

ALAMANCE COUNTY HEAVY INDUSTRIAL DEVELOPMENT ORDINANCE

(ADOPTED OCTOBER 3, 2011)

ARTICLE I

INTRODUCTION

WHEREAS, the existing Noxious or Unwanted Land Use Ordinance (known as the High Impact Land Use/Polluting Industries Ordinance) was passed in 2006, and sufficient time has elapsed to make a determination as to the effectiveness of that Ordinance; and

WHEREAS, business, jobs, and growth are necessary to the economy and continued vitality of Alamance County; and

WHEREAS, industrial land uses, by their very nature, may produce objectionable secondary effects, including aesthetic impact, traffic, noise, odors, vibrations, fumes, light, smoke, and/or other impacts, upon the lands adjacent to them; and

WHEREAS, the existing Ordinance did not adequately address the unique nature of Alamance County, and was not achieving its intended goal of allowing for the placement and growth of industrial land uses, while maintaining the health, safety, and general welfare standards of established residential and commercial areas in Alamance County; and

WHEREAS the current economic situation reveals the need for a better balancing act between allowed land uses in order to protect the needs of the citizens of Alamance County; and

WHEREAS, the current Ordinance treats all industrial land uses the same, regardless of their actual impact on surrounding property and the environment; and

WHEREAS it is the intent of the Planning Board of Alamance County to recommend changes to the existing Ordinance which strive to balance the needs of all the citizens of Alamance County; and

WHEREAS the Alamance County Planning Board finds that this Industrial Development Ordinance is consistent with the adopted Alamance County Land Development Plan; and

WHEREAS a series of public hearings were held throughout 2011 to allow for business and citizen input in striking a realistic balance among the many diverse interests in the county, especially between economic and environmental concerns; and

WHEREAS the Alamance County Planning Board voted unanimously to adopt a Statement of Plan Consistency with regards to this Ordinance at their regular business meeting on August 11, 2011.

NOW THEREFORE THE BOARD OF COMMISSIONERS OF THE COUNTY OF ALAMANCE HEREBY ORDAINS AND ENACTS INTO LAW THESE ARTICLES AND SECTIONS:

Section 1. Authority. The Alamance County Board of Commissioners enacts this Ordinance pursuant to its police powers, as set forth in and authorized by Section 153A-121(a) of the North Carolina General Statutes; pursuant to its power to regulate businesses as set forth and authorized by Section 153A-134 of

the North Carolina General Statutes; pursuant to its power to regulate noise as set forth and authorized by Section 153A-133 of the North Carolina General Statutes; pursuant to its power to regulate solid waste as set forth and authorized by Section 153A-134 of the North Carolina General Statutes; pursuant to its power to regulate explosive, corrosive, inflammable, or radioactive substances as set forth and authorized by Section 153A-128 of the North Carolina General Statutes and pursuant to its planning and zoning powers, as set forth in and authorized by Article 18 of Chapter 153A of the North Carolina General Statutes.

Section 2. Purpose. The following regulations of industrial development are adopted for the purpose of promoting the health, safety, and general welfare of the citizens of Alamance County, and to promote the peace and dignity of the County. The Alamance County Commissioners hereby establish certain criteria relating to industrial development and associated land uses. These uses by their very nature produce objectionable levels of aesthetic impact, traffic, noise, odors, vibrations, fumes, light, smoke, and/or other impacts upon the lands adjacent to them. These standards shall allow for the placement and growth of such uses, while maintaining the health, safety, and general welfare standards of established residential and commercial areas in Alamance County.

Section 3. Territorial Coverage. Pursuant to G.S. §153A-122, this Ordinance shall apply to all unincorporated areas of Alamance County in which no town or city is exercising extraterritorial jurisdiction under Article 19 of Chapter 160A of the North Carolina General Statutes.

ARTICLE II

REGULATED LAND USES AND EXCEPTIONS

<u>Class I</u>
Fuel Bulk Storage Ready-Mix Concrete Suppliers Inert Debris Landfills
<u>Class II</u>
Soft Mining/Resource Extraction Chemical Manufacturing Alternate Energy Generating Facilities Automobile Salvage & Storage Facilities
<u>Class III</u>
Waste Facilities Chip Mills Race Tracks
<u>Class IV</u>
Hard Mining/Resource Extraction/Quarrying Asphalt Plants Fossil Fuel Generating Facilities Landfills-except inert debris Cement Manufacturing Metal Recycling & Salvage Facilities

Section 2. Exceptions to Applicability.

The following are exceptions, by right, from regulations under this Ordinance:

- 1) Agricultural Farming Operations
- 2) Residential Land Uses

Exceptions under this Ordinance does not grant immunity from other applicable Ordinances including, but not limited to, the Alamance County Noise Ordinance, Watershed Protection Ordinance, Flood Hazard Protection Ordinance, etc.

Section 3. Definitions. The following definitions shall be used for the purposes of interpreting this Ordinance. For terms not defined below, the common usage of the term shall prevail.

Agricultural Farming Operations means a bona fide farming operation whose primary purpose is the production of agricultural products including but not limited to crops, fruits, Christmas trees, forestry, vegetables, ornamental or flowering plants, dairy, livestock, poultry, swine, and all other forms of agricultural products having a domestic or foreign market. When performed on the farm, "agriculture", "agricultural", and "farming" also include the marketing and selling of agricultural products, agritourism, the storage and use of materials for agricultural purposes, packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on the farm, and similar activities incident to the operation of a farm. Included with this definition is the operation, equipment operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation.

Area of Operations means the portion of a tract of land on which an industry is situated that is actually under use, or may actually be put to use in the future, for operations by the industry, including the area occupied by buildings, structures, equipment, storage, and other similar operations. Area of operations does not include those areas required by this Ordinance, or any other regulations, to be kept in a vegetative state.

