



**TOWN OF DAVIDSON
BOARD OF COMMISSIONERS**

**Town Hall Board Room - 216 S. Main Street
October 23, 2018**

-
- I. CALL TO ORDER**
- II. ANNOUNCEMENTS**
- III. CHANGES TO AGENDA**
- IV. PUBLIC COMMENT - The Board shall provide at least one period for public comment per month at a regular meeting.**
- V. PRESENTATIONS**
- (a) **Comprehensive Plan Update**
Planning Director Jason Burdette, Senior Planner Trey Akers,
and Communications Director Cristina Shaul
Summary: A comprehensive plan is the leading policy document and tool to help communities create a vision and guiding principles for decision-making for their town. The comprehensive plan's purpose is to directly inform decisions that we make as a community.
- The October 23 board of commissioners meeting will serve as the launch of our "What's Next? Davidson" process which will gather input from all of our community members at events around town, special workshops scheduled for January/February and March, via surveys, and more. This will be a multi-phased approach to gather public input over the next 12 months.
- (b) **I 77 Express Project Update**
Jean Leier, Director of Corporate Affairs, I-77 Mobility
Partners
Warren Cooksey, Director of Outreach and Community Affairs,
Turnpike Authority, NC Dept of Transportation
Summary: Jean Leier will present an update on the I-77 Express project and Warren Cooksey will provide a presentation on the NC Quick Pass.

VI. PUBLIC HEARING

- (a) **Public Hearing - Proposed Financing for 251 South Street**
Finance Director Pieter Swart
Summary: This public hearing is held as required in NCGS § 160A-20 regarding the proposed financing of the purchase of 251 South Street for \$2.55 million.

VII. CONSENT- Consent items are non-controversial and routine items. Prior to the board's adoption of the meeting agenda the request of any member to have an item moved from the consent agenda to old business must be honored by the board. All items on the consent agenda must be voted on and adopted by a single motion.

- (a) **Consider Approval of Amending Rules of Procedure for Remote Participation**
Summary: At the September 11 meeting, the Board of Commissioners requested a brief analysis of whether to allow commissioners to vote via phone if they are not able to be present in person at a meeting. Currently, members are allowed to participate in board meetings by phoning in, but are not permitted to vote. The board would like to amend the rules of procedure to allow voting by remote participation, if there is a physical quorum present at the meeting, and have the vote count. They requested that a question be added to Open Town Hall to gather public input.
- (b) **Consider Approval of Draft September Meeting Minutes**
Summary: Draft Meeting Minutes from September 4, September 11, and September 25
- (c) **Consider Approval of Ordinance 2018-06 Floodplain Ordinance Amendments and Consistency Statement**
Summary: The Federal Emergency Management Agency (FEMA) updated Flood Insurance Rate Maps (FIRMs) for Mecklenburg County with an effective date of November 16, 2018. The Town of Davidson must adopt an updated floodplain ordinance to include the new map date by the November 16, 2018 deadline or risk being suspended from the National Flood Insurance Program (NFIP).

Additionally, the North Carolina Department of Public Safety (NCDPS) made changes to their Model Floodplain Ordinance in 2017, which included both mandatory and suggested changes. Charlotte-Mecklenburg Stormwater Services (CMSS) staff formed a stakeholder group to review this updated model ordinance and provided a draft Floodplain Ordinance for the Town of Davidson on July 24, 2018. This updated ordinance has been endorsed by the Storm Water Advisory Committee (SWAC) and stakeholder group. The NCDPS also reviewed the updated floodplain ordinance and deemed it compliant with NFIP requirements.

- (d) **Consider Approval of Tax Levy Adjustments**
Finance Director Pieter Swart
Summary: The town received refunds to be issued from the Solid Waste Fund totaling \$3,895.98 on 5 parcels (As approved by the Mecklenburg Board of County Commissioners (BOCC)). The BOCC also approved a refund of \$40.44 for 1 parcel from ad valorem collections. These refunds will be issued directly by the Town. Details regarding these refund requests are available in the Finance Office.

VIII. OLD BUSINESS

- (a) **Consider Approval of Non-Profit Grant Funding
Parks and Recreation Director Kathryn Spatz**
Summary: The Board of Commissioners has historically appropriated \$50,000 to be distributed among qualified, registered, town-based non-profits that apply for funding for activities the town does not provide and that serve town residents. The Livability Board reviewed the applications at its September 18 meeting and Past Chair Marty Metzker presented the advisory board's recommendations to the Commissioners on October 2.

At the October 2 meeting, the Commissioners revised the non-profit recommendations and directed staff to notify all non-profit applicants that the Board of Commissioners will accept public comment at the October 23 meeting and will consider approval of funding for non-profits later that evening.

- (b) **Consider Approval of Resolution 2018-27 Directing Staff to Apply for Approval to the LGC to finance the purchase of 251 South Street and making certain findings of fact.
Finance Director Pieter Swart**
Summary: Resolution 2018-27 directs staff to apply to the LGC for approval of financing for the purchase of 251 South Street for \$2.55 million, as well as, make certain findings of fact as required by the NCGS § 160A-20.

- (c) **Consider Approval of Naming of Park at Bailey Springs
Kathryn Spatz, Parks and Recreation Director**
Summary: At the September 4, 2018 meeting, Commissioners voted unanimously to follow the process below in naming of future parks:

Livability Board's Parks Subcommittee develop 3-5 potential names based on natural features and history of park land.

- Seek public input on those potential names from citizen on Open Town Hall.
- Livability Board make recommendation to Board of Commissioners, considering citizens input.
- Board of Commissioners consider Livability Board recommendation for approval by resolution.

At its September 18 meeting, the Livability Board's Park Subcommittee voted to seek citizen input on the following three potential names for the Park near Bailey Springs:

- Plum Creek Park: the intermittent stream that runs through parkland is named Plum Creek. The Town of Cornelius and Mecklenburg County will soon begin construction on a greenway, to be called Plum Creek Greenway that will connect through the park to the Kincaid Trail.
- Oak Tree Park: TreesDavidson will be planting 70 trees, many of which will be oaks, as part of the November

10 grand opening for Phase I of the park. These trees will benefit and become home to many creatures, great and small.

- Bartlette Creek Park: the park is located off of Bartlette Creek Drive. Naming parks based on location is often a standard practice to help with directions.

At its October 16 meeting, the Livability Board voted unanimously (10-0) to recommend the top selection of the options contained within the survey to the Board of Commissioners.

Since the question was posted on October 9 the overwhelming choice has been Plum Creek Greenway. The Open Town Hall question closes on Tuesday, October 23.

IX. SUMMARIZE MEETING ACTION ITEMS

X. CLOSED SESSION

- (a) **Closed Session - § 143.318.11(a)(5) for land acquisition of 335 Sloan Street and 615 Walnut Street; § 143.318.11(a)(6) Personnel**

XI. ADJOURN



**Agenda Title: Comprehensive Plan Update
Planning Director Jason Burdette, Senior Planner Trey Akers,
and Communications Director Cristina Shaul**

Summary: A comprehensive plan is the leading policy document and tool to help communities create a vision and guiding principles for decision-making for their town. The comprehensive plan's purpose is to directly inform decisions that we make as a community.

The October 23 board of commissioners meeting will serve as the launch of our “What’s Next? Davidson” process which will gather input from all of our community members at events around town, special workshops scheduled for January/February and March, via surveys, and more. This will be a multi-phased approach to gather public input over the next 12 months.

Summary:

ATTACHMENTS:

	Description	Upload Date	Type
▣	Agenda Memo - Comprehensive Plan Update 10-23-18	10/19/2018	Cover Memo
▣	Presentation - Comprehensive Plan Update 10-23-18	10/23/2018	Cover Memo



Date: October 23, 2018
To: Davidson Board of Commissioners
From: Planning Director Jason Burdette, Senior Planner Trey Akers, and Communications Director Cristina Shaul
Re: Comprehensive Plan Update

1. OVERVIEW

A comprehensive plan is the leading policy document and tool to help communities create a vision and guiding principles for decision-making for their town. The comprehensive plan's purpose is to directly inform decisions that we make as a community.

The October 23 board of commissioners meeting will serve as the launch of our "What's Next? Davidson" process which will gather input from all of our community members at events around town, special workshops scheduled for January 17 and March (TBD), via surveys, and more. This will be a multi-phased approach to gather public input over the next 12 months.

We have established two key groups to help with the What's Next? process:

- The Plan Advisory Group (a sounding board to guide the development of the plan); and,
- The Publicity & Outreach Committee (a group to help encourage participation in the process).

The What's Next? process is a professionally facilitated, community-centered experience and everyone's input is requested to help shape our future.

The ultimate goal will be to create and approve an actionable comprehensive plan that will help guide our policies and decision-making going forward.

Related documents:

PowerPoint Presentation

2. RELATED TOWN GOALS

- 2018-2019 Strategic Plan priority: "Land Use Strategy: Begin Comprehensive Plan process"
- 2010 Comprehensive Plan: "The Comprehensive Plan should be updated at least once every ten years." (pg. 14)

3. OPTIONS/PROS & CONS

Not applicable.

4. FYI or RECOMMENDED ACTION

This is an information update. No action is required.

5. NEXT STEPS

Not applicable.

what's
next?

DAVIDSON

Share Your Voice.
Shape Our Future.

COMPREHENSIVE PLAN

- **Background:** Who, What, Why?
- **Approach:** Where, When, How?
- **Timeline:** Key Milestones
- **Involvement:** Essential



BACKGROUND

- **Who:** E-V-E-R-Y-O-N-E
 - » Community-Centered Process
 - » Extended Conversation
 - » Professionally-Facilitated
 - » PAG, Publicity/Outreach Committee
- **What:** Vision
 - » Renew/Revise/Create
- **Why:** Integrated Framework
 - » Overarching Policy Document
 - » Usable Decision-Making Tool



APPROACH

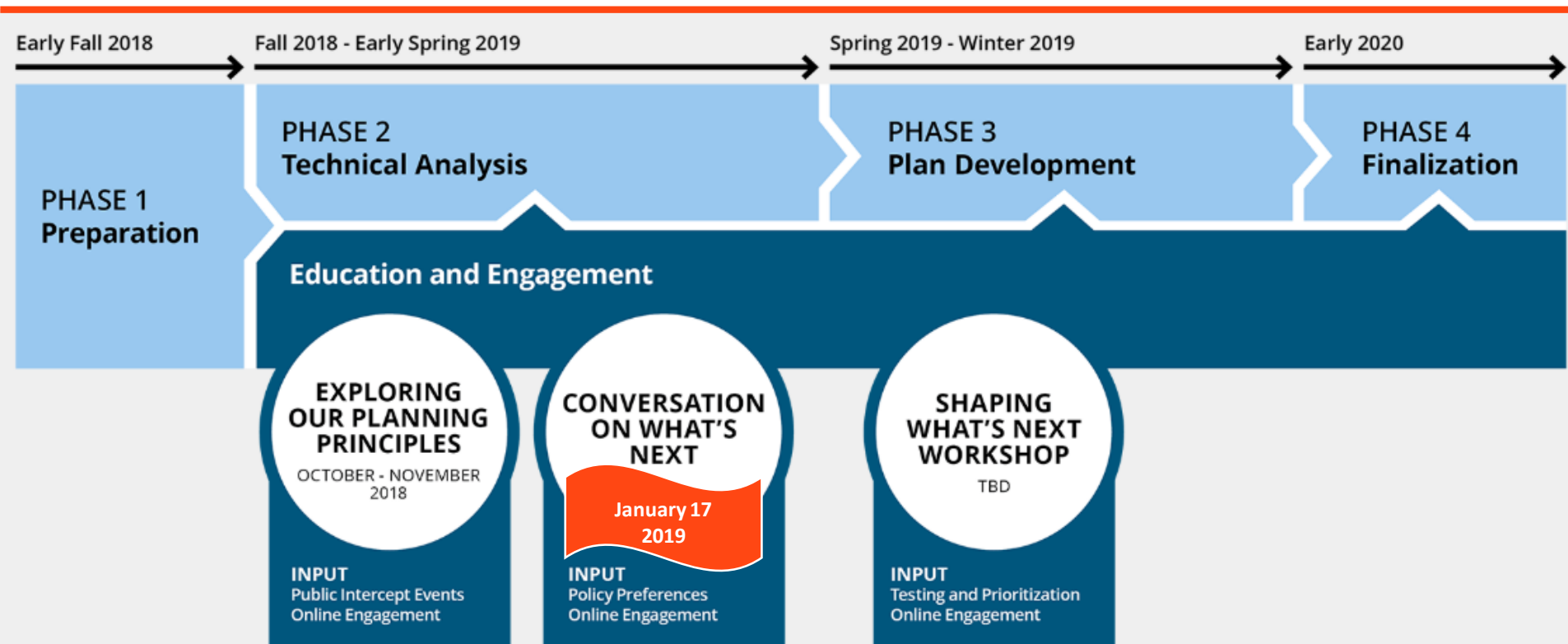
- **Where:** Entire Jurisdiction
- **When:** Now-Winter 2019/2020
- **How:** Many Outreach Forms
 - » Phase 1: Research, De-Centralized Engagement
 - » Phase 2: Community Meetings
 - » Phase 3: Plan Drafting
 - » Phase 4: Plan Review/Adoption
 - » Phase 5: Implementation Framework



OUTREACH



TIMELINE





DAVIDSON

Share Your Voice.
Shape Our Future.



www.WhatsNextDavidson.com



Agenda **I 77 Express Project Update**
Title: **Jean Leier, Director of Corporate Affairs, I-77 Mobility Partners**
 Warren Cooksey, Director of Outreach and Community Affairs, Turnpike
 Authority, NC Dept of Transportation
Summary: Jean Leier will present an update on the I-77 Express project and Warren Cooksey will provide a presentation on the NC Quick Pass.

Summary:

ATTACHMENTS:

Description		Upload Date	Type
□	Presentation - I77 Mobility Partners 10-23-18	10/19/2018	Presentation
□	Presentation - NC Quick Pass 10-23-18	10/23/2018	Cover Memo



Town of Davidson Board Meeting
October 23, 2018

www.I77Express.com

PUBLIC-PRIVATE PARTNERSHIP



I-77 Express is the first-ever toll lane public-private partnership with NCDOT



I-77 Mobility Partners is financing, developing, designing, constructing, operating, and maintaining I-77 Express.

NCDOT remains the owner of the roadway.
NCDOT provides oversight of I-77 Express to ensure all requirements of the contract for the project are met.

North Carolina Turnpike Authority is responsible for managing NC Quick Pass accounts, transponder distribution and customer service through the NC Quick Pass program.

NC Quick Pass Customer Service Center located at 8015 W. WT Harris Blvd. Charlotte, NC 28216.

I-77 MOBILITY PARTNERS



- I-77 Mobility Partners was chosen by NCDOT as the best bid proposer for the I-77 Express project.
- We are financing, developing, designing, constructing, operating and maintaining I-77 Express for the first-ever public private partnership with NCDOT.
- I-77 Express is delivered as a design-build project, which allows for real-time changes to construction plans and scope to deliver the best-possible project.
- Our offices are located in Charlotte and our employees work, live, and play in the communities from Charlotte to Mooresville.

I-77 EXPRESS PROJECT INVESTMENT



- I-77 Mobility Partners, the developer, and its investors directly invested more than \$250 million.
- Project financing also includes \$289 million of project debt.
- The private investment is instrumental for the construction of I-77 Express and other infrastructure improvements along the existing portion of I-77, including the ability to deliver the project sooner for the State of North Carolina and motorists.
- Tolls paid to use I-77 Express go toward paying operations and maintenance costs and debt service of the roadway before investors start seeing a return on their investment.

I-77 EXPRESS OVERVIEW



- I-77 Express consists of 26 miles of dedicated tolled express lanes that will operate adjacent to the existing general purpose lanes.
- I-77 Express is separated from the existing general purpose lanes and have an interior shoulder for enhanced safety.
- Two express lanes per direction will run from I-277 in Charlotte to just south of Exit 28 in Cornelius.
- One express lane will run in each direction from Cornelius to just past Exit 36 in Mooresville.
- The same number of existing free lanes will remain along the entire highway in both directions.
- Drivers will have a choice whether to use I-77 Express, the general purpose lanes, or a combination of each.
- Dynamic pricing will be used to maintain a minimum average speed on I-77 Express.
- Express lanes will assist with traffic flow in all lanes.

PROJECT IMPROVEMENTS



Improving the I-77 Corridor

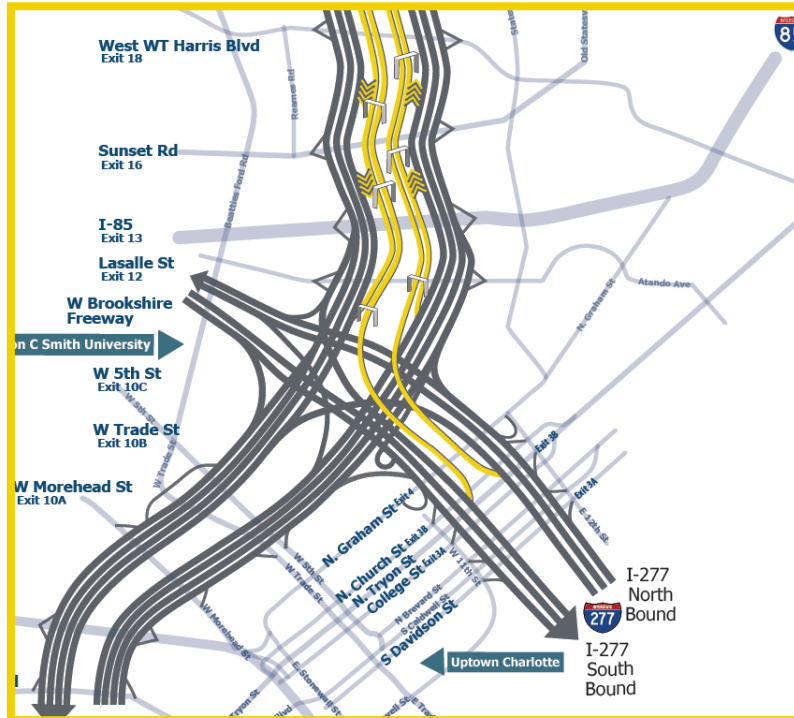
- All along the corridor, existing infrastructure is being greatly improved in both the general purpose lanes and the express lanes.
- Since signing the original contract, additional work was added to the project scope to improve the roadway for drivers.
- We have worked closely with NCDOT in determining these project improvements and adjusting timelines to accommodate the broader scope of work.
- The following improvements are part of the additional work.

PROJECT IMPROVEMENTS

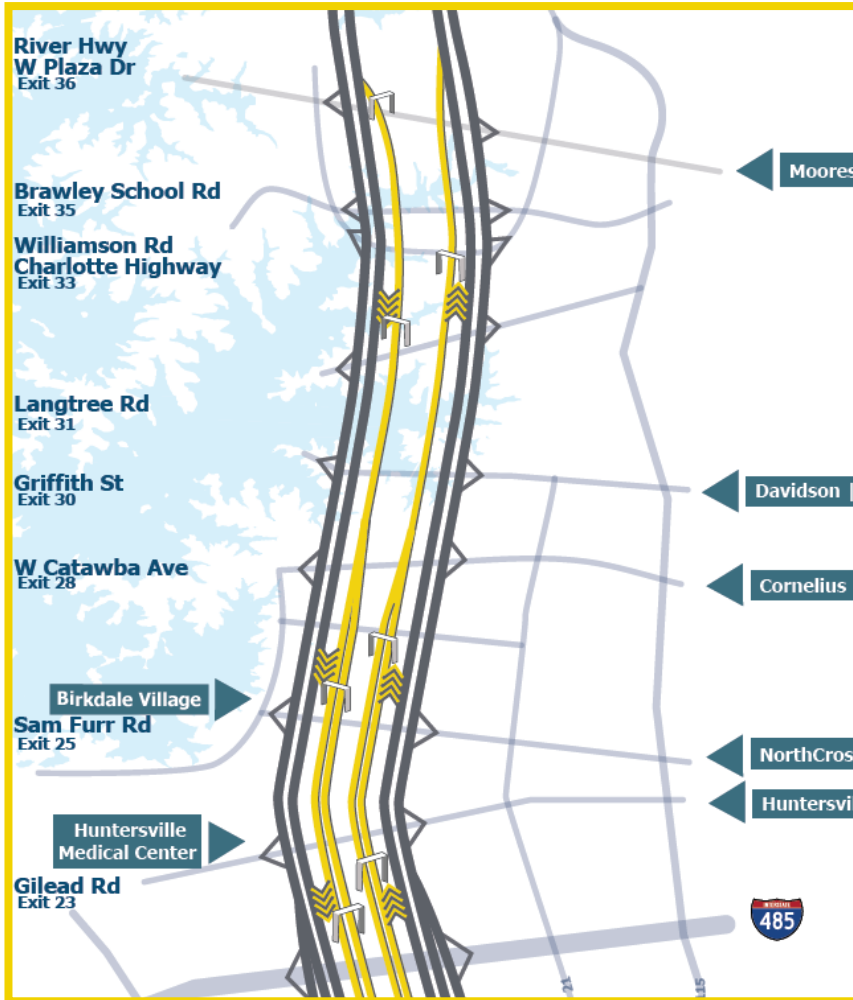


Direct Connections for I-85

- I-77 Mobility Partners has added connections between I-77 Express and I-85 which will improve capacity in the interchange and better serve drivers.
- These connections are funded by additional developer equity.



PROJECT IMPROVEMENTS



Additional Entry & Exit Points

- I-77 Mobility Partners has added additional entry and exit points for I-77 Express in the Lake Norman area to improve the connectivity between the existing crossing streets and the express lanes.
- I-77 Express, in this area, will now be accessible from/to Exits 23, 25, 28 and 30.
- These connections are funded by additional developer equity.

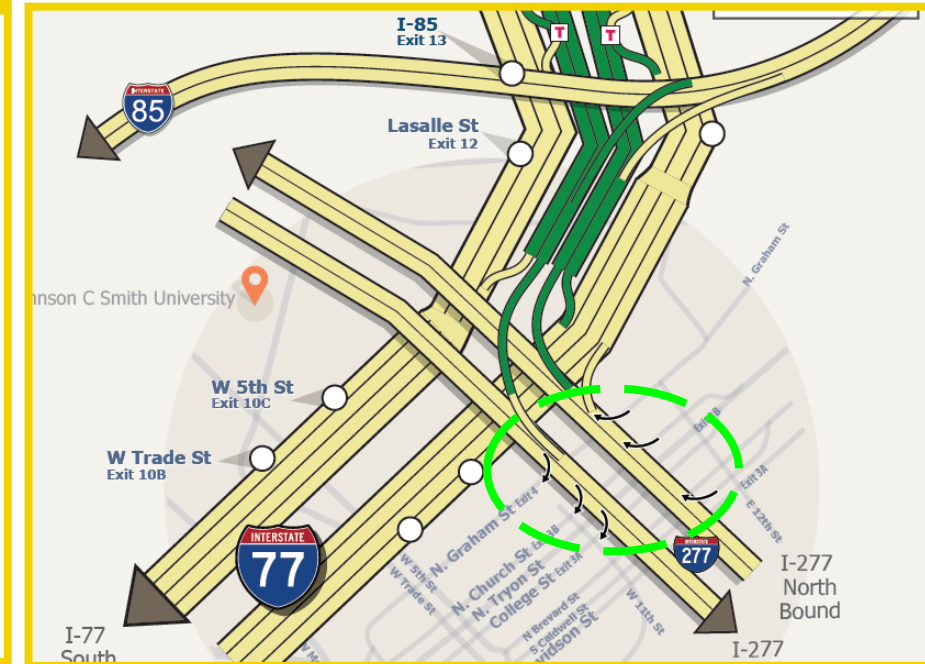
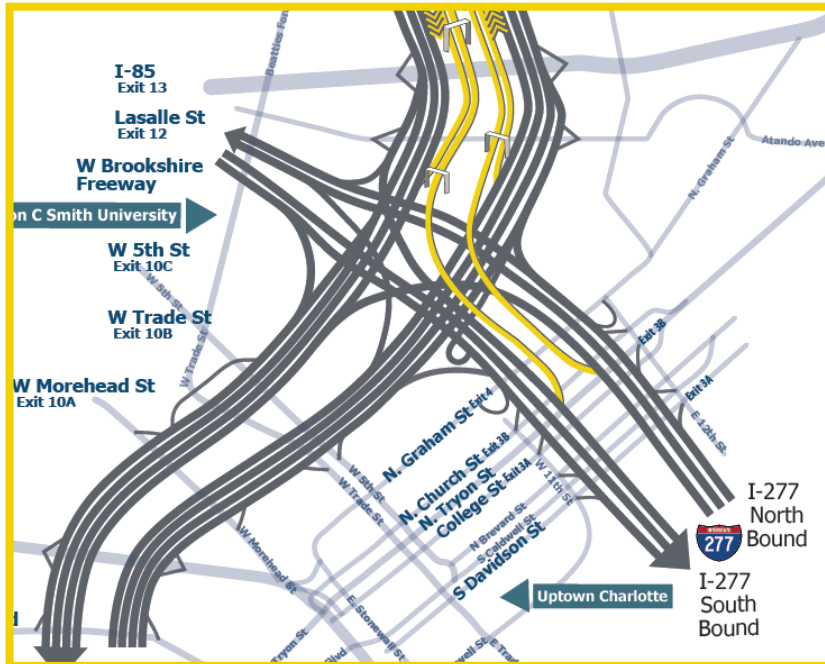


PROJECT IMPROVEMENTS



Improved I-77 & I-277 Connections

- Redesigned connection with I-277 will allow the use of the main streets accessing uptown Charlotte from/to I-77 Express.
- This change will increase merging distances and improves access to uptown Charlotte from I-77 Express.
- The redesign minimized impacts to adjacent neighborhoods.



PROJECT IMPROVEMENTS



Lakeview & Hambright Direct Connectors

- The regional planning organization added the new Lakeview and Hambright Road direct connectors for improved access to I-77.
- The change order for these direct connectors was signed in July 2017.
- When the direct connectors are completed in 2019, drivers will have direct access to I-77 Express in both directions.



PROJECT IMPROVEMENTS



Rehabilitating the Roadway

- I-77 Mobility Partners is expediting the improvements to the condition of the general purpose lanes on behalf of NCDOT.
- In addition to the original requirement to resurface the existing road, the general purpose lanes in the 26-mile corridor are being rehabilitated to provide better driving conditions through a process called “mill and fill.”
- The northern half of the rehabilitation is almost complete.
- The southern portion of the rehabilitation will begin in 2019 when temperatures allow.
- This work will occur overnight when traffic is lighter.
- If traffic needs to be diverted into the express lanes during lane closures, drivers will not be charged a toll.

PROJECT IMPROVEMENTS



Improving the I-77 Corridor

- A majority of I-77 Express will open as scheduled by the end of this year.
- However, the expanded scope of the project means that part of I-77 Express will open in 2019 to allow for the additional construction to be completed.
- In case the I-77 Express opens to traffic before all sections are complete, with the exception of the direct connectors, we will apply a discount to the toll rates described in this presentation.

I-77 OPERATIONS AND MAINTENANCE



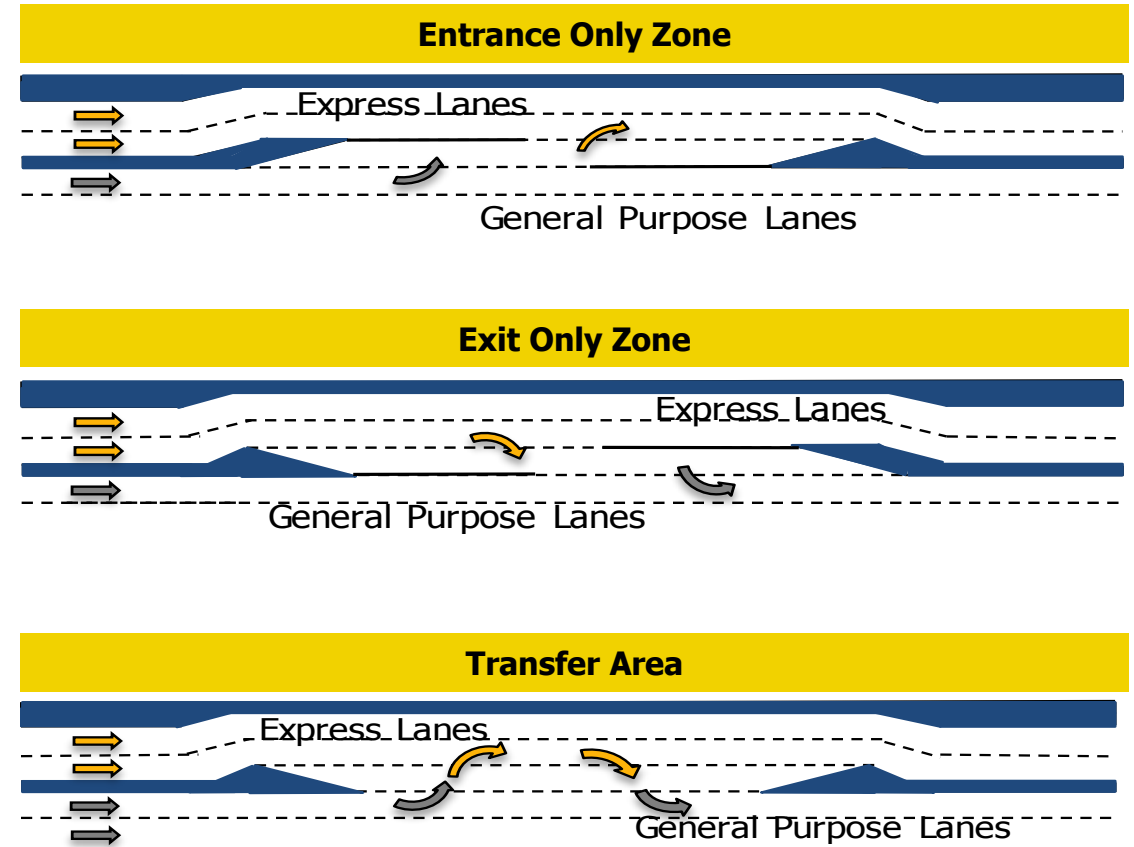
- I-77 Mobility Partners assumed maintenance and operations for the entire 26-mile corridor in October 2017.
- Motorists have a team available 24/7 that is fully dedicated to monitor the corridor and maintain both the general purpose lanes and I-77 Express to the same level of quality.
- Crews conduct roadway maintenance such as debris cleanup, vegetation control and road repairs.
- They also assist law enforcement and emergency responders in incident response with traffic control, roadway cleanup and coordinating vehicle removal.
- The team has provided roadside assistance such as changing tires, providing signaling, fuel or water to more than 900 motorists in need since beginning of operations.
- Motorists that received assistance from our crews between April and June gave an “Excellent” rating in all completed surveys.



ACCESSING I-77 EXPRESS



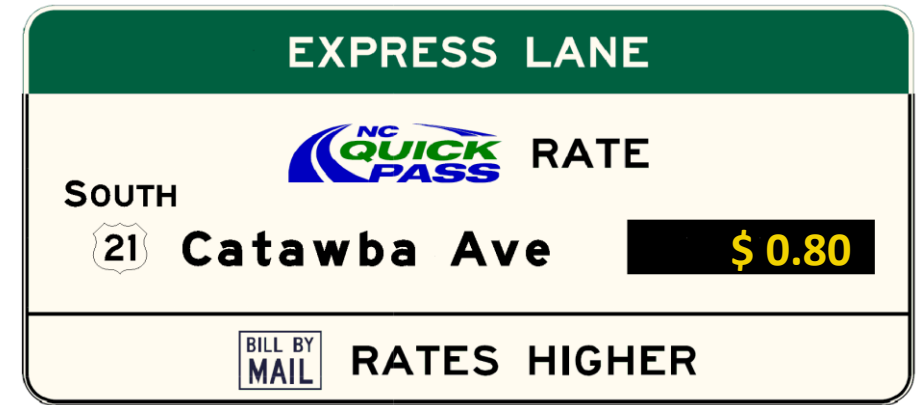
- I-77 Express will have 11 access points in each direction.
- All of the entrances and exits have been placed to allow safe movement to or from the closest general purpose ramp.
- All merge lanes will exceed the minimum standards of 500 feet per lane change.
- One additional merge lane has been added to the transfer areas to improve safety.
- Merge lanes will be 1,500 – 2,000 feet long in most locations.



I-77 EXPRESS WAYFINDING



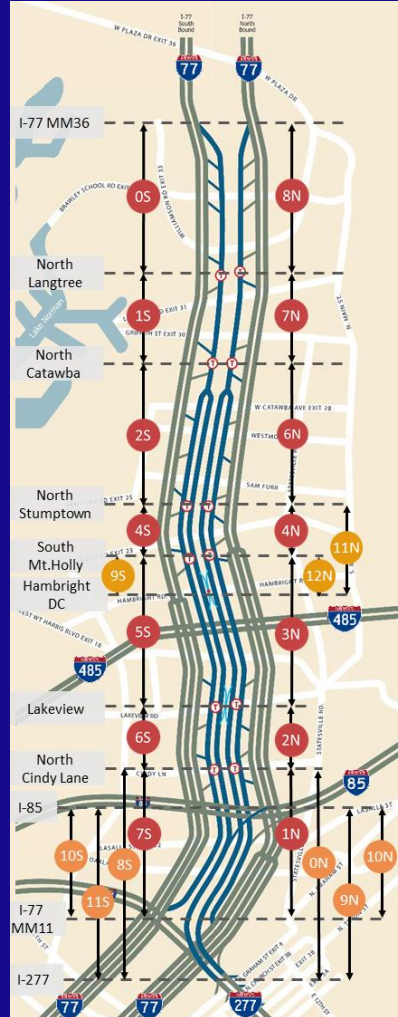
- Signs will be strategically placed along the corridor to allow motorists ample time to decide if I-77 Express is the best option for their trip.
- Rates will be displayed ¼ mile ahead of each segment entry.
- The toll rate displayed when entering I-77 Express is the price motorists will be charged for that segment.
- Toll rates posted on the I-77 Express signs will display the transponder rate.
- Additional digital message signs will alert drivers to any traffic conditions ahead.



I-77 EXPRESS TOLL SEGMENTS



- I-77 Express will be divided into segments.
- Each segment represents the portion of I-77 Express between an entry and exit point.
- Each segment will have its own toll rate and will always be displayed ahead of each segment.



