4 in a manner that is in violation of section 17.4;
    b. A hearing will be held before the director of planning or his designee at a designated place and time, not later than ten days after the date of the notice, at which time the user shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter.
5. Order to take corrective action. If, upon a hearing held pursuant to the notice prescribed above, the director of planning or his designee shall find that the discharge is in violation of article 17, the director of planning or his designee shall make an order in writing to the user, requiring him to remedy the violation within such period as the director of planning or his designee may prescribe (not less than 60 days); provided that, where the director of planning or his designee finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period, as may be feasible.
6. Appeal. Any user who has received an order to take corrective action may appeal from the order to the local elected governing body by giving notice of appeal in writing to the director of planning and the clerk to council within ten days following issuance of the final order. In the absence of an appeal, the order of the director of planning or his designee shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
7. Failure to comply with order. If the user fails to comply with an order to take corrective action from which no appeal has been made, or fails to comply with an order of the governing body following an appeal, he shall be subject to a fine of $500.00. If a fine is levied, each day where no corrective action has been taken may be considered a separate offense with a separate fine. If no corrective action is taken within five days, it shall constitute a misdemeanor and the violator may be charged. Upon conviction thereof, the violator shall be punished at the discretion of the court. Each day where no corrective action has been taken may be considered a separate offense.
8. Suspension of municipal separate storm sewer (MS4) access.

a. Darlington County may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the county may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the state, or to minimize danger to persons.

b. All persons discharging to the MS4 in violation of these regulations may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. Darlington County will notify a violator of the proposed termination of its MS4 access. The violator may petition the county for a reconsideration and hearing.

c. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of Darlington County.

(Ord. No. 07-13, § 1, 8-20-07; Ord. No. 08-20, § 2, 9-2-08)

Sec. 17.5. Construction and post-construction stormwater runoff control.

17.5.1. *Requirements.*

A. The surface of land in the regulated MS4 areas of Darlington County as defined by the official district map shall not be disturbed or altered for any purpose whatsoever, except in accordance with an approved stormwater pollution prevention plan (SWPPP) and article 17. The owner or operator shall be required to submit a SWPPP to obtain a certificate of approval for land disturbance. Such approval shall be issued by the director of planning or his/her designated representative prior to any construction, grading or land disturbance of any nature. This only applies to sites equal to or greater than one acre, or as deemed necessary by Darlington County.

B. The owner or operator shall also be required to obtain permit coverage under the NPDES General Permit for Storm Water Discharges from Large and Small Construction Activities, (SCR100000) from SCDHEC as with any land disturbance prior to any construction, grading or land disturbance of any nature.

C. Certificate of approval will be contingent on compliance with R.72-305 and R 72-307.

D. If individual lots or sections in a residential subdivision are being developed by different property owners, all land disturbing activities related to the residential subdivision shall be covered by the approved SWPPP and article 17 for the residential subdivision. Individual lot owners or operators must sign a certification of compliance that all activities on that lot will be carried out in accordance with the approved SWPPP and article 17 for the residential subdivision. Failure to provide this certification will result in owners or operators of individual lots developing a separate SWPPP meeting the requirements of subsection 17.5.3.

E. The owner or operator of land disturbance activity must observe strict adherence to the approved SWPPP and compliance with article 17.

17.5.2. *Exemptions, variances, and waivers.*

A. The provisions of the regulations that require the preparation and approval of a SWPPP shall not apply to the activities or conditions listed below.

1. Land disturbing activities on agricultural land for production of plants and animals useful to man, including but not limited to: forages and sod crops, grains and feed crops, poultry and poultry

products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, including the breeding and grazing of these animals; bees; fur animals and aquaculture; except that the construction of an agricultural structure or structures which, singularly or collectively total one or more acres, such as broiler houses, machine sheds, repair shops and other major buildings and which require the issuance of a building permit shall require the submittal and approval of a SWPPP and compliance with article 17 prior to the start of the land disturbing activity.

2. Land disturbing activities undertaken on forest land for the production and harvesting of timber and timber products.

3. Construction or improvement of single-family residences or their accessory buildings disturbing less than an acre, which are separately built and not part of multiple construction in a subdivision development.

4. Land disturbing activities associated with gas or electric services provided project has been permitted through S.C. DHEC.

B. Where the exemptions listed above may apply, Darlington County encourages those persons engaged in the land disturbing activities to carry out such activities in a manner to achieve the objectives of erosion and sediment reduction and stormwater management through the use of applicable best management practices (BMP's), such as those identified in the report Compliance and Implementation Monitoring of Forestry Best Management Practices for Harvesting in South Carolina, 2004-2005.

C. Darlington County may grant a written variance from any requirement of article 17 if there are exceptional circumstances applicable to the site, such that strict adherence to the provisions of these regulations will not fulfill the intent of these regulations.

1. A written request for variance shall be provided to Darlington County Planning Department, and it shall state the specific variance sought. The reasons and supporting data for their granting shall be included. Darlington County will not consider a variance unless sufficient specific reasons justifying the variance are provided by the applicant.

2. Darlington County will conduct its review of the request for variance after which time it will be approved or disapproved by the director of planning.

D. Darlington County may grant a waiver from the requirements of article 17 for land disturbing activities associated with gas or electric services, provided the activities have been permitted through S.C. DHEC.

17.5.3. *Stormwater pollution prevention plans.*

A. Stormwater pollution prevention plans (SWPPPs) shall be submitted to Darlington County for approval prior to any land disturbance of greater than or equal to one acre including construction activity disturbing less than one acre if it is part of a larger common plan of development or sale. The designs, presentations and submittals shall be the responsibility of the person responsible for the land disturbing activity.

B. The SWPPP must be prepared, amended when necessary, certified, and stamped by a qualified individual who is licensed as follows:

1. Registered professional engineers as described in Title 40, Chapter 22;

2. Registered landscape architects as described in Title 40, Chapter 28, Section 10, item (b);

3. Tier B land surveyors as described in Title 40, Chapter 22; or

4. Federal government employees as described by Title 40, Chapter 22, Section 280(A)(3).

C. The SWPPP must contain the following:

1. Identify all potential sources of pollution which may reasonably be expected to affect the quality of stormwater discharges from the construction site;

2. Describe practices to be used to reduce pollutants in stormwater discharges from the construction site including but not limited to best management practices (BMPs) which specifically control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;

3. Assure compliance with the terms and conditions of SCR100000 when properly implemented;

4. Provide the required stormwater calculations for a two-, ten-, and 25-year event, at a minimum;

5. Site and activity description:

   a. Identify all operators for the project site, and the areas of the site over which each operator has control;

   b. Describe the nature of the construction activity, including:

      i. The function of the project (e.g., low density residential, shopping mall, highway, etc.);

      ii. The intended sequence and timing of planned major activities that disturb soils such as clearing and grubbing, initial and final grading, and cut and fill activities at the site (except for S.C. Department of Transportation Projects, unless known at the time the SWPPP is prepared);

      iii. Estimates of the total area expected to be disturbed by excavation, grading, or other construction activities, including dedicated off-site borrow and fill areas; and

      iv. A general location map (e.g., USGS quadrangle map, a portion of a city or county map, or other map) with enough detail to identify the location of the construction site and surface waters of the state within one mile of the site.

   c. Contain a legible site map, showing the entire site, identifying:

      i. Direction(s) of stormwater flow and approximate slopes anticipated after major grading activities;

      ii. Areas of soil disturbance and areas that will not be disturbed;

      iii. Locations of structural and nonstructural BMPs identified in the SWPPP;

      iv. Locations where stabilization practices are expected to occur;

      v. Locations of off-site material, waste, borrow or construction equipment storage areas, excluding rolloff containers (not applicable to S.C. Department of Transportation Projects);

      vi. Locations of all surface waters of the state (including wetlands);

      vii. Locations where stormwater discharges to a surface water; and

      viii. Areas where final stabilization has been accomplished and no further construction-phase permit requirements apply.

   d. Describe and identify the location and description of any stormwater discharge associated with industrial activity other than construction at the site. This includes stormwater discharges from dedicated asphalt plants and dedicated concrete plants that are covered

by the NPDES General Permit for Storm Water Discharges from Large and Small Construction Activities (SCR100000).

