

Town of Dallas
Agenda
SEPTEMBER 27, 2022
4:00 PM
BOARD OF ALDERMEN – WORK SESSION MEETING
Rick Coleman, Mayor

Sam Martin

Frank Milton

Darlene Morrow

Jerry Cearley, Mayor Pro-Tem

E. Hoyle Withers

ITEM SUBJECT

Pages

-
- 1. Pledge of Allegiance to the Flag**
 - 2. Approval of Agenda with Additions or Deletions**
 - 3. New Business**
 - A. Speed Limit Change on Dallas Stanley Hwy 2
 - B. Façade Grant Program Modifications 4
 - C. Text Amendment to Add Single-Family Attached Dwellings to R-6 Zoning District 10
 - D. System Development Fees for Multi-Family Development 16
 - E. Minimum Housing Code 31
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TOWN OF DALLAS, NORTH CAROLINA

REQUEST FOR BOARD ACTION

DESCRIPTION: Dallas Stanley Highway Speed Limit

AGENDA ITEM NO. 3A

MEETING DATE: 09/27/2022

BACKGROUND INFORMATION:

Town Engineering Consultant, Johnny Denton, has suggested the Town reach out to NCDOT in regard to the current speed limit on Dallas Stanley Highway (NC 275)). The current speed limit is 45 MPH. Mr. Denton recommends requesting the speed limit be reduced to 35 MPH from E. Trade St. (NC 279) to 1,000 feet beyond Evans Lake Road.

The currently under construction Davis Hills Subdivision will add 87 homes, with access on the eastern and eastern sides of NC 275. Leonard Greene is a proposed 120-unit multi-family complex off of Evans Lake Road. These developments, along with existing speeds, could cause traffic issues in the future along that roadway.

Below is an excerpt from the NCDOT website on the process of changing a speed limit:

^ How can I get a speed limit changed?

[Contact the N.C. Department of Transportation](#) to request a speed zone study. Changing residential and business development often affect operating speed conditions and might warrant changes in the speed limit.

NCDOT looks at [several criteria when setting speed limits](#), including the alignment of the roadway, sight distance, the average speed of traffic, crash history and development along the road.

NCDOT does not normally lower speed limits on dead-end roads less than a mile long.

If the Board is interested, Town Staff can begin reaching out to NCDOT Staff and begin the process to potentially decrease speed in that area.

MANAGER RECOMMENDATION:

BOARD ACTION TAKEN:

Aerial Below shows approximately 1,000 ft beyond Evans Lake Road near 638 Dallas Stanley HWY.



TOWN OF DALLAS, NORTH CAROLINA

REQUEST FOR BOARD ACTION

DESCRIPTION: Façade Improvement Grant Program Modifications

AGENDA ITEM NO. 3B

MEETING DATE: 09/27/2022

BACKGROUND INFORMATION:

Development Services Staff has reviewed the existing Façade Improvement Grant Program language and are recommending the program be modified in several ways. The purpose of the modification is to provide clarification to applicants and staff, ensuring an efficient review process; and to apply the grant to commercial buildings, not necessarily existing businesses.

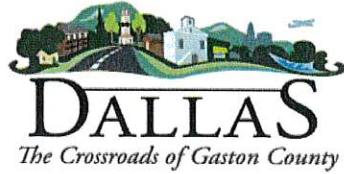
Main changes to the program included in the recommendation:

- Reduced grant allocation from \$20,000 per façade to \$5,000 per façade, with a \$20,000 max
- Tie grant allocation specifically to commercial buildings, not existing businesses
- Specific sites/buildings are limited to the maximum grant amount every three (3) years

Attached is the recommended Façade Improvement Grant Program for review.

MANAGER RECOMMENDATION:

BOARD ACTION TAKEN:



Town of Dallas

Façade Improvement Grant Program

Purpose

The Town of Dallas has a primary goal of improving the appearance of the Central Business District promoting economic development. To aid in achieving that goal, the Façade Improvement Grant Program will encourage architecturally appropriate improvements to commercial buildings.

Improving the physical appearance of downtown buildings promotes economic growth by attracting and retaining businesses, enticing customers, and halting property value deterioration in the district. The program also helps preserve downtown's unique physical resources.

Goals

- ◆ Promote facade rehabilitation in the Central Business District
- ◆ Preserve the unique character of the downtown's historic buildings
- ◆ Encourage aesthetic compatibility for improvements to façades
- ◆ Encourage the use of quality materials, good design, and workmanship in the rehabilitation of downtown properties
- ◆ Promote an attractive environment for downtown investment

Eligibility

1. A façade is defined as an individual storefront or commercial building side which faces a public right-of-way or is otherwise visible to the general public.
2. Commercial buildings must be located within the Central Business District as defined by the Town of Dallas Zoning Map, or along Trade Street between N. Summey Street and U.S. 321.
3. The following shall be ineligible: tax delinquent property, utility delinquent property, national franchises, and retail chains.
4. Owner or tenants of buildings are eligible to apply; however, the owner must sign the application.
5. Determination of eligibility will be made by the Development Services Director.

Grant Award

1. The Grant Review Committee will consider application for grants of up to fifty (50%) percent of eligible costs.
2. Qualifying projects are eligible for a grant at a minimum of \$500 and a maximum of \$5,000 per façade, up to \$20,000 total.
3. Grant payments will be made in the form of reimbursement upon completion of the project in a manner acceptable to the Town.
4. The façade improvements must remain in place for three full years from the date of completion. If not, the grant amount for that project must be repaid in full.
5. Applicant site/building is limited to the maximum grant amount allowed every three (3) years.
6. The Town reserves the right to amend and/or discontinue the grant at their sole discretion.

Requirements

1. All rehabilitation funded through grant awards under this program must be performed in accordance with *The Secretary of the Interior's Standards for Rehabilitation* (Exhibit A); Town of Dallas Ordinances and Code Requirements, such as building codes, zoning regulations, etc.; and the following guidelines in making façade improvements under this program.
2. Approval for funds must be made prior to the beginning of the project. No awards will be given to a project begun or completed prior to application.
3. All projects must be completed within one (1) year of the date that the grant is awarded. Any extension beyond one (1) year must be requested by the owner and approved by the Town or funds may be rescinded.
4. Grants May only be used to finance exterior renovations.
5. A minimum of two (2) quotes are required for each project element.
6. Since each application will be different, and reviewed on a case-by-case basis, the applicant may be required to submit additional information. The intent of the Façade Grant Program application process is not to burden the applicant business with extensive research, but to provide the Review Committee with information to make appropriate recommendations and decisions.
7. Façade Grant Program applications will be reviewed by the Review Committee, and will depend on the availability of funds.

Eligible Costs

Eligible costs can include, but are not limited to the following:

- ◆ Exterior painting of previously painted surfaces and/or paint removal
- ◆ Tuckpointing of brick; repair/replacement of stone, stucco, or other masonry elements
- ◆ Removal of siding, false facades, and in-fill brick
- ◆ New, more appropriate signage
- ◆ New or replacement of awnings
- ◆ Replacement of transom glass and business signage
- ◆ Other

Ineligible Costs

- ◆ General maintenance
- ◆ Construction of false fronts
- ◆ Painting of previously unpainted surfaces
- ◆ Interior rehabilitation or decoration
- ◆ Roof and chimney repairs
- ◆ Demolition of historic features
- ◆ Sandblasting
- ◆ Installation of aluminum, vinyl, or other inappropriate building materials
- ◆ Permitting fees
- ◆ Landscaping
- ◆ Other

How to Apply

Step 1: Pre-Application (to be completed by the APPLICANT)

Meet with Development Services Department staff prior to submitting an application. Discuss the project, the process, and the time frame. This is also a time for the applicant to ask questions.

Step 2: Application (to be completed by the APPLICANT)

Submit the completed application to the Development Services Department:

Contacts information

Project description

Project plans, specifications, cost estimates, materials to be used, color choices, and methodology

Signed copy of Façade Grant Program Guidelines

Step 3: Façade Grant Application Review (to be completed by the TOWN)

Reviewed by Development Services Staff

Reviewed by Façade Grant Review Committee

Additional Information may be requested

Projects will be evaluated by the Review Committee based on Evaluation Scoring System

Step 4: Post-Application, Pre-Work (to be completed by the APPLICANT)

Once approved for the grant, but BEFORE any work begins, submit:

Copy of Permits (Zoning & Building)

Other documentation upon request

Step 5: Complete the Project (to be completed by the APPLICANT)

Step 6: Reimbursement

Include:

Copies of all invoices

Copies of all cancelled checks for each paid invoice

Signed waiver from each contractor (if applicable)

Other receipts

Other documentation upon request

Disclaimer

The Town reserves the right to disqualify the applicant from the grant if all program guidelines are not followed or for other reasons deemed appropriate by the Town. In cases of disqualification, the applicant will forfeit all rights to reimbursement.

1. The property owner is responsible for ensuring all work is consistent with the program and the design as approved. The town will be available for consultation and to provide clarification if necessary.
2. The Town must approve any changes in work and note such changes on the application.
3. Town staff may conduct periodic inspections to ensure compliance with technical specifications.
4. Deviations from the approved plan may disqualify the applicant from the grant program. In cases of disqualification, the applicant will forfeit all rights to reimbursement.

Grant Examples

1. A property owner applies for a façade improvement grant for new signage. The attached signage meets zoning requirements and two project quotes are provided, at \$2,500 and \$2,000. The applicant receives a matching grant of 50% of the lowest estimate, which equals \$1,000.
2. A property owner applies for a façade grant for tuckpointing to the front and side façade of a commercial building. Two project estimates are provided at \$22,500 and \$25,000. Each façade is eligible for a matching grant up to \$5,000, so the maximum grant of \$10,000 is awarded.
3. A property owner receives a façade grant of \$3,500 to improve historical features on a front façade. The scope of work then changes, resulting in the rear façade being replaced, along with interior renovations. The grantee failed to notify the Town of the changes, which were not eligible under the façade improvement grant program, resulting in disqualification and no grant reimbursement.

Secretary of the Interior's Standards for Rehabilitation

The Secretary of the Interior's Standards and Guidelines for the treatment of historic properties were written by the National Park Service and revised in 1990. The guidelines recommend responsible methods and approaches and list treatments that should be avoided.

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Town of Dallas
Façade Grant Program Application

Applicants(s) Name: _____

Applicant Address: _____

City: _____ State: _____ Zip: _____

Phone: _____

Email Address: _____

Business Name: _____

Project Address: _____

Property Owner(s) Name: _____

Does the applicant own the building YES NO (if no, property owner must sign below)

The understood applicant(s) affirm:

- Work done prior to grant approval is not eligible for funding;
- The project will be completed within one (1) year from date of approval;
- I/We have read and understand the conditions, processes, and guidelines of this grant program and shall abide by its provisions;
- Acquiring all required permits is the responsibility of the applicant; and
- The information submitted herein is true and accurate to the best of my/our knowledge.

Applicant Signature: _____ Date: _____

Owner Signature: _____ Date: _____

Submit the application to:
Development Services Department
210 N Holland Street
Dallas, NC 28034

TOWN OF DALLAS, NORTH CAROLINA

REQUEST FOR BOARD ACTION

DESCRIPTION: Text Amendment - Add Single-Family Attached Dwellings to R-6 Zoning District

AGENDA ITEM NO. 3C

MEETING DATE: 09/27/2022

BACKGROUND INFORMATION:

On June 21, 2022 David Murray, on behalf of KovalXRobinson, LLC, submitted a petition for a text amendment to allow single-family attached housing to the R-6 zoning district with a minimum lot width of 20 ft., a minimum lot area of 1500 sq. ft., and minimum side yard exemption.

Staff reviewed the petition and are in support of the change with modifications. The requested minimum lot width of 20 ft. and 1500 sq. ft. lot area should specifically apply to interior lots only. Exterior lots should still be required to have a minimum side yard and are recommended with a minimum lot width of 30 ft. and minimum lot area of 2100 sq. ft.