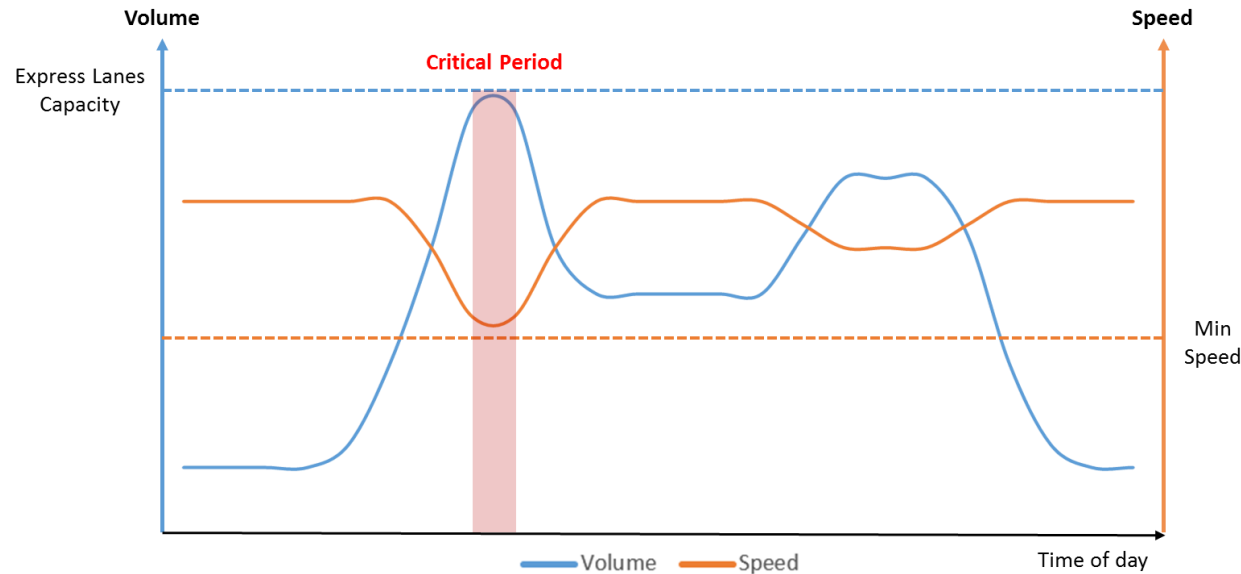
		Segment	Description
Main Lane	1N	7S	Between I-77 MM11 and Cindy Lane
	2N	6S	Between north of Cindy Lane and Lakeview Road
	3N	5S	Between Lakeview Road and south of Mt. Holly
	4N	4S	Between south of Mt. Holly and north of Stumptown Road
	6N	2S	Between north of Stumptown Road and north of Catawba Avenue
	7N	1S	Between north of Catawba Avenue and north of Langtree Road
	8N	0S	Between north of Langtree Road and I-77 MM36
Direct Connectors	0N	8S	Between I-277 and north of Cindy Lane
	9N	11S	Between I-277 and I-85
	10N	10S	Between I-77 MM11 and I-85
	12N	9S	Between Hambricht DC and south of Mt. Holly
	11N		Between Hambricht DC and north of Stumptown Road

UNDERSTANDING VARIABLE PRICING



- Our two basic principles regarding pricing are:
 1. Prices should always be aligned, to the extent possible, with the demand for using I-77 Express.
 2. Prices should be adequate to keep traffic on I-77 Express at average speeds above a minimum speed that ranges from 48 to 56 mph depending on the segment, as specified in our contractual requirements and federal law.
- Toll segments vary in length and have different traffic patterns throughout the day, so rates will vary by segment, direction and time-period based on those factors.
- Having multiple segments and multiple entry and exit points allows more flexibility for I-77 Express users to plan their trips and pay only for those portions of I-77 Express they use.

DYNAMIC ADJUSTMENT of RATES



- On a road, the number of cars (volume) and the speed of those cars are related. As volume increases, speed normally decreases as roads become congested.
- The dynamic adjustment of toll rates allow I-77 Express to manage, in real time, varying traffic and demand conditions in order to maintain a minimum average speed.
- As an example, if volume on I-77 Express increases and speeds decrease, prices will rise in order to ease demand for I-77 Express, bringing the system back into balance.

SCHEDULE vs. DYNAMIC MODES



As specified in our contract with NCDOT, there are two different modes of adjusting the toll rates:

1. **Schedule Mode:** will apply during the first 180 days from the opening of traffic on I-77 Express.

During Schedule Mode, toll rates are defined for every 30-minute period of every day of the week and won't change in real-time. This allows I-77 Express drivers to get used to the facility, knowing the applicable rate for their trip beforehand.

The full schedule of rates for this period can be found in our web page www.I77express.com

2. **Dynamic Mode:** will apply after the first 180 days from the opening of traffic on I-77 Express until the end of the term.

During Dynamic Mode, toll rates may change as often as every five minutes to accommodate changes in demand for I-77 Express.

SCHEDULE MODE RATES

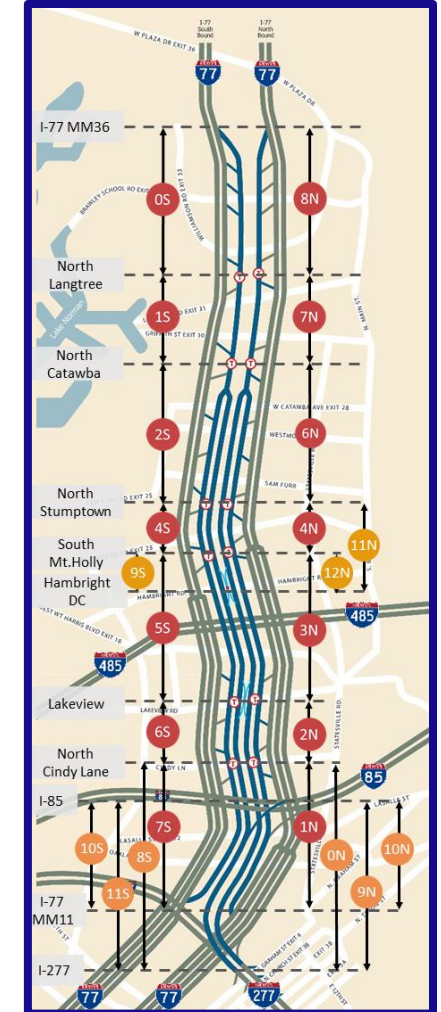


The toll rates per segment and time of day for **NC Quick Pass** users* will be the following during the first 180 days of operation of the project **:

Segment			Weekdays				Weekends	
			AM Peak 6:30 AM 9:00 AM	Mid Day 10:00 AM 2:00 PM	PM Peak 3:00 PM 7:00 PM	Night 8:00 PM 5:30 AM	Day 10:00 AM 8:00 PM	Night 8:00 PM 10:00 AM
			NB	SB	NB	SB		
Main Lane	1N-7S	I-77 MM11- Cindy	\$0.90		\$0.60		\$0.90	\$0.35
	2N-6S	Cindy - Lakeview	\$0.60		\$0.50		\$0.60	\$0.35
	3N-5S	Lakeview – Mt. Holly	\$0.65		\$0.50		\$0.65	\$0.35
	4N-4S	Mt. Holly – Stumptown	\$1.00	\$1.10	\$0.60	\$1.10	\$1.00	\$0.35
	6N-2S	Stumptown – Catawba	\$1.65	\$1.75	\$0.80	\$1.75	\$1.65	\$0.35
	7N-1S	Catawba – Langtree	\$0.85	\$0.75	\$0.60	\$0.75	\$0.85	\$0.35
	8N-0S	Langtree – I-77 MM36	\$0.90	\$0.80	\$0.60	\$0.80	\$0.90	\$0.35
Direct Connectors	0N-8S	I-277 – Cindy	\$1.30		\$0.90		\$1.30	\$0.65
	9N-11S	I-277 – I-85	\$1.70		\$1.20		\$1.70	\$0.95
	10N-10S	I-77 MM11 – I-85	\$1.30		\$0.90		\$1.30	\$0.65
	12N-9S	Hambright DC	\$0.40		\$0.30		\$0.40	\$0.30
	11N	Hambright DC - Stumptown	\$1.40		\$0.90		\$1.50	\$0.65

* Bill By Mail Rates are higher

**The full schedule of rates for every 30 minute period is available at www.I77Express.com

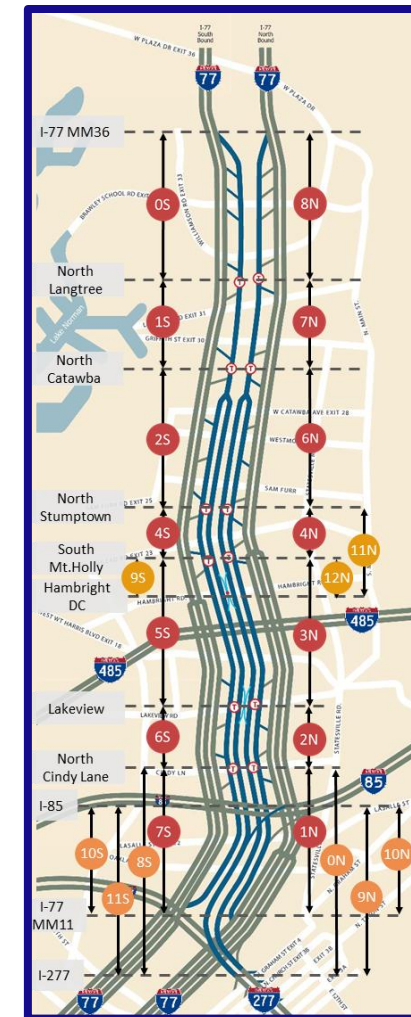


SCHEDULE MODE TRIP EXAMPLES



Trip	Rush Hour (Highest)	Midday or Weekends
From I-85 to Catawba Avenue	\$4.10*	\$2.40*
From Uptown to I-485	\$2.55*	\$1.60*
From I-485 to Catawba Avenue	\$2.85*	\$1.40*
From Sam Furr Road to I-77 Exit 36	\$3.40*	\$2.00*
From I-77 Exit 11 to I-77 Exit 36	\$6.55*	\$4.20*

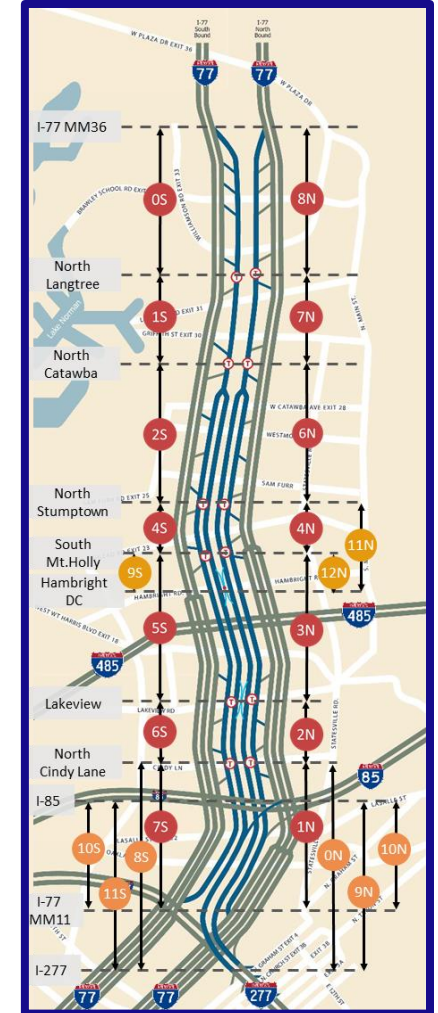
**Toll rate examples of a NC Quick Pass user. Bill by Mail rates are higher.*



DYNAMIC MODE RATES



- The toll rates per segment after the initial 180 days of operation will be set between the minimum and maximum values shown in the following table.
- In peak periods, the toll rates are expected to be closer to the upper limit.
- In off-peak periods, toll rates will be in the middle area of the range.
- At night time, toll rates will be in the lower end of the range.
- All toll rates will be reevaluated and adjusted dynamically as often as every five minutes.
- The minimum and maximum toll rates per segment will be adjusted periodically in accordance with the contract and North Carolina law.



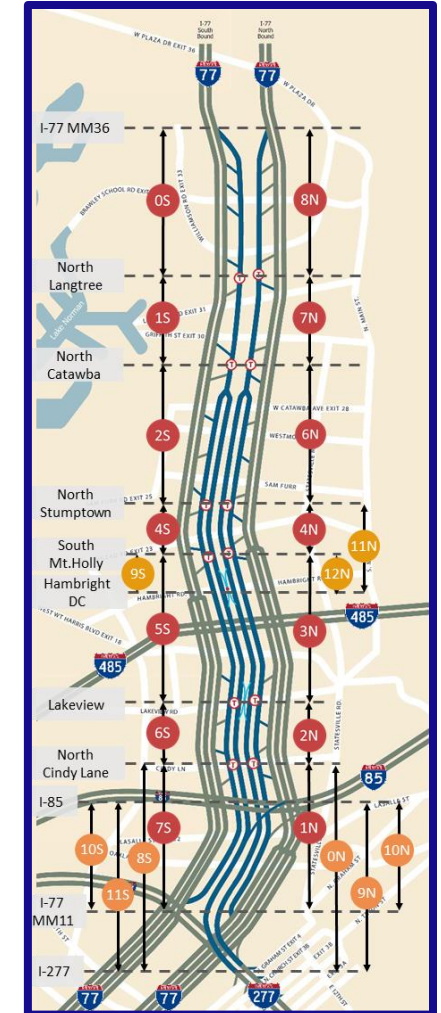
DYNAMIC MODE RATE RANGE



	Segment		Minimum Rate (*)	Maximum Rate (*)
Main Lane	1N-7S	I-77 MM11- Cindy	\$0.35	\$1.20
	2N-6S	Cindy - Lakeview	\$0.35	\$0.85
	3N-5S	Lakeview – Mt. Holly	\$0.35	\$0.85
	4N-4S	Mt. Holly – Stumptown	\$0.35	\$1.75
	6N-2S	Stumptown – Catawba	\$0.35	\$2.35
	7N-1S	Catawba – Langtree	\$0.35	\$1.20
	8N-0S	Langtree – I-77 MM36	\$0.35	\$1.20
Direct Connectors	0N-8S	I-277 – Cindy	\$0.35	\$1.75
	9N-11S	I-277 – I-85	\$0.35	\$2.35
	10N-10S	I-77 MM11 – I-85	\$0.35	\$1.75
	12N-9S	Hambright DC - Mt. Holly	\$0.30	\$0.60
	11N	Hambright DC - Stumptown	\$0.35	\$2.35

**Toll rates for a NC Quick Pass user. Bill By Mail rates are higher.*

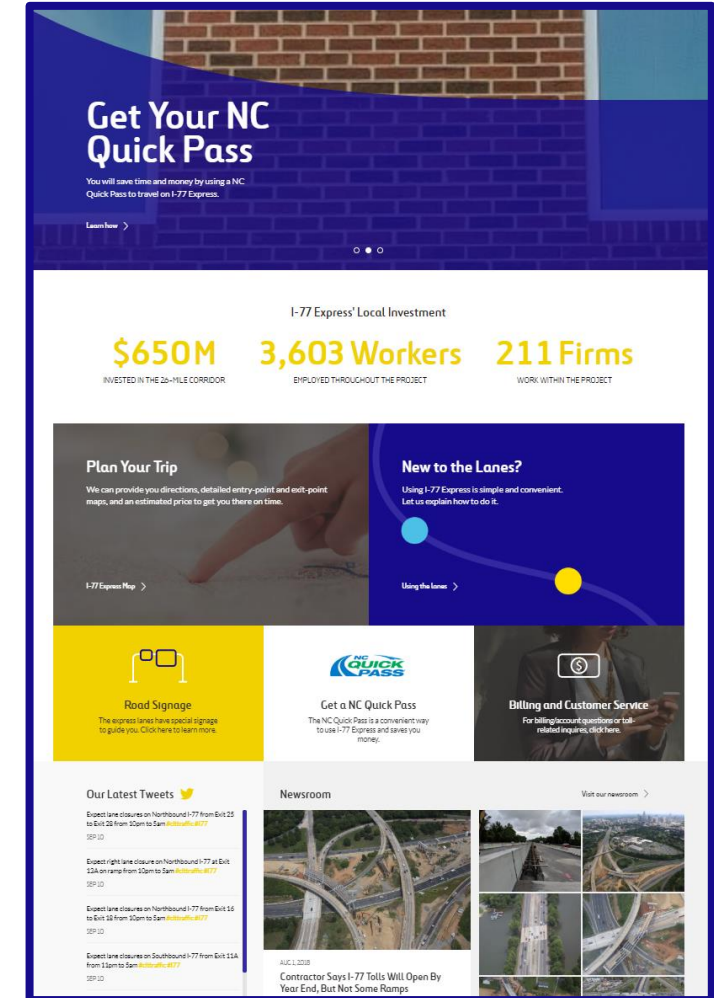
The minimum and maximum toll rates per segment will be adjusted periodically in accordance with the contract and North Carolina law.



MORE INFORMATION ONLINE



- Visit www.I77Express.com at any time to see more information about toll rates to help you plan your trip.
- Our website will soon contain other resources to help you with your trip:
 - Plan Your Trip tool
 - Average pricing calculator





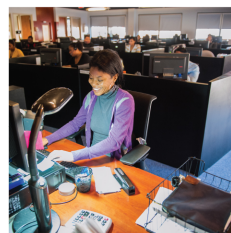
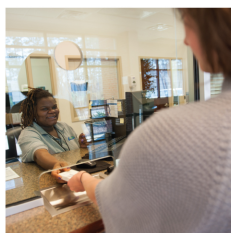
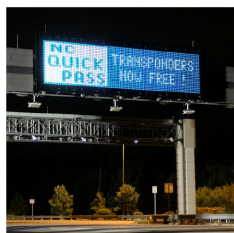
Town of Davidson Board Meeting
October 23, 2018

www.I77Express.com



NORTH CAROLINA

Turnpike Authority



Tolling 101: What You Need to Know

Warren Cooksey

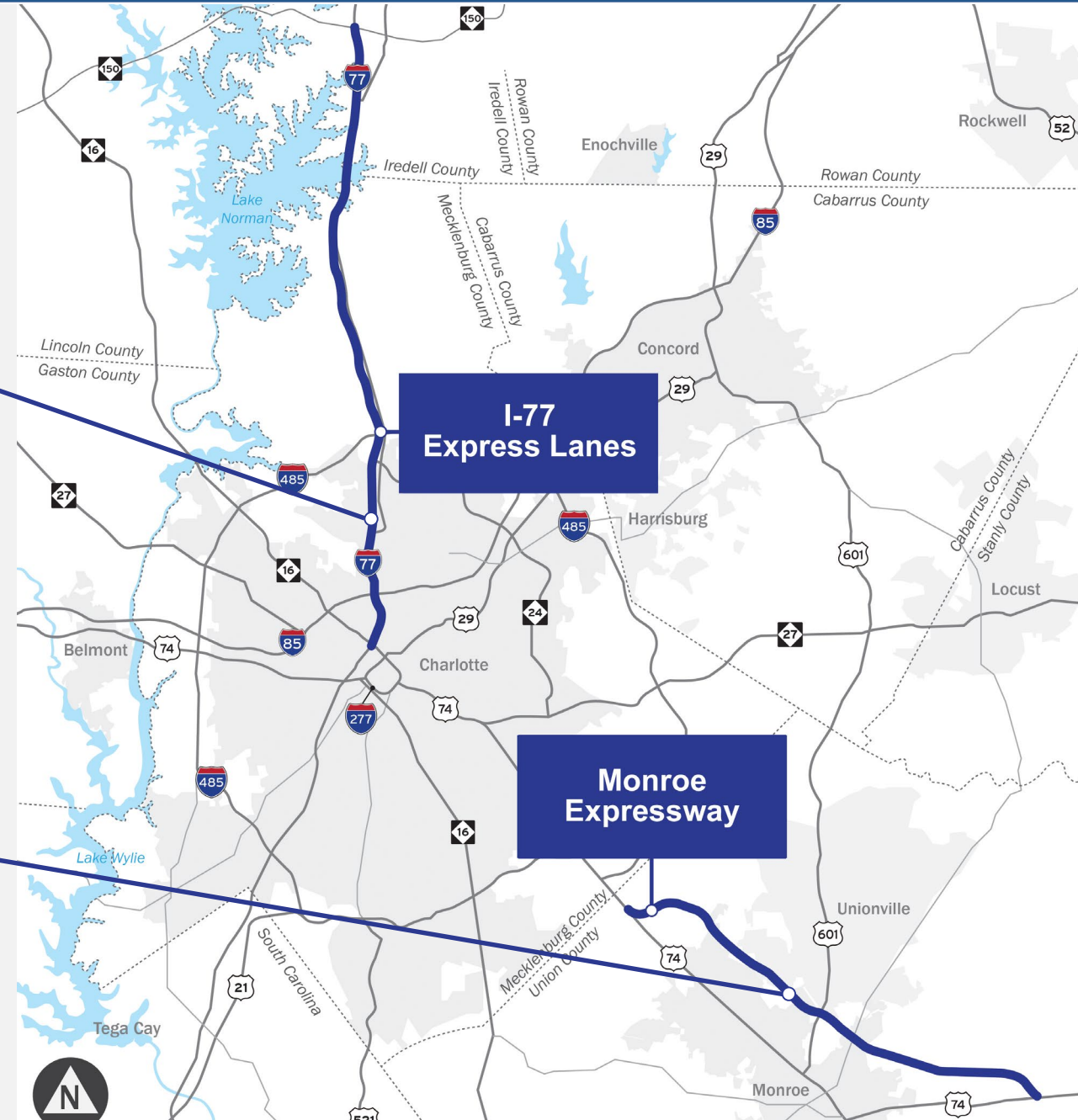
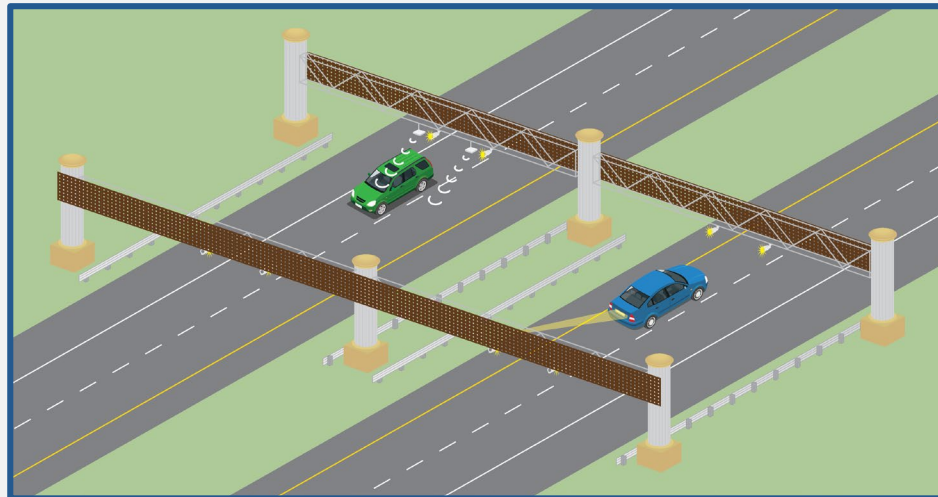
October 23, 2018

Coming Soon!

I-77 Express Lanes



Monroe Expressway



All-Electronic Tolling



North Carolina Turnpike Authority's Toll Collection Program

NO TOLL BOOTHS! NO STOPPING!



Two Options to Pay

1



NC Quick Pass – Prepaid Transponder Account

Tolls are automatically deducted from prepaid account

2



Bill by Mail Program – Postpaid

An image of your license plate will be captured and an invoice will be mailed to the registered owner of the vehicle



After the first mailed invoice, customers can opt-in to receive future invoices by email through the **Bill by Email** option



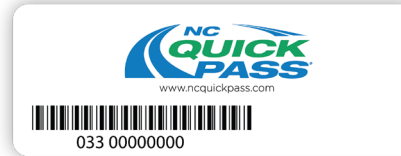
TOLLS ARE

LESS THAN

Transponders – *Three options to fit your travel needs*

1 NC Quick Pass (Standard)

Cost – FREE



 Pay tolls in NC, GA and FL





Transponders – *Three options to fit your travel needs*

2 NC Quick Pass E-ZPass

Cost – \$7.40 +tax



Pay tolls in NC, GA, FL
and all E-ZPass states



Transponders – *Three options to fit your travel needs*

3 NC Quick Pass E-ZPass Flex

Cost – \$16.49 +tax

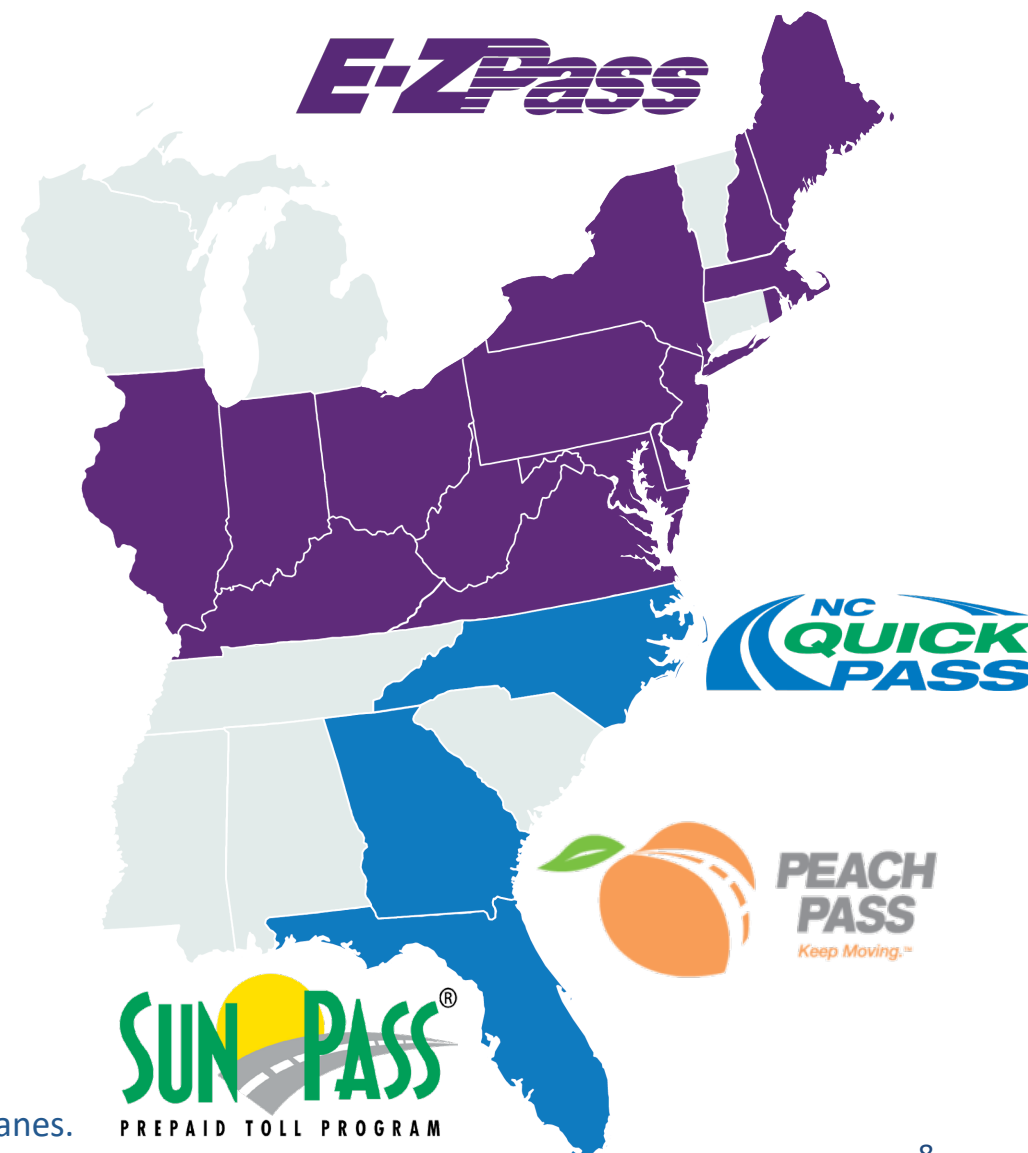


Pay tolls in NC, FL, GA
and all E-ZPass states

&



Set HOV3+ status in the I-77 Express
Lanes to travel for free when there
are three or more people in the vehicle



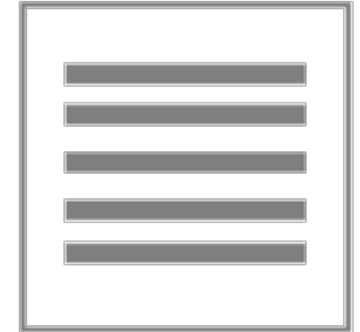
Note: All NC Quick Pass transponders can be used with the NC Quick Pass HOV mobile app (available for download in November) to set HOV3+ status for free travel in the I-77 Express Lanes.

Bill by Mail



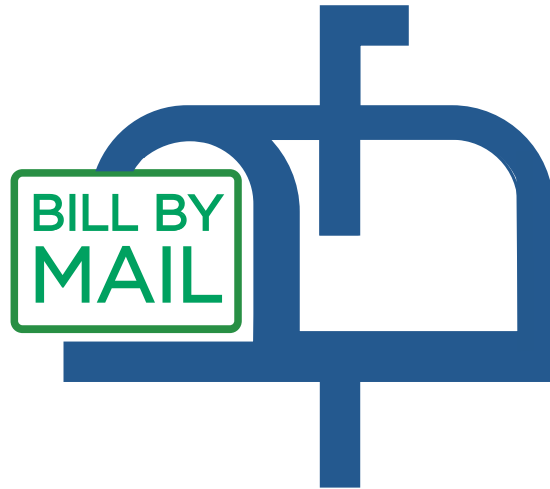
NC Department of Transportation
200 Sorrell Grove Church Road, Suite A
Morrisville, NC 27560

Invoice Enclosed.
Handle promptly to avoid additional charges.



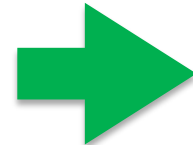
Bill by Mail

Receive invoice by U.S.P.S.



NC Department of Transportation
200 Sorrell Grove Church Road, Suite A
Morrisville, NC 27560

Invoice Enclosed.
Handle promptly to avoid additional charges.



Review Bill by Mail invoice

PAGE 1 OF 2

NC QUICK PASS

NAME
ADDRESS
CITY, STATE ZIP CODE

BILL BY MAIL
Invoice Date: 1/27/2018
Invoice Number: 1000000000
Invoice Posting Period: 1/22/17 to 1/26/18

Summary of Activity					
Previous Invoice Amount	New Tolls	Other Charges	Payments and Adjustments	Total Amount Due	Due Date
\$0.00	\$4.19	\$0.00	\$0.00	\$4.19	02/27/18

*Please note: Amount due does not include payments received after the date of this invoice.

Payments and Adjustments

Invoice Period	Invoice Number	Description	Date	Amount
Total Payments & Adjustments				\$0.00

This bill is for charges associated with use of a NC toll road. To view past toll charges, photographs, fees/penalties and invoices, visit www.ncquickpass.com and click the Pay Your Bill tab to access the Invoice Menu prior to payment. Please have this invoice and your license plate number available.

Not your vehicle? Contact the Customer Service Center at 877-769-7277 and let us know.

License Plate or Transponder Number Associated with the Vehicle Registered to You (Please Note: Images may also appear on subsequent pages if necessary.)

ABC-1234
NORTH CAROLINA

New Toll Transactions

License Plate/Transponder	State	Vehicle Class	Transaction Date	Transaction Time	Posting Date	Toll Zone	Location Description	Amount
ABC1234	NC	1	12/30/17	11:25:39	01/01/18	106	RAMP - NC147 SB TO NC540 SB	\$1.50
ABC1234	NC	1	12/30/17	11:30:01	12/30/17	T18	MAINLINE - NC540 SB AT GR LEVEL	\$1.20
ABC1234	NC	1	12/30/17	11:34:40	01/01/18	T26	MAINLINE - NC540 SB AT OLD 101	\$1.40
Total Tolls								\$4.19

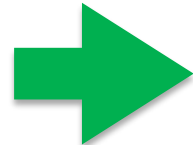
For additional charges, payment options, dispute procedures, and failure to pay penalties, please see the reverse side of this letter.

Pay Online www.ncquickpass.com Pay by Phone 1-877-769-PASS (1-877-769-7277) Pay by Mail Return Coupons with Payment (make checks payable to NC Quick Pass and include the invoice number on the face of the check.)

Sign up for invoices via email at www.mymquickpass.com ☐ Address Change

Account Number: 0123456789
Invoice Number: 1000000000
Total Amount Due \$ 4.19
Must Be Received By 02/27/2018
Amount Enclosed \$.

Quick Pass Customer Service Center
PO Box 71116
Charlotte, NC 28272-1116



Make payment online, by phone, by mail or at a Customer Service Center



www.ncquickpass.com



(877) 7MY-PASS



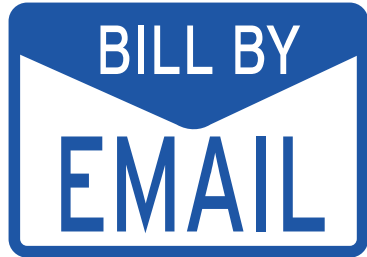
PO Box 71116
Charlotte, NC 28272-1116



NC Quick Pass
Customer Service Center

Payment is due within 30 days

Bill by Email



After receiving a Bill by Mail invoice, visit ncquickpass.com to opt-in to the Bill by Email service to begin receiving invoices by email.

The screenshot shows the NC Quick Pass website interface. The top navigation bar includes links for HOME, FAQs, MANAGE MY ACCOUNT, and CONTACT US. The main header features the NC Quick Pass logo and the North Carolina Turnpike Authority contact information: (877) 769-7277. Below the header, there are buttons for SIGN UP NOW, MANAGE MY ACCOUNT, BILL BY MAIL, PAY MY BILL, and BILL BY EMAIL. The date June 14, 2018, is displayed. The left sidebar contains an Invoice Menu with links to Current Invoice, Invoice History, Invoice Transactions, and Get NC Quick Pass Transponder Account. Below this is the NC Quick Pass Help section with links to General Questions, NC Quick Pass Bill by Mail, and NC Quick Pass Bill by Email. The main content area is titled 'Current Invoice' and includes a warning about payment due dates. It also displays the user's information: JOHN SMITH, 200 SORRELL GROVE CHURCH RD, MORRISVILLE, NC 27560. The invoice details are: Invoice Date: 01/04/2018, Invoice Number: 10000000000, and Invoice Period: 11/30/2017 - 01/03/2018. The 'Bill by Email - Sign up now!' section is highlighted with a red circle, showing a 'BILL BY EMAIL' icon and the text: 'Email Address: You are not opted in to the Bill by Email service. [Click here](#) to opt-in.'

Current Invoice

Payment must be received by due date to avoid additional fees.

Get an NC Quick Pass account and you will save on travel, and pay a lower toll rate on all future usage of the Turnpike's facilities. If you would like to get a NC Quick Pass account, you must first pay all your open invoices. Click on the link to the left [Get NC Quick Pass Transponder Account](#) or [Click Here](#) to start the process of setting up your new account once payment is made on all of your invoices. If you have any difficulties or need assistance you can call the NC Quick Pass Customer Service Center at 1-877-7MY-PASS.