6. Controls to reduce pollutants.

   a. The SWPPP must include a description of all pollution control measures (i.e., BMPs) that will be implemented as part of the construction activity to control pollutants in stormwater discharges. For each major activity identified in the project description, the SWPPP must clearly describe control measures necessary to comply with this permit and applicable laws and regulations, the general sequence during the construction process in which the measures will be implemented, and which operator is responsible for the control measure's implementation.

   b. The SWPPP must include a description of interim and permanent stabilization practices for the site, including a schedule of when the practices will be implemented. Site plans should ensure that existing vegetation is preserved where possible and that disturbed portions of the site are stabilized. Use of impervious surfaces for stabilization should be avoided.

   c. For sites with stormwater discharges to a receiving water that is listed as impaired in South Carolina's 303(d) List of Impaired Waters the following requirements apply:

      i. If a TMDL that is applicable to stormwater construction discharges has been established and is in effect, the requirements of Part 1.3.C.4 of the NPDES General Permit for Large and Small Construction Activities must be met.

      ii. If a TMDL has not been established or is not in effect, you must ensure that your SWPPP does not allow stormwater discharges that will contribute to the violations of the water quality standards. To accomplish this, the preparer of the SWPPP must address the following:

         A. First determine whether or not the discharge may contain any pollutant that has caused the impairment.

         B. If the stormwater discharges will not contain the pollutant(s) of concern, no additional requirements are necessary.

         C. If the discharge will contain the pollutant(s) of concern, the SWPPP must address that selected BMPs and their performance to ensure that stormwater discharges will not contribute to or cause a violation of water quality standards. For projects that disturb 25 acres or more, the SWPPP must contain a written quantitative and qualitative assessment that the BMPs selected will control the stormwater discharges so that they will not contribute to or cause a violation of water quality standards. For more information on this subject, please see the DHEC publication entitled "Antidegradation for Activities Contributing to NonPoint Source Pollution to Impaired Waters."

D. The SWPPP must include a description of all post-construction stormwater management measures that will be installed during the construction process to control pollutants in stormwater discharges after construction operations have been completed.

E. Once a definable area has been finally stabilized, this should be identified on the SWPPP and no further SWPPP or inspection requirements apply to that portion of the site (e.g., earth-disturbing activities around one of three buildings in a complex are done and the area is finally stabilized, one mile of a roadway or pipeline project is done and finally stabilized, etc).

F. The SWPPP and compliance with article 17 must be implemented as written from commencement of construction activity until final stabilization is complete.

17.5.4. *Permit fee schedule.*

A. The application for a permit to disturb or change land in the regulated MS4 areas of Darlington County shall be accompanied by a nonrefundable fee according to the following schedule:

1. The fee for any application for any permit or plan approval required by these regulations shall be $125.00 to be sent to DHEC with NOI for NPDES Permit for Large and Small Construction Activities coverage plus $100.00 per disturbed acre payable to Darlington County. The $125.00 fee for DHEC will be collected once the project has been approved by Darlington County and is ready to be forwarded to DHEC for permit coverage. Additionally, a review fee of $100.00 per disturbed acre payable to Darlington County shall be submitted at the time of the application, not to exceed $2,000.00. Total maximum required fees are $2,125.00. No plans shall be reviewed until all appropriate fees have been paid. No fee will be charged for land disturbing activities that disturb less than one acre which are not part of a larger common plan for development or sale. No fee will be charged for extensions or renewal of plan approval unless there are significant changes to the plans.

2. The fee for any determination or documentation of any exemption, variance, or waiver from any requirements of these regulations shall be $100.00.

17.5.5. *Approval or disapproval of application.*

A. Specific requirements of the permit application and approval process are generally based on the extent of the land disturbing activity. The permit application and approval procedure is as follows:

1. For land disturbing activities of one acre or greater, a SWPPP and compliance with article 17 is required. However, the use of measures other than ponds (i.e., grass swales, bioretention cells, sand filters, filter strips, etc.) to achieve water quality improvement is recommended on sites containing less than ten disturbed acres. Plans and specifications for these activities will be prepared by the designers specified in NPDES General Permit for Storm Water Discharges from Large and Small Construction Activities (SCR100000). Upon receipt of a completed application for sediment and stormwater management, including a completed DHEC Checklist, Darlington County shall accomplish its review and have either the approval or review comments transmitted to the applicant within 20 working days from receipt of the complete application with all required and requested documentation.

2. When the land disturbing activity is adjacent to or discharging to an impaired water body listed on the 303(d) list, or to a receiving water with an approved total maximum daily load (TMDL), the SWPPP must incorporate antidegradation measures or controls that are consistent with the assumptions and requirements of such TMDL.

B. A SWPPP or an application for a waiver shall be submitted to Darlington County by the person responsible for the land disturbing activity for review and approval for a land disturbing activity, unless otherwise exempted. The SWPPP shall contain supporting computations, drawings, and sufficient information describing the manner, location, and type of measures in which stormwater runoff will be managed from the entire land disturbing activity. Darlington County shall review the plan to determine compliance with the requirements of these regulations prior to approval. The approved SWPPP shall serve as the basis for water quantity and water quality control on all subsequent construction.

C. All SWPPPs submitted for approval shall contain certification by the person responsible for the land disturbing activity that the land disturbing activity will be accomplished pursuant to the approved plan and that responsible personnel will be assigned to the project.

D. All SWPPPs shall contain certification by the person responsible for the land disturbing activity of the right of the county or DHEC to conduct on-site inspections.

E. The SWPPP, as submitted by the person responsible for the land disturbing activity, shall not be considered approved without the inclusion of an approval stamp with a signature and date on the plans by Darlington County. The stamp of approval on the plans is an acknowledgment of conformance with the requirements of these regulations. This approval does not constitute a representation or warranty to the applicant, or any other person, concerning the safety, appropriateness or effectiveness of any provision, or omission from the SWPPP.

F. Approved plans remain valid for two years from the date of an approval. At its discretion and upon receipt of a written request, Darlington County may grant extensions or renewals of the plan approvals for increments of up to one year, not to exceed a total of five years.

G. Approvals of land disturbing activities, which were approved by department of health and environmental control prior to the effective date of this article, shall remain in effect for the original term of the approval. For land disturbing activities which were not initiated during the original term of the approval, the person responsible for the land disturbing activity shall resubmit the SWPPP to Darlington County for review.

