Chapter 44 - ZONING*

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Chapter 44 - Zoning

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***Cross references:** Any ordinance or resolution zoning or rezoning specific property or amending the zoning map saved from repeal, § 1-12(a)(6); buildings and building regulations, ch. 8; environment, ch. 16; lakes, waterways and parks, ch. 20; manufactured home parks, ch. 26; streets, sidewalks and other public places, ch. 34; subdivisions, ch. 36; telecommunications, ch. 40; water and sewer, ch. 42.

State law references: Zoning in counties, G.S. 153A-340 et seq.

ARTICLE I. IN GENERAL

Sec. 44-1. Legislative authority.

This chapter is enacted pursuant to G.S. 153A-340--153A-349, whereby authority is conferred on the county, for the purpose of promoting health, safety, morals, or the general welfare of the community, to permit the board of commissioners to establish zoning classifications within the county jurisdiction, to:

(1) Regulate and restrict the height, number of stories, and size of buildings and other structures;

(2) Regulate and restrict the percentage of lots that may be occupied, the size of yards, courts, and other open spaces;

(3) Regulate and restrict the density of population;

(4) Regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures and land for trade, industry, residence and other purposes, except farming; and

(5) Do all other things authorized by law in these matters.

(Code 1995, § 515.001)

Sec. 44-2. Intent and purpose.

(a) This chapter is made in accordance with a comprehensive plan and designed to:

(1) Lessen congestion in the streets;

(2) Secure safety from fire, panic and other dangers;

(3) Promote health and the general welfare;

(4) Provide adequate light and air;

(5) Prevent the overcrowding of land;

(6) Avoid undue concentration of population; and

(7) Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

(b) The regulations in this chapter are made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdiction of the county. This chapter is one of the instruments for the implementation of the land use plan and is declared to be in conformance therewith.

(Code 1995, § 515.002)

Sec. 44-3. Title.

This chapter may be referred to and cited as "The Catawba County Zoning Ordinance."

(Code 1995, § 515.003)

Sec. 44-4. Definitions.

(a) *Rules for construction of language.* The following rules apply to the text of this chapter:

(1) The specific controls the general.

(2) If there is any difference of meaning or implication between the text of this chapter and any title, illustration, summary table, or illustrative example, the text shall control.

(3) The term "building" or "structure" includes any part thereof.

(4) The phrase "used for" includes "arranged for," "designed for," "maintained for" or "occupied

for."

(5) Unless the context clearly indicates the contrary, where a regulation involves two or more times, conditions, provisions, or events connected by the conjunction "and," "or," or "either . . . or," the conjunction shall be interpreted as follows:

a. "And" indicates that all the connected items, conditions, provisions, or events shall apply.

b. "Or" indicates that the connected items, conditions, provisions, or events shall apply.

c. "Either . . . or" indicates that the connected items, conditions, provisions, or events shall apply singly, but not in combination.

(6) The word "includes" is intended to extend its meaning to all similar instances or circumstances.

(7) Words not defined in subsection (b) of this section shall have the meaning commonly assigned to them. The reference for dictionary common meanings shall be the latest edition of Webster's New World Dictionary of the American Language.

(b) *Defined words.* The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory dwelling unit/guesthouse means a detached dwelling unit permitted on the same parcel as the principal dwelling unit, but clearly subordinate to the principal dwelling unit.

Adult uses means an establishment consisting of, including, or having the characteristics of any or all of the following:

(1) *Adult bookstore* means an establishment which has a substantial portion of its stock-in-trade in books, magazines, or other periodicals, and from which minors are excluded by reason of age.

(2) *Adult cabaret* means an establishment which features go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainments, and from which minors are excluded by reason of age.

(3) *Adult drive-in theater* means a drive-in theater for the showing of movies, slide shows, closed-circuit television, or similar offerings, and from which minors are excluded by reason of age.

(4) *Adult massage parlor* means an establishment in which body massages are offered as a service, and from which minors are excluded by reason of age.

(5) *Adult mini-picture theater* means an enclosed building or part thereof with a capacity of 50 persons or less used for showing movies, slide shows, closed-circuit television, or similar offerings, and from which minors are excluded by reason of age.

(6) *Adult picture theater* means an enclosed building or portion thereof with a capacity of more than 50 persons used for showing movies, slide shows, closed-circuit television, or similar offerings, and from which minors are excluded by reason of age.

Agriculture means the use of the land for:

(1) The tilling of the soil;

(2) The growing of crops or plants, including truck farming, field crops, vegetables, fruit, nut, sod, seed, or tree production;

(3) Pasturage, including pasture for cattle, horse, sheep or goats, and other farm animals;

(4) Forestry and other forms of food and fiber production for human and animal consumption;

(5) Greenhouses, nurseries, and ornamental horticulture;

(6) The raising, breeding, working, and use of farm animals;

(7) Aquaculture; and

(8) Beekeeping.

Alcoholic beverages means beverages containing more than 0.5 percent alcohol by volume.

Alley means a dedicated and publicly maintained right-of-way, 20 feet or less in width, that provides a secondary means of access to abutting property and not generally intended for traffic.

Alternative tower structure means clock towers, sculptures, bell steeples, lightpoles and similar alternative-design mounting structures that conceal the presence of antennas or towers and are architecturally compatible with the area.

Amusement services means a commercial facility providing recreational activities, including but not limited to swimming pools, amusement arcades, bowling alleys, shuffleboard courts, baseball hitting ranges, miniature and par-three golf courses, golf driving ranges, billiard and pool halls, skating rinks, movie theaters, and dance and exercise studios.

Animal hospital and *veterinary clinic* mean any structure and land used, primarily and essentially, for the medical and surgical care or ill, injured, or disabled animals other than humans.

Animals, household, means animals which are customarily kept for personal use or enjoyment within the home, not exhibited to the public, nor raised for commercial purposes. Animals which are dangerous to humans or property when they reach maturity or which have cloven or solid hooves are not household animals. The term "household animals" includes but is not to be limited to domestic dogs, domestic cats, canaries, parakeets, love birds, parrots, cockatiels, finches, toucans, mynah birds, guinea pigs, hamsters, mice, rats, gerbils, small reptiles, small amphibians, and aquarium fish.

Aquaculture means the commercial cultivation of aquatic life, including fish, shellfish, and seaweed, for wholesale distribution to either a domestic or foreign market. Aquaculture does not include the cultivation of aquatic life for on-site fishing by the public.

Art gallery means the use of a structure or building for the display of sculpture, painting, photographs, or other artistic works for public viewing with only incidental sales.

Bakery means the use of a structure or building for the production of bakery products, including but not limited to breads, cakes, pastries, and doughnuts. When identified in this chapter as a use under "retail," the bakery products produced are for the direct sale to the consumer with no wholesale production or sales. Wholesale bakeries, for the purpose of this chapter, are considered manufacturing.

Bank means a financial institution engaged in deposit banking and closely related functions, such as the extension of credit by means of loans and investments and other financial activities.

Basement means the lowest story of a structure which has its floor subgraded on all sides.

Boardinghouse, roominghouse and *bed and breakfast* mean a dwelling or group of dwellings, as distinguished from a hotel or motel, containing in combination three or more lodging units intended primarily for rental or lease.

Bona fide farm means the production and activities relating or incidental to the production of crops, fruits, vegetables, sod, or ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural products having a domestic or foreign market meeting one of the following criteria:

(1) Farmland consisting of one or more tracts, one of which consists of at least ten acres for agriculture use or at least five acres for horticulture use. These tracts may be owned or leased by the operator, but be in actual production and had sales of $1,000.00 for the three years preceding January 1 of the year of application; or

(2) A minimum of ten acres of forestland for which a woodland management plan has been prepared by the U.S. Forest Service.

Buildable area means the portion of a lot remaining after required yards have been provided and any conservation or preservation areas, submerged lands, easements or road rights-of-way have been subtracted from the lot area.

Building means any roofed structure designed or intended for the support, enclosure, shelter, or

protection of persons, animals, or property.

Building, accessory, means a subordinate detached building located at least five feet from the principal building but on the same lot, the use of which is incidental and accessory to that of the principal building.

Building, principal, means a building or, where the context so indicates, a group of buildings in which is conducted the principal use of the lot on which such building is located.

Business services means an establishment offering services to the business community and to individuals. Such services include but are limited to advertising agencies, blueprinting and photocopying services, cleaning and maintenance of building services, computer and data processing services, detective agencies and security services, insurance agencies, management consulting and public relations services, news syndicates, personnel services, photography, art and graphics services, and real estate services.

Campground means land containing two or more campsites which are located, established, or maintained for occupancy by people in temporary living quarters, such as tents, recreational vehicles, or cabins, for recreation, education or vacation purposes.

Campsite means any plot of ground within a campground intended for the exclusive occupancy by a cabin, recreational vehicle, or tent.

Carwash means an establishment engaged in the business of washing vehicles with self-serve, automated, or staffed facilities.

Cemetery, human public, means land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries operated for private gain. This definition does not include human cemeteries established or operated by churches, governmental agencies or families.

Cemetery, pet, means land used or intended to be used for the burial of animals in individual burial plots or a mausoleum and dedicated for cemetery purposes.

Certificate of occupancy means a document issued by an authorized official setting forth that land, a building, or structure complies with the county building code, this chapter, and other pertinent local and state requirements, and that the land, building, or structure may be used for the purposes stated therein.

Certificate of zoning compliance means a document issued by the zoning administrator certifying compliance with all terms of an approved zoning compliance permit and authorizing occupancy of a building, structure, or land. It may either be a separate document or part of the normal documents associated with a certificate of occupancy, occupational license, building permit, or the like.

Child care center and *adult care center* mean any establishment that provides supervision and care for children and adults on a regular basis for more than five persons unrelated to the operator for a period of less than 24 hours a day and which receives a payment, fee, or grant for any of the persons receiving care, wherever operated, and whether or not operated for profit, except that the following are not included: public schools and nonpublic schools which are in compliance with the compulsory school attendance law, summer camps having children in full-time residence, summer day camps, and bible schools normally conducted during vacation periods. The term includes kindergartens, nurseries, nursery schools, day care centers, and day nurseries.

Church/synagogue means tax-exempt buildings used for nonprofit purposes by a recognized and legally established sect for purpose of worship, including educational buildings when operated by such church/synagogue.

College/university means a degree-granting establishment, accredited, or qualified for accreditation by the Southern Association of Colleges and Schools, providing formal academic education and generally requiring for admission at least a high school diploma or equivalent academic training, including colleges, community colleges, universities, technical institutes, seminaries, and professional schools. Accessory uses under this definition include but are not limited to dormitories, cafeterias, bookstores, libraries, classrooms, administrative offices, research facilities, sports arenas, and auditoriums.

Commercial nursery means the area that is devoted to the sale of ornamental horticulture, trees and shrubs.

Commercial vehicle means any vehicle, licensed as a commercial vehicle by any state of the United States or Mexico or province or territory of Canada, other than domestic vehicles, as defined in this chapter, or over one ton in weight or 20 feet in length.

Communication facilities means the use of land, buildings, or structures for uses such as but not limited to motion picture studios; radio and television receiving antenna and dishes; accessory, radio and television studios; and radio and television transmitting and receiving facilities.

Community center means the use of a structure or building by members of a community, as opposed to the general public, for social, cultural, or recreational purposes.

Community recreational uses means parks and playgrounds, community centers, recreation clubs such as Boys and Girls Clubs; golf clubs; swimming clubs; tennis clubs; country clubs; paddle, racquetball, handball courts; and greenways.

Conference/retreat center means a facility used for conferences and seminars, with accommodations for sleeping, food preparation and eating, recreation, entertainment, resource facilities, and meeting rooms.

Congregate living facility means:

(1) Any building, section of a building, or distinct part of a dwelling unit, boardinghouse or roominghouse, home for the aged or other place, whether operated for profit or not, which provides, for a period exceeding 24 hours, housing, room services, and one or more personal care services to persons not related to the owner or operator by blood, marriage, or adoption and licensed, certified or approved by the state department of social services. The term "personal services," for the purpose of this definition, means services in addition to housing and food service which include but are not limited to personal assistance with bathing, dressing, ambulation, supervision of self-administered medication, transportation, emotional security, and other related service. The term "personal service" does not include nursing or medical treatment.

(2) Such facilities contain congregate kitchen, dining and living areas only, with separate sleeping rooms. Further, such facilities are not used for those persons in need of a structured environment, as it is defined in this section.

For purposes of this chapter, congregate living facilities do not include boardinghouses or roominghouses; fraternities/sororities; monasteries; convents; hotels/motels; professional residential facilities; or nursing, convalescent and extended care facilities.

Construction or demolition debris means solid waste resulting solely from construction, remodeling, repair or demolition operations on buildings or other structures, but does not include inert, land-clearing or yard trash debris. Roofing shingles are considered construction or demolition debris.

Contractor's office means an establishment where materials kept on site are stored in buildings and which is engaged in the provision of construction activities, including but not limited to plumbing, electrical work, building, paving, carpentry, and other such contracting activities.

Correctional facility means a public facility, other than a jail, for the housing of persons convicted of a crime.

Crematorium means an establishment for the burning of human or animal remains.

Cultural facility means the use of land, buildings, or structures to provide educational and informational services to the general public, including but not limited to aquariums, arboreta, botanical and zoological gardens, art galleries, museums, and libraries.

Development means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

Domestic vehicle means any vehicle licensed by any state of the United States or Mexico or province or territory of Canada as a private vehicle for operation on streets and may include but not be limited to automobiles, private pickup trucks, motorcycles, and vans.

Dormitory means a building used as group living quarters for a student body, religious order, or other ground as an associated use to a college, university, boarding school, orphanage, convent, monastery, or

other similar use. Dormitories do not include kitchen facilities except a group kitchen to serve all residents.

Drinking establishment means an establishment where alcoholic beverages are served and where such beverages are consumed on the premises. If the facility also sells food and the sale of food products represents more than 50 percent of the facility's total sales, the facility is considered an eating establishment.

Drive-in theater means a facility designed for the outdoor projection of motion pictures onto a permanent screen to be viewed from the patron's automobile.

Drive-in window means a window or other opening in the wall of a principal or accessory building through which goods or services are provided directly to customers in motor vehicles by means that eliminate the need for such customers to exit their motor vehicles.

Dry cleaners means an establishment engaged in providing laundry, dry cleaning, and other related services to individual customers.

Dry cleaning plant means an establishment engaged in providing laundry, dry cleaning, and other services on a large scale for institutions, businesses, or other such establishments.

Dwelling, single-family, means a structure containing a single dwelling unit.

Dwelling, two-family, means a structure containing two dwelling units.

Dwelling unit means a room or group of rooms forming a single independent habitable unit used for or intended to be used for living, sleeping, sanitation, cooking, and eating purposes by one family only; for owner occupancy or for rental, lease, or other occupancy on a weekly or longer basis; and containing independent kitchen, sanitary, and sleeping facilities.

Eating establishment means an establishment whose principal business is the sale of food, frozen desserts, or beverages to the customer in a ready-to-consume state. The term is further defined as follows:

(1) *Sit-down eating establishment* means one at which food and/or beverages are served by waitresses or waiters to patrons seated at booths or tables.

(2) *Walk-in/drive-in eating establishment* means one at which the customers receive but do not consume the food and/or beverages at a counter, bar, or from a drive-in window.

Electrical repair and *electronic repair* mean an establishment engaged in the repair of electrically powered equipment or electronic equipment, such as but not limited to appliances, televisions, radios, noncommercial stereo equipment, computers, and similar equipment.

Family means any number of people related by blood, marriage or adoption; or not more than five unrelated persons living together as a single housekeeping unit, using a single facility in a dwelling unit for culinary purposes. The term "family" does not include a fraternity or sorority, club, roominghouse, institutional group or the like.

Family care home means a home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident persons with disabilities.

Family day care home means a residence within which child care and supervision is provided for no more than five children, unrelated to the caregiver, for less than a 24-hour period.

Firing/shooting range means a facility open to the public or to members of a membership organization at which firearms are discharged at targets, whether or not a fee is paid to the owner or proprietor of the facility.

Flea market, indoor, means a market for the sale of new and secondhand articles and antiques housed in a structure permanently enclosed on all sides.

Flea market, outdoor, means a market for the sale of new and secondhand articles and antiques sold in open structures, tents, and the like, not permanently enclosed.

Floor area means the sum of enclosed areas on all floors of a building measured from the outside faces of the exterior walls, including halls, lobbies, arcades, stairways, elevator shafts, enclosed porches and balconies, and any belowgrade floor area used for habitation, access and storage. Not countable as floor area are open terraces, patios, atriums, balconies and breezeways, and space devoted to commercial and

service uses.

Floor area ratio means the ratio of permitted floor area to the gross land area of the lot.

Floor area ratio, maximum permitted, means the floor area ratio permitted as of right in the several districts, excluding any bonus or transferred floor area.

Fraternity or sorority house means a dwelling or combination of dwellings on a single lot occupied by and maintained exclusively for college students who are affiliated with a social, honorary, or professional organization recognized by the college or university.

Functionally dependent facility means an operation which is dependent for its operation on close proximity to water, including but not limited to port or docking facilities for loading and unloading of cargo or passengers, shipbuilding and repair or seafood processing. This term does not include longterm storage, manufacture, sales or service.

Funeral parlor means an establishment engaged in preparing human remains for burial and conducting funerals.

Furniture refinishing and repair means an establishment engaged in the stripping, cleaning, painting, staining, sealing, varnishing, or other like refinishing of the wood or metal components of furniture or the replacement or repair of broken or missing portions of a piece of furniture.

Garage, private, means a part of a building designed and used to contain vehicles in use in the principal structure.

Gas station means an establishment where gasoline or diesel fuel is supplied and dispensed at retail and where no servicing or repair of vehicles is permitted. Convenience goods may be sold at such facilities, but the sales are accessory to the sale of gasoline or diesel fuel.

Gross land area of lots means the gross land area of lots that is computed in the same manner as for planned development housing districts.

Gross land area of planned development housing (PD-H) districts means the gross land area of planned development housing districts that is computed as all area, except that devoted to nonresidential purposes, within district boundaries plus one-half of adjoining permanent open space, such as streets, parks, lakes, cemeteries, and similar land uses.

Health practitioner's office means an establishment offering diagnostic and routine health care on an outpatient basis by licensed practitioners, such as but not limited to physicians, dentists, and chiropractors.

Health services means the use of land, buildings and structures for uses, such as but not limited to health practitioners; animal hospitals or veterinarian clinics; hospitals; medical and dental laboratories; nursing, convalescent and extended care facilities; rehabilitation centers; and sanitarium/mental institutions.

Height means the vertical distance between the lowest proposed finished grade of the structure and the highest point of the structure. Finished grade is determined using all applicable regulations of the state and federal governments as provided in section 44-117.

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

Hobby farm means the use of land for nonprofit agricultural activities.

Home occupation means an accessory use of a dwelling unit which constitutes, either entirely or partly, the livelihood of the person living in the dwelling unit, as provided in section 44-221.

Hospice means a medically directed, residence-based program of care, comfort, service, and education for patients and families dealing with an advanced, irreversible illness.

Hospice house--residential facility means any facility, other than a hospital or nursing home, specifically designed as a residence or home-like environment to provide terminally ill persons with personal and custodial care, including but not limited to board, lodging, counseling, medication, and individual assistance with or supervision of essential activities of daily living, such as eating, bathing, grooming, dressing, and ambulating. Nursing services, as defined in state statutes, are provided to control pain and improve patient comfort, but do not include providing care and treatment for the acutely ill.

Hospital means an institution providing physical and mental health services primarily for human inpatient medical or surgical care for the sick or injured, including related facilities such as laboratories, outpatient services, training facilities, central service facilities, emergency services, and staff offices.

Hotel and *motel* mean a building or group of buildings containing lodging units intended primarily for rental or lease to transients by the day or week, and which often provide additional services such as restaurants, meeting rooms and recreation facilities.

Junk means old, dilapidated, scrap or abandoned metal, paper, building material and equipment, bottles, glass, appliances, furniture, beds and bedding, rags, rubber, motor vehicles, and parts thereof.

Junkyard/salvage yard means land used for the storage, keeping, handling, or display of junk or on which six or more unlicensed, used motor vehicles which cannot be operated under their own power are kept or stored for a period of 15 days or more.

Kennel means any lot or premises, on which six or more household animals, more than six months of age, are bred, boarded, trained or sold on a regular basis for commercial purposes.

Land-clearing debris means solid waste that is generated solely from land-clearing activities, such as stumps, trees, brush, grass or other naturally occurring vegetative material.

Landfill means land used for the disposal of waste excluding hazardous waste. Landfills are classified into three different types based upon the type of wastes received at the landfill as follows:

(1) *Beneficial fill landfill* means land used for the disposal of inert debris strictly limited to concrete, brick, concrete block, used asphalt pavement, uncontaminated soil, rock, or gravel. Construction and demolition debris or land-clearing debris are not beneficial fill material and cannot be placed in a beneficial fill landfill.

(2) *Land-clearing and inert debris (LCID) landfill* means a facility for the land disposal of land-clearing debris, brick, concrete block, uncontaminated soil, used asphalt pavement, gravel, rock, untreated and unpainted wood, or yard trash. The facility may not be used for the disposal of construction or demolition debris.

(3) *Sanitary landfill* means a facility used for the disposal of solid waste.

Library means a building in which literary, musical, artistic, or reference materials are kept for use but not generally for sale.

Life care treatment facility means an establishment which provides one or more levels of personal care services and which may include a nursing, convalescent and extended care facility, eligible for approval by the state department of social services.

Liquor store means an establishment engaged in the retail sale of packaged alcoholic beverages for consumption off the premises.

Livability space means space that is part of total open space appropriately improved and located as outdoor living space for residents and for aesthetic appeal. Such space includes lawns and other landscaped areas, walkways, paved terraces, and landscaped portions of street rights-of-way, but is not used for vehicles, except for incidental service, maintenance, or emergency actions.