Bill By Mail

JOHN SMITH
200 SORRELL GROVE CHURCH RD
MORRISVILLE, NC 27560

Invoice Date: 01/04/2018
Invoice Number: 10000000000
Invoice Period: 11/30/2017 - 01/03/2018

Bill by Email - Sign up now!

Email Address: You are not opted in to the Bill by Email service. [Click here](#) to opt-in.

Summary of Activity

Previous Balance	New Tolls	Other Charges	Total Charges	Payments and Adjustments	Total Amount Due	Due Date
\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	02/03/2018

Bill by Mail – *What if I Don't Pay?* (N.C.G.S. § 136-89.215-217)

1st Invoice

Toll amount at
Bill by Mail
(BBM) toll rate

2nd Invoice

Unpaid balance
+ Processing Fee
\$6.00
+ any new tolls incurred

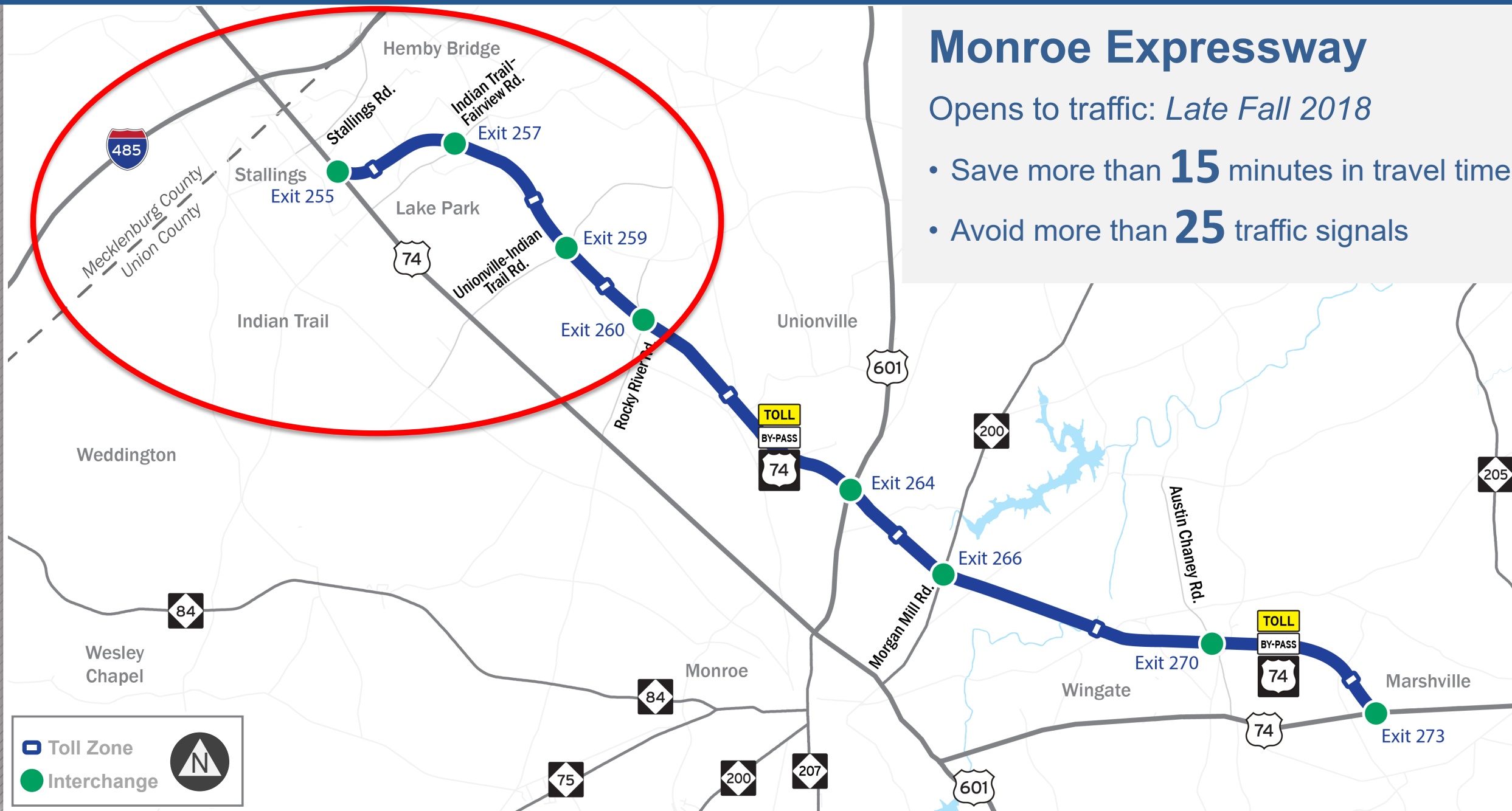
3rd Invoice

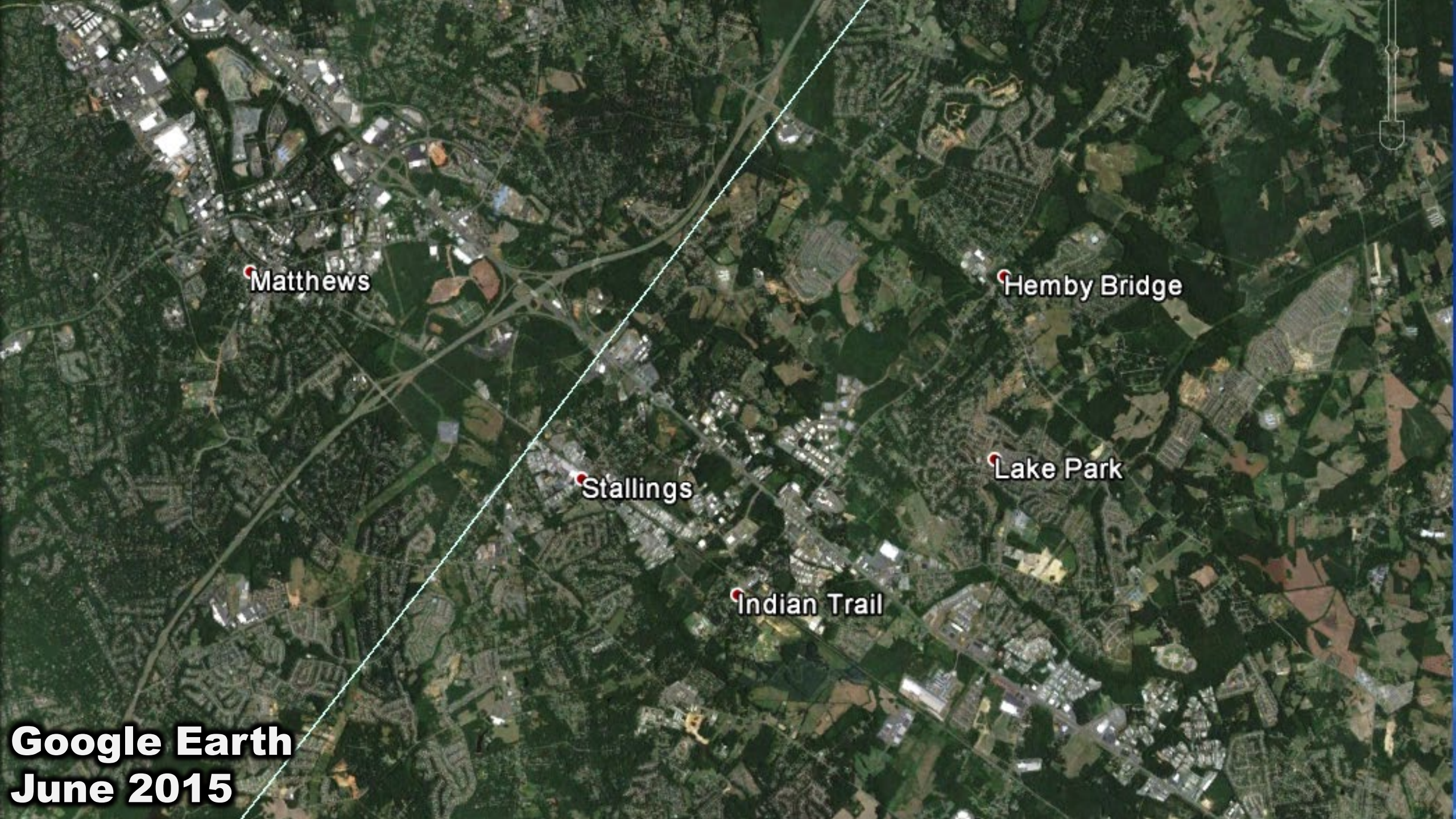
Unpaid balance
+ Processing Fee
\$6.00
+ Civil Penalty
\$25.00
+ any new tolls incurred

4th Invoice*

Unpaid balance
+ Processing Fee
\$6.00
+ any new tolls incurred

*Customers with unpaid tolls, fees and/or penalties that are ***over 90 days past due*** are subject to NC DMV Registration hold and/or collections





Matthews

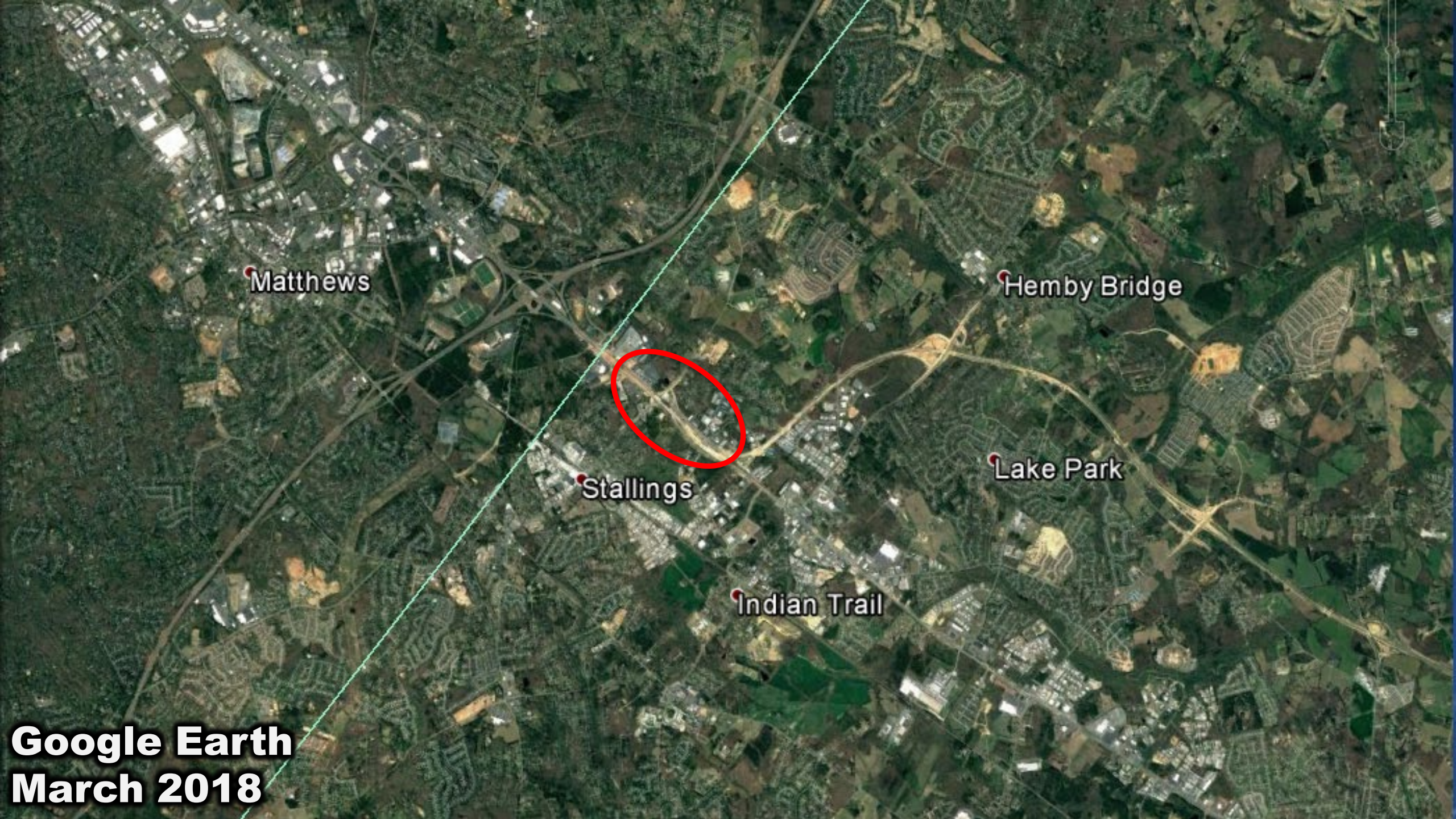
Hemby Bridge

Stallings

Lake Park

Indian Trail

Google Earth
June 2015



Matthews

Hemby Bridge

Lake Park

Stallings

Indian Trail

Google Earth
March 2018



June 29, 2017



August 17, 2018



Monroe Expressway – *How much will it cost?*

2018 Toll Rate for a Class 1 vehicle with an NC Quick Pass Transponder

\$0.14 per mile

\$2.54 complete trip on Monroe Expressway



TOLLS ARE

LESS THAN

VEHICLE CLASSIFICATION

Class 1



2-AXLE vehicles

Class 2






Tolls for vehicles with 3 AXLES are
two times (2x) the Class 1 vehicle toll

Class 3



Tolls for vehicles with 4 or more AXLES are
four times (4x) the Class 1 vehicle toll

Monroe Expressway Toll Rates

2 AXLE TOLL				
				
NEXT EXIT		\$0.XX	\$0.YY	
END 	BYP	\$X.XX	\$Y.YY	
3 AXLES TOLL x 2				
4+ AXLES TOLL x 4				



Tolls shown represent a trip from Entry Point to Exit Point for a Class 1 vehicle with an NC Quick Pass account. Tolls shown also apply to E-ZPass, SunPass and Peach Pass account holders.		EXIT POINT							
		Exit 255	Exit 257	Exit 259	Exit 260	Exit 264	Exit 266	Exit 270	Exit 273
ENTRY POINT	Exit 255 - U.S. 74 (West)		\$ 0.26	\$ 0.57	\$ 0.76	\$ 1.31	\$ 1.56	\$ 2.12	\$ 2.54
	Exit 257 - Indian Trail-Fairview Rd.	\$ 0.26		\$ 0.31	\$ 0.50	\$ 1.05	\$ 1.30	\$ 1.86	\$ 2.28
	Exit 259 - Unionville-Indian Trail Rd.	\$ 0.57	\$ 0.31		\$ 0.19	\$ 0.74	\$ 0.99	\$ 1.55	\$ 1.97
	Exit 260 - N. Rocky River Rd.	\$ 0.76	\$ 0.50	\$ 0.19		\$ 0.55	\$ 0.80	\$ 1.36	\$ 1.78
	Exit 264 - U.S. 601	\$ 1.31	\$ 1.05	\$ 0.74	\$ 0.55		\$ 0.25	\$ 0.81	\$ 1.23
	Exit 266 - Morgan Mill Rd.	\$ 1.56	\$ 1.30	\$ 0.99	\$ 0.80	\$ 0.25		\$ 0.56	\$ 0.98
	Exit 270 - Austin Chaney Rd.	\$ 2.12	\$ 1.86	\$ 1.55	\$ 1.36	\$ 0.81	\$ 0.56		\$ 0.42
	Exit 273 - U.S. 74 (East)	\$ 2.54	\$ 2.28	\$ 1.97	\$ 1.78	\$ 1.23	\$ 0.98	\$ 0.42	

Free Travel in the I-77 Express Lanes



Registered Motorcycles

Travel in the I-77 Express Lanes *for free* with an NC Quick Pass transponder



High Occupancy Vehicles

Travel in the I-77 Express Lanes *for free* with:

- **NC Quick Pass** transponder;
- **Three** or more occupants in the vehicle;
- **Set** HOV3+ status; and
- **Class 1** (two-axle) vehicle.

***HOV3+ RIDES
FOR FREE!***



Registered Transit Vehicles

Travel in the I-77 Express Lanes *for free* with an NC Quick Pass transponder

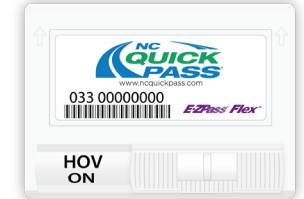



High Occupancy Vehicle (HOV) – *Two options to set HOV3+ status*

- 1 NC Quick Pass E-ZPass Flex**
Set HOV3+ status directly from the transponder



+



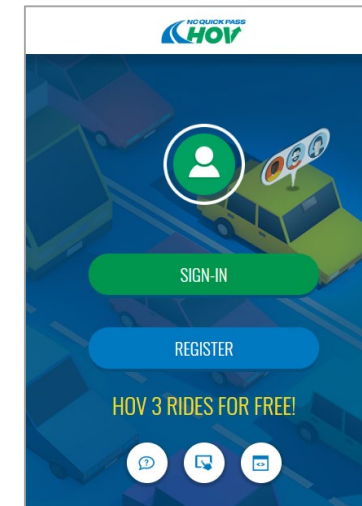
- 2 NC Quick Pass HOV - Mobile Application and Website (Coming Soon)**
 *Use the app/website with any NC Quick Pass transponder to set HOV3+ status*



+



+



NC Quick Pass Customer Service

Phone

(877) 7MY-PASS (877-769-7277)

Hours of Operation: Monday – Friday: 9 a.m. to 5 p.m.
Saturday: 9 a.m. to 2 p.m.

Website

24/7 online account and invoice access at **ncquickpass.com**



Manage your
transponder account



Sign up for a
transponder account



Pay your bill

NC Quick Pass Customer Service Centers

Charlotte

8015 W. WT Harris Blvd
Charlotte, NC 28216



Monroe

3034 Winston Ave
Monroe, NC 28110



Morrisville (Raleigh)

200 Sorrell Grove Church Rd,
Suite A
Morrisville, NC 27560



Hours of Operation

Monday – Friday: 9 a.m. to 5 p.m.
Saturday: 9 a.m. to 2 p.m.

NC Quick Pass® Statistics for the Triangle Expressway (as of September 2018)

190,000+ accounts established

420,000+ transponders issued

~4,500,000 transactions per month in Q3 2018

1-877-769-7277 | www.ncquickpass.com



[@NC_QuickPass](#)



**Agenda Title: Public Hearing - Proposed Financing for 251 South Street
Finance Director Pieter Swart**

Summary: This public hearing is held as required in NCGS § 160A-20 regarding the proposed financing of the purchase of 251 South Street for \$2.55 million.

Summary:

ATTACHMENTS:

Description	Upload Date	Type
☐ Public Hearing Presentation	10/23/2018	Cover Memo



The Town *of* Davidson

College Town. Lake Town. *Your Town.*

Public Hearing: Financing the purchase of 251 South Street Property



Presentation Overview

- Background
- Provide a timeline of next steps
- What does Resolution 2018-27 do?
- Public hearing



Background Information

- The Town approved the purchase of the 251 South Street property in August for \$2.46 million.
- The Town will close on the property in December
- Once we close, options include creating a committee charged with master planning the entire 5 acres
 - School Building, Gym, Parking, Fields
 - Space for municipal departments and community groups

Timeline

October 23	Public Hearing Board considers approval of resolution 2018-27 Financing RFP Distributed to potential lenders
November 6	Financing RFPs due
November 13	RFP bid summary presented to Board
November 27	Board considers approval of financing resolution
December 4	LGC considers approval of financing
Mid-December	Closing on financing and real estate transaction



The Resolution

- The Board is authorizing staff to seek approval for the financing of the 251 South Main Street property from the Local Government Commission, and make certain findings of fact.
- Required under NCGS 160A-20
- We have increased the maximum financing amount to \$2.55 million dollars to allow for closing costs and maintenance on the gymnasium
- This resolution does not act as Board's approval of the final financing contract

Public Hearing



College Town. Lake Town. *Your Town.*

251 South Street Property– Financing Application Public Hearing
October 23, 2018



Agenda Title: **Consider Approval of Amending Rules of Procedure for Remote Participation**
Summary: At the September 11 meeting, the Board of Commissioners requested a brief analysis of whether to allow commissioners to vote via phone if they are not able to be present in person at a meeting. Currently, members are allowed to participate in board meetings by phoning in, but are not permitted to vote. The board would like to amend the rules of procedure to allow voting by remote participation, if there is a physical quorum present at the meeting, and have the vote count. They requested that a question be added to Open Town Hall to gather public input.

Summary:

ATTACHMENTS:

	Description	Upload Date	Type
□	Agenda Memo - Rules of Procedure - Remote Participation 10-23-18	10/18/2018	Cover Memo
□	Attachment - UNC School of Government bulletin	10/18/2018	Backup Material
□	Attachment - Town of Davidson Rules of Procedure	10/18/2018	Backup Material
□	Attachment - Open Town Hall Remote Participation 10-23-18	10/18/2018	Backup Material



Rules of Procedure for Remote Participation

Date: October 23, 2018
To: Davidson Board of Commissioners
From: Jamie Justice, Town Manager

1. OVERVIEW

The Board requested a brief analysis of whether it should allow commissioners to vote via phone. Currently, members are allowed to participate in board meetings by phoning in but are not permitted to vote. The Rules of Procedure adopted by the BOC state: "A member who attends a meeting electronically (via phone, skype, etc.) may take part in debate however may neither be counted toward a quorum nor vote on any matter before the board".

The UNC School of Government has advised there is some legal risk to allowing remote participation therefore the town's rules of procedure, Part III Rule 3, have taken this into account.

Attached are the rules of procedure and a blog post from the UNC School of Government. The Town Attorney recommended Option 1.

At the September 11, 2018 board meeting, the town board agreed to change the rules of procedures to allow remote participation and to post the question to open town hall to get citizen feedback before considering taking action at the October 23rd board meeting. Attached are the results from open town hall.

2. RELATED TOWN GOALS

N/A

3. OPTIONS/PROS & CONS

Option 1: Leave rules of procedure as is and not allow voting by remote participation.

Pros: No deviation from adopted rules of procedure. Follows best practice guidelines. Least likely option to result in a legal challenge. Please see the NCSOG memo attached to this analysis.

Cons: Because Commissioners have a duty to vote, a Commissioner who can participate in the discussion but not vote may feel frustrated.

Option 2: Amend rules of procedure to allow voting by remote participation.

Pros: Allows all Commissioners to vote.

Cons: Most likely to result in a legal challenge particularly if the vote is the deciding vote or if the remote participant is needed for quorum. This has not been addressed by a NC court, but my opinion is that a court would not uphold a decision that rested on a vote via phone.

Option 3: Amend rules of procedure to only allow voting by remote participation under certain circumstances such as when the vote will not be the deciding vote and there is already a quorum.

Pros: Allows remote voting under limited circumstances. Severely limits possibility of legal challenge.

Cons: If a vote is only allowed where it will not be the deciding vote, advance knowledge of how each commissioner will vote might be necessary. If the remote participant is counted for quorum, all actions taken during this particular meeting can be challenged on the grounds that there was not quorum and therefore not a legal meeting.

4. FYI or RECOMMENDED ACTION

The action needed to approve option 2 is a motion and vote to amend Part III, rule 3 of the town of Davidson rules of procedures to allow remote participation for members so long as there is a physical quorum present at the official meeting.

5. NEXT STEPS

If the Board approves Option 2, the rules of procedure will be amended and remote participation will be allowable at board meetings going forward.



Remote Participation in Local Government Board Meetings

Frayda S. Bluestein

An important vote is on the agenda for a city council meeting tonight. One council member is stuck in Chicago. May she call in and participate in the meeting and the vote by cell phone? Can a board member be considered to be “present” if she is not physically at the meeting? Governing boards of public entities increasingly face these questions as technology provides an ever-increasing array of options for electronic communication. Some North Carolina local governments currently allow members to “call in” to meetings, but no state statute specifically authorizes this.

A local government board action is valid only if taken in a legal meeting.¹ A meeting is legal if the applicable notice requirements have been met and a quorum is present.² This bulletin analyzes whether a board member can be considered to be present for purposes of a quorum if he or she participates remotely by phone, video, or other method. It also considers whether a local government has statutory authority to allow remote participation under a local policy. It concludes that until the North Carolina legislature or courts explicitly address these questions, city and county governing boards may be vulnerable to a legal challenge if a member who participates electronically casts a deciding vote or is necessary to establish a quorum.

Legal risk can be avoided if remote participation is allowed only when the member’s presence is not necessary to constitute a quorum, where the matter involves discussion only, or where the remote participant’s vote is not the deciding vote. Assuming remote participation is legal in some or all situations, the question of whether members of a particular board may participate remotely is a matter for the board to decide—an individual board member does not have an automatic right to participate if he or she is not physically present. This bulletin concludes with some practical suggestions for issues that might be addressed in a locally adopted remote participation policy.

The author is Associate Dean for Faculty Development and Professor of Public Law and Government at the School of Government. The author gratefully acknowledges research assistance provided by Christopher Tyner, School of Government Legal Research Associate.

1. *Kistler v. Bd. of Educ. Randolph Cnty.*, 233 N.C. 400, 64 S.E. 2d 403 (1951); *O’Neal v. Wake Cnty.*, 196 N.C. 184, 145 S.E. 28 (1928).

2. *Iredell Cnty. Bd. of Educ. v. Dickson*, 235 N.C. 359, 70 S.E.2d 14 (1952).

Statutory Provisions Governing Presence at Meetings

When analyzing the scope of local government authority, one typically looks for an affirmative grant of authority. The absence of a prohibition is not enough to indicate that a particular action will be legal.³ There are no statutes that specifically authorize remote participation in meetings.⁴ State statutes do, however, grant broad authority for city and county governing boards to adopt their own rules of procedure for meetings.⁵ Cities may adopt local rules “not inconsistent with the city charter, general law, or generally accepted principles of parliamentary procedure,”⁶ and county procedures must be “in keeping with the size and nature of the board and in the spirit of generally accepted principles of parliamentary procedure.”⁷ These provisions provide broad authority for boards to manage the conduct of their meetings. A local rule adopted under this authority could allow remote participation and delineate the circumstances and procedures governing such participation. Indeed, several North Carolina local governments and numerous state boards currently allow members to participate by phone.⁸

It may be argued, however, that the matter of whether a person must be physically present in order to be counted toward a quorum, to vote, and to be considered present for all other legal purposes is not a proper subject for a rule of procedure that is within the board’s discretion to adopt. This specific question has not been addressed in the North Carolina statutes or case law.

The quorum statutes that apply to city and county governing boards set out the number of members that must be present for a legally valid meeting to take place.⁹ Nothing in these statutes specifically says that members must be *physically* present to count toward a quorum. The voting statute for cities,¹⁰ however, does specifically mention physical presence. It provides that a person who fails to vote, has not been excused from voting, and yet remains “physically present” is counted as voting “yes.” This could be read to reflect a legislative intent that physical presence

3. *Lanvale Props., LLC v. Cnty. of Cabarrus*, 336 N.C. 142, 150, 731 S.E.2d 800, 807 (2012); *Jefferson Standard Life Ins. Co. v. Guilford Cnty.*, 225 N.C. 293, 34 S.E. 2d 430 (1945).

4. In 2008, the General Assembly enacted local legislation authorizing the Hyde County Board of Commissioners to conduct business using “simultaneous communication” (defined as a conference telephone call or other electronic means). S.L. 2008-111. It might be argued that the enactment of this law implies that such authority does not otherwise exist for counties or other local governments. Language in the act itself suggests that the legislature anticipated the possibility of this argument and took steps to prevent it. Section 3.2 of the act says, “Nothing in this act shall be construed to affect the validity of actions related to electronic meetings of any other public body.” This language appears to convey the legislature’s intent that the act does not imply a lack of authority for other units of government, but simply sets out the procedures for and limitations on the use of simultaneous communication for Hyde County.

5. Sections 160A-71(c), 153A-41 of the North Carolina General Statutes (hereinafter G.S.).

6. G.S. 160A-71(c).

7. G.S. 153A-41.

8. Although it might be assumed that state agencies have more flexibility in structuring their meeting procedures than do local governments, the law is otherwise. State agencies are dependent upon enabling statutes and are limited to those powers expressly granted by the constitution or legislature and those implied by those powers expressly granted. *See High Rock Lake Partners, LLC v. N.C. Dep’t of Transp. (DOT)*, 366 N.C. 315, 319, 735 S.E.2d 300, 303 (2012) (citations, internal quotation marks omitted) (“The DOT possesses only those powers expressly granted to it by our legislature or those which exist by necessary implication in a statutory grant of authority. . . . [T]he responsibility for determining the limits of statutory grants of authority to an administrative agency is a judicial function for the courts to perform. . . . In making this determination we apply the enabling legislation practically so that the agency’s powers include all those the General Assembly intended the agency to exercise.”).

9. G.S. 160A-74, 153A-43.

10. G.S. 160A-75.

is required. The provision is capable of being applied, however, to a member who participates from a remote location, since the crux of the provision is that a person must be excused from the meeting or excused from voting in order to avoid being counted as voting. A remote participant, if considered to be present for purposes of a quorum, could be excused from voting or from the meeting (by terminating the electronic connection) in order to avoid being counted as voting “yes” under the statute. Since there is no other provision in the city or county statutes that specifically requires physical presence, it is an open question as to whether a remote participant may be counted for quorum purposes.

If a person participating electronically is not necessary to establish a quorum—that is, if the number of members physically present is sufficient to establish a quorum—such participation creates no risk to the validity of the meeting. If the remote participant is necessary to establish a quorum, however, or if he or she casts a deciding vote, the action taken in the meeting may be subject to challenge. In that case, it will be up to a court to resolve the issue of whether such participation is valid in North Carolina.

Cases Addressing Electronic Participation

Cases in other states have held that a local governing board member can be considered “present” when participating electronically from a remote location. A Maryland case, for example, found that a requirement for physical presence was satisfied by a board member’s participation by telephone, holding, “we believe the term ‘present’ and ‘convene’ can encompass participation through the use of technology.”¹¹ The Maryland court relied on *Freedom Oil Co. v. Illinois Pollution Control Board*,¹² in which an Illinois appellate court found that a state agency had authority to conduct a meeting at which two out of six members participated by phone. Relying on an Illinois Attorney General’s opinion, as well as on other cases, the court found that the board’s conduct of a special meeting by telephone conference “[fell] within the Board’s specific authority to conduct meetings” and that it did not violate the state’s open meetings law.¹³

Would a North Carolina court recognize the possibility of including remote participants when determining a quorum? At least one North Carolina appellate decision supports the notion that local government authority should be interpreted in light of changes in technology. In *BellSouth Telecommunications, Inc. v. City of Laurinburg*,¹⁴ the North Carolina Court of Appeals held that the statutory authority for cities to operate cable systems included authority to operate a fiber optic network. The court reasoned that the legislature intended local

11. *Tuzeer v. Yim, LLC*, 29 A.3d 1019, 1034 (Md. Ct. Spec. App. 2011) (citing *Freedom Oil Co. v. Ill. Pollution Control Bd.*, 655 N.E.2d 1184, 1191 (Ill. App. Ct. 1995)), *cert. denied*, 35 A.3d 489 (Md. 2012) (phone participation by zoning board member did not violate open meetings law).

12. 655 N.E.2d 1184 (Ill. App. Ct. 1995).

13. *Id.* at 1189. Although this case involved a state agency, the court noted that such agencies do not have inherent authority, so the question addressed by the holding is analogous to the question of whether electronic participation is within the scope of a local government’s authority to conduct meetings (see *supra* note 8). While the *Freedom Oil* case acknowledges other cases holding that physical presence is required, those cases involved alleged violations of open meetings laws when electronic meetings were held without public notice or access. These cases are not relevant to the issue of whether such participation is lawful when conducted as part of a properly noticed meeting, with public access, under the North Carolina open meetings law, which explicitly recognizes electronic meetings.

14. 168 N.C. App. 75, 606 S.E.2d 721, *discretionary review denied*, 359 N.C. 629 (2005).

government activity to “grow in reasonable stride with technological advancements.”¹⁵ Advances in technology have improved the quality and convenience of remote participation. Indeed, many citizens regularly watch board meetings in the comfort of their own homes via live streaming to televisions and computers. As noted below, the open meetings law has for decades included procedures for conducting and providing access to electronic meetings, and the city and county quorum statutes do not create an explicit requirement for physical presence.

Until the matter is resolved by legislation or court ruling, however, boards must make their own judgments, in consultation with their attorneys, as to whether the risk of a challenge is worth the inclusion of members who cannot attend a meeting. Because there is broad authority for establishing local procedures, the risk of challenge can be minimized if electronic participation is allowed only when the number of physically present members is sufficient to establish a quorum.

Rules for Appointed Boards

This discussion has, so far, focused on city and county governing boards, since there are specific statutes that govern their quorum and voting requirements. But local governing boards, in turn, create many appointed boards, whose purposes and procedures are established in local ordinances and resolutions. These boards are rarely subject to specific statutory requirements.¹⁶ Local governments are free to establish the procedures for these boards, and these procedures could include provisions for remote participation. As noted below, special consideration should be given to the use of electronic participation in boards that function as quasi-judicial decision-makers.

North Carolina Open Meetings Law and Electronic Participation

Compliance with the state open meetings law¹⁷ is an essential component of a lawful meeting. This law requires public bodies to provide notice of and access to “official meetings.”¹⁸ Under the statute, an “official meeting” occurs when a majority of a public body meets, assembles, or gathers together at any time or place to conduct the business of the public body. “Official meeting” also specifically includes “the simultaneous communication by conference telephone or other electronic means.”¹⁹

The statute’s mention of a conference call or other electronic means of gathering is sometimes interpreted as a source of authority for electronic participation in local government and other public board meetings. After all, if a board is considered to be in an official meeting when its members gather together electronically, perhaps a partially electronic meeting is also considered an official meeting, which is authorized under the open meetings law. This interpretation is not universally accepted. Indeed, the language is open to several interpretations.

15. *Id.* at 86–87, 606 S.E.2d at 728.

16. An important exception is local boards of adjustment, which carry out specific quasi-judicial functions and are governed by statutory provisions affecting voting and conflicts of interest. *See* G.S. 160A-388; 153A-345.

17. G.S. Chapter 143, Article 33C.

18. *See* G.S. 143-318.10(a) (“each official meeting of a public body shall be open to the public, and any person is entitled to attend such a meeting”).

19. G.S. 143-318.10(d).

The open meetings law is designed to make sure that the public has access whenever a majority of the members of a public body—enough to make a binding decision—gather together on public business. It would be easy to circumvent the statute if members could simply call, email, or video conference and do their work outside of the public eye. So the statutes include such electronic gatherings within the definition of “official meeting.” But does the inclusion of electronic meetings *authorize* these types of meetings for all public agencies, or does it simply make clear that (1) if these types of meetings occur and notice is not given, they are illegal, and (2) if these types of meetings are otherwise authorized, public notice and access must be provided?