17.5.6. *Inspections.*

A. Inspections must be conducted by the owner or operator of the land disturbing activity as required in SCR100000. At a minimum, inspections must be carried out according to one of the two schedules below, and the chosen inspection frequency must be specified in the SWPPP.

1. At least once every seven calendar days, or

2. At least once every 14 calendar days and within 24 hours after the end of a storm event of 0.5 inches or greater.

B. Inspections must be carried out by a certified inspector, a registered professional engineer or a registered landscape architect. Detailed records of every inspection must be maintained at the construction site along with the SWPPP.

C. Darlington County reserves the right to conduct inspections of the site and documentation at any time during construction to verify that inspections are being conducted in accordance with SCR100000. For sites greater than ten acres, the required monthly reports shall be submitted to Darlington County.

D. The person responsible for the land disturbing activity shall notify Darlington County before initiation of construction. The county shall also be notified upon project completion, when a final inspection will be conducted to ensure compliance with the approved SWPPP and article 17.

17.5.7. *Maintenance requirements.*

A. *Maintenance during construction.* The applicant is responsible for the maintenance and preventive maintenance of all completed stormwater management practices to ensure proper functioning. The applicant shall ensure preventive maintenance through inspection of all stormwater management practices. Preventative maintenance shall be installed and operational as approved in the SWPPP. If the BMPs are not functioning properly or adequately to protect water quality, an alternative BMP must be submitted for approval.

B. *Maintenance responsibilities post construction.* As built drawings (as builts) must be prepared where any new outfall discharging to waters of the state has been added or modified, or any new facility to control post construction runoff has been constructed as part of an approved SWPPP. As builts must be submitted to and approved by the Darlington County Planning Department before a certificate of occupancy is issued or final inspection of drainage facilities is passed, whichever is appropriate. As

builts shall show the final constructed location of all drainage and structural BMPs along with all pertinent final elevations.

Temporary and permanent erosion, sedimentation and stormwater management facilities once installed and after a final inspection has been completed, shall be maintained in one of the following manners:

1. Facilities maintained by owner. The owner of the property on which work has been done pursuant to this article, or any other person or agent in control of such property, shall maintain in good condition and shall promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sediment control measures, and other protective devices. Such repairs or restorations and maintenance shall be in accordance with the approved SWPPP and article 17. These generally include private detention and retention facilities.

   The facilities to be maintained by the owner shall provide adequate access to permit county authorities to inspect and, if necessary, to take corrective action. If the owner or any other person or agent in control of such property fails to maintain properly the facilities for which he is responsible under the provisions of this article, Darlington County shall give such owner, person or agent in control written notice describing specifically the deficiency. If the owner, person or agent in control fails, within 20 days from the date of receipt of such notice, to take or commence corrective action, such owner, person or agent shall be subject to the penalties found in this article.

2. Facilities maintained by Darlington County. All facilities to be maintained by Darlington County must be designed and constructed in accordance with the requirements of this article and all such facilities shall be dedicated to the county by deed with attached record drawings. The county will then accept the conveyance of such facilities by appropriate action of the governing body. Such deed shall include sufficient ingress-egress easements to permit the county to properly maintain such facilities. These generally include public detention and retention facilities.

17.5.8. *Enforcement.* Darlington County, in addition to its enforcement options, may refer a site violation to the Department of Health and Environmental Control for review.

A. *Administrative procedures.*

   1. Inspections of work in progress: As the work pursuant to a permit progresses, the director of planning or designated representatives 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 approved SWPPP and article 17. In exercising this power, the county has the right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.

   2. Stop work orders: Whenever a land disturbance is in violation of the approved SWPPP or article 17, the county may order the work to be immediately stopped. The stop work order shall be in writing and directed to the person doing the work. The stop work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Violation of a stop work order constitutes a misdemeanor and shall be subject to a fine not exceeding $500.00 or imprisonment not exceeding 30 days or by both fine and imprisonment.

   3. Revocation of permits: The director of planning may revoke and require the return of the development permit by notifying the permit holder in writing, stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of the approved SWPPP and article 17; or for false statements or misrepresentations made in securing

the permit. Any permit mistakenly issued in violation of an applicable State or local law may also be revoked.

4. Periodic inspections: The director of planning and the designated county inspectors shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of article 17 at any reasonable hour for the purposes of inspection or other enforcement action.
5. Violations to be corrected: When the director of planning finds violations of the approved SWPPP or article 17, it shall be his duty to notify the owner or operator of the land disturbance violation. The owner or operator shall immediately remedy each of the violations of the approved SWPPP or article 17 on the property he owns or operates.
6. Actions in event of failure to take corrective action: If the owner or operator of a land disturbance shall fail to take prompt corrective action, the director shall give him written notice, by certified or registered mail to his last known address or by personal service that:
   (a) The property is in violation of the approved SWPPP or article 17;
   (b) a hearing will be held before the director of planning at a designated place and time, not later than ten days after the date of the notice, at which time the owner or operator shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter.
7. Order to take corrective action: If, upon a hearing held pursuant to the notice prescribed above, the director of planning shall find that the land disturbance is in violation of the approved SWPPP or article 17, he shall make an order in writing to the owner or operator, requiring the owner or operator to remedy the violation within such period the director may prescribe (not less than 60 days); provided that, where the director finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.
8. Appeal: Any owner or operator who has received an order to take corrective action may appeal from the order to the local elected governing body by giving notice of appeal in writing to the director and the clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the director shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
9. Failure to comply with order: If the owner or operator of a land disturbance activity fails to comply with an order to take corrective action from which no appeal has been made, or fails to comply with an order of the governing body following an appeal, he shall be subject to a fine not to exceed $500.00 and he shall be found guilty of a misdemeanor and shall be punished at the discretion of the court. If a fine is levied, each day where no corrective action has been taken may be considered a separate offense with a separate fine.

(Ord. No. 07-13, § 1, 8-20-07)

ARTICLE EIGHTEEN. MINI CAMPER SITE, CAMPER PARK, AND MIXED-USE CAMPER PARK

Sec. 18. Purpose and intent.

This article regulates and guides the establishment of camper sites/parks in order to promote the public health, safety, and general welfare of the county citizens. This article is designed to accomplish the following specific objectives:

(1) To further the orderly layout of such parks;

(2) To secure safety from fire, panic, other dangers and orderly emergency service response;

(3) To provide adequate light and air;

(4) To provide proper water, sewage, and electrical services; and

(5) To insure that maneuverability and parking are provided for temporary/transient camp residents.

(Ord. No. 13-27, § I, 1-7-14)

Sec. 18.1. Definitions.

The following words, terms and phrases, used in this article, shall have the ascribed meanings to them unless stated otherwise:

Bathhouse. A centralized structure that contains separate female and male toilets and lavatories, showers, and other similar fixtures. Facilities shall conform to the county's construction and building code, and meet septic/sewer and water standards.

Camper space. An area within the larger tract designated for a camper and at least one off-street parking space.

Camper, recreational vehicles (RV), and motor homes (hereafter "campers"). Vehicles that are built on a chassis designed to be self-propelled or towed. They are not designed for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

Camper park. A tract of land intended for the temporary placement of a camper, tent, or other similar camping shelter, and provided with approved drinking water, sewage facility, and electrical service. A bathhouse is required for parks open to tent residents not associated with the camper. The tent resident area must be appropriately designated. Eight camper spaces up to a maximum of five acres.