Loading, off-street, means space located outside of any street right-of-way easement and designed to accommodate the temporary parking of vehicles used for bulk pickups and deliveries as provided in sections 44-299 and 44-300.

Lodging place means the use of land, structures, or buildings for the provision of lodging, such as but not limited to boardinghouses or roominghouses, camps, dormitories, and hotels/motels.

Lodging unit means a room or group of rooms forming a separate habitable unit used or intended to be used for living and sleeping purposes by one family only, without independent kitchen facilities; or a separate habitable unit, with or without independent kitchen facilities, occupied or intended to be occupied by transients on a rental or lease basis for periods of less than one week.

Lot means land bounded by lines legally established for the purpose of property division. As used in this chapter, unless the context indicates otherwise, the term refers to a zoning lot.

Lot line means a line that marks the boundary of a lot.

Lot line, interior, means any lot line that is not a street lot line; a lot line separating a lot from another lot.

Lot line, street, means any lot line separating a lot from a street right-of-way or general access easement. Where a lot line is located within such street right-of-way or easement, the right-of-way or easement boundary adjacent to the lot is considered to be the street lot line.

Lot of record means a lot which is part of a subdivision, the plat of which has been recorded in the office of the register of deeds, or any parcel of land, whether or not part of a subdivision, that has been officially recorded by a deed in the office, provided such lot was of a size which met the minimum dimensions for lots in the district in which it was located at the time of recording or was recorded prior to the effective date of zoning regulations in the area where the lot is located.

Lot width means the horizontal distance measured along a straight line connecting the points where the minimum front yard line meets the interior lot lines or, if on a corner, the other front yard line.

Lowest habitable floor means any floor, including a basement, used for living, which includes working, sleeping, eating, cooking, or recreation facilities or any combination thereof.

Lumber and other building materials sales means an establishment engaged in the retail sale of finished lumber, packaged roofing materials, doors, and other materials used by individuals or builders, with all materials stored and sold from a completely enclosed building with the exception of the lumber which may be stored in buildings with a roof and at least three sides.

Lumberyard means an establishment engaged in the cutting, dressing, finishing and wholesale sale of lumber.

Manufactured home means a portable manufactured housing unit, over 40 feet in length and over eight feet in width, designed for transportation on its own chassis and placement on a temporary or permanent foundation. The term also includes a doublewide housing unit which is two or more portable manufactured housing units, over 40 feet in length and eight feet in width, designed for transportation on their own chassis, which connect on site for placement on a temporary or permanent foundation. Manufactured homes are classified into five categories as follows:

(1) *Class A* means doublewide or multisectioned manufactured housing units which meet U.S. Department of Housing and Urban Development manufactured home construction standards and also meet the county appearance criteria listed in section 44-181.

(2) *Class B* means singlewide manufactured housing units which meet U.S. Department of Housing and Urban Development manufactured home construction standards and also meet the county appearance criteria listed in section 44-182.

(3) *Class C* means manufactured housing units which meet neither U.S. Department of Housing and Urban Development manufactured home construction standards nor the county appearance criteria. They must meet the appearance criteria requirements in section 44-182(4) and (5).

(4) *Class D* means doublewide or multisectioned manufactured housing units which meet U.S. Department of Housing and Urban Development manufactured home construction standards, but which do not meet the county appearance criteria listed in section 44-181. They must meet the appearance criteria requirements in section 44-181(4), (5) and (6).

(5) *Class E* means singlewide manufactured housing units which meet U.S. Department of Housing and Urban Development manufactured home standards, but which do not meet the county appearance criteria listed under section 44-182. They must meet the appearance criteria requirements in section 44-182(3), (4) and (5).

Manufacturing, processing and *assembling* mean the mechanical or chemical transformation of materials or substances into new products. The land uses engaged in these activities are usually described as plants, factories, or mills and characteristically use power-driven machines and materials-handling equipment. Establishments engaged in assembling component parts of manufactured products are also considered under this definition, if the new product is neither a fixed structure nor other fixed improvement. Also included is the blending of materials such as lubricating oils, plastics, resins, or liquors.

Medical and dental laboratory means an establishment engaged in the testing and analysis of material for medical or dental services or for the patient on prescription of a health practitioner.

Membership organization means a membership establishment operated by a corporation or association of persons for activities which include but are not limited to business, professional, social, literary, political, educational, fraternal, charitable, or labor activities, but which are not operated for profit or to render a service which is customarily conducted as a business.

Mining of earth products means removal of one acre or more of sand, soil, peat, muck, clay, stone, shell and the like for disposal off site.

Modular home means a dwelling unit constructed in accordance with the standards set forth in the state building code (Uniform Residential Code for One- and Two-Family Dwellings) and made up of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. A modular home shall be deemed to be a single-family dwelling as defined in this chapter.

Motor vehicle repair, minor, means:

(1) Sale and service of sparkplugs, batteries, and distributor and ignition system parts.

(2) Sales, service and repair of tires, but not recapping or regrooving.

(3) Replacement of mufflers, tailpipes, water hoses, fan belts, brake fluids, lightbulbs, fuses, floor mats, seat covers, windshield wipers and blades, grease retainers, wheel bearings, mirrors, and the like.

(4) Radiator cleaning, flushing, and fluid replacement.

(5) Greasing and lubrication.

(6) Providing and repairing fuel pumps, oil pumps, and lines.

(7) Minor adjustment and repair of carburetors.

(8) Emergency repair of wiring.

(9) Adjusting brakes and installing exchange brake shoes.

(10) Minor motor adjustment not involving removal of the head or crankcase and grinding valves.

(11) Wheel balancing.

(12) Battery recharging.

(13) Warranty maintenance and safety inspections.

(14) Other minor servicing of a similar intensity to those listed above.

Motor vehicle repair, major, means any automotive repairs or servicing not listed under motor vehicle repair, minor, as defined in this section.

Museum means an establishment engaged in the procurement, care, study, and display of objects of historical, educational, and cultural value and interest.

National Geodetic Vertical Datum (NGVD) means a vertical control, corrected in 1988, used as a reference for establishing varying elevations within the floodplain.

New construction means structures for which the start of construction commenced on or after January 1, 1990.

Nonconformity means:

(1) Lots, uses of land, uses of structures, structures, or characteristics of uses which were lawful before the effective date of the ordinance from which this chapter is derived or was amended, but which would be prohibited, regulated or restricted under the terms of this chapter. The following constitute types of nonconformities:

a. Lots;

b. Uses of land without structures;

c. Uses of structures;

d. Structures; and

e. Characteristics of use which were lawful when established, but would be prohibited, regulated or restricted by this chapter or a subsequent amendment.

(2) Nonconformity may also be created where lawful public taking or actions pursuant to a court order have the same effect as violations of this chapter, if undertaken privately.

Nursing, convalescent, and extended care facility means any facility which provides nursing services as defined in the statutes of the state. The term "facility" means any institution, building, residence, private home, or other place, whether operated for profit or not, including those places operated by a county or municipality, which undertakes through its ownership or management to provide nursing care, personal care, or custodial care for persons not related to the owner or manager by blood or marriage, who for reason of illness, physical infirmity, or advanced age require such services, but does not include any place providing care and treatment primarily for the acutely ill.

Off premises means not located on the zoning lot with the principal use or structure.

Open space means the total horizontal area of uncovered open space plus one-half the total horizontal area of covered open space subject to the following limitations:

(1) *Covered open space* means usable open space closed to the sky, but having two clear unobstructed open or partially open sides. Partially open is construed as 50 percent open or more. Examples of covered open space area are covered balconies, covered portions or improved roof areas, or spaces under buildings supported on columns or posts on cantilevers. The square footage countable as covered open space does not exceed the square footage of the open sides.

(2) *Uncovered open space* means total gross residential land area not covered by buildings, plus open exterior balconies and roof areas improved as recreation space.

Open storage means materials, supplies, merchandise, equipment, nonmotorized commercial vehicles and like items that are stored outside a building or in a building with less than three sides.

Outdoor seasonal sales means temporary uses which include but are not limited to Christmas tree sales, pumpkin sales, plant sales, firework sales, and similar uses. Outdoor seasonal sales are not intended to include the sale of manufactured items, such as furniture, bedding, automobile parts or household goods.

Parking, off-street, means space located outside of any street right-of-way or easement and designed to accommodate the parking of motorized domestic and commercial vehicles.

Person with a disability means a person with a temporary or permanent physical, emotional, or mental disability, including but not limited to developmental disabilities, cerebral palsy, epilepsy, autism, hearing and sight impairment, emotional disturbances and orthopedic impairments, but not including mentally ill persons who are dangerous to others as defined in G.S. 122C-3(11)b.

Personal care services means the furnishing of services to residents, including but not limited to individual assistance with or supervision of essential activities of daily living, such as eating, bathing, grooming, dressing and ambulation; the supervision of self-administered medication; and other similar services. The term "personal care services" does not mean the provision of medical, nursing, dental or mental health services.

Personal services means an establishment that primarily provides services generally involving the care of a person or person's apparel, including but not limited to barbershops, beauty salons, seamstress shops, dry cleaning, and laundry pickup facilities.

Place of assembly means a place designed to accommodate an assembly of persons attending athletic events, musical performances, dramatic or dance performances, speeches or ceremonies, and other such entertainment events, including but not limited to coliseums, athletic centers, concert halls, and auditoriums.

Planned development means land under unified control to be planned and developed as a whole in a

single development operation or a definitely programmed series of development operations. A planned development includes principal and accessory structures and uses substantially related to the character and purposes of the planned development. A planned development is built according to general and detailed plans which include not only streets, utilities, lots and building location, and the like, but also site plans for all buildings as are intended to be located, constructed, used, and related to each other, and plans for other uses and improvements on the land as related to the buildings. A planned development includes a program for the provision, operation, and maintenance of such areas, facilities, and improvements as will be for common use by some or all of the occupants of the planned development district, but which will not be provided, operated, or maintained at general public expense.

Preexisting towers and antennas means any tower or antenna on which a permit has been properly issued prior to the effective date of the ordinance from which this definition is derived.

Professional residential facility means any residential establishment, other than a hospital or nursing home, providing, to persons in need of a structured environment, board, lodging, supervision, medication, counseling, other diagnostic or therapeutic services and licensed by the state department of social services.

Professional services means an establishment containing practitioners of a calling or vocation in which a knowledge of some department of science or learning is used in its application to the affairs of others. Such activities would include but not be limited to accounting, auditing and bookkeeping services; architectural services; engineering and surveying services; interior design services; and legal services. Physicians and dentists are classified as health practitioners. See *Health services* and *Health practitioner's office.*

Public service facilities means the use of land, buildings, or structures by a public utility, railroad, or governmental agency, including water treatment plants, sewage treatment plants, telephone exchanges, resource recovery facilities, and other similar public service structures, but not including any buildings or structures devoted solely to the storage and maintenance of equipment and materials.

Public use facility means the use of land, buildings, or structures by a municipal or other governmental agency to provide protective, administrative, and social services directly to the general public, including police and fire stations, municipal buildings, community centers, and any other public facility providing such services, but not including public land or buildings devoted solely to the storage and maintenance of equipment and materials, and not including public cultural facilities or public service facilities.

Public utility facility means electric transmission and distribution lines, gas and water pumping stations, transformer stations, but not including land used for storage of materials and maintenance of equipment.

Publishing and printing means an establishment primarily engaged in preparing, publishing and printing newspapers, periodicals, books, and pamphlets.

Radio and television studio means a facility for the production and broadcast of radio and television shows, including such things as offices, dressing rooms, broadcast and taping studios, file rooms, set storage and related installations, but not including radio and television transmitting and receiving facilities, as defined in this chapter.

Radio or television transmitting facility and *radio or television receiving facility* mean the use of land, buildings, or structures for the aboveground transmission or reception of airborne radio or television signals, including all transmitting and receiving towers, dishes and antennas, except accessory radio or television receiving antennas and dishes.

Recreation services means privately owned outdoor amusement facilities such as golf and country clubs, swimming and tennis clubs, equestrian centers, and marinas, not built as part of a residential development. The term also includes publicly owned and operated facilities, such as athletic fields, golf courses, tennis courts, swimming pools, parks, marinas, and similar uses not associated with a school.

Recreational fish lake or pond means a facility open to the public for fishing, whether or not a fee is paid to the owner or proprietor of the facility.

Recreational space means space, a part of total and livability open space, which is an exterior area appropriately approved for common recreational use. In general, such space has a minimum dimension of 50 feet, an average dimension of 100 feet, and a minimum area of 10,000 square feet. A smaller minimum dimension is acceptable if the recreation space is suitably improved roof area. A smaller dimension and area

are acceptable if 10,000 square feet is more than the total needed, or when anticipated needs of residents require smaller facilities as, for example, tot lots. Active recreational space for common use is located 20 feet from any primary or secondary residential window at the same general area.

Recreational vehicle means a vehicular-type portable structure which can be towed, hauled, or driven and is primarily designed as temporary living accommodations for recreational, camping and travel use and includes but is not limited to travel trailers, motor homes, camping trailers, campers, auto truck, and recreational vans.

Recreational vehicle park means the provision of two or more recreational vehicle spaces on a single zoning lot.

Recreational vehicle space means an area of land designated for the location of a recreational vehicle while such recreational vehicle is in use as a dwelling unit.

Rehabilitation center means an establishment engaged exclusively in the provision of outpatient services to correct, cure or assist an individual in adjusting to a physical disability. Such services include but are not limited to physical therapy, occupational therapy, speech therapy, audiology, radiology and respiratory therapy, but excluding therapy for mental illness, drug or alcohol dependency, or rehabilitation of criminals.

Rental and leasing of light equipment means an establishment engaged in the renting or leasing of equipment, including but not limited to wedding supplies, party supplies, small appliances, hand tools, furniture, and like items.

Repair services means the use of land, structures, or buildings for the purposes of mending or restoring items after decay, damage, dilapidation, or partial destruction. Such services include but are not limited to motor vehicle repairs; bicycle repairs; electrical and electronic repairs; gunsmiths; locksmiths; reupholstery services; furniture refinishing and repair; small motor repairs; and watch, clock, and jewelry repairs. Construction activities are not included in repair services.

Research activity means research, development, and prototype testing related to such fields as chemical, pharmaceutical, medical, electrical, transportation, and engineering, provided such activities are conducted within entirely enclosed buildings and produce no noise, smoke, glare, vibration, or odor detectable outside the buildings.

Residential land area means:

(1) All land for residential development and related uses, including open space, within the district for PD-H planned development-housing zoning or on the lot where residential uses in other locations are established. Such land area is construed to include streets entirely within residential portions of the development, common open space, and lands accepted for dedication to public use. Residential land is not construed to include lands not beneficial to residential use due to character or location or areas used predominately for commercial or other nonresidential purposes.

(2) As a further guide, where floor area of a building is predominately in residential use, the building site is included in residential land area (as, for example, a multiple-family building with ten percent of its floor area in accessory commercial and personal service uses).

Retail means the use of land, buildings, or structures for the sale of merchandise to the consumer of the merchandise, which may include but not be limited to convenience goods, shopper's goods, bicycle sales, gas stations, liquor stores, lumber and other building material sales, mail order pickup facilities, manufactured home sales, motor vehicle sales, service stations, and sales of used merchandise.

Retail sales, convenience goods, means commercial establishments that generally service day-to-day commercial needs of a residential neighborhood, including but not limited to convenience stores; tobacco shops; newsstands; bakeries; candy, nut and confectionery stores; delicatessens; dairy products; meat and seafood markets; produce markets; foodstores with less than 10,000 square feet in floor area, and eating establishments.

Retail sales, shopper's goods, means commercial establishments that supply the more durable and permanent needs of a community, including but not limited to apparel and footwear stores; appliance stores; art supplies stores; automotive supply stores; bookstores; stationery stores; camera and photography

supplies stores; department stores; discount stores; drugstores; farm supplies stores; florists; and home furnishing stores; gift shops; gun and ammunition sales; hardware stores; hobby, toy and crafts stores; jewelry stores; lawn and garden supply stores; novelty and souvenir shops; office equipment stores; optician and optical supplies stores; paint and wallpaper stores; pet shops; radio and television sales stores; sporting goods stores; trading stamp redemption stores; and variety stores.

Roadside stand, commercial, means the sale of any form of agricultural or horticultural products at a retail stand where the products were grown elsewhere.

Roadside stand, residential, means the sale of any form of agricultural or horticultural products at a retail stand on the property where produced.

School means a facility which is in compliance with the state compulsory school attendance law and provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools, and high schools.

Sea level means a reference or datum mark measuring land elevation using the level of the ocean between high and low tides.

Service station means:

(1) An establishment where gasoline and/or diesel fuel is supplied and dispensed at retail and where, in addition, the following services only may be rendered and sales made accessory to the sale of gasoline and/or diesel fuel:

a. Sales and service of sparkplugs, batteries, distributors and ignition system parts.

b. Sales, service, and repair of tires, but not recapping or regrooving.

c. Replacement of mufflers, tailpipes, water hoses, fan belts, brake fluid, lightbulbs, fuses, floor mats, seat covers, windshield wipers and blades, grease retainers, wheel bearings, mirrors, and the like.

d. Radiator cleaning, flushing, and fluid replacement.

e. Washing and polishing, and sale of automotive washing and polishing supplies.

f. Greasing and lubrication.

g. Providing and repairing fuel pumps, oil pumps and lines.

h. Minor adjustment and repair of carburetors.

i. Emergency repair of wiring.

j. Minor motor adjustment not involving removal of the head or crankcase.

k. Sale of beverages, packaged food, tobacco products, and similar convenience goods for customers, as accessory and incidental to principal uses.

l. Provision of road maps and other travel information to customers.

m. Provision of restroom facilities.

n. Warranty maintenance and safety inspections.

(2) Uses permissible at a service station do not include major mechanical and body work; straightening of body parts; painting, welding, storage of automobiles not in operating condition; or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in service stations.

Setback means the distance from the lot line to the point where improvements, buildings, and structures may be constructed.

Sign means any structure designed to inform or attract the attention of persons not on the premises on which the device is located. This definition specifically exempts church signs.

(1) The surface area of a sign is computed as including the entire area within a parallelogram, triangle, circle, semicircle or other regular geometric figure, including all of the elements of the display, but not including blank masking (a plain strip, bearing no advertising matter around the edge of a sign), frames, display of identification or licensing officially required by any governmental body, or structural elements outside the sign surface and bearing no advertising matter. For signs mounted back to back or angled away from each other, the surface area of each sign is to be computed. For cylindrical signs, signs in the shape of cubes, or other signs which are substantially three-dimensional with respect to their display surfaces, the entire display surface is included in computations of area.

(2) For embellishments (display portions of signs extending outside the general display area), surface area extending outside the general display area and bearing advertising material is to be computed separately as part of the total surface area of the sign.

Signs, number of. For the purpose of determining the number of signs, a sign is to be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of units, where strings of lights are used or where there is a reasonable doubt about relationship of elements, each element or light is considered to be a single sign. Where sign surfaces are intended to be read from different directions, as for back-to-back signs or those angled from each other, each surface is considered to be as a single sign. See article XV of this chapter pertaining to signs.

Slaughterhouse means an establishment where animals are killed, butchered and prepared for further processing.

Solid waste means garbage, rubbish, refuse or other discarded solid or semisolid material resulting from domestic, commercial, industrial, agricultural activities and governmental operations, excluding solids or dissolved materials in domestic sewage or other significant pollutants in water resources such as silt, dissolved or suspended solids in industrial wastewater effluents, dissolved materials in irrigation return flows, or other common water pollutants.

Solid waste landfill affiliated enterprise means any enterprise which by virtue of its existence or operation will, pursuant to a contractual agreement with Catawba County, do any of the following: assist Catawba County in the operation of the Blackburn Solid Waste Landfill; use or recycle materials which would otherwise be directed to the Blackburn Solid Waste Landfill; use or market any by-product of the Blackburn Solid Waste Landfill; provide raw materials such as soils or clays necessary to operation of the Blackburn Solid Waste Landfill; otherwise aid in the operation of the Blackburn Solid Waste Landfill. Any such enterprise must be located within an area described by a circle the radius of which is a straight line extending one mile from the approximate center of the Blackburn Solid Waste Landfill. An enterprise meets the requirements of this definition even though its *principal* activity or activities are not directly related to any of the above-listed landfill affiliated activities. Should the principal activity or activities of the enterprise be a prohibited use in any zoning district located within the above-described area, this section shall control, overriding the prohibition contained elsewhere within the zoning ordinance. Further, the expiration or termination of the underlying contractual agreement by and between the enterprise and Catawba County, or the closing of the Blackburn Solid Waste Landfill, does not then make the enterprise a non-conforming use. (Amd. Ord 12/1/2003)

Special use means a use which would not be appropriate generally or without special study throughout the zoning district but which, if controlled as to number, size, location or relation to the neighborhood, would promote the public health, safety and general welfare.

Start of construction means the first placement of permanent construction of a structure, including a manufactured home, on a site, such as pouring of slabs or footings, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as clearing, grading, and filling; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units, or not part of the main structure.

Street means a vehicular way, which may also serve in part as a way for pedestrian traffic, whether called street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, alley, mall, or otherwise.

Street, arterial or major thoroughfare, means a street used primarily for through traffic, usually on a continuous route. For purposes of this chapter, such street includes streets so designated in any officially adopted thoroughfare plan or element thereof.

Street, collector or minor thoroughfare, means those used to carry traffic from local streets to arterial streets. For purposes of this chapter, such street includes streets designated as collectors in the officially adopted thoroughfare plan or element thereof.

Street, cul-de-sac, means a dead-end street, having the same entrance and exit, and requiring facilities for traffic to turn around

Street, local, means a street, other than arterial or collector, used primarily to provide access to abutting properties. The term includes a marginal access street, which is generally parallel and adjacent to an arterial street and serves abutting properties and provides protection from friction with through traffic.