The statute clearly implies that at least some types of public bodies may lawfully conduct electronic meetings. If all the statute did was to include electronic meetings in the definition of an official meeting, it could be viewed as prohibitive—designed to make clear that members of public bodies can’t avoid the requirements of the statute by meeting electronically. But the law also includes procedures for conducting electronic meetings, requiring notice and a location at which the public may listen to a meeting conducted electronically.²⁰ There would be no reason to include these provisions if no public bodies have or could ever have authority to conduct a valid electronic meeting.

School of Government faculty members who are familiar with the act’s history have long advised that the language regarding electronic and telephone conferencing was included because some public bodies, primarily some state boards, were already conducting meetings by telephone. The provisions were apparently designed to make sure that there was a guarantee of public access to such meetings. While the law does recognize the possibility of electronic meetings, the open meetings law itself neither creates nor restricts the authority of particular types of public bodies to conduct electronic meetings. It simply describes the types of meetings to which the public has access and prescribes procedures for providing access whenever electronic means are used.

It is important to note that the open meetings law provisions relate to meetings of a majority of a given board. Nothing in this law—or in any other statutory provision relating to public bodies—directly addresses the validity of electronic participation by individual members of a public body in a properly noticed meeting. Nonetheless, the recognition of and rules for electronic meetings in the open meetings law suggest that electronic participation by members of a board will not violate the open meetings law, so long as procedures for providing access are met.²¹

Board Discretion to Allow Electronic Participation

Assuming that remote participation in a board meeting is legal or does not pose a risk of legal challenge, does a local government board member have a right to participate remotely? The answer is “no.” There is no legal basis for asserting such a right. As noted above, a governing board has authority to establish the rules for its meetings. It is up to the board to decide, by majority vote, whether or not to allow such participation and, if so, under what circumstances and subject to what rules.

20. G.S. 143-318.13(a).

21. See *Tuzeer v. Yim, LLC*, 29 A.3d 1019 (Md. Ct. Spec. App. 2011), *cert. denied*, 35 A.3d 489 (Md. 2012) (phone participation by zoning board member did not violate open meetings law).

Local Policies for Remote Participation

There are both practical and legal considerations that a local government should address if it decides to allow remote participation. For example, local policies should specify when remote participation will be allowed and how the process will be managed when it occurs.

When developing local policies, a governing board should consider the purposes of meetings and the laws that govern them. Most of the legal requirements are designed to provide public access to every aspect of the deliberative and decision-making process, except when it takes place in closed session. Meetings are also for the benefit of the members of the public body themselves. The decision-making process involves interaction among the members, as well as member interaction with the public. A state remote participation policy that was reviewed for this bulletin stated that its purpose was to promote full participation of board members while ensuring access and transparency for the public.²² A balance of these considerations is a useful goal when developing procedures for remote participation.²³

Technological Considerations

Technology provides many choices for audio and video access so that remote participants can be seen and heard at the meeting's physical location. But not every jurisdiction will have that technology in place, along with the staff resources to manage and maintain it. It may require added expense and more than the usual advance planning to make sure everything works at the meeting. This may be even more challenging for emergency meetings in which electronic participation may be important due to the short notice involved. Even with a decent phone connection, a remote participant may not be able to observe the other board members or the public. This may be a technical and legal issue for quasi-judicial hearings, as discussed in more detail below. Two-way video is a possible solution, as it can improve the experience for both the board members and the public, but it is heavily dependent on high-quality video systems and adequate Internet connectivity transmission speeds (i.e., broadband) in order to minimize delays and content loss.

Guidelines promulgated by the Massachusetts Attorney General's Office specify which remote participation methods may be used during a public body's meetings:

Acceptable means of remote participation include telephone, internet, or satellite enabled audio or video conferencing, or any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another. Accommodations must be made for any public body member who requires TTY service, video relay service, or other form of adaptive telecommunications. Text messaging, instant messaging, email and web chat without audio are *not* acceptable methods of remote participation.²⁴

Technical glitches can become distracting, can disrupt the flow of a meeting, and may create legal issues about whether and at what specific times a person is considered to be present. Local

22. MASS. ATTORNEY GEN.'S REGULATIONS, 940 CMR 29.10, *Remote Participation*, www.mass.gov/ago/government-resources/open-meeting-law/940-cmr-2900.html#Remote.

23. Attorney General of Massachusetts, *Attorney General's Open Meeting Law Guide*, "May a Member of the Public Body Participate Remotely?" www.mass.gov/ago/government-resources/open-meeting-law/attorney-generals-open-meeting-law-guide.html#Remote. These guidelines provide a good example of matters that may be addressed in a remote participation policy.

24. *See id.*, "What Are the Acceptable Means of Remote Participation?"

governments that allow remote participation should create and test internal procedures so that the necessary arrangements are reliably in place for remote participation when it occurs.

When to Allow Remote Participation

Reasons for Remote Participation

A review of remote participation policies and rules currently in use (mostly from other states) reveals that the decision about when remote participation should be allowed involves core policy and board relation issues. A board member who regularly misses board meetings may be viewed as simply not placing sufficient priority on board service.²⁵ To promote regular attendance, policies typically allow remote participation only in specific circumstances when a member is unable to attend. Examples include illness or disability of the member or a close relative, military service, unexpected lack of child care, family emergency, and work or public service obligations that require the member to be away. Policies may also include a statement that remote participation will not be allowed solely for the convenience of the board member or merely to avoid attending one or more particular meetings.

Permissible Only When a Quorum Is Present

Some policies allow remote participation only when enough members are physically present to constitute a quorum. This eliminates the legal issue, discussed above, regarding whether a remote participant can be considered to be present for purposes of establishing a quorum. It also, in effect, places a limit on how many people can participate remotely at a single meeting. This promotes ease of interaction among board members and potentially reduces technological challenges that might arise if more than a few members are connected electronically from separate locations. Some policies explicitly limit the number of members who can participate remotely in a particular meeting.

Permissible Only for Certain Kinds of Meetings

A policy might designate specific kinds of meetings at which remote participation is or is not permitted. Two types of meetings involve unique challenges for remote participation: quasi-judicial hearings and closed sessions.

Quasi-Judicial hearings. Local elected and appointed boards sometimes have responsibility for making decisions and conducting procedures in a quasi-judicial capacity. This occurs, for example, in a personnel grievance or termination hearing and in several types of land use proceedings, such as consideration of conditional or special use permits or variances. Quasi-judicial proceedings place the board in the role of a judge, hearing evidence and applying a legal standard found in an ordinance or statute. North Carolina courts have held that the basic elements of due process must be met in a quasi-judicial hearing, such as sworn testimony, an opportunity for the parties to be heard, and a neutral decision-maker.²⁶ Board members must at such hearings observe and evaluate the evidence and testimony, and the parties must have an opportunity to be heard. The board must decide the matter on the evidence presented and cannot rely on *ex*

25. Although there is no authority under North Carolina law for a city or county governing board to sanction or remove a board member for too many absences, rules for optional appointed boards could include sanctions, including removal, for failure to attend. See Frayda Bluestein, "Unexcused Absences," *Coates' Canons: NC Local Government Law Blog* (UNC School of Government, Jan. 24, 2013), <http://canons.sog.unc.edu/?p=6975>.

26. *Humble Oil & Ref. Co. v. Bd. of Aldermen*, 284 N.C. 458, 470, 202 S.E.2d 129, 137 (1974).

parte communications. Both the board and the applicant or petitioner have important roles in meeting these requirements, which include being able to observe evidence and demeanor and engage in cross-examination. Remote participation by one or more members of a quasi-judicial body raises special concerns in light of these requirements. Even though members who are physically present may receive or send information during the meeting using mobile electronic devices, remote participation may make it more difficult to monitor their communications for compliance with the standards that apply to quasi-judicial proceedings.

Given the additional legal and technical requirements that may apply to quasi-judicial hearings, a governing body might want to implement a policy prohibiting remote participation in these types of meetings. If a board's policy does allow remote participation, however, it should include minimum requirements for ensuring that both remote participants and the other parties involved can participate in and observe the proceedings as necessary to meet the applicable level of due process.

Closed sessions. The open meetings law provides several reasons for public bodies to meet in closed session.²⁷ For some—but not all—of these situations, remote participation can present challenges. If the purpose of the meeting is to preserve confidentiality (such as for attorney-client communications²⁸ or personnel matters²⁹), for instance, remote participation may raise concerns about whether information is being improperly shared.

Of course, even individuals who are physically present might be difficult to monitor given how easy it is to communicate with others electronically using mobile devices. Furthermore, although many board members may assume that it is illegal to share information from closed session meetings, the open meetings law does not explicitly prohibit it. Indeed, a person who is physically present at a meeting who communicates electronically (for example, by text message) with someone outside the meeting is not necessarily violating the law. A legal issue arises only with respect to communications involving specific types of information or records that are confidential under a specific legal provision.³⁰

A local policy might prohibit remote participation in all closed sessions, or it might bar it only in those dealing with confidential information. In cases where remote participation is allowed, procedures might be developed to ensure, to the extent possible, that the non-present member is alone and can be seen and heard by all the members participating.

Procedures for Remote Participation

Approval Process

As noted above, local policies may allow remote participation only for specified reasons. Policies may also require that a person must request approval to participate remotely in advance, for example, by filing a request with the clerk at least twenty-four or forty-eight hours in advance of the meeting, with exceptions, perhaps, for emergency meetings. The policy should delineate whether the board or some designee of the board must approve the request.

It is important to consider the potential for abuse and manipulation should the board not have objective bases and procedures in place for approving or disallowing remote participation.

27. See G.S. 143-318.11.

28. G.S. 143-318.11(a)(3).

29. G.S. 143-318.11(a)(6).

30. See Frayda Bluestein, "What Happens in Closed Session, Stays in Closed Session . . . Or Does It?" *Coates' Canons: NC Local Government Blog* (UNC School of Government, Dec. 9, 2009), <http://canons.sog.unc.edu/?p=1463>.

Even without the added dimension of remote participation, board majorities can schedule meetings or agenda items, knowing when particular members will or will not be able to attend. The potential for manipulation increases if the same majorities have complete discretion in deciding whether individual members are allowed to participate remotely. This is of special concern if remote participants are allowed to vote, a matter discussed below.

Discouraging Excessive Absences

A local policy might limit the number of times an individual board member may participate remotely. Even if there is no authority to sanction members for excessive absences (as is the case for governing board members),³¹ the board has discretion to disallow remote participation in cases where board members are abusing the privilege. Board majorities must exercise this authority carefully to avoid manipulation of the process for political advantage.

Voting and Written Ballots

A local policy should address the question of whether remote participants may vote and, if so, what procedures will be used to record and verify their votes. If a remote participant is considered to be present, the presumption is that he or she would be entitled to vote. Indeed, under the voting statute for city governing boards, a person is presumed to vote “yes” if he or she is present by remote means and has not been excused from voting. For these reasons, it would be important to have specific means for determining whether a person is still participating when a vote comes up. Policies can provide for a person to explicitly notify the board when the remote participant is leaving the meeting or rejoining the meeting by terminating or restarting the electronic connection. A policy could also state that a person is not considered present if the connection is lost unintentionally, due to technical problems.

A voice vote by telephone, which can be heard and recorded, could satisfy the basic voting requirements, unless votes are being taken by written ballot. It is possible that a fax, email, or text could be considered a written ballot, if the notion of an electronic signature (generally now accepted as binding in other circumstances) is accepted in this context. The obvious concern would be whether the remote participant in fact did the voting, but a person participating by electronic means could verify the action or, if there is video, could be observed doing it.

Minutes to Reflect Remote Participation

Minutes of meetings at which remote participation occurs should reflect which members are physically present and which are not. They should also reflect when members are excused from voting or are excused to leave or rejoin the meeting, just as they would for members who are physically present.

Majority of Board in a Remote Location

In most cases, the need for remote participation arises when a majority of the board meets in its regular location and one or two members are unable to physically attend. It is possible to imagine, however, a situation where a majority of a board is away, perhaps together attending training or a meeting, and a need for a meeting arises. Consider a five-member board, with three members who are out of town. An issue arises, and the mayor calls a special meeting to take place in city hall, with the three absent members participating by conference telephone call. For cities, there is no legal requirement regarding where meetings take place, but the notice of the meeting

31. See *supra* note 25.

must identify its location. If the city follows the procedures for providing visual and audio transmission at city hall under G.S. 143-318.13(a), it would appear that a notice stating that the meeting will take place at city hall would be valid, even if a majority of the board is participating from another location. It might be prudent to also provide notice of the location at which the three members are located, if they are all in the same place.

Under state law, a county board of commissioners must hold its meetings within the county, except in certain specified cases.³² In the absence of any specific authority to the contrary, it is best to assume that a majority of the board must be physically present in the county to comply with this requirement. Although it is technically possible for citizens to attend a meeting in the county at which a majority of the board is participating and can be seen and heard by electronic transmission, this approach might not be viewed as being compliant with the in-county meeting requirement.

Conclusion

Is remote participation more trouble than it is worth? That is up to local boards to decide. Despite some uncertainty about the legality, for quorum and voting purposes, of remote participation, it is clear that there are and will continue to be times when both the board's and the public's interests are best served by accommodating one or more board members' need to participate from another location. Indeed, a remote participant seems not so different from those who are present, when you consider the extent to which technology permeates meetings. Citizens participate remotely through video streaming, and members and attendees increasingly access electronic devices during meetings. Local policies addressing the legal and practical aspects of remote participation for elected and appointed boards can balance the needs of the boards and the needs of citizens, while incorporating available technology to accommodate these interests.

This bulletin has emphasized the two biggest legal risks in allowing remote participation: the possibility of a challenge to (1) the presence of a quorum and (2) the validity of a vote cast remotely, especially if the remote participant casts the deciding vote. The first risk can be avoided by adopting a local policy that requires a quorum to be physically present. The second risk may not be one that can be avoided by local policy. As noted above, a person who participates in a meeting remotely and is considered to be present has a right to participate fully, including in voting. It may not be possible to know in advance whether the remote participant will be the deciding vote, and it would open the process to unacceptable manipulation if remote participation rights were determined based on the expected outcome of a particular vote. So this risk is one that board members may have to consider and balance against the value of full participation in deciding whether to allow remote participation.

32. G.S. 153A-40.

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Rules of Procedure for the Town of Davidson

In order to increase the efficiency of operation of the Board of Commissioners, and to guarantee full and fair discussion, the Board of Commissioners of the Town of Davidson hereby adopt these Rules of Procedure to govern all meetings of the Board. These Rules of Procedure are based upon *Suggested Rules of Procedure for a City Council*, 4th edition, 2017, Trey Allen, UNC School of Government. Should any conflict or question arise, the Town shall utilize the most current edition of *Suggested Rules of Procedure for a City Council* as published by the UNC School of Government.

Part I. Applicability

Rule 1. Applicability of Rules

These rules apply to all meetings of the Town of Davidson. For purposes of these rules, a meeting of the board occurs whenever a majority of the board's members gather, whether in person or simultaneously by electronic means, to conduct hearings, deliberate, vote, or otherwise transact public business within the board's real or apparent jurisdiction. The term "majority" as used here and elsewhere in these rules means, unless otherwise specified, a simple majority, that is, more than half.

Part II. Quorum

Rule 2. Quorum

The presence of a quorum is necessary for the board to conduct business. A majority of the board's actual membership plus the mayor, excluding vacant seats, constitutes a quorum. A member who withdraws from a meeting without being excused by majority vote of the remaining members in attendance is deemed present for quorum purposes.

Part III. Open Meetings

Rule 3. Remote Participation in Board Meetings

A member who attends a meeting electronically (via phone, skype, etc.) may take part in debate however may neither be counted toward a quorum nor vote on any matter before the board.

Rule 4. Meetings to Be Open to the Public

Except as permitted by Rule 5, all meetings of the board shall be open to the public, and any person may attend its meetings.

Rule 5. Closed Sessions

(a) Motion to Enter Closed Session. The Town Board may enter a closed session from which the public

is excluded only upon a motion duly made and adopted in open session. The motion to enter closed session must cite one or more of the permissible bases for closed session listed in paragraph (b) of this rule. A motion to enter closed session under subparagraph (b)(1) or (b)(2) must contain the additional information specified in those provisions.

(b) Bases for Closed Session. A closed session is permissible under the following circumstances and no others:

- (1) To prevent the disclosure of information that is privileged or confidential pursuant to the law of North Carolina or of the United States or that does not constitute a public record within the meaning of Chapter 132 of the General Statutes. The motion to enter closed session must name or cite the law that renders the information confidential or privileged.
- (2) To consult with the town attorney or another attorney employed or retained by the town in order to preserve the attorney–client privilege. If the board expects to discuss a pending lawsuit with its attorney, the motion to enter closed session must include the names of the parties to the lawsuit.
- (3) To discuss matters relating to (a) the location or expansion of industries or other businesses in the area served by the town or (b) the closure or realignment of a military installation. The board may reach agreement in closed session on a tentative list of economic development incentives to be offered in negotiations, but the approval of the signing of any economic development contract or commitment and the authorization of the payment of economic development expenditures must take place in open session.
- (4) To establish or instruct staff or agents concerning the town’s position in negotiating the price or other material terms of an agreement for the acquisition of real property by purchase, exchange, or lease.
- (5) To establish or instruct staff or agents concerning the amount of compensation or other material terms of an employment contract.
- (6) To consider the qualifications, competence, performance, character, fitness, or conditions of appointment or employment of a public officer or employee or prospective public officer or employee, except when the individual in question is a member of the Town Board or other public body or is being considered to fill a vacancy on the Town Board or other public body. Final action to appoint or employ a public officer or employee must take place in open session.
- (7) To hear or investigate a charge or complaint by or against a public officer or employee. Final action discharging an employee or removing an officer must occur in open session.
- (8) To plan, conduct, or hear reports concerning investigations of alleged criminal misconduct.
- (9) To view a law enforcement recording released pursuant to G.S. 132-1.4A.
- (10) On any other basis permitted by law.

(c) Closed Session Participants. Unless the board directs otherwise, the town manager, town attorney, and town clerk may attend closed sessions of the board. No other person may attend a closed session unless invited by majority vote of the board.

(d) Motion to Return to Open Session. Upon completing its closed session business, the board shall end the closed session by adopting a duly made motion to return to open session.

Rule 6. Meeting Minutes

(a) Minutes Required for All Meetings. The board must keep full and accurate minutes of all of its

meetings, including closed sessions. To be “full and accurate,” minutes must record all actions taken by the board. They should set out the precise wording of each motion and make it possible to determine the number of votes cast for and against each motion. The minutes need not record discussions of the board, though the board in its discretion may decide to incorporate such details into the minutes.

(b) Record of “Ayes” and “Noes.” At the request of any member of the board, the minutes shall list each member by name and record how each member voted on a particular matter.

(c) General Accounts of Closed Sessions. In addition to minutes, the board must keep a general account of each closed session. The general account must be sufficiently detailed to provide a person not in attendance with a reasonable understanding of what transpired. The board may combine the minutes and general account of a closed session into one document, so long as the document contains both a complete record of actions taken and the level of detail required for a general account.

(d) Sealing Closed Session Records. Minutes and general accounts of closed sessions shall be sealed until unsealed by order of the board or, if the board delegates the authority to unseal to one or more staff members, in accordance with guidelines adopted by the board. The sealed minutes and general account of any closed session may be withheld from public inspection so long as public inspection would frustrate the purpose(s) of the closed session.

Rule 7. Broadcasting and Recording Meetings

(a) Right to Broadcast and Record. Any person may photograph, film, tape-record, or otherwise reproduce any part of a board meeting that must take place in open session. Except as provided in paragraph (c) of this rule, any radio or television station may broadcast any such part of a board meeting.

(b) Advance Notice. Any radio or television station that plans to broadcast any portion of a board meeting shall so notify the Town Clerk and Public Information Officer no later than twenty-four hours before the meeting. The failure to provide notice is not, by itself, grounds for preventing the broadcast of a board meeting.

(c) Equipment Placement. The Town Manager may regulate the placement and use of camera or recording equipment in order to prevent undue interference with a board meeting, so long as he or she allows the equipment to be placed where it can carry out its intended function. If the Town Manager determines in good faith that the equipment and personnel necessary to broadcast, photograph, or record the meeting cannot be accommodated without undue interference to the meeting, and an adequate alternative meeting room is not readily available, the Town Manager may require the pooling of the equipment and the personnel operating it.

(d) Alternative Meeting Site. If the news media request an alternative meeting site to accommodate news coverage, and the board grants the request, the news media making the request shall pay the costs incurred by the town in securing an alternative meeting site.

Part IV. Organization of the Board

Rule 8. Organizational Meeting; Selection of Mayor Pro Tempore

(a) Scheduling Organizational Meeting. The board must hold an organizational meeting following each general election in which board members are elected. The organizational meeting must be held either (1) on the date and at the time of the board’s first regular meeting in December following the election or (2) at an earlier date, if any, set by the incumbent board. The organizational meeting may not be held before municipal election results are officially determined, certified, and published as required by law.

(b) Oath of Office. As the first order of business at the organizational meeting, all newly elected members of the board must take and subscribe the oath of office set out in Article VI, Section 7, of the North Carolina Constitution. Each member's oath must be filed with the town clerk. Although a member who is not present for the organizational meeting may take the oath of office at another time, every member must take, subscribe, and file the oath before he or she begins performing any of the duties of the member's office.

(c) Selection of Mayor Pro Tempore. As the second order of business at the organizational meeting, the board shall elect from among its members a mayor pro tempore using the procedures specified in Rule 38. The mayor pro tempore shall serve at the board's pleasure.

Part V. Types of Meetings

Rule 9. Regular Meetings

(a) Regular Meeting Schedule. The board shall hold a regular meeting on the second and fourth Tuesday of each month. The meeting shall be held at the Town Hall Board Room and begin at 6:00 pm. The board shall adopt a meeting schedule each year consistent with this rule. A copy of the board's current meeting schedule shall be filed with the town clerk and posted on the town's website.

(b) Change to Meeting Schedule. Notwithstanding paragraph (a) of this rule, the board may amend its regular meeting schedule to add or delete meetings or to change the date, time, or location of one or more meetings on the schedule. The amended schedule shall be filed with the town clerk at least seven (7) calendar days before the day of the first meeting held pursuant to the revised schedule and posted on the town's website.

Rule 10. Special Meetings

(a) Calling Special Meetings. A special meeting of the board may be called by the mayor, the mayor pro tempore, or any two board members. A special meeting may also be called by vote of the board in open session during a regular meeting or another duly called special meeting.

(b) Notice to the Public. At least forty-eight hours before a special meeting of the board, notice of the date, time, place, and purpose of the meeting shall be (1) posted on the board's principal bulletin board or, if the board has no such board, at the door of the board's usual meeting room and (2) delivered, e-mailed, or mailed to each newspaper, wire service, radio station, television station, and person who has filed a written request for notice with the town clerk. Furthermore, if the board has a website maintained by at least one town employee, notice of the special meeting's date, time, place, and purpose shall be posted on the website in advance of the meeting.

(c) Notice to Members.

- (1) *Meeting called by the mayor, the mayor pro tempore, or any two board members.* At least forty-eight hours before a special meeting called by the mayor, the mayor pro tempore, or any two board members, written notice of the meeting stating its date, time, and place, as well as the subjects to be considered, shall be electronically delivered to the mayor and each board member or left at his or her usual dwelling place.
- (2) *Meeting called by vote of the board in open session.* When a special meeting is called by vote of the board in open session during a regular meeting or another duly called special meeting, the motion or resolution calling the special meeting shall state the meeting's date, time, place, and purpose. Written notice of the special meeting's date, time, place, and purpose shall be mailed, delivered or

electronically delivered at least forty-eight hours before the meeting to each board member not present for the meeting at which the special meeting was called, and to the mayor if he or she was not present at that meeting.

(d) Transacting Other Business. Unless all members are present or any absent member has signed a written waiver of notice, only those items of business specified in the notice to board members may be taken up at a special meeting. Even when all members are present or any absent member has signed a waiver, the board may take up an item of business not covered by the notice only if the board first determines in good faith that the item must be discussed or acted upon immediately.

Rule 11. Emergency Meetings

(a) Grounds for Emergency Meeting. Emergency meetings of the town board may be called only to address generally unexpected circumstances demanding the board's immediate attention.

(b) Calling Emergency Meetings. There are two methods by which an emergency meeting of the board may be called.

- (1) The mayor, the mayor pro tempore, or any two members of the board may at any time call an emergency board meeting by signing a written notice stating the date, time, and place of the meeting and the subjects to be considered. The notice shall be delivered to the mayor and each board member or left at his or her usual dwelling place at least six hours before the meeting.
- (2) An emergency meeting may be held when the mayor and all members of the board are present and consent thereto, or when any absent member has signed a written waiver of notice.

(c) Notice to Media of Emergency Meetings. Notice of an emergency meeting shall be given to each local newspaper, local wire service, local radio station, and local television station that has filed a written request with the town clerk for notice of emergency meetings. To be valid, the request must include the newspaper's, wire services, or station's telephone number. Notice may be given by telephone, e-mail, or the same method used to notify board members. Notice must be provided immediately after board members have been notified and at the expense of the party notified.

(d) Transaction of Other Business Prohibited. Only business connected with the emergency may be considered at an emergency meeting.

Rule 12. Recessed Meetings

(a) Calling Recessed Meetings. When conducting a properly called regular, special, or emergency meeting, the board may recess the meeting to another date, time, or place by a procedural motion made and adopted, as provided in Rule 31, Motion 3, in open session. The motion must state the time (including the date, if the meeting will resume on a different day) and place at which the meeting will reconvene.

(b) Notice of Recessed Meetings. If the board has a website maintained by one or more town employees, notice of the recessed meeting's date, time, and place must appear on the webpage prior to the meeting. No further notice of a properly called recessed meeting is required.

Part VI. Agenda

Rule 13. Agenda

(a) Draft Agenda.

- (1) *Preparation.* The Town Manager shall prepare a draft agenda in advance of each meeting of the town board.
- (2) *Requesting placement of items on draft agenda.* For a regular meeting, a request to have an item of business placed on the draft agenda must be received by the Town Manager at least four working days before the date of the meeting. The Town Manager must place an item on the draft agenda in response to a board member's timely request.
- (3) *Supplemental information/materials.* If the board is expected to consider a proposed ordinance or ordinance amendment, a copy of the proposed ordinance or amendment shall be attached to the draft agenda. An agenda package shall be prepared that includes, for each item of business listed on the draft agenda, as much background information on the topic as is available and feasible to provide.
- (4) *Delivery to board members.* Each board member shall receive a hard or electronic copy of the draft agenda and the agenda package. Except in the case of an emergency meeting, the agenda and agenda package shall be furnished to each member at least twenty-four hours before the meeting.
- (5) *Public inspection.* The draft agenda and agenda package shall be available to the public when the documents are ready to be, or have been, circulated.

(b) Adoption of the Agenda.

- (1) *Adoption.* As its first order of business at each meeting, the board shall review the draft agenda, make whatever revisions it deems appropriate, and adopt a formal agenda for the meeting.
- (2) *Amending the agenda.* Both before and after it adopts the agenda, the board may add or subtract agenda items by majority vote of the members present and voting, except that the board may not add to the items stated in the notice of a special meeting unless the requirements in Rule 10(d) are satisfied and only business connected with the emergency may be considered at an emergency meeting.
- (3) *Designation of items "For Discussion and Possible Action."* The board may designate an agenda item "for discussion and possible action." The designation signifies that the board intends to discuss the item and may, if it so chooses, take action on the item following the discussion.

(c) Consent Agenda. The board may designate part of an agenda for a regular meeting as the *consent agenda*. Items may be placed on the consent agenda by the person(s) charged with preparing the draft agenda if the items are judged to be noncontroversial and routine. Prior to the board's adoption of the meeting agenda under subparagraph (b)(1) of this rule, the request of any member to have an item moved from the consent agenda to unfinished business must be honored by the board. All items on the consent agenda must be voted on and adopted by a single motion, with the minutes reflecting the motion and vote for each item.

(d) Informal Discussion of Agenda Items. The board may informally discuss an agenda item even when no motion regarding that item is pending.

Rule 14. Acting by Reference to Agenda or Other Document

The board shall not deliberate, vote, or otherwise take action on any matter by reference to the agenda or any other document with the intention of preventing persons in attendance from understanding what action is being considered or undertaken. The board may deliberate and vote by reference to the agenda or any

item on the agenda, including the consent agenda, provided copies of the agenda are available for public inspection at the meeting and are sufficiently worded to enable the public to understand what is being deliberated or acted upon.

Rule 15. Agenda Items from Members of the Public

If a member of the public wishes to request that the board include an item on its regular meeting agenda, he or she must submit the request to the Town Manager at least six working days before the date of the meeting. The board is not obligated to place an item on the agenda merely because such a request has been received.

Rule 16. Order of Business

Items shall be placed on a regular meeting agenda according to the order of business. The usual order of business for each regular meeting may be as follows:

- announcements
- changes/adoption of the agenda
- public comments
- public hearings
- presentations
- reports
- consent agenda
- new business
- old business

Without objection, the mayor may call agenda items in any order most convenient for the dispatch of business.

Part VII. Role of the Presiding Officer

Rule 17. The Mayor

(a) Presiding Officer. When present, the mayor shall preside at meetings of the board.

(b) Right to Vote. The mayor may vote only when an equal number of affirmative and negative votes have been cast.

(c) Recognition of Members. A member must be recognized by the mayor (or other presiding officer) in order to address the board, but recognition is not necessary for an appeal pursuant to Rule 31, Motion 1.

(d) Powers as Presiding Officer. As presiding officer, the mayor is to enforce these rules and maintain order and decorum during board meetings. To that end, the mayor may

- (1) rule on points of parliamentary procedure, to include ruling out of order any motion clearly offered for obstructive or dilatory purposes;
- (2) determine whether a member or other speaker has gone beyond reasonable standards of courtesy in his or her remarks and entertain and rule on objections from other members on this ground;
- (3) entertain and answer questions of parliamentary procedure;
- (4) call a brief recess at any time; and

(5) adjourn in an emergency.

(e) Appeals of Procedural Rulings. A member may appeal a decision made or answer given by the mayor under subparagraph (d)(1), (2), or (3) in accordance with Rule 31, Motion 1.

Rule 18. The Mayor Pro Tempore

(a) Presiding in Mayor's Absence. When present, the mayor pro tempore shall preside over board meetings in the mayor's absence with all the powers specified in Rule 17(d).

(b) Delegation of Mayor's Powers/Duties. In the mayor's absence, the board may confer on the mayor pro tempore any of the mayor's powers and duties. Likewise, if the mayor becomes physically or mentally unable to perform the duties of his or her office, the board may by unanimous vote declare the mayor incapacitated and confer any of the mayor's powers and duties on the mayor pro tempore. When the mayor announces that he or she is no longer incapacitated, and a majority of the board concurs, the mayor shall resume the exercise of his or her powers and duties.

(c) Duty to Vote. Even when presiding over a board meeting, the mayor pro tempore has the same duty as other members to vote on all questions unless he or she has been excused from voting on a matter in accordance with Rule 28.

Rule 19. Other Presiding Officer

If both the mayor and mayor pro tempore are absent, the board may elect from among its members a temporary presiding officer to chair the meeting. While serving as temporary presiding officer, a member has the powers listed in Rule 17(d). Service as a temporary presiding officer does not relieve a member of the duty to vote on all questions unless excused from voting pursuant to Rule 28.

Rule 20. When the Presiding Officer Is Active in Debate

If the mayor becomes active in debate on a particular proposal, he or she may have the mayor pro tempore preside during the board's consideration of the matter. If the mayor pro tempore is absent or is also actively debating the matter, the mayor may designate another member to preside until the matter is concluded. Similarly, if the mayor pro tempore or a temporary presiding officer is presiding and takes an active part in debating a topic, he or she may designate another board member to preside temporarily.

Part VIII. Motions and Voting

Rule 21. Action by the Board

Except as otherwise provided in these rules, the board shall act by motion. Any member may make a motion, not including the mayor.

Rule 22. Second Not Required

No second is required on any motion.

Rule 23. One Motion at a Time

A member may make only one motion at a time.

Rule 24. Withdrawal of Motion

The member who introduces a motion may withdraw the motion unless the motion has been amended or the presiding officer has put the motion to a vote.

Rule 25. Debate

The presiding officer shall state the motion and then open the floor to debate, presiding over the debate according to the principles listed below.

- The maker of the motion is entitled to speak first.
- A member who has not spoken on the issue shall be recognized before a member who has already spoken.
- To the extent practicable, the debate shall alternate between proponents and opponents of the measure.

Rule 26. Adoption by Majority Vote

A motion is adopted if supported by a simple majority of the votes cast, a quorum being present, except when a larger majority is required by these rules or state law.

Rule 27. Changing a Vote

A member may change his or her vote on a motion at any time before the presiding officer announces whether the motion has passed or failed. Once the presiding officer announces the result, a member may not change his or her vote without the unanimous consent of the remaining members present. A member's request for unanimous consent to change a vote is not in order unless made immediately following the presiding officer's announcement of the result.

Rule 28. Duty to Vote

(a) Duty to Vote. Every board member must vote except when excused from voting as provided by this rule.

(b) Grounds for Excusal. A member may be excused from voting on a matter involving the member's own financial interest or official conduct, though not if the proposal in question is one to alter the compensation or allowances paid to board members. Members may also be excused from voting when prohibited from voting under G.S. 14-234 (contract providing direct benefit to member), G.S. 160A-381(d) (legislative zoning decision likely to have a direct, substantial, and readily identifiable financial impact on member), or G.S. 160A-388(e)(2) (member's participation in quasi-judicial decision would violate affected person's right to an impartial decision maker). Questions about whether a basis for excusal exists should be directed to the town attorney.

(c) Procedure for Excusal.

- (1) *At member's request.* Upon being recognized at a duly called meeting of the board, a member who wishes to be excused from voting shall so inform the presiding officer, who must then submit the matter to a vote of the remaining members present. If a majority of the remaining members present vote to excuse the member, the member is excused from voting on the matter.
- (2) *On board's initiative.* Even when a member has not asked to be excused from voting on a matter, a majority of the remaining board members present may by motion and vote excuse the member from voting if grounds for doing so exist under paragraph (b).

(d) Consequence of Non-Excused Failure to Vote. Except as specified in paragraph (e), if a member who has not been excused from voting fails to vote on a matter, the member's failure to vote shall be recorded as an affirmative vote, provided

- (1) the member is physically present in the board chamber or
- (2) the member has physically withdrawn from the meeting without being excused by majority vote of

the remaining members present.

(e) Failure to Vote on Certain Zoning Matters. A member's unexcused failure to vote shall not be recorded as an affirmative vote if the motion concerns a proposal to amend, supplement, or repeal a zoning ordinance. Instead, the member's unexcused failure to vote shall be recorded as an abstention.

Rule 29. Voting by Written Ballot

(a) Secret Ballots Prohibited. The board may not vote by secret ballot.