Asphalt Plant includes establishments, with all related equipment, for the manufacture and production of asphalt and tar paving mixtures and blocks from purchased asphaltic materials (NAICS 324121). Also included in this definition are establishments engaged in manufacturing asphalt and tar paving mixtures and blocks and roofing cements and coatings from purchased asphaltic materials and/or saturating purchased mats and felts with asphalt or tar (NAICS 32412 and 324122).

Assisted Living Facility includes any group housing and services program for two or more unrelated adults, however named, which makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more North Carolina licensed home care or hospice agencies.

Automotive Salvage Facilities includes establishments primarily engaged in the merchant wholesale and retail distribution of used motor vehicle parts and establishments primarily engaged in dismantling motor vehicles for the purpose of selling the parts (NAICS 423140).

Automotive Storage Facility includes establishments primarily intended for the short or long term storage of wrecked or inoperative automobiles pending sale of the entire automobile. This definition does

not include establishments where the storage of automobiles is ancillary to the repair of the automobiles stored, such as at a garage or repair shop.

Board of Commissioners means the Alamance County Board of Commissioners.

Cement Manufacturing includes establishments primarily engaged in manufacturing portland, natural, masonry, pozzolanic, and other hydraulic cements. Cement manufacturing establishments may calcine earths or mine, quarry, manufacture, or purchase lime (NAICS 327310).

Chemical Manufacturing includes establishments primarily involved in the production, synthesis, formation, processing, refining, manufacturing, and/or distribution of chemical products in bulk, for other than retail sales on-site (including all chemical manufacturing in NAICS subsector 325).

Child Care Facility means a child care facility as defined in G.S. §110-86 or any successor statute thereto.

Chip Mill includes any mechanized facility that grinds whole logs into wood chips for paper, particle board and other products and is capable of producing at least 250,000 tons annually. Temporary mobile “tub grinding” operations are not included in this definition (NAICS 32111).

Church means any building used on a regular basis for the primary purpose of serving as a place of public worship.

Commercial means the use of land for the purpose of operating a business intended to profit, whether or not a profit is actually realized, through the exchange of monies for goods and/or services.

Construction Activities includes any studies, investigations, operations, improvements, or other activities undertaken at the site of a proposed regulated industry pertaining to the construction, placement, erection, or establishment of the same, including but not limited to surveys, soil and other environmental tests, clearing and grading, pouring footers or pads, placing building materials or equipment at the site, locating or constructing buildings, structures, or other improvements, or any other similar activities.

County means the County of Alamance.

D.E.N.R. means the North Carolina Department of Environment and Natural Resources.

D.O.T. means the North Carolina Department of Transportation.

Dragstrip or Race Track includes any commercial facility for the conducting of races of human-operated machines (e.g. automobiles, go-carts, lawnmowers or motorcycles).

Dwelling Unit (single and multi-family) means any building, manufactured home, or modular home providing complete independent living facilities for a single or multi-family, including permanent provisions for living, sleeping, eating, cooking, and sanitation. Two or more manufactured homes which are combined on one lot or parcel shall be considered as a single dwelling unit if they are joined together in one living unit for the use of a single family and meet all of the requirements for a “dwelling unit” under the amended Alamance County Watershed Protection Ordinance.

Educational Facility means any elementary school, secondary school, charter school, private school, community college, college, university, or any other similar institution or facility for the education of persons, including any property owned by such facility used for educational purposes.

Electricity Generating Facility includes any stand-alone plant not ancillary to another land use which is intended for the commercial generation of electric power to be primarily distributed to the public for compensation. This definition shall not apply to an agricultural farm, residence, business, or other facility where the sale of the electricity so produced is secondary to on-site consumption. For the purpose of this Ordinance, generating facilities that qualify under this definition are segmented into the following two categories:

- 1) Alternate Energy Generating Facility – A facility that produces electricity from a renewable source, including solar, hydroelectric, and wind. This classification does not include facilities which generate electricity from waste materials. See “Waste Processing Facilities”.
- 2) Fossil Fuel Generating Facility – A facility that produces electricity from fossil fuels.

Fuel Bulk Storage Facilities includes any establishment whose primary purpose is the wholesale or retail distribution, storage, distribution, mixing, or transfer of flammable or combustible liquids, gases, or solids, received or transferred by truck, train, tank vessel, pipelines, tank car, piping, portable tank or containers, or other method, including propane, methane, ethanol, gasoline, kerosene, oil, coal, and other fuels. This definition shall not include filling stations used solely for distribution to individual consumers; nor shall it include fuel stored at or on an agricultural farm, residence, business, or other facility where use of the fuel stored is limited primarily to on-site consumption (NAICS 424710 and 424720).

Hospital means any facility as defined in G.S. §131E-76(3) or any successor statute thereto.

Inert Debris means solid waste which consists solely of material that is virtually inert and that is likely to retain its physical and chemical structure under expected conditions of disposal.

Landfill means a disposal facility or part of a disposal facility where waste is placed in the land with the intent of permanent disposal thereby, and not otherwise regulated by this Ordinance.

Metal Recycling & Salvage Facilities includes establishments primarily engaged in the merchant wholesale distribution of automotive scrap, industrial scrap, and other recyclable materials. Included in this industry are auto wreckers primarily engaged in dismantling motor vehicles for the purpose of wholesaling scrap (NAICS 423930).

Mining includes the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, soils, and other solid matter from their original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use.

- a) Hard Mining includes any type of mining activity where the extraction or removal is accomplished through the use of blasting or explosives.
- b) Soft Mining includes any type of mining activity where the extraction or removal does not include the use of blasting or explosives.