Street, private, means a roadway not dedicated to the public providing primary access to adjacent properties and meeting the regulations of the county for private street development.

Street, public, means a dedicated and accepted right-of-way maintained by the state and providing access to adjacent property.

Structural alteration means any change, except for repair or replacement, in the supporting members of a structure, such as but not limited to bearing walls, columns, beams, or girders.

Structure means anything constructed or erected which requires location on the ground or attachment to something having a fixed location on the ground, including but not limited to principal and accessory buildings, manufactured homes, signs, fences, walls, bridges, monuments, flagpoles, antennas, transmission poles, towers, and cables.

Structure, accessory, means a subordinate structure detached from, but located on, the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure.

Structure, principal, means a structure or, where the context so indicates, a group of structures in or on which is conducted the principal use of the lot on which such structure is located.

Structured environment means a residential setting within which persons, progressing from relatively intensive treatment for crime, delinquency, mental or emotional illness, alcoholism, drug addiction or similar conditions to full participation in community life, are provided professional staff services, as well as board, lodging, supervision, medication, and other treatment.

Substantial improvement means any repair, reconstruction, or improvement of a structure, within any 12-month period, where the cost equals or exceeds 50 percent of the market value of the structure, either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state and local health, sanitary, or safety code specifications which are solely necessary to ensure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

Technical school means the use of land, structures, or buildings for the provision of training in various skills and may include but is not limited to business schools, trade schools, and vocational schools.

Television and/or radio tower facilities means a structure or facility designed, or intended to be used as, or used to support antennas or other transmitting or receiving devices for television or radio transmissions, including all related facilities such as cabling, equipment shelters and other structures associated with the site.

Temporary uses/special events means a use established for a limited duration with the intent to discontinue such use when the timeframe has expired. The temporary use/special events use shall include but not be limited to circus, carnival, fair, rodeo, team pinning, religious events, and special events by nonprofit organizations.

Tower structure, alternative, means clock towers, sculptures, bell steeples, light poles and similar

alternative-design mounting structures that conceal the presence of antennas or towers and are architecturally compatible with the area.

Towers and antennas, preexisting, means any tower or antenna on which a permit has been properly issued prior to December 16, 1996.

Use means the specific activity or function for which land, a building, or a structure is designated, arranged, occupied, or maintained.

Use, accessory, means a use on the same lot as or in the same structure with and of a nature and extent customarily incidental and subordinate to the principal use of the lot or structure.

Use, principal, means the primary use and chief purpose of a lot or structure.

Used merchandise means an establishment engaged in the sale of previously owned goods, except the sale of used motor vehicles.

Variance means a relaxation by the board of adjustment of the dimensional regulations of this chapter where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions or the situation of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship.

Warehouse means a building or group of buildings for the storage of goods or wares belonging either to the owner of the facility or to one or more lessees of space in the facility or both, with access to contents only through management personnel.

Warehouse, mini, means a building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the storage of goods belonging to the individual lessees of the stalls and accessible to the lessees through individual doors.

Wholesale distribution means establishments engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; or to other wholesalers.

Wood waste grinding operation, commercial and industrial, means a facility located in the C-2, E-1 or E-2 district that receives primarily organic wastes to be treated or processed for recycling or reuse in soil-plant related industries, including activities such as grinding or chipping land clearing debris, high carbon wood waste, nitrogen yardwaste, and untreated and unpainted pallets or construction wood waste into mulch or boiler fuel.

Wood waste grinding operation, permanent, means a facility that receives primarily organic wastes to be treated or processed for recycling or reuse in soil-plant related industries, including activities such as grinding or chipping land clearing debris, high carbon nitrogen and yardwaste. Such operation would be in existence for a period greater than six months.

Wood waste grinding operation, temporary off-site, means a facility that receives primarily organic wastes to be treated or processed for recycling or reuse in soil-plant related industries, including activities such as grinding or chipping land clearing debris, high carbon nitrogen and yardwaste. Such operation would be in existence for a period of six months or less. The materials that are processed are received from locations other than the grinding site.

Wood waste grinding operation, temporary on-site, means a facility that receives primarily organic wastes to be treated or processed for recycling or reuse in soil-plant related industries, including activities such as grinding or chipping land clearing debris, high carbon nitrogen and yardwaste. Such operation would be in existence for a period of six months or less. The materials that are processed must be from the location of the grinding site.

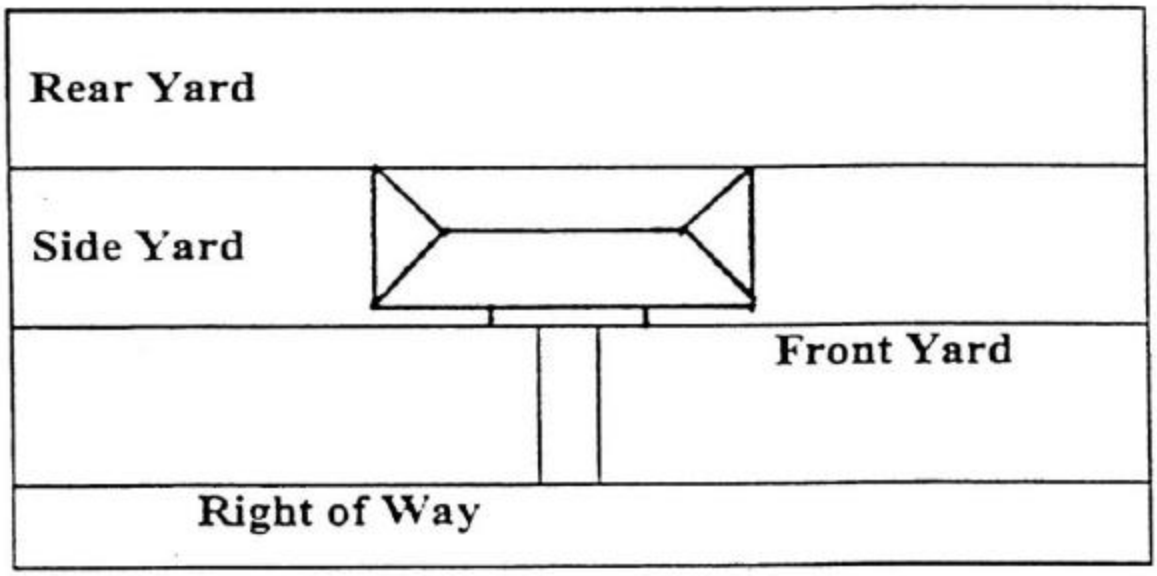
Yard means an open space unoccupied and unobstructed by any structure or portion of a structure from 36 inches above the general ground level of the graded lot upward, except as otherwise provided by this chapter; provided, however, that fences and walls may be permitted in any yard, subject to height limitations established in this chapter and further provided that poles, posts, and other customary yard accessories, ornaments, and furniture contained in any required yard do not constitute substantial impediments to free flow of light and air across the yard to adjoining properties.

Yard, front, means a yard extending between the side lot lines across the portion of a lot adjacent to

a street.

Yard, rear, means a yard extending across the rear of a lot between the side yard lines. The rear yard is located at the opposite end of the lot from the front yard, except for through lots, corner lots, and waterfront lots.

Yard, side, means a yard extending along the side of a lot between the front yard and the rear yard except on corner lots where the side yard is the yard along any interior lot line which intersects with a street lot line. See the following diagram:



Yard trash means solid waste resulting from landscaping and yard maintenance, such as brush, grass, tree limbs, and similar vegetative material.

Yard waste includes both yard trash and land-clearing debris, as defined in G.S. 130A-290, including stumps, limbs, leaves, grass and untreated wood.

Zoning compliance permit means a permit issued by the zoning administrator authorizing the recipient to make use of property in accord with the requirements of this chapter. This permit may either be a separate document or part of the normal permits associated with certificates of occupancy, occupational license applications, building permits, or the like.

Zoning districts means areas of land or water, whose boundaries are indicated on the official zoning atlas, within which all properties are regulated by the general regulations of this chapter and the specific regulations of the individual district.

Zoning lot means a lot or combination of lots shown on the application for a zoning compliance permit.

Zoo means a collection of living animals usually for public display.
(Code 1995, § 515.004; Ord. No. 2002-07, § 515.004, 8-19-2002; Ord. No. 2002-10, § 515.004, 10-21-2002)

Cross references: Definitions generally, § 1-2.

Sec. 44-5. Application of chapter.

(a) *Area of coverage.* This chapter shall apply throughout the unincorporated portion of the county and outside the extraterritorial planning jurisdictions of the municipalities.

(b) *Relationship of building to lot.* Every building erected, moved, or structurally altered shall be located

on a lot, and in no case shall there be more than one principal building and its customary accessory buildings on the zoning lot. Planned development districts shall be used when multiple structures are developed.

(c) *Effect on all lands, water, structures, uses and occupancies.* No building, structure, land or water shall be used or occupied, and no building, structure, or part thereof shall be erected, reconstructed, moved, located, or structurally altered, except in conformity with this chapter and for the district in which it is located.

(d) *Height and bulk of buildings, population density, lot coverage, yards and other open spaces, off-street parking and loading, signs, and other matters.* Other than required or limited or in any other manner contrary to any section of this chapter, no building or structure or part thereof shall be erected, constructed, reconstructed, located, moved or structurally altered in any manner so as to:

(1) Exceed the permitted height, bulk, or floor area;

(2) Accommodate or house a greater number of families or other occupants, or provide a greater number of dwelling units;

(3) Occupy a greater percentage or portion of lot area;

(4) Provide less lot area per dwelling unit or occupy a smaller lot;

(5) Provide narrower or smaller yards or other open spaces or spaces or separations between buildings or portions thereof;

(6) Provide less off-street parking or off-street loading space;

(7) Display more signs, signs of greater area, or signs of a different character; and

(8) Permit the use of a building or structure for a use not permitted in the district in which it is located.

(e) *Use of yard, area, open space, off-street parking and off-street loading space for one structure not to be used to meet requirements for another.* No part of a yard, area, open space, or off-street parking or off-street loading space required for one structure or use shall be included as meeting requirements of another, except where specific provisions therefore are made in this chapter.

(f) *Creation of new lots; reduction of lot or yard dimensions below minimum requirements prohibited.* No new lot shall be created after the effective date of the ordinance from which this chapter is derived (January 1, 1990) except in conformity with the requirements of applicable regulations. No yard or lot existing at the time of passage of the ordinance from which this chapter is derived (March 20, 1989) shall be reduced by private action in width, depth, or area below the minimum requirements set forth in this chapter.

(g) *Reduction of required off-street parking or off-street loading space prohibited.* No off-street parking or off-street loading space, affected by this chapter, which meets all or part of the requirements of this chapter for such space, shall be reduced or eliminated by private action, except where approved alternative off-street parking or off-street loading space, meeting such requirements, is provided, unless no longer required by this chapter.

(h) *Action where zoning lot contains two or more district designations.* Where a zoning lot contains two or more districts designations, the regulations of the district containing the majority of the lot shall govern.

(i) *Required accessory uses on same zoning lot with same zoning.* All required accessory uses for any principal use, including but not limited to off-street parking and loading areas, retention or drainage areas, and private sewer or water systems, shall be located on the same zoning lot as the principal use and shall have the same zoning district designation as the principal use, except as permitted elsewhere in this chapter.

(j) *Exclusion of bona fide farms.* This chapter shall not be applicable to bona fide farms, as defined in section 44-4.

(k) *Exclusion of county public facilities.* This chapter shall not be applicable to county public facilities, including fire and police stations, rescue squads, ambulance buildings, transformer stations,

pumping stations, water towers and treatment plants, telephone exchanges, resource recovery, landfills, recycling centers, refuse transfer stations, and other public facilities, provided:

(1) Such facilities are essential to providing public services to the county;

(2) All buildings and other appropriate apparatus are set back at least 20 feet from all property lines and properly designed and landscaped so as to blend in with the surrounding area; and

(3) All state and federal regulations are complied with and state and federal agencies have absolute jurisdiction over such county activities.

(Code 1995, § 515.005)

Sec. 44-6. Conflict with other laws.

When sections of this chapter impose higher standards than required in any other statute or local ordinance or regulation, this chapter shall govern. When the provisions of any other statute or local ordinance or regulations impose higher standards than are required by this chapter, the provision of that statute or local ordinance or regulation shall govern.

(Code 1995, § 515.006)

Sec. 44-7. Zoning atlas; maps.

(a) *Division of county zoning jurisdiction into zoning districts and identification in official zoning atlas.* The zoning jurisdiction of the county is divided by this chapter into zoning districts, the boundaries and designations of which are shown on a series of maps, covering in combination the entire zoning jurisdiction of the county, and identified as the Official Zoning Atlas of Catawba County, hereafter referred to as the "official zoning atlas."

(b) *Adoption of official zoning atlas.* The official zoning atlas, together with all lawfully adopted explanatory material shown thereon or therewith, is adopted by reference and declared to be part of this chapter. For the special purposes set out in this section, where boundaries and designations are not shown directly on the basic atlas sheets, they shall be indicated by overlays to such sheets or as separate maps. Overlays or separate maps shall have the same force and effect as the basic atlas sheets.

(c) *Inset maps.* Where the scale of the basic atlas sheets or supplemental maps is inadequate for presentation of details in particular areas, such areas may be cross referenced on the basic atlas sheets or supplemental maps to separate inset maps at appropriate scale.

(d) *Other supplements.* Other supplements, in the form of maps, indexes, guides, illustrations, records, reports, interpretive material and standards, may be officially adopted, directly or by reference, to facilitate administration and public understanding of the official zoning atlas or of regulations adopted for the zoning districts or other division established thereby.

(e) *Zoning atlas replacement.* The zoning atlas shall be replaced in accordance with the following:

(1) If the zoning atlas as a whole or an individual map within the atlas becomes damaged, lost, destroyed or difficult to interpret, the board of commissioners may direct the preparation of a new official zoning atlas or portion thereof; upon approval by the board, it shall replace the previous official zoning atlas or portion thereof.

(2) The new official zoning atlas or portion may correct drafting and clerical errors or omissions in the prior official zoning atlas or portion, but no such correction shall have the effect of amending this chapter without following the procedure contained in sections 44-44 and 44-45.

(f) *Official zoning atlas authentication and location.* The official zoning atlas authentication and location shall be as follows:

(1) *Authentication.* The official zoning atlas shall be authenticated by the signature of the chairperson of the board of commissioners, shall be attested by the signature of the clerk of the board, and shall bear the seal of the county under the following words: "This is to certify that the Official Zoning Atlas referred to was approved on _____."

(2) *Location.* The official zoning atlas shall be located in the office of the zoning administrator.

(g) *Official zoning atlas amendment, updating and authentication.* The official zoning atlas shall be amended, updated and authenticated as follows:

(1) *Amendment.* The official zoning atlas is subject to amendment by ordinance as set out in sections 44-44 and 44-45. Any proposed amendment shall be identified by reference to the atlas sheet and/or supplement involved, in addition to legal description or other property identification or such other information as is required to make specific the application of the amendment.

(2) *Updating required; notice concerning incomplete posting.* Amendments to the official zoning atlas shall be updated on the official zoning atlas by the zoning administrator within 15 working days of approval. Prior to such updating a certified copy of the amendment involved shall be physically attached to each atlas sheet, supplement, or schedule sheet to be changed prominently marked: "amendment effective: posting incomplete."

(3) *Authentication; recording of nature and dates of amendments.* Amendments shall be authenticated by entries made by the zoning administrator on atlas sheets, supplements, schedule sheets affected, and a record of the nature and date thereof maintained. Such entries shall indicate the date the amendment was made, the date the change became effective if other than the date of the actual approval, the number of the amending ordinance, and an indication of the nature of the change sufficient to facilitate specific identification.

(h) *Unauthorized changes prohibited.* No changes of any nature shall be made in the official zoning atlas or any matter shown thereon, except in conformity with the requirements and procedures set forth in this chapter. Any unauthorized changes of whatever kind by any person shall be considered a violation of this chapter and punishable as provided by law, provided this subsection shall not be held to foreclose action under other applicable criminal state statutes against any person alleged to have made unauthorized changes in this chapter.

(i) *Final authority for official zoning atlas.* Regardless of the existence of purported copies of all or part of the official zoning atlas which may from time to time be made, published, or reproduced, the official zoning atlas shall be the final authority as to the current zoning status of all lands and waters within the zoning jurisdiction of the county.

(j) *Retention of earlier zoning maps or atlases.* At least one copy of all zoning maps or atlases or remaining portions thereof which have had the force and effect of official zoning maps or atlases for the county prior to the effective date of the ordinance from which this chapter is derived or the effective date of amendment of this chapter shall be retained by the zoning administrator and preserved as a public record and as a guide to the zoning status of lands and waters prior to such dates.

(Code 1995, § 515.007)

Editor's note: The zoning maps referred to above were approved on August 21, 1989.

Sec. 44-8. District boundaries; extent of regulations.

(a) *District regulations extend to all portions of districts surrounded by boundaries.* A district symbol or name shown within district boundaries in the official zoning atlas indicates that district regulations pertaining to the district extend throughout the whole area surrounded by the boundary line, except as otherwise specifically provided.

(b) *Rules when uncertainty exists as to boundaries.* Where uncertainty exists as to boundaries of districts or other areas delineated for regulatory purposes in the official zoning atlas, the following rules shall apply:

(1) *Boundaries indicated as approximately following centerlines of streets, alleys, rights-of-way, or easements; variation between actual and mapped location, effect of abandonment on zoning status of property.* Boundaries indicated as approximately following the centerlines of streets, alleys, rights-of-way or easements shall be construed as following such centerlines as they exist on the ground, except where variation of the actual location from the mapped location would change the zoning status of a lot or parcel, in which case the boundary shall be so interpreted to avoid such change. If a right-of-way is abandoned, the boundary shall remain in its location.

(2) *Boundaries indicated as approximately following boundaries of streets, alleys, other public or private property lines, rights-of-way, or easements.* Boundaries indicated as approximately following boundaries of streets, alleys, other public or private property lines, rights-of-way, or easements shall follow such boundaries, except where variation of the actual location from the mapped location would change the district status of a lot or parcel, in which case the boundary shall be interpreted to avoid such change.

(3) *Boundaries indicated as approximately following mean high-water lines or centerlines of rivers, canals, lakes, bays or other bodies of water.* Boundaries indicated as approximately following mean high-water lines or centerlines of rivers, canals, lakes, bays or other bodies of water shall be construed as following such mean high-water lines or centerlines. If such mean high-water line or centerline changes, the boundary shall be construed as moving with the change, except where such moving would change the district status of a lot or parcel, in which case the boundary shall be interpreted to avoid such change.

(4) *Boundaries indicated as approximately parallel to or extensions of features.* Boundaries indicated as approximately parallel to or extensions of features described in subsections (b)(1), (2), and (3) of this section shall be construed as being parallel to or extensions of such features.

(5) *Distances not specifically indicated.* Where distances are not specifically indicated on any map in the official zoning atlas, they shall be determined by reference to the scale of the map.

(6) *Boundaries indicated as entering any body of water.* Boundaries indicated as entering any body of water, but not continuing to intersect with other zoning boundaries or with the limits of the jurisdiction of the county, shall be construed as extending, in the direction in which they enter the body of water, to intersect with other zoning boundaries or with the limits of county jurisdiction.

(7) *Excluded areas.* Where parcels of land and water areas have been inadvertently excluded from a zoning district classification in any manner, the parcel shall be classified in conformance with that district which surrounds it or which is most restrictive adjacent to it, until changed after a public hearing.

(8) *Action for remaining uncertainty, conflicts.* Where remaining uncertainty or conflict occurs, the action shall be in accordance with the following:

a. In other circumstances not covered in this subsection (b) or where existing natural or manmade features are at variance with those shown in the official zoning atlas or where it is illegible or unclear or where interpretation based on the such rules appears to produce contradiction or conflict with the intent of this chapter or upon request from the zoning administrator or from any affected property owner, the board of adjustment shall make a finding and interpretation concerning the boundaries involved in accord with the intent and purpose of this chapter.

b. When such finding and interpretation involve only correction to the official zoning atlas or any official supplement and do not change the zoning of any lot, the board may direct corrections without proposing an amendment to the map involved. When the zoning of any lot would be changed by such correction, the board shall initiate a proposed corrective amendment.

(Code 1995, § 515.008)

Secs. 44-9--44-35. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT*

***Cross references:** Administration, ch. 2.

Sec. 44-36. Establishment of administrative officer.

This chapter shall be administered by the zoning administrator, who shall be designated by the county manager.
(Code 1995, § 515.255)

Sec. 44-37. Zoning administrator's duties, powers and limitations.

(a) The zoning administrator shall have the power to grant zoning compliance permits and certificates of zoning compliance and to make or cause to be made inspections of buildings or premises necessary to carry out the enforcement of this chapter. In connection with the enforcement of this chapter, the zoning administrator shall make all necessary determinations and interpretations as required by this chapter. Persons aggrieved by a decision or a determination made by the zoning administrator may appeal that action to the board of adjustment.

(b) If any proposed excavation, construction, moving, alteration, or use of land as set forth in an application for a zoning compliance permit is in conformity with this chapter, the zoning administrator shall issue a zoning compliance permit; however:

(1) Issuance of a zoning compliance permit shall in no case be construed as waiving any section of this chapter.

(2) Under no circumstance is the zoning administrator permitted to grant exceptions to the actual meaning of any clause, standards, or regulation contained in this chapter to any person making application to excavate, construct, move, alter, or use a building, a structure, or land.

(3) Under no circumstance is the zoning administrator permitted to make changes to this chapter or to vary the terms of this chapter in carrying out his duties.

(4) The zoning administrator shall issue a permit when the imposed conditions of this chapter are complied with by the applicant regardless of whether the use of the permit would violate contractual or other arrangements among private parties such as restrictive covenants.

(5) If an application for such permit is disapproved, the zoning administrator shall state in writing the cause of such disapproval.

