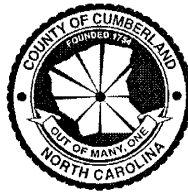


JEANNETTE M. COUNCIL
Chairman

KENNETH S. EDGE
Vice Chairman

CHARLES E. EVANS
MARSHALL FAIRCLOTH
JIMMY KEEFE
BILLY R. KING
EDWARD G. MELVIN



CANDICE WHITE
Clerk to the Board

KELLIE BEAM
Deputy Clerk

CUMBERLAND
★ **COUNTY** ★
NORTH CAROLINA

BOARD OF COMMISSIONERS

MEMORANDUM

TO: Policy Committee Members (Commissioners Evans, Keefe, and Melvin)

FROM: Kellie Beam, Deputy Clerk to the Board **KB**

DATE: February 28, 2014

SUBJECT: Policy Committee Meeting – March 6, 2014

There will be a regular meeting of the Policy Committee on Thursday, March 6, 2014 at 10:30 AM in Room 564 of the Cumberland County Courthouse.

AGENDA

1. Election of Policy Committee Chairman **(NO MATERIALS)**
 2. Approval of Minutes – December 5, 2013 **(Pg. 2)**
 3. Update on Coliseum-Tourism Overlay District and Billboards – US Hwy 301 **(Pg. 10)**
 4. Consideration of Adopting an Ordinance Repealing Chapter 9.5, Article III. Smoking, of the Cumberland County Code and Adopting a Revised Chapter 9.5, Article III. Smoking, of the Cumberland County Code **(Pg. 20)**
 5. Other Items of Business **(NO MATERIALS)**
- cc: Board of Commissioners
Administration
Legal
Communications Manager
County Department Head(s)
Sunshine List

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CUMBERLAND COUNTY POLICY COMMITTEE
NEW COURTHOUSE, 117 DICK STREET, 5TH FLOOR, ROOM 564
DECEMBER 5, 2013 – 10:30 A.M.
MINUTES

MEMBERS PRESENT: Commissioner Charles Evans , Chairman
Commissioner Marshall Faircloth
Commissioner Kenneth Edge

OTHER COMMISSIONERS
PRESENT:

Commissioner Jimmy Keefe
Commissioner Billy King
Commissioner Ed Melvin

OTHERS PRESENT:

James Martin, County Manager
James Lawson, Assistant County Manager
Rick Moorefield, County Attorney
Sally Shutt, Chief Public Information Officer
Melissa Cardinali, Finance Director
Jeffery Brown, Engineering and Infrastructure Director
Tom Lloyd, Planning and Inspections Director
Patti Speicher, Planning Manager
George Turner, Chairman Civic Center Commission
Kellie Beam, Deputy Clerk to the Board
Press

Commissioner Evans called the meeting to order.

1. APPROVAL OF MINUTES – NOVEMBER 7, 2013 MEETING

MOTION: Commissioner Edge moved to approve the minutes.
SECOND: Commissioner Faircloth
VOTE: UNANIMOUS (3-0)

2. CONSIDERATION OF COLISEUM AND TOURISM OVERLAY DISTRICT
AND BILLBOARDS

BACKGROUND:

Chairman Keefe requested drafting and consideration of the establishment of an overlay district with the primary purpose of ensuring new and re-development within the district boundary is compatible with the objective of promoting the Crown Coliseum Complex and establishing the image as a contemporary, vibrant retail area that is harmonious with

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the complex events. He has emphasized that this area is a checkerboard of city/county property and the district should be approved by both governing boards. It would be appropriate to see if there is support from the county board prior to requesting the city's approval.

In addition, supplementing the proposed coliseum amendment, the staff is proposing to restrict new billboards along US Highway 301. This amendment would enhance the future development possibilities of the gateway corridor and allow the county ordinance to be more consistent with the city's billboard standards.

RECOMMENDATION/PROPOSED ACTION:

Direct the staff to coordinate with the city staff, scheduling the proposed amendments with their respective Planning Board/Commission, forwarding to the governing bodies for final public hearings and adoption.

Tom Lloyd, Planning and Inspections Director, reviewed the background information and recommendation as recorded above. The proposed draft "Coliseum-Tourism Overlay District Text Amendment" follows:

ARTICLE II INTERPRETATIONS, CALCULATIONS, AND DEFINITIONS

Hotel: An establishment which provides compensated lodging on a short-term basis with access to units from interior lobbies or hallways, and provides numerous amenities intended to increase guests' lodging satisfaction.

Motel: An establishment that provides short-term and long-term lodging for compensation, usually with less guest amenities than a hotel, has independent exterior entrances/exits to each unit from the off-street parking area and is typically one or two stories.

ARTICLE III ZONING DISTRICTS

SECTION 308.1 OVERLAY DISTRICTS

B. Coliseum-Tourism Overlay District (CTOD). The primary purpose of this district is to ensure development within the district boundary is compatible with the objective of promoting the Crown Coliseum Complex and establishing the image as a contemporary, vibrant retail area that is harmonious with the complex events. Ensuring that new construction and re-development is oriented to serving the users of the coliseum complex, particularly the traveling public, the economic well being of the county will be maximized.

ARTICLE VIII.I

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OVERLAY DISTRICTS

SECTION 8.102. COLISEUM-TOURISM OVERLAY DISTRICT (CTOD).