(b) Rules for Written Ballots. The board may decide by majority vote or unanimous consent to vote on a motion by written ballot. Each member must sign his or her ballot, and the minutes must record how each member voted by name. The ballots must be made available for public inspection in the town clerk's office immediately following the meeting at which the vote took place and remain there until the minutes of that meeting are approved, at which time the ballots may be destroyed.

Rule 30. Substantive Motions

A substantive motion is not in order if made while another motion is pending. Once the board disposes of a substantive motion, it may not take up a motion that presents essentially the same issue at the same meeting, unless it first adopts a motion to reconsider pursuant to Rule 31, Motion 14.

Rule 31. Procedural Motions

(a) Certain Motions Allowed. The board may consider only those procedural motions listed in this rule. Unless otherwise noted, each procedural motion may be debated and amended and requires a majority of votes cast, a quorum being present, for adoption.

(b) Priority of Motions. The procedural motions set out in this paragraph are listed in order of priority. A procedural motion is not in order so long as another procedural motion of higher priority is pending, except that

- any procedural motion other than an appeal under Motion 1 is subject to amendment as provided in Motion 12, and
- a motion to call the question (end debate) may be made with regard to any procedural motion in accordance with Motion 9.

When several procedural motions are pending, voting must begin with the procedural motion highest in priority, provided that a motion to amend or end debate on the highest priority motion must be voted on first.

Motion 1. To Appeal a Ruling of the Presiding Officer. Any member may appeal the presiding officer's ruling on whether a motion is in order or on whether a speaker has violated reasonable standards of courtesy. The presiding officer's response to a question of parliamentary procedure may also be appealed by any member. An appeal is in order immediately after the disputed ruling or parliamentary response and at no other time. The member who moves to appeal need not be recognized by the presiding officer, and if timely made, the motion may not be ruled out of order.

Motion 2. To Adjourn. This motion may be used to close a meeting. It is not in order if the board is in closed session.

Motion 3. To Recess to a Time and Place Certain. This motion may be used to call a recessed meeting as permitted under Rule 12. The motion must state the time (including the date, if the meeting will reconvene on a different day) and place at which the meeting will resume. The motion is not in order if the

board is in closed session.

Motion 4. To Take a Brief Recess.

Motion 5. To Follow the Agenda. This motion must be made at the time an item of business that deviates from the agenda is proposed; otherwise, the motion is out of order as to that item.

Motion 6. To Suspend the Rules. To be adopted, a motion to suspend the rules must receive affirmative votes equal to at least two-thirds of the board's actual membership, excluding vacant seats and not counting the mayor if the mayor votes only in case of a tie. The board may not suspend provisions in these rules that are required under state law.

Motion 7. To Divide a Complex Motion. This motion is in order whenever a member wishes to consider and vote on parts of a complex motion separately. The member who makes this motion must specify how the complex motion will be divided.

Motion 8. To Defer Consideration. The board may defer its consideration of a substantive motion, and any proposed amendments thereto, to an unspecified time. A motion that has been deferred expires unless the board votes to revive it pursuant to Motion 13 within 100 days of deferral. A new motion having the same effect as a deferred motion may not be introduced until the latter has expired.

Motion 9. To End Debate (Call the Previous Question). If adopted, this motion terminates debate on a pending motion, thereby bringing it to an immediate vote. This motion is not in order until every member has had an opportunity to speak once on the pending motion.

Motion 10. To Postpone to a Certain Time. This motion may be employed to delay the board's consideration of a substantive motion, and any proposed amendments thereto, until a designated day, meeting, or hour. During the period of postponement, the board may not take up a new motion raising essentially the same issue without first suspending its rules pursuant to Motion 6.

Motion 11. To Refer a Motion to a Committee. The board may vote to refer a substantive motion to a committee for study and recommendations. While the substantive motion is pending before the committee, the board may not take up a new motion raising essentially the same issue without first suspending its rules pursuant to Motion 6. If the committee fails to report on the motion within 60 days of the referral date, the board must take up the motion if asked to do so by the member who introduced it.

Motion 12. To Amend.

(a) Germaneness. A motion to amend must concern the same subject matter as the motion it seeks to alter.

(b) Limit on Number of Motions to Amend. When a motion to amend is under consideration, a motion to amend the amendment may be made; however, no more than one motion to amend and one motion to amend the amendment may be pending at the same time.

(c) Amendments to Ordinances. Any amendment to a proposed ordinance must be reduced to writing before the vote on the amendment.

Motion 13. To Revive Consideration. The board may vote to revive consideration of any substantive motion that has been deferred pursuant to Motion 8, provided it does so within 100 days of its vote to defer consideration.

Motion 14. To Reconsider. The board may vote to reconsider its action on a matter, provided the motion to reconsider is made (a) at the same meeting during which the action to be reconsidered was taken and (b) by a member who voted with the prevailing side. For purposes of this motion, "the same meeting" includes any continuation of a meeting through a motion to recess to a certain time and place (Motion 3).

The motion is not in order if it interrupts the board's deliberation on a pending matter.

Motion 15. To Rescind. The board may vote to rescind an action taken at a prior meeting provided rescission is not forbidden by law.

Motion 16. To Prevent Reintroduction for Six Months. This motion may be used to prevent the reintroduction of a failed substantive motion for a time, but it is in order only when made immediately following the substantive motion's defeat. To be adopted, this motion must receive votes equal to at least two-thirds of the board's actual membership, excluding vacant seats and not counting the mayor, unless the mayor may vote on all questions. If this motion is adopted, the ban on reintroduction remains in effect for six months or until the board's next organizational meeting, whichever occurs first.

Part IX. Ordinances and Contracts

Rule 32. Introduction of Ordinances

For purposes of these rules, the "date of introduction" for a proposed ordinance is the date on which the board first votes on the proposed ordinance's subject matter. The board votes on the subject matter of a proposed ordinance when it votes on whether to adopt or make changes to the proposed ordinance.

Rule 33. Adoption, Amendment, and Repeal of Ordinances

(a) Adoption of Ordinances.

- (1) *Proposed ordinances to be in writing.* No proposed ordinance shall be adopted unless it has been reduced to writing and distributed to members before a vote on adoption is taken.
- (2) *Adoption on date of introduction.* To be approved on the date of introduction, a proposed ordinance or any action having the effect of an ordinance must receive affirmative votes equal to at least two-thirds of the board's actual membership, excluding vacant seats and not counting the mayor, unless the mayor has the right to vote on all questions before the board.
- (3) *Adoption after date of introduction.* To be approved after the date of introduction, a proposed ordinance or any action having the effect of an ordinance must receive affirmative votes equal to at least a majority of all board members not excused from voting on the matter. In calculating the number of affirmative votes necessary for approval, the board shall count the mayor if he or she votes on all questions. If the mayor votes only in the case of tie, the mayor's vote counts if there is an equal division.

(b) Amendment and Repeal of Ordinances. The same voting requirements that govern the adoption of proposed ordinances also apply to the amendment or repeal of an ordinance.

Rule 34. Adoption of the Budget Ordinance

(a) Special Rules for the Adoption or Amendment of the Budget Ordinance. Notwithstanding any provision in the town charter, general law, or local act,

- (1) the board may adopt or amend the budget ordinance at a regular or special meeting of the board by a simple majority of those members present and voting, a quorum being present;
- (2) no action taken with respect to the adoption or amendment of the budget ordinance need be published or is subject to any other procedural requirement governing the adoption of ordinances or resolutions by the board; and
- (3) the adoption or amendment of the budget ordinance and the levy of taxes in the budget ordinance are not subject to the provisions of any town charter or local act concerning initiative or referendum.

(b) Notice Requirements for Budget Meetings. During the period beginning with the submission of the budget to the board and ending with the adoption of the budget ordinance, the board may hold any special meetings that may be necessary to complete its work on the budget ordinance. Except for the notice requirements of the open meetings law, which continue to apply, no provision of law concerning the call of special meetings applies during that period so long as

- each member of the board has actual notice of each special meeting called for the purpose of considering the budget and
- no business other than consideration of the budget is taken up.

(c) No Authority for Closed Sessions. This rule shall not be construed to authorize the board to hold closed sessions on any basis other than the grounds set out in Rule 5.

Rule 35. Approval of Contracts and Authorization of Expenditures

(a) Contracts to be in Writing. No contract shall be approved or ratified by the town board unless it has been reduced to writing at the time of the board's vote.

(b) Approval of Contracts. To be approved or ratified, a contract must receive affirmative votes equal to at least a majority of all board members not excused from voting on the contract, including the mayor's vote in the event of a tie.

(c) Authorization of Expenditure of Public Funds. The same vote necessary to approve or ratify a contract is required for the board to authorize the expenditure of public funds, except when the expenditure is authorized pursuant to Rule 34.

Part X. Public Hearings and Comment Periods

Rule 36. Public Hearings

(a) Calling Public Hearings. In addition to holding public hearings required by law, the board may hold any public hearings it deems advisable. The board may schedule hearings or delegate that responsibility to town staff members, as appropriate, except when state law directs the board itself to call the hearing. If the board delegates scheduling authority, it must provide adequate guidance to assist staff members in exercising that authority.

(b) Public Hearing Locations. Public hearings may be held anywhere within the town or within the county where the town is located.

(c) Rules for Public Hearings. The board may adopt reasonable rules for public hearings that, among other things,

- fix the maximum time allotted to each speaker,
- provide for the designation of spokespersons for groups of persons supporting or opposing the same positions,
- provide for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the hall (so long as arrangements are made, in the case of a hearing subject to the open meetings law, for those excluded from the hall to listen to the hearing), and
- provide for the maintenance of order and decorum in the conduct of the hearing.

(d) Notice of Public Hearings. Any public hearing at which a majority of the board is present shall be

considered part of a regular or special meeting. Consequently, the relevant notice and related requirements of the open meetings law, as set out in Rules 9 through 12, apply to such hearings. Some statutes mandate additional notice for particular types of hearings, and such notice must be provided together with notice of the meeting during which the hearing will take place.

(e) Continuing Public Hearings. The board may continue any public hearing without further advertisement to a time and place certain, provided the time (including the date, if the hearing will resume on a different day) and place of the continued hearing are announced in open session. Except for hearings conducted pursuant to paragraph (g), if a quorum of the board is not present for a properly scheduled public hearing, the hearing must be continued until the board's next regular meeting without further advertisement.

(f) Conduct of Public Hearings. At the time appointed for the hearing, the mayor shall call the hearing to order and proceed to allow public input in accordance with any rules adopted by the board for the hearing. Unless the board extends the hearing, when the time allotted for the hearing expires, or when no one wishes to speak who has not done so, the mayor shall declare the hearing closed, and the board shall resume the regular order of business.

(g) Public Hearings by Less Than a Majority of Board Members. Nothing in this rule prevents the board from appointing a member or members to hold a public hearing on the board's behalf, except when state law requires that the board itself conduct the hearing.

Rule 37. Public Comment Periods

(a) Frequency of Public Comment Periods. The board must provide at least one opportunity for public comment each month at a regular meeting, except that the board need not offer a public comment period during any month in which it does not hold a regular meeting.

(b) Rules for Public Comment Periods. The board may adopt reasonable rules for public comment periods that, among other things,

- fix the maximum time allotted to each speaker,
- provide for the designation of spokespersons for groups supporting or opposing the same positions,
- provide for the selection of delegates from groups supporting or opposing the same positions when the number of persons wishing to attend the public comment period exceeds the capacity of the hall (so long as arrangements are made for those excluded from the hall to listen to the hearing), and
- provide for the maintenance of order and decorum in the conduct of the hearing.

(c) Content-Based Restrictions Generally Prohibited. The board may not restrict speakers based on subject matter, as long as their comments pertain to subjects within the board's real or apparent jurisdiction.

Part XI. Appointments and Appointed Bodies

Rule 38. Appointments

(a) Appointments in Open Session. The board must consider and make any appointment to another body or, in the event of a vacancy on the board, to its own membership in open session.

(b) Nomination and Voting Procedure. The board shall use the following procedure to fill a vacancy in

the board itself or in any other body over which it has the power of appointment. The nominating committee shall be called upon to make its report and recommendation(s), if any. The mayor shall then open the floor for nominations, whereupon board members may put forward and debate nominees. When debate ends, the mayor shall call the roll of the members, and each member shall cast a vote for his or her preferred nominee. The voting shall continue until a nominee receives a majority of votes cast during a single balloting.

(c) Mayor. The mayor may make nominations and vote on appointments under this rule.

(d) Multiple Appointments. If the board is filling more than one vacancy, each member shall have as many votes in each balloting as there are slots to be filled, and the votes of a majority of the total number of members voting shall be required for each appointment. No member may cast more than one vote for the same candidate for the same vacancy during a single balloting.

(e) Duty to Vote. It is the duty of each member to vote for as many appointees as there are appointments to be made, but failure to do so shall not invalidate a member's ballot.

(f) Vote by Written Ballot. The board may vote on proposed appointments by written ballot in accordance with Rule 29.

Rule 39. Committees and Boards

(a) Establishment and Appointment. The board may establish temporary and standing committees, boards, and other bodies to help carry on the work of town government. Unless otherwise provided by law or the board, the power of appointment to such bodies lies with the board.

- (1) Mayoral Appointments.** The Mayor shall make the following appointments after consultation with the Board:

Lake Norman Chamber
 Lake Norman Regional Economic Development Corporation
 Visit Lake Norman
 Charlotte Regional Transportation Planning Organization
 Centralina Carolina Council of Governments
 Lake Norman Transportation Commission
 North Mecklenburg Alliance
 Metropolitan Transportation Commission

- (2) Board Appointments.** The Board of Commissioners shall appoint members of the following boards and committees:

Planning Board
 Design Review Board/Historic Preservation Commission
 Public Art Commission
 Livability Board

(b) Advisory Board Nominating Committee Appointment Procedure. The Mayor shall convene and chair a nominating committee. The other members of the committee shall be at least the following: the Town Manager, the staff liaisons, two elected officials, and the chairs (or their designee) of the Planning Board, Design Review Board, Livability Board and Public Art Commission. This nominating committee shall solicit nominations from the public. From these nominations, the committee shall choose a number

of nominees equal to the number of vacancies on the boards, and shall make a recommendation to the Board of Commissioners.

To fill unexpired, mid-term vacancies on boards and committees: The mayor shall convene and chair an ad hoc committee consisting of the chair of the board, town manager, and the staff liaison(s) to the board. They will choose nominees from among applications previously submitted, or by soliciting nominations from the public. The committee will select the number of nominees equal to the number of vacancies, and recommend them to the Board of Commissioners.

(c) Open Meetings Law. The requirements of the open meetings law apply whenever a majority of an appointed body's members gather in person or simultaneously by electronic means to discuss or conduct official business. They do not apply to meetings solely among the town's professional staff.

(d) Procedural Rules. The board may prescribe the procedures by which the town's appointed bodies operate, subject to any statutory provisions applicable to particular bodies. In the absence of rules adopted by the board, an appointed body may promulgate its own procedural rules, so long as they are in keeping with any relevant statutory provisions and generally accepted principles of parliamentary procedure.

Part XII. Miscellaneous

Rule 40. Amendment of the Rules

These rules may be amended at any regular meeting or at any properly called special meeting for which amendment of the rules is one of the meeting's stated purposes. Any amendment to these rules must be consistent with the town charter, any relevant statutes, and generally accepted principles of parliamentary procedure. To be adopted, a motion to amend these rules must be approved by a majority of the board's members, excluding vacant seats and counting the mayor only if the mayor may vote on all questions.

Rule 41. Reference to Robert's Rules of Order Newly Revised

The board shall refer to *Robert's Rules of Order Newly Revised* for guidance when confronted with a procedural issue not covered by these rules or state law. Having consulted *Robert's*, the mayor shall make a ruling on the issue subject to appeal to the board under Rule 31, Motion 1.

Board of Commissioners -- Vote Remotely By Phone

October 18, 2018, 12:10 PM

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iv.	Individual registered responses	5

Board of Commissioners -- Vote Remotely By Phone

Should the Davidson Board of Commissioners be allowed to vote remotely during a meeting?

Introduction

At the September 11 meeting, the Davidson Board of Commissioners requested a brief analysis of whether it should allow commissioners to vote via phone if they are not able to be present in person at a meeting. Currently, members are allowed to participate in board meetings by phoning in, but are not permitted to vote. Town Attorney Cindy Reid led a discussion; the board of commissioners would like to amend the rules of procedure to allow voting by remote participation, if there is a physical quorum present at the meeting, and have the vote count. They requested that a question be added to Open Town Hall to gather public input. They will likely consider a vote on a potential change in rules of procedure on October 23.

If you'd like to share your comments in addition to the survey, please email the Davidson Board of Commissioners at board@townofdavidson.org.

Board of Commissioners -- Vote Remotely By Phone

Should the Davidson Board of Commissioners be allowed to vote remotely during a meeting?

Summary Of Registered Responses

As of October 18, 2018, 12:10 PM, this forum had:

Attendees:	212	Topic Start
Registered Responses:	54	October 8, 2018, 2:07 PM
Hours of Public Comment:	2.7	

QUESTION 1

Should the Davidson Board of Commissioners be allowed to vote remotely during a meeting (and have it count)?

		%	Count
Yes		42.6%	23
No		57.4%	31

Board of Commissioners -- Vote Remotely By Phone

Should the Davidson Board of Commissioners be allowed to vote remotely during a meeting?

Survey Questions

QUESTION 1

Should the Davidson Board of Commissioners be allowed to vote remotely during a meeting (and have it count)?

- Yes
- No

Board of Commissioners -- Vote Remotely By Phone

Should the Davidson Board of Commissioners be allowed to vote remotely during a meeting?

Individual Registered Responses

Jim Dumser

October 9, 2018, 7:06 AM

Question 1

- Yes

Name not shown

October 9, 2018, 7:06 AM

Question 1

- Yes

Sandy Carnegie

October 9, 2018, 7:15 AM

Question 1

- Yes

Name not shown

October 9, 2018, 7:33 AM

Question 1

- Yes

Jon Bolenbaugh

October 9, 2018, 7:42 AM

Question 1

- No

Kayla Gillan

October 9, 2018, 7:48 AM

Question 1

- No

Frank Shults

October 9, 2018, 7:59 AM

Question 1

- No

Marcia Stoutjesdyk

October 9, 2018, 8:03 AM

Question 1

- No

Name not shown

October 9, 2018, 8:10 AM

Question 1

- No

Name not shown

October 9, 2018, 8:25 AM

Question 1

- No

Cathleen Santeiu

October 9, 2018, 8:28 AM

Question 1

- No

Carol Jones

October 9, 2018, 8:29 AM

Question 1

- No

Lisa Brueggemann

Board of Commissioners -- Vote Remotely By Phone

Should the Davidson Board of Commissioners be allowed to vote remotely during a meeting?

October 9, 2018, 8:35 AM

Question 1

- Yes

Name not shown

October 9, 2018, 9:04 AM

Question 1

- No

Monica Keohane

October 9, 2018, 10:01 AM

Question 1

- No

Name not shown

October 9, 2018, 10:14 AM

Question 1

- No

Name not shown

October 9, 2018, 10:18 AM

Question 1

- Yes

Sam Weaver

October 9, 2018, 11:04 AM

Question 1

- Yes

Denise Beall

October 9, 2018, 11:10 AM

Question 1

- Yes

Ben Beall

October 9, 2018, 11:31 AM

Question 1

- Yes

Mike Roman

October 9, 2018, 11:46 AM

Question 1

- Yes

Ervin S. Duggan

October 9, 2018, 12:56 PM

Question 1

- No

Name not shown

October 9, 2018, 1:09 PM

Question 1

- Yes

Kathy Pearce

October 9, 2018, 1:59 PM

Question 1

- Yes

Name not shown

October 9, 2018, 3:52 PM

Question 1

- No

Board of Commissioners -- Vote Remotely By Phone

Should the Davidson Board of Commissioners be allowed to vote remotely during a meeting?

Name not shown

October 9, 2018, 4:36 PM

Question 1

- Yes

Name not shown

October 9, 2018, 5:14 PM

Question 1

- No

joan adams

October 9, 2018, 8:14 PM

Question 1

- No

rondol eagle

October 10, 2018, 8:48 AM

Question 1

- Yes

Name not shown

October 10, 2018, 9:26 AM

Question 1

- No

Name not shown

October 10, 2018, 10:26 AM

Question 1

- No

John Woods

October 10, 2018, 10:32 AM

Question 1

- No

Name not shown

October 10, 2018, 11:04 AM

Question 1

- Yes

Alice Sudduth

October 10, 2018, 11:06 AM

Question 1

- Yes

Name not shown

October 10, 2018, 11:41 AM

Question 1

- No

Edmund Bergan

October 10, 2018, 3:15 PM

Question 1

- Yes

Name not shown

October 11, 2018, 11:22 AM

Question 1

- No

Name not shown

October 11, 2018, 11:32 AM

Question 1

- No

Board of Commissioners -- Vote Remotely By Phone

Should the Davidson Board of Commissioners be allowed to vote remotely during a meeting?

Name not shown

October 11, 2018, 5:10 PM

Question 1

- No

Marguerite Williams

October 11, 2018, 5:40 PM

Question 1

- No

Rusty Knox

October 11, 2018, 5:47 PM

Question 1

- No

Name not shown

October 11, 2018, 6:28 PM

Question 1

- No

Name not shown

October 11, 2018, 7:45 PM

Question 1

- No

Martin Metzker

October 11, 2018, 7:57 PM

Question 1

- Yes

Name not shown

October 11, 2018, 11:41 PM

Question 1

- No

Name not shown

October 12, 2018, 8:42 AM

Question 1

- No

Name not shown

October 12, 2018, 9:08 AM

Question 1

- Yes

Name not shown

October 12, 2018, 11:12 AM

Question 1

- No

Name not shown

October 12, 2018, 11:31 AM

Question 1

- No

Wilson Pava

October 12, 2018, 12:07 PM

Question 1

- Yes

Becky Slosson

October 12, 2018, 6:23 PM

Question 1

- Yes

Board of Commissioners -- Vote Remotely By Phone

Should the Davidson Board of Commissioners be allowed to vote remotely during a meeting?

Robert Cameron

October 12, 2018, 8:42 PM

Question 1

- No

Name not shown

October 15, 2018, 3:20 PM

Question 1

- Yes

Name not shown

October 15, 2018, 5:34 PM

Question 1

- Yes



Agenda **Consider Approval of Draft September Meeting Minutes**
Title: **Summary:** Draft Meeting Minutes from September 4, September 11, and September 25

Summary:

ATTACHMENTS:

Description		Upload Date	Type
❏	Draft Meeting Minutes 9-4-18	10/19/2018	Backup Material
❏	Draft Meeting Minutes 9-11-18	10/19/2018	Backup Material
❏	Draft Meeting Minutes 9-25-18	10/19/2018	Backup Material



College Town. Lake Town. *Your Town.*

September 4, 2018

**FIRST TUESDAY WORK SESSION
TOWN OF DAVIDSON BOARD OF COMMISSIONERS**

The Town of Davidson Board of Commissioners held its regularly scheduled meeting on Tuesday, September 4, 2018 in the Town Hall Board Room. Present were Mayor Rusty Knox and Commissioners Jane Campbell, Jim Fuller, Matthew Fort, Autumn Rierson Michael and David Sitton. Town Manager Jamie Justice, Assistant Town Manager Dawn Blobaum, Economic Development Manager Kim Fleming, Human Resources Director Megan White, Planning Director Jason Burdette, Police Chief Penny Dunn, Public Information Office Cristina Shaul, Town Attorney Cindy Reid, and Town Clerk Betsy Shores were also present.

- **CALL TO ORDER**

Mayor Knox called the meeting to order at 6:00 p.m.

- **ANNOUNCEMENTS**

Public Information Officer Cristina Shaul announced the following:

Davidson Connections is Thursday, September 6 at 5:30 p.m. at Flyleaf Consulting above the Davidson Beverage Company.

I-77 Mobility Partners will conduct a public hearing to describe toll pricing methodology and present proposed initial rates for I-77 Express. The presentation will be held at Huntersville United Methodist Church (14005 Stumptown Road, Huntersville, NC 28078), September 13, beginning at 6:30 p.m. followed by public comments specifically concerning the proposed toll rates at 7 p.m. More information is available at i77express.com.

The Davidson Fire Department is beginning an accreditation process sponsored by the Commission on Fire Accreditation International (CFAI) and needs input from Davidson's citizens. Open Town Hall portal on the website has two questions and also register for one of two public input sessions scheduled for Monday, September 24 from 9:00 a.m. to 12:00 p.m. or Wednesday, September 26 from 5:30 to 8:30 p.m.

We're accepting nominations for the Jack Burney Community Service Award through September 28. We have hard copies of the form in the lobby and an online form on the website.

Town Manager Jamie Justice introduced Megan White, the new Human Resources Director.

Mayor Knox read a proclamation for National Suicide Prevention Week.

- **CHANGES TO THE AGENDA**

No changes to the agenda.

- **DISCUSSION**

(a) Economic Development Manager Kim Fleming presented options for the Downtown Park/Davidson Farmers' Market site improvement. The Board of Commissioners discussed moving forward with plans, would like to review potential designs and material choices, and would like to spend \$275,000 in town dollars, plus use \$100,000 in grant funding from the NC Department of Agriculture and Consumer Services.

(b) Senior Planner Travis Johnson and Lake Norman Regional Transportation Commission Executive Bill Thunberg provided an update on the North-South Connector Study. Commissioners requested a public engagement session to be hosted in Davidson.

(c) Human Resources Consultant Susan Manning presented an update on the three-town salary study included in the FY 2018-19 budget. Next steps include a presentation at September 11 meeting to share the findings and recommendations for the Board of Commissioners to consider.

(d) Planning Director Jason Burdette and Planning Technician Lindsay Laird provided an update on the proposed improvements at the North Harbor Club Next. A public hearing will be held at the September 25 meeting and a potential decision by the Board of Commissioners in October.

(e) Police Chief Penny Dunn recommended changes for the Town of Davidson noise ordinance to improve understanding of the code for residents and officers, establish reasonable and measurable levels of sound, and clearly define the measuring location for officers responding to a complaint. These proposed changes would extend the hours for a higher decibel level into the evening and increase the decibel range for residential, multi-family and commercial/institutional noise. Noise created by construction workers, refuse collection vehicles, lawn mowers, leaf blowers, etc. is not permitted from 9:00 p.m. to 7:00 a.m. (Monday-Friday) or 9:00 p.m. to 9:00 a.m. (Saturday-Sunday). The Board of Commissioners will hear public comments on the proposed changes and consider approval at a future meeting.

(f) Town Manager Justice shared that Davidson does not have formal process for naming our new parks. With two potential parks coming online in the near future, staff and the Livability Board recommend developing a process to engage community input. Commissioners directed the Livability Board to start the process to name the new park near Bailey Springs.

(g) Town Manager Justice stated the Board stopped scheduling coffee chats in May. After reviewing the results of the Open Town Hall survey, the Commissioners agreed to temporarily suspend coffee chats for the immediate future.

(h) The Board of Commissioners inquired about who should serve as the Board of Adjustment. Town Attorney Cindy Reid explained the Davidson Board of Adjustment is comprised of Planning Board members, and they hear cases concerning ordinance interpretations, requests, or appeals for

variances. Historically, all members of the Planning Board also serve as members of the Board of Adjustment, either presently serving or serving as alternates. The five presently serving members are elected by the Planning Board and include an ETJ representative. Commissioners requested feedback from members of the Planning Board and for staff to research other municipalities.

(i) Town Manager Justice and the Board of Commissioners reviewed upcoming agenda items. Assistant Town Manager Dawn Blobaum shared that Mecklenburg County Board of Commission has added 251 South Street to their consent agenda for September 5 to waive the first right of refusal.

- **ADJOURN**

Commissioner Campbell made a motion to adjourn. The motion passed unanimously (5-0).

The meeting adjourned at 9:25 p.m.

Attest:

Rusty Knox
Mayor

Elizabeth K. Shores
Town Clerk



College Town. Lake Town. *Your Town.*

September 11, 2018

**SECOND TUESDAY WORK SESSION
TOWN OF DAVIDSON BOARD OF COMMISSIONERS**

The Town of Davidson Board of Commissioners held its regularly scheduled meeting on Tuesday, September 11, 2018 in the Town Hall Board Room. Present were Mayor Rusty Knox and Commissioners Jane Campbell, Jim Fuller, Matthew Fort, Autumn Rierson Michael and David Sitton. Town Manager Jamie Justice, Assistant Town Manager Dawn Blobaum, Economic Development Manager Kim Fleming, Finance Director Pieter Swart, Fire Chief Bo Fitzgerald, Parks and Recreation Director Kathryn Spatz, Police Chief Penny Dunn, Public Information Office Cristina Shaul, Public Works Director Doug Wright, Town Attorney Cindy Reid, and Town Clerk Betsy Shores were also present.

- **CALL TO ORDER**

Mayor Knox called the meeting to order at 5:02 p.m.

- **CLOSED SESSION**

Commissioner Campbell made a motion to go into closed session per NCGS § 143-318.11 (a) (6) – Personnel. The motion passed unanimously (5-0).

At 5:58pm, Commissioner Fuller made a motion to end the closed session. The motion passed unanimously (5-0).

- **ANNOUNCEMENTS**

The Town of Davidson Board of Commissioners returned to the Town Hall Board Room for the regularly scheduled meeting at 6:05pm.

Mayor Knox asked the audience to bow heads in a moment of silence for the 17th Anniversary of the attacks on 9/11.

Public Information Officer Cristina Shaul announced the following:

In preparation of Hurricane Florence, staff is coordinating with Mecklenburg County Emergency Management. The Town of Davidson is not a shelter city and any evacuees from eastern locations will be sent to Charlotte or other shelters as directed by Mecklenburg County Emergency Management. Residents are asked to monitor the storm through the National Weather Service, a part of the National

Oceanic and Atmospheric Administration (NOAA), and other local news sources. Advisories from these sources should be followed and up-to-date closures will be provided.

We are beginning our comprehensive plan process and need citizens to fill two committees – the Plan Advisory Group and the Publicity & Outreach Committee.

I-77 Mobility Partners will conduct a public hearing to describe toll pricing methodology and present proposed initial rates for I-77 Express. The presentation will be held at Huntersville United Methodist Church (14005 Stumptown Road, Huntersville, NC 28078), on Thursday, September 13, beginning at 6:30 p.m. followed by public comments specifically concerning the proposed toll rates at 7 p.m. More information is available at www.i77express.com

The Town of Davidson's Park at Beaty Street Conceptual Plan Task Force invites all citizens to an upcoming public input session on Monday, September 17, from 5:30 to 7:30 p.m. in the Davidson Town Hall. The session will be a drop-in format with estimated time needed to provide input around 20 minutes.

We are hosting Mecklenburg County Tax Assessor Ken Joyner for a lunch-and-learn to talk about revaluation and how it might affect commercial properties on Tuesday, September 18 from 11:30 a.m.- 1:00 p.m. at Davidson Town Hall.

We're hosting a reception for new residents here on September 20 from 5:00 to 7:00 p.m.

Volunteers are needed to help us with our Community Development Block Grant door-to-door surveys on September 22 and 23.

The Davidson Fire Department is undertaking an accreditation process sponsored by the Commission on Fire Accreditation International (CFAI) and needs input from Davidson's citizens.

We're accepting nominations for the Jack Burney Community Service Award through September 28. We have hard copies of the form in the lobby and an online form on the website.

Mayor Rusty Knox read a proclamation in honor of National Constitution Week.

- **CHANGES TO THE AGENDA**

No changes to the agenda.

- **COMMISSIONER REPORTS**

Commissioners gave reports on the following organizations:

Commissioner Autumn Rierson Michael - Centralina Council of Governments

Commissioner Matthew Fort - Lake Norman Chamber of Commerce

Commissioner Jim Fuller - Visit Lake Norman

Commissioner David Sitton - Lake Norman Regional Economic Development Corporation & North Mecklenburg Alliance

Commissioner Jane Campbell - Charlotte Regional Transportation Planning Organization & Lake Norman Transportation Commission

Mayor Rusty Knox - Metropolitan Transit Commission

- **PRESENTATIONS**

Kurt Naas gave a presentation on the Lingle Hut restoration/preservation project. Lingle Hut was built in 1932 at 213 Watson Street, is steeped in mill history, and is owned by the Reeves Temple A.M.E. Zion Church. The goal is to stabilize the foundation, replace the roof, and work on the interior to save this building. Their fundraising goal is \$20,000. Mr. Naas requested assistance with promoting the restoration effort and a sign variance. Commissioner Fuller suggested a proclamation of support at the September 25 board meeting.

- **DISCUSSION**

(a) Public Works Director Doug Wright and Finance Director Pieter Swart discussed four sidewalk projects. Commissioners preferred option 1 which was to install sidewalk along Grey Road and a portion of Spring Street. The recommended action is to wait to examine all other potential projects that might surface requiring the use of fund balance funds.

(b) Human Resources Consultant Susan Manning provided the finding and recommendations of the joint compensation study. The implementation options and budget impact will be presented at the September 25 board meeting for approval.

(c) Assistant Town Manager Dawn Blobaum gave an update on the 251 South Street Property Acquisition. On September 5, the Mecklenburg Board of County Commissioners voted to decline its right of first refusal enabling CMS to proceed with selling the property to the Town of Davidson for \$2,460,000 (the appraised value). The town has 60 days from October 1 to complete its due diligence process prior to purchasing the property. The Board was asked to approve Resolution 2018-24 to affirm the purchase of 251 South Street and appropriate \$45,000 funding for deposit, legal fees, and due diligence from Public Facilities Capital Projects fund.

Commissioner Campbell made a motion to approve the \$45,000 as requested, timeline as described and asked Mayor Knox to read Resolution 2018-24. The motion passed unanimously (5-0).

(d) Economic Development Director Kim Fleming provided an update on the Downtown Park Park/Farmers' Market site improvement project. The Board was asked to consider accepting the \$100,000 grant from the Department of Agriculture and amend the FY2019 budget to reflect the grant and authorize the Manager to move forward with up to \$45,000 for construction documents phase.

Commissioner Fort made a motion to accept the grant for \$100,000 and appropriate \$45,000 for construction drawings. Commissioner Sitton requested a check in at the design development phase and a unified response from the board of the Davidson Farmers' Market. The motion passed unanimously (5-0).

(e) Assistant Town Manager Dawn Blobaum gave an update on various historic preservation initiatives. Commissioners directed staff to recommend a consultant for the local historic district expansion/creation.

(f) Town Attorney Cindy Reid led a discussion on whether the Board should allow Commissioners to vote via phone. Currently, members are allowed to participate in board meetings by phoning in, but are not permitted to vote. Commissioners preferred to amend the rules of procedure to allow voting by remote

participation and requested that a question be added to Open Town Hall to gather public input. They will likely consider a vote on a potential change in rules of procedure at an October meeting.