On 8/18/2022, the Planning Board unanimously voted to send their recommendation with statements of consistency and reasonableness to approve the proposed text amendment as written.

The recommended language in the attached text amendment was drafted based on recent development interest the Town has seen, as well as townhome standards currently in the market. Staff recommends approving the proposed text amendment since the change will add the option to provide middle housing to areas designated for denser and more urban mixed housing in the 2030 Future Land Use Plan.

MANAGER RECOMMENDATION:

BOARD ACTION TAKEN:

Town of Dallas
210 N. Holland Street
Dallas, NC 28034
704-922-3176

Case# 12022-02


Petition for Text Amendment

Name of Applicant KovalXRobinson, LLC
Address of Applicant c/o Murray Law Firm, PLLC, 1901 Roxborough Rd., Ste. 120, Charlotte, NC 28211
Contract Information: Telephone 704-940-9095 Email david@murraylawfirm.com; val@kovalbuilders.net

Requested Change(s) to Zoning or Subdivision Ordinance Text Petitioner is seeking to amend the text in order to allow single-family attached dwellings (townhomes) within the R-6 district with a 20' minimum lot width, minimum lot area of 1500 sf, and minimum side yard exemption.

Specific Section(s) # Requested Change Section 153.026; Appendix A

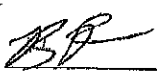
We/I certify that all information provided in this application is accurate to the best of our/my knowledge, information, and belief. Furthermore, by signing this request, we/I agree to pay for advertising costs associated with this petition. We/I understand that this petition must be completed in full and the required fee paid for acceptance.


Signature of Applicant

6/21/22

Date

Fee: \$ 500 plus advertising costs.

OFFICE USE ONLY	
Accepted as complete: <u></u>	Date <u>6/22/22</u>
Action:	
On _____ the Planning Board recommended that this petition be:	Approved <input type="checkbox"/>
	Denied <input type="checkbox"/>
On _____ the Board of Aldermen held a Public Hearing concerning this request. By vote of the Board they:	Approved <input type="checkbox"/> Denied <input type="checkbox"/>

APPENDIX A: YARD AND HEIGHT REQUIREMENTS FOR RESIDENTIAL DISTRICTS

Zone	Minimum Lot Area (Sq. Ft.)	Minimum Lot Area Per Dwelling Unit (Sq. Ft.)	Minimum Lot Width (In feet)	Minimum Front and Rear* Yard Depth (In feet)	Individual Minimum Side Yard Depth (In feet)	Minimum Side Yard Depth (In feet)*	Maximum Building Height
R-15	15,000	15,000	100	45	15	15	35 feet
R-12	12,000	12,000	90	40	12	12	35 feet
R-10	10,000	10,000	80	35	10	10	35 feet
R-8	8,000	8,000 single 6,000 1st unit 3,000 additional unit each	70	30	8	8	35 feet
R-6	6,000**	6,000** single 5,000 1st unit 2,500 additional unit each	60**	25	6	6	35 feet
R-5	5,500 **	5,500 ** - 500 SF per attached side	50	25***	6	6	35 feet

RMF		15,000 1st unit 3,500 additional unit each		45	45	45	35 feet
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* An additional ten feet shall be required to the requirements listed above on all side yards which abut a public or private street (corner lots)

** For R-5 Districts: Attached housing shall be exempt from side yard setback requirements, and may reduce lot width by 5 feet for each attached side. Further reduction may be permitted through conditional zoning. Attached buildings to include 3 or more units are only allowed with conditional approval regardless of zoning designation. For R-6 Districts: Single Family Attached Housing (Townhomes) only—interior single lots shall have a minimum required width of 20 feet with no required side setback and a minimum required lot area of 1500 square feet. Exterior units shall have a minimum lot width of 30 feet and a minimum required lot area of 2100 square feet.

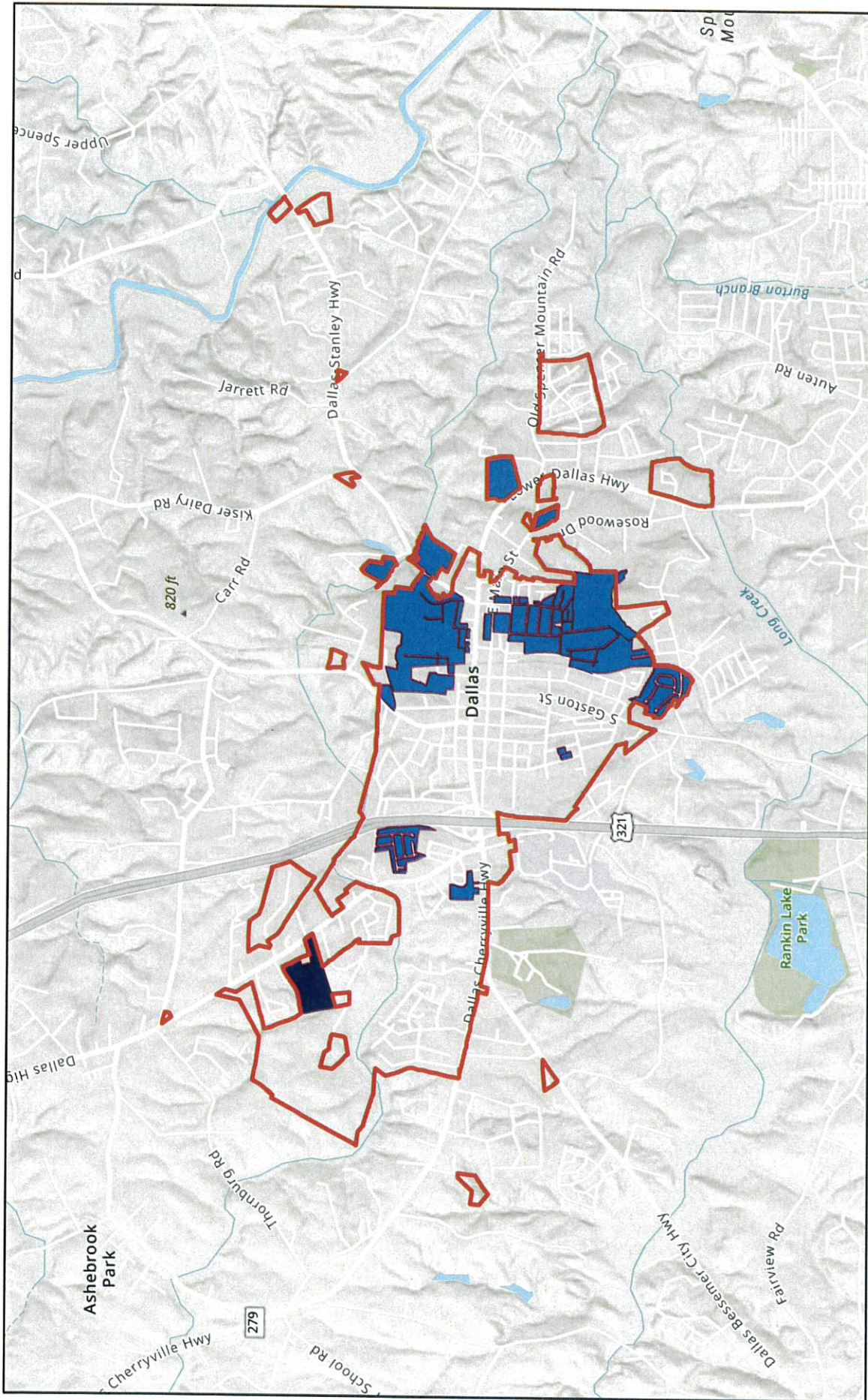
*** Rear setback may be reduced by 5 feet at the discretion of Town Staff if requested to accommodate a larger front setback for parking purposes only. Further reduction may be permitted through conditional zoning.

**** Buildings may exceed 35 feet in height. But for each five feet or fraction thereof of additional height above 35 feet, each yard shall be increased five feet over the minimum requirements. Any height above 45 feet may only be approved through conditional zoning.

APPENDIX C: PERMITTED USES CHART

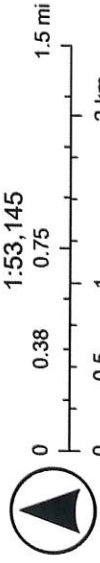
	<i>Residential</i>								<i>Office</i>	<i>Business</i>					<i>Industrial</i>
	<i>R-15</i>	<i>R-12</i>	<i>R-10</i>	<i>R-8</i>	<i>R-6</i>	<i>R-5</i>	<i>RMF</i>	<i>RMF-H</i>	<i>O&I-1</i>	<i>BC-1</i>	<i>B-1</i>	<i>B-2</i>	<i>B-3</i>	<i>B-3P</i>	<i>I-2</i>
<i>X: Permitted by right (Supplemental regulations may apply - check town ordinances)</i>															
<i>S: Special Use Permit (Supplemental regulations may apply - check town ordinances)</i>															
Permitted Uses (any use not specified below is eligible to apply for conditional zoning approval)															
RESIDENTIAL															
Single-family dwellings (attached)					X	X									
Single-family dwellings (detached)	X	X	X	X	X	X									
Manufactured/mobile homes					X	X									
Trailer camps/mobile home parks					X										
Multi-family residential				X	X		X	X			S	S	S	S	
Fraternities		S	S	S	S						S				
Homes for the aged and infirm	X	X	X												
Mixed use residential							X	X			S	S		S	
Nursing homes for chronic or convalescent patients	X	X	X												

R-5 & R-6 Zoning Districts



8/8/2022

- Dallas Town Limits
- Dallas Zoning
- R-6
- R-5
- World Hillshade



Esri, NASA, NGA, USGS, FEMA, State of North Carolina DOT, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS,

TOWN OF DALLAS, NORTH CAROLINA

REQUEST FOR BOARD ACTION

DESCRIPTION: System Development Fees for Multi-Family Development

AGENDA ITEM NO. 3D

MEETING DATE: 09/27/2022

BACKGROUND INFORMATION:

Denis Blackburne, with Wods Cooper Companies, Inc., has requested the Town consider modifying the current System Development Fee Schedule, specifically for multi-family housing projects.

System Development fees are one-time charges assessed to new water and/or sewer customers for their use of system capacity and provide a way to recover up-front system capacity costs from those using that capacity. These fees must be used to maintain and/or upgrade the water and/or sewer systems.

The current fee schedule states "System Development Fees for Multi-Family development shall be based on ¾" meters for each unit within the complex, not on a master meter size or other method of calculation."

Costs are as follows for a ¾" meter:

\$1,794 – Water
\$1,745 – Sewer
\$3,539 - Total

For the proposed 120-unit project and a community building with a 1" meter, the system development fees would be \$430,577 under the current calculation.

Mr. Blackburne requests the Town remove note 2) under the system development fee schedule and charge the fees based on actual meter size. For this development there would be a 2" meter (\$29,486 w/s) for each of three buildings in the complex and a 1" meter (\$5,897 w/s) for the community center. These would result in a total fee of \$94,355.

Also attached is a copy of the fees supplied to Woda Cooper in February 2021 for their review prior to beginning the project.

MANAGER RECOMMENDATION:

BOARD ACTION TAKEN:

WODA COOPER COMPANIES

Evans Lake Apartments, Proposed Multi-Family Development Utility Fee Summary

Privilege Fee

Number of services	Rate	Total Fee
121	\$ 1,150.00 EA	\$ 139,150.00

Assuming developer will install all infrastructure and the Town will provide the meter.