- A. Applicability: The provisions of this section shall apply to the proposed development and any re-development of properties within the Coliseum-Tourism Overlay District, including any addition, remodeling, relocation or construction requiring a zoning or building permit. In the event there is a conflict between the requirements of provisions of this ordinance and this overlay district, the overlay provisions shall prevail.
- B. Coliseum-Tourism Overlay District Map: The boundary of the CTOD is established as a layer on the *Official Zoning Map, Cumberland County North Carolina* in digital format and is hereby adopted and made a part of the provisions of this section as if the map itself were contained herein-see Appendix 3 for informational sketch maps.
- C. Land Uses:
1. *Principal Uses*. All new uses of property and any change in an existing use shall first require approval of a Conditional Zoning application subject to the provisions of Article V prior to commencement of the proposed or change in use. To ensure the primary objective of the district is attained and not including officially sanctioned government events, land uses within the district are limited to the following:
 - a. Alcoholic Beverage Control Sales;
 - b. Apparel and Accessory Sales
 - c. Assemblies, Community, Assembly Hall, Armory, Stadium, Coliseum, Community Center, Fairgrounds, and similar uses;
 - d. Banks, Savings and Loan Company and Other Financial Activities
 - e. Books & Printed Matter Sales, not including those regulated by Section 924;
 - f. Convenience Retail with Gasoline Sales, including drive through motor vehicle washing;
 - g. Dry Cleaning; Laundry, self service;
 - h. Farmers' Market;
 - i. Flower Shop;
 - j. Hotel, except as regulated by Section 924;
 - k. Motor Vehicle Rentals;
 - l. Office Use – with no on-premises stock or goods for sale to the general public and the operations and services of which are customarily conducted and concluded by means of written, verbal or mechanically reproduced communications material;
 - m. Public/Community Utility Stations/Sub-stations;
 - n. Recreation/Amusement Indoor (Section 920) conducted inside building for profit, not otherwise listed and not regulated by Section 924;
 - o. Recreation or Amusement Public/Private (Section 920) not operated as a business for profit including playgrounds, neighborhood center buildings,

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- parks, museums, swimming pools, and similar uses, and not regulated by Section 924;
- p. Restaurant, operated as commercial enterprise, not including those regulated by Section 924;
 - q. Swimming Pools, incidental to a principal use (Section 1002.C);
 - r. Veterinarian.
2. *Accessory, Ancillary and Incidental Uses.* In conjunction with the above allowed principal uses as listed in sub-section 1,
- a. Permanent outdoor sales and displays shall be permitted only within a physically defined area that is delineated on the site plan as approved by the Board of Commissioners, and all physical improvements defining the sales/display area shall be constructed of materials comparable to the primary building(s) on site – this provision shall not apply to a farmers’ market, see Section 907.1 for specific regulations pertaining to farmers’ markets;
 - b. Outdoor storage shall be prohibited within this district;
 - c. Temporary or promotional events conducted outside must have the prior approval of the Planning & Inspections Director, or the director’s designee;
3. *Nonconformities.* To ensure the primary objective of the district is attained, strict implementation of the below provisions regulating nonconformities within the district is paramount. For purposes of this section, permissible repair is defined as those repairs, not replacement, that are limited to routine or ordinary maintenance and which would not result in the extension of the normal life of the structure. Impermissible replacement is defined as maintenance, construction or re-construction of a nonconforming structure or part thereof or structure housing a nonconforming use within the district that is damaged by fire, storm or other causes including natural deterioration to an extent exceeding 30 percent of the structure’s building tax assessed value or its bulk (including foundations)
- a. All nonconforming uses not carried on within a structure, except those which are specifically allowed as an accessory, ancillary or incidental to an allowed use subject to the provisions of this section, shall be discontinued within one calendar year from the effective date of this ordinance, regardless whether or not the nonconforming use status applies to structure(s) and premises in combination with the nonconforming outdoor use – any subsequent use of the land and structures placed thereon shall conform to the provisions of this section.
 - b. A nonconforming use may not be changed or expanded, or resumed if the nonconforming use has ceased for a period of ninety calendar days within the district.
 - c. Any structure that is nonconforming due to noncompliance with dimensional requirements, but which houses an allowed use within the district may continue provided that its nonconformity is not increased, except where specifically approved by the County Board of

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Commissioners, and provided that prior to any upgrades to any nonconforming structure housing an allowed use beyond permissible repairs, the minimum landscaping and pedestrian improvements are implemented on this site.

- d. Owners of properties within the district shall not allow for the impermissible replacement of any nonconforming structure located inside the district unless specifically approved by the County Board of Commissioners.

D. Site Design/Site Layout.

1. *Yard Setbacks.* The lot and yard setback provisions of Article XI as applied to the C2 (P) district shall apply to properties fronting on Gillespie Street (US HWY 301/I-95 Bus) and Owen Drive (SR 1007), except that for proposed buildings with a height of greater than 25 feet, the front yard setback shall be a minimum distance equaling twice the building height. For developments along all other streets, regardless whether public or private and including new or proposed streets, the yard setbacks shall be as follows:
 - a. Minimum of 35 feet from each street right-of-way/property line for the front yard setbacks, except that for structures more than 25 feet in height, the front yard setback shall be a minimum distance equaling twice the height of the building;
 - b. Minimum of 15 feet from a side or rear property line where the adjacent property is also within the district or zoned for non-residential use; and
 - c. Minimum of 30 feet from a side or rear property line where the adjacent property is zoned residential.

In the event development is proposed for a property without direct frontage on a public or approved private street, the yard setbacks as requested by the developer must afford public safety and be delineated on the site plan. In addition, the plan for ingress/egress must clearly be shown on the site plan, addressed in the application and the requisite easements provided to the Code Enforcement Manager at the time of permit application.

2. *Off-Street Parking, Loading and Drives.* Off-street parking and loading shall be provided as required by Article XII; however, all required parking shall be surfaced with asphalt, concrete or pervious material and shall be maintained in proper repair. Interconnectivity between parcels within the district is mandatory and shall be included on the site plan indicating the location and width of the proposed interconnecting drive areas along with all driveways to the street right-of-way.
3. *Signs.* Signage shall be allowed in the district consistent with the provisions for the C1 (P) zoning district, to include all related regulations of Article XIII.
4. *Buffers.* The provisions of Section 1102.G shall apply along the periphery of every developed lot within the district that is also adjacent to a residentially-zoned property.