"Mining" does not include excavation or grading when conducted solely in aid of on-site farming or of on-site construction for purposes other than mining; removal of overburden and mining of limited amounts of any ores or mineral solids when done only for the purpose and to the extent necessary to determine the location, quantity, or quality of any natural deposit, provided that no ores or mineral solids removed during exploratory excavation or mining are sold, processed for sale, or consumed in the regular

operation of a business, and provided further that the affected land resulting from any exploratory excavation does not exceed one acre in area; excavation or grading where all of the following apply:

- a) The excavation or grading is conducted to provide soil or other unconsolidated material to be used without further processing for a single off-site construction project for which an erosion and sedimentation control plan has been approved in accordance with Article 4 of Chapter 113A of the General Statutes.
- b) The affected land, including nonpublic access roads, does not exceed five acres.
- c) The excavation or grading is completed within one year.
- d) The excavation or grading does not involve blasting, the removal of material from rivers or streams, the disposal of off-site waste on the affected land, or the surface disposal of groundwater beyond the affected land.

Quarrying includes open excavations where the works are visible at the surface and intended for the extraction of stone, slate, marble, or other mineral from a mass of surrounding rock.

Ready-Mix Concrete Suppliers includes establishments, such as batch plants or mix plants, primarily engaged in manufacturing concrete delivered to a purchaser in a plastic and unhardened state, where such establishments are not engaged in mining or quarrying sand and gravel (NAICS 327320).

Resource Extraction means the removal of any naturally occurring substance from the land, and not otherwise covered by the definition of mining and quarrying. Such substances include, but not limited to, petroleum in any form, natural gas, or other gaseous substance. Such substances do not include timber, surface or subsurface water, or any renewable resource.

Nursing Home means a facility, however named, which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care for three or more persons unrelated to the operator.

Permanent Accessory Structure means any permanent improvement to the real estate intended for use incidental to the operation of a protected facility on a continuous seasonal basis, and located within 100 feet of a protected facility.

Person means a firm, corporation, general partnership, limited partnership, limited liability company, sole proprietor, individual, individual acting on behalf of another, or any other entity of any type whatsoever.

Planning Board means the Alamance County Planning Board

Planning Department means the Alamance County Planning Department.

Replacement Value means the cost to restore a structure to its previously existing condition as computed by an appraisal which has been conducted by an appraiser holding a North Carolina State Certified General Real Estate Appraisal License and conducted in compliance with generally accepted practices within the appraisal community.

Residential means the use of land for the purpose of housing or living accommodations for human occupants. Residential land uses shall also include any accessory uses of the land that is not commercial in nature, as defined by this Ordinance, and incidental to the residential use.

Rural Medical Center means a facility staffed on a regular basis by one (1) or more physicians licensed to practice medicine in the State of North Carolina, which facility is located outside the boundaries of a municipality and is established and maintained for the purpose of providing medical care to members of the community in which it is situated.

Waste Processing Facility includes incinerators, composting facilities, household hazardous waste facilities, waste-to-energy facilities, transfer stations, reclamation facilities or any other location where wastes are consolidated, temporarily stored, salvaged or otherwise processed prior to being released into the air or transported to a final disposal site. Specifically included in this definition are medical waste facilities as defined by G.S. § 130A-309.26a.

Section 4. Regulations and Standards.

Regulations and standards imposed by this ordinance are summarized, in general, in the matrix below:

<u>Classification</u>	<u>Min. Lot Size</u>	<u>Building Height</u>	<u>Land Use Spacing</u>	<u>Operations Setback</u>	<u>Stream Setback</u>
Class I	10 acres	40 feet	250 feet	75 feet	100 feet
Class II	10 acres	40 feet	500 feet	75 feet	100 feet
Class III	10 acres	40 feet	1000 feet	100 feet	100 feet
Class III (Race Tracks)	40 acres	40 feet	1000 feet	100 feet	100 feet
Class IV	10 acres	40 feet	2000 feet	125 feet	100 feet

A. Minimum Lot Size.

No land use regulated by this ordinance shall be situated on a tract of land less than ten (10) acres in size; excluding Dragstrips or Race Tracks, which shall be located on a tract no less than forty (40) acres in size.

B. Building Height Limits.

In order to allow for adequate fire protection, no building which is intended or used for human occupancy shall exceed a vertical height of forty (40) feet, measured from the top of the foundation (entrance grade) to the highest point of the roof assembly. No more than one (1) occupancy story may be below this entrance grade.

Excluded from this limitation are the following:

1. Water, radio, telephone (including cellular), or television towers or any equipment for the transmission of electricity or communications, or both; and
2. Structures which are slender in nature and minor vertical projections of a parent building, including chimneys, flagpoles, flues, spires, steeples, belfries, cupolas, antennas, poles, wires, or windmills, provided no part of the structure which is higher than (forty) 40 feet is intended or used for human occupancy.

C. Land Use Spacing & Protected Facilities

All industries regulated by this ordinance shall be required to meet a minimum spacing requirement from any “protected facility” as defined by this ordinance. The purpose of this requirement is to minimize the potential negative impact of conflicting uses of land. Land use spacing shall be measured from the center of the designated “area of operations” to the nearest improvement of the protected facility.

For the purpose of this ordinance, the following shall be considered “protected facilities”:

1. An educational facility
2. A North Carolina licensed child care facility
3. A North Carolina licensed assisted living facility
4. A North Carolina licensed nursing home
5. A public or privately owned hospital
6. A rural medical center
7. A church
8. A dwelling unit

Included within the protected facility are any permanent accessory structures.