(Code 1995, § 515.256)

Sec. 44-38. Zoning compliance permit; contents of application.

(a) It shall be unlawful to begin the excavation for the construction or the moving, alteration, or repair, except ordinary repairs, of any building or other structure, including an accessory structure, with any dimension greater than 12 feet until the zoning administrator has issued for such work a zoning compliance permit. The zoning compliance permit shall include a determination that plans, specifications, where necessary, and the intended use of such structure and land do, in all respects, conform to this chapter. Prior to the issuance of a zoning compliance permit, the zoning administrator shall consult with applicable agencies, including but not limited to the county engineer, the county department of health, the state department of transportation, and the state department of natural resources and community development. Zoning compliance permits shall expire six months from the

date of issuance unless a valid building permit has been issued for the work.

(b) Also, it shall be unlawful to change the type of use of land or to change the type of use or type of occupancy of any building or to extend any use on any lot on which there is a nonconforming use until the zoning administrator has issued for such intended use a zoning compliance permit, including a determination that the proposed use does, in all respects, conform to this chapter.

(c) In all cases where a building permit is required, application for a zoning compliance permit shall be made prior to the application for a building permit; in all other cases, it shall be made prior to that date when a new or enlarged use of a building or lot or part thereof is intended to begin.

(d) All zoning compliance permit applications shall be made in writing to the zoning administrator on forms provided for that purpose. A record of all such applications shall be kept on file by the zoning administrator.

(e) Every application for a zoning compliance permit for site clearance, excavation, grading, filling, construction, moving, alteration, or change in type of use or type of occupancy shall be accompanied by a written statement and plans or plats, drawn to scale, showing the following in sufficient detail to enable the zoning administrator to ascertain whether the proposed work or use is in conformance with this chapter:

(1) The actual shape, location, and dimensions of the lot; if the lot is not a lot of record, sufficient data to locate the lot on the ground.

(2) The shape, size, and location of all buildings or other structures to be erected, altered, or moved and of any other buildings or other structures already on the lot.

(3) The existing and intended use of the lot and of all structures upon it.

(4) Such other information concerning the lot, adjoining lots, or other matters as may be essential for determining whether this chapter is being observed.

(Code 1995, § 515.257)

Sec. 44-39. Certificate of zoning compliance.

No building, structure, or zoning lot for which a zoning compliance permit has been issued shall be used or occupied until the zoning administrator has, after final inspection, issued a certificate of zoning compliance indicating compliance has been made with all the sections of this chapter. However, the issuance of a certificate of zoning compliance shall in no case be construed as waiving the sections of this chapter.

(Code 1995, § 515.258)

Sec. 44-40. Administration and enforcement of performance standards.

(a) *Intent.* Determinations necessary for administration and enforcement of performance standards set forth in this chapter range from those which can be made with satisfactory accuracy by a reasonable person using normal senses and no sophisticated equipment to those requiring great technical competence and complex equipment for precise measurement. It is the intent of this chapter that:

(1) Where determinations can be made by the zoning administrator, using equipment normally available or obtainable without extraordinary expense, such determinations shall be so made before a notice of violation is issued.

(2) Where technical complexity or extraordinary expense makes it unreasonable for the county to maintain the personnel or equipment necessary for making difficult or unusual determinations, procedures shall be available for causing corrections of apparent violations of performance standards; for protecting individuals from arbitrary, capricious, and unreasonable administration and enforcement of performance standard regulations; and for protecting the general public from unnecessary costs for administration and enforcement.

(b) *Procedure where zoning administrator can make determination.* Where the zoning administrator determines that there is a violation of performance standards relating to emission of smoke, fire, and explosive hazards influence, he shall take or cause to be taken lawful action to cause correction to

within the limits set by such performance standards. Failure to obey lawful orders concerning such correction shall be punishable as provided by section 44-48.

(c) *Procedure where zoning administrator cannot make final determination.* If, in the considered judgment of the zoning administrator, there is a probable violation of the performance standards as set forth in this chapter, the following procedures shall be followed:

(1) Notification

a. The zoning administrator shall give written notice, by registered mail, to the person responsible for the alleged violation. The notice shall describe the particulars of the alleged violation and the reasons why the zoning administrator believes there is a violation in fact and shall require an answer or correction of the alleged violation to the satisfaction of the zoning administrator within a reasonable time limit as set by the zoning administrator. Such reasonable time limit shall not exceed 30 days.

b. The notice shall further state that, upon request of those to whom it is directed, technical determinations as described in this chapter will be made and that, if violations as alleged are found, costs of such determinations shall be charged against those responsible for the violation, in addition to such other penalties as may be appropriate, but that if it is determined that no violation exists, the cost of the determination will be paid by the county.

(2) If there is no reply within the time limit set, but the alleged violation is corrected to the satisfaction of the zoning administrator, he shall note "violation corrected" on his copy of the notice and shall retain it among his official records, taking such other action as may be warranted.

(3) If there is no reply within the time limit set and the alleged violation is not corrected to the satisfaction of the zoning administrator within the time limit set, he shall proceed to take or cause to be taken such action as is warranted by continuation of a violation after notice to cease.

(4) If a reply is received within the time limit set indicating that the alleged violation will be corrected to the satisfaction of the zoning administrator, but requesting additional time, the zoning administrator may grant an extension, if he deems it warranted in the circumstances of the case and if the extension will not, in his opinion, cause imminent peril to life, health, or property.

(5) If reply is received within the time limit set requesting technical determination as provided in this chapter and if the alleged violations continue, the zoning administrator shall call in properly qualified experts to make the determinations. If expert findings indicate violation of the performance standards, the costs of the determinations shall be assessed against the properties or persons responsible for the violation, in addition to such other penalties as may be appropriate. If no violation is found, the costs of the determinations shall be paid by the county without assessment against the properties or persons involved.

(Code 1995, § 515.259)

Sec. 44-41. Fees for zoning compliance permit or certificate of zoning compliance.

Before any zoning compliance permit or certificate of zoning compliance shall be issued covering building or other operations regulated by this chapter, a fee in an amount fixed by the board of commissioners shall be paid.

(Code 1995, § 515.260)

Sec. 44-42. Variance applications.

(a) A variance from this chapter may only be allowed by the board of adjustment in cases involving practical difficulties or unnecessary hardships when substantial evidence in the official record of the application supports all the following findings:

(1) The alleged hardships or practical difficulties are unique and singular as they relate to the property of the person requesting the variance and are not those suffered in common with

other property similarly located.

(2) The alleged hardships and practical difficulties, which will result from failure to grant the variance, extend to the inability to use the land in question for any use in conformity with this chapter and include substantially more than mere inconvenience and inability to attain a higher financial return.

(3) The variance, if allowed, will not substantially interfere with or injure the rights of others whose property would be affected by allowance of the variance.

(4) The variance is in harmony with and serves the general intent and purpose of this chapter and the adopted land use plan.

(5) Allowing the variance will result in substantial justice being done, considering both the public benefits intended to be secured by this chapter and the individual hardships that will be suffered by a failure of the board of adjustment to grant a variance.

(b) All of these findings of fact shall be made in the indicated order by the board of adjustment, which is not empowered to grant a variance without an affirmative finding of fact on all five categories in subsection (a) of this section. Each finding of fact shall be supported by substantial evidence in the record of proceedings before the board.

(c) The board of adjustment may impose reasonable conditions upon the granting of any variance to ensure that the public health, safety, and general welfare shall be protected and substantial justice done. Violation of such conditions shall be a violation of this chapter.

(Code 1995, § 515.262)

Sec. 44-43. Special use applications.

(a) Before any application for a special use shall be approved, the board of adjustment shall make written findings certifying compliance with the specific standards governing each individual special use and that the general standards contained in section 44-327 are met. The board shall make appropriate findings, supported by evidence in its record, on each general and specific standard.

(b) The board of adjustment may impose reasonable conditions upon the installation and operation of any special use to ensure that the public health, safety, and general welfare shall be protected and substantial justice done. Violation of such conditions shall be a violation of this chapter.

(Code 1995, § 515.263)

Sec. 44-44. Appeals.

(a) *Application of interpretation power.* An appeal from an order, requirement, decision, or determination of the zoning administrator shall be decided by the board of adjustment, based upon its findings of fact and to achieve the intent of this chapter. In exercising this power, the board shall act in a prudent manner so that the purposes of this chapter shall be served. The effect of the decision shall not be to vary the terms of this chapter nor add to the list of permitted or permissible uses in the districts.

(b) *Stay of further proceedings.* An appeal to the board of adjustment from a decision or determination by the zoning administrator stays all enforcement proceedings in furtherance of the decision or determination appealed from, except as provided in subsection (c) of this section.

(c) *Exceptions to stay of action.* Exceptions to a stay of action under subsection (b) of this section are as follows:

(1) An appeal to the board of adjustment of a determination or decision of the zoning administrator shall not stay enforcement proceedings in furtherance of the decision or determination appealed from, if the zoning administrator certifies either that:

a. A stay would cause imminent peril to life or property; or

b. The situation appealed from is transitory in nature, and, therefore, an appeal would seriously interfere with enforcement of this chapter.

(2) In each instance, the zoning administrator shall place in the certificate facts to support the conclusion.

(d) *Appeals of board actions.* Every decision of the board of adjustment shall be subject to review at the instance of any aggrieved party by the superior court by proceedings in the nature of certiorari. The appeal to superior court must be filed within 30 days of the filing by the secretary of the board of the decision in the office of the zoning administrator or the delivery by the zoning administrator of notice, whichever is later.

(e) *Effect of denial on ruling on subsequent applications or appeals.* When the board of adjustment shall have denied an application or appeal or has ruled on an interpretation or the appeal or application shall have been withdrawn after the first notice of the public hearing thereon, the zoning administrator shall not accept another application or appeal affecting the same property or issue until the expiration of a one-year period, extending from the date of board of adjustment action or withdrawal, as appropriate.

(Code 1995, § 515.264)

Sec. 44-45. Amendments.

(a) *Intent.* For the purpose of establishing and maintaining sound, stable, and desirable development within the county planning jurisdiction, this chapter shall be amended to rezone an area, to extend the boundary of an existing zoning district, or to change the regulations and restrictions of an existing zoning district, only where necessary to correct a manifest error in this chapter or otherwise where necessary to promote the public health, safety, or general welfare. Any such amendment must reflect and achieve the purposes of the adopted land use plan.

(b) *Initiation.* Subject to the limitations of the statement of intent in subsection (a) of this section, an amendment to this chapter may be initiated by the following:

(1) The board of commissioners on its own motion.

(2) The planning board.

(3) Application by any property owner or his agent.

(c) *Filing and contents of application.* The procedure for filing for an amendment to this chapter and the contents of the application are as follows:

(1) *Filing of applications.* All applications for amendments to this chapter shall be in writing, signed, and filed with the zoning administrator.

(2) *Contents of application.* All applications for amendments to this chapter, without limiting the right to file additional material, shall contain at least the following:

a. If the proposed amendment would require a change in the official zoning atlas; that is, if the proposed amendment would change the zoning classification of only a portion of an existing parcel, a fully dimensional map, at a scale of not less than 100 feet nor more than ten feet to the inch, showing the portion of the parcel covered by the proposed amendment;

b. If applicable, a legal description of such land;

c. If applicable, a detailed statement of any alleged error in this chapter which would be corrected by the proposed amendment and a detailed explanation of the manner the proposed amendment will correct the alleged error; and

d. A detailed statement of all other circumstances, factors and reasons which the applicant offers in support of the proposed amendment.

(d) *Referral of application to planning board and county planner.* The application for the proposed amendment shall be referred to the planning board and county planner in accordance with the following

(1) The zoning administrator, upon receipt of the application to amend this chapter, which has been examined and approved as to form by the zoning administrator, shall refer the application to the planning board for study and report. The board of commissioners shall not enact the proposed amendment until 30 days after such referral to the planning board or until the planning board makes its report, whichever first occurs. The zoning administrator,

concurrently with the referral to the planning board, shall refer the application to the county planner for the preparation of a report thereon.

(2) The county planner shall prepare and submit a written report to the planning board prior to its meeting to consider the application and also to the board of commissioners prior to the public hearing described in subsection (e) of this section.

(e) *Public hearing and notice.* A public hearing shall be held in accordance with the following:

(1) A public hearing shall be held by the board of commissioners before adoption of any proposed amendment to this chapter. Notice of the public hearing shall be given by publishing the notice at least twice in a newspaper of general circulation in the county, stating the time and place of such hearing and the substance of the proposed amendment. This notice shall appear in such newspaper for two successive weeks, with the first notice appearing not less than ten days nor more than 25 days before the date set for the public hearing.

(2) In addition to notice required in subsection (e)(1) of this section, where the proposed amendment involves a change in the designation of any parcel of land, the zoning administrator shall, by first class mail, give notice of the public hearing to the owner of the parcel involved in the proposed amendment, if the owner is different from the applicant, as well as the owners, as shown on the tax rolls, of all land abutting the parcel involved in the proposed amendment. The zoning administrator shall also post a sign on the property giving notice of the pendency of the hearing.

(f) *Public hearings by board of commissioners.* The board of commissioners shall conduct a public hearing on the proposed amendment at its regular monthly meeting.

(g) *Action of board of commissioners.* After the public hearing on the application, the board of commissioners shall receive the recommendation of the planning board and the county planner. It shall then take one of the following actions:

(1) Approval of the application.

(2) Approval of a modified version of the application.

(3) Denial of the application.

(h) *Withdrawal of application.* An applicant may withdraw the application at any time by written notice to the zoning administrator. However, any withdrawal of an application after the giving of the first notice as required in subsection (e) of this section shall be considered, for the purposes of subsection (i) of this section, a denial of the application.

(i) *Effect of denial on subsequent petitions.* When the board of commissioners shall have denied an application or the application shall have been withdrawn after the first notice of the public hearing thereon, the zoning administrator shall not accept another application for the same or similar amendment affecting the same property or a portion of it until the expiration of a one-year period, extending from the date of denial or withdrawal, as appropriate.

(j) *Fees.* Fees for filing an application for an amendment shall be set by resolution of the board of commissioners.

(Code 1995, § 515.265)

Sec. 44-46. Comprehensive review.

The planning board and the zoning administrator shall, from time to time, at intervals of not more than three years, examine the sections of this chapter and the location of zoning district boundary lines and shall submit a report to the board of commissioners recommending changes and amendments, if any, which are desirable in the interest of public health, safety, and general welfare, mindful of the intent expressed in section 44-45(a).

(Code 1995, § 515.266)

Sec. 44-47. Violations.

(a) Whenever, by this chapter, the performance of any act is required or the performance of any act is prohibited or whenever any regulation or limitation is imposed on the use of any land and water or on the erection of a structure, a failure to comply with such provisions shall constitute a violation of this chapter.

(b) The owner, tenant, or occupant of any land or structure or part thereof and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this chapter shall be held responsible for the violation and be subject to the penalties and remedies provided in this chapter.

(c) Citations and notices shall be sent as follows:

(1) Upon the determination that any section of this chapter is being violated, the zoning administrator shall send, within five working days, a written citation by registered or certified mail to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the zoning administrator's discretion.

(2) The final written notice, which may also be the initial notice, shall state the action the zoning administrator intends to take, if the violation is not corrected, and shall advise that the zoning administrator may seek enforcement without prior written notice by invoking any of the remedies contained in subsection (d) of this section, as well as the penalties in section 44-48.

(d) If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure or land is used in violation of this chapter or a regulation made under authority conferred by this chapter, the zoning administrator, in addition to other remedies, may institute any appropriate action or proceedings to:

(1) Prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use;

(2) Restrain, correct or abate the violation;

(3) Prevent occupancy of the building, structure or land; or

(4) Prevent any illegal act, conduct, business, or use in or about the premises.

(Code 1995, § 515.998)

Sec. 44-48. Penalty.

(a) Violation of any section of this chapter shall subject the offender to a civil penalty in the amount of $50.00, to be recovered by the county in a civil action in the nature of debt if the offender does not pay the penalty within a period of 72 hours after being cited. The citation shall be in writing, signed by the zoning administrator, and shall be delivered or mailed to the offender either at his residence or at his place of business or at the place where the violation occurred.

(b) Each day's continuing violation shall be a separate and distinct offense.

(Code 1995, § 515.999)

Secs. 44-49--44-75. Reserved.

ARTICLE III. DISTRICTS

Sec. 44-76. Official statements of intent.

Sections 44-77 through 44-85 are statements of intent for each zoning district.

(Code 1995, § 515.015)

Sec. 44-77. R-1 residential district.

The R-1 residential district is intended to accommodate low-intensity single-family residential development and the necessary governmental and other support facilities necessary for sound suburban development. The R-1 district shall normally be located adjacent to similar classifications to complement those designations. The R-1 district may include bona fide farms.
(Code 1995, § 515.016)

Sec. 44-78. R-2 residential district.

The R-2 residential district is intended to accommodate low-density residential development, agriculture, and the necessary governmental and other support services in the more rural portions of the county. The R-2 district may include bona fide farms.
(Code 1995, § 515.017)

Sec. 44-79. R-3 residential district.

The R-3 residential district is intended to accommodate a mix of residential uses, plus the necessary governmental and other support services required for sound development. The R-3 district may include bona fide farms.
(Code 1995, § 515.018)

Sec. 44-80. O-I office and institutional district.

The O-I office and institutional district is intended to provide a transition zone between residential and commercial or industrial uses and districts. It is also intended to accommodate a mixture of moderate-density residential, office and institutional uses in appropriate locations in the county. Access to the sites from minor residential streets shall be discouraged.
(Code 1995, § 515.019)

Sec. 44-81. C-1 commercial district.

The C-1 commercial district is intended to provide land for the sale of convenience goods and limited personal services to residents of the immediate neighborhood. These districts shall be located at intervals of at least one mile along arterials and collector streets, preferably at intersections.
(Code 1995, § 515.020)

Sec. 44-82. C-2 commercial district.

The C-2 commercial district is intended to provide land for the provision of convenience shops and specialty retail goods and business and personal services to the traveling public and the residents of neighborhoods. The C-2 district shall be located with direct access to arterial and collector streets. Proposals for larger sites offering a greater amount of goods and services shall use the planned development approach contained in article XI of this chapter.
(Code 1995, § 515.021)

Sec. 44-83. C-3 commercial district.

The C-3 commercial district is intended to recognize these uses which were developed under previous county land use regulations, but which are not appropriate to the standards under the new regulations in this chapter. This classification shall not be extended from the locations designated on the official zoning atlas, nor shall new C-3 areas be designated.
(Code 1995, § 515.022)

Sec. 44-84. E-1 light manufacturing district.

The E-1 light manufacturing district is intended to provide for the development of areas devoted to light manufacturing, processing and assembly uses, warehousing, distribution and servicing enterprises and limited office activities controlled by performance standards to limit the effect of such uses on uses within the district and in adjacent districts.
(Code 1995, § 515.023)

Sec. 44-85. E-2 intensive manufacturing district.

The E-2 intensive manufacturing district is intended to provide areas for intensive manufacturing, processing and assembly uses, controlled by performance standards to limit the effect of such uses on adjacent districts.
(Code 1995, § 515.024)

Sec. 44-86. Schedules of district regulations.

(a) *Adoption of schedules of district regulations.* A substantial part of the regulations applying in many of the districts established by this chapter has been set out in tabular form in a series of sheets identified as the official schedules of district regulations, which, together with all lawfully adopted explanatory material shown therein, is adopted and declared to be part of this chapter.

(b) *Authentication.* The official schedules of district regulations shall be authenticated by the signature of the county clerk and shall bear the seal of the county under the following words: "This is to certify that the Official Schedule of District Regulations referred to by reference was approved by the Board of Commissioners on _____, _____."

(c) *Location.* The official schedule of district regulations shall be located in the office of the zoning administrator.

(d) *Amendment.* The official schedule of district regulations are subject to amendment by ordinance as set out in sections 44-44 and 44-45. Any proposed amendment shall be identified by the sheet number, district, column, and, if applicable, division numbers or letters.

(e) *Recording of nature and dates of amendments; authentication.* Amendments shall be authenticated by entries on affected sheets and a record of the nature and date thereof maintained. Such entries shall indicate the date the amendment was made, the date the change became effective if other than the date of the actual approval, and an indication of the nature of the change sufficient to facilitate specific identification.

(f) *Updating required.* Amendments to the official schedule of district regulations shall be updated by the zoning administrator within ten working days of the effective date of the amendatory ordinance.

(g) *Unauthorized changes prohibited.* No changes of any nature shall be made in the official schedule of district regulations or any matter shown thereon, except in conformity with the requirements and procedures set forth in this chapter. Any unauthorized changes, of whatever kind, by any person, shall be considered a violation of this chapter and punishable as provided by law. However, this subsection shall not be held to foreclose action under other applicable criminal state statutes against any person alleged to have made unauthorized changes in this chapter.

(h) *Final authority for official schedule of district regulations.* Regardless of the existence of purported copies of all or part of the official schedule of district regulations which may from time to time be made, published, or reproduced, the official schedule of district regulations and amendments thereto located in the office of the zoning administrator shall be the final authority as to regulations set forth therein as applying to such districts.

(i) *Retention of earlier schedules of district regulations.* At least one copy of all schedules of district regulations or remaining portions thereof, which have had the force and effect of official schedules for the county prior to the effective date of adoption of the ordinance from which this chapter is derived (January, 1, 1990) or amendment of this chapter shall be retained by the zoning administrator and preserved as a public record and as a guide to the zoning status of lands and waters prior to such dates.

(Code 1995, § 515.025)

Sec. 44-87. Schedule of permitted and permissible special uses by district.

(a) Except as specifically provided in this chapter, regulations governing the use of land, water, and structures within the various districts within the zoning jurisdiction of the county shall be as shown in the schedule of permitted and permissible uses by district set forth in this section.