Tap Fee

Current cost as of 2/22/21

5 – 2" water service	\$ 995.00 EA	\$ 4975.00
1 – 1" water service	\$ 383.00 EA	\$ 383.00

System Development Fee

120 @ ¾" domestic services	\$ 3,539.00 EA	\$ 424,680.00
1 @ 1" domestic service	\$ 5,897.00 EA	\$ 5,897.00

Total development cost	\$ 575,085.00
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Each water service would require Backflow at the developers cost. Each Fire Service would also require a Detector Check at the developers cost.

This Summary is in accordance with Fee Schedule Effective 7-1-2020 and is subject to change.

Development Services Fee Schedule

ZONING PERMIT FEES

Multi-Family Permits	\$50.00	per dwelling unit
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SKETCH PLAN REVIEWS

Multi-Family/Subdivisions/Commercial/Manufacturing/Industrial	\$75.00	per review
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CONSTRUCTION PLAN REVIEWS ** (Staff Review Only -- Engineering Review Charged Separately)

Multi-Family/Commercial/Manufacturing/Industrial - 1st Building	\$300.00	per review
Each Additional Building (2 or more structures on a lot)	\$100.00	per review

ENGINEERING REVIEW FEES

MULTIFAMILY/COMMERCIAL/INDUSTRIAL PLAN REVIEW FEES

1 acre or less	\$1,000	(no streets)
	\$1,200	(with streets)
2 - 4 acres	\$1,200	(no streets)
	\$1,400	(with streets)
5 - 10 acres	\$3,000	(no streets)
	\$3,500	(with streets)
11 - 15 acres	\$4,500	(no streets)
	\$5,250	(with streets)
15+ acres	\$4,500 + \$240/acre	(no streets)
	\$6,750 + \$280/acre	(with streets)

MISCELLANEOUS ENGINEERING COSTS

Construction Correction Inspections (3rd visit req'd due to poor workmanship)	\$75.00	per hour
Additional Construction Plan Reviews (if comments not addressed)	\$150.00	per hour

TOWN OF DALLAS - WATER AND SEWER SERVICE FEES

STANDARD TAP AND PRIVILEGE FEES

	<u>3/4" WATER TAP</u>	<u>4" SEWER TAP</u>
Privilege Fee	\$610.00	\$610.00
Residential Tap Inside	\$1,129.00	\$1,605.00
Residential Tap Outside	\$1,245.00	\$1,723.00
Commercial Tap	Cost	Cost
Road Bore Fee	\$365.00	\$365.00
Water Tap >1"	Cost	
Sewer Tap > 5' in depth and/or 20' in lateral length		Cost

RESIDENTIAL IRRIGATION TAPS

Outside Yard Meter w/Tee	\$365.00
Outside Yard Meter 3/4" Tap	\$1,129.00
Outside Yard Meter 1"	\$1,129.00
Irrigation Tap >1"	Cost

COMMERCIAL IRRIGATION TAPS

Cost

UNAUTHORIZED METER ACCESS/UNSAFE METER USE

\$200.00

System Development Fees			
Meter Size	Meter Ratio	Water	Sewer
3/4"	1.00	\$1,794	\$1,745
1"	1.67	\$2,989	\$2,908
1.5"	3.33	\$5,979	\$5,816
2"	8.33	\$14,946	\$14,540
3"	16.67	\$29,893	\$29,079
4"	33.33	\$59,786	\$58,159
6"	53.33	\$95,657	\$93,054
8"	93.33	\$167,400	\$162,845
10"	183.33	\$328,822	\$319,874

- 1) System Development Fees shall be based on water meter size. If only sewer service is requested, then fee will be based on estimated water service size.
- 2) System Development Fees for Multi-Family development shall be based on ¾" meters for each unit within the complex, not on a master meter size or other method of calculation.
- 3) Fire Flow shall not be metered and shall not be assessed a System Development Fee.
- 4) System Development Fees for irrigation services shall only include water fees. Combination services shall be reviewed by the Town and calculated at the time of the request for service.



April 11, 2019

Ms. Maria Stroupe
Town Manager
Town of Dallas
210 N. Holland St.
Dallas, NC 28034

Dear Ms. Stroupe,

Raftelis has completed an evaluation to develop cost-justified water and sewer system development fees for consideration by the Town of Dallas (Town). This letter documents the results of the analysis, which is based on an approach for establishing system development fees set forth in North Carolina General Statute 162A Article 8 – “System Development Fees.” As one of the largest and most respected utility financial, rate, management, and operational consulting firms in the U.S., and having prepared system development fee calculations for utilities in North Carolina and across the U.S. since 1993, Raftelis is qualified to perform system development fee calculations for water and sewer utilities in North Carolina.

Background

System development fees are one-time charges assessed to new water and/or sewer customers for their use of system capacity and serve as an equitable method by which to recover up-front system capacity costs from those using the capacity. North Carolina General Statute 162A Article 8 (“Article 8”) provides for the uniform authority to implement system development fees for public water and sewer systems in North Carolina and was passed by the North Carolina General Assembly and signed into law on July 20, 2017 and amended on June 22, 2018. According to the statute, system development fees must be adopted in accordance with the conditions and limitations of Article 8, and those fees in effect as of October 1, 2017 must conform to the requirements set forth in the Article no later than July 1, 2018. In addition, the system development fees must also be prepared by a financial professional or licensed professional engineer, qualified by experience and training or education, who, according to the Article, shall:

- Document in reasonable detail the facts and data used in the analysis and their sufficiency and reliability.
- Employ generally accepted accounting, engineering, and planning methodologies, including the buy-in, incremental cost or marginal cost, and combined cost approaches for each service, setting forth appropriate analysis to the consideration and selection of an approach appropriate to the circumstances and adapted as necessary to satisfy all requirements of the Article.

- Document and demonstrate the reliable application of the methodologies to the facts and data, including all reasoning, analysis, and interim calculations underlying each identifiable component of the system development fee and the aggregate thereof.
- Identify all assumptions and limiting conditions affecting the analysis and demonstrate that they do not materially undermine the reliability of conclusions reached.
- Calculate a final system development fee per service unit of new development and include an equivalency or conversion table for use in determining the fees applicable for various categories of demand.
- Consider a planning horizon of not less than 5 years, nor more than 20 years.

This letter report documents the results of the calculation of water and sewer system development fees for the Town in accordance with these requirements.

Article 8 references three methodologies that can be used to calculate system development fees. These include the buy-in method, the incremental cost method, and the combined cost method. A description of each of these methods follows:

Capacity Buy-In Approach

The Capacity Buy-In Methodology is most appropriate in cases where the existing system assets provide adequate capacity to provide service to new customers. This approach calculates a fee based upon the proportional cost of each user's share of existing plant capacity. The cost of the facilities is based on fixed assets records and usually includes escalation of the depreciated value of those assets to current dollars.

Incremental Cost Approach

The second method used to calculate water and sewer system development fees is the Incremental Cost (or Marginal Cost) Methodology. This method focuses on the cost of adding additional facilities to serve new customers. It is most appropriate when existing facilities do not have adequate capacity to provide service to new customers, and the cost for new capacity can be tied to an approved capital improvement plan (CIP) that covers at least a 5-year planning period.

Combined Approach

A combined approach, which is a combination of the Buy-In and Incremental Cost approaches, can be used when the existing assets provide some capacity to accommodate new customers, but where the capital improvement plan also identifies significant capital investment to add additional infrastructure to address future growth and capacity needs.

Summary of Results

To perform the System Development Fee calculation, Raftelis requested and was provided with the following data from Town staff:

- Water and sewer fixed asset data;
- Outstanding utility debt and associated debt service;
- Contributed or grant funded capital;
- Capacity in water and sewer systems; and,
- Five-year capital improvement plan.

The Buy-In Approach was chosen as the method to calculate the System Development Fees for the Town, since the Town does not currently develop a long-term capital improvement plan (of at least five years).

Using the Buy-In approach, Raftelis calculated the estimated cost, or investment in, the current capacity available to provide utility services to existing and new customers. This analysis was based on a review of fixed asset records and other information as of June 30, 2018. The depreciated value of the assets was first adjusted to reflect an estimated replacement cost to determine the “replacement cost new less depreciation” (RCNLD) value for the assets. The asset values were escalated using the Handy Whitman Index of Public Utility Construction Costs (for the South Atlantic Region).

The RCNLD value of the water assets includes water supply, treatment, transmission and distribution facilities and land, but excludes small, non-core equipment including vehicles and meters. The RCNLD value of the sewer assets includes sewer treatment, collection system facilities, disposal facilities and land, but excludes small equipment and vehicles.

Results of the asset escalation by asset category are shown in Exhibits 1 and 2.

Exhibit 1: RCNLD of Existing Water Assets

Existing Water Assets	
Asset Category	RCNLD
Building and Fence	\$ 129,927
Distribution	7,303,006
Equipment	100,930
Land	72,881
Water Plant	1,286,147
Total: Existing Water Assets	\$ 8,892,891

Exhibit 2: RCNLD of Existing Sewer Assets

Existing Sewer Assets	
Asset Category	RCNLD
Building and Fence	\$ 129,927
Distribution	2,223,197
Equipment	95,787
Land	44,381
Sewer Plant	1,055,871
Total: Existing Sewer Assets	\$ 3,549,162

Several adjustments were then made to the estimated water and sewer RCNLD values in accordance with Article 8, which included adjustments for contributed assets, non-core assets, and outstanding debt service as described below.

Contributed Assets

The listing of fixed assets provided was reviewed to identify assets that were contributed or paid for by developers, and these assets were subtracted from the RCNLD value, as these assets do not represent an investment in system capacity by the Town. In addition, assets that were grant funded were also subtracted from the RCNLD value.

Non-Core Fixed Assets

The RCNLD value excludes non-core assets such as small equipment, vehicles, and meters.

Outstanding Debt Service Credit

Utilities often borrow funds to construct assets, and revenues from retail rates and charges can be used to make the payments on these borrowed funds. To ensure that new customers are not being double charged for these assets, once through the System Development Fees and again through retail rates and charges, the outstanding debt that is paid for through retail rates and charges should be deducted from the calculation.

The RCNLD values for water and sewer assets with the adjustments as described above are shown in Exhibits 3 and 4 below.

Exhibit 3: Determination of Water Assets for System Development Calculation

Adjustments to Water Assets	
Total Water Assets	\$ 8,892,891
Less:	
Contributed and Grant Funded Assets (1)	(75,000)
Vehicles, Non-core Equipment, Computers	(59,625)
Meters	(7,705)
Admin	-
Total: Net Water Assets	\$ 8,750,561
Less:	
Outstanding Principal Debt	(2,771,979)
Water Assets for System Development Fee Calculation	\$ 5,978,582

(1) A grant was obtained to fund a portion of a waterline project.

Exhibit 4: Determination of Sewer Assets for System Development Calculation

Adjustments to Sewer Assets	
Total Sewer Assets	\$ 3,549,162
Less:	
Contributed and Grant Funded Assets (1)	-
Vehicles, Non-core Equipment, Computers	(59,625)
Meters	-
Admin	-
Total: Net Sewer Assets	\$ 3,489,537
Less:	
Outstanding Principal Debt	-
Sewer Assets for System Development Fee Calculation	\$ 3,489,537

The adjusted RCNLD values for water and sewer were then converted to a unit cost of capacity by dividing the RCNLD value by current capacity available (Capacity) to yield a basic unit of measure of cost per gallon per day (GPD) for water and sewer capacity, as shown in Exhibit 5.

Exhibit 5: Cost per GPD of Core Utility Assets

	Water	Sewer
Adjusted RCNLD	\$5,978,582	\$3,489,537
Capacity [MGD]	1.0	0.6
Cost per GPD	\$5.98	\$5.82

This measure becomes the basic building block or starting point for determining the *maximum cost-justified level* of the water and sewer System Development Fees. The next step is to define the level of demand associated with a typical residential customer often referred to as an Equivalent Residential Unit, or ERU. For determining the level of residential demand, the Town uses the water and wastewater design flow rates as specified by state guidelines¹, which reflect typical water and sewer demand. Based on discussions with Town staff, this analysis assumes an average of a two-bedroom and three-bedroom home. Applying the State standards to the average number of bedrooms, it is determined that an ERU requires a standard level of service of 300 gallons per day of capacity each for water and sewer.