- **SUMMARIZE MEETING ACTION ITEMS**

Town Manager Justice summarized the action items. Manager Justice also shared that the noise variance ordinance previously approved by the board for the Davidson College event on September 15 has been postponed to September 23 and will be handled by administration to make the change.

- **ADJOURN**

Commissioner Campbell made a motion to adjourn. The motion passed unanimously (5-0).

The meeting adjourned at 10:05 p.m.

Attest:

Rusty Knox
Mayor

Elizabeth K. Shores
Town Clerk



College Town. Lake Town. *Your Town.*

September 25, 2018

**REGULAR MEETING
TOWN OF DAVIDSON BOARD OF COMMISSIONERS**

The Town of Davidson Board of Commissioners held its regularly scheduled meeting at 6:00 p.m. on Tuesday, September 25, 2018 at Davidson Town Hall. Present were Mayor Rusty Knox, Mayor, Commissioners Jane Campbell, Matthew Fort, Jim Fuller, Autumn Rierson Michael and David Sitton. Town Manager Jamie Justice, Assistant Town Manager Dawn Blobaum, Economic Development Manager Kim Fleming, Human Resources Director Megan White, Parks and Recreation Director Kathryn Spatz, Planning Director Jason Burdette, Police Chief Penny Dunn, Public Information Officer Cristina Shaul, Public Works Director Doug Wright, Town Attorney Cindy Reid and Town Clerk Betsy Shores were also present.

- **CALL TO ORDER**

Mayor Knox called the meeting to order at 6:03 p.m.

- **ANNOUNCEMENTS**

Public Information Officer Cristina Shaul shared the following announcements:

Thank you to everyone who helped with the Community Development Block Grant surveys this past weekend.

We are beginning our comprehensive plan process and need citizens to fill two committees – the Plan Advisory Group and the Publicity & Outreach Committee. Apply by September 30 via our online application at www.townofdavidson.org/ComprehensivePlan2018 or get a hard copy in our lobby.

The Town of Davidson's Park at Beaty Street Task Force has two upcoming events. Thursday, September 27, 5:30-7:30 p.m. is their first public input session. This session was rescheduled from 9/17 due to Florence. Kids Draw-a-Park World of Wonder is on Saturday, September 29, from 9 a.m. to noon at the WOW booth at the Davidson Farmers' Market. Children will have a chance to draw what they would like to see in a park, while adults can learn the latest about the Park at Beaty Task Force.

We're accepting nominations for the Jack Burney Community Service Award and applications for our advisory boards through September 28. We have hard copies of each of the forms in the lobby.

Please weigh in on the North-South Parkway Study on Thursday, September 27 at the Charles Mack Center at 215 North Main Street in Mooresville or on Thursday, October 4 at Huntersville Town Hall. Both are drop-in sessions from 6:00 to 8:00 p.m. We are working on a third input session to be scheduled at a location in Davidson.

Davidson Connections will be on Thursday, October 4 at 9:00 a.m. at Davidson Town Hall.

Walk to School Day is Wednesday, October 10.

Reeves Temple AME Zion Church at 213 Watson Street is hosting a Fall Carnival on Saturday, October 13 from 11:00 a.m. to 4:00 p.m. to raise funds for the Lingle Hut Restoration.

Mayor Knox and Police Chief Penny Dunn performed the swearing in ceremony to four (4) new Davidson Police Officers. Joseph Calandra, Andrew Heitmann, Kenneth McDaniel, and Darin Salter. Police Chief Penny Dunn also spoke about each of the new officers.

Police Chief Dunn recognized Ralph Quackenbush for 20 years of service as a volunteer with the Town of Davidson and Mayor Knox presented Mr. Quackenbush with a plaque.

Mayor Knox read **Resolution 2018-26 Lingle Hut** in support of the restoration project.

- **CHANGES TO THE AGENDA**

No changes to the agenda.

- **PUBLIC COMMENTS**

The public comments period opened at 6:19 p.m. and was closed at 6:20 p.m. No citizens spoke.

- **PUBLIC HEARING**

Commissioner Campbell made a motion to open the first public hearing. The motion passed unanimously (5-0).

Town Attorney Cindy Reid introduced Kristen Kirby, attorney from McGuire Woods, on behalf of Davidson Day School regarding the issuance of bonds the school is seeking for a new upper school campus located at 1803 Mecklenburg Highway in Iredell County. The federal government requires local commissioners to approve the bonds because they are tax exempt. The bonds are private and the town has no part in transaction other than to approve the issuance in principle. There is no financial impact on the town.

The public comments period was opened at 6:20 p.m. and was closed at 6:25 p.m. No citizens spoke.

Commissioner Fort made a motion to close the public hearing. The motion passed unanimously (5-0).

Commissioner Campbell made a motion to approve Resolution 2018-25 as it is written in support of the matter as it pertains to Davidson Day School. The motion passed unanimously (5-0).

Commissioner Fort made a motion to open the second public hearing. The motion passed unanimously (5-0).

Planning Director Jason Burdette provided an overview of the North Harbor Club Conditional Planning Area related to their expansion request. This public hearing is required by Section 14.5.5 of the Davidson Planning Ordinance. The Planning Board voted 9-0 in favor of the proposal with three additional notes for the developer. The Planning Board recommendation and consistency statement is in support of the project. The Board of Commissioners will consider approval at an October meeting.

The public comments period was opened at 6:26 p.m. and was closed at 6:30 p.m. No citizens spoke.

Commissioner Rierson Michael made a motion to close the public hearing. The motion passed unanimously (5-0).

- **CONSENT AGENDA**

**Consider Approval of Draft Meeting Minutes from August 7 and August 28
Consider Approval of November 6th 1st Tuesday Meeting Location Change**

Commissioner Campbell made a motion to approve. The motion passed unanimously (5-0).

- **OLD BUSINESS**

(a) Human Resources Consultant Susan Manning presented recommendations of the salary study and a proposed implementation plan. Town Manager Justice and the Board discussed the findings of the joint salary study and the recommendations. Commissioners will consider approval at the October 9 meeting to allow more time to review the recommendation and get feedback from citizens.

(b) Town Manager Justice provided an update on the need to prioritize capital projects, the potential use of the 2017 general obligation bonds, and the related use of unassigned fund balance for upcoming projects. The Board discussed funding for the Grey Road sidewalk, curb, and gutter project (between Concord Road and Wolfe Street). All other projects will be prioritized at a future date prior to creation of the FY 2019-2020 budget.

Commissioner Fort made a motion to approve the funding and move forward as soon as possible with the Grey Road sidewalk project. The motion passed unanimously (5-0).

- **SUMMARIZE ACTIONS ITEMS**

Town Manager Justice summarized the board requested action items.

- **CLOSED SESSION**

Commissioner Campbell made a motion to move to closed session pursuant to NCGS § 143-318.11 (a) (5) for land acquisition of 335 Sloan Street. The motion passed unanimously (5-0).

Commissioner Campbell made a motion to end closed session. The motion passed unanimously (5-0).

- **ADJOURN**

Commissioner Rierson Michael made a motion to adjourn. The motion passed unanimously (5-0).

The meeting adjourned at 8:30 p.m.

Rusty Knox
Mayor

Attest:

Elizabeth K. Shores
Town Clerk

DRAFT



Agenda Title: Consider Approval of Ordinance 2018-06 Floodplain Ordinance Amendments and Consistency Statement

Summary: The Federal Emergency Management Agency (FEMA) updated Flood Insurance Rate Maps (FIRMs) for Mecklenburg County with an effective date of November 16, 2018. The Town of Davidson must adopt an updated floodplain ordinance to include the new map date by the November 16, 2018 deadline or risk being suspended from the National Flood Insurance Program (NFIP).

Additionally, the North Carolina Department of Public Safety (NCDPS) made changes to their Model Floodplain Ordinance in 2017, which included both mandatory and suggested changes. Charlotte-Mecklenburg Stormwater Services (CMSS) staff formed a stakeholder group to review this updated model ordinance and provided a draft Floodplain Ordinance for the Town of Davidson on July 24, 2018. This updated ordinance has been endorsed by the Storm Water Advisory Committee (SWAC) and stakeholder group. The NCDPS also reviewed the updated floodplain ordinance and deemed it compliant with NFIP requirements.

Summary:

ATTACHMENTS:

	Description	Upload Date	Type
▢	Agenda Memo - Floodplain Ordinance Amendments 10-23-18	10/18/2018	Cover Memo
▢	Attachment - Staff Analysis Floodplain Ordinance Amendments 10-23-18	10/18/2018	Backup Material
▢	Attachment - Planning Board Consistency Statement 10-23-18	10/18/2018	Backup Material
▢	Attachment - Planning Staff Consistency Statement 10-23-18	10/18/2018	Backup Material
▢	DRAFT - Ordinance 2018-06 Floodplain Ordinance Amendments 10-23-18	10/18/2018	Backup Material



Davidson Planning Ordinance Section 18: Floodplain Ordinance Update

Date: October 23, 2018
To: Davidson Board of Commissioners
From: Jason Burdette, Planning Director
Re: Davidson Planning Ordinance Section 18 (Floodplain Ordinance) – Text Amendments

1. OVERVIEW

The Federal Emergency Management Agency (FEMA) updated Flood Insurance Rate Maps (FIRMs) for Mecklenburg County with an effective date of November 16, 2018. The Town of Davidson must adopt an updated floodplain ordinance to include the new map date by the November 16, 2018 deadline or risk being suspended from the National Flood Insurance Program (NFIP).

Additionally, the North Carolina Department of Public Safety (NCDPS) made changes to their Model Floodplain Ordinance in 2017, which included both mandatory and suggested changes. Charlotte-Mecklenburg Stormwater Services (CMSS) staff formed a stakeholder group to review this updated model ordinance and provided a draft Floodplain Ordinance for the Town of Davidson on July 24, 2018. This updated ordinance has been endorsed by the Storm Water Advisory Committee (SWAC) and stakeholder group. The NCDPS also reviewed the updated floodplain ordinance and deemed it compliant with NFIP requirements.

2. RELATED TOWN GOALS

Core Value: Davidson must be a safe place to live, work, and raise a family, so the town will work in partnership with the community to prevent crime and protect lives, property, and the public realm.

Core Value: Citizens must live in a healthy environment, so town government will protect watersheds, trees, air quality, and other elements of the town's ecology.

3. OPTIONS/PROS & CONS

Pros: The floodplain ordinance helps to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas. Additionally, adoption of the updated ordinance by the November 16 deadline will allow for Davidson's continued participation in the National Flood Insurance Program.

Cons: N/A

4. FYI or RECOMMENDED ACTION

The proposed text amendments are before the Board of Commissioners for a decision. The draft ordinance appears to be consistent with (a) the Davidson Comprehensive Plan, as adopted by the Board

of Commissioners and amended from time to time; and, (b) all other officially adopted plans and the Planning Ordinance. Staff recommend approval of the proposed text amendments.

5. PROCESS & NEXT STEPS

The proposed text amendments have followed the process outlined in Section 14.19 of the Davidson Planning Ordinance for changes and amendments to the planning ordinance. The Planning Board gave a positive recommendation on the proposed text amendments at their September 24th meeting. The Board of Commissioners may take action on the proposed text amendments.



STAFF ANALYSIS: FLOODPLAIN ORDINANCE TEXT AMENDMENTS

Date: October 23, 2018
To: Davidson Board of Commissioners
From: Jason Burdette, Planning Director
Re: Davidson Planning Ordinance Section 18 (Floodplain Ordinance) - Text Amendments

Note: The following summary reviews the purpose and history of the proposed changes; highlights substantive changes; and, includes discussion topics related to Davidson Planning Ordinance (DPO) Section 18. Proposed changes are annotated in the draft DPO accompanying these materials.

1. OVERVIEW

As part of its routine work, the Federal Emergency Management Agency (FEMA) updated Flood Insurance Rate Maps (FIRMs) for Mecklenburg County with an effective date of November 16, 2018. The Town of Davidson must adopt an updated floodplain ordinance to include the new map date by the November 16, 2018 deadline or risk being suspended from the National Flood Insurance Program (NFIP).

Additionally, the North Carolina Department of Public Safety (NCDPS) made changes to their Model Floodplain Ordinance in 2017, which included both mandatory and suggested changes. Charlotte-Mecklenburg Stormwater Services (CMSS) staff formed a stakeholder group to review this updated model ordinance and provided a draft Floodplain Ordinance for the Town of Davidson on July 24, 2018. This updated ordinance has been endorsed by the Storm Water Advisory Committee (SWAC) and stakeholder group. The NCDPS also reviewed the updated floodplain ordinance and deemed it compliant with NFIP requirements.

2. PROPOSED CHANGES

A number of revisions were made to the ordinance for consistency and clarity, including renumbering of ordinance section references, correction of typographic errors, and revisions to include new terms that are now used throughout the ordinance. Most of the proposed changes are a result of NCDPS Model Ordinance recommendations. The remaining changes are Mecklenburg County floodplain staff recommendations. Substantive changes are highlighted below.

SECTION 18.2: DEFINITIONS

The following definitions were added/removed/revised per Mecklenburg County recommendation for consistency, clarity, and in some cases to meet state minimum requirements.

- **Terms Not Previously Defined:** Alteration of a Watercourse, Existing Building and Existing Structure, Flood-resistant Material, Floodway Engineering Analysis, Light Duty Truck, No-Rise

Certification, Preliminary Flood Insurance Rate Map (PFIRM), Preliminary Flood Insurance Study (PFIS), and Temperature Controlled

- **Revised Definitions:** Conditional Letter of Map Revision (CLOMR), Floodway, Letter of Map Revision (LOMR), Letter of Map Revision Based on Fill (LOMR-F), North American Vertical Datum, Recreational Vehicle, Repetitive Loss, Substantial Damage, Substantial Improvement, and Technically Measurable
- **Definitions Removed:** Mean Sea Level

SECTION 18.3 GENERAL PROVISIONS

- **Applicability:** Language was added to clarify that the floodplain regulations apply within town limits and the extra-territorial jurisdiction (ETJ).
- **Updated Flood Insurance Rate Maps:** The effective date of updated Flood Insurance Rate Maps (FIRMS) was added to the ordinance, as required by FEMA.
- **Preliminary FIRM Language Added:** Per county floodplain staff recommendation, language was added to provide additional floodplain protection. In areas where a Preliminary FIRM and Preliminary FIS exist, the higher of the preliminary and effective elevations shall be used for regulatory purposes.

SECTION 18.4 ADMINISTRATION AND ENFORCEMENT

- **FEMA Required Revision:** As of October 1, 2010, FEMA requires documentation of compliance with the Endangered Species Act prior to issuing a floodplain permit. This requirement was added to Section 18.4.2.4.E.

SECTION 18.6 PROVISIONS FOR FLOOD HAZARD REDUCTION

- **Clarification for Replacement of Equipment:** Per NCDPS Model Ordinance, language was added under Section 18.6.1.A.5 to clarify that equipment may be replaced without being elevated, unless part of a substantial improvement. Language was also added to encourage property owners to locate replacement equipment at compliant elevations. Equipment located at compliant elevations are not required to be included as part substantial improvement costs.
- **Notice of Floodplain Improvements for Residential Construction:** Under Section 18.6.2.1.B, the current threshold for notice of non-substantial improvements are those costing between 25% and 50% of the market value of the existing building. Mecklenburg County staff recommend reducing the threshold for notice of non-substantial improvements to those costing between 10% and 50% of the market value of the existing building. Because improvement costs are cumulative over a 10-year period, lowering the notice threshold to 10% will enable the county to ensure earlier on that property owners are aware of the 50% threshold at which the floodplain standards come into effect.
- **Insert Section on Temporary Encroachments:** Section 18.6.2.6.D was added per county floodplain staff recommendation. This language allows for temporary encroachments into the floodplain without requiring a flood study. Examples of temporary encroachments include but are not limited to: sediment control devices, temporary stream crossings, storage of equipment, etc. Temporary encroachments require an Individual Floodplain Development Permit from the county.
- **Insert Section on Gas and Liquid Storage Tanks:** Section 18.6.2.14 was added per NCDPS Model Ordinance Recommendation to meet the state minimum requirements and to prevent tank failure during flooding conditions.

- **Insert Section on Fill:** Section 18.6.2.15 was added as required by FEMA. As of October 1, 2010, FEMA requires documentation of compliance with the Endangered Species Act prior to issuing a floodplain permit for the placement of fill within Special Flood Hazard Areas.

TOWN OF DAVIDSON PLANNING BOARD

CONSISTENCY STATEMENT

TITLE

Davidson Planning Ordinance Section 18 Update – Floodplain Ordinance Text Amendments

SUMMARY OF ACTION TAKEN BY BOARD

Vote: 9-0

Description of Action: Planning Board members found the proposal consistent with adopted plans and policies.

PROPOSAL

The proposed text amendments update/clarify standards in compliance with Federal Emergency Management Agency (FEMA) and North Carolina Department of Public Safety (NCDPS) requirements.

SUMMARY OF PROPOSAL

As part of its routine work, FEMA updated Flood Insurance Rate Maps (FIRMs) for Mecklenburg County with an effective date of November 16, 2018. The Town of Davidson must adopt an updated floodplain ordinance to include the new map date by the November 16, 2018 deadline or risk being suspended from the National Flood Insurance Program (NFIP). Additionally, the North Carolina Department of Public Safety (NCDPS) made changes to their Model Floodplain Ordinance in 2017, which included both mandatory and suggested changes. A number of revisions were made to the ordinance for consistency and clarity, including renumbering of ordinance section references, correction of typographic errors, and revisions to include new terms that are now used throughout the ordinance.

CONSISTENCY STATEMENT

In the opinion of the Planning Board the proposed floodplain ordinance text amendments are consistent with the Davidson Planning Ordinance, as adopted by the Board of Commissioners and amended from time to time. The areas in which floodplain ordinance text amendments are consistent with the Davidson Planning Ordinance are as follows:

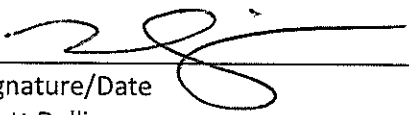
1. Consistency with the Davidson Planning Ordinance:

- a. The amendments seek to incorporate new FEMA Flood Insurance Rate Maps to ensure the continued protection of public health, safety, and general welfare.
 - i. *It is the purpose of this ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas (DPO 18.1.4. Statement of Purpose).*
- b. The amendments seek to clarify standards to ensure that the objectives of the floodplain ordinance are met and remain compliant with FEMA and NCDPS requirements.
 - i. *The regulations of the Special Flood Hazard Areas herein are intended to protect areas of designated Floodplains subject to and necessary for regulating flood waters and to permit and encourage the retention of open-land uses...The*

specific intent in establishing Special Flood Hazard Areas composed of floodways and flood fringe areas includes the following:

- 1. To control uses such as fill dumping, storage of materials, structures, buildings and any other works which, acting alone or in combination with other existing or future uses, would cause damaging flood heights and velocities by obstructing flows and reducing floodplain storage;*
- 2. To protect human life and health;*
- 3. To minimize the expenditure of public money for costly flood-control projects;*
- 4. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;*
- 5. To permit certain uses which can be appropriately located in flood hazard areas and to assure such permitted uses will not impede the flow of flood waters or otherwise cause danger to life and property...;*
- 6. To minimize prolonged business operations;*
- 7. To protect existing drainage courses that carry abnormal flows of stormwater in periods of heavy precipitation;*
- 8. To minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines and streets/bridges located in the floodplain;*
- 9. To meet the needs of the streams to carry flood waters and protect the creek channels and floodplains from encroachment so that flood heights and flood damage will not be increased;*
- 10. To inform existing and potential property owners that property is in a Special Flood Hazard Area as well as the associated flood risks and development restrictions;*
- 11. To minimize future flood losses by depicting Community Flood Fringe Areas on the FIRMS and;*
- 12. To help maintain a stable tax base by providing for the sound use and development of flood prone areas. (DPO 18.1.5. Objectives)*

Adopted this 24th day of September, 2018.



Signature/Date
Matt Dellinger
Planning Board Chair

TOWN OF DAVIDSON BOARD OF COMMISSIONERS

CONSISTENCY STATEMENT

PROPOSAL

Davidson Planning Ordinance Section 18 Update – Floodplain Ordinance Text Amendments

PROPOSAL / REQUEST

The proposed text amendments update/clarify standards in compliance with Federal Emergency Management Agency (FEMA) and North Carolina Department of Public Safety (NCDPS) requirements.

SUMMARY OF PETITION / PROPOSAL

As part of its routine work, FEMA updated Flood Insurance Rate Maps (FIRMs) for Mecklenburg County with an effective date of November 16, 2018. The Town of Davidson must adopt an updated floodplain ordinance to include the new map date by the November 16, 2018 deadline or risk being suspended from the National Flood Insurance Program (NFIP). Additionally, the North Carolina Department of Public Safety (NCDPS) made changes to their Model Floodplain Ordinance in 2017, which included both mandatory and suggested changes. A number of revisions were made to the ordinance for consistency and clarity, including renumbering of ordinance section references, correction of typographic errors, and revisions to include new terms that are now used throughout the ordinance.

CONSISTENCY STATEMENT

In the opinion of the Board of Commissioners the proposed floodplain ordinance text amendments are consistent with the Davidson Planning Ordinance, as adopted and amended from time to time. The areas in which floodplain ordinance text amendments are consistent with the Davidson Planning Ordinance are as follows:

Consistency with the Davidson Planning Ordinance:

- a. The amendments seek to incorporate new FEMA Flood Insurance Rate Maps to ensure the continued protection of public health, safety, and general welfare.
 - i. *It is the purpose of this ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas (DPO 18.1.4. Statement of Purpose).*
- b. The amendments seek to clarify standards to ensure that the objectives of the floodplain ordinance are met and remain compliant with FEMA and NCDPS requirements.
 - i. *The regulations of the Special Flood Hazard Areas herein are intended to protect areas of designated Floodplains subject to and necessary for regulating flood waters and to permit and encourage the retention of open-land uses...The specific intent in establishing Special Flood Hazard Areas composed of floodways and flood fringe areas includes the following:*
 - 1. *To control uses such as fill dumping, storage of materials, structures, buildings and any other works which, acting alone or in combination with other existing or future uses, would cause damaging flood heights and velocities by obstructing flows and reducing floodplain storage;*

2. *To protect human life and health;*
3. *To minimize the expenditure of public money for costly flood-control projects;*
4. *To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;*
5. *To permit certain uses which can be appropriately located in flood hazard areas and to assure such permitted uses will not impede the flow of flood waters or otherwise cause danger to life and property...;*
6. *To minimize prolonged business operations;*
7. *To protect existing drainage courses that carry abnormal flows of stormwater in periods of heavy precipitation;*
8. *To minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines and streets/bridges located in the floodplain;*
9. *To meet the needs of the streams to carry flood waters and protect the creek channels and floodplains from encroachment so that flood heights and flood damage will not be increased;*
10. *To inform existing and potential property owners that property is in a Special Flood Hazard Area as well as the associated flood risks and development restrictions;*
11. *To minimize future flood losses by depicting Community Flood Fringe Areas on the FIRMS and;*
12. *To help maintain a stable tax base by providing for the sound use and development of flood prone areas. (DPO 18.1.5. Objectives)*

Adopted this 23th day of October, 2018.

Signature/Date

Rusty Knox

Mayor



Ordinance 2018-06 (DRAFT)

Floodplain Overlay District Text Amendments

TOWN OF DAVIDSON BOARD OF COMMISSIONERS (the “Town Board”) adopts the following text amendments to the **Davidson Planning Ordinance**. The majority of changes to DPO Section 18 are being undertaken for compliance with Federal Emergency Management Agency and North Carolina Department of Public Safety requirements. The remaining changes are Mecklenburg County floodplain staff recommendations for consistency and clarity.

Chapter 18: Floodplain Overlay District

18.1 GENERAL

18.1.1 SHORT TITLE

The regulations set out in this ordinance (sometimes herein referred to as “this regulation” or “this ordinance”) shall be known and may be cited as the “Floodplain Regulations of Davidson, North Carolina.”

18.1.2 STATUTORY AUTHORIZATION

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

18.1.3 FINDINGS OF FACT

The flood hazard areas of Davidson and Davidson’s Land Use jurisdiction are subject to periodic inundation which results in loss of life, increased health and safety hazards, destruction of property, and disruption of commerce and governmental services. Inundation from flood waters results in public expenditures for flood protection, flood disaster relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

These flood losses are created 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 hazards to other lands which are inadequately elevated, floodproofed or otherwise unprotected from flood damages.

18.1.4 STATEMENT OF PURPOSE

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

- A.** Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities;
- B.** Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C.** Control the alteration of natural Floodplains, stream channels and natural protective barriers which are involved in the accommodation of flood waters;
- D.** Control filling, grading, dredging and other Development which may increase erosion or flood damage; and
- E.** Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

18.1.5 OBJECTIVES

The regulations of the Special Flood Hazard Areas herein set forth are intended to protect areas of designated Floodplains subject to and necessary for regulating flood waters and to permit and encourage the retention of open-land uses which will be so located and designed as to constitute a harmonious and appropriate part of the physical development of the Town as provided in the comprehensive plans as such are adopted and amended from time to time.

The specific intent in establishing Special Flood Hazard Areas composed of floodways and flood fringe areas includes the following:

- A.** To control uses such as fill dumping, storage of materials, structures, buildings and any other works which, acting alone or in combination with other existing or future uses, would cause damaging flood heights and velocities by obstructing flows and reducing floodplain storage;
- B.** To protect human life and health;
- C.** To minimize the expenditure of public money for costly flood-control projects;
- D.** To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- E.** To permit certain uses which can be appropriately located in flood hazard areas and to assure such permitted uses will not impede the flow of flood waters or otherwise cause danger to life and property at or above or below their locations along the floodways;
- F.** To minimize prolonged business interruptions;
- G.** To protect existing drainage courses that carry abnormal flows of stormwater in periods of heavy precipitations;

- H. To minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines and streets and bridges located in Floodplains;
- I. To meet the needs of the streams to carry flood waters and protect the creek channels and Floodplains from Encroachment so that flood heights and flood damage will not be increased;
- J. To inform existing and potential property owners that property is in a Special Flood Hazard Area as well as the associated flood risks and development restrictions;
- K. To minimize future flood losses by depicting Community Flood Fringe Areas on the Flood Insurance Rate Maps and;
- L. To help maintain a stable tax base by providing for the sound use and development of flood prone areas.

This ordinance is intended to permit only that Development within the Floodplain which is appropriate in light of the probability of flood damage and presents a reasonable social and economic use of land in relation to the hazards involved. The regulations hereinafter set forth shall apply to all property located within the Special Flood Hazard Area as shown on the Flood Insurance Rate Maps (FIRM) including FEMA and/or locally approved revisions to data shown on the FIRMs. It is the intent that these regulations combine with and coordinate with the planning ordinance regulations for the planning area in which such property is located. Any use not permitted by the planning ordinance shall not be permitted in the Special Flood Hazard Area, and any use permitted by the ordinance regulations shall be permitted in these districts only upon meeting conditions and requirements as prescribed in this ordinance.

18.2 DEFINITIONS

Unless specifically defined in this section, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application. The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

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

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

Alteration of a Watercourse: means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification associated with development which may increase the FEMA or Community Base Flood Elevations.

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

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

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

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

Community Base Flood: The flood determined using future land use conditions having a one percent chance of being equaled or exceeded in any given year.

Community Base Flood Elevation: The elevation shown on the Flood Insurance Rate Map Flood Hazard Data Table, having a one percent chance of being equaled or exceeded, determined using future land use conditions.

Community Conditional Letter of Map Revisions (CoCLOMR): A letter from the Floodplain Administrator that provides conditional approval of a study that proposes to change the location of the Community Encroachment Lines, and/or the location of the Community Flood Fringe Line, and/or Community Base Flood Elevations.

Community Encroachment Area: The channel of a stream or other watercourse and the adjacent land areas that must be reserved in order to discharge the FEMA Base Flood without cumulatively increasing the water surface elevation more than 0.1 foot.

Community Encroachment Lines: Lateral limits of the Community Encroachment Area, within which, in the direction of the stream or other body of water, no structure or fill may be added, unless specifically permitted by this ordinance.

Community Flood Fringe Area: The land area located between the Community Encroachment Line and the Community Flood Fringe Line as defined herein.

Community Flood Fringe Line: The line that depicts the outer limits of the Community Flood Fringe Area (outer limits of the Community Special Flood Hazard Area).

Community Letter of Map Revision (CoLOMR): A letter from the Floodplain Administrator that provides final approval of a study, based on as-built conditions that changes the location of the Community Encroachment Lines and/or the Community Flood Fringe Lines.

Community Special Flood Hazard Area: The land subject to a one percent or greater chance of flooding in any given year from a Community Base Flood. It includes the FEMA Floodway, Community Encroachment Area, FEMA Flood Fringe Area, and the Community Flood Fringe Area.

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

Critical Facility: A building used to house a function that is vulnerable or essential to the community. Uses include but are not limited to: child and adult day care facilities, nursing homes, schools, hospitals, fire, police and medic facilities and other uses as deemed by the Floodplain Administrator.

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

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

Dry Public Street: A public street at the intersection of a proposed driveway where the surface of the pavement is at an elevation above the Community Base Flood Elevation

Dryland Access: A gravel, paved or concrete access route, at least 12 feet wide, which is above the Community Base Flood Elevation and connects a Habitable Building to a Dry Public Street.

Elevated Building: A non-basement building built to have the lowest floor elevated above the ground level by, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

Encroachment: The advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain. Building renovations contained within the existing building footprint area are not considered an Encroachment.

Existing Manufactured Home Park or Manufactured Home Subdivision: A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads and the construction of streets) was completed before January 10, 1995 the initial effective date of the floodplain management regulations adopted by the community.

Existing Building and Existing Structure: Any building and/or structure for which the “start of construction” commenced before the effective date of the initial Flood Insurance Rate Map.

FEMA: The Federal Emergency Management Agency.

FEMA Base Flood: The flood determined using land use conditions at the time of the study having a one percent chance of being equaled or exceeded in any given year.

FEMA Base Flood Elevation (BFE): A determination of the water surface elevations of the base flood as published in the Flood Insurance Study. It is the elevation that indicates the water surface elevation resulting from a FEMA Base Flood that has a one percent chance of equaling or exceeding that level in any given year based on existing land use.

FEMA Flood Fringe Area: The land area located between the FEMA Floodway Lines and the line depicting the maximum elevation subject to inundation by the FEMA Base Flood as defined herein.

FEMA Flood Fringe Line: The line on a map that depicts the outer limits of the *FEMA Flood Fringe Area*.

FEMA Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the FEMA Base Flood, without cumulatively increasing the water surface elevation more than 0.5 foot. On the Catawba River, and the portions of Six Mile Creek and Rocky River which run along the county boundary line, the FEMA Floodway means the channel of a stream or other watercourse and the adjacent land areas that must be reserved in order to discharge the FEMA Base Flood, without cumulatively increasing the water surface elevation more than 1.0 feet.

FEMA Floodway Lines: The lateral limits of the FEMA Floodway.

FEMA Special Flood Hazard Area: The land subject to a one percent or greater chance of flooding in any given year from a FEMA Base Flood. It includes the FEMA Floodway, Community Encroachment Area, and the FEMA Flood Fringe Area.

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

1. The overflow of inland or tidal waters; and
2. The unusual and rapid accumulation of run-off of surface waters from any source.

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

Flood Insurance Rate Map (FIRM): An official map of a community, in both digital and printed format, on which the Federal Emergency Management Agency has delineated the Special Flood Hazard Area and the risk premium zones applicable to the community. The date of Davidson's original FIRM is June 1, 1981, and this date should be used to determine whether a structure is pre-FIRM or post-FIRM.

Flood Insurance Study: An examination, evaluation, and determination of Special Flood Hazard Areas, corresponding water surface elevations, flood insurance risk zones, and other flood data in a community. The study includes a Flood Insurance Study report, and/or Flood Insurance Rate Map (FIRMs).

Floodplain: The land subject to inundation by the Community Base Flood and is encompassed by the Community Special Flood Hazard Area.

Floodplain Administrator: (or Administrator) The person, agent, or his or her designees, appointed to administer, implement and enforce the provisions of this ordinance.

Floodplain Development Permit: Either an Individual Floodplain Development Permit or a General Floodplain Development Permit issued for development in the Floodplain per the requirements of Section 18.4 of this ordinance.

Floodplain Management: The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural

resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain Management Regulations: This ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes Federal, State or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

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

Flood Protection Elevation: The elevation to which all structures located within the Community Special Flood Hazard Area must be elevated (or floodproofed if non-residential). Within areas where Base Flood Elevations (BFEs) have been determined, this elevation shall be the Community Base Flood Elevation plus one (1) foot of freeboard (except along the Catawba River where it is the FEMA Base Flood Elevation plus two (2) feet of freeboard). In areas where no BFE has been established, all structures and other Development must be elevated (or floodproofed if non-residential), to two (2) feet above the highest adjacent grade.

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

Floodwall: A wall built along a shore or bank to protect an area from flooding.

Floodway: The either the FEMA Floodway or the Community Encroachment Area, including the area above a bridge or culvert when applicable.

Floodway Engineering Analysis: An engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

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

Floor: (See Lowest Floor)

Freeboard: The height added to the Community Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height

calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The Community Base Flood Elevation (BFE) plus the freeboard establishes the "Flood Protection Elevation."

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

General Floodplain Development Permit: A permit issued for certain types of Development in the Floodplain per Section 18.4 of this ordinance.

Habitable Building: A structure designed primarily for, or used for human habitation. This includes, but is not limited to, houses, condominiums, townhomes, restaurants, retail establishments, manufacturing buildings, commercial buildings, office buildings, manufactured homes, and similar uses. It does not include Accessory Structures. (See definition above).

Hazardous Waste Management Facility: A facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste as defined in NCGS Article 9 of Chapter 130A.

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

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:

1. Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program"; or
4. Certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program." Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

Individual Floodplain Development Permit: means a permit for Development in the Floodplain that involves activities not listed in Section 18.4.2 and may not qualify for a General Floodplain Development Permit.

Letter of Map Revision (LOMR): An official revision to the currently effective FEMA FIRM based on as-built conditions. It is issued by FEMA and may change FEMA Base Flood Elevations, the location of the FEMA Floodway Lines and/or the location of the FEMA Flood Fringe line.

Letter of Map Amendment (LOMA): A letter from FEMA that officially removes a property or building from the FEMA Special Flood Hazard Area (SFHA) that was inadvertently shown in the SFHA on the FIRM.

Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

Levee: A man-made structure, usually an earthen embankment, Floodwall or a combination of both that is designed and constructed to contain, control or divert the flow of water so as to provide protection from temporary flooding.

Levee System: A flood protection system which consists of Levee(s) and/or Floodwall(s) and associated structures, such as closure and drainage devices.

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

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

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

Lowest Floor: The lowest floor of the lowest enclosed area (including the basement). An 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 enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Manufactured Home: A structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without 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 (2) or more manufactured home lots for rent or sale.