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5. *Dumpster and Utility Screening.* All dumpster and utility areas shall be located on concrete pads and screened on a minimum of three sides with a solid fence between the dumpster or utility and complimented with vegetative plantings.
6. *Fencing.* Any fencing proposed must be specifically identified as to type and location on the site plan; if not included on the plan, the permit for said fence shall be denied – this provision includes open fences as well as solid.
7. *Landscaping.* Landscaping shall be provided in accordance with the provisions of Section 1102.N, except that for the streetscape landscaping a minimum of four small ornamental trees per 50 linear feet of street frontage shall be required. Healthy existing large shade may be utilized for calculation of landscaping compliance in lieu of the ornamental streetscape trees only if they are in the appropriate area on the subject lot and a minimum of eight inch caliper. The developer is strongly encouraged to retain as many existing trees of significant stature as possible.
8. *Storm water Utility Structures.* Any storm water utility structure proposed within the front yard or within view from the public or private street shall be integrated into the proposed project design and aesthetically pleasing. The burden shall be on the developer to address the storm water utility structure aesthetic design plans proposed within the application or on the site plan.
9. *Underground Utilities.* All utilities shall be located underground except where specifically prohibited by the utility provider.
10. *Other Regulations.* The developer/property owner shall ensure compliance with all applicable Federal, State and local regulations.

The proposed “Supplemental Amendment to Coliseum-Tourism Overlay District – Billboards” follows:

PROPOSED SUPPLEMENTAL AMENDMENT TO COLISEUM-TOURISM OVERLAY DISTRICT

ARTICLE XIII SIGN REGULATIONS

SECTION 1307 BILLBOARDS (OFF-PREMISES SIGNS)

In addition to other applicable standards contained within this article, the following provisions shall apply to all billboards:

A. General Provisions

1. Billboards shall be allowed only along right-of-way with full control or limited control of access, such as freeways and major thoroughfares, except that billboards shall be prohibited within 1,000’ of either side of the right-of-way of US Highway 301 (South Eastern Boulevard/Gillespie Street) from NC

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Highway 87 (Martin Luther King Jr Freeway) south to SR 2286 (Seven Mountain Drive);

2. Billboards shall not face or be oriented toward any adjoining or abutting residentially-zoned or residentially-used property and shall not be located within 200 feet of a residential zoning district boundary line;
3. Billboards shall not exceed a sign height of 35 feet;
4. All billboards are considered as a principal use of property, not accessory, and shall be allowed in the C(P) Planned Commercial District, upon approval of a Special Use Permit (Section 1606), and M(P) Planned Industrial District, upon approval of the site plan (Article XIV) as a permitted use, provided that the dimensional criteria outlined below is complied with;
5. All Federal, State, and other local regulations shall be complied with and
6. Billboards are exempt from the landscaping and buffering provisions of this ordinance.

Mr. Lloyd reviewed the proposed draft provisions of the Coliseum-Tourism Overlay District (CTOD) and the supplemental billboard amendment as recorded above. Mr. Lloyd stated the goal of the proposed CTOD is to promote tourism around the Crown Coliseum by bringing businesses that attract tourism. Mr. Lloyd explained the proposed CTOD would not allow uses that could be detrimental to tourism. Mr. Lloyd stated the CTOD would have to be presented to and approved by the Planning Board, Board of Commissioners and Fayetteville City Council. Mr. Lloyd stated he and Patti Speicher, Planning Manager, reviewed the proposed CTOD with the City of Fayetteville staff. Commissioner Evans verified with Mr. Lloyd that a public hearing would be required before the Board of Commissioners before the CTOD could be approved.

Mr. Lloyd stated the supplemental billboard amendment proposes the area one thousand feet of each side of the right of way from Owen Drive to Southern Mountain Drive be billboard free. Commissioner Edge asked about signage for businesses and questioned whether a standardized sign could be written in the proposal such as the signs in Hilton Head, South Carolina. Commissioner Edge stated in Hilton Head all business signs are standardized and at a reasonable height which makes the signs more attractive. Commissioner Faircloth agreed with Commissioner Edge and stated Cary, North Carolina may be another example for Mr. Lloyd to research. Mr. Lloyd stated he would research the signs in Hilton Head and Cary to compare sign regulations for the overlay district.

Mr. Lloyd stated the proposed draft provisions of the CTOD states if a legal non-conforming business closes for more than ninety (90) days for any reason the business must come back as conforming. Commissioner Keefe stated during this time of economic uncertainty he feels ninety (90) days is not enough time. Commissioner Evans agreed with Commissioner Keefe by stating he feels ninety (90) days is not long enough. Commissioner Edge stated he feels that ninety (90) days may be too short for businesses

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to establish themselves but if you leave a business there much longer than ninety (90) days the business may start to deteriorate which would have a negative impact on tourism. George Turner, Civic Center Commissioner Chairman, stated ninety (90) days is not realistic from a real estate perspective and suggested one hundred and eighty (180) days would be more reasonable. The consensus of the Policy Committee was for the provision that would prohibit resumption of a use not allowed within the district if the use ceased for a period of ninety (90) days to be changed to one hundred and eighty (180) days.

Mr. Lloyd stated the proposed draft provisions of the CTOD states if a building in the district is damaged more than 30% of the tax value it would have to be rebuilt as a conforming use in order to be permitted. Commissioner Keefe stated he feels 30% is too strong. Commissioner Faircloth stated since 30% seems too strong the proposal should be for 40%. The consensus of the Policy Committee was for the proposed CTOD to state if a building in the district is damaged more than 40% of the tax value it would have to be brought up to conforming use standards to be permitted.

The consensus of the Policy Committee was for Mr. Lloyd to incorporate the changes mentioned above and bring the revisions back to the March 6, 2014 Policy Committee meeting for consideration to take to the full board.

3. OTHER ITEMS OF BUSINESS

There were no other matters of business.