Mini camper site. Land used to accommodate up to a maximum of seven camper spaces including the adaptive reuse of an existing septic tank. New septic systems shall be on property designated for residential use by the assessor's office. Tent resident area is prohibited.

Mixed-use camper park. Land with a minimum of five acres and up to seven acres developed to incorporate campers and mobile homes, mobile home parks, duplexes, or other residential and commercial structures. A bathhouse is required for parks open to tent residents not associated with the camper. The tent resident area must be appropriately designated.

Maneuverability. Designed traffic circulation within a site/park orchestrated to avoid congestion and collision between entering and exiting vehicles, including emergency vehicles, and other structures.

Permit. A written document issued by the planning department authorizing a developer to operate a camper site/park pursuant to this article.

Temporary. Camper residency is up to one-year within a camper site/park.

(Ord. No. 13-27, § I, 1-7-14)

Sec. 18.2. Duty of owner.

Each owner of a mobile home or manufactured home located within Darlington County shall obtain and display a county registration decal as required by state law within 15 days of either purchase or change of ownership of a mobile home or manufactured home or if the home is relocated. The decal must be displayed on the mobile home or manufactured home in such manner as to be visible from the street or driveway to which the mobile home or manufactured home is addressed. It is the responsibility of the landowner/landlord to make sure the tenant registers their camper and/or mobile home. Campers must be registered through the auditor's office and mobile homes must be registered through the assessor's office.

(Ord. No. 19-05 , § I, 6-3-19)

Editor's note(s)—Ord. No. 19-05 , § I, adopted June 3, 2019, renumbered §§ 18.2—18.10 as §§ 18.3—18.11.

Sec. 18.3. Mini camper site, camper park, and mixed-use camper park.

The establishment and operation of a mini camper site, camper park, and mixed-use camper park shall comply with the following design and development standards:

1. Site plans shall be prepared by a registered land surveyor, licensed landscape architect, or licensed engineer. Plans must be sealed. Mini camper sites may use an unsealed plot plan.
2. All internal roads servicing the park must be named. E-911 addressing per Chapter 54, Article III shall approve the park and road names.
3. Parks and sites must be set back 20 feet from the edge of public right-of-way.
4. The camper site/park shall be served by water and sewer systems approved by South Carolina Department of Health and Environmental Control (SCDHEC) and Darlington County Water and Sewer Authority (DCWSA). The sites shall have quick connect and disconnect for all utilities.
5. Developer shall make practical efforts to preserve natural features and landscape.
6. Development shall maintain a 40-foot buffer from any body of water to preserve the county's water quality and prevent any adverse stormwater effects.
7. All lighting shall be shielded so to confine to site to prevent noxious glare. Lighting is required at the ends of all turnarounds.
8. The camper site/park, with the exception of impervious surfaces and structures, shall be grassed and/or landscaped.
9. Campers shall remain road ready at all times including being properly registered and have current tags.
10. Camps shall be at least 1,000 linear feet from an existing camper park. Mini camper site shall be at least 200 linear feet from an existing mini camper site.
11. Camper sites/parks are prohibited in flood hazard areas.
12. Screening. The entire perimeter of a camper park except on the side that fronts on a public road providing access to the public road shall be enclosed by a six-foot in height privacy fence. Fencing can be wood, plastic, or masonry. Wire and chain-link fencing is not acceptable. Mini camper sites are exempt from this requirement. Security gates shall be approved by the fire chief.
13. Solid waste. The solid waste area shall be self-contained to prevent fire and health hazards. The area shall be at least 20 feet from camper spaces, tent camping area, and other structures. Solid waste area shall be screened from other activities by visual barriers such as fences (not chain link fences), walls,

natural growth (i.e. tree plantings), or combination. Solid waste receptacles may be several large receptacles, but must be dumped regularly to prevent spillage within the storage area. A dumpster may be used as long as the owner/operator enters into a waste management contract to dispose waste. Recycling is encouraged.

14. Sanitary dump station.

    a. One dump station per 100 camper spaces conveniently located for the disposal of self contained sewage designed and developed to SCDHEC standards. Dump stations shall consist of one or more trapped four-inch sewer risers surrounded by a concrete apron having a diameter of at least two feet and sloped to drain. Sewer risers must be equipped with removable tight fitting covers. Each dump station shall be equipped with a pressurized water hose only for washing concrete apron. The water outlet shall be protected from back siphonage by a vacuum breaker installed at its highest point, or by other approved means. A sign shall be placed at this water outlet stating:

       THIS WATER IS FOR CLEANING PURPOSES ONLY.

    b. Dump stations shall be screened from other activities by visual barriers such as fences, no chain-linked fences, walls, natural growth (i.e. tree plantings), or combination. Dump stations are to be separated from any camper space or designated tent camping area by at least 20 feet.

15. Roadway. All roads/drives servicing the camper site shall have appropriate spacing for turning, backing, parking, loading and unloading, and maneuvering campers, and vehicles. Roads and drives shall be:

    a. Privately owned and maintained.

    b. Properly marked signage, the cost of which shall be borne by the developer.

    c. A crowned all-weather roadway of asphalt, concrete, stone, brick, crushed stone, concrete slag or similar material providing unobstructed access to a public street. Mini camper site may be exempt from this provision depending on drive length.

    d. One-way roads having a minimum clearance of 20-foot wide lane and 13½-foot in height travel way with a base solid enough to support fire equipment as approved by the local fire officials; or,

    e. Two-way road shall having a minimum of two 12-foot wide undivided lanes and 13½-foot in height travel way with a base solid enough to support fire equipment as approved by the local fire officials.

    f. Limited to no more than two entrances off a public roadway, provided that entrances meet SCDOT or the county's roads and bridges spacing and size requirement. On-premise signage shall be prohibited for mini camper sites.

16. Camper space. Camper spaces shall be a minimum of 30 feet wide and 80 feet deep. Within the camper space, parking must be delineated for the camper and one vehicle. Camper parking area must be clearly defined and consist of the same all-weather material used for the roadway, mulch, or identified by signage. Setbacks between campers and structures shall be a minimum of 15 feet. The camper parking pad dimensions shall be a minimum of ten by 55.

17. Parking.

    a. No on-street parking is allowed in camper sites/parks. Vehicle parking spaces shall be 20 feet deep and ten feet wide located either to the side or rear of camper parking pad.

    b. Designate five off-street parking spaces for any camper office or loading area. Campers and vehicles shall not extend into the travel-way. All campers/vehicles must have at least two) of feet clearance from drives/roads.

18. Commercial amenities. Any commercial amenities such as laundry, cleaners, gift shop, food service facilities, and the like are to be use by the camper/camp residents only. All amenities must be approved for development by the appropriate agencies and/or county departments.

19. Drainage and stormwater. Stormwater runoff is an intricate part of all land development in the county to prevent erosion and sedimentation, flooding, and the destruction of natural or existing drainage channels. Land disturbance one-acre or more shall meet SCDHEC or the county's MS4 district stormwater program requirements. Subsequent camper expansion on or adjacent to a previously approved park will be viewed as an extension of that development. Where the previously approved camper site/park may not have been required to develop a stormwater pollution prevention plan (SWPPP), the expansion may require the developer to prepare a SWPPP as part of a larger common plan.