D. Spacing Waivers

In the event that a regulated use cannot achieve the spacing requirements solely on property owned by the regulated use, a protected facility as listed in subsection E may, for itself but not on behalf of another protected facility, waive all or any portion of the spacing requirements set forth herein. Said waiver shall be in writing and shall be in the form of an easement, with the regulated use as the servient estate and the protected facility as the dominant estate. The waiver/easement shall state any conditions or site plan modifications to the regulated use mutually agreed upon by the regulated use, the protected facility and the Planning Director as consideration for the granting of the easement. In no event shall any conditions or site plan modifications decrease a regulated use’s responsibilities under this Ordinance.

The waiver shall be signed and acknowledged by the record owners of the fee interest of the protected facility and by the owner of the fee interest of the regulated use, and, if different, by all of the owners of the property on which the regulated use is situated. The waiver shall further be signed by the Planning Director, whose signature shall serve as a certification that the requirements of this subsection have been met. Following recordation in the Alamance County Registry, the spacing requirements of subsection C as between said protected facility and said regulated use shall be deemed amended to conform to the provisions of the waiver. The easement granted by said waiver shall be appurtenant to and run with the land and shall be binding on the parties, their heirs, successors, and assigns; provided, that the same shall by its express provisions terminate at such time as the regulated use ceases to have a valid Operations Permit under Article IV, Section 5, for the operations and/or facility which is/are the subject of the waiver.

The protected facility, as the easement holder under this conveyance, maintains the right to enforce any of the provisions of the easement and if necessary, may do so by obtaining an injunction.

E. Operations Setback

All industries regulated by this ordinance shall be required to maintain a minimum “operations setback”. Operations setbacks shall be measured from the edge of the designated area of operations to the property line. Vegetative screening and fencing may be located within the operations setback area.

F. Stream Buffers

All industries regulated by this ordinance shall be required to maintain a minimum stream setback from any perennial or intermittent stream. Stream setbacks shall be measured from the “area of operations” to the bank of the stream.

G. Landscaping & Screening

All industries regulated by this ordinance shall be required to provide a landscaping/screening plan. The purpose of this requirement is to minimize/mitigate the visual impacts of the land use on adjacent properties as well as to maximize the buffering of noise and particulate matter. As part of the review process, the Planning Director may, at their discretion, adjust these requirements based upon the amount of existing screening and vegetation on the property. Screening along all property lines shall be a minimum of thirty (30) feet in width of Class I and Class II uses and fifty (50) feet for Class III and Class IV uses. Suggestions for screening plans may be found in Appendix A of this ordinance.

In the event that an applicant is unable to plant required screening and/or landscaping; the applicant may post a bond or certified check in the amount of 1.5 times the engineer’s estimate for the proposed plan. Should the applicant fail to install the necessary landscaping/screening, the County would be entitled to complete the landscaping plan using the proceeds of the bond or certified check.

H. Gating & Fencing

Gating and fencing of regulated uses are strongly encouraged but not required under this ordinance.

I. Lighting

Access ways, walkways and parking areas shall be lighted adequately by lighting fixtures which shall be so installed as to protect the street and neighboring properties from direct glare or hazardous interference of any kind. Applicants are encouraged to use light shielding and fixtures that are approved by the International Dark Sky Association (IDA) as these fixtures conserve energy, reduce monthly costs, and minimize the impact of light pollution on surrounding properties.

J. Compliance With Other Governmental Requirements

Applicants under this ordinance are expected to comply with all other applicable County, State, and Federal regulations. Said regulations include but are not limited to watershed protection, stormwater, erosion control, air quality, water quality, flood protection, building code, and NCDOT requirements. Failure to do so may result in the revocation of an Operations Permit.

ARTICLE III

GRANDFATHERING AND NONCONFORMING USES

Section 1. Grandfathering of Existing Uses.

Any regulated land use, as specified in this ordinance, existing and in legal operation upon the date of adoption of this Ordinance which does not conform to the requirements hereof shall constitute a nonconforming use. Such nonconforming use may continue at the site of said operations, subject to the provisions of Sections 2, 3, and 4 below. In all cases the burden shall be upon the owner or operator of the nonconforming use to show clear, cogent, and convincing evidence that the use qualifies for such status.

- a. Owners of non-conforming uses shall have a period of one (1) year from the date of adoption of this ordinance to apply, at no cost, for a non-conformance permit which will establish them as a non-conforming use grandfathered under this ordinance. After the initial one (1) year period, industries shall be required to pay a fee for the non-conformance permit, as established by this ordinance. Failure to apply for a nonconformance permit or to renew an existing permit will constitute a violation of the ordinance as set forth in Article V.
- b. As part of the application for a non-conformance permit, the applicant shall be required to submit a site plan of existing operations on the property. For this purpose, the applicant shall not be required to have a site plan drawn by an engineer or surveyor; however it is strongly recommended.

Section 2. Alteration or Expansion of Nonconforming Use.

A nonconforming use may be altered, added to, expanded, or enlarged at the site of its operations, provided that the property was owned or leased by the industry prior to adoption of this ordinance.

Section 3. Reconstruction of Nonconforming Use.

In cases of damage to a nonconforming use, repairs may be made and the nonconforming use may be continued; provided, that said hazard was not caused by the intentional conduct of the owner or operator; provided further, that in making repairs the owner or operator shall ensure that the footprint(s) of the original building(s) is/are maintained, or, in case of an expansion of the same, that said expansion meets the requirements as specified above. In all other cases of damage to a nonconforming use, the same may be repaired and continued only if Permits are obtained pursuant to Article IV and all of the requirements of this Ordinance are met.

Section 4. Discontinuance of Nonconforming Use.