Exhibit 6: Water and Sewer Equivalent Residential Unit

	Water - GPD per ERU	Sewer - GPD per ERU
Equivalent Residential Unit	300	300

Assessment Methodology

The analysis provides a maximum cost-justified level of System Development Fees that can be assessed by the Town. For residential customers, the calculation of the System Development Fee is based on the cost per gallon per day multiplied times the number of gallons per day required to serve each ERU, as shown below in Exhibit 7.

¹ Sewer guidelines -Administrative Code Title 15A (Department of Environment and Natural Resources) Subchapter 2T, which states that the sewage from dwelling units is 120 gallons per day per bedroom.

Exhibit 7: System Development Fee Calculation for Water and Sewer Systems

System Development Fee Calculation		
Water Calculation		
Cost per GPD	\$	5.98
GPD per ERU		300
Maximum System Development Fee for 3/4" Meter	\$	1,794
Sewer Calculation		
Cost per GPD	\$	5.82
GPD per ERU		300
Maximum System Development Fee for 3/4" Meter	\$	1,745

For non-residential customers (or customers with larger meters), the Town could develop a conversion table using two options. The first option is to estimate each customer’s water or sewer flow and then divide it by 300 gallons per day to determine the number of ERUs. The number of ERUs could then be multiplied by the fee for residential customers to derive the system development fee the non-residential customers. For example, a commercial customer with an estimated use of 3,750 per day equate to 12.50 ERUs (3,750 divided by 300). Multiplying the 12.50 ERUs by the residential water and sewer system development fees results in a water system development fee of approximately \$22,425 and a sewer system development fee of approximately \$21,812.

The second option is to use the fees for the smallest residential meter and then scale the fee up by the flow ratios for each meter size, the results of which are shown in Exhibit 8.² This method provides a straightforward approach that is simple to administer. Assuming the commercial customer in the example provided above has a 4” meter, the system development fee for the 4” meter would be \$59,786 for water and \$58,159 using the meter size approach.

² See the AWWA M-1 Manual – Appendix B- Equivalent Meter Ratios; pp.326 for meter sizes

Exhibit 8: Calculated Maximum System Development Fees for Water and Sewer Customers

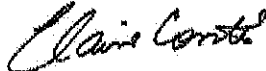
Meter Size	Meter Ratio	Water	Sewer
3/4"	1.00	\$ 1,794	\$ 1,745
1"	1.67	2,989	2,908
1.5"	3.33	5,979	5,816
2"	8.33	14,946	14,540
3"	16.67	29,893	29,079
4"	33.33	59,786	58,159
6"	53.33	95,657	93,054
8"	93.33	167,400	162,845
10"	183.33	328,822	319,874

The fees documented in the report represent the maximum cost-justified System Development Fees. The Town may elect to charge a cost per gallon that is less than the maximum cost-justified charge documented in this report. If the Town elects to charge a fee that is less, all customers must be treated equally, meaning the same reduced cost per gallon per day must be used for all customers.

We appreciate the opportunity to assist the Town of Dallas with this important engagement. Should you have questions, please do not hesitate to contact me at (704) 373-1199.

Very truly yours,

RAFTELIS



Elaine Conti,
Vice President

DRAFT

Appendix

Supporting Schedules From the System Development Fee Model

Supporting Schedule 1 – Water Buy-In Approach

Water System (1)	Calculated RCNLD
Building and Fence	\$ 129,927
Distribution	7,303,006
Equipment	100,930
Land	72,881
Right of Ways	-
Water Plant	1,286,147
Sewer Plant	-
Total Eligible Assets	\$ 8,892,891
Less:	
Grant Funded/Contributed Capital (2)	\$ (75,000)
Vehicles, Non-core Equipment, Computers (3)	(59,625)
Meters	(7,705)
Admin	-
Subtotal: Water System Costs	\$ 8,750,561
Adjustments:	
Less:	
Outstanding Principal (4)	\$ (2,771,979)
Net Water System Assets	\$ 5,978,582
Existing System Capacity (in MGD)	1
Cost per Unit of Capacity (GPD)	\$ 5.98
Daily ERU (in GPD) (5)	300
Calculated System Development Fee per ERU	\$ 1,794

- (1) The net book value as of June 30, 2018 is escalated to today's dollars to calculate the replacement cost new less depreciation (RCNLD) value.
- (2) All assets that were contributed/donated by developers (or grant funded) have to be removed.
- (3) Equipment, vehicles and small computer systems are removed.
- (4) Outstanding principal paid through user rates/charges is subtracted from the analysis.
- (5) For calculating the capacity fee for a typical residential customer or ERU, the flow for a 2.5-bedroom home was assumed. Per NCAC 02T.0114, flow rate is 120 gallons per day per bedroom. The 2.5-bedroom home was used to derive an ERU of 300 gallons per day.

Supporting Schedule 2 – Sewer Buy-In Approach

Sewer System (1)	Calculated RCNLD
Building and Fence	\$ 129,927
Distribution	2,223,197
Equipment	95,787
Land	44,381
Right of Ways	-
Water Plant	-
Sewer Plant	1,055,871
Total Eligible Assets	\$ 3,549,162
Less:	
Grant Funded/Contributed Capital (2)	\$ -
Vehicles, Non-core Equipment, Computers (3)	(59,625)
Meters	-
Admin	-
Subtotal: Sewer System Costs	\$ 3,489,537
Adjustments:	
Less:	
Outstanding Principal (4)	\$ -
Net Sewer System Assets	\$ 3,489,537
Existing System Capacity (in MGD)	0.6
Cost per Unit of Capacity (GPD)	\$ 5.82
Daily ERU (in GPD) (5)	300
Calculated System Development Fee per ERU	\$ 1,745

- (1) The net book value as of June 30, 2018 is escalated to today's dollars to calculate the replacement cost new less depreciation (RCNLD) value.
- (2) All assets that were contributed/donated by developers (or grant funded) have to be removed.
- (3) Equipment, vehicles and small computer systems are removed.
- (4) Outstanding principal paid through user rates/charges is subtracted from the analysis.
- (5) For calculating the capacity fee for a typical residential customer or ERU, the flow for a 2.5-bedroom home was assumed. Per NCAC 02T.0114, flow rate is 120 gallons per day per bedroom. The 2.5-bedroom home was used to derive an ERU of 300 gallons per day.

Supporting Schedule 3 – Debt Service

Debt Title	Issue Amount	Interest Rate	Allocation		Total Outstanding Principal 2019-Beyond
			Water	Sewer	
2013 Dallas W&S BB&T Loan	\$ 3,600,000		100%	0%	\$ 2,922,430

TOWN OF DALLAS, NORTH CAROLINA

REQUEST FOR BOARD ACTION

DESCRIPTION: Minimum Housing Code

AGENDA ITEM NO. 3E

MEETING DATE: 09/27/2022

BACKGROUND INFORMATION:

Attached is a proposed Minimum Housing Code as drafted by the Town Attorney and reviewed by Development Services Staff and the Town Manager.

If this draft is acceptable to the Board of Aldermen, it will be brought to the October 11th meeting for approval and implementation.

MANAGER RECOMMENDATION:

BOARD ACTION TAKEN:

MINIMUM STANDARD HOUSING CODE

§ 150.35 TITLE.

This subchapter shall be known and may be cited as “The Minimum Standard Housing Code of the Town of Dallas, North Carolina,” and will be hereinafter called “the Code” or “this subchapter.”

§ 150.36 EXERCISE OF POLICE POWER; FINDING; PURPOSE.

- (A) Pursuant to G.S., § 160D-1201 it is hereby found and declared by the Board of Aldermen of the Town that there exists in the Town, dwellings which are unfit for human habitation are detrimental to the welfare and dangerous and injurious to the health and safety of the people of the state and to the residents of the Town. A public necessity exists for the repair, vacating, closing, or demolition of such dwellings. Whenever the Town finds that there exists within the Town’s planning and development regulation jurisdiction, dwellings that are unfit for human habitation due to deterioration or dilapidation; defects increasing the hazards of fire, accidents or other calamities; lack of ventilation, light, or sanitary facilities; or other conditions rendering the dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety, morals, or otherwise detrimental to the welfare of the residents of the Town, power is conferred upon the Town to exercise its police powers to repair, vacate, close, or demolish the dwellings consistent with the provisions of the Minimum Standard Housing Code of the Town of Dallas, North Carolina
- (B) In order to protect the health, safety and welfare of the residents of the Town as authorized by G.S. § 160A-174, it is the purpose of this subchapter to establish minimum standards of occupancy of all buildings used for human habitation as expressly authorized by Chapters 160A and 160D, to provide procedures for the repair, vacating, closing and demolition of buildings not conforming to the minimum standards of fitness, as expressly authorized by G.S. § 160D-1203 § 160D-1205 and this Code.
- (C) Abandoned Structures. Upon the governing Board finding any abandoned structure to be a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities. The Town may provide for the repair, closing, or demolition of such structure pursuant to the same provisions and procedures as are prescribed by this ordinance for the repair, closing, or demolition of dwellings found to be unfit for human habitation.

§ 150.37 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words used in the present tense include

the future, words in the masculine gender include the feminine and neuter, words in the feminine and neuter gender include the masculine, and the singular number includes the plural and the plural number includes the singular, Whenever the word dwelling is used in the Code, it shall be construed as though it is followed by the words "or any part thereof."

ALTER or ALTERATION. Any change or modification in construction or occupancy.

APPROVED. Approved by the Housing Inspector or his or her authorized agent.

AREA. As applied to the dimensions of a building, means the maximum horizontal projected area of the building at grade. See FLOOR AREA.

ATTIC STORY. Any story situated wholly or partly in the roof, so designated, arranged or built as to be used for business, storage, or habitation.

BASEMENT OR CELLAR. A portion of a building located partly underground but having more than one-half of its clear floor-to-ceiling height (by cubic measurement) above the average grade of the adjoining ground, and having direct access to light and air from windows located above the level of the adjoining ground.

BUILDING CODE. Any edition, together with all adopted amendments and supplements thereto, of the State Building Code or of the State Uniform Residential Building Code, or any other building rules or regulations adopted by the Town relating to the construction, alteration, repair or removal of various types of buildings and structures.

DETERIORATED OR DILAPIDATED. A dwelling which is unfit for human habitation and can be repaired altered, or improved to comply with all of the minimum standards established by this subchapter, **at a cost not in excess of 50% of its value**, as determined by the Housing Inspector pursuant to G.S. § 160D-1203(3) and 150.43(B).

DILAPIDATED. A dwelling which is unfit for human habitation and can be repaired, altered or improved to comply with this subchapter only **at a cost in excess of 50% of its value**, as determined by the Housing Inspector pursuant to G.S. § 160D-1203(3) and 150.43 (B).

DWELLING. Any unit, multiple unit, apartment(s), building, structure, manufactured home, or mobile home, or part thereof, used and occupied to be used for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. For the purposes of Article 12 of Chapter 160D and this Code, the term does not include recreational vehicle, if used solely for a seasonal vacation purpose pursuant to G.S. §160D-102 nor any temporary shelter as hereinafter defined.

EXTERMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making fumigating, trapping or by any other recognized and legal pest elimination method approved by the Housing Inspector.

FLOOR AREA. The area included with surrounding walls of a building exclusive of vent shafts and courts.

GARBAGE. The animal and vegetable waste resulting from handling preparation, cooking and consumption of food or other matter subject to decomposition, decay, putrefaction, or the generation of noxious or offensive gases or odors, or which, may serve as breeding or feeding material for flies, insects, or animals.