(b) Use of land or structures which are not expressly listed in this schedule as permitted principal uses, permitted accessory uses, or permissible special uses shall be permitted in districts where similar uses are permitted.

(c) Uses listed as permissible special uses may be established in that district only after approval of an application for a special use permit in accord with the procedures and requirements in article X of this chapter.

(d) This schedule indicates the permitted and permissible uses for the regular zoning districts. The uses permitted or permissible in the planned development districts are listed in article XI of this chapter.

TABLE 515-1: SCHEDULE OF PERMITTED AND PERMISSIBLE USES BY DISTRICT

Legend

X = Permitted Principal Uses **Y = Permitted Accessory Uses**
R = Rezoning Process **A = Special Use Approved by Board of Adjustment**
Blank = Prohibited Use

(1) Five or more nonresidents, **(2)** Maximum number of residents is 12, **(3)** In existing manufactured home parks only, **(4)** Maximum number of residents is five, **(5)** Only for uses permitted in the district, **(6)** When catering to industrial clients, **(7)** Excluding the open storage of wrecked cars, **(8)** May include open storage as permitted for junkyards, **(9)** In existing manufactured home parks, on existing lots of record, and family subdivision lots, **(10)** Administration approval, subject to supplemental regulations in section 44-222.

Use	R-1	R-2	R-3	O-I	C-1	C-2	C-3	E-1	E-2	See Section
Accessory dwelling/ guesthouse	A	A	A							44-375
Accounting				X	X	X	X			
Adult care center		A(1)	A(1)	X	X	X	X	Y	Y	44-348
Adult uses							A			44-342
Advertising agency				X	X	X	X			
Airport								A	A	44-343
Airstrip		A	A							44-343
Amusement arcades						X	X			
Amusement park/services						X	X			
Animal hospital/ veterinary clinic						X	X	X	X	44-218
Animal husbandry	X	X	X	X	X	X	X	X		
Antique shop					X	X	X			
Apparel and footwear						X	X			
Appliances						X	X			
Aquaculture	X	X	X	X	X	X	X	X		
Aquarium						X	X			
Arboreta	X	X	X	X	X	X	X	X		
Architect				X	X	X	X			

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Use	R-1	R-2	R-3	O-I	C-1	C-2	C-3	E-1	E-2	See Section
Armory						X	X	X		
Art gallery				X	X	X	X	X		
Art supplies						X	X			
Arts and graphics services						X	X			
Asphalt products, mfg.								X		
Auditors and bookkeepers				X	X	X	X			
Auto, truck, boat and motorcycle sales						X	X			
Automatic bank teller				X	X	X	X			
Automotive supplies						X	X			
Bakery					X	X	X			
Bakery (wholesale)							X	X	X	
Banks and finance companies				X	X	X	X	X	X	
Barbershop				X	X	X	X			
Baseball hitting range						X	X			
Beauty shop				X	X	X	X			
Bedding and carpet, mfg.								X	X	
Bicycle repair					X	X	X			
Bicycle sales and service					X	X	X			
Billiard or pool hall					X	X	X			
Blueprints and drafting supplies						X	X			
Boardinghouse, rooming house and bed and breakfast		A	A	X						44-345
Boat works, mfg.								X	X	
Bona fide farm	X	X	X	X	X	X	X	X	X	
Book and stationery store					X	X	X			
Botanical gardens	X	X	X	X	X	X	X	X	X	
Bottling plants, mfg.								X	X	
Bowling lanes						X	X			
Brick, tile and pottery yards, mfg.								X	X	
Building cleaning and maintenance services				X		X	X			

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Use	R-1	R-2	R-3	O-I	C-1	C-2	C-3	E-1	E-2	See Section
Bus garage							X	X	X	
Bus terminal						X	X			
Cabinet shop, mfg.							X	X	X	
Camera and photography supplies						X	X			
Campground/ recreational vehicle park		A	A		X	X				Permitted 44-229 Special use 44-346
Candy, nut, confectionery stores					X	X	X			
Canvas goods, mfg.							X	X	X	
Carwash						X	X			
Cardboard containers, mfg.								X	X	
Case goods, mfg.								X	X	
Cemetery, human public	A	A	A	X			X			44-347
Cemetery, pet		A					X			44-347
Cemetery, private										
Chemical, mfg.								X	X	
Child care center		A(1)	A(1)	X	X	X	X	Y	Y	44-348
Church/synagogue	X	X	X	X	X	X	X			
Circus, carnival and fair	X	X	X	X	X	X	X	X	X	44-223
Clothing and textiles, mfg.								X	X	
Coin-operated laundry					X	X	X			
College/university/ technical college				X			X			
Community recreational use	A	A	A	X			X			44-349
Computer and data processing services				X		X	X			
Concrete products production, mfg.								X	X	
Conference/retreat center		A	A	X	X	X				44-370
Congregate living facility		A(2)		X						44-350
Contractor's office						X	X	X	X	
Convenience store					X	X	X			

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Use	R-1	R-2	R-3	O-I	C-1	C-2	C-3	E-1	E-2	See Section
Correctional facility									X	
Country club	A	A	A	X			X			44-349
Crematorium							X		X	
Customary accessory uses	Y	Y	Y	Y	Y	Y	Y	Y	Y	
Dairy, meat and seafood market					X	X	X			
Dance school or classes				X	X	X	X	X	X	
Delicatessen					X	X	X			
Department store						X	X			
Detective agency				X	X	X	X			
Dormitory				X						
Dragstrip and racetrack						A	A			44-351
Drinking establishment/ nightclub						X	X			
Drugstore				X	X	X	X			
Dry cleaner						X	X			
Dry cleaning and laundry pickup facilities				X	X	X	X			
Dwelling units, multiple-family		R	R	R						
Dwelling units, single-family	X	X	X	R						
Dwelling units, two-family		X	X	R						
Eating establishment (less than 2,500 sq. ft.)					X	X	X			
Eating establishment (more than 2,500 sq. ft.)						X	X			
Electrical appliances and equipment, mfg.								X	X	
Electrical equipment sales						X	X	X	X	
Electronic and electrical repair						X	X	X	X	
Employment agency				X	X	X	X			
Engineer				X	X	X	X			
Equipment rental						X	X			

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Use	R-1	R-2	R-3	O-I	C-1	C-2	C-3	E-1	E-2	See Section
Exterminator						X	X	X	X	
Fabric store						X	X			
Family care home	X	X	X	X						
Farm and heavy equipment sales and rental							X	X	X	
Farm machinery, mfg.								X	X	
Farm supplies					X	X	X			
Fertilizers, mfg.								X	X	
Fiberglass, mfg.								X	X	
Firing/shooting range		A						A	A	44-352
Firing/shooting range (indoor)						X				
Flea market (indoor)						X	X	X	X	
Flea market (outdoor)								A	A	44-364
Floor covering store						X	X			
Florist					X	X	X			
Flour and feed mill, mfg								X	X	
Food and food products, mfg.								X	X	
Food catering						X	X	X		
Food packing and manufacturing							X	X	X	
Foodstore (under 10,000 sq. ft.)				X	X	X	X			
Foodstore (over 10,000 sq. ft.)						X	X			
Forestry	X	X	X	X	X	X	X	X	X	
Foundry								X	X	
Fraternity and sorority				X						
Funeral parlor				X	X	X	X			
Furniture (except case goods), mfg								X	X	
Furniture and home furnishings						X	X			
Furniture refinishing and repair						X	X	X	X	
Furrier						X	X			

TABLE 515-1: SCHEDULE OF PERMITTED AND PERMISSIBLE USES BY DISTRICT

Legend

X = **Permitted Principal Uses** **Y = Permitted Accessory Uses**
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Use	R-1	R-2	R-3	O-I	C-1	C-2	C-3	E-1	E-2	See Section
Garbage disposal services								X	X	
Gardening	Y	Y	Y	Y	Y	Y	Y	Y	Y	
Gas station					X	X	X			
Gift shop						X	X			
Glass and mirror shop						X	X			
Glass products, mfg								X	X	
Golf course	X	X	X	X						
Golf driving range						X	X			
Greenhouse, commercial					X	X	X	X	X	
Greenhouse, private	Y	Y	Y	Y	Y	Y	Y	Y	Y	
Greenway	X	X	X	X	X	X	X	X	X	
Gun and ammunition sales						X	X			
Gunsmith, repair services						X	X			
Gymnasium				X	X	X	X	X		
Ham radio antenna	X	X	X	X	X	X	X	X	X	
Hardware store					X	X	X			
Hatchery	X	X	X					X	X	
Headquarters of manufacturing, processing and assembly firm				X		X	X	X	X	
Health club					X	X	X			
Health practitioner's office				X	X	X	X			
Heating and refrigeration shop						X	X	X	X	
Hobby, toy and craft store						X	X			
Home occupation	Y	Y	Y		Y					44-221
Hosiery mill, mfg							X	X	X	
Hospice house		A	A	X						44-369
Hospital				X	X		X			
Hotel/motel					X	X	X			
House mover								X	X	
Ice, mfg							X	X	X	
Industrial supplies and equipment						X	X	X	X	
Insurance agency				X	X	X	X			
Interior designer				X	X	X	X			
Jewelry store					X	X	X			

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Use	R-1	R-2	R-3	O-I	C-1	C-2	C-3	E-1	E-2	See Section
Junkyard									A	44-353
Kennel		A	A				A	A	A	44-362
Knitting mill, mfg.							X	X	X	
Landfills:										
Landfill, beneficial fill		X	X				X	X	X	44-225
Landfill, sanitary		A						A	A	44-354
Landfill, land-clearing and inert debris		A						A	A	44-373
Landscaper						X	X	X	X	
Lawn and garden care						X	X			
Lawn and garden supplies					X	X	X			
Leather products, mfg								X	X	
Legal services				X	X	X	X			
Linen and uniform supply services						X	X			
Liquor store					X	X	X			
Livestock sales									X	
Locksmith, repair services					X	X	X			
Luggage, mfg								X	X	
Lumber and building materials sales						X	X			
Lumberyard							X		X	
Machine and welding shop							X		X	
Machine tools, mfg								X	X	
Mail order office				X	X	X	X			
Management consultant				X	X	X	X			
Manufactured home and recreational vehicle sales						X	X			
Manufactured home park		A								44-366
Manufactured or mobile homes: class A		X	X							44-181
Manufactured or mobile homes: class B		X								44-182

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Use	R-1	R-2	R-3	O-I	C-1	C-2	C-3	E-1	E-2	See Section
Manufactured or mobile homes: class C		X(3)								44-182
Manufactured or mobile homes: class D		X(9)	X(9)							44-181
Manufactured or mobile homes: class E		X(9)								44-182
Manufacturer's showroom, mfg.						X	X	Y	Y	
Marina and dry storage facilities	A	A	A	A	X	X	X			44-355
Meatpacking plant, mfg.							X		X	
Medical and dental lab				X	X	X	X			
Medical and dental clinic				X	X	X	X			
Membership organization	A	A	A	X	X	X	X			44-372
Metal fabricating plant, mfg								X	X	
Miniature golf, services						X	X			
Mining of earth products (other)									A	44-356
Mining of earth products (sand, soil, clay)		A	A					A	A	44-356
Mini-warehouse						X	X	X	X	44-220
Monument sales						X	X			
Monument works and sales, mfg							X	X	X	
Motor vehicle repair, minor					X	X	X			
Motor vehicle repair, major						X(7)	X(7)		X(8)	
Movie theater (drive-in)						X	X			44-219
Movie theater (indoor)						X	X			
Municipal garage						X	X	X	X	
Museum	A	A	A	X	X	X	X			44-349
Music store						X	X			

TABLE 515-1: SCHEDULE OF PERMITTED AND PERMISSIBLE USES BY DISTRICT

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Use	R-1	R-2	R-3	O-I	C-1	C-2	C-3	E-1	E-2	See Section
Music studio				X	X	X	X	X	X	
News syndicate				X	X	X	X			
Newsstand					X	X	X			
Novelty and souvenir shop					X	X	X			
Nursery/landscaping business, commercial		A			X	X	X	X	X	44-363
Nursing, convalescent and extended care facilities		A	A	X	X	X	X			44-357
Office equipment store						X	X			
Oil and gasoline bulk storage								X	X	
Open storage						X	X			44-152
Optician and optical supply store				X	X	X	X			
Outdoor seasonal sales	X	X	X	X	X	X	X			44-224
Paint and wallpaper store						X	X			
Paints, varnishes, finishes, mfg								X	X	
Paper goods, mfg								X	X	
Par-three golf						X	X	X		
Parking, off-street	X(5)	X(5)	X(5)	X	X	X	X			
Park and playground	X	X	X	X	X	X	X	X	X	
Pasturage	X	X	X	X	X	X	X	X	X	
Pawnshop						X	X			
Personnel services				X	X	X	X			
Pet shop						X	X			
Pharmaceuticals mfg								X	X	
Photocopying services				X	X	X	X			
Photo finishing laboratory				X	X	X	X			
Photography studio				X	X	X	X			
Pillow, mfg								X	X	
Place of assembly						X	X			
Planning mill, mfg								X	X	
Plastic products, mfg								X	X	

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Use	R-1	R-2	R-3	O-I	C-1	C-2	C-3	E-1	E-2	See Section
Plumbing and heating supplies						X	X	X	X	
Precision instruments, mf								X	X	
Processing plant, mfg								X	X	
Professional residential facility		A	A	X	X	X	X			44-377
Public relations services					X	X	X			
Public service facilities	A	A	A	A	A	A	X	X	X	44-358
Public use facilities	A	A	A	X	X	X	X	X	X	44-359
Public utility facility	X	X	X	X	X	X	X	X	X	
Publishing and printing						X	X	X	X	
Radio and television receiving antenna dish, accessory	Y	Y	Y	Y	Y	Y	Y	Y	Y	
Radio and television sales						X	X			
Radio and television studio						X	X			
Radio frequency test facility		A					A	A	A	44-365
Railroad classification yard								X	X	
Real estate services				X	X	X	X			
Recreational fish lake or pond		A	A	X	X	X	X	X	X	44-371
Refinery, mfg									X	
Rehabilitation center				X	X	X	X			
Rental and leasing of light equipment						X	X			
Rental of domestic vehicles						X	X	X	X	
Research activities				X		X	X			
Residential development sales office; model dwelling unit	X	X	X							44-214
Reupholstery						X	X	X	X	
Roadside stand, commercial		A	A	X	X	X	X			44-360
Roadside stand,	X	X	X							

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Use	R-1	R-2	R-3	O-I	C-1	C-2	C-3	E-1	E-2	See Section
residential										
Rubber products, mfg								X	X	
Saddlery					X	X	X			
Sanitarium and mental institution						X	X			
Sawmill		A					X		X	44-367
Schools (elementary, middle, high)	X	X	X	X	X	X	X	X	X	
Seamstress shop				X	X	X	X			
Secondhand store and swap shop						X	X			
Service station						X	X			
Sheetmetal shop, mfg							X	X	X	
Shoe repair and shining					X	X	X			
Shoe store						X	X			
Sign shop						X	X	X	X	
Slaughterhouse							X	X	X	
Small motor repair						X	X			
Solid Waste Landfill Affiliated Enterprise								X		44-4
Sporting goods						X	X			
Springs, mfg								X	X	
Stable	A	A	A							44-361
Surveyor				X	X	X	X			
Tailoring and dressmaking shop				X	X	X	X			
Technical school					X	X	X			
Telecommunication facilities, collocation/ modification wireless	X	X	X	X	X	X	X	X	X	Ch. 40, Art. III
Telecommunication facilities, wireless	A	A	A	A	A	A	A	A	A	Ch. 40, Art. III
Television and/or radio tower facilities	A	A	A	A	X	X	X	X	X	Permitted 44-222; Special use 44-368
Temporary use/special event	X	X	X	X	X	X	X	X	X	44-223
Textile finishing and dyeing, mfg								X	X	
Tire recapping shop							X	X	X	

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Use	R-1	R-2	R-3	O-I	C-1	C-2	C-3	E-1	E-2	See Section
Tobacco products, mfg								X	X	
Tobacco shop						X	X			
Tower structure, alternate	X (10)	X (10)	X (10)	X (10)	X (10)	X (10)	X (10)	X (10)	X (10)	44-222
Trading stamp redemption store						X	X			
Transfer company								X	X	
Transportation and heavy equipment, mfg								X	X	
Truck terminal								X	X	
Truck, farm equip or heavy equip sales and service							X	X	X	
Upholstering shop, mfg							X	X	X	
Utility company operation center						X	X	X	X	
Variety store					X	X	X			
Vending company						X	X	X	X	
Warehouse						X	X	X	X	
Watch, clock and jewelry repair						X	X	X	X	
Wholesale distribution						X	X	X	X	
Wood waste grinding operation, commercial and industrial						X		X	X	44-228
Wood waste grinding operation, permanent		A	A							44-378
Wood waste grinding operation, temporary off-site	X	X	X	X	X	X	X	X	X	44-227
Wood waste grinding operation, temporary on-site	X	X	X	X	X	X	X	X	X	
Wooden box factory, mfg								X	X	
Woodworking shop, mfg							X	X	X	

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Use	R-1	R-2	R-3	O-I	C-1	C-2	C-3	E-1	E-2	See Section
Zoo		A				X	X	X	X	44-374

(Code 1995, § 515.026; Ord. of 6-17-2002; Ord. No. 2002-07, table 515-1, 8-19-2002; Ord. No. 2002-10, table 515-1, 10-21-2002, Ord 2003-02, Table 515-1; 2-17-2003)

Sec. 44-88. Schedule of area, height, bulk and placement regulations.

Except as specifically provided in this chapter, regulations governing the minimum lot width and area; required front, side and rear yards; maximum permitted floor area ratio; maximum permitted height of structures; maximum permitted lot coverage; and related matters shall be for the several regular districts as shown in the schedules set forth in this section. See also article IV of this chapter.

TABLE 2: SCHEDULE OF AREA, HEIGHT, BULK AND PLACEMENT REGULATIONS								
	Minimum Lot Area per Multifamily Dwel-ling Unit (square feet) (Note: subject to planned development and watershed pro-tection regulations)			Required Yards (feet)				
District	**First**	**Additional**	**Minimum Lot Width (feet)**	**Front**	**Side**	**Rear**	**Maximum Lot Coverage (%)**	**Maximum Permitted Height (feet)**
R-1 (multi-family not permitted)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
R-2 (multi-family) public water and sewer	12,500	6,250	75	30	15	30	30	35
R-3 (multi-family) public water and sewer	10,000	5,000	75	25	15	25	30	35
O-I public water and sewer	10,000	5,000	75	25	15	25	30	35

Table 2: Schedule of Area, Height, Bulk and Placement Regulations

District	Minimum Lot Area (sq. ft.)	Minimum Lot Width (feet)	Required Yards (feet)			Maximum Floor Area Ratio	Maximum Permitted Height (feet)
			Front	Side	Rear		
O-I	20,000	100	30	20	30	1:5	35
C-1	20,000	100	30	20	30	1:5	35
C-2	40,000	150	35	20	35	1:3	50
C-3	20,000	75	20	15	35	1:3	35
E-1	40,000	100	30	25	35	1:3	45
E-2	60,000	150	40	25	35	1:2.5	45

Note: "Public water and sewer" means water and sewer provided by a municipal and/or county system.

TABLE 2A. SCHEDULE OF AREA, HEIGHT, AND PLACEMENT REGULATIONS FOR SINGLE-FAMILY DETACHED RESIDENTIAL

District	Lot Size Based on Meeting Standards of Table 2C4 (sq. ft.) (Note: See exception under footnote #1)	Minimum Lot Width[3] (feet)	Required Yards (feet)			Maximum Lot Coverage (%)	Maximum Permitted Building Height (feet)
			Front	Side	Rear		
R-1 standard 1[1]	No public water or sewer: 20,000 minimum Public water or sewer: 15,000 minimum Public water and sewer: 12,500 minimum	75	40	12	30	30	35
R-1 Standard 2[2]	87,120 or larger	200	40	15	35	30	35
	43,561-87,119	100	40	15	35	30	35
	20,001-43,560	75	30	15	30	30	35
	10,001--20,000	60	25	5	20	40	35
	7,000--10,000	55	25	5	20	45	35
R-2 standard 1[1]	No public water or sewer: 20,000 minimum Public water or sewer: 15,000 minimum Public water and sewer: 12,500 minimum	75	30	15	30	30	35
R-2 standard 2[2]	87,120 or larger	200	40	15	35	30	35
	43,561--87,119	100	40	15	35	30	35
	20,001--43,560	100	40	15	35	30	35
	10,001--20,000	60	25	5	20	40	35
	7,000--10,000	55	25	5	20	45	35
R-3 standard 1[1]	No public water or sewer: 20,000 minimum Public water or sewer: 15,000 minimum Public water and sewer: 12,500 minimum	75	30	15	25	30	35
R-3 standard 2[2]	87,120 or larger	200	40	15	35	30	35
	43,561--87,119	100	40	15	35	30	35
	20,001--43,560	75	35	15	30	30	35
	10,001--20,000	60	25	5	20	40	35
	7,000--10,000	55	25	5	20	45	35

TABLE 2A. SCHEDULE OF AREA, HEIGHT, AND PLACEMENT REGULATIONS FOR SINGLE-FAMILY DETACHED RESIDENTIAL

1 Standard 1 applies to all lots in a subdivision, as defined in section 36-2, consisting of cumulatively five or fewer new lots created after the effective date of the ordinance from which this chapter is derived. The residual tract of land shall be included in counting the total number of lots unless the residual tract is a minimum of two acres and/or a residential structure exists on the tract. Standard 1 lots are not subject to the standards of table 2C. Lots created prior to the effective date of table 2A pertaining to the schedule of area, height, and placement regulations for single-family detached residential shall adhere to standard 1 required yards, maximum lot coverage and maximum permitted building height.