20. Open space. Camper sites/parks must designate an area to be used for open space. Open space can range from a passive park to an active recreational area. Passive parks, for clarity, are areas with no playground or other equipment that is designed for people and their pets to congregate and/or eat. Open space is only for the camper and/or tent residents.

(Ord. No. 13-27, § I, 1-7-14; Ord. No. 19-05 , § I, 6-3-19)

Editor's note(s)—See editor's note, § 18-2.

Sec. 18.4. Permitting procedures.

Applicants for camper sites/parks shall apply to the planning department and meet the following requirements:

1. Complete and submit a camper park/site application.

2. Submit three scaled 11-inch by 17-inch or larger site plans by registered land surveyor, licensed landscape architect, or licensed engineer. The site plan contains: developer's name, address, and phone; property boundaries; road(s) layout; tax map number; north arrow; vicinity map; typical "not to scale" illustration of proposed camper space showing parking area, and electrical, water, and sewer connections; structure dimensions (i.e. office, bathhouse, and solid waste areas); septic tank and drain field location(s); adjacent property owners; public road(s); bodies of water (i.e. lakes and streams); flood hazard areas; wetlands; adjacent ditches; easements; proposed surface covers (i.e. grass, gravel, etc.); area and size of land disturbance; designated common open space, and camp fire and tent resident area.

3. Mobile home parks as part of the mixed-use camper park shall comply with Section 13.12.

4. Approval is subject to:

    a. Septic systems approved or verified by SCDHEC indicating septic capacity for the number of campers.

    b. Evidence of paid water tap fee from the county water and sewer authority or approved well by SCDHEC.

    c. Stormwater NPDES permit from SCDHEC or the county.

        i. Land disturbance of one-acre or more requires a SWPPP prepared by either a licensed landscape architect, engineer, or tier B land surveyor. Project may be required to comply with Article 17. Municipal Separate Storm Sewer System (MS4) Area Stormwater Management Protection Overlay District.

        ii. Site plan must show contours in five feet intervals or show spot elevations.

d. Fire department review and approval. Roads/drives over 150 feet require turnarounds per the International Fire Code. Camp fire area(s) require approval from fire chief.

e. The county codes department electrical permit and approval.

f. Encroachment permit by the state department of transportation or the county roads and bridges [department].

g. E-911 addressing approval. Assigned address lettering must be visibly posted for each camper space with four-inch numbers.

h. Restrictive covenants affidavit.

i. Approved site plan.

(Ord. No. 13-27, § I, 1-7-14; Ord. No. 19-05 , § I, 6-3-19)

Editor's note(s)—See editor's note, § 18-2.

Sec. 18.5. Exemptions.

These camper activities are exempt from this article:

1. Camper parking facilities for sporting or other events less than eight days are exempt. Campers must have self-contained wastewater or the property owner contracts with a wastewater disposal company. All campers must leave after the event ends.
2. Personal campers parked on property not used as a domicile.
3. One personal camper parked on property used as a domicile, in non-rental or leasing capacity, must have proper water, sewer, and electrical connections.

(Ord. No. 13-27, § I, 1-7-14; Ord. No. 19-05 , § I, 6-3-19)

Editor's note(s)—See editor's note, § 18-2.

Sec. 18.6. Nonconformity.

Camper sites/parks in existence prior to this article are grandfathered as long as they provide approved sewer services. Grandfathering is applicable as long as the current design and use remains unchanged. Changes, additions, and expansions shall comply with this article.

(Ord. No. 13-27, § I, 1-7-14; Ord. No. 19-05 , § I, 6-3-19)

Editor's note(s)—See editor's note, § 18-2.

Sec. 18.7. Manufactured use and operation.

Owners and occupants of campers, RVs, motor homes or park units shall comply with all design and operation requirements utilized by the manufacturer to construct the unit as well as all manufacturer's recommendations on use and maintenance of the unit. Nothing in this article supersedes or alters the use and safe operation of the units per the design standards and manufacturer's recommendations.

(Ord. No. 13-27, § I, 1-7-14; Ord. No. 19-05 , § I, 6-3-19)

Editor's note(s)—See editor's note, § 18-2.

Sec. 18.8. Taxes.

Contact the tax assessor's office for potential tax consequences for the project.

(Ord. No. 13-27, § I, 1-7-14; Ord. No. 19-05 , § I, 6-3-19)

Editor's note(s)—See editor's note, § 18-2.

Sec. 18.9. Fees.

Fees are the following:

Mini camper site — $30.00;

Camper park — $100.00; and

Mixed-use camper park — $150.00.

Additional stormwater fees may be applicable.

(Ord. No. 13-27, § I, 1-7-14; Ord. No. 19-05 , § I, 6-3-19)

Editor's note(s)—See editor's note, § 18-2.

Sec. 18.10. Future expansion of park.

The expansion of a previous approved site/park may require a new approval in accordance with this article.

(Ord. No. 13-27, § I, 1-7-14; Ord. No. 19-05 , § I, 6-3-19)

Editor's note(s)—See editor's note, § 18-2.

Sec. 18.11. Failure to comply with notice.

Upon the failure or refusal of the owner or operator given notice of violation (NOV) of this article to comply with said violations, the code enforcement department shall issue a uniform summons for the ordinance violation or institute legal action under the appropriate state statue.

(Ord. No. 13-27, § I, 1-7-14; Ord. No. 19-05 , § I, 6-3-19)

Editor's note(s)—See editor's note, § 18-2.

ARTICLE NINETEEN. RENEWABLE ENERGY SYSTEMS

Sec. 19.1. Definitions.

The following words, terms, and phases, used in this article, shall have the ascribed meanings to them unless stated otherwise:

Building-integrated solar system. An active solar system incorporated into the principal and/or accessory building/structure(s) as an architectural component. Architectural design include, but are not limited to, roof material, windows, parking facilities, awnings, section of wall, and etcetera.

Engineer. Designs materials, structures, and systems while considering the limitations imposed by practicality, regulation, safety, and cost. Engineer must be licensed in the State of South Carolina.

Height. The vertical distance measured from ground to the foremost tip/end of a roof or the ground-mounted solar/wind apparatus.

Ground-mounted. Freestanding pole and tower used to support renewable energy systems (RES).

Integrated energy systems. Flexible energy techniques used through solar building/-integration, and roof and ground-mounted solar and/or wind systems to produce on-site energy. Integrated energy systems serve as accessory structures on properties with principal structure (i.e. home or business).

Meteorological tower (MET tower). Free standing tower or a removed mast, which carries measuring instruments with meteorological instruments such as thermometers and wind velocity measures. MET towers shall comply with standards permitted for wind turbines.

Renewable energy system. Energy generated through solar and wind technology for residential, commercial, and industrial uses, and geographical areas in partnership with utility companies.

Rotor. The windmill which includes the blades, hub, and shaft.

Roof-mounted. RES affixed to a roof utilizing solar panels and/or wind turbine to produce energy.

Setbacks. Setbacks must be from the fence line of the renewable energy system to the adjoining property line or residence.

Solar collector. A solar device absorbs and accumulates solar rays for use as a source of energy. The device may be roof-mounted as an accessory use or ground-mounted.

Solar energy. Radiant energy received from the sun collected in the form of heat or light by a solar collector to produce energy.

Solar energy system. A series of ground mounted solar collectors placed in an area for generating photovoltaic (PV) power as a commercial enterprise. The minimum size for a solar energy system is one acre.

Thermal energy. Solar and/or wind technology converted into heat energy.