MEETING ADJOURNED AT 11:15 AM

Walter Clark,
Chair
Cumberland County

Patricia Hall,
Vice-Chair
Town of Hope Mills

Garland C. Hostetter,
Town of Spring Lake
Harvey Cain, Jr.,
Town of Stedman
Charles C. Morris,
Town of Linden



ITEM NO. 3

Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

Vikki Andrews,
Diane Wheatley,
Carl Manning,
Cumberland County

Benny Pearce,
Town of Eastover

Donovan McLaurin,
Wade, Falcon & Godwin

CUMBERLAND
★ **COUNTY** ★
NORTH CAROLINA

Planning & Inspections Department

**MEMO FOR THE AGENDA OF THE MARCH 6, 2014
MEETING OF THE POLICY COMMITTEE**

TO: POLICY COMMITTEE MEMBERS
FROM: TOM LLOYD, PLANNING & INSPECTIONS DIRECTOR *TJL*
THROUGH: JAMES MARTIN, COUNTY MANAGER
DATE: February 26, 2014
**SUBJECT: UPDATE ON COLISEUM-TOURISM OVERLAY DISTRICT & BILLBOARDS -
US HWY 301**

Requested by: Jimmy Keefe, Commissioner
Presenter(s): Tom Lloyd, Planning & Inspections Director
Estimate of Committee Time Needed: 30 minutes

BACKGROUND: On December 5, 2013, the committee was briefed on the draft provisions of the Coliseum-Tourism Overlay District (CTOD) and the supplemental billboard amendment. At that time the committee asked for a comparison of the proposed sign regulations for the overlay district as related to other jurisdictions' similar regulations. Hilton Head Island and Cary were mentioned during the discussion. A chart with the basic sign provisions for comparable districts in six jurisdictions is attached.

In addition, at the December 5th Policy Committee meeting, two specific changes, both relating to nonconformities, to the text were requested (page 3, section 3). The original draft set the extent of damage to where a structure could not be replaced at 30%, this number has been changed to 40% at your request. The second change (sub-section b) included a provision that would prohibit resumption of a use not allowed within the district if the use ceased for a period of ninety days – consistent with your request, this time period has been changed to 180 days.

Also, the staff met with the Civic Center on December 11, 2013, and reviewed the proposed CTOD and billboard provisions, including the changes made by the Policy Committee. The commission is recommending a major change – replacing “building tax assessed” with “reproducible” in regard to the determining value for replacement of nonconformities (page 3, paragraph 3, last sentence of attached draft).

RECOMMENDATION/PROPOSED ACTION: Direct the staff to coordinate with the city staff, scheduling the proposed amendments with their respective Planning Board/Commission, forwarding to the governing bodies for final public hearings and adoption.

Attachments:

1. Sign Comparison, updated February 26, 2014
2. Draft CTOD Text Amendment, revision date: December 12, 2013
3. CTOD Sketch Map, dated November 22, 2013
4. Proposed Supplemental Amendment to CTOD – Billboards, November 22, 2013

SIGN COMPARISON
FOR
COLISEUM-TOURISM OVERLAY DISTRICT

Jurisdiction	Zoning District	Number Allowed	Maximum Square Footage of Sign Area	Maximum Height	Maximum Width	Type of Freestanding Sign Allowed
County – Draft CTOD	C1(P) Planned Local Business	1	100sf 5 or less businesses; 200sf over 5	35'	n/a	Pole & Ground
Fayetteville	LC Limited Commercial	3	150sf (1sf per each foot lot frontage)	25'	n/a	Pole & Ground
Eastover	CCOD Commercial Core Overlay	1	44sf 5 or less businesses; 80sf over 5	5'	n/a	Ground
Hilton Head Island SC	All Office, Commercial & Industrial	1 to 4 (based on sf of bldg)	40sf-120sf (based on sf of bldg)	8' to 12' (based on sign size)	15' to 25' (based on sign size)	Pole & Ground
Cary	All Commercial	1 (per principal entrance)	32sf per side; total 64sf	42" (inches)	n/a	Ground
Florence SC	B-2 Convenience	1	160sf (3sf per ea. ft of street frontage)	40'	n/a	Pole & Ground
Fuquay-Varina	All Commercial, Office, Institutional & Industrial	1	32sf per side; total 64sf (2sf each linear ft of bldg frontage)	20'	n/a	Pole & Ground

**ARTICLE II
INTERPRETATIONS, CALCULATIONS, AND DEFINITIONS**

Hotel: An establishment which provides compensated lodging on a short-term basis with access to units from interior lobbies or hallways, and provides numerous amenities intended to increase guests' lodging satisfaction.

Motel: An establishment that provides short-term and long-term lodging for compensation, usually with less guest amenities than a hotel, has independent exterior entrances/exits to each unit from the off-street parking area and is typically one or two stories.

**ARTICLE III
ZONING DISTRICTS**

SECTION 308.1. OVERLAY DISTRICTS

B. Coliseum-Tourism Overlay District (CTOD). The primary purpose of this district is to ensure development within the district boundary is compatible with the objective of promoting the Crown Coliseum Complex and establishing the image as a contemporary, vibrant retail area that is harmonious with the complex events. Ensuring that new construction and re-development is oriented to serving the users of the coliseum complex, particularly the traveling public, the economic well being of the county will be maximized.

**ARTICLE VIII.I
OVERLAY DISTRICTS**

SECTION 8.102. COLISEUM-TOURISM OVERLAY DISTRICT (CTOD)

A. Applicability. The provisions of this section shall apply to the proposed development and any re-development of properties within the Coliseum-Tourism Overlay District, including any addition, remodeling, relocation or construction requiring a zoning or building permit. In the event there is a conflict between the requirements of provisions of this ordinance and this overlay district, the overlay provisions shall prevail.

B. Coliseum-Tourism Overlay District Map. The boundary of the CTOD is established as a layer on the *Official Zoning Map, Cumberland County North Carolina* in digital format and is hereby adopted and made a part of the provisions of this section as if the map itself were contained herein – see Appendix 3 for informational sketch maps.