2 Standard 2 applies to all lots in a subdivision, as defined in section 36-2, consisting of cumulatively greater than five lots created after the effective date of the ordinance from which this chapter is derived. Standard 2 lots are subject to the standards of table 2C.

3 Lots must meet the lot depth/width ratio requirements of section 36-78(a).

4 Lots are subject to division 3 of article XIII of this chapter pertaining to the watershed protection district, where applicable.

Note: "Public water and/or sewer" means water and/or sewer provided by a municipal or county system.

TABLE 2B. SCHEDULE OF AREA, HEIGHT, AND PLACEMENT REGULATIONS FOR TWO-FAMILY DETACHED RESIDENTIAL

District	Lot Size Based on Meeting Standards of Table 2C4 (sq. ft.) (Note: see exception under footnote #1)	Minimum Lot Width[3] (feet)	Required Yards (feet)			Maximum Lot Coverage (%)	Maximum Permitted Building Height (feet)
			Front	Side	Rear		
R-1 (two-family not permitted)	N/A	N/A	N/A	N/A	N/A	N/A	N/A
R-2 Standard 1[1]	No public water or sewer: 30,000 min. Public water or sewer: 22,500 min. Public water and sewer: 18,750 min.	75	30	15	30	30	35
R-2 Standard 2[2]	130,680 or larger	200	40	15	35	30	35
	65,342--130,679	100	40	15	35	30	35
	30,002--65,340	75	30	15	30	30	35
	15,002--30,000	60	25	5	20	40	35
	10,500--15,000	55	25	5	20	45	35
R-3 Standard 1[1]	No public water or sewer: 30,000 min. Public water or sewer: 22,500 min. Public water and sewer: 18,750 min.	75	30	15	25	30	35
R-3 Standard 2[2]	130,680 or larger	200	40	15	35	30	35
	65,342--130,679	100	40	15	35	30	35
	30,002--65,340	75	30	15	30	30	35
	15,002--30,000	60	25	5	20	40	35
	10,500--15,000	55	25	5	20	45	35
O-I Standard 1[1]	No public water or sewer: 30,000 min. Public water or sewer: 20,000 min. Public water and sewer: 15,000 min.	75	30	15	25	30	35
O-I Standard 2[2]	130,680 or larger	200	40	15	35	30	35
	65,342--130,679	100	40	15	35	30	35

TABLE 2B. SCHEDULE OF AREA, HEIGHT, AND PLACEMENT REGULATIONS FOR TWO-FAMILY DETACHED RESIDENTIAL

1 Standard 1 applies to all lots in a subdivision, as defined in section 36-2, consisting of cumulatively five or fewer new lots created after the effective date of the ordinance from which this chapter is derived. The residual tract of land shall be included in counting the total number of lots unless the residual tract is a minimum of two acres and/or a residential structure exists on the tract. Standard 1 lots are not subject to the standards of table 2C. Lots created prior to the effective date of table 2B pertaining to the schedule of area, height, and placement regulations for two-family detached residential shall adhere to standard 1 required yards, maximum lot coverage and maximum permitted building height.

2 Standard 2 applies to all lots in a subdivision, as defined in section 36-2, consisting of cumulatively greater than five lots created after the effective date of the ordinance from which this chapter is derived. Standard 2 lots are subject to the standards of table 2C.

3 Lots must meet the lot depth/width ratio requirements of section 36-78(a).

4 Lots are subject to division 3 of article XIII of this chapter pertaining to the watershed protection district, where applicable.

Note: "Public water and/or sewer" means water and/or sewer provided by a municipal or county system.

TABLE 2C. SLIDING SCALE OF SINGLE-FAMILY AND TWO-FAMILY RESIDENTIAL LOT SIZES BASED ON MANDATORY STANDARDS	
If Minimum Lot Size Is:	Then These Standards Must Be Met
Two acres or larger	Well, septic (on site) permitted. No road capacity requirement. No open space restrictions. No school capacity restrictions. Minimum of seven deciduous trees--four with a 3.0-inch caliper and three with a 2.5-inch caliper.4
Less than two acres, but more than one acre (43,560 square feet)	Public water shall be used. Septic system (on site) shall be permitted. No road capacity requirement. No open space requirement. School capacity must be available for all recorded lots based on the formula below.1 Minimum of five deciduous trees--three with a 3.0-inch caliper and two with a 2.5-inch caliper.4
One acre or less, but more than 20,000 square feet	Public water shall be used. Public sewerage shall be used. Roads must have a level of service of C or better after development.2 Open space provided at a rate of 1,500 square feet for each lot up to a maximum of ten acres.5 School capacity must be available for all recorded lots based on the formula below.1 Minimum of five deciduous trees---three with a 3.0-inch caliper and two with a 2.5-inch caliper.4
20,000 square feet or less, but more than 10,000 square feet	Public water shall be used. Public sewerage shall be used. Roads must have a level of service of C or better after development.2 Open space provided at a rate of 2,500 square feet for each lot up to a maximum of ten acres.5 School capacity must be available for all recorded lots based on the formula below.1 Minimum of four deciduous trees--two with a 3.0-inch caliper and two with a 2.5-inch caliper.4
10,000 square feet or less, but more than or equal to 7,000 square feet	Public water shall be used. Public sewerage shall be used. Roads must have a level of service of C or better after development.2 Open space provided at a rate of 3,000 square feet for each lot up to a maximum of ten acres.5 School capacity must be available for all recorded lots based on the formula below.1Minimum of three deciduous trees---minimum planting size of 3.0-inch caliper.4

TABLE 2C. SLIDING SCALE OF SINGLE-FAMILY AND TWO-FAMILY RESIDENTIAL LOT SIZES BASED ON MANDATORY STANDARDS

1 The number of expected school students per lot in a development shall be as determined by the board of commissioners through the growth estimation model. For school districts where a model has not been adopted by the board of commissioners, the number of lots multiplied by 0.9 students per lot equals the number of expected school students for this development. Students will be divided as follows: 0.45 for elementary school, 0.18 for middle school and 0.27 for high school; when the board of education releases bids for a new or renovated school, the new school capacity will be factored in. Enrollment at schools (elementary, middle, high school) will not exceed the building capacity at any of the three schools by more than ten percent until additional space is available.

2 Right and left turn lanes must be provided on roads with traffic counts exceeding 3,000 vehicles per day (vpd). Traffic generated by the proposed development, based on the Institute of Traffic Engineers (ITE) most recent trip generation rates, must be included in calculating the traffic count.

3 In no case, shall lots be less than 7,000 square feet.

4 All plant material shall be in good healthy condition at the time of planting and shall conform to the standards of the most recent edition of the American Standard for Nursery Stock, published by the American Association of Nurserymen. The 2.5-inch minimum caliper trees shall have a minimum mature crown spread of at least 12 feet. The 3.0-inch caliper trees shall have a minimum mature crown spread of at least 30 feet. Caliper measurements are at the time of planting. Tree preservation is encouraged, and existing trees may be substituted on a basis of one four-inch-caliper tree preserved for two new trees planted. A deciduous tree is one that typically loses its leaves in the fall of the year. Species include but are not limited to white oak, pin oak, red maple, sycamore, elm and poplar.

5 Sidewalks may be provided by the developer, if approved by the subdivision review board, as leading to a pedestrian destination point such as a school, park, etc. Sidewalks may constitute all or part of the open space requirements. The amount of sidewalk shall be calculated at a cost equal to the amount of reduction from the maximum open space requirement, based on current valuation for property tax purposes. For example, $4,000.00 worth of sidewalk may be constructed instead of providing an acre of open space when the acreage is valued for tax purposes at $4,000.00 per acre.

(Code 1995, § 515.027)

Secs. 44-89--44-115. Reserved.

ARTICLE IV. AREA, HEIGHT AND PLACEMENT REGULATIONS

Sec. 44-116. Encumbrance of land.

No portion of a lot used in connection with an existing or proposed building, structure or use and necessary for compliance with the area, height and placement regulations of this chapter shall, through sale or otherwise, be used again as part of the lot required in connection with any other building, structure, or use. (Code 1995, § 515.035)

Sec. 44-117. Height.

(a) *Excluded portions of structures.* Except as provided, the height limitations of this chapter shall not apply to any roof structures for housing elevators, stairways, tanks, ventilating fans, solar energy collectors, or similar equipment required to operate and maintain a building, provided that such structures shall not cover more than 20 percent of roof area or extend over ten feet in height; nor to church spires, steeples, belfries, cupolas, domes, monuments, water towers, skylights, flagpoles, vents, construction or mining cranes or draglines, or similar structures, which may be erected above the height limit, nor to firewalls or parapet walls; provided, however, that such walls shall not extend more than five feet above the roof.

(b) *Aviation hazards.* No building or other structure, regardless of exclusions set forth in subsection (a) of this section, shall be located in a manner or built to a height which constitutes a hazard to aviation or creates hazards to persons or property by reason of unusual exposure to aviation hazards.

(Code 1995, § 515.036)

Sec. 44-118. Accessory structures.

Accessory structures in a residential zoning district shall conform to the following, except as otherwise provided in this chapter:

(1) Accessory structures shall not exceed the maximum permitted height for the zoning district in which the property is located.

(2) Accessory structures shall not be erected in any required front yard, except for fences not over six feet in height.

(3) Accessory structures may occupy required side yards; provided, however, that such accessory structures are not closer than ten feet from any side lot line.

(4) Accessory structures may occupy required rear yards, provided that such structures do not occupy more than 35 percent of the required rear yard and are not closer than five feet to any rear lot line.

(5) No part of any accessory structure shall be located in the required front yard of any corner lot in a residential district.

(6) Manufactured homes shall not be used as accessory structures.

(Code 1995, § 515.037)

Sec. 44-119. Permitted projections into required yards.

(a) Certain architectural features, such as but not limited to cornices, eaves, stoops and gutters, may project no more than three feet into the required front yard, five feet into the required rear yard and two feet into the required side yard.

(b) Mechanical equipment, such as air conditioning units, heat pumps, heating equipment, solar panels, and similar installations, may not project into the required front yard, but may project five feet into the required rear yard and two feet into the required side yard.

(Code 1995, § 515.038)

Sec. 44-120. Averaging and existing residential front setback.

In a residential district, where the average of the front yard is less than the minimum required front yard, the required yard line may be reduced to this lesser average depth, but in no case less than ten feet. For the purpose of computing such average, an adjacent vacant lot shall be considered as having the minimum required front yard specified for the zoning district.

(Code 1995, § 515.039)

Sec. 44-121. Visibility of intersections.

No structure or portion of any structure shall be placed or erected; no motor vehicle, trailer or equipment shall be allowed to park, stand, stop or be stored; and no vegetation shall be maintained, planted or allowed to grow in a manner which impedes the visibility from a street, alley or driveway of oncoming traffic from any direction in the intersecting public street, between the heights of 2 1/2 feet and eight feet, as measured from the pavement edge of the adjacent roadway, across triangles described as follows:

(1) Start at the intersection of the rights-of-way of the two intersecting roadways or at the intersection of the pavement edges, if no right-of-way exists;

(2) Measure from the intersection 70 feet along the major right-of-way or pavement edge and ten feet along the minor; and

(3) Connect the ends of the measurements to form a triangle.

(Code 1995, § 515.040)

Sec. 44-122. Calculation and rounding of combined requirements.

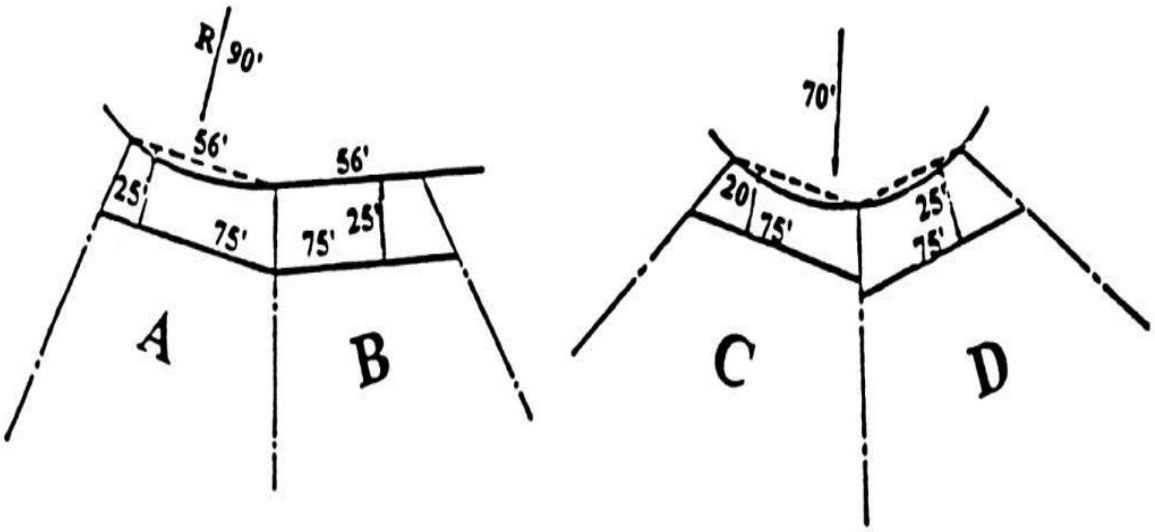
When making calculations as directed in this chapter (for example, off-street parking requirements), round to the nearest, highest whole number.
(Code 1995, § 515.041)

Sec. 44-123. Lots.

(a) *Measurement of width.* Measurement of the width of lots for the purposes of this chapter shall be as follows:

(1) The width of a lot shall be measured across the required front setback line; provided, however, that width between side lot lines where they intersect with the street line shall not be less than 80 percent of the required minimum lot width except for lots on the turning circles of culs-de-sac or at similar points of street curvature where the radius of the right-of-way line, or a circle approximately following the right-of-way line and intersecting the foremost points of the side lot lines, is less than 90 feet. Diagram 2 indicates the relationships involved:

DIAGRAM 2



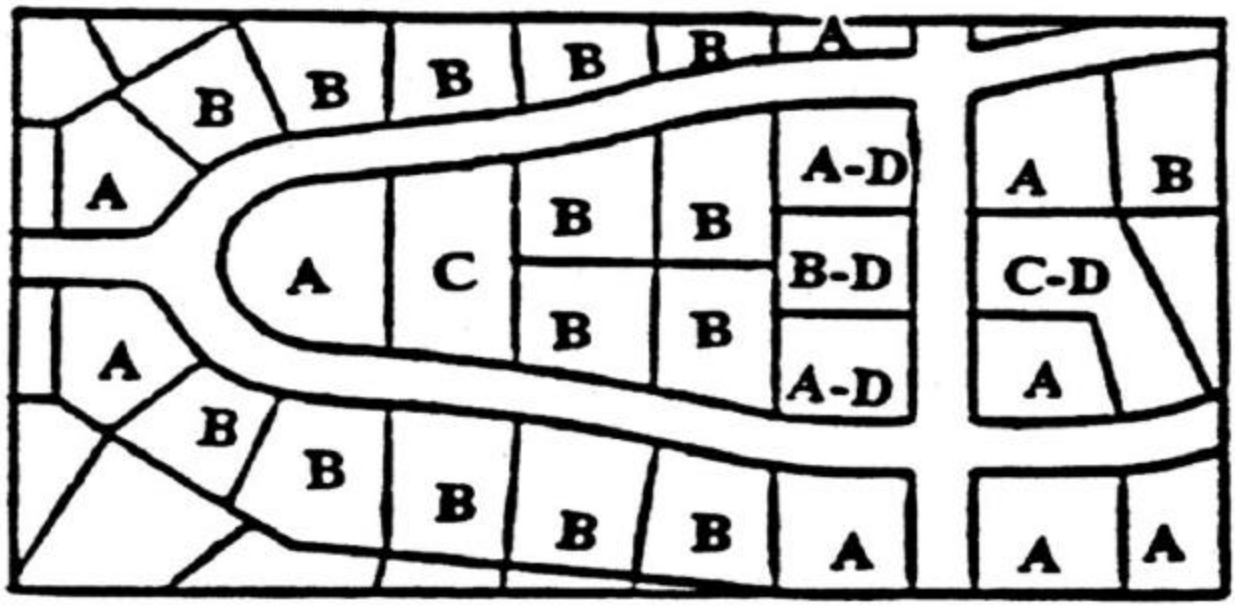
(2) Lot taper is permissible at the 90-foot curve radius A or along straight street B, with a required 25-foot front setback line and a required lot width of 75 feet. The street line is 80 percent of the lot width as measured at the required front setback line. Lots with lines radial to a curved street line with a curve radius less than 90 feet (in this case, 70 feet) need not comply with the 80-percent rule. Lot C shows the application with a 20-foot front, D with 25 feet applied in turn circles of culs-de-sac or at sharp bends in streets.

(b) *Lot area.* The area of a lot shall be construed as the total area within its boundaries, excluding all rights-of-way.

(c) *Lot types.* Lot types are as follows:

(1) Diagram 3 illustrates the terminology used with reference to corner, interior, reversed-frontage, and through lots.

DIAGRAM 3



(2) In diagram 3, lot A is a corner lot, defined as a lot located at the intersection of two or more streets. A lot abutting a curved street shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot (projected if rounded) meet at an interior angle of less than 135 degrees. See lots marked A in the diagram.

(3) Lot B is an interior lot, defined as a lot other than corner lot and abutting one street. Alleys shall not be considered as streets for purposes of this definition.

(4) Lot C is a through lot, defined as a lot other than a corner lot, and with frontage on more than one street. Through lots abutting two streets shall be referred to as "double-frontage lots" unless a corner lot. Alleys shall not be considered as streets for purposes of this definition.

(5) Lot D is a reversed-frontage lot, defined as a lot on which the frontage is at right angles or approximately right angles (interior angles less than 135 degrees) to the general pattern in the area. A reversed-frontage lot may also be a corner lot (A-D in the diagram), an interior lot (B-D) or a through lot (C-D).

(d) *Lot frontage, placement of homes.* Lot frontage shall be determined as follows and placement of homes shall be in accordance with the following:

(1) On interior lots, the front of a lot shall be construed as the portion nearest the street.

(2) On corner lots, the frontage of a lot shall be construed as the shortest boundary to a street. If the lot has equal frontage on two or more streets, frontage shall be determined by the zoning administrator in accordance with the prevailing building pattern or the prevailing lotting pattern; if a building pattern has not been established, frontage shall be determined at the option of the owner.

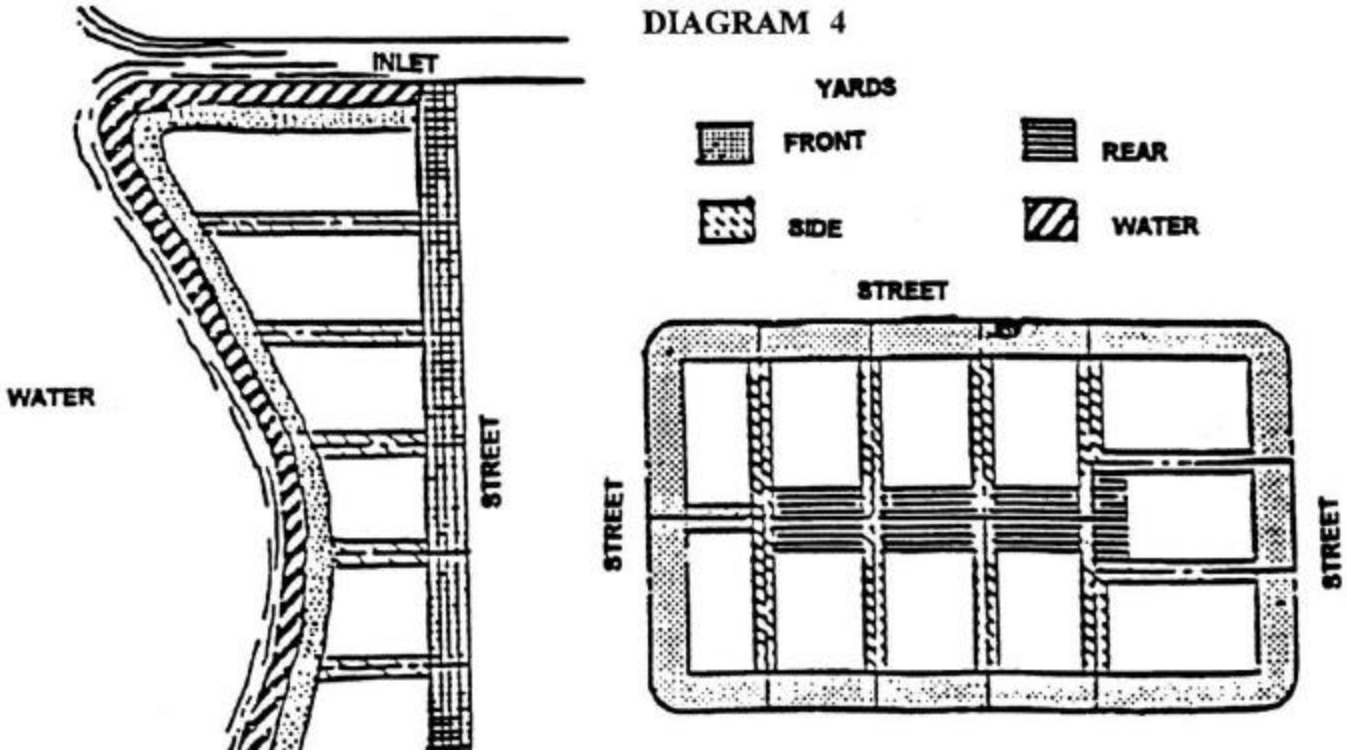
(3) On through lots, all portions adjacent to streets shall be considered as frontage for regulatory purposes. If the zoning administrator finds that the pattern of lots or the pattern of required yards, on lots adjacent to portions of the through lot, is such as to justify the elimination of the requirement that more than one frontage be provided on the lot, such additional frontage shall not be required.