Tower, monopole. Freestanding, or guyed structure that supports a wind generator.

Wind energy. Wind currents harnessed through a rotor and turbine system to produce energy.

Wind farm. Two or more ground-mounted wind turbines placed in an area of generating power as a commercial enterprise. The minimum for a wind farm is one acre.

Wind Turbine. A rotor mechanism employed to harness wind currents as a source of energy.

(Ord. No. 15-15, § 4, 6-1-15; Ord. No. 16-19 , §§ 1—4, 3-6-17; Ord. No. 23-18 , § 1, 1-2-24)

Sec. 19.2. Integrated energy systems.

Flexible energy techniques incorporated into building/structure(s), and/or employed onto a roof and ground-mounted structure(s) shall comply with the following designs and development standards:

1. Site plans shall be prepared by a licensed land surveyor, landscape architect, or engineer in the State of South Carolina. Plans must be sealed.
2. Power lines shall be located underground to the extent practical.
3. Electric solar system components shall have an Underwriters Laboratories (UL) listing.

4. Solar collectors shall be designed with anti-reflective coating to minimize glare. Textured glass coupled with the anti-reflective coating further minimizes solar glare. Textured glass is optional. Mirrors are prohibited.
5. Architectural design consideration shall be used when integrating solar panels into any exterior wall, window, or component.
6. A system(s) discontinued for more than six months is considered abandoned and shall be removed at property owner's expense.
7. No system shall exceed one acre.
8. Solar panels.

Roof-mounted

a. Sealed structural details with mounting specifications and roof dead load capacity certification by a licensed engineer in the State of South Carolina.

b. Roof diagram with panels and any elevation changes.

Ground-mounted

c. Setback at least 20 feet from property line. (Height maximum standards: up to 10,000 square feet — 5 ft; 10,001 to 20,000 square feet — 10 ft, and greater than 20,000 square feet — 15 ft)

d. Vertical illustration of panels with height.

e. Sealed structural details with foundation plans certified by a licensed engineer in the State of South Carolina.

f. Solar layouts, between a quarter of an acre and one acre, shall be screened by vegetative landscaping on sides adjacent residential properties.

9. Wind turbines.
    1. Solar panels may be used as a complimentary energy source.
    2. Wind turbine system shall be engineered to survive a 100 mph wind load or greater.
    3. No appurtenances (i.e. lighting, flags, signs, or decorations) shall be attached to the system. Lighting would be required by the Federal Aviation Administration (FAA).
    4. Noise levels shall not exceed 50 decibels (dba).
    5. Wind turbine system designed not to exceed 100 kilowatts (kw).
    6. A fail-safe breaking system, auto-furling system, or similar system shall be incorporated to prevent uncontrolled rotation, over-speeding, and excessive pressure on system.
    7. Wind equipment shall be white or earth toned and remained painted and finished. The intent is to minimize glare/flicker and attraction to birds.

Roof-mounted

a. Sealed structural details with mounting specifications and roof dead load capacity certification by a licensed engineer in the State of South Carolina.

b. Roof diagram with panels/turbine and any elevation changes.

c. Maximum height of all components shall be seven feet above the highest point of the roof.

d. Rotor blades shall not extend beyond the horizontal roof line.

e. Wind turbine shall be at least ten feet from overhead utility lines.

f. Up to three wind turbines mounted to a roof with ten feet between each of them.

Ground-mounted

g. Sealed structural details with foundation plans certified by a licensed engineer.

h. Height shall not exceed 40 feet with a minimum setback equal to its height from all property lines, overhead utility lines, and structures.

i. Rotor blades shall have at least a 20-foot ground clearance.

j. One wind turbine per parcel.

k. Wind turbine climbing apparatus shall be no lower than 12 feet from the ground.

(Ord. No. 15-15, § 4, 6-1-15; Ord. No. 16-19, §§ 5—8, 3-6-17)

Sec. 19.3. Integrated energy systems permitting process.

Applicants shall apply to the planning department and meet the following requirements:

1. Complete and submit integrated energy systems application.
2. Submit three scaled 11-inch by 17-inch or larger site plans by licensed land surveyor, landscape architect, or engineer in the State of South Carolina. The site plan contains: developer and property owner's name, address, and phone; road(s) layout; tax map number, scale, and date; vicinity map and north arrow; identify existing and proposed structures, include dimensions (i.e. equipment location, fencing); property boundaries with dimensions, and identify adjacent property owners land uses (i.e. residential, commercial, farmland, or wooded); public road(s); bodies of water (i.e. lakes, ponds, and streams) with minimum 50 foot buffer shown, flood hazard areas, wetlands, adjacent ditches, and easements; proposed surface covers (i.e. grass, gravel, etc.); and, area and size of land disturbance.
3. Submit sealed structural plans with foundation details certified by licensed engineer in the State of South Carolina, wiring/thermal diagram, vertical illustrations with maximum height, roof diagram for roof-mounted panels/turbines.
4. Approval is subject to:
    a. Stormwater NPDES permit from SCDHEC or the county.
        i. Land disturbance of one-acre or more requires a SWPPP prepared by either a licensed landscape architect, engineer in the State of South Carolina, or tier B land surveyor. Project may be required to comply with Article 17, Municipal Separate Storm Sewer System (MS4) Area Stormwater Management Protection Overlay District.
    b. Fire department review and approval.
    c. Interconnection utility agreement (grid-tied systems).
    d. Restrictive covenants affidavit.
    e. Approved site plan.
    f. FAA letter (applicable within airport districts).

(Ord. No. 15-15, § 4, 6-1-15; Ord. No. 16-19, §§ 9—11, 3-6-17)

Sec. 19.4. Solar energy systems and wind farm facilities.

The establishment and operation of solar energy systems and wind farm facilities shall comply with the following design and development standards:

1. Site plans shall be prepared by a licensed land surveyor, landscape architect, or engineer in the State of South Carolina. Plans must be sealed.
2. All internal roads servicing the farm must be named. E-9ll Addressing per Chapter 54, Article III shall approve new road names.
3. *Setbacks.* Solar Energy Systems must be set back 50 feet from adjoining property lines or 200 feet from the nearest residence.
4. Water and sewer systems approved by South Carolina Department of Health and Environmental Control (SCDHEC) and/or Darlington County Water and Sewer Authority (DCWSA).
5. *Height.* Solar structures shall not exceed 15 feet in height. Wind turbine structures including rotor blades shall not exceed 170 feet in height.
6. Wind turbine system shall be engineered to survive a 100 mph wind load or greater.
7. No appurtenances (i.e. lighting, flags, signs, or decorations) shall be attached to the system. Lighting would be required by the Federal Aviation Administration (FAA).
8. Noise levels shall not exceed 55 decibels (dba).
9. Wind turbines climbing apparatus shall be no lower than 12 feet from the ground.
10. Wind equipment shall be white or earth toned and remained painted and finished. The intent is to minimize glare/flicker and attraction to birds.
11. A fail-safe breaking system, auto-furling system, or similar system shall be incorporated to prevent uncontrolled rotation, over-speeding, and excessive pressure on system.
12. Developer shall make practical efforts to preserve natural features and landscape.
13. *Screening.* A continuous vegetative buffer shall be installed around the perimeter of the solar energy system/wind farm. This buffer shall be 36" to 48" in height at planting and must reach 100 percent of the panel height within three (3) years of planting. The vegetation must be planted in two staggered rows at a spacing interval between 8' to 10' on center. The fence must be located on the inside of the vegetative buffer. Screening is not required along properties adjacent to non-residential uses or along roadways.
14. Development shall maintain a 50-foot vegetated buffer from any body of water (i.e. lakes, streams, ponds, and rivers) to preserve the county's water quality and prevent any adverse stormwater effects.
15. All lighting shall be shielded or directed in a downward position to prevent noxious glare. A light fixture is required at the ends of all turnarounds.
16. Fencing shall be at least six feet in height to secure the perimeter. The fence must be secure at all times.
17. *Signage.* A warning sign concerning voltage must be placed at the main gate to include the address and name of the solar energy system or wind farm operator and a 24-hour phone number for the solar energy system or wind farm operator in case of an emergency.