C. Land Uses.

1. Principal Uses. All new uses of property and any change in an existing use shall first require approval of a Conditional Zoning application subject to the provisions of Article V prior to commencement of the proposed or change in use. To ensure the primary objective of the district is

attained and not including officially sanctioned government events, land uses within the district are limited to the following:

- a. Alcoholic Beverage Control Sales;
- b. Apparel and Accessory Sales;
- c. Assemblies, Community, Assembly Hall, Armory, Stadium, Coliseum, Community Center, Fairgrounds, and similar uses;
- d. Banks, Savings and Loan Company and Other Financial Activities;
- e. Books & Printed Matter Sales, not including those regulated by Section 924;
- f. Convenience Retail with Gasoline Sales, including drive through motor vehicle washing;
- g. Dry Cleaning/Laundry, self service;
- h. Farmers' Market;
- i. Flower Shop;
- j. Hotel, except as regulated by Section 924;
- k. Motor Vehicle Rentals;
- l. Office Use – with no on-premises stock or goods for sale to the general public and the operations and services of which are customarily conducted and concluded by means of written, verbal or mechanically reproduced communications material;
- m. Public/Community Utility Stations/Sub-stations;
- n. Recreation/Amusement Indoor (Section 920) conducted inside building for profit, not otherwise listed and not regulated by Section 924;
- o. Recreation or Amusement Public/Private (Section 920) not operated as a business for profit including playgrounds, neighborhood center buildings, parks, museums, swimming pools, and similar uses, and not regulated by Section 924;
- p. Restaurant, operated as commercial enterprise, not including those regulated by Section 924;
- q. Swimming Pools, incidental to a principal use (Section 1002.C);
- r. Veterinarian.

2. *Accessory, Ancillary and Incidental Uses.* In conjunction with the above allowed principal uses as listed in sub-section 1,

a. Permanent outdoor sales and displays shall be permitted only within a physically defined area that is delineated on the site plan as approved by the Board of Commissioners, and all physical improvements defining the sales/display area shall be constructed of materials comparable to the primary building(s) on site – this provision shall not apply to a farmers’ market, see Section 907.1 for specific regulations pertaining to farmers’ markets;

b. Outdoor storage shall be prohibited within this district;

c. Temporary or promotional events conducted outside must have the prior approval of the Planning & Inspections Director, or the director’s designee;

3. *Nonconformities.* To ensure the primary objective of the district is attained, strict implementation of the below provisions regulating nonconformities within the district is paramount. For purposes of this section, permissible repair is defined as those repairs, not replacement, that are limited to routine or ordinary maintenance and which would not result in the extension of the normal life of the structure. Impermissible replacement is defined as maintenance, construction or reconstruction of a nonconforming structure or part thereof or structure housing a nonconforming use within the district that is damaged by fire, storm or other causes including natural deterioration to an extent exceeding 40 percent of the structure’s reproducible value or its bulk (including foundations)

a. All nonconforming uses not carried on within a structure, except those which are specifically allowed as an accessory, ancillary or incidental to an allowed use subject to the provisions of this section, shall be discontinued within one calendar year from the effective date of this ordinance, regardless whether or not the nonconforming use status applies to structure(s) and premises in combination with the nonconforming outdoor use – any subsequent use of the land and structures placed thereon shall conform to the provisions of this section.

b. A nonconforming use may not be changed or expanded, or resumed if the nonconforming use has ceased for a period of 180 calendar days within the district.

c. Any structure that is nonconforming due to noncompliance with dimensional requirements, but which houses an allowed use within the district may continue provided that its nonconformity is not increased, except where specifically approved by the County Board of Commissioners, and provided that prior to any upgrades to any nonconforming structure housing an allowed use beyond permissible repairs, the minimum landscaping and pedestrian improvements are implemented on the site.

d. Owners of properties within the district shall not allow for the impermissible replacement of any nonconforming structure located inside the district unless specifically approved by the County Board of Commissioners.

D. Site Design/Site Layout.

1. *Yard Setbacks.* The lot and yard setback provisions of Article XI as applied to the C2(P) district shall apply to properties fronting on Gillespie Street (US HWY 301/I-95 Bus) and Owen Drive (SR 1007), except that for proposed buildings with a height of greater than 25 feet, the front yard setback shall be a minimum distance equaling twice the building height. For developments along all other streets, regardless whether public or private and including new or proposed streets, the yard setbacks shall be as follows:

a. Minimum of 35 feet from each street right-of-way/property line for the front yard setbacks, except that for structures more than 25 feet in height, the front yard setback shall be a minimum distance equaling twice the height of the building;

b. Minimum of 15 feet from a side or rear property line where the adjacent property is also within the district or zoned for non-residential use; and

c. Minimum of 30 feet from a side or rear property line where the adjacent property is zoned residential.

In the event development is proposed for a property without direct frontage on a public or approved private street, the yard setbacks as requested by the developer must afford public safety and be delineated on the site plan. In addition, the plan for ingress/egress must clearly be shown on the site plan, addressed in the application and the requisite easements provided to the Code Enforcement Manager at the time of permit application.

2. *Off-Street Parking, Loading and Drives.* Off-street parking and loading shall be provided as required by Article XII; however, all required parking shall be surfaced with asphalt, concrete or pervious material and shall be maintained in proper repair. Interconnectivity between parcels within the district is mandatory and shall be included on the site plan indicating the location and width of the proposed interconnecting drive areas along with all driveways to the street right-of-way.

3. *Signs.* Signage shall be allowed in the district consistent with the provisions for the C1(P) zoning district, to include all related regulations of Article XIII.

4. *Buffers.* The provisions of Section 1102.G shall apply along the periphery of every developed lot within the district that is also adjacent to a residentially-zoned property.

5. *Dumpster and Utility Screening.* All dumpster and utility areas shall be located on concrete pads and screened on a minimum of three sides with a solid fence between the dumpster or utility and complimented with vegetative plantings.

6. *Fencing.* Any fencing proposed must be specifically identified as to type and location on the site plan; if not included on the plan, the permit for said fence shall be denied – this provision includes open fences as well as solid.