Notwithstanding the provisions of Section 3 above, if a nonconforming use is, for any reason, discontinued for one hundred eighty (180) or more consecutive days, such use may not resume until Permits are obtained pursuant to Article IV below and all of the requirements of this Ordinance are met. For purposes of this Section, a regulated use shall not be deemed to be discontinued during such time as the owner or operator thereof has temporarily suspended operations solely due to the seasonal nature of the business.

ARTICLE IV

PERMITTING PROCEDURES

Section 1. General

All regulated land uses under this Ordinance shall be required to apply for a permit from the Alamance County Planning Department prior engaging in any construction and/or operational activities.

Section 2. Photo Identification Required

Applicants seeking to obtain a permit under this ordinance shall be required to provide a form of photo identification to the Alamance County Planning Department pursuant to County policy.

Section 3. Pre-Application Meetings Strongly Encouraged

Applicants are strongly encouraged to meet with a Planning Staff member to discuss the nature of their application prior to making a formal application or submitting a site plan.

Section 4. Intent-to-Construct Permits

An Intent-to-Construct Industrial Development Permit shall be required before the owner or operator of a regulated industry commences any construction activities.

1. Fees

- a. All applicants shall be required to pay a fee at the time of filing an application as pursuant to the guidelines listed in Appendix F of this ordinance; or as determined by the Alamance County Board of Commissioners during the establishment of the annual budget for the given fiscal year. Fees established as part of the annual budget shall supersede those listed in this ordinance. All fees are non-refundable.

2. Pre-Development Site Plans

- a. All applicants shall be required to submit a site plan for review as part of the permitting process. All site plans shall be drawn to scale by a Register Surveyor or Engineer pursuant to the guidelines provided in Appendix D of this ordinance. The Planning Department shall either approve or deny the site plan based on compliance with the regulations imposed by this ordinance.
- b. Planning Staff shall take no longer than a period of thirty (30) days to review site plans.

- c. Any changes or amendments to an approved site plan, but prior to construction, must be submitted to the Planning Department for review and approval. No additional review fee will be levied.
- d. In cases where a site plan is denied, the Planning Department will provide a written explanation to the applicant.

3. Appeal of a Denied Application

- a. In the event that an Intent-to-Construct Permit is denied, the applicant may appeal the Planning Director's decision pursuant to Section VI of this ordinance.

4. Duration of Intent-to-Construct Permits

- a. Intent-to-Construct Permits shall be valid for one (1) year from the date of issuance. Expired permits due to inactivity shall require re-application and review. In the event that an applicant must reapply for a permit, it shall require a fee to be paid at the time of the filing of the application.

5. Landscaping/Screening Plan Required

- a. Prior to issuing an Intent-to-Construct Permit, all applicants shall submit (along with their site plan) a complete landscaping/screening plan for the project. All landscaping/screening shall be done in accordance with the requirements set forth in this ordinance.

Section 5. Operations Permits

An Operations Industrial Development Permit shall be required before the owner or operator of a regulated land use commences operations of said land use.

1. Post-Development/As-Built Site Plans

- a. Prior to receiving an Operations Permit, all applicants shall be required to submit a final "as-built" site plan to the Alamance County Planning Department. Post-Development site plans shall be drawn by a Register Surveyor or Engineer pursuant to the guidelines provided in Appendix D of this ordinance. This submission shall consist of two (2) paper copies.

2. Final Site Inspection

- a. Prior to issuing an Operations Permit, a final site inspection shall be performed by the Alamance County Planning Department to ensure that development was established in harmony with the approved site plan and the provisions of this ordinance.

3. Other Requirements

- a. Proof of an approved spill containment plan as issued by the Alamance County Fire Marshal.

4. Appeal of a Denied Operations Permit

- a. In the event that an Operations Permit is denied, the applicant may appeal the Planning Director's decision pursuant to Section VI of this ordinance.

Section 6. Operations Permit Renewal Required

All operators of a regulated use under this ordinance shall be required renew their Operations Permit every three (3) years.

1. Renewal Fees

- b. Prior to renewing the permit, the applicant shall be required to submit a renewal fee pursuant to the guidelines listed in Appendix F of this ordinance; or as determined by the Alamance County Board of Commissioners during the establishment of the annual budget for the given fiscal year. Fees established as part of the annual budget shall supersede those listed in this ordinance. All fees are non-refundable.

2. Site Visit Required

- a. A site visit must be conducted by the Alamance County Planning Department prior to issuing a renewed permit.

3. Other Requirements

- a. Proof of Tier II reporting, if applicable

ARTICLE V

ADMINISTRATION, ENFORCEMENT, AND VIOLATIONS

Section 1. Administration and Enforcement.

The Planning Director of the Alamance County Planning Department shall be responsible for the administration and enforcement of this Ordinance.

- a. The Planning Director, or his/her designee, shall determine whether any of the provisions of this Ordinance are or have been violated. If it has been determined that a violation exists, notification shall be sent, in writing, to the person responsible for such violation. All notices shall be sent via Certified mail.
- b. Those found in violation shall be given thirty (30) days to remedy the violation. At the end of the thirty (30) day period, the Planning Director may, at their discretion, grant additional time to obtain compliance provided that the violator has made a good-faith effort to bring their property into compliance. In no circumstance, unless approved by the Planning Board, shall a person in violation be given more six (6) months to obtain compliance.

- c. As part of enforcement, the Planning Director may order the discontinuance of illegal use of land, buildings, or structures; the removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; the discontinuance of any illegal work being done; and may take any other action authorized by this Ordinance to insure compliance with, or to prevent violations of, the provisions hereof.

Section 2. Interference. It shall be unlawful for any person to interfere with, hinder, or harass the employees, agents, or authorized representatives of the County in the performance of their duties under this Ordinance.