18. Power lines must be located underground to the extent practical.

19. Solar collectors shall be designed with anti-reflective coating to minimize glare. Textured glass coupled with the anti-reflective coating further minimizes solar glare. Textured glass is optional. Mirrors are prohibited.

20. Electric solar system components must have an Underwriters Laboratories (UL) listing.

21. All active solar energy systems and wind systems shall meet all requirements of the county building codes department.

22. Submit and maintain an updated facility decommission plan. The latest facility decommission plan shall be recorded in the county's clerk of courts office.

    An applicant must include a decommissioning plan that describes the anticipated life of the solar energy system. Following a continuous six (6) month period in which no electricity is generated, the permit holder will have six (6) months to complete decommissioning of the solar energy system. Decommissioning includes removal of solar panels, buildings, cabling, electrical components and any other associated facilities below grade as described in the decommissioning plan. No later than thirty (30) days following the sixth (6th) anniversary of the operation date of the solar energy system, the owner of the solar energy system must provide Darlington County with a $50,000 surety or performance bond to be maintained by the solar energy system owner or subsequent owner(s) until the solar energy system is decommissioned. Prior to the issuance of any electrical permit, the owner of the solar energy system must submit a notarized affidavit acknowledging the above decommissioning obligations. Decommissioning Plan must be passed by conveyance to successive owner(s).

(Ord. No. 15-15, § 4, 6-1-15; Ord. No. 16-19, §§ 12—19, 3-6-17)

Ord. No. 16-19, § 12, adopted March 6, 2017 , amended the title of § 19.4 to read as set out herein. Previously § 19.4 was titled "Solar and wind farm facilities."

Sec. 19.5. Public notification.

Upon receipt of a completed solar energy system application, the county planning staff shall send, by first class mail, a notice of the application to all property owners within 1,320 feet of the proposed solar energy system/wind farm. The notification shall include projected date of the public hearing to be held by the planning department staff. Public notification includes posting in the local newspaper and mail notice to residents postmarked at least 15 days prior to the public hearing.

(Ord. No. 15-15, § 4, 6-1-15; Ord. No. 16-19 , § 20, 3-6-17; Ord. No. 21-09 , § 1, 12-6-21)

Sec. 19.6. Solar energy system/wind farm permitting process.

Applicants shall apply to the planning department and meet the following requirements:

1. Request for district of location letter.

2. Submit solar energy system/wind farm application and payment.

3. E-911 Address Inquiry and Approval.

4. Restrictive Covenants Affidavit.

5. Submit three (3) 11" x 17" (or larger) site plans by land surveyor, engineering, or landscape architecture to include:

(a) Developer's name, address, and phone number.

(b) Property boundaries with dimensions and identify adjacent property owners and land uses (i.e. residential, commercial, farmland, or wooded).

(c) Road(s) layout and public roads.

(d) North arrow and vicinity map (may attach Assessor's tax map of vicinity).

(e) Identify existing and proposed structures, include dimensions (i.e. equipment location, fencing).

(f) Tax Map Number, Scale (engineer scale: i.e. 1 inch = 30 feet or 1" = 30'), and date.

(g) Bodies of water (i.e. lakes, ponds, and streams) with minimum 50-foot buffer shown flood hazard areas, wetlands, adjacent ditches, and easements.

(h) Proposed surface covers (i.e. grass, gravel, etc.), location and size of land disturbance, and vegetated landscaping.

6. Submit a complete set of sealed construction plans and specifications including the design of all structures, foundation details, wiring/thermal diagrams, vertical illustrations of panels with maximum height, a grading plan with drainage details, and maintenance service road plan certified by licensed engineer in South Carolina.

7. Facility Decommission Plan.

8. Mandatory Permits/Agreements:

   - Utility Company Agreement

   - Lease Agreement

   - Stormwater NPDES Permit from South Carolina Department of Health and Environmental Control

   - Encroachment Permit by South Carolina Department Of Transportation or Darlington County Roads and Bridges

   - Fire Department Review and Approval per the International Fire Code

9. If applicable approval letters:

   - MS4 approval (mandatory for wind/solar energy system within MS4 district)

   - FAA letter (mandatory for wind/solar energy system within Airport district)

   - Septic systems approved by South Carolina Department of Health and Environmental Control indicating sewer capacity/existing septic tank affidavit

   - South Carolina Department of Health and Environmental Control letter approving well or Darlington County Water and Sewer Authority approving water tap

   - Receipt of road and stop signage paid (for new roads only)

   - South Carolina Public Services Commission Approval (If applicable)

10. Public hearing once all other conditions are met.

(Ord. No. 15-15, § 4, 6-1-15; Ord. No. 16-19 , § 21, 3-6-17; Ord. No. 23-18 , § 2, 1-2-24)

Editor's note(s)—Ord. No. 16-19 , § 21, adopted March 6, 2017, amended the title of § 19.6 to read as set out herein. Previously § 19.6 was titled "Solar/wind farm permitting process."

Sec. 19.7. Nonconformity.

Solar energy systems in existence prior to this article are grandfathered. Grandfathering is applicable as long as the current design and use remains unchanged. Changes, additions, and expansions shall comply with this article.

(Ord. No. 15-15, § 4, 6-1-15; Ord. No. 16-19, § 22, 3-6-17)

Sec. 19.8. Fees.

Fees are the following: Integrated Energy Systems — $25.00; Solar energy system or Wind Farm — $1,000.00 plus cost. Cost refers to expenses (i.e. public notice local newspapers, mailings, and etcetera) associated with the public participation process. Stormwater permit fees reflect 17.5.4.

(Ord. No. 15-15, § 4, 6-1-15; Ord. No. 16-19, § 23, 3-6-17)

Sec. 19.9. Failure to comply with notice.

Upon the failure or refusal of the owner or operator given notice of violation (NOV) of this article to comply with said violations, the code enforcement department shall issue a uniform summons for the ordinance violation or institute legal action under the appropriate state and county statutes.

(Ord. No. 15-15, § 4, 6-1-15)

Exhibit D

Minimum Coverage Amounts

Coverage under the Performance Security provided to the County pursuant to Section 4.15 shall be in the amounts set forth below.