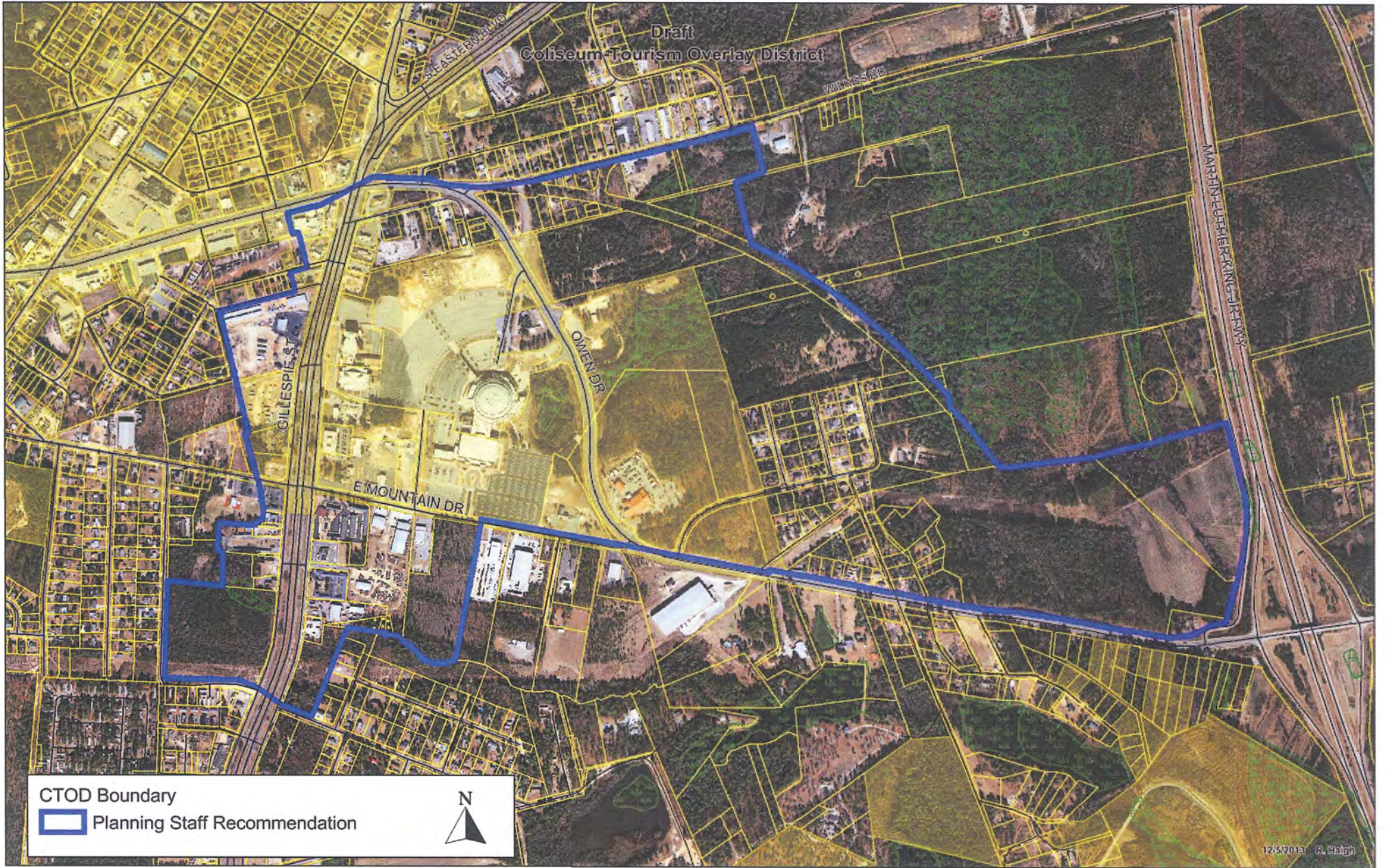
7. *Landscaping.* Landscaping shall be provided in accordance with the provisions of Section 1102.N, except that for the streetscape landscaping a minimum of four small ornamental trees per 50

linear feet of street frontage shall be required. Healthy existing large shade trees may be utilized for calculation of landscaping compliance in lieu of the ornamental streetscape trees only if they are in the appropriate area on the subject lot and a minimum of eight inch caliper. The developer is strongly encouraged to retain as many existing trees of significant stature as possible.

8. *Stormwater Utility Structures.* Any stormwater utility structure proposed within the front yard or within view from the public or private street shall be integrated into the proposed project design and aesthetically pleasing. The burden shall be on the developer to address the stormwater utility structure aesthetic design plans proposed within the application or on the site plan.

9. *Underground Utilities.* All utilities shall be located underground except where specifically prohibited by the utility provider.

10. *Other Regulations.* The developer/property owner shall ensure compliance with all applicable Federal, State and local regulations.



PROPOSED SUPPLEMENTAL AMENDMENT TO COLISEUM-TOURISM OVERLAY DISTRICT

**ARTICLE XIII
SIGN REGULATIONS**

SECTION 1307 BILLBOARDS (OFF-PREMISES SIGNS)

In addition to other applicable standards contained within this article, the following provisions shall apply to all billboards:

A. General Provisions.

1. Billboards shall be allowed only along rights-of-way with full-control or limited control of access, such as freeways and major thoroughfares, except that billboards shall be prohibited within 1,000' of either side of the right-of-way of the following:

a. US Highway 301 (South Eastern Boulevard/Gillespie Street) from NC Highway 87 (Martin Luther King Jr Freeway) south to SR 2286 (Seven Mountain Drive); and

b. Reserved for future use.