(4) a. Every home shall be placed on the lot in harmony with the existing site-built structures. Where no neighboring structures are available for comparison, it shall be sited with the front running parallel to the street providing access to the site. On corner lots the side with the

greatest road frontage shall be considered the front. On culs-de-sac the home shall be sited with the front of the home being parallel to the street access.

b. Staff shall have the authority to grant a waiver on the site placement of homes on a case-by-case basis. This waiver will be based on the topography of the site and any other special conditions of the particular site.

(e) *Diagram of yards.* Diagram 4 indicates the nomenclature and location of yards.



(f) *Minimum lot area.* Minimum lot area is the minimum square footage required for a lot by this chapter. The minimum area shall not include submerged lands. Street rights-of-way may not be included in calculating compliance with the minimum lot area for individual lots. If a zoning lot includes different zoning districts, the most restrictive lot area requirements shall be met. See diagram 3.

(g) *Access.* The lot of record shall have access to a public street through a portion of the lot, through an approved private street, or through commonly owned property. A lot of record to be used for one single-family dwelling may be made accessible through an approved access easement, recorded in the office of the register of deeds, a minimum of 15 feet in width, which provides access to the lot from a public or approved private street.

(Code 1995, § 515.042)

Sec. 44-124. Open space and building spacing in residential districts.

(a) *Intent.* Yards, courts, and other open space required in this chapter in relation to structures or portions of structures containing dwelling or lodging units are intended to perform a variety of functions. Among these, as appropriate to and required by the uses involved and their location, are ensuring the following:

(1) Adequate privacy, desirable outlook, natural light, and ventilation;

(2) Access to and around service areas;

(3) Space for landscaping;

(4) Spacing between buildings and portions of buildings for reducing potential adverse effects of noise, odor, glare, or hazards from fire; and

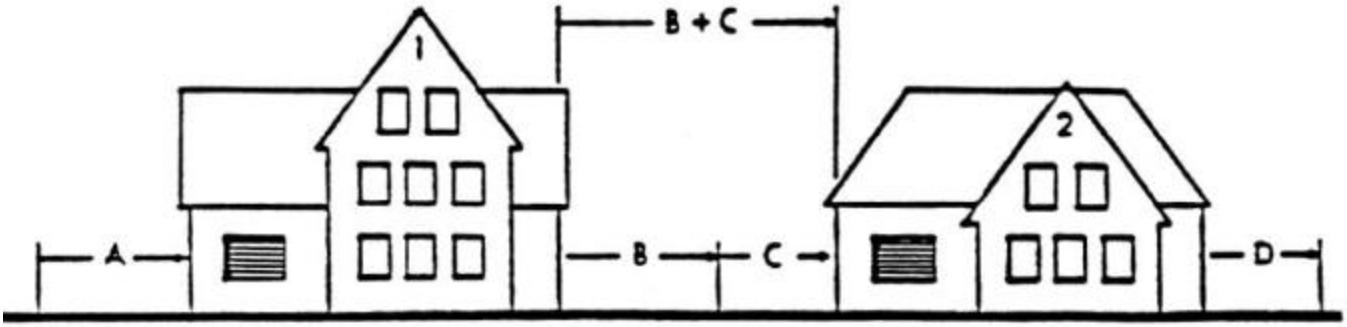
(5) Recreation space near buildings.

(b) *Calculations of building spacing requirements.* Calculations of building spacing requirements shall be made as follows:

(1) Spacing requirements for buildings or portions of buildings containing dwelling or lodging units shall be based on horizontal length of walls, number of stories, type of windows in walls involved, and orientation of the main exterior entrance to individual units.

(2) Each building shall have yards surrounding it as calculated by the formulas described in subsection (g) of this section. The outer perimeter of these required yards shall be defined as the building site line. The distance between adjacent buildings shall be, at a minimum, the sum of the required yards for each building. The distance between a building and the lot line shall be, at a minimum, the yard required by this section. Diagram 5 illustrates these relationships.

DIAGRAM 5



Yard A is the left yard required by building 1 Yard C is the left yard required by building 2

Yard B is the right yard required by building 1 Yard D is the right yard required by building 2

B + C = the required spacing between buildings 1 and 2

(c) *Definitions and classifications relating to windows and building walls.* For purposes of establishing open space requirements adjacent to building walls, enclosing dwellings or lodgings, the following definitions and classifications shall govern:

Habitable rooms means rooms designed and used for living, sleeping, eating, cooking, or combinations thereof. Bathrooms, toilet compartments, closets, halls, storage rooms, laundry and utility spaces, basement recreation rooms, and similar areas are not considered habitable rooms.

Primary walls means walls containing primary windows or main exterior entrances to individual living quarters when directly facing a primary wall.

Primary windows means windows in habitable rooms except bedrooms and kitchens.

Secondary walls means walls containing only secondary, or secondary and tertiary, windows.

Secondary windows means windows of habitable rooms other than primary windows, as defined in this subsection.

Tertiary walls means windowless walls or walls containing only tertiary windows.

Tertiary windows means windows other than for habitable rooms.

(d) *Length of walls.* The length of a wall shall be measured as the horizontal distance from corner to corner. Where walls in continuous general frontage (as in the case of attached dwellings) are offset by angles or setbacks of six feet or more, length of each segment so set off shall be measured separately in establishing pertinent yard depth. Where walls in continuous general frontage enclose portions of buildings varying one story or more in height, the length of each segment so varying shall be measured separately in computing pertinent yard depth. Length of the wall of a circular building shall be construed as the diameter of the building.

(e) *Height in stories.* Computations of height in stories shall be made in accordance with the following:

(1) Height in stories shall be computed as the actual number of stories in the wall above ground level, with the following exceptions. Where the wall is along a slope, the number of stories shall be construed as the arithmetic mean number, with half a story or more considered as a full story, and less than half a story ignored in computations. When height per story exceeds an average of 11 feet, calculations involved in yard or spacing determinations shall be based on an assumed number of stories served by dividing the building height by ten feet.

(2) Penthouses, roof shelters, and housing for mechanical equipment shall be ignored in computations, except where they are visible from the ground level within the lot or the building site, are ten feet or more in height, or occupy 50 percent or more of the length of the wall at their bases, in which case an additional story shall be included in the computation.

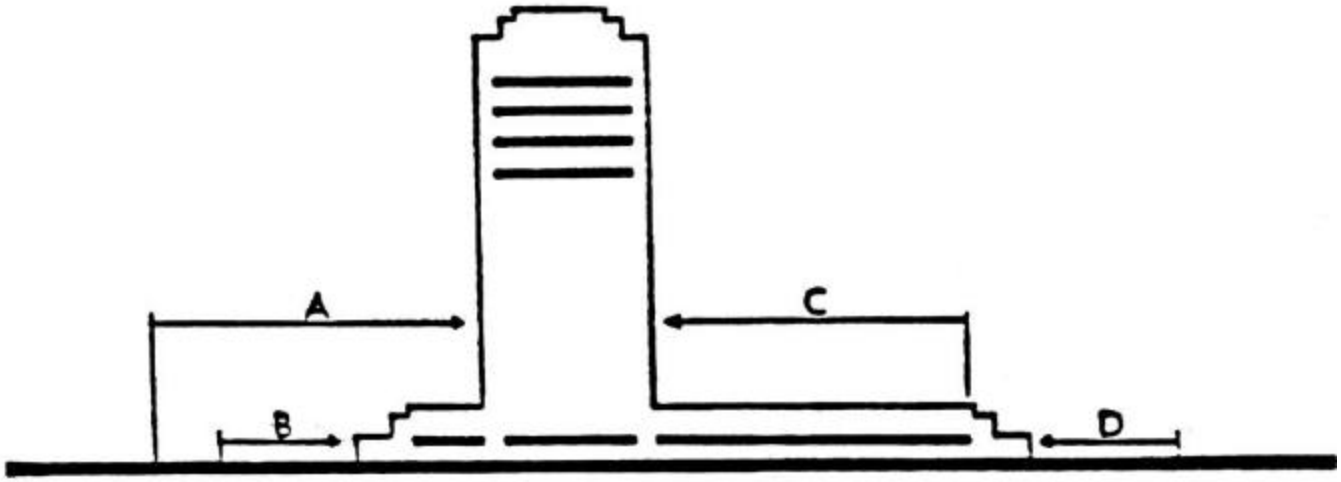
(f) *Measurement of yard or other space depth.* Measurement of yard or other space depth shall be in accordance with the following:

(1) Yard or other open space depth between exterior building walls and adjacent lot or building site lines shall be measured horizontally in relation to the ground, and perpendicularly to straight walls or radially to curved walls. Distance at all points shall be at least equal to minimum requirements set forth in this chapter, except yard space for two walls may overlap where it does not affect the distance between two buildings.

(2) Where portions of buildings contain different numbers of stories and different offsets, the required yard shall be as established for the portion of the proposed building nearest to the lot or adjacent building except where a portion of the proposed building requires a greater yard because of its greater number of stories or size. Lower portions of buildings may extend into yards required for upper portions, but shall provide the yards required by their size and height.

(3) Diagram 6 illustrates these relationships. On the left side of the building, the height and size of the upper portion of the building results in a yard, A, which is greater than the yard, B, which would be required by the lower portion. The greater yard, A, would be the required yard for the left side of the building. On the right side of the building, the lower portion of the building extends farther toward the lot line such that its yard, D, would move the building farther from the lot line than the yard, C, required by the taller portion of the building. The yard labeled D would be the required yard for the right side of the building.

DIAGRAM 6



(g) *Formulas determining minimum open space requirements adjacent to walls.* Formulas for determining the minimum open space requirements adjacent to walls are as follows. Minimum distance from building walls to lot lines or buildings containing dwelling units shall be computed as follows, where D is depth in feet, L is length of building in feet, and S is height in stories:

(1) Primary walls: D = 6 + 25 + L/10.

(2) Secondary walls: D = 2 + S + L/10, but not less than ten feet if adjacent to zoning lot boundaries.

(3) Tertiary walls: only as required for required yards, as required for fire protection by building or other applicable codes or five feet, whichever is greater. If a tertiary wall occurs next to a zoning lot line, the minimum distance is ten feet. The yard requirements stated in this subsection (g) are minimums. If greater yard requirements are established elsewhere in this chapter, the greater requirements shall apply.

(Code 1995, § 515.043)

Secs. 44-125--44-150. Reserved.

ARTICLE V. BUFFERS AND SCREENING

Sec. 44-151. Buffers and screening; buffer matrix schedule.

(a) *Scope.* In order to reduce the impact of a use of land on adjacent uses which are of a significantly different character, density or intensity, buffers and screening shall be required in accord with this section.

(b) *Buffer required.* A buffer consists of a horizontal distance from a lot line which may only be occupied by screening, underground utilities, retention areas and landscaping materials. The required buffering distance between the proposed land uses and the existing adjacent land use on adjoining zoning lots is set forth in the buffer matrix in table 3. If the land next to the proposed development is vacant, the buffering required shall be determined by the existing zoning on the adjacent vacant parcel. If the adjacent parcel is vacant, but is zoned for a more intensive zoning district, no buffer area shall be required of the less intensive use. Any use of land which is not expressly listed in this subsection shall be considered as listed in groups containing similar uses. The relative degree of

intensity shall be determined as follows:

(1) Single-family and two-family, as used in this section, shall be the least intensive.

(2) Multiple-family, less than 12 units per acre, shall be the next least intensive.

(3) Multiple-family, more than or equal to 12 units per acre, shall be the next least intensive.

(4) Group 2 shall be the next least intensive.

(5) Group 3 shall be the most intensive.

TABLE 3. BUFFER MATRIX

		Abutting Use or Zoning				
		Multiple-Family				
Proposed Use	Single and Two-Family (feet)	Less than 12 Units/ Acre (feet)	12 or More Units/Acre (feet)	Group 1 (feet)	Group 2 (feet)	Group 3 (feet)
Single-family and two-family	0	0	0	0	0	0
Multiple-family (less than 12 units/acre)	5	0	0	0	0	0
Multiple-family (12 or more units/acre)	20	5	0	0	0	0
Group 1	10	10	10	0	0	0
Group 2	15	15	15	10	0	0
Group 3	30	30	30	20	15	0

GROUP 1:	
Cultural facilities	Galleries, museums, libraries
Residential support uses	Church/synagogue, child care center
Schools	College/university, elementary school, high school, middle school

GROUP 2	
Communication facilities	Radio and television studio, motion picture studio, telecommunications tower
Membership organizations/public facilities	Public service facilities, public use facilities
Retail	Convenience goods, shopper goods, bicycle sales, gas station, liquor stores, lumber and other building materials, mail order pickup facility, manufactured home sales, motor vehicle sales, domestic vehicle sales, commercial vehicle sales, service station, used merchandise sales
Services	Banking (automatic teller, bank)
Business services	
Health services	Health practitioners; animal hospital/veterinary clinics; hospitals; medical and dental laboratories; nursing, convalescent and extended care facilities; rehabilitation centers; sanitarium/mental institution
Lodging places	Hotels/motels
Professional services	
Personal services	
Recreation and amusement services	
Repair services	Motor vehicle repair, minor; motor vehicle repair, major; bicycle repair; electrical and electronic repair; gunsmith; locksmith; reupholstery; furniture refinishing and repair; small motor repair; watch, clock and jewelry repair
Miscellaneous services	Carwash, contractor's office, crematorium, dry cleaners, exterminator, food catering, funeral parlor, lawn care/landscaping, mail order office, photography studio, rental of light equipment, rental of vehicles or heavy equipment, sign painting service, slaughterhouse
Technical schools	
Miscellaneous	Flea markets, off-street parking, publishing and printing, research activities
GROUP 3	
Place of assembly	
Manufacturing, processing and assembly	
Open uses of land, heavy	Junkyards, open storage
Transportation facilities	Railroad switching and classification yard, truck terminal
Warehousing	Warehouse, miniwarehouse
Miscellaneous	Adult uses, contractor's office--open storage, dragstrip and racetrack, lumberyard, stadium, wholesale distribution

(c) *Screening required.* Screening shall be required along the property boundaries of the zoning lot with the exception that screening such as hedges, fences or walls, as described in this section, shall not be placed within the first 20 feet of the front yard.

(1) Within buffers ten feet or less in required width, screening is required and shall consist of at

least the following:

a. One of the following:

1. A row of evergreen conifers or broadleaf evergreens placed not more than five feet apart which would grow to form a continuous hedge of at least six feet in height within two years of planting;

2. A masonry wall located within the required buffer; such wall shall be a minimum height of six feet above the finished grade and, if a block wall, it shall be painted on all sides;

3. An opaque fence six feet in height; or

4. A berm and planting combination, with the berm an average height of three feet and dense plantings which will, when combined with the berm, achieve a minimum height of six feet and 75 percent opacity within two years.

b. Lawn, low-growing evergreen shrubs, evergreen ground cover, or rock or wood mulch covering the balance of the buffer.

(2) Within required buffers of between 10 1/10 feet and 15 feet in width, screening is required and shall consist of at least the following:

a. The requirements of subsection (c)(1) of this section; and

b. A row of evergreen trees, which are not less than six feet in height at the time of planting and are spaced not more than 15 feet apart.

(3) Within required buffers more than 15 feet in width, screening is required and shall consist of at least the following:

a. A row of evergreen trees which are not less than ten feet high at the time of planting and are spaced not more than ten feet apart;

b. An opaque fence located within the required buffer; the fence shall be a minimum height of six feet; and

c. Lawn, low-growing evergreen shrubs or broadleaf evergreens, evergreen ground cover, or rock or wood mulch covering the balance of the buffer.

(d) *Alternative buffers and screening.* In lieu of compliance with the buffer and screening requirements in subsections (a) through (c) of this section, an applicant may submit to the zoning administrator for his review and approval a detailed plan and specifications for landscaping and screening. The zoning administrator may approve the alterative buffering and screening, in writing, upon finding that the proposal will afford a degree of buffering and screening, in terms of height, opacity and separation, equivalent to or exceeding that provided by such requirements.

(e) *Existing vegetation.* The retention of existing vegetation shall be maximized to the extent practicable, wherever such vegetation contributes to required buffering and screening or to the preservation of significant trees.

(f) *Maintenance and irrigation of landscaping.* All landscaping and screening which provides required buffering and screening shall be maintained to continue their effectiveness.

(g) *Determination for unlisted uses.* The zoning administrator shall make a determination, for uses not listed in table 3, of the group appropriate for such uses. In reading the determination, the zoning administrator shall be guided by the requirements for similar uses having comparable external effects.

(Code 1995, § 515.060)

Sec. 44-152. Screening of open storage.

Open storage areas shall be screened from view of any street and from all adjacent less intensive uses as follows:

(1) The method of screening shall consist of an opaque fence of at least six feet in height;

(2) Storage materials shall not be visible from any street; and

(3) Storage materials shall not be visible from any adjacent less intensive use of land.

(Code 1995, § 515.061)

Sec. 44-153. Screening of mechanical equipment.

All nonresidential uses shall screen from view from public places and neighboring properties all mechanical equipment, such as but not limited to air conditioners or pumps, through the use of features such as berms, fences, false facades, or dense landscaping.

(Code 1995, § 515.062)

Sec. 44-154. Central solid waste storage area.

All new buildings and uses, except for single-family and two-family dwellings, shall provide facilities for the central storage of solid waste within the lot. Where such facilities are provided outside of a building, they shall be screened from public rights-of-way and adjacent property by an enclosure constructed of materials compatible with the materials on the front building wall of the main building.

(Code 1995, § 515.063)

Sec. 44-155. Exceptions to screening requirements.

(a) Where a commercial or office-institutional development is proposed on a lot adjoining a vacant lot, upon the full compliance with the following conditions, the developer can be exempted from the screening requirements as described in section 44-151. These conditions are the following:

(1) Adjoining landowners execute a written acknowledgment of their consent to the waiver of such screening criteria and of its legal ramifications.

(2) The waiver is recorded at the register of deeds in both the grantor's and grantee's names.

(3) The adjoining tract has either a natural vegetative or other screening structure or a minimum of 200 feet of road frontage, which acts to provide both a visual or a noise buffer between the developing lot and the affected tracts surrounding the adjoining lot which has waived the buffer requirements.

(4) The developer must comply with section 44-298 pertaining to landscaping standards for off-street parking.

(b) Where a church/synagogue (a tax-exempt building used for nonprofit purposes by a recognized and legally established sect for the purpose of worship, including educational buildings when operated by such church/synagogue) is proposed on a lot adjoining a vacant or built upon lot, the church/synagogue can be exempted from the screening requirements as described in section 44-298, if the following conditions are complied with:

(1) Adjoining landowners execute a written acknowledgment of their consent to the waiver of such screening criteria and of its legal ramifications.

(2) The waiver is recorded at the register of deeds in both the grantor's and grantee's names.

(Code 1995, § 515.064)

Secs. 44-156--44-180. Reserved.

ARTICLE VI. MANUFACTURED HOMES*

***Cross references:** Manufactured home parks, ch. 26.

Sec. 44-181. Manufactured housing appearance criteria.

All doublewide and multisectioned (class A) manufactured homes in R-2 and R-3 residential districts shall meet the following appearance criteria:

(1) *Length-width ratio.* The main portion of the building shall have a length not exceeding four times the building width.

(2) *Roof construction and pitch.* The pitch of the main roof of the building shall have a minimum rise of 2 1/2 feet for each 12 feet of horizontal run. The roof shall be finished with a type of shingle that is commonly used in standard residential construction.

(3) *Exterior finish.* The exterior siding shall consist predominantly of vinyl or aluminum lap siding whose reflectivity does not exceed that of flat white paint, wood or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.

(4) *Placement of homes.* All homes shall be placed on the lot in harmony with the existing site-built structures. Where no neighboring structures are available for comparison, it shall be sited with the front running parallel to the street providing access to the site. On corner lots the side with the greatest road frontage shall be considered the front. On culs-de-sac the home shall be sited with the front of the home being parallel to the street access.

(5) *Underskirting and permanent steps.* Underskirting and permanent steps shall be provided as follows:

a. All doublewide and multisectioned manufactured homes in the R-2 and R-3 residential districts shall be permanently placed on a brick, concrete block or other masonry foundation. The foundation shall be continuous and unpierced except for ventilation as required by the state regulations for manufactured/mobile homes.

b. All doublewide and multisectioned manufactured homes which are placed on rental lots in an R-2 residential district shall have the entire perimeter of each home enclosed from the ground to the bottom of the structure with material manufactured for this purpose in accordance with standards set by the state regulations for manufactured/mobile homes. Examples of commonly recognized building materials suitable for use as underpinning shall include but not be limited to the following list: brick masonry, concrete block masonry; natural or synthetic stone masonry; or vinyl. Assemblies, products and materials manufactured expressly for the purpose of underpinning shall be installed in accordance with the manufacturers' specifications.

c. All doublewide and multisectioned manufactured homes shall have either a deck or porch with steps. This structure shall be located in front of the home. The minimum square footage shall measure at least 36 square feet. If the homeowner chooses to construct the deck or porch larger than 36 square feet, it must meet volume VII of the state residential building code. The foundation shall be constructed of materials compatible with the masonry underpinning on the outer perimeter of the foundation. All steps, decks, porches, entrances shall be installed and constructed in accordance with the standards set by the state regulations for manufactured/mobile homes or, when applicable, volume VII of the state residential building code.

(6) *Chassis and tongue removal.* The towing tongue shall be removed upon final placement of the unit, underskirted or screened with shrubbery. Such shrubbery shall be of a height to ensure a total visual barrier of the towing apparatus and maintained so as to continue their effectiveness.

(Code 1995, § 515.075)

Sec. 44-182. Class B manufactured home requirements.

All singlewide (class B) manufactured homes in the R-2 residential district shall meet the following appearance criteria:

(1) *Exterior finish.* The exterior siding shall consist predominantly of vinyl or aluminum lap siding whose reflectivity does not exceed that of flat white paint, wood or hardboard, comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction.