HEATING. The following definitions shall apply to heating installations.

- (1) **CENTRAL HEATING BOILERS AND FURNACES.** Heating furnaces and boilers shall include warm air furnaces, floor-mounted, direct-fired unit heaters or water boilers, and steam boilers operating at not in excess of 15 pounds of gauge pressure, used for heating of building or structures.
- (2) **CHIMNEY.** A vertical shaft of masonry, reinforced concrete or other approved non-combustible, heat resisting material enclosing one or more flues, for the purpose of removing products of combustion from solid, liquid or gas fuel.
- (3) **FLUE.** A vertical passageway for products of combustion.
- (4) **VENT PIPE.** As applied to heating, means a pipe for removing products of combustion from gas appliances.
- (5) **WATER HEATER.** A device for the heating and storage of water to be used for other than heating or industrial purposes.

HOUSING INSPECTOR. The public officer authorized to exercise the powers of the Code, and the designation includes his or her duly authorized representative.

INFESTATION. The presence, within or around a dwelling, of any insects, rodents or other pests in a number so as to constitute a menace to the health, safety or welfare of the occupants of the public.

OCCUPANT. Any person, over one year of age, living, sleeping, cooking or eating in or having actual possession of, a dwelling.

OPENABLE AREA. The part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

OPERATOR. Any person who has charge, care or control of a dwelling, or part thereof, in which the dwelling or part thereof are let.

ORDINARY MINIMUM WINTER CONDITIONS. The temperature for the previous 15- year period.

OWNER. Any person(s) who jointly or severally:

- (1) Holds the title in fee simple and every mortgagee of record.; or
- (2) Has charge, care or control of any dwelling or dwelling unit, as owner or representative of the owner, or as a fiduciary of the estate of the owner. It is specifically noted that any person meeting the definition of OWNER shall be bound to comply with the provisions of the Code to the same extent as though he or she were an OWNER under the definition of division (1) above.

PARTIES IN INTEREST. All individuals, associations, and corporations that have interests of record in a dwelling and any that are in possession of a dwelling, pursuant to G.S. § 160D-1202.

PERSON. A natural person, his or her heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, it's or their successors or assigns, or the agent of any of the aforesaid.

PLUMBING. The practice, materials and fixtures used in the installation, maintenance, extension and alteration of all piping, fixtures, appliances and appurtenances in connection with any of the following: sanitary drainage or storm drainage facilities, the venting system and the public or private water supply systems, within or adjacent to any building, structure or conveyance; also, the practice and materials used in the installation maintenance extension or alteration of storm water, liquid waste or sewage and water supply systems of any premises to their connection with any point of public disposal or other acceptable terminal.

PUBLIC AUTHORITY. Any housing authority or any officer that is in charge of any department or branch of the government of the Town, relating to health, fire, building regulations, or other activities concerning dwellings in the local government.

PUBLIC OFFICER. The officer authorized by ordinances adopted under this Article to exercise the powers prescribed by the ordinances and by this Article.

RUBBISH. Combustible and non-combustible waste materials, except garbage; and the term shall include the residue from the burning of wood, coal, coke and other combustible material, paper, rags, cartons, boxes, wood excelsior, rubber, leather, tree branches yard trimmings, tin cans, metals, mineral matter, glass crockery and dust.

SUBSTANDARD DWELLING. A dwelling, which does not meet the basic minimum requirements of this Code for the use.

SUPPLIED. Paid for, furnished or provided by or under the control of the owner operator.

TEMPORARY SHELTER. Any tent, or other similar personal property used for human shelter which is designed to be a temporary shelter, and which is not attached to the ground, or another structure or to any utilities system on the same premises for not more than 30 consecutive days.

UNFIT FOR HUMAN HABITATION. Conditions exist in a dwelling which violate or do not comply with one or more of the minimum standards of fitness pursuant to G.S. §160D-1205 or one or more of the requirements, standard and conditions established by this Code.

WALLS.

- (1) BEARING WALL. A wall which supports any vertical load in addition to its own weight.
- (2) EXTERIOR WALL. A wall, bearing or non-bearing, which is used as an enclosing wall for a building, but which is not necessarily suitable for use as a part wall or fire wall.
- (3) FOUNDATION WALL. A wall below the first floor extending below the adjacent ground level and serving as support for a wall, pier, column or other structural part of a building.

§ 150.38 SCOPE.

- (A) The provisions of the Code shall apply to the construction, alteration, repair, equipment, use, occupancy location, maintenance, removal and demolition of every dwelling or appurtenances connected or attached to any dwelling, regardless of build date.
- (B) No provision of this Code shall be held to deprive any federal or state agency, or any municipal authority having jurisdiction, of any power or authority which it had on the effective date of this subchapter or of any remedy then existing for the enforcement of its orders, nor shall it deprive any individual or corporation of its legal rights as provided by law.
- (C) The provisions of this Code shall apply to all mobile homes and house trailers used as a residential occupancy and are considered dwellings.

§ 150.39 EXISTING BUILDING.

The provisions of this Code shall apply to any dwelling, irrespective of when the dwelling was constructed, altered or repaired.

- (A) If, within any period of 12 months, alterations or repairs are made to an existing building costing in excess of 50% of the then physical value of the building the building shall be made to conform to the requirements of the Building Code for new buildings.
- (B) If an existing building is damaged by fire or otherwise in excess of 50% of its then physical value before the damage is repaired, it shall be made to conform to the requirements of the Building Code for new buildings.

- (C) If the cost of the alterations or repairs, or the amount of the damage, is more than 25%, but not more than 50% of the then physical value of the building, the portions to be altered or repaired shall be made to conform to the requirements of the Building Code for the new building to an extent as the Building Code may determine.
- (D) Repairs and alterations not covered by the preceding divisions of this section, restoring a building to its condition previous to damage or deterioration, or altering it in conformity or hazard, may be made with the same kind of materials as those of which the building is constructed.
- (E) For the purposes of this section, the "physical value" of a building or structure as herein before defined shall be determined by the Housing Inspector, and he or she shall use as a guideline the fair market value of the building exclusive of land.

§ 150.40 MAINTENANCE OF BUILDINGS.

- (A) All buildings or structures both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition.
- (B) All devices or safeguards which are required by this Code in a building when erected, altered or repaired, shall be maintained in good working order.
- (C) The owner, or his or her designated agent shall be responsible for the maintenance of buildings, structures and premises to the extent set out in §150.43.

§ 150.41 ADMINISTRATION.

The Housing Inspector is hereby designated the public officer pursuant to Article 12 of Chapter 160D of the North Carolina General Statutes. The Housing Inspector shall have all powers, duties and authority pursuant to Chapter 160A and Article 12 of Chapter 160D of the North Carolina General Statutes in addition to those powers conferred upon the Housing Inspector pursuant to this Code and who shall exercise those duties so provided for.

- (1) DUTIES. It shall be the duty of the Housing Inspector, including but not limited to the following:
 - (a) To investigate and to inspect all dwellings located in the Town in order to determine which dwellings are unfit for human habitation as well as to carry out the general spirit and purpose of this Code;
 - (b) To enforce the provisions of this Code and to take action, alone or together with other appropriate departments and agencies, public or

private, as may be necessary to carry out the general spirit and purpose of this Code;

- (c) To keep adequate records of all activity conducted pursuant to this Code, including, but not limited to, an inventory of those buildings, dwelling units and rooming units that do not meet the minimum standards of the fitness prescribed by this Code;
- (d) To report annually to the Board of Aldermen concerning the work of his or her department, and specifically the housing section, during the preceding year; and
- (e) To perform each and every duty necessary and incidental to the fulfillment of the general spirit and purpose of this Code.

(2) **POWERS.** Pursuant to Article 12 of Chapter 160D of the N.C.G.S and more specifically the additional powers of the Housing Inspector pursuant to N.C.G.S. § 160D-1210 in addition to and as provided and prescribed by this subchapter, the Housing Inspector is hereby authorized to exercise any powers necessary or convenient to carry out and effectuate the general spirit, purpose and provisions of this Code, including specifically, but not limited to, the following:

- (a) To investigate the dwelling conditions in the Town in order to determine which buildings are unfit for human habitation;
- (b) To administer oaths, affirmations, examine witnesses and receive evidence;
- (c) To enter upon premises for the purpose of making examinations and inspections in a manner that will be the least possible inconvenience to the persons in possession;
- (d) To appoint and fix the duties of officers, agents and employees necessary to carry out the purpose of this Code; and
- (e) To delegate any of his or her functions and powers under this Code to other officers and other agents.

(3) **RECORDS.** The Housing Inspector shall keep, or cause to be kept, a record of the business of the Housing Division. The records of the Housing Division shall be open to the public inspection.

(4) **NO UTILITY SERVICES.** The Town shall not provide (either public or private) utility services such as water, sewer, electricity, gas and the like, to any substandard building or dwelling unit which becomes vacant until the building or dwelling unit has been inspected, brought into compliance with this Code and the Building Code, and a valid certificate of compliance as required has been issued. This requirement

shall not preclude the temporary use of the utility services as may be deemed necessary during construction, repair or alteration. The Housing Inspector shall be responsible for making the determination as to when the "temporary services" may be necessary.

- (5) NO PERMIT. No building, plumbing, electrical, gas or other permit, as may be required, for an addition alteration or repair of an existing substandard building or dwelling unit shall be issued until a time as an inspection of the property has been made to determine the feasibility of rehabilitation of the building or dwelling unit.

§ 150.42 MINIMUM STANDARDS OF FITNESS.

All dwellings shall provide for a safe and healthful environment with living facilities arranged and equipped to assure such safe and healthful environment.

No person shall occupy or allow another to occupy, or hold out for intended use for human habitation any dwelling which does not comply with the conditions set out in G.S. § 160D-1205 in addition to the requirements, standards and conditions as set out in this Code or for which a valid certificate of compliance has not been issued by the Housing Inspector.

Minimum requirements, standards, and conditions contained in G.S. § 160D-1205 in addition to the standards, requirements and conditions, contained in this Code, are the fundamental requirements, standards and conditions imposed and mandated by the Town.

Pursuant to G.S. § 160D-1205 and this Code, the Housing Inspector may determine a dwelling is unfit for human habitation, if the officer finds that any defective condition exist in the dwelling that render it dangerous or injurious to the health, safety, or welfare of the occupants of the dwelling, the occupants of neighboring dwellings, or other residents of the jurisdiction.

- (1) Defective conditions may include any of the following without limiting the generality any of the of the foregoing:
 - (a) Defects therein increasing the hazards of fire, accident, or other calamities;
 - (b) Lack of adequate ventilation, or light, or sanitary facilities;
 - (c) Dilapidation;
 - (d) Disrepair;
 - (e) Structural defects; or
 - (f) Uncleanliness.

(A) MINIMUM STANDARDS FOR PLUMBING SYSTEMS AND EQUIPMENT.

1) Shall contain not less than the following:

- i. A connection to a potable water supply and to the public sewer supply and to the public or other approved sewage disposal system;
- ii. A kitchen sink, lavatory, tub or shower and a water closet, all in good working condition and installed in accordance with the adopted Plumbing Code, and located within the dwelling and accessible to the occupants. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user;
- iii. Plumbing all of which meets the standards of the adopted Plumbing Code and which is in a state of good repair and in good working order;
- iv. Connections to the kitchen sink, lavatory and tub or shower of an adequate supply of both cold and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply; and
- v. Installations of all hot water heating appliances according to the Plumbing Code adopted by the Town and capable of supplying a continuous source of hot water, on demand, to all the required fixtures at a temperature of not less than 120°F.

(B) MINIMUM STANDARDS FOR VENTILATION AND LIGHTS.