Section 3. Violations; Penalties.

- a. Any violation of this ordinance shall result in a non-conformance fee in the amount of \$500, per violation.
- b. Each day's continuing violation of this Ordinance, where applicable, shall constitute a separate and distinct offense.

Section 4. Equitable Enforcement; Order of Abatement. This Ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction, or by an order of abatement, as provided under G. S. § 153A- 123(d) and (e).

Section 5. Cumulative Remedies. The remedies and penalties for violation of this Ordinance shall be cumulative, and the election of a remedy or enforcement of a penalty by the County hereunder shall not preclude the election of any other remedy or enforcement of any other penalty by the County which may be provided under this Ordinance or by law.

ARTICLE VI

APPEALS

Section 1. Appeal of Permit Denial

1. If a permit is denied after site plan review has been conducted, the applicant may appeal the Planning Department's decision to the Board of County Commissioners. Appeals must be submitted, in writing, within 10 days of the denial of the permit. At that time, the applicant's appeal will be placed on the next available Planning Board agenda for the Planning Board to review. The Planning Board will then make a recommendation of approval or denial to the Alamance County Board of Commissioners. The Board of Commissioners shall make the final determination of approval or denial.
2. The Planning Department shall send notice to all adjacent property owners via first class mail at least ten (10) days prior to the Board of Commissioners meeting advising them of the time, date, and location of the meeting.
3. The Planning Department shall post a sign on the subject property no sooner than ten (10) days or further than twenty-five (25) days from the date of Board of Commissioners meeting.

Section 2. Appeal of a Violation or Revocation of a Permit.

1. If an individual has been cited for a violation of this ordinance or has had an active permit revoked, they may appeal the Planning Department's decision to the Board of County Commissioners. Appeals must be submitted, in writing, within 30 days of the notice of violation. At that time, the applicant's appeal will be placed on the next available Planning Board agenda for the Planning Board to review. The Planning Board will then make a recommendation of uphold or overturn the Planning Department's decision to the Alamance County Board of Commissioners. The Board of Commissioners shall make the final determination of uphold or overturn the Planning Department's decision.
2. In cases of appeals of violations or revocations of permits, neither notices to adjacent property owners nor the posting of the site shall be required.

Section 3. Transfer of Permits & Sales of Nonconforming Uses.

An intent-to-construct or nonconformance permit issued for any use of land regulated by this ordinance runs with the land and may be transferred with the property; provided that all operational permits are maintained on an annual basis.

ARTICLE VII

VARIANCES

Section 1. Board of Commissioners.

The Alamance County Board of Commissioners, as established by N.C.G.S. § 153A-25 *et seq.* shall hear all requests for variances under this ordinance.

Section 2. Quorum and Vote Required.

A quorum of the Board, necessary to conduct any business of the Board, shall consist of four-fifths of the total membership of the Board.

The concurring vote of a simple majority of the total membership of the Board shall be necessary in order to approve an application for a variance.

Section 3. Application of the Variance Power.

A variance shall only be allowed by the Board of Commissioners in cases involving practical difficulties or unnecessary hardships. Any authorizing of a variance shall not destroy the intent of the ordinance. Any authorized variance shall be recorded in the minutes of the Alamance County Board of Commissioners. A hardship, as used in the context of this section, shall be considered to be some unique or unusual character of the proposed site, including but not limited to unique size, shape, contour, or distance requirement. An economic hardship to the applicant is not to be considered for a variance.

The Board may grant a variance upon finding that the following conditions exist:

1. Extraordinary and exceptional conditions exist pertaining to the particular place or property in question because of its size, shape, or topography.

2. The variance will not confer upon the applicant any special privileges that are, or would be, denied to other similarly situated individuals.
3. This ordinance would deprive the applicant of rights commonly enjoyed by other similarly situated individuals.
4. The variance would not seriously deter from the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare.
5. The special circumstances causing the need for variance(s) are not the fault of the applicant.

The Board may impose reasonable conditions upon the granting of any variance in order to protect the public interest or neighboring property owners and to maintain the spirit of this ordinance. Violation of any such conditions shall be a violation of this ordinance and subject to the penalties set forth in this ordinance.

Section 4. Appeals of Board Actions.

Every decision of the Board shall be subject to review at the instance of any aggrieved party in the Superior Court by proceedings in the nature of a petition for writ of certiorari. Such proceedings in the Superior Court shall be initiated within thirty (30) days of the filing of the decision in the office of the Planning Director. Appeals not received within this thirty (30) day period are not timely. The Superior Court is authorized to stay enforcement of this ordinance during the pendency of an appeal.

ARTICLE VIII

PUBLIC NOTICE

Section 1. Procedure

Upon certification of an Intent-to-Construct permit, the Alamance County Land Records System or Geographic Information System shall be changed to include a notice reasonably calculated to alert a person researching a particular tract that such a tract is located within the spacing requirements of a regulated use.

Section 2. Limit of Liability

In no event shall the County or any of its officers, employees, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith in connection with the duties or obligations imposed by this ordinance.

Section 3. No Cause of Action

In no event shall any cause of action arise out of the failure of a person researching the title of a particular tract to report to any person the proximity of the tract to an industry regulated by this ordinance.

ARTICLE IX

GENERAL PROVISIONS

Section 1. Conflict with Other Laws.

Wherever the provisions or application of this Ordinance impose higher standards than are required in any other local ordinance or regulation, the provisions or application of this Ordinance shall govern. Wherever the provisions of any other statute or local ordinance or regulation impose higher standards than are required by the provisions of this Ordinance, the provisions of such other statute or local ordinance or regulation shall govern.

Section 2. Severability Clause.