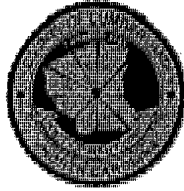
2. Billboards shall not face or be oriented toward any adjoining or abutting residentially-zoned or residentially-used property and shall not be located within 200 feet of a residential zoning district boundary line;
(Amd. 02-19-08)

3. Billboards shall not exceed a sign height of 35 feet;

4. All billboards are considered as a principal use of property, not accessory, and shall be allowed in the C(P) Planned Commercial District, upon approval of a Special Use Permit (Section 1606), and M(P) Planned Industrial District, upon approval of the site plan (Article XIV) as a permitted use, provided that the dimensional criteria outlined below is complied with;
(Amd. 01-19-10)

5. All Federal, State, and other local regulations shall be complied with and
(Amd. 01-19-10)

6. Billboards are exempt from the landscaping and buffering provisions of this ordinance.
(Amd. 01-19-10)



CUMBERLAND
★ **COUNTY** ★
NORTH CAROLINA

DEPARTMENT OF PUBLIC HEALTH

**MEMO FOR THE AGENDA OF THE MARCH 6, 2014
MEETING OF THE POLICY COMMITTEE**

TO: POLICY COMMITTEE MEMBERS
FROM: BUCK WILSON, PUBLIC HEALTH DIRECTOR *B.W.*
THROUGH: JAMES LAWSON, ASSISTANT COUNTY MANAGER
DATE: FEBRUARY 26, 2014
SUBJECT: ADOPT AN ORDINANCE REPEALING CHAPTER 9.5, ARTICLE III. SMOKING, OF THE CUMBERLAND COUNTY CODE AND ADOPT A REVISED CHAPTER 9.5, ARTICLE III. SMOKING, OF THE CUMBERLAND COUNTY CODE.

Requested by: County Management
Presenter(s): Buck Wilson, Public Health Director
Estimate of Committee Time Needed: 15 minutes

BACKGROUND:

Phase II, which incorporated four additional facilities was approved in concept by the Board of County Commissioners on November 18, 2013. In light of the cost involved to update the county code and equity concerns amongst departments, county management has directed for a revised request to be submitted which will amend the request to now incorporate all remaining county owned or leased buildings to be smoke free and for the revisions to be reflected in the ordinance.

RECOMMENDATION/PROPOSED ACTION:

Adopt an Ordinance Repealing Chapter 9.5, Article III. Smoking, of the Cumberland County Code and Adopt a Revised Chapter 9.5, Article III. Smoking, of the Cumberland County Code.

Attachment (2)

/tlb

**AN ORDINANCE OF THE CUMBERLAND COUNTY BOARD OF COMMISSIONERS
REPEALING CHAPTER 9.5, ARTICLE III. SMOKING, OF THE CUMBERLAND COUNTY
CODE AND ADOPTING A REVISED CHAPTER 9.5, ARTICLE III. SMOKING, OF THE
CUMBERLAND COUNTY CODE**

WHEREAS, Cumberland County adopted an ordinance on May 6, 2013 (Cumberland County Code §9.5-91-98) prohibiting smoking in all county leased and owned buildings and vehicles, within 25 feet of the entrance or exit to any public building and on designated grounds; and,

WHEREAS, the Cumberland County Smoking Ordinance has been codified as Chapter 9.5, Article III, Sections 9.5-90-98 of the Cumberland County Code; and

Whereas, the Board of Commissioners wishes to amend section 9.5-92 and repeal section 9.5-93 of Chapter 9.5, Article III. Smoking, of the Cumberland County Code as set forth below; and

WHEREAS, the Board of Commissioners finds the repeal of section 9.5-93 and the amendment of section 9.5-92 of Chapter 9.5, Article III. Smoking, of the Cumberland County Code as set forth below to be in the public interest and to promote the public health, safety, and welfare,

NOW, THEREFORE, BE IT ORDAINED by the Cumberland County Board of Commissioners that:

Section 9.5-93 of Chapter 9.5, Article III. Smoking, of the Cumberland County Code is repealed effective July 1, 2014. Section 9.5-92 of Chapter 9.5, Article III. Smoking, of the Cumberland County Code is amended effective July 1, 2014 to read as follows:

“Smoking is prohibited within all public buildings, on the grounds of all public buildings, and in county-owned or leased vehicles.”

Adopted this _____ day of _____, 2014.

_____, Chairperson
Cumberland County Board of Commissioners

ATTEST:

Clerk to Board of Commissioners

Approved as to Form:

_____ County Attorney

**AN ORDINANCE OF THE CUMBERLAND COUNTY BOARD OF COMMISSIONERS
REPEALING CHAPTER 9.5, ARTICLE III. SMOKING, OF THE CUMBERLAND
COUNTY CODE AND ADOPTING A REVISED CHAPTER 9.5, ARTICLE III. SMOKING,
OF THE CUMBERLAND COUNTY CODE**

WHEREAS, Cumberland County adopted an ordinance in 1993 (Cumberland County Code §9.5-91) prohibiting smoking in all county leased and owned buildings and vehicles, and within 25 feet of the entrance or exit to any public building; and,

WHEREAS, research indicates tobacco use and secondhand smoke exposure are leading preventable causes of illness and premature death in North Carolina and the nation; and

WHEREAS, research indicates that, during active smoking, outdoor levels of secondhand smoke may be as high as indoor levels and may pose a health risk for people in close proximity; and

WHEREAS, Cumberland County wishes to minimize the harmful effects of smoking among County employees and eliminate secondhand smoke exposure for employees and the public in and on those buildings, vehicles, and grounds controlled by the County; and

WHEREAS, the Cumberland County Smoking Ordinance has been codified as Chapter 9.5, Article III, Sections 9.5-90-98 of the Cumberland County Code; and

Whereas, the Board of Commissioners wishes to make a comprehensive revision of Chapter 9.5, Article III. Smoking, of the Cumberland County Code by the repeal of Chapter 9.5, Article III. Smoking, of the Cumberland County Code and the adoption of the Revised Chapter 9.5, Article III. Smoking, of the Cumberland County Code as set forth below; and

WHEREAS, the Board of Commissioners finds the comprehensive revision of Chapter 9.5, Article III. Smoking, of the Cumberland County Code to be in the public interest and to promote the public health, safety, and welfare,

NOW, THEREFORE, BE IT ORDAINED by the Cumberland County Board of Commissioners that:

Chapter 9.5, Article III. Smoking, of the Cumberland County Code is hereby repealed in its entirety and a revised Chapter 9.5, Article III. Smoking, of the Cumberland County Code is hereby adopted.

Sec. 9.5-90. Purpose and intent.