1) Every dwelling shall contain not less than the following:

- i. Windows and the like: every habitable room shall have at least one window or skylight facing directly to the outdoors;
- ii. The minimum total window area, measured between stops, for every habitable room shall be 10% of the floor area of the room;
- iii. Whenever walls or other portions of structures face a window of any like room and the light obstruction structures are located less than five feet from the window and extend to a level above that of the ceiling of the room, the window shall not be deemed to face directly to the outdoors and shall be included as contributing to the required minimum total window area;

- iv. Whenever the only window in the top of the room is a skylight type window in the top of the room, the total window area of the skylight shall equal at least 15% of the total floor area of the room;
- v. Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient;
- vi. All fixtures, receptacles, equipment and wiring should be maintained in a state of good repair, safe, capable of being used and installed in accordance with the electric Code adopted by the Town; and
- vii. The minimum capacity of the service supply and the main disconnect switch shall be sufficient to carry adequately the total load as required by the electrical code adopted by the Town.

(C) MINIMUM STANDARDS FOR HEATING.

- 1) Every building, dwelling shall have facilities for providing heat in accordance with either divisions (i) or (ii) below, as well as complying with division (iii) below.
 - i. Central and electrical heating systems. Every central or electric heating system shall be of sufficient capacity so as to heat each dwelling to which it is connected with minimum temperature of 70°F measured at a point three feet above the floor during ordinary minimum winter conditions.
 - ii. Other heating facilities. Where a central or electric heating system is not provided each dwelling shall be provided with sufficient fireplaces, chimney flues or gas vents whereby heating appliances may be connected so as to furnish a minimum temperature of 70°F measured at a point three feet above the floor during ordinary minimum winter conditions.
 - iii. Installation and maintenance. Heating appliances and facilities shall be installed in accordance with the Building Code adopted by the Town and shall be maintained in a safe and good working condition.

(D) MINIMUM STANDARDS FOR SPACE, USE AND LOCATION.

- 1) Every dwelling shall contain not less than the following:
 - i. Dwelling unit. Every dwelling shall contain at least 150 square feet of habitable floor area for the first occupant at least 100 square feet

of additional habitable floor area for each of the next three occupants and at least 75 square feet of additional habitable floor area for each additional occupant.

- ii. Room sizes.
 - a) Every dwelling shall contain at least the minimum room size in each habitable room as required by the Building Code adopted by the Town.
 - b) In every dwelling, every room occupied for sleeping purposed by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.
- iii. Floor area calculation. Floor area shall be calculated on the basis of habitable room area; however, closet area and hall area within the dwelling, where provided, may count for more than 10% of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half feet shall not be considered as part of the floor area in computing the total floor area of the room to determine maximum permissible occupancy.
- iv. Ceiling height. At least one half of the floor area of every habitable room shall have a ceiling height of at least seven feet.
- v. Cellar. No cellar shall be used for living purposes.
- vi. Basements. No basement shall be used for living purposes unless:
 - a) The floor and walls are impervious to leakage of underground and surface runoff water and are insulated against dampness and condensation.
 - b) The total window area, total openable window area and ceiling height are equal to this required for habitable rooms; and
 - c) The required minimum window area of every habitable room is entirely above the grade adjoining the window area, except where the window or windows face a stairwell, window well or access way.

(E) MINIMUM STANDARDS FOR SAFE AND SANITARY MAINTENANCE.

- 1) Every dwelling shall comply with the following:
 - i. Exterior foundation wall and roofs. Every foundation wall, exterior wall and exterior roof shall be substantially weather-tight, water-tight and rodent-proof; shall be capable of affording privacy; shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.
 - ii. Interior floors, walls and ceilings. Every floor, interior wall and ceiling shall be substantially rodent-proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load placed thereon.
 - iii. Interior floors, walls and ceilings. Every floor, interior wall and ceiling shall be substantially rodent-proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load placed thereon.
 - iv. Stairs, porches and appurtenances. Every inside and outside stair, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair.
 - v. Bathroom floors. Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so as to be substantially impervious to water and so as to permit the floor to be easily kept in a clean and sanitary condition.
 - vi. Supplied facilities. Every supplied facility piece of equipment or utility, which is required under this Code shall be so constructed and installed that it will function safely and effectively and shall be maintained in sound working condition.
 - vii. Drainage. Every yard shall be properly graded so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.
 - viii. Egress. Every dwelling shall be provided with means of egress as required by the Building Code adopted by the Town.
 - ix. Noxious weeds. Every yard and all exterior property areas of a dwelling shall be kept free of noxious weeds or plant growth which

are in excess of 12 inches, and which cause or threaten to cause a hazard detrimental to the public health and safety.

(F) MINIMUM STANDARDS FOR CONTROL OF INSECTS, RODENTS AND INFESTATIONS.

- 1) Every dwelling shall at least comply with the following:
 - i. Screens. For protection against mosquitoes, flies and other insects, every door opening directly from a dwelling unit to outdoor space shall have supplied and installed screens and a self-closing device; and every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens installed.
 - ii. Rodent control. Every basement or cellar window used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with screens installed or other approved device as will effectively prevent their entrance.
 - iii. Infestation. Every occupant of a dwelling containing a single dwelling shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for the extermination; whenever his or her dwelling is the only one infested. Notwithstanding caused by failure to the actual owner to maintain a dwelling in a rodent proof or reasonably insect-proof condition, extermination shall be the responsibility of the actual owner, as opposed to the tenant/occupant. Whenever infestation exists in two or more of the dwellings containing two or more dwelling units, extermination thereof shall be the responsibility of the owner, and not the tenants.
 - iv. Rubbish. Every dwelling shall be supplied with adequate rubbish storage facilities.
 - v. Garbage. Every dwelling shall have adequate garbage disposal facilities or garbage storage containers, having a capacity of not more than 30 gallons per each container.

(G) MINIMUM STANDARDS FOR STRUCTURAL CONDITION.

- 1) Every dwelling shall at least comply with the following:
 - i. Walls or partitions or supporting members, sills, joists, rafters or other structural members shall not list, lean or buckle, and shall not

be rotten deteriorated or damaged, and shall not have holes or cracks which might admit rodents.

- ii. Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.
- iii. Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.
- iv. Steps, stairs, landings, porches or other parts or appurtenances shall be maintained in a condition so that they will not fail or collapse.
- v. Adequate facilities for egress in case of fire or panic shall be provided.
- vi. Interior walls and ceilings of all rooms, closets and hallways shall be finished of suitable materials, which will, by use of reasonable household methods promote sanitation and cleanliness and shall be maintained in a manner so as to enable the occupants to maintain reasonable privacy between various spaces.
- vii. The roof, flashing, exterior walls, basement walls, floors and all doors and windows exposed to the weather shall be constructed and maintained so as to be weather- and water-tight.
- viii. There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of failing, or in a condition or location as to constitute a fire hazard.
- ix. There shall be no use of the ground for floors, or wood floors on the ground.

§ 150.43 PROCEDURE FOR ENFORCEMENT.

(A) INVESTIGATION, COMPLAINT, AND HEARING.

- 1) Whenever a petition is filed (charging that any dwelling in the Town is unfit for human habitation) by a Public Authority, by at least five residents of the Town, or whenever it appears to the Housing Inspector upon inspection a dwelling in the Town is unfit for human habitation; the Housing inspector shall, if a preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwellings a Complaint stating the charges in that respect and containing a notice that an administrative hearing will be held before the Housing Inspector or the Housing Inspector's designated agent, at a time and place within the county in which the property located.

- 2) The hearing shall be not less than ten (10) days nor more than thirty (30) days after the serving of the Complaint.
- 3) The owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint.
- 4) If applicable, notice of the hearing shall also be given to at least one of the persons signing a petition relating to the unsafe building.
- 5) Any person desiring to do so may attend the hearing and give evidence relevant to the matter being heard.
- 6) The rules of evidence prevailing in courts of law shall not be controlling in administrative hearings before the Housing Inspector.
- 7) At the hearing the Housing Inspector may determine pursuant to G.S. § 160D-1205 or The Minimum Standard Housing Code of the Town of Dallas, that a dwelling is unfit for human habitation if the Housing Inspector finds conditions existing in the dwelling that render it dangerous or injurious to the health, safety or welfare of the dwelling occupants or the occupants of the neighboring dwellings, or other residents of the Town. The defective conditions may include the following, without limiting the generality of the foregoing: defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanness or especially dangerous to life because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring, inadequate lighting, heating, lack of a potable water supply and to the public sewer supply or the public or approved sewage disposal system or means of egress or failure in any way to conform to the minimum standards set forth in Article 12 of Chapter 160D of the North Carolina General Statutes; or failure in any way to conform to the Minimum Standard Housing Code of the Town of Dallas beginning Chapter 150.35;
- 8) Every owner of dwelling shall give the Housing Inspector free access to the dwelling at all reasonable times, pursuant to this Code, for the purposes of any inspection, examination or survey being conducted by the Housing Inspector or his or her office for purposes of ensuring compliance with Article 12 of Chapter 160D and with this Code.
- 9) Every occupant of a dwelling shall give the owner thereof access to any part of the dwelling at all reasonable times for the purpose of the owner's making the repairs or alterations as are necessary to effect compliance with the provisions of this Code, or with any lawful order issued pursuant to the provisions of this Code. Additionally, every occupant of a dwelling shall give

the Housing Inspector free access to the dwelling at all reasonable times, pursuant to this Code, for the purposes of any inspection, examination or survey for purposes of ensuring compliance with Article 12 of Chapter 160D and with this Code.

(B) ORDERS.

If, after notice and an administrative hearing, the Housing Inspector determines the dwelling under consideration is unfit for human habitation, the Housing Inspector shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner ONE OF THE FOLLOWING ORDERS, AS APPROPRIATE:

(1) ORDER #1 -DETERIORATED DWELLING- If the repair, alteration, or improvement of the dwelling can be made at a reasonable **cost not in excess of 50%** of dwelling's (structure only) value, as determined by the Housing Inspector:

- a. the owner, within a minimum of 30 days but not to exceed 90 days, as specified in the order, shall be ordered, directed and required to repair, alter, or improve the dwelling and render the dwelling fit for human habitation and in compliance with Article 12 of Chapter 160D of the North Carolina General Statutes and this Code.
- b. The Housing Inspector may order and require that the property be vacated and closed only if continued occupancy during the time allowed for repair will present a significant threat of bodily harm, taking into account the nature of the necessary repairs, alterations, or improvements; the current state of the property; and any additional risks due to the presence and capacity of minors under the age of 18 or occupants with physical or mental disabilities.
- c. The order shall state that the failure to make timely repairs as directed in the order shall make the dwelling subject to the issuance of an unfit order under subdivision (C) of this section.

(2) ORDER #2 -DILAPIDATED DWELLING- If the repair, alteration, or improvement of the dwelling can only be made at a **cost in excess of 50%** of dwelling's (structure only) value, as determined by the Housing Inspector:

- a. The owner, within a minimum of 30 days but not to exceed 90 days as specified in the order, shall be ordered, directed and

required to repair and bring the dwelling into conformity with this Code

- b. The Housing Inspector shall order, direct and require that the property be vacated and closed only if continued occupancy during the time allowed for repair will present a significant threat of bodily harm, taking into account the nature of the necessary repairs, alterations, or improvements; the current state of the property; and any additional risks due to the presence and capacity of minors under the age of 18 or occupants with physical or mental disabilities.
- c. If proper repairs as provided for in the above subsection (a) and (b) are not made with the specified time the Owner shall be ordered, directed and required to remove or demolish the dwelling within a minimum of 30 days but not to exceed 90 days. time. The order shall state that the failure to make timely repairs as directed in the order shall make the dwelling subject to the issuance of an unfit order under subdivision (C) of this section.
- d. Except in emergency situations endangering the immediate health, safety or welfare of any persons, there shall be no demolition of an unsafe dwelling until the owner has first had a reasonable opportunity to bring it into conformity with this Code, within a minimum of 30 days but not to exceed 90 days. time.
- e. Notwithstanding any other provision of law or code, if the dwelling is located in a historic district and the Historic District Commission determines, after an administrative hearing as provided by ordinance, that the dwelling is of particular significance or value toward maintaining the character of the district, and the dwelling has not been condemned as unsafe, the order may require that the dwelling be vacated and closed consistent with G.S. 160D-949.