Market Value: The value of a building, excluding land value, which is determined by an appraiser certified in North Carolina. The tax value of the building may be used for screening purposes.

New Construction: Construction of a replacement structure commenced after total demolition, or renovation/rehabilitation of an existing structure that results in the partial or complete removal of two external walls and has a total cost equal to or exceeding 50 percent of the market value of the structure before the “start of construction” of the improvement. For flood insurance purposes, New Construction also means structures for which the start of construction commenced on or after June 1, 1981 and includes subsequent improvements to such structures (see definition of Flood Insurance Rate Map.

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 the pouring of concrete slabs) is completed on or after January 10, 1995, the initial effective date of the floodplain management regulations adopted by the community.

Nonconforming Building or Use: Any legally existing building or use which fails to comply with the provisions of this ordinance.

Non-solid Fence: A fence with at least 75 percent open area.

No-Rise Certification: A certification statement signed by a duly-qualified engineer licensed to practice in the state of North Carolina certifying that a proposed Project will not impact the FEMA Base Flood Elevations or the Community Base Flood Elevations at modeled cross sections in the vicinity of the proposed Project.

North American Vertical Datum: as corrected in 1988 (NAVD or NAVD 1988) is a vertical control used as a reference for establishing varying elevations within the floodplain. If a datum other than NAVD 88 is used then use the datum listed as the reference datum on the applicable FIRM panel for use on Elevation Certificate completion. See Flood Insurance Administration (FIA)- 20 part 1, 8.

Open House Forum: A public meeting held by the owner of the proposed Levee and the Director of Mecklenburg County Storm Water Services, or his designee. The purpose of the Open House Forum is to provide an opportunity for discussion between the owner that has submitted an application for the construction of a Levee, nearby property owners, and other interested parties.

Post-FIRM: Construction or other development for which the “start of construction” occurred on or after the effective date of the initial Flood Insurance Rate Map.

Pre-FIRM: Construction or other development for which the “start of construction” occurred before the effective date of the initial Flood Insurance Rate Map.

Preliminary Flood Insurance Rate Map (PFIRM): a map(s) released by the Federal Emergency Management Agency for public comment prior to the effective date. The map

may be in both digital and printed format and shows the Community and FEMA Special Flood Hazard Areas, Community Encroachment Areas and FEMA Floodways, FEMA and Community Base Flood Elevations, flood insurance risk premium zones and other data. The data and maps are subject to change prior to the effective date.

Preliminary Flood Insurance Study (PFIS): a narrative report released by the Federal Emergency Management Agency for public comment prior to the effective date. Information contained in the PFIS includes a description of past flooding and studies, the study area, engineering methods, Community and FEMA Base Flood Elevations, other community and FEMA flood data. The Flood Insurance Rate Maps are also included as part of the Flood Insurance Study. The data and maps are subject to change prior to the effective date.

Principally Above Ground: At least 51 percent of the actual cash value of the structure is above ground.

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

Recreational Vehicle: A vehicle which is: built on a single chassis; 400 square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a car or light duty truck; and designed primarily not for use as a permanent dwelling, but as temporarily living quarters for recreational, camping, travel or seasonal use; and (5) is fully licensed and ready for highway use.

Reference Level: The portion of a structure or other Development that must be compared to the flood protection elevation to determine regulatory compliance of such building. Within Special Flood Hazard Areas designated as zones A1-A30, AE, A, A99, AO, or AH, the reference level is the top of the lowest floor.

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

Repetitive Loss: Flood-related damages sustained by a structure during any 10-year period for which the total cost of repairs equals or exceeds fifty percent (50%) of the Market Value of the structure before the damage occurred. Repetitive Loss damages include flood-related damages sustained prior to November 16, 2018 for which the cost of repairs equaled or exceeded twenty-five percent (25%) of the Market Value of the structure before the damage occurred if within the relevant 10-year period.

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

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

Solid Waste Disposal Facility: Any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a) (35).

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

Special Flood Hazard Area: The FEMA Special Flood Hazard Area. See definition above.

Start of Construction: 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 pouring a slab or footing, installation of piles, construction of columns, or any work beyond the state of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not parts of the main structure. For 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: For floodplain management purposes, a walled and roofed building, a manufactured home, a gas or liquid storage tank, that are principally above ground.

Substantial Damage: Damage of any origin sustained by a structure over a 10-year period whereby the cost of restoring the structure to the condition before damage occurred would equal or exceed fifty percent (50%) of the market value of the structure before the damages occurred. Substantial Damage includes flood-related damages sustained by a structure prior to November 16, 2018 for which the cost of repairs at the time of the flood event equaled or exceeded twenty-five percent (25%) of the Market Value of the structure before the damage occurred if within the relevant 10-year period. See definition of "Substantial Improvement."

Substantial Improvement: Any repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, or combination thereof, where the total cost over a 10-year period equals or exceeds fifty percent (50%) 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. Substantial Improvement includes any repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, or combination thereof prior to November 16, 2018 for which the cost of repairs at the time of the flood event equaled or exceeded twenty-five percent (25%) of the Market Value of the structure before the damage occurred or the Substantial Improvement began if within the relevant 10-year period. The term does not, however, include either:

1. Any correction of existing violations of State or Community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or,
2. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure
3. Any replacement subject to the requirements of Section 18.6.1 A (5) (c) of this ordinance.

Substantial Improvement: For the purposes of this definition, "Substantial Improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

Technically Measurable: An activity and/or condition that can be modeled within the stated or commonly known accuracy of a Floodway Engineering Analysis or other engineering computations, and may have an impact on Base Flood Elevations. The Floodplain Administrator may require a No-Rise Certification by a licensed engineer to determine if a proposed activity and/or condition meets the Technically Measurable definition.

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

Variance: A grant of relief to a person from the requirements of this ordinance.

Violation: The failure of a structure or other Development to be fully compliant with this ordinance. A structure or other Development without the elevation certificate, other certifications or other evidence of compliance required in Articles III and V is presumed to be in violation, until such time as the documentation is provided.

Water Surface Elevation (WSE): The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

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

18.3 GENERAL PROVISIONS

18.3.1 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all lands in the land use jurisdiction, including the Extra-Territorial Jurisdiction (ETJ) of the Town of Davidson within the area shown on the Flood Insurance Rate Maps (FIRM) or any FEMA and/or locally approved revisions to data shown on the FIRMs, as being located within the Community Special Flood Hazard Areas or land adjacent to the Community Special Flood Hazard Areas if it is affected by the work that is taking place.

18.3.2 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS

The Special Flood Hazard Areas include those identified by the Mecklenburg County Flood Insurance Rate Maps, dated November 16, 2018, which with accompanying data are adopted by reference and declared to be part of this ordinance.

In areas where a Preliminary FIRM and Preliminary FIS exist, Community Base Flood Elevations shown on the Preliminary FIRM and Preliminary FIS shall be used for local regulatory purposes, if they are higher than those shown on the effective FIRM and FIS.

The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas at the initial date: Mecklenburg County Unincorporated Area, dated June 1, 1981.

18.3.3 FLOODPLAIN DEVELOPMENT PERMIT REQUIRED

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any Development activities. The Floodplain Ordinance Guidance Document may be used for illustrative purposes to assist in determining the applicable type of Floodplain Development Permit required

18.3.4 COMPLIANCE

No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

18.3.5 ABROGATION AND GREATER RESTRICTIONS

It is not intended by this ordinance to repeal, abrogate, annul or in any way impair or interfere with any existing provisions of laws or ordinances or any rules, regulations or permits previously adopted or issued, or which shall be adopted or issued, in conformity with law, relating to the use of buildings or premises; nor is it intended by this ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that, where this ordinance imposes a greater restriction upon the use of buildings or premises or requires larger yards, courts or other

open spaces than are imposed or required by such existing provisions of laws or ordinances, or by such rules, regulations or permits or by such easements, covenants or agreements, the provisions of this ordinance shall control.

18.3.6 INTERPRETATION

In the interpretation and applications of this ordinance, all provisions shall be:

- A.** Considered as minimum requirements;
- B.** Liberally construed to meet the purposes and objectives of this regulation as stated in Sections 18.1.4 and 18.1.5; and
- C.** Deemed neither to limit nor repeal any other powers granted under state statutes.

18.3.7 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance 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. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Davidson, Mecklenburg County, or on any agent, officer or employee thereof for any flood damages that result from reliance on this ordinance or by any administrative decision lawfully made hereunder.

18.3.8 PENALTIES FOR VIOLATION

Violation of the provisions of this ordinance or failure to comply with any of its requirements including violation of conditions and safeguards established in connection with grants of Floodplain Development Permits, Variances or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than thirty (30) days. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Davidson or the Floodplain Administrator from taking such other lawful action as is necessary to prevent or remedy any violation, including but not limited to seeking injunctive relief, orders of abatement, or other similar equitable relief.

18.4 ADMINISTRATION AND ENFORCEMENT

18.4.1 DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The Town designates the Planning Director or his or her designee as the Floodplain Administrator and the County Floodplain Administrator or his or her designated agent as the persons with the authority to administer, implement and enforce the provisions of this ordinance through a properly executed, legally binding interlocal agreement.

18.4.2 FLOODPLAIN DEVELOPMENT PERMIT AND CERTIFICATION REQUIREMENTS

- A.** A Floodplain Development Permit is required for any Development within the Community Special Flood Hazard Area (CSFHA) and is subject to the conditions below. The Floodplain Administrator is authorized to create, and amend from time to time as necessary, a Technical Guidance Document to help explain the application of the provisions of this ordinance, specifically the Floodplain Development Permit provisions, through the use of charts and related written materials. The Technical Guidance Document shall not be a part of this ordinance, and shall be solely for illustrative and educational purposes. If there is any discrepancy between the Technical Guidance Document and this ordinance, the provisions of this ordinance shall control.
- B.** Floodplain Development Permits fall into one of two types: General Floodplain Development Permits (GFDP) and Individual Floodplain Development Permits (IFDP). If the proposed development activities meet the requirements of the General Floodplain Development Permit, an Individual Floodplain Development Permit is not required.

18.4.2.1 GENERAL FLOODPLAIN DEVELOPMENT PERMIT

The intent of the General Floodplain Development Permit (GFDP) is to allow uses or activities in the Community Special Flood Hazard Area (including the FEMA Floodway and Community Encroachment Area) which inherently will not increase FEMA and/or Community Base Flood Elevations. The following uses and activities are permitted under a GFDP, without the need for an Individual Floodplain Development Permit, Floodway Engineering Analysis or variance, as long as they result in no Technically Measurable increases in FEMA and/or Community Base Flood Elevations. A No-Rise Certification may be required by the Floodplain Administrator to demonstrate no technically-measurable increases.

- A.** General farming, pasture, horticulture, forestry, wildlife sanctuaries, gardens, lawns, landscaping and other similar activities;
- B.** Utility infrastructure (poles, sewer manholes, vent pipes, underground utilities, etc.), sign poles, non-solid fences, and other similar activities.
- C.** On-grade driveways, trails, sidewalks, boardwalks, roads and road maintenance; storm drainage system construction, repairs and maintenance (Major & Minor system), and other similar activities. The Floodplain Administrator must be notified in writing,

including a project description and sketch plan, prior to commencement of these activities.

- D. Interior renovations with a value of less than \$10,000, to a structure with its Reference Level not meeting the requirements of Sections 18.6.2.1 and 18.6.2.2.
- E. Interior renovations of any value, to a structure with its Reference Level meeting the requirements of Sections 18.6.2.1 and 18.6.2.2.

18.4.2.2 INDIVIDUAL FLOODPLAIN DEVELOPMENT PERMITS

Individual Floodplain Development Permits are required for all other projects that do not meet the requirements of a General Floodplain Development Permit. Application for an Individual Floodplain Development Permit (IFDP) shall be made to the Floodplain Administrator on forms furnished by him or her prior to any Development activities proposed to be located within the Community Special Flood Hazard Area. Requirements for submittal are available from the Floodplain Administrator.

18.4.2.3 CERTIFICATION REQUIREMENTS

- A. A Final As-Built Elevation Certificate (FEMA Form 086-0-33) (for either residential or non-residential buildings) or Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan is required after construction is completed and prior to the issuance of a Certificate of Occupancy or a Temporary Certificate of Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation or floodproofed elevation of the reference level and all attendant utilities. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized, said certification, operational plan, and inspection and maintenance plan shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, operational plan, and inspection and maintenance plan submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to the issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make said corrections required shall be cause to withhold the issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy.
- B. For proposed Development to be located outside of the Community Encroachment Area and the FEMA Floodway, a certification from a registered land surveyor or professional engineer that states that no fill material or other development was placed within the FEMA Floodway or Community Encroachment Area of any watercourse, will be required prior to issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy.
- C. For proposed Development within the Community Encroachment Area or the FEMA Floodway, an as-built topographic map prepared by a registered land surveyor or

professional engineer will be required prior to issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy. This is in addition to a Floodway Engineering Analysis or CLOMR that may be required as specified in Section 18.6.2.6.

- D. If a manufactured home is placed within the Floodplain and the elevation of the chassis is 36 inches or higher above adjacent grade, an engineered foundation certification is required.
- E. Certification Exemptions. The following structures, if located within the Floodplain, are exempt from the elevation/flood proofing certification requirements specified in items (a) and (b) above:
 - 1. Recreational Vehicles meeting requirements of Section 18.6.2.9;
 - 2. Temporary Structures meeting requirements of Section 18.6.2.10); and
 - 3. Accessory Structures less than 150 square feet meeting requirements of Section 18.6.2.11.

18.4.2.4 PERMIT APPLICATION REQUIREMENTS

- A. A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - 1. The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - 2. The location of the Community Flood Fringe Line, Community Encroachment Line, FEMA Flood Fringe Line and FEMA Floodway Line as shown on the FIRM or other flood map, or a statement that the entire lot is within the Special Flood Hazard Area;
 - 3. Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map;
 - 4. The FEMA Base Flood Elevation (BFE) and Community Base Flood Elevation (CBFE);
 - 5. The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
 - 6. The certification of the plot plan by a registered land surveyor or professional engineer.
- B. Proposed elevation, and method thereof, of all development within a Community Special Flood Hazard Area including but not limited to:
 - 1. Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
 - 2. Elevation in relation to NAVD 1988 to which any non-residential structure in Zone AE, will be flood proofed; and
 - 3. Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or flood proofed.

- C. If flood proofing, a Flood proofing Certificate (FEMA Form 086-0-34) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, inspection and maintenance of flood proofing measures.
- D. A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
 - 1. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);
 - 2. Openings to facilitate automatic equalization of hydrostatic flood forces on walls when solid foundation perimeter walls are used in Community Special Flood Hazard Area;
 - 3. Usage details of any enclosed areas below the lowest floor;
 - 4. Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;
 - 5. Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received;
 - 6. Documentation for proper placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of 18.6.2.9 and 18.6.2.10 are met; and
 - 7. A description of proposed alteration of a watercourse, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed alteration of a watercourse.
- E. If placing fill within the Special Flood Hazard Area, a demonstration of compliance with Section 9 and 10 of the Federal Endangered Species Act (ESA) is required. The demonstration of compliance must be provided to the Floodplain Administrator.

18.4.2.5 PERMIT REQUIREMENTS

The Floodplain Development Permit shall include, but not be limited to:

- A. A description of the development to be permitted under the floodplain development permit.
- B. The Special Flood Hazard Area determination for the proposed development.
- C. The Flood Protection Elevation required for the reference level and all attendant utilities.
- D. The Flood Protection Elevation required for the protection of all public utilities.

- E. All certification submittal requirements with timelines.
- F. A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of Section 18.6.2.6 are met.
- G. The flood openings requirements per Section 18.6.2.4.
- H. A statement that all construction materials below the FPE shall be constructed entirely of flood-resistant materials.

18.4.3 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

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

- A. Reviewing, approving, and issuing all Floodplain Development Permits in a timely manner to assure that the permit requirements of this ordinance have been satisfied.
- B. Reviewing, approving and issuing all documents applicable to Letters of Map Change.
- C. Advising the permittee that additional federal or state permits may be required; and if specific federal or state permits are known, requiring that copies of such permits be provided and maintained on file with the Floodplain Development Permit.
- D. Notifying adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration of a watercourse and submitting evidence of such notification to the Federal Emergency Management Agency.
- E. Assuring that within available resources, maintenance is provided within the altered or relocated portion of any altered Watercourse so that the flood-carrying capacity is maintained.
- F. Not issuing a Floodplain Development Permit for Encroachments within the Community Encroachment Area and/or the FEMA Floodway unless the certification and flood hazard reduction provisions of Article V are met.
- G. Reviewing and recording the actual elevation (in relation to NAVD 1988) of the Reference Level (including basement) of all new or substantially improved structures, in accordance with Section 18.4.2.3.
- H. Reviewing and recording the actual elevation (in relation to NAVD 1988) to which the new or substantially improved non-residential structures have been flood proofed, in accordance with Section 18.4.2.3.
- I. Obtaining certifications from a registered professional engineer or architect in accordance with Section 18.6.2.2 when flood proofing is utilized for a particular non-residential structure.
- J. Making the interpretation of the exact location of boundaries within the FEMA Special Flood Hazard Area or the Community Special Flood Hazard Area when, for example, there appears to be conflict between a mapped boundary and actual field conditions.

The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance. Procedures for changing flood hazard area boundaries and lines depicted on the Flood Insurance Rate Maps are identified in the National Flood Insurance Program regulations (44 CFR Parts 59-78).

- K.** Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended
- L.** Making on-site inspections of projects.
- M.** Serving notices of violation, issuing stop work orders, revoking permits and taking corrective actions.
- N.** Maintaining a copy of the Letter of Map Amendment issued from FEMA in the Floodplain Development Permit file when a property owner has received a Letter of Map Amendment (LOMA). (A LOMA is typically applied for and approved when the exact location of boundaries of the FEMA Special Flood Hazard Area conflicts with the current, natural topography information at the site.)
- O.** Determining the required information to be submitted with an application for approval of an Individual Floodplain Development Permit.
- P.** Reviewing information provided by a property owner or his designated agent for the purpose of making a determination of the total cost of repairs as it relates to a Substantial Improvement, including a determination of whether a series of repairs, reconstructions or improvements constitute one single alteration such that the total cost of the repairs, reconstructions or improvements will be the cumulative cost from the first alteration.
- Q.** Reviewing information provided by a property owner or his designated agent for the purpose of making a determination of whether the proposed construction activities constitute New Construction for purposes of this ordinance.
- R.** Reviewing and acknowledging FEMA Conditional Letters of Map Revision and FEMA Letters of Map Revision.
- S.** Reviewing and approving Community Conditional Letters of Map Revision and Community Letters of Map Revision.
- T.** Making on-site inspections of work in progress. As the work pursuant to a Floodplain Development Permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit.
- U.** Issuing stop-work orders. Whenever a building or part thereof is being constructed, reconstructed, altered or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop work order shall be in writing and directed to the person doing 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.

- V.** Revoking Floodplain Development Permits. The Floodplain Administrator may revoke and require the return of the Floodplain Development Permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentation made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked. Revoked permits may be resubmitted for approval using the requirements of the ordinance in effect at the time of the original submittal unless they were revoked because of the intentional submission of incorrect information by the permittee or his agent, or under other circumstances where allowing resubmittal using the requirement of the ordinance in effect at the time of the original submittal would not be equitable or consistent with public policy. However, base flood elevations that govern the elevation to which the structure is built must comply with the regulations and flood elevations in effect at the time of application for the building permit.
- W.** Making periodic inspections. The Floodplain 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.
- X.** Providing owners of structures in the Floodplain with information concerning their flood risk, and (for structures with the Reference Level below the Flood Protection Elevation) inform potential buyers of Substantial Improvement restrictions through the recordation of a notice in the property chain of title or other similar notice.
- Y.** Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Section 18.4.2.3.
- Z.** Obtain actual elevation (in relation to NAVD 1988)) of all public utilities in accordance with the provisions of Section 18.4.2.3.
- AA.** Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of Section 18.3.2 of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify Sate and FEMA of mapping needs.

18.4.4 CORRECTIVE PROCEDURES

- A.** Violations to be corrected. When the Floodplain Administrator finds violations of applicable state and local laws and notifies the property owner or building occupant of the violation, the owner or occupant shall immediately remedy each violation of law cited in the notice.
- B.** Actions in event of failure to take corrective action. If the owner or occupant of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give written notice, by certified or registered mail to the last known address or by personal service that:
 - 1.** The building or property is in violation of the Floodplain Regulations;
 - 2.** A hearing will be held before the Floodplain Administrator at a designated place and time, not later than twenty (20) calendar days after the date of the notice; at which time the owner or occupant shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
 - 3.** Following the hearing, the Floodplain Administrator may issue such order to alter, vacate or demolish the building, or to remove fill or other unauthorized Encroachment, as appears appropriate.
 - 4.** Order to take corrective action. If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or Development is in violation of the Floodplain Regulations, he shall issue an order in writing to the owner or occupant, requiring the owner or occupant to remedy the violation within such period, not less than sixty (60) calendar days, as the Floodplain Administrator may prescribe; provided that, where the Floodplain 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.
 - 5.** Appeal. Any owner or occupant who has received an order to take corrective action may appeal the order to the Davidson Zoning Board of Adjustment (hereinafter referred to as the "Board of Adjustment" or "Board") as provided in Article VI, Section 18.5.2. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The Board of Adjustment shall hear an appeal within a reasonable time and may affirm, modify and affirm or revoke the order.
 - 6.** Failure to comply with order. If the owner or occupant of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the Board of Adjustment following an appeal, he/she shall be guilty of a misdemeanor and shall be punished in the discretion of the court. In addition, the owner or occupant shall be subject to civil enforcement as described in Article II, Section 18.3.8.

18.5 APPEALS AND VARIANCES

18.5.1 AUTHORITY OF BOARD OF ADJUSTMENT

- A.** The Board of Adjustment of Davidson shall hear and decide appeals from any order, decision, determination or interpretation made by the Floodplain Administrator pursuant to or regarding these regulations.
- B.** The Board of Adjustment shall hear and decide petitions for Variances from the requirements of this ordinance.

18.5.2 INITIATION AND FILING OF APPEAL

- A.** An appeal of an order, decision, determination or interpretation made by the Floodplain Administrator may be initiated by any person aggrieved by any officer, department, board or bureau of the Town.
- B.** A notice of appeal in the form prescribed by the Board of Adjustment must be filed with the Board's Clerk, with a copy to the Floodplain Administrator, within twenty (20) days of the order, decision, determination or interpretation and must be accompanied by a nonrefundable filing fee as established by the Town council. Failure to timely file such notice and fee will constitute a waiver of any rights to appeal under this section and the Board of Adjustment shall have no jurisdiction to hear the appeal.

18.5.3 STANDARDS AND HEARING PROCEDURE

- A.** The Board of Adjustment will conduct the hearing on an appeal of an order, decision, determination or interpretation of these regulations in accordance with its normal hearing procedures as set out in the Town of Davidson Planning Ordinance.
- B.** At the conclusion of the hearing, the Board of Adjustment may reverse or modify the order, decision, determination or interpretation under appeal upon finding an error in the application of these regulations on the part of the Floodplain Administrator who rendered the decision, determination or interpretation. In modifying the decision, determination or interpretation, the Board will have all the powers of the officer from whom the appeal is taken.

18.5.4 INITIATION AND FILING OF VARIANCE PETITION

- A.** A petition for Variance may be initiated only by the owner of the affected property, or an agent authorized in writing to act on the owner's behalf.
- B.** A petition for a Variance from these regulations in the form prescribed by the Board of Adjustment must be filed with the Board's Clerk, with a copy to the Floodplain Administrator, and be accompanied by a nonrefundable filing fee as established by the Board of Commissioners.

18.5.5 FACTORS FOR CONSIDERATION AND DETERMINATION OF COMPLETENESS

- A.** In passing upon Variances, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and the:
 - 1.** Danger that materials allowed to be placed in the floodway as a result of the Variance may be swept onto other lands to the injury of others during a Community Base Flood;
 - 2.** Danger to life and property due to flooding or erosion damage from a Community Base Flood;
 - 3.** Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage during the Community Base Flood;
 - 4.** Importance of the services provided by the proposed facility to the community;
 - 5.** Necessity to the facility of a waterfront location, where applicable;
 - 6.** Availability of alternative locations, not subject to flooding or erosion damage during a Community Base Flood, for the proposed use;
 - 7.** Compatibility of the proposed use with existing and anticipated Development;
 - 8.** Relationship of the proposed use to the Mecklenburg County Floodplain Management Guidance Document, Mecklenburg County Flood Hazard Mitigation Plans, the Mecklenburg County Greenway Plan, and any other adopted land use plans for that area;
 - 9.** Safety of access to the property in times of a Community Base Flood for ordinary and emergency vehicles;
 - 10.** Expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters during a Community Base Flood expected at the site; and
 - 11.** Costs of providing governmental services during and after flood events, including maintenance and repair of public utilities and facilities, such as sewer, gas, electrical and water systems and streets and bridges.
- B.** A written report addressing each of the above factors shall be submitted with the application for a Variance.
- C.** Upon consideration of the factors listed above and the purposes of this ordinance, the Board of Adjustment may attach such conditions to the granting of Variances as it deems necessary to further the purposes of this ordinance.
- D.** 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.
- E.** Functionally dependent facilities if determined to meet the definition as stated in Section 18.2 of this ordinance, provided provisions of Article 5 have been satisfied, and

such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or

- F. Any other type of development, provided it meets the requirements of this section.

18.5.6 CONDITIONS FOR VARIANCES

- A. Variances shall not be issued when the Variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
- B. Variances shall not be issued within any designated Floodway if the Variance would result in any increase in flood levels during the Community and/or FEMA Base Flood discharge unless the requirements of 18.6.2.6 are met.
- C. Variances shall only be issued upon a determination that the Variance is the minimum necessary, considering the flood hazard, to afford relief.
- D. Variances shall only be issued prior to approval of a Floodplain Development Permit.

18.5.7 STANDARDS FOR GRANTING VARIANCE

- A. Variances shall only be issued upon:
 - 1. A showing of good and sufficient cause;
 - 2. A determination that failure to grant the Variance would result in exceptional hardship; and
 - 3. A determination that the granting of a Variance will not result in increased flood heights (unless the requirements of Section 18.6.2.6 are met), additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with other existing local laws or ordinances.
- B. The fact that the property could be utilized more profitably or conveniently with the Variance than without the Variance shall not be considered as grounds for granting the Variance.

18.5.8 MISCELLANEOUS CONDITIONS

- A. In addition to consideration of the items in 18.5.5, if Dryland Access cannot be obtained, a Variance to the requirement for Dryland Access may be granted by the Board of Adjustment upon consideration of the following conditions:
 - 1. A determination that all possible alternatives have been investigated in an attempt to provide the safest access from a proposed Habitable Building to a dry public street.
 - 2. The existence of a site plan prepared by a Licensed Land Surveyor or Professional Engineers indicating that the proposed access to Habitable Buildings on the property poses the least risk from flooding.

- B.** In addition to consideration of the items in 18.5.5, a Variance may be issued by the Board of Adjustment for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following criteria are met:
- 1.** The use serves a critical need in the community.
 - 2.** No feasible location exists for the use outside the Special Flood Hazard Areas.
 - 3.** The Reference Level of any structure is elevated above the Community Flood Protection Elevation or is designed and sealed by a Professional Engineer or a Registered Architect to be watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
 - 4.** There will be no storage of materials or tanks which could flood within the Special Flood Hazard Area unless they are contained in a structure as defined in 3. above.
 - 5.** The use complies with all other applicable laws and regulations.
 - 6.** The Town of Davidson has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the Variance.

18.5.9 NOTIFICATION AND RECORDKEEPING

- A.** Any applicant to whom a Variance from the FEMA Base Flood Elevation is granted shall be given written notice specifying the difference between the FEMA 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 Reference Level elevation. Such notification shall be maintained with a record of all Variance actions.
- B.** The Floodplain Administrator shall maintain the records of all appeal actions and report any variances regarding FEMA minimum standards to the Federal Emergency Management Agency and the State of North Carolina upon request.

18.5.10 APPEAL FROM BOARD OF ADJUSTMENT

- A.** Any person aggrieved by the final decision of the Board of Adjustment to grant or deny a Floodplain Development Permit shall have 30 days to file an appeal to Mecklenburg County Superior Court, as provided in N.C.G.S. 143-215.57 (c).
- B.** Any party aggrieved by the decision of the Board of Adjustment related to any other order, decision, determination or interpretation of these regulations, including the granting or denial of a Variance, shall have 30 days from the receipt of the Board's decision to file a petition for review in the nature of certiorari in Mecklenburg County Superior Court.

18.6 PROVISIONS FOR FLOOD HAZARD REDUCTION

18.6.1 GENERAL STANDARDS

- A.** In all Special Flood Hazard Areas, the following provisions are required:
- 1.** All New Construction and Substantial Improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
 - 2.** Manufactured Homes shall be anchored to prevent flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, the use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
 - 3.** All New Construction and Substantial Improvements shall be constructed with materials and utility equipment resistant to flood damage;
 - 4.** All New Construction or Substantial Improvements shall be constructed by methods and practices that minimize flood damage;
 - 5.** All new electrical,, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed, constructed, installed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Flood Protection Elevation. These include but are not limited to HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric meter panels/boxes, utility/cable boxes, appliances (i.e., washers, dryers, refrigerator, etc.), hot water heaters, electric wiring, and outlets/switches;
 - a.** Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
 - b.** Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
 - c.** The cost for replacements that are for maintenance, are not part of a substantial improvement, and that are installed at the original location are not included as substantial improvement costs if the replacements are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Flood Protection Elevation.
 - 6.** All new and replacement water supply systems shall be designed to minimize or eliminate the infiltration of floodwaters into the system;
 - 7.** New and replacement sanitary sewage systems shall be designed to minimize or eliminate the infiltration of floodwaters into the system and discharges from the systems into floodwaters;

- 8.** On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- 9.** Any alteration, repair, reconstruction or improvements to a structure which is in compliance with the provisions of this ordinance, shall meet the requirements of “New Construction” as contained in this ordinance;
- 10.** Construction of new solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted except by variance, in Special Flood Hazard Area. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated above the Community Base Flood Elevation or designed to be watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy;
- 11.** Any new critical facility must be located outside of the 500-year (0.2%) flood fringe area and elevated at least one foot above the 500-year (0.2%) flood elevation or the Community Base Flood Elevation whichever is greater. The determination of this flood fringe area and elevation will be provided by the Floodplain Administrator;
- 12.** Subdivisions. All Development proposals submitted for review and approval in accordance with the Town of Davidson Planning Ordinance shall also comply with the following provisions:
 - a.** Locate and construct public utilities and facilities, such as sewer, gas, electrical and water systems, to minimize flood damage;
 - b.** Construct all new streets located in a Community Special Flood Hazard Area in accordance with the applicable provisions of the Subdivision Ordinance;
 - c.** Design and construct adequate drainage to reduce exposure to flood hazards; and
 - d.** Take such other appropriate measures needed to minimize flood damage.
- 13.** For the purpose of determining Substantial Improvement, the Floodplain Administrator shall make a determination of the total cost of repairs as it relates to a Substantial Improvement, including a determination of whether a series of repairs, reconstructions or improvements constitute one single alteration such that the total cost of the repairs, reconstructions or improvements will be the cumulative cost from the first alteration.
- 14.** When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.
- 15.** When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation shall apply.

18.6.2 SPECIFIC STANDARDS

- A.** Unless a variance is granted by the Town of Davidson ZBA, no new construction, substantial improvements or other development requiring an Individual Floodplain Development Permit per Section 18.4.2.2, is allowed within the Community and FEMA Special Flood Hazard Area, except where necessary for public infrastructure including but not limited to streets, utilities, greenways and sidewalks. These uses must be approved by the Floodplain Administrator. Review and implementation of SWIM buffer regulations shall be concurrent and coordinated with the provisions of this chapter, so that both are satisfied.
- B.** Any existing structure, that at the time such structure was most recently constructed, re-constructed, or substantially improved conformed to all applicable federal, state, and local ordinances which provide standards for preventing and reducing flood loss and damage, may be reconstructed or rehabilitated to its condition as of the most recent construction, re-construction, or substantial improvement without obtaining a variance pursuant to Section 18.6.2.A. All other requirements of this Ordinance shall be applicable.

In all Community and FEMA Special Flood Hazard Areas where development is allowed by variance the following provisions will apply:

18.6.2.1 RESIDENTIAL CONSTRUCTION

- A.** New Construction or Substantial Improvement of any residential structure shall have the Reference Level, elevated at least one foot above the Community Base Flood Elevation.
- B.** Non-substantial Improvements Notice Renovations, rehabilitations, repair, reconstruction, or improvement costing between 10% and 50% of the Market Value of the existing building and said building having the Reference Level below the Flood Protection Elevation, will require the property owner to record a Notice of Floodplain Improvements (provided in the Technical Guidance Document) with the Mecklenburg County Register of Deeds Office prior to the issuance of a Building Permit.

18.6.2.2 NONRESIDENTIAL CONSTRUCTION

New Construction or Substantial Improvement of any commercial, industrial or nonresidential structure shall meet the requirements for residential construction in Section 18.6.2.1 above, or the structure may be flood proofed 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 effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 18.4.2.3.

18.6.2.3 NEW BUILDINGS REMOVED FROM THE FEMA SPECIAL FLOOD HAZARD AREA BY FILL

When new buildings have been constructed on land that has been removed from the FEMA Special Flood Hazard Area by the placement of fill, they must have the Reference Level (including basement) elevated at least one foot (two feet on the Catawba River) above the Community Base Flood Elevation.

18.6.2.4 ELEVATED BUILDINGS

New Construction or Substantial Improvement of elevated buildings, that include fully enclosed areas formed by foundation and other exterior walls below the Community Base Flood Elevation shall meet the requirements of Section 18.6.2.1, and shall be designed to preclude finished living space and shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. The walls shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

- 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 (2) openings, having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
 - 2.** The bottom of all openings shall be no higher than one (1) foot above adjacent grade at 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;
 - 4.** Openings must be on different sides of the enclosed area if possible; and
 - 5.** If the building has more than one enclosed area, each must have openings.
- B.** Foundation enclosures:
 - 1.** Vinyl or sheet metal skirting is not considered an enclosure for regulatory and flood insurance rating purposes. Therefore such skirting does not require hydrostatic openings as outlined above.
 - 2.** Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires hydrostatic openings as outlined above to comply with this ordinance.
- 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 enter to the living area (stairway or elevator).
- D.** The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas.
- E.** Shall be constructed entirely of flood resistant materials at least to the Flood Protection Elevation.

- F. The enclosed area shall not be temperature controlled.