If any section or specific provision or standard of this Ordinance is found by a court of competent jurisdiction to be invalid, the decision of the court shall not affect the validity of any other section, provision, or standard of this Ordinance.

Sec. 3. Ordinances Rescinded.

Upon adoption, this Ordinance shall rescind and replace the Alamance County High Impact Land Uses/Polluting Industries Ordinance and the Alamance County Automobile Graveyard Ordinance.

Section 4. Effective Date.

This Ordinance shall become effective and in full force on January 1, 2012

The Alamance County Board of Commissioners hereby adopts this ordinance,

Adopted this the ____ day of _____, 2011.

ALAMANCE COUNTY BOARD OF COMMISSIONERS

Chair

Commissioner

Commissioner

Commissioner

Commissioner

Appendix A

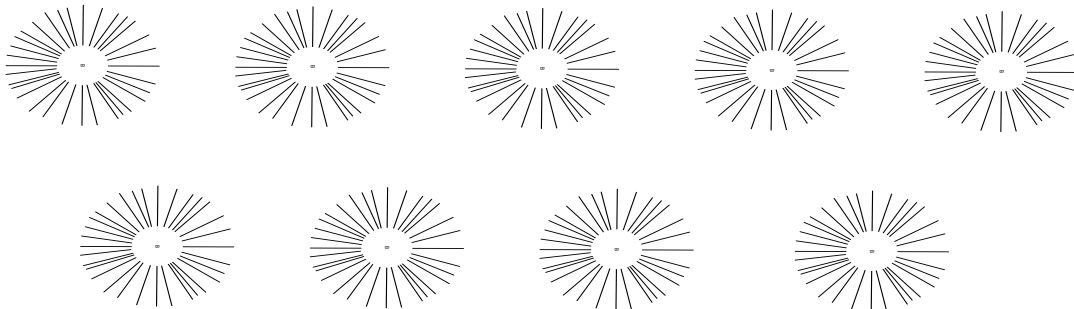
Screening Guidelines and Suggestions

General Guidelines

Screening buffers should be a minimum of thirty (30) feet in width for Class I and Class II Industrial Developments. Screening buffers for Class III and Class IV Industrial Developments should be a minimum of fifty (50) feet in width.

Planting for all screening buffers, in general, should be done in a “double-staggered” manner with plants set on 8-10 foot centers. Planting may be allowed further apart, depending on the trees, shrubs, and other vegetation involved, at the discretion of the Planning Director. In all cases, the screening should produce a continuous hedge that significantly reduces or eliminates the visual impact of the land use. Existing vegetation may be deemed adequate, based on a site visit and visual inspection.

Ex: Double-Staggered Planting



Suggested Vegetation

Applicants are strongly encouraged to consult with the County Horticulturalist to evaluate the quality of soil and probability of survival and proposed plants; including those suggested in these guidelines. The following trees are generally approved for visual screening purposes:

- Loblolly Pine (fast growing, 60-90' mature height)
- Arizona Cypress (medium growth, 40-50' mature height)
- Southern Magnolia (slow to medium growth, 60-80' mature height)
- Cryptomeria Yoshino (fast growing, 50' mature height)
- Tree Hollies (Nellie Stevens Holly, Mary Nell Holly, Emily Brunner Holly, Fosteri Holly, etc....
 - (fast growing, 20-25' mature height)

APPENDIX B
**Heavy Industrial Development Intent-to Construct Permit
Application**

Alamance County Planning Department

Date: _____

Project Name: _____

Township Name: _____

Contact Person: _____

Parcel I.D. Number: _____

Contact Address: _____

Proposed Use: _____

Acreage of Lot: _____

Contact Phone: _____

Property Owner (if different)

1. Describe what the land and/or building(s) will be used for:

2. Please state the proposed days and hours of operation:

3. Please state any additional comments you would like to make that you feel may be relevant to the consideration of this application:

By signing this application, the applicant hereby certifies to the best of their knowledge the following statements are true:

- 1. The industry for which the Permit is being requested will at all times comply with the applicable regulations and standards imposed under this Ordinance.
- 2. No Permit issued to the applicant under this Ordinance, or under any successor Ordinance hereto, has ever been revoked.

Applicant Signature: _____

Date: _____

Received by: _____

Date: _____

APPENDIX C

Heavy Industrial Development Operations Permit

Alamance County Planning Department

Date: _____

Project Name: _____

Township Name: _____

Contact Person: _____

Parcel I.D. Number: _____

Contact Address: _____

Proposed Use: _____

Acreage of Lot: _____

Contact Phone: _____

By signing this application, the applicant hereby certifies to the best of their knowledge the following statements are true:

1. The industry for which the Permit is being requested will at all times comply with the applicable regulations and standards imposed under this Ordinance.
2. No Permit issued to the applicant under this Ordinance, or under any successor Ordinance hereto, has ever been revoked.
3. The proposed industry is properly permitted under and complies with, and at all times will be maintained and operated and will continue to be permitted under, all rules, regulations, and other requirements imposed by D.O.T., D.E.N.R., and any other applicable regulatory agency or governmental body.
4. The applicant is the owner or lessee of the tract or tracts on which the industry is located or is proposed to be located.
5. The applicant has been duly issued an Intent-to-Construct Industrial Development Permit by the Planning Department for the same proposed use, which Permit is still valid as of the date of filing of the application for the Operations Industrial Development Permit.