(C) PLACARDING

- (1) If the owner fails to comply with an order of the Housing Inspector to repair, alter, or improve or to vacate and close and remove or demolish the dwelling, the Housing Inspector may cause the dwelling to be repaired, altered, or improved or to be vacated, closed, and demolished.
- (2) The Housing Inspector may cause to be posted on the main entrance of the dwelling so closed a placard with the following words:

i. "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful. "Occupation of a building so posted shall constitute a Class 1 misdemeanor" pursuant to G.S. § 160D-1203(4) and this subsection of the Code as approved and adopted by the Town.

(3) The duties of the Housing Inspector set forth in this subdivision shall not be exercised until the governing board shall have by ordinance ordered the Housing Inspector to proceed to effectuate the purpose of this Article with respect to the particular property or properties that the Housing Inspector shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance.

(4) This ordinance shall be recorded in the office of the register of deeds in the county where the property or properties are located and shall be indexed in the name of the property owner in the grantor index.

(D) DEMOLITION.

(1) If the owner fails to comply with an order of the Housing Inspector to vacate and remove or demolish the dwelling, the Housing Inspector may cause such dwelling to be vacated and removed or demolished.

(2) The duties of the Housing Inspector set forth in this subdivision shall not be exercised until the governing Board shall have by ordinance ordered the Housing Inspector to proceed to effectuate the purpose of this Article with respect to the particular property or properties that the Housing Inspector shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with Article 12 of Chapter 160D of the North Carolina General Statutes and the Minimum Standard Housing Code of the Town of Dallas; 30 days is the minimum hereby established as such a reasonable opportunity and time

(3) This ordinance shall be recorded in the office of the register of deeds in the county where the property or properties are located and shall be indexed in the name of the property owner in the grantor index.

(E) ABANDONMENT OF INTENT TO REPAIR.

(1) If the dwelling has been vacated and closed for a period of one year pursuant to an ordinance adopted pursuant to subdivision (C) of this section or after the Housing Inspector issues an order or proceedings

have commenced under Article 12 of Chapter 160D of the North Carolina General Statutes or the Minimum Standard Housing Code of the Town of Dallas, regarding a dwelling to be repaired or vacated and closed as provided in this subdivision, then the governing Board may find that the owner has abandoned the intent and purpose to repair, alter, or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, and welfare of the Town in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling that might otherwise have been made available to ease the persistent shortage of decent and affordable housing in the Town, then in such circumstances, the governing Board may, after the expiration of such one-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

- a) If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 90 days.
 - b) If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within 90 days.
- (2) This ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this ordinance, the Housing Inspector shall effectuate the purpose of the ordinance.

(F) CIVIL PENALTY

- (1) All violations of this section that are not remedied by the deadline given through an order of repair, alteration or improvement, or vacancy, closing or removal or demolition shall subject the offender to a civil penalty to be recovered by the Town in a civil action in the nature of debt if the offender does not pay the penalty within 30 days following the given deadline in addition those remedies provided for in § 150.43.

- (2) Each day that the occupancy of the same after the time prescribed in the order of its repair, alteration and improvement, or its vacancy, closing and removal or demolition continues after the prescribed time shall constitute a separate and distinct offense as outlined in § 150.43.
 - (3) Each day that the occupancy of the same after the time prescribed in the order of its repair, alteration and improvement, or its vacancy, closing and removal or demolition continues after the prescribed time shall constitute a separate and distinct offense as outlined in § 150.43.
 - (4) Each day's continuing violation shall be a separate and distinct offense, and subject to penalties as outlined in § 150.43.
- (G) VIOLATIONS. Violations of this chapter may also be enforced by an appropriate equitable remedy including but not limited to injunctions and orders of abatement issued from a court of competent jurisdiction as outlined in § 150.43. Violations of the provisions of this Chapter shall not be considered a misdemeanor, per G.S. § 14.4.

(H) LIENS.

- (1) The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the Housing Inspector shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the General Statutes.
- (2) If the real property upon which the cost was incurred is located in the Town, then the amount of the cost is also a lien on any other real property of the owner located within the Town limits or within one mile thereof except for the owner's primary residence. The additional lien provided in this sub-subdivision is inferior to all prior liens and shall be collected as a money judgment.
- (3) If the dwelling is removed or demolished by the Housing Inspector, the Town shall sell the materials of the dwelling, and any personal property, fixtures, or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the Housing inspector, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court.

- (4) Nothing in this section shall be construed to impair or limit in any way the power of the local government to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

(I) CIVIL ACTION.

- (1) If any occupant fails to comply with an order to vacate a dwelling, the Housing Inspector may file a civil action in the name of the Town to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as defendant any person occupying such dwelling. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed 10 days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. § 42-29. If the summons appears to have been duly served and if at the hearing the Housing Inspector produces a certified copy of an ordinance adopted by the governing Board pursuant to subdivision (4) of this section authorizing the Housing Inspector to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. § 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. § 7A-228, and the execution of such judgment may be stayed as provided in G.S. § 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this paragraph unless such occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the governing Board has ordered the Housing Inspector to proceed to exercise his duties under subdivisions (C) and (D) of this section to vacate and close and/or remove and demolish the dwelling.
- (2) Additional notices to affordable housing organizations. Whenever a determination is made pursuant to subdivision (2) of this section that a dwelling must be vacated and closed, or removed or demolished, any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of 45 days from the mailing of such notice shall be given before removal or demolition by action of the Housing Inspector, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease, or purchase the property for the purpose of providing affordable housing. The Housing Inspector or clerk shall

certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the Housing Inspector to wait 45 days before causing removal or demolition.

(J) APPEALS FROM ORDERS OF HOUSING INSPECTOR AND DECISIONS FROM HOUSING APPEALS BOARD.

- (1) A Housing Appeals Board as provided by G.S. § 160D-305 is hereby designated and shall be comprised of the Town of Dallas Board of Adjustment (hereafter called the Board).
- (2) An appeal from any decision or order of the Housing Inspector is a quasi-judicial matter and may be taken by any person aggrieved thereby or by any officer, Board, or commission of the local government.
- (3) Any appeal from the Housing Inspector shall be taken within 10 days from the entering of the decision or service of the order by filing with the Housing Inspector and with the Board a notice of appeal that shall specify the grounds upon which the appeal is based.
- (4) Upon the filing of any notice of appeal, the Housing Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made.
- (5) When an appeal is from a decision of the Housing Inspector refusing to allow the person aggrieved thereby to do any act, the decision remains in force until modified or reversed.
- (6) When any appeal is from a decision of the Housing Inspector requiring the person aggrieved to do any act, the appeal has the effect of suspending the requirement until the hearing by the Board, unless the Housing Inspector certifies to the Board, after the notice of appeal is filed with the Housing Inspector, that because of facts stated in the certificate, (a copy of which shall be furnished to the appellant), a suspension of the requirement would cause imminent peril to life or property. In that case the requirement is not suspended except by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the Housing Inspector, by the Board, or by a court of record upon petition made pursuant to subsection (m) of this section.

- (7) The Board shall fix a reasonable time for hearing appeals, shall give due notice to all parties, and shall render its decision within a reasonable time.
- (8) Any party may appear in person or by agent or attorney.
- (9) The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make any decision and order that in its opinion ought to be made in the matter, and, to that end, it has all the powers of the Housing Inspector,
- (10) The concurring vote of four (4) of the five (5) members of the Board is necessary to reverse or modify any decision or order of the Housing Inspector.
- (11) The Board also has power in passing upon appeals, when unnecessary hardships would result from carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance is observed, public safety and welfare secured, and substantial justice done.
- (12) Every decision of Board is subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board, but not otherwise.
- (13) Any person aggrieved by an order issued by the Housing Inspector or a decision rendered by Board may petition the superior court for an injunction restraining the Housing Inspector from carrying out the order or decision and the court may, upon such petition, issue a temporary injunction restraining the Housing Inspector pending a final disposition of the cause. The petition shall be filed within 30 days after issuance of the order or rendering of the decision. Hearings shall be had by the court on a petition within 20 days and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. It is not necessary to file bond in any amount before obtaining a temporary injunction under this subsection.
- (14) If any dwelling is erected, constructed, altered, repaired, converted, maintained, or used in violation Article 12 of Chapter 160D of the North Carolina General Statutes or the Minimum Standard Housing Code of the Town of Dallas adopted under authority of Article 12 of Chapter 160D of the North Carolina General Statutes or any valid order or decision of the Housing Inspector or Board made pursuant Article 12 of Chapter 160D of the North Carolina General Statutes or the Minimum Standard Housing Code of the Town of Dallas adopted under

authority of Article 12 of Chapter 160D of the North Carolina General Statutes, the Housing Inspector or Board may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, or use; to restrain, correct, or abate the violation; to prevent the occupancy of the dwelling; or to prevent any illegal act, conduct, or use in or about the premises of the dwelling.

§ 150.44 METHODS OF SERVICE OF COMPLAINTS, NOTICES, ORDERS AND APPEALS

- (A) Complaints and/or Orders and/or Appeals issued by Housing Inspector or the Housing Appeal Board Pursuant Article 12 of Chapter 160D of the North Carolina General Statutes and/or the Minimum Standard Housing Code of the Town of Dallas adopted under authority of Article 12 of Chapter 160D of the North Carolina General Statutes shall be served upon owners and/or parties in interest, either personally or by certified mail. When service is made by certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the certified mail is unclaimed or refused but the regular mail is not returned by the post office within 10 days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.
- (B) If the identities of any owners or parties in interest or the whereabouts of any owners or parties in interest are unknown and cannot be ascertained by the Housing Inspector in the exercise of reasonable diligence, or, if the owners or parties in interest are known but have refused to accept service by certified mail, and the Housing Inspector makes an affidavit to that effect, then the serving of the complaint or order upon the owners or persons in interest may be made by publication in a newspaper having general circulation in the jurisdiction at least once no later than the time at which personal service would be required under the provisions of Article 12 of Chapter 160D of the North Carolina General Statutes. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

§ 150.45 CONFLICT.

- (A) In the event any provision, standard or requirement of the Minimum Standard Housing Code of the Town of Dallas is found to be in conflict with any provision of any other ordinance or code of the Town, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health safety and welfare of the residents of the Town shall prevail.

150.46 SUPPLEMENTAL NATURE OF ARTICLE 12 OF G.S CHAPTER 160D AND THIS CODE

- (A) Nothing in Article 12 of G.S Chapter 160D and this Code shall be construed to abrogate or impair the powers of the courts or of any department of any local government to enforce any provisions of its charter or its ordinances or regulations nor to prevent or punish violations thereof. The powers conferred by Article 12 of Chapter 160D shall be supplemental to the powers conferred by any other law in carrying out the provisions of the ordinances.

TOWN OF DALLAS, NORTH CAROLINA

REQUEST FOR BOARD ACTION

DESCRIPTION: Code Enforcement Procedures

AGENDA ITEM NO. 3F

MEETING DATE: 09/27/2022

BACKGROUND INFORMATION:

At the September 13th Board of Aldermen meeting, an item was added to the agenda to discuss code enforcement procedures as Item 8D. This item was similar in nature to Item 8A, which was a discussion on nuisance trash abatement. It was determined that these items should be dealt with simultaneously and would take more discussion with Town Staff and the Town Attorney. These items were tabled until the September 27th Work Session.

This discussion will be held to determine the best methods for enforcing the Town's ordinances and the abatement methods to pursue.