18.6.2.5 DRYLAND ACCESS

Access to Habitable Buildings during a flood event is extremely hazardous. Dryland Access must be provided to new or Substantially Improved Habitable Buildings according to the following criteria:

Dryland Access is required if any portion of either the Habitable Building or vehicular access route, connecting the Habitable Building to a public street, is within the Floodplain. If Dryland Access cannot be obtained, a Variance to the requirement for Dryland Access may be granted by the Board of Adjustment. Plans and details for the Dryland Access must be submitted by a registered professional engineer or surveyor and approved by the Floodplain Administrator. The following are exempt from the Dryland Access Requirement:

- A. Substantial Improvement to an existing Habitable Building where the property does not have any access to a Dry Public Street.
- B. Construction of a new Habitable Building where both the Habitable Building and the access route connecting it to a public street, are located entirely outside the Community Encroachment Area and where the property does not have any access to a Dry Public Street. Under this exemption, access from the Habitable Building to the public street must;
 - 1. Connect to the highest point of the public street adjacent to the property;
 - 2. Be constructed of gravel, pavement or concrete and be at least 12' wide; and
 - 3. Be constructed entirely at or above the elevation of highest point of the public street adjacent to the property.

18.6.2.6 FEMA FLOODWAY AND COMMUNITY ENCROACHMENT AREA

The FEMA Floodway and the Community Encroachment Area are very hazardous **areas** due to the velocity of floodwaters which carry debris and potential projectiles and have erosion potential. The following provisions shall apply within each of these designated areas:

- A. **Community Encroachment Area.** No Encroachments, requiring an Individual Floodplain Development Permit (Section 18.4.2.2), including fill, New Construction, Substantial Improvements and other Development shall be permitted within the Community Encroachment Area unless it has been demonstrated through Floodway Engineering Analysis performed in accordance with standard engineering practice that such Encroachment would not result in increased flood heights of greater than 0.10' during the occurrence of a Community Base Flood. Such certification and associated technical data by a registered engineer shall be approved by the Floodplain Administrator. Any change which would cause a rise of more than 0.10' in the Community Base Flood Elevation will require notification of impacted property owners, and a Community Conditional Letter of Map Revision (CoCLOMR) from the Floodplain Administrator. If approved and constructed, as-built plans must be submitted and approved by the Floodplain Administrator and a Community Letter of Map Revision (CoLOMR) issued. A

Certificate of Occupancy will not be issued without the above stated Community Letter of Map Revision.

Projects impacting existing Habitable Buildings that increase the Community Base Flood Elevation more than 0.00' will not be allowed without a Variance.

- B. FEMA Floodway.** No Encroachments requiring an Individual Floodplain Development Permit (Section 18.4.2.2), including fill, New Construction, Substantial Improvements and other Development shall be permitted within the FEMA Floodway unless it has been demonstrated through Floodway Engineering Analysis performed in accordance with standard engineering practice that such Encroachment would not result in any (0.00') increase in the FEMA Base Flood Elevations during the occurrence of a FEMA Base Flood and no increase in the Community Base Flood Elevations during the occurrence of the Community Base Flood. Such analysis performed by a registered professional engineer shall be approved by the Floodplain Administrator. Any change which would cause a rise in the FEMA Base Flood Elevation or an increase in the FEMA Floodway width during the occurrence of the FEMA Base Flood will require notification of impacted property owners, and a Conditional Letter of Map Revision from FEMA. If approved and constructed, as-built plans must be submitted by the property owner and approved by FEMA and a Letter of Map Revision issued. A Certificate of Occupancy will not be issued without the above stated Conditional Letter of Map Revision.

Any change which would cause a rise in the Community Base Flood Elevation or an increase in the width of the Community Encroachment Area during the occurrence of the Community Base Flood will require notification of impacted property owners, and a Community Conditional Letter of Map Revision (CoCLOMR).

Projects which cause a rise of greater than 0.00' in the FEMA Base Flood Elevation and impact an existing Habitable Building, will not be allowed.

- 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 Section 18.6.2.8 are met.

- D. Temporary Encroachments.** Certain temporary Encroachments into the Community Encroachment Area and/or the FEMA Floodway may be exempt from meeting the requirements of Section 18.6.2.6. A. and B. Examples of temporary Encroachments include but are not limited to: sediment control devices including basins, check dams diversions, etc. temporary stream crossings, haul roads/construction entrances, storage of equipment, soil stockpiling. The following conditions that must be met to qualify for the exemption;

1. The proposed Encroachment shall not be in place more than three months and is renewable for up to one year with written approval from the Floodplain Administrator. Temporary sediment control devices may be kept in place longer than one year if required by the appropriate regulatory agency, and,

2. Supporting documentation, including a Floodway Engineering Analysis (if required by the Floodplain Administrator) must be submitted by a registered professional engineer indicating that the proposed project will not impact any existing habitable building or overtop any roadway surfaces.
3. The temporary Encroachment will require an Individual Floodplain Development Permit unless it is included in another IFDP.

18.6.2.7 ADDITIONS/IMPROVEMENTS

- A. Additions and/or improvements to pre-FIRM structures whereas the addition and/or improvements in combination with any interior modifications to the existing structure
 1. Are not a Substantial Improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
 2. Are a Substantial Improvement, both the existing structure and the addition and/or improvements must comply with the standards of Sections 18.6.2.1 and 18.6.2.2.
- B. Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall require only the addition to comply with the standards of Sections 18.6.2.1 & 18.6.2.2.
- C. Additions and/or improvements to post-FIRM structures whereas the addition and/or improvements in combination with any interior modifications to the existing structure
 1. Are not a Substantial Improvement, the addition and/or improvements only must comply with the standards for New Construction.
 2. Are a Substantial Improvement, both the existing structure and the addition and/or improvements must comply with the standards of Sections 18.6.2.1 and 18.6.2.2.

18.6.2.8 MANUFACTURED HOMES:

- A. New and replaced Manufactured Homes shall be elevated such that the Reference Level of the manufactured home is elevated at least one (1) foot above the Community Base Flood Elevation.
- B. 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, either by certified engineered foundation system, or in accordance with the Regulations for Mobile Homes and Modular Housing adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by raising 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 certification is required.
- C. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or

subdivision located within the Special Flood Hazard Area. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

- D. All enclosures or skirting below the lowest floor shall meet the requirements of Section 18.6.2.4.

18.6.2.9 RECREATIONAL VEHICLES

Shall either:

- A. Be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or
- B. Meet all the requirements for New Construction.

18.6.2.10 TEMPORARY STRUCTURES

Prior to issuance of a Floodplain Development Permit for a temporary structure the following requirements must be met:

- A. All applicants must submit to the Floodplain Administrator a plan for removal of such structure(s) in the event of a hurricane or flash flood notification. The plan must include the following information:
 - 1. A specified time period for which the temporary use will be permitted. The time specified may not exceed three months, and is renewable up to one year;
 - 2. The name, address, and phone number of the individual responsible for the removal of the structure;
 - 3. The time frame prior to the event at which a structure will be removed;
 - 4. A copy of the contract or other suitable instrument with a trucking company to ensure the availability of removal equipment when needed; and
 - 5. Designation, accompanied by documentation, of a location outside the floodplain to which the temporary structure will be removed.
- B. The above information shall be submitted in writing to the Floodplain Administrator for review and written approval.

18.6.2.11 ACCESSORY STRUCTURE

When accessory structures (sheds, detached garages, etc.), are to be placed in the Floodplain the following criteria shall be met:

- A. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
- B. Accessory structures shall be designed to have a low flood damage potential;

- C. Accessory structures shall be firmly anchored in accordance with Section 18.6.1.A.1;
- D. Service facilities such as electrical shall be elevated in accordance with Section 18.6.1.A.5;
- E. Accessory structures shall have hydrostatic openings per Section 18.6.2.4;
- F. Accessory structures under 150 square feet do not require an elevation or flood proofing certificate; and
- G. Accessory structures shall not be temperature-controlled.

18.6.2.12 PARKING AREAS

All parking areas for new or substantially improved non-single family habitable buildings must be at an elevation such that water depths would be less than six inches deep in any parking space during the occurrence of a Community Base Flood.

18.6.2.13 LEVEES

In all Community and FEMA Special Flood Hazard Areas where Community and FEMA Base Flood Elevation data have been provided, the following provisions for Levees are required:

A. General Levee Requirements

1. Levees will be treated as Development in the Floodplain and are subject to all applicable sections of this Ordinance.
2. The primary purpose of a Levee must be to protect Habitable Buildings from flooding above the Reference Level from a Community Base Flood event. However, the protection of buildings that are not Habitable Buildings or Habitable Buildings that flood in less than the Community Base Flood event are permissible incidental results of the location of the Levee.
3. With the exception of a Levee that protects a building or feature that must be located in the vicinity of a stream to be functional such as a stream monitor, water/sewer facility or other uses approved by the Floodplain Administrator, Levees require the approval of the Director of Mecklenburg County Storm Water Services, or his designee, regardless of their location within the Community Special Flood Hazard Area (entire Floodplain).
4. With the exception of a Levee that protects a building or feature that must be located in the vicinity of a stream to be functional such as a stream monitor, water/sewer facility or other uses approved by the Floodplain Administrator, the owner of the Levee and the Director of Mecklenburg County Storm Water Services, or his designee, shall conduct an Open House Forum prior to consideration of approval. The Open House Forum initiates a 30-day comment period for the Director or his designee to receive comments from the public.
5. Owners of land adjacent to a proposed Levee shall be notified of the Open House Forum and be provided an opportunity to submit written comments during the 30-

day comment period. Notification is to occur through regular mail, as well as a sign being placed at a conspicuous place at the creek and along the public and private road(s) of the properties that would be protected by the proposed Levee.

6. After the end of the 30-day comment period, but no more than 60 days from the end of the comment period, the Director shall approve or disapprove the application or request more information from the owner of the Levee. If the Director determines that the additional information is sufficiently significant, the Director may offer an additional 30-day comment period to all parties involved. Consistent with Article IV, the Director's decision may be appealed to the Zoning Board of Adjustment
7. Regardless of whether the proposed Levee would meet FEMA certification requirements, floodplain lines and flood elevations will not be modified based on the location, performance or any other aspects of the Levee.

B. Levee Permitting Requirements

Prior to the issuance of a Floodplain Development Permit for construction of a proposed Levee, the applicant must submit the following information in writing to the Floodplain Administrator for review and written approval:

1. Plans and/or specifications showing the location of the proposed Levee is as far away from the adjacent creek as reasonably possible;
2. A copy of the written approval for the Levee received from the Director of Mecklenburg County Storm Water Services;
3. Verification of notification to owners of land adjacent to the proposed Levee (those within 500 feet of the property lines of the parcel on which the proposed Levee is to be located or within a distance equal to the length of the proposed Levee, whichever is greater), Notification is also to include properties that are in the Community Special Flood Hazard Area and within the hydraulic modeling limits as described below;
4. Copies of all written comments received from property owners referenced above;
5. Floodway Engineering Analysis showing the proposed-conditions if the Levee is proposed to be located within the Community Encroachment Area and that accounts for the future construction of other Levees;
6. A copy of the contract with the entity responsible for construction of the proposed Levee;
7. A copy of the maintenance plan for the Levee which has been certified by a NC Professional Engineer, which shall include a description of the process by which the Levee will be inspected annually and provide for updated plans to be provided annually to property owners and residents intended to benefit from the Levee.

18.6.2.14 TANKS

When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- A.** Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the Community and/or FEMA Base Flood, including the effects of buoyancy assuming the tank is empty;
- B.** Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the Community and/or FEMA Base Flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
- C.** Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section 9-102 (b) of this ordinance shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the Community and/or FEMA Base Flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions;
- D.** Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
 - 1.** At or above the Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the Community and/or FEMA Base Flood; and
 - 2.** Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the Community and/or FEMA Base Flood.

18.6.2.15 FILL

Proposed placement of fill within the Special Flood Hazard Area requires demonstration of compliance with Section 9 and 10 of the Federal Endangered Species Act (ESA). The demonstration of compliance must be provided to the Floodplain Administrator.

18.7 LEGAL STATUS PROVISIONS

18.7.1 LEGAL STATUS PROVISIONS

A. Effect on rights and liabilities under the existing Floodplain Regulations.

This ordinance in part comes forward by re-enactment of some of the provisions of the Floodplain Regulations enacted January 10, 1995, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any

action, suit or proceeding instituted or pending. All provisions of the Floodplain Regulations enacted on January 10, 1995, as amended, which are not reenacted herein, are repealed.

The date of the initial Flood Damage Prevention Ordinance for Mecklenburg County is December 4, 1972.

B. Effect upon outstanding Floodplain Development Permits.

Nothing herein contained shall require any change in the plans, construction, size or designated use of any Development or any part thereof for which a Floodplain Development Permit has been granted by the Floodplain Administrator before the time of passage of this Floodplain Regulation ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of two (2) years subsequent to passage of this ordinance or any revision thereto, such permit shall become void and construction or use shall be in conformity with the provisions of this ordinance.

Any application(s) for a Floodplain Development Permit received prior to the effective date of these Floodplain Regulations shall be reviewed under the regulations in effect at the time of the initial application. Any incomplete application(s) for a Floodplain Development Permit will be valid only for ninety (90) days after the Floodplain Administrator has requested additional information from the applicant or his agent. If ninety (90) days after the owner or his agent has received the request for additional information the applicant has failed to submit reasonably complete information that demonstrates a good faith effort to provide all the additional information requested, as determined by the Floodplain Administrator, the application will become void. Any subsequent submittals will be considered as new applications and reviewed under the regulations in effect on the date the subsequent submittal is received by the Floodplain Administrator.

C. Expiration of Floodplain Development Permits issued after Floodplain Regulation adoption.

Individual Floodplain Development Permits issued pursuant to this ordinance expire two years after the date of issuance unless (i) the work has commenced within two (2) years after the date of issuance, or (ii) the issuance of the permit is legally challenged in which case the permit is valid for two (2) years after the challenge has been resolved.

Any incomplete application(s) for an Individual Floodplain Development Permit will be valid only for ninety (90) days after the Floodplain Administrator has requested additional information from the applicant or his agent. If ninety (90) days after the owner or his agent has received the request for additional information the applicant has failed to submit reasonably complete information that demonstrates a good faith effort to provide all the additional information requested, as determined by the Floodplain Administrator, the application will become void. Any subsequent submittals will be considered as new applications and reviewed under the regulations in effect on the date the subsequent submittal is received by the Floodplain Administrator.

SEVERABILITY

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

EFFECTIVE DATE

This ordinance shall become effective upon adoption.

ADOPTION CERTIFICATION

I hereby certify that this is a true and correct copy of the floodplain regulations as adopted by the Town of Davidson North Carolina, on the _____ day of _____, 2018.

WITNESS my hand and the official seal of _____, this the _____ day of _____, 2018.

APPROVED AS TO FORM:

Town Attorney

Adopted on the 23rd of October 2018.

Attest:

Elizabeth K. Shores
Town Clerk

Rusty Knox
Mayor



**Agenda Title: Consider Approval of Tax Levy Adjustments
Finance Director Pieter Swart**

Summary: The town received refunds to be issued from the Solid Waste Fund totaling \$3,895.98 on 5 parcels (As approved by the Mecklenburg Board of County Commissioners (BOCC)). The BOCC also approved a refund of \$40.44 for 1 parcel from ad valorem collections. These refunds will be issued directly by the Town. Details regarding these refund requests are available in the Finance Office.

Summary:

ATTACHMENTS:

Description	Upload Date	Type
No Attachments Available		



**Agenda Title: Consider Approval of Non-Profit Grant Funding
Parks and Recreation Director Kathryn Spatz**

Summary: The Board of Commissioners has historically appropriated \$50,000 to be distributed among qualified, registered, town-based non-profits that apply for funding for activities the town does not provide and that serve town residents. The Livability Board reviewed the applications at its September 18 meeting and Past Chair Marty Metzker presented the advisory board's recommendations to the Commissioners on October 2.

At the October 2 meeting, the Commissioners revised the non-profit recommendations and directed staff to notify all non-profit applicants that the Board of Commissioners will accept public comment at the October 23 meeting and will consider approval of funding for non-profits later that evening.

Summary:

ATTACHMENTS:

	Description	Upload Date	Type
▣	Agenda Memo Recommendations for Non-Profit Grant Funding 10.23.18	10/17/2018	Cover Memo
▣	Attachment Non Profit Funding Recommendations 10.23.18	10/17/2018	Cover Memo



Recommendations for Non-Profit Grant Funding

Date: October 23, 2018
To: Davidson Board of Commissioners
From: Kathryn Spatz, Parks & Recreation Director
Re: Recommendations for Non-Profit Grant Funding

1. OVERVIEW

The Board of Commissioners has historically appropriated \$50,000 to be distributed among qualified, registered, town-based non-profits that apply for funding for activities the town does not provide and that serve town residents. In late spring, 2016, the Livability Board was asked to become a part of this annual process. In 2017, the Livability Board updated the application for the non-profits to complete to include more information, particularly to ensure that funding was used for activities beyond basic operations; rather funding was to be requested for specific programs. On June 12, 2018, the Board of Commissioners adopted the FY18-19 operating budget, appropriating \$50,000 for non-profit funding but directed the Livability Board to present its guidelines to the Commissioners prior to reviewing current applications. The Commissioners authorized the Livability Board to move forward with this year's applications in July. The Livability Board reviewed the applications at its September 18 meeting and past Chair Marty Metzker presented the advisory board's recommendations at the October 2 meeting. At the October 2 meeting, the Commissioners revised the non-profit recommendations and directed staff to notify all non-profit applicants that the Board of Commissioners will accept public comment at its October 23 meeting and will consider approval of funding for non-profits later that evening.

2. RELATED TOWN GOALS

Partnerships: The Town of Davidson will build on existing relationships to strengthen partnerships with strategic organizations and institutions.

3. OPTIONS/PROS & CONS

Options:

- 1) Not allocate the \$4,500 remaining
- 2) Allocate to organizations that provide regular programming to town residents, however did not specify specific projects in their proposals such as Davidson Village Network
- 3) Allocate to organizations that specify projects but do not have solid numbers of town residents served such as the Davidson Farmer's Market and LaunchLKN

4. FYI or RECOMMENDED ACTION

We recommend the Board of Commissioners approve current recommendations.

5. NEXT STEPS

Recommended action taken later this evening and the non-profits notified following board action.

Non-Profit Funding Requests	FY2018-2019			
Organization	Requested	Recommended Funding	Funded	Funding Comments
Davidson Housing Coalition	\$15,000	15,000*		\$15,000 to from Affordable Housing Payment in Lieu fund. HAMMERS for repairs; rest of request is for operating expenses
Davidson Lands Conservancy	\$10,000	\$10,000		Project highlighting the topics of pollinator and native plants/invasives through educational opportunities to contribute to the town and resident's backyards.
DavidsonLearns	\$1,000	\$1,000		Davidson P&R handles DavidsonLearns registration: roughly 50% of participants are town residents. Used to promote DL new program offerings.
Music @StAlbans	\$1,000	\$1,000		Funding for two free concerts at the Library and Ada Jenkins LearnWorks to provide cultural opportunities and learning for people with a wide range of ages and economic status.
Davidson Community Players	\$3,000	\$3,000		Shakespeare on the Green - hire artistic staff, market the shows, and produce entertaining production feature with local actors.
Davidson LifeLine	\$10,000	\$10,000		1. Holding a Town Summit "Our Town's Resilience: In It Together" that will bring in key partners to create a community resilience plan 2. Host Documentary Series at Our Town with panel discussions 3. Increase Digital Presence 4. Enhance Spring Into Wellness event at Triple Play Farm 5. Increase education with QPR (Question, Persuade, Refer) and MHFA (Mental Health First Aid).
Live Healthy Carolinas	\$6,000	\$6,000		Fund a Grow Wall project at Ada Jenkins that will educate children in the LearnWorks after school program on growing food and nutrition, in addition to providing food assistance for the Food Pantry.
North Mecklenburg Crime Stoppers	\$2,000	\$2,000		Funding for award and awareness program. 1/3 of \$6,000 budget is funded from each of northern towns. Other jurisdictions fund from line item in Police budget--recommend that for future.
Ada Jenkins	\$12,500	\$12,500		Operating budget request and received large amount in Community Development Block Grant (CDBG) funding.
Davidson Village Network	\$10,000	\$0		Requested matching funds for staffing and implied commitment for 3 years
LaunchLKN (formerly PiES)	\$5,000	\$0		Not project based and does not keep records on Davidson residents served. From applicant: "We don't have any hard data to share regarding event attendees as we don't request that information. Our assumption is based largely on anecdotal evidence and the individuals we (me and our board) have met during the course of our event series. We do have over 25 accepted LaunchLKN members who are from Davidson; the member group is much smaller than the audience that attends our community-wide events. Membership is limited to those entrepreneurs who are growing tech startups and those who have the skills/knowledge to mentor and support them."
Davidson Farmers Market	\$15,000	\$0		Project-based (storage shed) but could not determine # of town residents served: Market Mgr: We do an annual survey and from that 37.5% of shoppers are Davidson residents, but we only received 149 responses to the survey that went out to 3,500+ emails so it is not an accurate picture of the market as a whole.
Davidson Cornelius Child Development Center	\$5,000	\$0		Town Attorney has reservations about town funds used for individual scholarships. Also, organization received relatively large amount of CDBG funds for scholarships this year.
Charlotte Center for Urban Ministry	\$5,000	\$0		Not Town of Davidson based organization
GenerationNation	\$2,000	\$0		Not Town of Davidson based organization
Total	\$102,500	\$45,500		



Agenda Title: **Consider Approval of Resolution 2018-27 Directing Staff to Apply for Approval to the LGC to finance the purchase of 251 South Street and making certain findings of fact.**

Finance Director Pieter Swart

Summary: Resolution 2018-27 directs staff to apply to the LGC for approval of financing for the purchase of 251 South Street for \$2.55 million, as well as, make certain findings of fact as required by the NCGS § 160A-20.

Summary:

ATTACHMENTS:

	Description	Upload Date	Type
▣	Agenda Memo - Resolution 2018-27 Financing for 251 South Street	10/18/2018	Cover Memo
▣	DRAFT - Resolution 2018-27	10/17/2018	Resolution Letter



Consider Approval of Resolution 2018-27 Directing Staff to Apply for Approval to the LGC to finance the purchase of 251 South Street and making certain findings of fact.

Date: October 23, 2018
To: Davidson Board of Commissioners
From: Piet Swart, Finance Director

1. OVERVIEW

Resolution 2018-27 directs staff to apply to the LGC for approval of financing for the purchase of 251 South Street for \$2.55 million, as well as, make certain findings of fact as required by the NCGS.

2. RELATED TOWN GOALS

Davidson strategic plan goal #8 (2)

3. OPTIONS/PROS & CONS

This resolution is required to seek financing for the purchase of the property at 251 South Street

4. FYI or RECOMMENDED ACTION

Staff recommends approval of this resolution to continue the financing process.

5. NEXT STEPS

Staff will make application to the LGC to approve the financing at their December 4, 2018 meeting and issue an RFP for financing proposals from lenders. The results of the RFP will be presented to the Board on November 13, for consideration of approval on November 27.



RESOLUTION 2018-27
AUTHORIZING THE FILING OF AN APPLICATION FOR
APPROVAL OF A FINANCING AGREEMENT AUTHORIZED BY NORTH CAROLINA
GENERAL STATUTE 160A-20 AND THE FINDING OF
FACT CONCERNING THE PROPOSED FINANCING

WHEREAS, the Town of the Davidson, North Carolina desires to enter into a contract for the purpose of purchasing the land and buildings at 251 South Street, Davidson, NC, collectively herein referred to as “South Street Property” in an amount not to exceed \$2,550,000 in order to better serve the citizens of Davidson; and

WHEREAS, the Town of Davidson, desires to finance the South Street Property by the use of an installment contract authorized under North Carolina General Statute 160A, Article 3, Section 20; and

WHEREAS, findings of fact by this governing body must be presented to enable the North Carolina Local Government Commission to make a finding of fact as set forth in North Carolina General Statute 159, Article 8, Section 151.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the Town of Davidson, North Carolina, meeting in open session on the 23rd day of October, 2018, at which time a public hearing was held on this subject, makes the following findings of fact;

1. The proposed contract is necessary or expedient because of the need to provide additional public facilities within the Town.
2. The sums to fall due under the contract are adequate and not excessive for the proposed purpose because an appraisal was acquired on the property, and financing will be negotiated with a qualified financial institution. The Town will carefully review proposed financing rates with help from the Local Government Commission and a financial advisor.
3. The attorney for the Town of Davidson has rendered an opinion that the proposed project is authorized by law and is a purpose for which public funds may be expended pursuant to the Constitution and laws of North Carolina.
4. The proposed contract is preferable to a bond issue for the same purpose because the town can purchase the South Street Property in a timely manner while practicing proper debt management. The town can also service the debt on this project, fund other projects and keep a healthy fund

balance, without increasing the tax burden on the residents of the town.

5. The cost of the proposed financing is less expensive than the cost of issuing a general obligation bond.

6. The Town of Davidson debt management procedures and policies are satisfactory, as verified by the Town's Finance Director and through all audits, and are in compliance with all applicable laws and will continue to be carried out in such manner.

7. The Town of Davidson does not anticipate any increase in taxes to fund this financing.

8. The Town of Davidson is not in default in any of its debt service obligations.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Town Manager and Finance Director are hereby authorized to act on behalf of the Town of Davidson in filing an application with the North Carolina Local Government Commission for approval of the proposed financing for the purchase of the South Street Property, the proposed financing contract and the execution of all contracts, agreements and assurances between the Town of Davidson and the selected Bank and/or Leasing Corporation for the proposed financing along with all documents related to the financing not inconsistent with this Resolution.

Adopted this 23rd day of October, 2018.

ATTEST:

Elizabeth K. Shores, Town Clerk

Rusty Knox, Mayor



**Agenda Title: Consider Approval of Naming of Park at Bailey Springs
Kathryn Spatz, Parks and Recreation Director**

Summary: At the September 4, 2018 meeting, Commissioners voted unanimously to follow the process below in naming of future parks:

Livability Board's Parks Subcommittee develop 3-5 potential names based on natural features and history of park land.

- Seek public input on those potential names from citizen on Open Town Hall.
- Livability Board make recommendation to Board of Commissioners, considering citizens input.
- Board of Commissioners consider Livability Board recommendation for approval by resolution.

At its September 18 meeting, the Livability Board's Park Subcommittee voted to seek citizen input on the following three potential names for the Park near Bailey Springs:

- Plum Creek Park: the intermittent stream that runs through parkland is named Plum Creek. The Town of Cornelius and Mecklenburg County will soon begin construction on a greenway, to be called Plum Creek Greenway that will connect through the park to the Kincaid Trail.
- Oak Tree Park: TreesDavidson will be planting 70 trees, many of which will be oaks, as part of the November 10 grand opening for Phase I of the park. These trees will benefit and become home to many creatures, great and small.
- Bartlette Creek Park: the park is located off of Bartlette Creek Drive. Naming parks based on location is often a standard practice to help with directions.

At its October 16 meeting, the Livability Board voted unanimously (10-0) to recommend the top selection of the options contained within the survey to the Board of Commissioners.

Since the question was posted on October 9 the overwhelming choice has been Plum Creek Greenway. The Open Town Hall question closes on Tuesday, October 23.

Summary:

ATTACHMENTS:

	Description	Upload Date	Type
▢	Agenda Memo - Naming of Park at Bailey Springs 10-23-18	10/22/2018	Cover Memo
▢	Attachment - Open Town Hall Naming of Park at Bailey Springs 10-23-18	10/23/2018	Cover Memo



Recommendation for Naming of Park by Bailey Springs

Date: October 23, 2018
To: Davidson Board of Commissioners
From: Kathryn Spatz, Parks & Recreation Director
Re: Recommendation for Naming of Park near Bailey Springs

1. OVERVIEW

At the September 4, 2018 meeting, the Commissioners voted unanimously to follow the process below in naming of future parks:

Livability Board's Parks Subcommittee develop 3-5 potential names based on natural features and history of park land.

- Seek public input on those potential names from citizen on Open Town Hall.
- Livability Board make recommendation to Board of Commissioners, considering citizens input.
- Board of Commissioners consider Livability Board recommendation for approval by resolution.

At its September 18 meeting, the Livability Board's Park Subcommittee voted to seek citizen input on the following three potential names for the Park near Bailey Springs:

- Plum Creek Park: the intermittent stream that runs through parkland is named Plum Creek. The Town of Cornelius and Mecklenburg County will soon begin construction on a greenway, to be called Plum Creek Greenway that will connect through the park to the Kincaid Trail.
- Oak Tree Park: TreesDavidson will be planting 70 trees, many of which will be oaks, as part of the November 10 grand opening for Phase I of the park. These trees will benefit and become home to many creatures, great and small.
- Bartlette Creek Park: the park is located off of Bartlette Creek Drive. Naming parks based on location is often a standard practice to help with directions.

At its October 16 meeting, the Livability Board voted unanimously (10-0) to recommend the top selection of the options contained within the survey to the Board of Commissioners.

Since the question was posted on October 9 the overwhelming choice has been Plum Creek Greenway. The Open Town Hall question closes on Tuesday, October 23.

2. RELATED TOWN GOALS

N/A

3. OPTIONS/PROS & CONS

Options:

- 1) Choose one of the names recommended by the Livability Board
- 2) Select another name for the Park near Bailey Springs

4. FYI or RECOMMENDED ACTION

We recommend the Board of Commissioners approve the recommendation of the Livability Board.

5. NEXT STEPS

Staff would begin using the adopted name in press for the November 10 grand opening. We have the park sign—we will do everything to get the new name on it for the grand opening ceremony.

New park near Bailey Springs

October 23, 2018, 11:22 AM

Contents

i.	Introduction	2
ii.	Summary of registered responses	3
iii.	Survey questions	4
iv.	Individual registered responses	5

New park near Bailey Springs

What shall we name our new park?

Introduction

We are almost finished with Phase 1 of the new park near Bailey Springs. You are invited to the grand opening on Saturday, November 10 from 11:00 a.m. to 1:00 p.m. – please join us.

We need your help naming our new park!

On September 4, the Davidson Board of Commissioners directed the livability board's park subcommittee to develop several potential names based on natural features, history of park land, or location and to seek public input. At its September 18 meeting, the parks subcommittee of the livability board confirmed three potential names for the new park near Bailey Springs:

Plum Creek Park: the intermittent stream that runs through parkland is named Plum Creek. The Town of Cornelius and Mecklenburg County will soon begin construction on a greenway, to be called Plum Creek Greenway, that will connect through the park to the Kincaid Trail.

Oak Tree Park: TreesDavidson will be planting 70 trees, many of which will be oaks, as part of the November 10 grand opening for Phase I of the park. These trees will benefit and become home to many creatures, great and small.

Bartlette Creek Park: the park is located off of Bartlette Creek Drive. Naming parks based on location is often a standard practice to help with directions.

Once the community has had an opportunity to consider these options, the full livability board will review all public input and make a recommendation to the Davidson Board of Commissioners. The board of commissioners may choose to adopt a name for the park prior to the November 10 opening event.

New park near Bailey Springs

What shall we name our new park?

Summary Of Registered Responses

As of October 23, 2018, 11:22 AM, this forum had: **Topic Start**

Attendees:	126	October 9, 2018, 10:37 AM
Registered Responses:	33	
Hours of Public Comment:	1.7	

QUESTION 1

What shall we name our new park?

		%	Count
Plum Creek Park		78.1%	25
Oak Tree Park		18.8%	6
Bartlette Creek Park		3.1%	1

New park near Bailey Springs

What shall we name our new park?

Survey Questions

QUESTION 1

What shall we name our new park?

- Plum Creek Park
- Oak Tree Park
- Bartlette Creek Park

New park near Bailey Springs
What shall we name our new park?

Individual Registered Responses

Denise Beall

October 9, 2018, 11:09 AM

Question 1

- Oak Tree Park

Name not shown

October 10, 2018, 7:24 AM

Question 1

- Oak Tree Park

Stacey Anderson

October 10, 2018, 7:27 AM

Question 1

No response

Name not shown

October 10, 2018, 7:33 AM

Question 1

- Plum Creek Park

Ervin S. Duggan

October 10, 2018, 8:04 AM

Question 1

- Plum Creek Park

Name not shown

October 10, 2018, 8:04 AM

Question 1

- Plum Creek Park

Name not shown

October 10, 2018, 8:13 AM

Question 1

- Plum Creek Park

Name not shown

October 10, 2018, 8:15 AM

Question 1

- Plum Creek Park

Carol Jones

October 10, 2018, 8:32 AM

Question 1

- Plum Creek Park

Jim Dumser

October 10, 2018, 8:33 AM

Question 1

- Plum Creek Park

Cathleen Santeiu

October 10, 2018, 8:35 AM

Question 1

- Plum Creek Park

Name not shown

October 10, 2018, 8:43 AM

Question 1

- Oak Tree Park

rondol eagle

New park near Bailey Springs
What shall we name our new park?

October 10, 2018, 8:46 AM

Question 1

- Oak Tree Park

Dominique Rabouin
October 10, 2018, 9:08 AM

Question 1

- Plum Creek Park

joan adams
October 10, 2018, 9:29 AM

Question 1

- Oak Tree Park

Name not shown
October 10, 2018, 9:33 AM

Question 1

- Plum Creek Park

Name not shown
October 10, 2018, 10:50 AM

Question 1

- Plum Creek Park

Alice Sudduth
October 10, 2018, 11:04 AM

Question 1

- Plum Creek Park

Donna Pollack
October 10, 2018, 1:38 PM

Question 1

- Oak Tree Park

Name not shown
October 10, 2018, 3:01 PM

Question 1

- Plum Creek Park

Katherine deBree
October 10, 2018, 4:53 PM

Question 1

- Plum Creek Park

Deborah Bost
October 10, 2018, 6:36 PM

Question 1

- Plum Creek Park

Name not shown
October 11, 2018, 5:33 PM

Question 1

- Plum Creek Park

Name not shown
October 11, 2018, 5:39 PM

Question 1

- Plum Creek Park

Marguerite Williams
October 11, 2018, 5:43 PM

Question 1

- Plum Creek Park

New park near Bailey Springs

What shall we name our new park?

Martin Metzker

October 11, 2018, 8:00 PM

Question 1

- Plum Creek Park

Name not shown

October 12, 2018, 8:47 AM

Question 1

- Plum Creek Park

Name not shown

October 12, 2018, 9:13 AM

Question 1

- Bartlette Creek Park

Name not shown

October 12, 2018, 11:11 AM

Question 1

- Plum Creek Park

Name not shown

October 12, 2018, 12:09 PM

Question 1

- Plum Creek Park

Name not shown

October 15, 2018, 11:27 AM

Question 1

- Plum Creek Park

Jason Parker

October 16, 2018, 7:44 PM

Question 1

- Plum Creek Park

Name not shown

October 22, 2018, 7:53 PM

Question 1

- Plum Creek Park



Agenda Title: Closed Session - § 143.318.11(a)(5) for land acquisition of 335 Sloan Street and 615 Walnut Street; § 143.318.11(a)(6) Personnel

Summary:

ATTACHMENTS:

Description

Upload Date

Type

No Attachments Available