Numerous reliable studies have found that tobacco smoke is a major contributor to indoor air pollution and have shown that breathing side-stream or secondhand smoke is a significant health hazard to nonsmokers. The Surgeon General of the United States has concluded that involuntary or passive smoking is the cause of disease, including lung cancer, in healthy nonsmokers and has estimated that involuntary smoking causes more deaths, approximately 5,000 per year, than all other airborne pollutants combined, excluding asbestos. The board of county commissioners recognizes the increasing evidence that smoke creates a danger to the health of some citizens and is a cause of annoyance and physical discomfort to those who are in confined spaces where smoke is present. The board of county commissioners also recognizes that research indicates that during active smoking outdoor levels of secondhand smoke may be as high as indoor levels and may pose a health risk for people in close proximity. The purpose and intent of this article is to promote the public health, safety and general welfare by prohibiting smoking within all county leased or owned buildings and vehicles and on designated grounds.

Sec. 9.5-91. Definitions.

The following terms, words, and phrases as used in this article are hereby defined as follows:

County building shall mean a building owned, leased as lessor, or the area leased as lessee and occupied by the County.

Employee shall mean a person who is employed by the County of Cumberland, or who contracts with the County or a third person to perform services for the County, or who otherwise performs services for the County with or without compensation.

Enclosed area shall mean the interior portion of a county owned or leased building.

Grounds shall refer to all unenclosed property surrounding county buildings.

Public building shall mean any enclosed area of any building or structure owned, leased, operated, maintained or managed, directly or indirectly, by the county.

Smoke or *smoking* shall refer to:

- (1) The carrying or holding of a lighted pipe, cigar or cigarette of any kind or any other lighted smoking equipment or device;
- (2) The possession of any burning tobacco, weed or other plant product; or
- (3) The lighting of, emitting of, exhaling of the smoke of a pipe, cigar or cigarette of any kind.

Sec. 9.5-92. Smoking prohibited in public buildings and vehicles.

Smoking shall be prohibited within all public buildings and vehicles except the public areas of the Charlie Rose Agri-Expo Center. The public areas of the Charlie Rose Agri-Expo Center shall be limited to the lobby and the exhibit floor of the building. No smoking is to be allowed in the office portions of the Agri-Expo Building or in the restrooms, concession stands, or ticket booths. The Civic Center Commission is authorized and directed to develop rules and policies to regulate smoking at the Charlie Rose Agri-Expo Center. Smoking is permitted on the grounds of all public buildings not specifically designated herein as non-smoking grounds, but not within 25 feet of the entrance or exit of any public building.

Sec. 9.5-93. Smoking prohibited on designated grounds.

Smoking is prohibited on the grounds of the Department of Social Services building located at 1225 Ramsey St., Fayetteville, NC 28301 and the grounds of any County building where Cumberland County Health Department services are provided, including 130 Gillespie Street Fayetteville, NC 28301 (the Historic Courthouse); 103 Laketree Blvd. Spring Lake, NC 28390; 2622 Hope Mills Road Millview Place - Suite 100, Fayetteville, NC 28306; 1235 Ramsey Street Fayetteville NC 28301 (the primary Health Department facility); 227 Fountainhead Lane Fayetteville NC 28301; 109 Bradford Avenue Fayetteville NC 28301. Smoking is also prohibited on the grounds of county library facilities including the following: 300 Maiden Lane Fayetteville NC 28301; 3711 Village Drive Fayetteville NC 28304; 6882 Cliffdale Road Fayetteville NC 28314; 4809 Clinton Road Fayetteville NC 28312; 3411 Golfview Road Hope Mills NC 28348; 855 McArthur Road Fayetteville NC 28311; 101 Laketree Blvd. Spring Lake NC 28311; and 7469 Century Circle Fayetteville NC 28306.

Sec. 9.5-94. Posting of signs required.

"No smoking" with letters of not less than one inch in height or the international "no smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently and conspicuously posted in every public building or other place where smoking is regulated by this article, by the public official having control of such building or other place. No person shall remove or deface any sign required to be posted by or under the authority of this article.

Sec. 9.5-95. Implementation Requirements

(a) The County shall remove all ashtrays and other smoking receptacles from grounds where smoking is prohibited.

(b) The person in charge of the grounds where smoking is prohibited, or his or her designee, shall direct a person who is smoking in a prohibited area to cease and, if the person does not comply, shall contact the designated enforcement officer for the County.

(c) The county shall provide county employees with resources for quitting smoking or tobacco use, including information about the free QUITTING support services of the North Carolina Tobacco Use Quitline (1-800-QUIT-NOW (1-800-784-8669)).

Sec. 9.5-96. Enforcement and Penalties

(a) *Penalty for Violation.* Following oral or written notice by the person in charge of an area described in Section 3, or his or her designee, failure to cease smoking constitutes an infraction punishable by a fine of not more than fifty dollars (\$50.00). A person duly authorized by the Board of County Commissioners shall be authorized to send a civil penalty citation to the violator by certified mail or personally deliver such citation to the violator stating the nature of the violation, the amount of the penalty, and directing that the violator pay the penalty to the County tax collector office within 14 days of receipt of the citation.

(b) *Additional sanctions for employees.* In addition to any penalty under subsection (a), employees of the County who violate this ordinance shall be subject to disciplinary action consistent with the County's human resources policies.

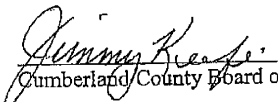
Sec. 9.5-97. Other applicable laws.

This article shall not be interpreted nor construed to permit smoking where it is otherwise prohibited or restricted by other applicable laws.

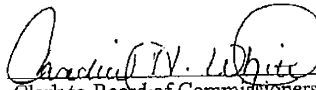
Sec. 9.5-98. Effective date.

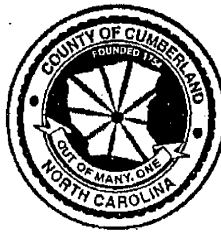
This ordinance shall be effective the 1st day of January, 2014.

Adopted this 6th day of May, 2013.

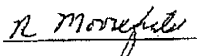
 _____, Chairperson
Cumberland County Board of Commissioners

ATTEST:

 _____
Clerk to Board of Commissioners



Approved as to Form:

 _____ County Attorney