Solar Power Generation Facility		Battery Storage Facility	
Tax Year	**Bond Coverage**	**Tax Year**	**Bond Coverage**
1	$127,096	1	$51,443
2	$240,134	2	$97,231
3	$339,115	3	$137,364
4	$424,037	4	$171,842
5	$494,903	5	$200,665
6	$551,710	6	$223,833
7	$594,460	7	$241,347
8	$623,152	8	$253,205
9	$637,787	9	$259,409
10	$638,363	10	$259,958
11	$642,382	11	$261,852
12	$632,344	12	$258,091
13	$608,248	13	$248,675
14	$570,094	14	$233,604
15	$517,882	15	$212,878
16	$451,613	16	$186,498
17	$371,286	17	$154,463
18	$276,901	18	$116,772
19	$182,517	19	$79,082
20	$88,132	20	$41,392

1350

STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

FEE IN LIEU OF PROPERTY TAX INITIAL REPORT FORM

PT-443
(Rev. 3/12/08)
7071

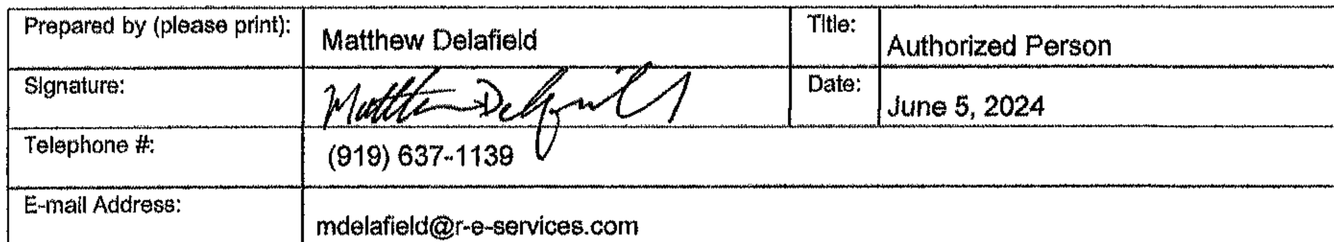
☑ INITIAL REPORT (to be filed within 30 days of execution of a fee agreement or an inducement agreement)

No.	Item	Response
1.	Legal Name of Investor (Include information about each party investing in the Fee, if more than one investor, and how they qualify under the fee statutes.)	1) Cedar Creek Solar LLC 2) 3)
2.	Federal Employer ID	1) 92-3589112 2) 3)
3.	Business (Check all that apply if more than one investor and supply an explanation.)	☐ Sole Proprietor ☐ Partnership ☑ LLC Corporation - State of incorporation: North Carolina
4.	Principal Business Mailing Address	Street/POB City, State, 9 Digit Zip Code: 5315 Highgate Drive, Suite 202 Durham, North Carolina 27713
5.	Physical Location of Project	Street Address: City/State/Zip: Parcel 1 TMS# 155-00-01-026, Darlington County, SC Parcel 2 TMS# 155-00-01-049, Darlington County, SC Parcel 3 TMS# 155-00-01-002, Darlington County, SC Parcel 4 TMS# 165-00-01-003, Darlington County, SC Parcel 5 TMS# 155-00-01-029, Darlington County, SC Parcel 6 TMS# 155-00-01-019, Darlington County, SC
6.	County or Counties	Darlington County, South Carolina
7.	Minimum Investment agreed upon	$63,640,000 for SSRC incentives and $2,500,000 for FILOT incentives
8.	Is the project in a multicounty park?	☑ Yes ☐ No If yes, please identify: Darlington/Florence (See SC Code § 4-1-170)
9.	Contact Person for Investor(s)	Matthew Delafield
10.	Telephone	Voice: (919) 637-1139 Fax: ( )
11.	Taxpayer's Legal Counsel for FILOT	Tushar Chikhliker — Telephone: (803) 540-2188 Fax: ( )
12.	Nature of Business	Solar energy generation and related activities — SIC Code: NAICS 221114
13.	Accounting Closing Date Used for Income Tax Purposes	December 31
14.	Type of Operation	☑ Manufacturer (Include product manufactured) ☐ Research & Development ☐ Office Facility ☐ Distribution Facility ☐ Corporate Headquarters ☐ Other (describe):
15.	Date of Fee Agreement (Simplified Fee) or Date of Inducement Agreement (Big or Little Fee):	May 6, 2024
16.	Type of Fee	☐ §4-12-30 ("Little Fee") ☐ §4-29-67("Big Fee") ☑ Chapter 44, Title 12 ("Simplified Fee") Check if applicable: ☐ Super/enhanced fee ☐ $1 million+fee
17.	Property to be Included Under the Fee:	☑ Land ☑ Buildings ☑ Building Additions ☑ Personal Property (If available, attach survey of real property covered by the Fee)
18.	Initial Negotiated Assessment Ratio	6% — ☑ Fixed ☐ Variable — Agreement page, para. §: page 12, section 4.2(a)(Step 2)
19.	If variable, state the different rates and the years for which they are applicable.	N/A

70711015

20.	Initial Negotiated Millage Rate 336.6 mills	☑ Fixed ☐ Variable		Agreement page, para. §: page 12, section 4.2(a)(Step 3)
21.	Explanation, if necessary N/A			
22.	Calendar Year of Anticipated Initial Investments 2027 Agreement page, para. §: page 5, definition of "Net FILOT Payment"			
23.	Length of Fee (Number of Years) 40 years for each annual increment of investment Agreement page, para. § page 12, section 4.2(a)(step1)			
24.	Payment Structure	☑ Regular Payments ☐ Equal Payments ☐ 5 Year Millage Adjustment Agreement page, para. §: page 12, section 4.2(a)(step1) ☐ Other (explain):		
25.	Discount Rate Used for net present value purposes	☐ ______ % ☑ Not Applicable Agreement page, para. §: N/A		
26.	Does Agreement Allow For	Disposal of Property? ☑ Yes ☐ No	Replacement of Property? ☑ Yes ☐ No	Agreement page, para. § page 14, section 4.6; page 13, section 4.3
27.	Min. No. of Jobs Required (if applicable)		☑ Not Applicable	Agreement page, para. § N/A
28.	Any additional information, allowances, or restrictions of which one must be aware to calculate or verify the fee under this agreement:			
	Agreement page, para. §:	Special Source Revenue Credits - pages 10-11, section 4.1		
	Agreement page, para. §:			
	Agreement page, para. §:			

I declare that this return, to the best of my knowledge and belief, is true, correct, and complete.



Prepared by (please print):	Matthew Delafield	Title:	Authorized Person
Signature:	[signature]	Date:	June 5, 2024
Telephone #:	(919) 637-1139		
E-mail Address:	mdelafield@r-e-services.com		

Attachments:

- Fully executed fee agreement or inducement agreement
- Survey of real property under the fee (if available)
- Inducement Resolution or other project identification.
- Millage rate agreement (if applicable)
- Any other attachments needed to respond to the questions.

The investor will need to file a supplemental form (form to be determined by the Department of Revenue) at the time that the investor executes the lease agreement and/or places the property in service in this State.

Darlington County Recording Page

Darlington Clerk of Court / ROD
Scott B. Suggs
Darlington County Courthouse
110 N. Main St.
Darlington, SC 29532
(843) 398-4330

OrdinanceNo : ***2024-12***

Doc1D - 004020540168

On (Recorded Date) : **7/18/2024**
At (Recorded Time) : 10:20:55 AM

Recording Pages : 168
Recording Fee : $0.00

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Index Type : **ORDINANCE**
Type of Instrument :
Type of Transaction: **Ordinance**

First INDEXED NAME

DARLINGTON COUNTY COUNCIL

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