MANAGER RECOMMENDATION:

BOARD ACTION TAKEN:

TOWN OF DALLAS, NORTH CAROLINA

REQUEST FOR BOARD ACTION

DESCRIPTION: Rural Transformation Grants

AGENDA ITEM NO. 3G

MEETING DATE: 09/27/2022

BACKGROUND INFORMATION:

NC Session Law 2021-80 has allocated \$50 million of Coronavirus State Fiscal Recovery Funds (CSFRF) from the American Rescue Plan Act (ARPA) of 2021 to the NC Department of Commerce, Rural Economic Development Division (REDD), to administer a new Rural Transformation Grant program. The maximum grant amount is \$950,000 per grantee. Attached is a portion of the Rural Transformation Grant Fund Guidelines.

Staff has met and discussed possible projects for a grant application and recommend the following:

- 1 – Main Street and Downtown investment and revitalization efforts – Install new lights, ped heads, and paver crosswalks at the intersection of Gaston and Main St.; and install paver crosswalks at the intersection of Trade and Main St. to complete the perimeter of the Court Square. Also, a rebranding campaign and wayfinding signage throughout the key areas of Town.
- 2- Community enhancements that spur economic growth – Purchase the Smyre-Pasour House for rehabilitation to commercial use.
- 3- Initiatives that help create resilient neighborhoods – Installation of bathroom facilities and equipment at the Town’s parks.

Application could be made for a combination of some or all of the three potential projects. Board direction on possible projects for this application is necessary to proceed. Grant applications are open now, but must be submitted by November 1, 2022.

MANAGER RECOMMENDATION:

BOARD ACTION TAKEN:

Rural Engagement and Investment Program

I. FUND OVERVIEW

[NC Session Law 2021-180](#) and the associated appropriation committee report allocated \$50 million of Coronavirus State Fiscal Recovery Funds (SFRF) from the American Rescue Plan Act (ARPA) of 2021 to the North Carolina Department of Commerce, Rural Economic Development Division (REDD), to administer a new Rural Transformation Grant program. Accordingly, the REDD has established the Rural Transformation Grant Fund as part of its Rural Engagement and Investment (RE&I) Program. The RTGF (\$50 million in (ARPA) funding) will provide grant resources, training, technical assistance, and education programs to local governments to help communities acquire critical resources, advance project implementation, build local capacity, and respond to critical issues relating to COVID-19 pandemic and recovery. The RTGF will help rural communities revitalize main street and downtown districts, seed and advance initiatives that build local capacity, revitalize, and strengthen neighborhoods, foster small business recovery/sustainability, and support economic growth. REDD will administer RTGF in accordance with State law and the [US SFRF Treasury Guidance](#), such as the [Final Rule](#), [the FAQs](#), and [the Compliance and Reporting Guidance](#). RTGF and associated agreements will also follow compliance requirements of the [Uniform Guidance \(2 CFR 200\)](#) and [09 NCAC 03M](#).

II. PURPOSE OF THE FUND

The fund will support projects under four programs:

- **Downtown Revitalization**
- **Resilient Neighborhoods**
- **Community Enhancement for Economic Growth**
- **Rural Community Capacity Building**

These programs will support projects that:

- Provide **public improvements that help retain businesses** and attract customers to business districts.
- Support **downtown economic development** initiatives that are intended to help retain and create jobs, spur private investment, support small businesses, and leverage main street and downtown districts as economic engines.
- Facilitate **business building improvements** by allowing businesses to rehabilitate or restore buildings to support business growth and sustainability, and lead to the creation of full-time jobs.

- Create **resilient neighborhoods** through community development, neighborhood revitalization, community resiliency, economic investments, and quality of life improvements.
- Increase the **local government capacity** of rural and distressed communities through training, technical assistance, and educational programs that help units of government increase administrative efficiencies, enhance public service delivery, support COVID-19 pandemic recovery efforts, and create sustainability.
- Support **community enhancements for economic growth** through the acquisition of land and buildings, the preparation/development of neighborhood properties and business sites, and the removal of non-historic structural and physical barriers for the purpose of enhancing community growth and economic development opportunities.

III. ELIGIBLE APPLICANTS

Units of local government located within Tier 1 and Tier 2 Counties, and Rural Census Tracts in Tier 3 Counties, are eligible for this program. For the purposes of this program, units of local government are defined as municipal or county governments within the state of North Carolina. REDD shall prioritize disbursing grants to units of local government serving populations that are negatively impacted by the COVID-19 pandemic at a disproportionate level when compared to the rest of the State, or located in a [Qualified Census Tract](#) as defined by the United States Department of Housing and Urban Development.

REDD may also give special consideration to applicants requesting funding for projects located in designated [Main Street and Small-Town Main Street communities](#) in [Tier 1 Counties, Tier 2 Counties](#), or [Rural Census Tracts in Tier 3 Counties](#).

IV. ELIGIBLE ACTIVITIES

Projects funded by the RTGF may include the following types of activities:

Rural Transformation Grant Fund Eligible Activity – Downtown Revitalization Program	Description
Public Improvements	Improvements to publicly owned buildings for community wide use, lots, alleys, and streetscapes, parking facilities, restrooms, waterfront developments, and parks to address disproportionate public or private negative economic impacts from the pandemic in a downtown qualified census tract.

Mixed-Use Downtown Development	Improvements to publicly owned property for community wide use that will leverage the rehabilitation of privately owned existing buildings or new construction infill development to address disproportionate negative economic impacts from the pandemic, in areas zoned and developed for a mix of uses. The mix of uses may include two or more of the following: retail, restaurant, service, professional, nonprofit, governmental, institutional, or residential. Such public improvements may be made to any of the following: buildings, facades, lots, alleys, and streetscapes, parking, infrastructure, etc. in a downtown qualified census tract.
Small Business Improvements	Public Improvements and planning studies to address disproportionate private negative economic impacts from the pandemic, that will leverage the rehabilitation of privately owned downtown commercial and mill buildings that may house small businesses, including exterior and interior improvements, for the purpose of business retention, expansion or recruitment activities that retain or create jobs. Public improvements may be made to any of the following: buildings, facades, lots, alleys, and streetscapes, parking, infrastructure, historic preservation studies, ordinances, etc. in a downtown qualified census tract.
Training & Technical Assistance	Community, county or regional training and technical assistance, organized and sponsored by a local government, to address disproportionate private negative economic impacts from the pandemic and leverage asset based downtown economic development in a downtown qualified census tract. Such training and technical assistance may include small scale manufacturing cohort development, downtown revitalization, historic preservation, workforce or affordable housing, tourism-based destination development, etc., and may be conducted by private consultants.
Planning	The development of plans for the public sector to address disproportionate private negative economic impacts from the pandemic in a downtown qualified census tract, by furthering the development of historic preservation initiatives, public improvements, technology, and/or infrastructure in a qualified census tract. Such plans, which may be prepared by private consultants, are

	intended to help a community leverage other funding opportunities and resources.
Industry Improvements	The implementation of publicly owned improvements that will aid impacted industries in the travel, tourism and hospitality sector, or businesses that experienced at least 8% employment loss, to address disproportionate negative economic impacts from the pandemic. Such public improvements may include any of the following: buildings, facades, lots, alleys, and streetscapes, parking, infrastructure, etc., in a downtown qualified census tract.

Rural Transformation Grant Fund Eligible Activity - Resilient Neighborhoods Program	Description
Affordable Permanent Housing	Local government activities that support the development of new affordable housing and improvements to existing affordable housing, including permanent supportive housing. Housing may be single-family or multifamily. All activities must provide or improve housing for low-income households and communities.
Neighborhood Improvements and Facilities	Activities that will improve the health and safety of the neighborhood including a facility defined as a place open to the public that provides services that are traditionally provided by the government or owned and operated by a nonprofit. This category includes temporary residences for people experiencing homelessness.
Small Business Assistance	Assistance for-profit businesses with 100 or fewer employees that have been disproportionately impacted by COVID-19. Businesses must commit to creating LMI jobs or be owned by LMI person(s) if a microenterprise business with 5 or fewer persons.
Nutritional and Healthy Initiatives	Creation of healthy living initiatives, development of health and nutrition educational programming; and elimination of food deserts.
Mixed-use Development	The rehabilitation of an existing building to allow mixed use of residential and commercial spaces. The focus is on small scale developments defined as 30 residential units or less; however, larger developments will be reviewed for consideration.

Rural Transformation Grant Fund Eligible Activity - Community Enhancement for Economic Growth Program	Description
Property Acquisition	Costs associated with acquiring and securing legal title of vacant or abandoned properties and other costs by the public sector, to position the property for current or future productive use.
Secure Abandoned Properties	Rehabilitation, renovation, maintenance, or costs to make secure vacant or abandoned properties by the public sector, to reduce their negative impact.
Environmental Remediation	Removal and remediation of environmental contaminants or hazards from vacant or abandoned properties by the public sector, when conducted in compliance with applicable environmental laws or regulations
Demolition Paired with Neighborhood Revitalization	Demolition or deconstruction of non-historic vacant or abandoned buildings (including residential, commercial, or industrial buildings) by the public sector, paired with greening or other lot improvements as part of a strategy for neighborhood revitalization.
Lot Cleanup and Greening	Greening or cleanup of vacant lots, as well as other efforts to make vacant lots safer for the surrounding community.

Rural Transformation Grant Fund Eligible Activity – Rural Community Capacity Building Program	Description
Best Practices Research Activities	Communities learn from other communities that are similarly sized and/or situated who have been engaged in growing their local economies through a variety of public/private partnerships and initiatives (e.g., greenway development, outdoor recreation facilities, place-based economic development programs, etc.)
Branding and Marketing	Use of a consultant to produce community branding to include a brand logo or image, a marketing plan for the commercial district or downtown, and social media with the purpose of attracting visitors and tourists to communities.
Schematic/Conceptual Renderings	Development of visual renderings of proposed projects to advance investment and funding opportunities. For example, to capture ideas offered by participants in a community planning session or charette.

Training & Technical Assistance	The development of community, county or regional training and technical assistance for communities to leverage asset based economic development. Training should convey the concept that a diversified local economy helps communities become more resilient. It should also emphasize the vital roles that local governments (and associated organizations) play in supporting existing business communities and the growth of new businesses/entrepreneurs.
Strategic Planning and Implementation of Local Projects	The development of plans for local units of government that will further the development public improvements, technology, and infrastructure that promote economic development. Plans are intended to leverage a community's ability to apply for funding opportunities. Locally identified projects that advance strategic goals and priorities are also eligible for funding.

V. ELIGIBLE PROJECT AREAS

Projects located within [Tier 1 and Tier 2 Counties](#), and [Rural Census Tracts in Tier 3 Counties](#), are eligible for funding. Funding prioritization will be given to proposals which demonstrate that activities will benefit communities negatively impacted by the COVID-19 pandemic at a disproportionate level when compared to the rest of the State (as defined in Section III. Eligible Applicants) or located in a [qualified census tract](#), as defined by the United States Department of Housing and Urban Development. Applicants must describe how a specific community has been more disproportionately impacted by the COVID-19 pandemic as compared to the rest of the State.

VI. FUNDING AMOUNTS

The maximum grant amount is **\$950,000 per grantee**, with some restrictions for specific activities. There is no minimum grant amount. Applicants should consider feasibility as it relates to the overall cost of any project. Grant administration costs are limited to five percent (5%) of the awarded grant total. Applicants that receive funding approval for project(s) may charge the cost of application preparation to a current RTGF program if procurement procedures consistent with [Uniform Guidance \(2 CFR 200\)](#) and [09 NCAC 03M](#) are followed. No more than \$3,500 may be charged to the RTGF for the preparation of the application if a grant is awarded. This cost would be included in the maximum of five percent (5%) allowed for administration. No other costs incurred prior to grant awards are eligible for reimbursement.