Applicant Signature: _____

Date: _____

Received by: _____

Date: _____

Appendix D

Specifications for Heavy Industrial Development Site Plans

Title & General Information

- a. Date of submission.
- b. Location designation (township, county, state).
- c. Name and address of surveyor (Surveyor must sign and seal the site plan).
- d. Scale in figures and bar graph.
- e. North arrow.
- f. Vicinity Map
- g. Surveyor's or Engineer's Seal

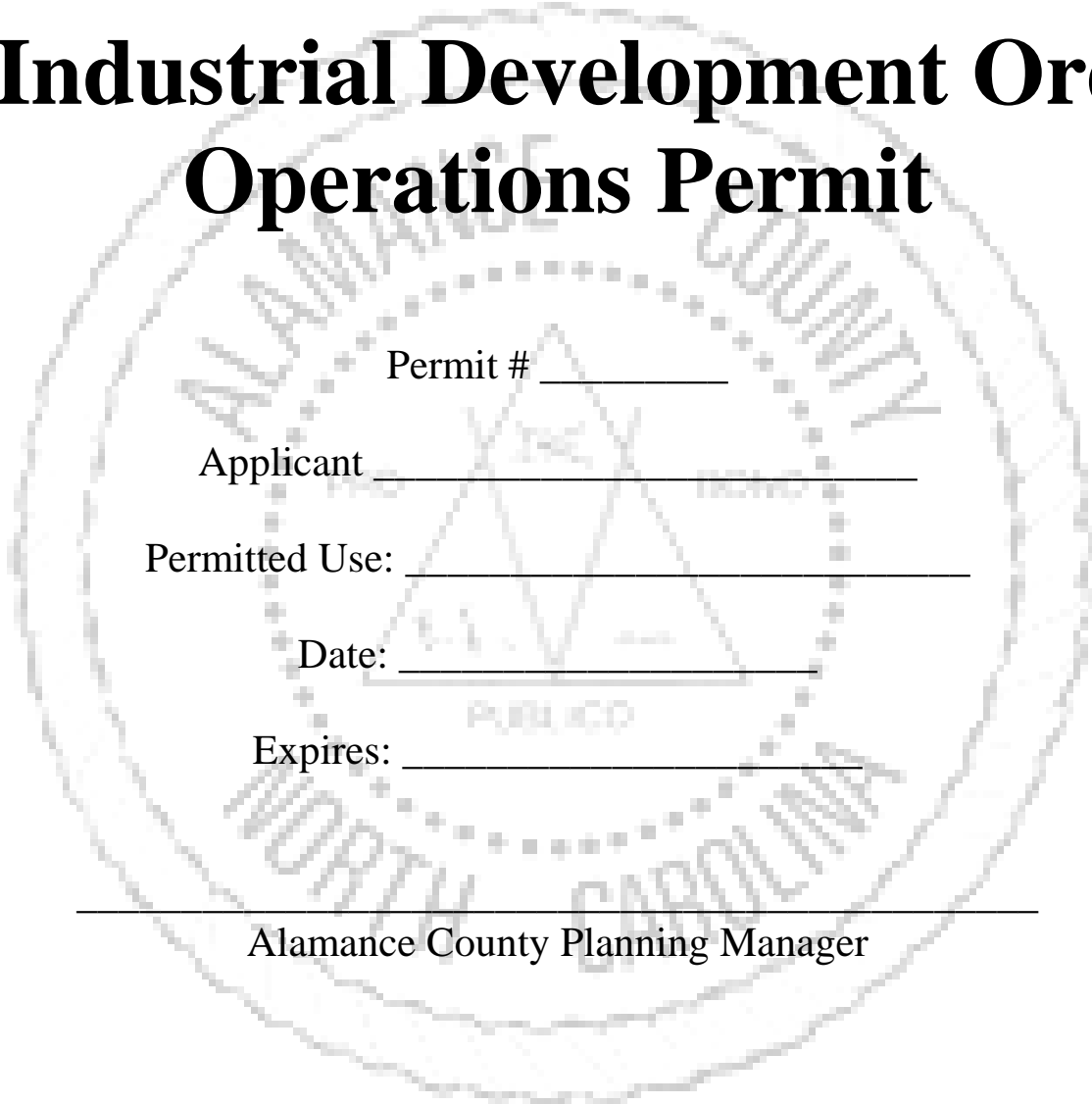
Site Data

- a. Name and address of owner(s).
- b. Parcel Identification Number(s)
- c. Name of Project.
- d. Total acreage
- e. Total percentage of proposed and existing impervious surface area.

Project Area

- a. Designated Area of Operations; clearly showing all fencing and existing and/or proposed buildings to be located on the site.
- b. The distance of the Area of Operations from all property lines.
- c. Location of any streams, ponds, or other waterways located on the property.
- d. The distance of the Area of Operations from any stream (perennial or intermittent) located on the property.
- e. Lake and stream buffers.
- f. Location and extent of any marginal land/floodplain.
- g. Representative topography.
- h. Location and purpose of any existing or proposed rights-of-way or easements.
- i. Location of any existing or proposed stormwater control devices.
- j. Location of existing or proposed septic tank and drainage field or public utilities
- k. Design of the parking lot, showing all points of entrance and exit, proposed lot lighting (if applicable), parking stalls, handicapped-parking stalls, and distance between stalls (aisles); including all dimensions.
- l. Location and dimensions of loading berths.
- m. Location of proposed gate and signage.
- n. An exterior lighting plan showing locations of all lighting and proposed lighting fixtures.

Heavy Industrial Development Ordinance Operations Permit



Permit # _____

Applicant _____

Permitted Use: _____

Date: _____

Expires: _____

Alamance County Planning Manager

Appendix F

Proposed Fee Scheduled

<u>Classification</u>	<u>Permit Application Fee</u>	<u>Renewal Fee</u>
Class I	\$350	\$50
Class II	\$350	\$50
Class III	\$350	\$50
Class IV	\$350	\$50
Nonconforming/Grandfathered	\$0	\$50