(2) *Roof construction and pitch.* The roof shall be designed to have a minimum rise of 2 1/2 feet for each 12 feet of horizontal run and finished with a type of shingle that is commonly used in standard residential construction.

(3) *Placement of homes.* All homes shall be placed on the lot in harmony with the existing site-built structures. Where no neighboring structures are available for comparison, it shall be sited with the front running parallel to the street providing access to the site. On corner lots the side with the greatest road frontage shall be considered the front. On culs-de-sac the home shall be sited with the front running parallel to the street access.

(4) *Chassis and tongue removal.* The towing tongue shall be removed upon final placement of the unit, underskirted or screened with shrubbery. Such shrubbery shall be of a height to ensure a total visual barrier of the towing apparatus and maintained so as to continue their effectiveness.

(5) *Underskirting, decks and permanent steps.* Underskirting, decks and permanent steps shall be in accordance with the following:

a. All singlewide manufactured homes in an R-2 residential district shall have the entire perimeter of each home enclosed from the ground to the bottom of the structure with material manufactured for this purpose in accordance with standards set by the state regulations for manufactured/mobile homes.

1. Examples of commonly recognized building materials suitable for use as underpinning shall include but not be limited to the following list: brick masonry; concrete block masonry; natural or synthetic stone masonry; masonite siding; or vinyl sidings. Assemblies, products and materials manufactured expressly for the purpose of underpinning shall be installed in accordance with the manufacturer's specifications.

2. The underskirting shall be vented in accordance with the state regulations for manufactured/mobile homes.

b. All singlewide manufactured homes shall have either a deck or porch, with steps. This structure shall be located in the front of the home. The minimum square footage shall measure at least 36 square feet. If the owner constructs a deck or porch over 36 square feet, it must meet volume VII of the state residential building code. All steps, decks, porches, entrances shall be installed and constructed in accordance with the standards set by the state regulations for manufactured/mobile homes or, when applicable, volume VII of the state residential building code.

(Code 1995, § 515.076)

Sec. 44-183. Temporary manufactured homes.

The zoning administrator may issue a zoning compliance permit for a temporary manufactured home if the following conditions are met:

(1) The manufactured home shall be located a minimum of 30 feet from the principal structure.

(2) The manufactured home shall only be occupied by the following:

a. Relatives to the second degree of kinship (sons, daughters, mothers, fathers, brothers, sisters, grandparents) of the residents of the principal dwelling on the lot;

b. The sick, disabled or elderly; or

c. A holder of a building permit for a principal structure on the same lot to be occupied, for not longer than one year during construction of the principal structure.

(3) If the manufactured home is occupied by relatives, as provided in subsection (2)a of this section, the permit shall be valid for one year and may be renewed for a maximum of three additional one-year periods.

(4) If the manufactured home is occupied by the sick, disabled, or elderly, as provided in subsection (2)b of this section, the permit shall be valid for as long as the personal condition exists.

(5) The manufactured home shall have access to potable water and a sewage disposal system approved by the county health department.

(6) The manufactured home shall not be located in any required yard.

(Code 1995, § 515.077)

Secs. 44-184--44-210. Reserved.

ARTICLE VII. SUPPLEMENTAL REGULATIONS

Sec. 44-211. Scope.

The regulations in this article are intended to qualify or supplement other regulations appearing in this chapter.

(Code 1995, § 515.090)

Sec. 44-212. Arrangement and location of structures and landscaping access.

(a) In addition to minimum yard and building spacing requirements specified in this chapter, all buildings and other structures, land preparation, and landscaping shall be so located and arranged on lots as to provide safe and convenient access for emergency purposes, fire protection, servicing, and off-street parking and loading located on the premises.

(b) No private land which is residentially zoned shall be used for vehicular or pedestrian access to land or structures in other districts used for any purpose not permitted in residential districts, except as provided in this article or otherwise authorized by this chapter or other lawful regulations.

(c) Where provision does not exist for safe access for emergency and public service vehicles and such access is not reasonably feasible except through privately owned residentially zoned land, access reserved for and limited to such vehicles may be authorized by the board of adjustment, subject to conditions and safeguards designed to protect the tranquility and character of the residential land so traversed.

(Code 1995, § 515.091)

Sec. 44-213. Construction trailers and manufactured homes as temporary offices.

(a) A licensed contractor, engaged upon a construction project for which a building permit has been issued by the county, may temporarily use a construction trailer for office facilities in the location where the work is being done, provided such construction trailer shall not be placed upon a public street but shall be placed upon the property on which the building permit authorizes the construction. The construction trailer shall be removed within 30 days after completion of the work for which the permit has been issued.

(b) A zoning compliance permit may be issued by the zoning administrator for a one-year period for the use of a manufactured home as a temporary office while business properties are being remodeled, provided that it is placed upon the property for which there is a building permit issued by the county for the remodeling. The permit shall be for a period of one year or until the remodeling is completed, whichever is the shorter period. The permit may not be renewed after the expiration of the one-year period.

(Code 1995, § 515.092)

Sec. 44-214. Residential development sales office or model dwelling units.

In any residential district, the developers, builders or their agents may operate one residential development sales office or model dwelling unit as a sales office for the specific project under construction, subject to the following restrictions:

(1) The use of the office shall be for the initial sale of properties and buildings within the developing subdivision.

(2) The sales office or model dwelling unit shall meet all district requirements for lot and yard dimensions.

(3) Signs can be a maximum of 16 square feet and shall not be illuminated.

(4) There will be provided one temporary off-street parking space per 300 square feet of office floor area, but in no case shall less than three temporary off-street parking spaces be provided. The off-street parking surface treatment may be of gravel or asphalt.

(5) The model dwelling unit shall not be used for any business activity, other than showing, later than 9:00 p.m.

(6) The building used for the sales office is either constructed and intended for ultimate residential use as part of the residential development or a temporary modular office unit. If a temporary modular office unit is constructed, the following additional conditions shall be met:

a. The modular office unit must be placed on a proper foundation, as recommended by the manufacturer.

b. Skirting shall consist of any weatherproof material providing a visual barrier between the ground and the underside of the modular office unit.

c. The term "modular office unit" as used in this subsection (6) shall have the same meaning characteristics as required by the state building code.

(7) The residential development sales office or model dwelling unit shall be discontinued when the specific residential project is sold out and shall thereafter comply with regulations generally applicable within the district.

(8) The building may be used for such sales purposes for a period of three years, but the period can be extended by the zoning administrator on an annual basis, provided that the owner can show reasonable cause for such extension and the unit remains occupied and used.

(Code 1995, § 515.093)

Sec. 44-215. Maintenance of motor vehicles in residential districts.

The maintenance of an automobile or a motor vehicle in the R-1, R-2, and R-3 districts is subject to the following restrictions:

(1) Only minor maintenance may be performed, which, for purposes of this section, is defined as the changing and replenishment of fluid levels, such as hydraulic fluid, windshield washer fluid, and lubricating oil; the replacement of sparkplugs, ignition points; the rotation of tires and the checking of adequate pressure; and the replacement of drive belts and hydraulic lines.

(2) Any other repairs on a motor vehicle or an automobile shall be restricted to enclosed spaces and only on privately registered vehicles.

(Code 1995, § 515.094)

Sec. 44-216. Garage and yard sales.

Garage, yard, tag, patio and apartment sales are permitted as an accessory use in all residential districts. Such sales shall be limited to two during each 12-month period, for a maximum duration of three days per sale.

(Code 1995, § 515.095)

Sec. 44-217. Parking of domestic, recreational and commercial vehicles.

(a) *Domestic and recreational vehicles.* An owner of a domestic or recreational vehicle may park or store such vehicle on his private residential property, subject to the following limitations:

(1) At no time shall such vehicle be occupied or used for living, sleeping, or housekeeping purposes except as allowed in accordance with section 44-226.

(2) At no time shall such vehicles be connected to any utility service except as allowed in accordance with section 44-226.

(3) If a domestic vehicle or recreational vehicle is parked and stored outside of an enclosed garage, it shall be parked or stored not less than 20 feet from any street line, and not less than five feet from any interior lot line.

(b) *Commercial vehicles.* The parking of tractors in any residential subdivision is permitted, but the parking of tractor-trailer combinations in any residential subdivision is prohibited, except where such vehicles are located within entirely enclosed structures which meet the regulatory requirements for the applicable zoning district. This requirement shall not be interpreted to prohibit vehicles from loading and unloading in any residential district for a period not exceeding 24 hours.

(Code 1995, § 515.096)

Sec. 44-218. Animal hospitals and veterinary clinics.

(a) All activities of animal hospitals and veterinary clinics, with the exception of animal exercise yards, shall be conducted within an enclosed building.

(b) Buildings housing animal hospitals or veterinary clinics shall be located no closer than 100 feet from an adjacent residential district.

(c) Exercise and confinement yards shall be not less than 200 feet from any dwelling unit on adjacent property.

(Code 1995, § 515.097)

Cross references: Animals, ch. 6.

Sec. 44-219. Drive-in theaters.

(a) No part of any drive-in theater screen, projection booth, or other building shall be located closer than 300 feet from any residential district nor closer than 50 feet from any lot line.

(b) The image on the theater screen shall not be visible from any arterial or collector street or from any residential district.

(c) Queuing space within the zoning lot shall be provided for patrons awaiting admission in an amount equal to 30 percent of the vehicular capacity of the theater.

(Code 1995, § 515.098)

Sec. 44-220. Miniwarehouses.

Miniwarehouse facilities shall meet the following requirements:

(1) Such facilities shall front on collector or arterial streets, as shown on the thoroughfare plan.

(2) Such facilities shall be used only for dead storage of materials or articles and shall not be used for assembly, fabrication, processing or repair.

(3) Open storage shall be limited to ten percent of the area of the zoning lot.

(4) The requirements of section 44-151 shall be met unless the storage is located 200 feet from the zoning lot boundaries.

(Code 1995, § 515.099)

Sec. 44-221. Home occupations.

A home occupation is that accessory use of a dwelling unit which shall constitute, either entirely or

partly, the livelihood of a person living in the dwelling unit. Home occupations shall be subject to the following limitations:

(1) No home occupation shall be permitted that:

a. Changes the outside appearance of the dwelling unit or is visible from a street.

b. Generates traffic, parking, sewage or water use in excess of that which is normal in a residential district.

c. Creates a hazard to persons or property or is a nuisance.

(2) The following standards shall apply:

a. A maximum of 25 percent of the usable floor area of the dwelling unit shall be devoted to the home occupation.

b. A maximum of one nonresident of the premises shall be employed in the occupation.

c. The occupation shall be conducted only in the principal structure.

(3) The following are permitted home occupations in all residential districts, provided that they meet the requirements of subsections (1) and (2) of this section:

a. Dressmaking, sewing and tailoring;

b. Painting, sculpturing and writing;

c. Telephone answering service;

d. Home crafts, such as weaving, lapidary (of or relating to precious stones or the art of working with them), potting;

e. Tutoring of no more than four students at a time;

f. Computer programming;

g. Barbershops and beauty parlors;

h. Cooking and baking; and

i. Professional service.

(4) Any proposed home occupation that is not specifically permitted by subsection (c) of this section shall, in order to be established, obtain a special use permit from the board of adjustment in accordance with article X of this chapter.

(Code 1995, § 515.100)

Sec. 44-222. Television and/or radio tower facilities.

(a) The purpose of this section is to establish general guidelines for the siting of television and/or radio towers and antennas. The goals of this section are to:

(1) Encourage the location of towers in nonresidential/nonhistorical areas and minimize the total number of towers throughout the community;

(2) Enhance the ability of the providers of television and/or radio services to provide such services to the community quickly, effectively and efficiently;

(3) Encourage strongly the joint use of new and existing tower sites;

(4) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal; and

(5) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas.

(b) The following uses may be approved by the zoning administrator after conducting an administrative review:

(1) Installing an antenna on an existing structure other than a tower, such as a building, sign, light pole, water tower, or other freestanding, nonresidential structure, that is more than 50 feet in height, so long as such addition does not add more than 20 feet to the height of the existing structure.

(2) Installing an antenna on an existing nonresidential structure other than a tower, such as a building sign, light pole, water tower, utility pole or other freestanding, nonresidential structure, in any commercial or industrial district that is less than 50 feet in height, so long as such addition does not add more than 20 feet to the height of the existing structure.

(3) Installing an antenna on an existing tower of any height, including a preexisting tower and further including the placement of additional buildings or other supporting equipment used in connection with such antenna, so long as the addition of such antenna adds no more than 20 feet to the height of such existing tower.

(4) Locating any alternative tower structure in a zoning district other than industrial or commercial that, in the judgment of the zoning administrator, is in conformity with the goals set forth in subsection (a) of this section.

(5) Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with such tower or antenna, in any industrial or commercial zoning district; provided, however, that such tower shall be set back from any residential lot lines a distance equal to the height of the tower. Engineering certification shall be submitted that states the structure's construction will cause the tower to crumble inward so that if collapse occurs, no damage to structures on adjacent zoning lots will result. The standards of section 44-368(1) through (5), (7), (9) through (11) and (13) pertaining to television and/or radio tower facilities shall be used in deciding applications for approval of new towers in commercial or industrial districts.

(6) Replacing an existing tower which adds no more than 20 feet to the overall height of the existing structure.

(c) The following requirements and standards shall be used in conducting an administrative review of the proposed facility:

(1) *Screening and buffering.* Any additional buildings or equipment shall be screened in accordance with section 44-151 pertaining to buffers and screening and containing table 3, buffer matrix, and section 44-153.

(2) *Principal or accessory use.* Antennas and towers may be considered either principal or accessory uses on an industrial or commercial zoned lot. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot size and coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots. Towers that are constructed and antennas that are installed in accordance with this subsection (c)(2) shall not be deemed to constitute the expansion of a nonconforming use or structure.

(3) *Inventory of existing sites.* Each applicant for approval of an antenna and/or a tower shall provide to the zoning administrator an inventory of its existing antennas and towers that are either within the jurisdiction of the county or within one-half mile of the border thereof, including specific information about the location, height and design of each tower or antenna. Applicants are encouraged to submit an inventory of potential future tower sites within the jurisdiction of the county. The planning and zoning department may share such information with other applicants applying for administrative approvals or special use permits under this section or other organizations seeking to locate towers or antennas within the jurisdiction of the governing authority; provided, however, that the zoning administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

(Code 1995, § 515.101; Ord. No. 2002-10, § 515.101, 10-21-2002)

Cross references: Telecommunications, ch. 42.

Sec. 44-223. Temporary uses/special events.

The following standards shall be used in deciding applications for approval of temporary uses and special events:

(1) The purpose of this section is to establish general guidelines for a temporary use/special event permit on a shortterm basis and certain seasonal or transient uses not otherwise allowed. Prior to conducting or establishing a temporary use/special event, approval of a temporary use/special event permit by the county planning and community development department is required pursuant to section 44-38(b).

(2) The applicant must submit a site plan, drawn to scale, with a description of the proposed use, hours of operation, the proposed number of people, location of parking, driveways, and any other pertinent information.

(3) The following standards must be met when issuing a temporary use/special event permit:

a. If not on the applicant's privately owned property, the applicant must provide written approval of the temporary use from the property owner.

b. The location of the temporary use/special event shall be such that adverse effects on surrounding properties will be minimal, particularly regarding any type of traffic generated or impacted by the temporary use/special event and impact upon traffic circulation in the area.

c. Adequate off-street parking shall be provided to serve the use. The use shall not displace the required off-street parking spaces or loading areas of the principal permitted uses on the site. The entrance and exit drives shall be designed to prevent traffic hazards and nuisances.

d. Display areas and/or temporary structures shall comply with the required yard setbacks. The temporary use/special event shall be located so as not to interfere with the sight triangle of any intersection of roads or streets.

e. Only one temporary use/special event shall be permitted for a single parcel of land at any given time.

f. Any applicable permits shall be obtained from the state department of transportation.

g. Signage for this type of use shall be permitted only within the timeframe for which the temporary use/special event is permitted. All signs must comply with article XV of this chapter.

h. The timeframe for a temporary use/special event shall not exceed 21 days and in no case more than four times in a calendar year.

i. There shall be compliance with the county environmental health regulations regarding sewage disposal.

(4) If a particular temporary use/special event is listed in this chapter, the administrator shall have the authority to grant a temporary use/special event permit for a similar and compatible use. Determination of what constitutes similar and compatible shall be made by the zoning administrator.

(Code 1995, § 515.102)

Sec. 44-224. Outdoor seasonal sales.

Outdoor seasonal sales are permitted in all nonresidential zoning districts as a use by right subject to the standards of the underlying zoning district. Outdoor seasonal sales shall be permitted in the R-1, R-2, and R-3 residential districts subject to the following standards and conditions:

(1) Any operator of a seasonal sales use must receive a permit from the zoning administrator

which describes the type of sales involved and the duration of the sales operation.

(2) Such sales shall not operate more than a total of 45 days out of the year. The owner of the seasonal sales lot shall be required to maintain an account of the days of sales operations and shall make such records available upon request to the planning and community development department.

(3) The use shall have direct access to an arterial or collector street.

(4) The use shall not involve the construction of a permanent building.

(5) Any signage, which identifies the use, shall be in accordance with the underlying zoning district.

(6) The use may only be located on a vacant lot or on a lot occupied by a nonresidential use such as a business, church, or school. The use shall not operate as an accessory to a principal residential use on a lot.

(7) The applicant, if different from the property owner, must furnish written approval from the owner of the property before a permit is issued.

(8) Five off-street parking spaces shall be provided for the use. Seasonal sales located on commercial properties shall not utilize more than 20 percent of the required parking spaces provided on the site.

(9) All parking and sales must be located outside of the public right-of-way and sight triangle.

(Code 1995, § 515.103)

Sec. 44-225. Beneficial fill landfills.

Beneficial fill landfills shall be permitted in the R-1, R-2, R-3, C-3, E-1 and E-2 districts subject to the following standards and conditions:

(1) The land shall be used for the disposal of inert debris strictly limited to concrete, brick, concrete block, used asphalt pavement, uncontaminated soil, rock or gravel. Construction and demolition debris or land-clearing debris are not beneficial fill material and cannot be placed in a beneficial fill landfill.

(2) The applicant must prepare a surveyed map of the property. The survey map shall be either 8 1/2 inches by 11 inches or 8 1/2 inches by 14 inches. The map must show the following:

a. The name of the owner, property lines, north arrow, scale, bearings and distances taken from the deed.

b. Disposal area delineated.

c. Certification and seal of the registered land surveyor or registered engineer.

d. The review officers' certificate to be signed by a county review officer.

A memorandum of beneficial fill landfill along with an attached survey map delineating the beneficial fill landfill must be recorded at the office of the county register of deeds. After the documents are recorded, a copy must be furnished to the county planning and community development office.

(3) Adequate soil cover must be applied monthly, and the final cover must be a minimum of two feet of compacted earth properly graded with establishment of suitable vegetative cover.

(4) No excavation is allowed. The landfill site can only be used for the purpose of improving land use potential.

(Code 1995, § 515.104)

Sec. 44-226. Temporary permit for placement of camper.

A temporary permit for the placement of a camper, as defined in section 44-4 under the term "recreational vehicle," is allowed in all residential zoning districts in accordance with the following conditions and standards:

(1) The principal occupied structure was destroyed by an act of God, such as but not limited to a fire, tornado, hurricane, etc., and a temporary permit for a camper is necessary to allow the owner to live at the property during the reconstruction of the principal structure.

(2) A visual inspection will be conducted by the county to determine that the home is rendered inhabitable prior to the issuance of a temporary camper permit.

(3) Electrical connections shall be made in accordance with article 551 of the National Electrical Code.

(4) The permit shall be issued for one year; however, a three-month extension can be granted in extenuating circumstances as determined by the zoning administrator.

(Code 1995, § 515.105)

Sec. 44-227. Temporary off-site wood waste grinding operations.

Planning and development staff may approve an application for this use subject to the following standards:

(1) A temporary off-site grinding operation shall be located at the permitted site for a period not to exceed six months from the date of staff approval. The site must be cleared of all byproducts remaining from the grinding operation no later than six months from the date of the expiration of the permit. No applicant may apply for a temporary off-site grinding permit for a period of at least 12 months following the expiration of a permit located at the same site.

(2) The minimum lot size shall be one acre. However, if there is not existing mature vegetation to serve as a buffer and a noise and dust barrier, the minimum lot size shall be five acres.

(3) Grinding operations shall have direct access to a collector or arterial street as shown on the corresponding thoroughfare plan. However, planning and development staff may approve a grinding operation on a secondary state department of transportation state-maintained road where the staff finds that the road is of sufficient width and quality. All grinding operations shall have an approved driveway permit from the state department of transportation.

(4) All traffic areas, including entrances and exits, within the area of operation shall be graveled or covered with a similar dust reduction material. Storage areas for mulch, dirt, wood waste or other similar materials need not be graveled. Upon completion of the permitted grinding operations, the site shall be seeded with grass or other ground cover.

(5) No grinder, screener or other similar equipment shall be located within 250 feet of any residential dwelling with the exception of the owner's or applicant's own residential dwelling. The site plan must include a footprint demonstrating where the equipment will be located in relation to dwellings locating on adjoining properties.

(6) Any grinder, screener, or similar equipment must be located a minimum of 50 feet from any property or road right-of-way lines. Any mulch, dirt, wood waste, or other similar material stored on the property must also be located a minimum of 50 feet from any right-of-way or property lines.

(7) No grinders, screeners, loaders, dozers, or other similar equipment shall be operated at the site except between 8:00 a.m. and 5:00 p.m. Monday through Friday; however, wood waste may be delivered to the site until 6:00 p.m. Monday through Friday, provided such deliveries are made by self-dumping trucks and the materials are not moved from the dumping point other than between 8:00 a.m. and 5:00 p.m. Monday through Friday. Wholesale and retail sales are allowed between 8:00 a.m. and 5:00 p.m. Monday through Friday. Planning and development staff may approve hours of operation other than those set forth in this section.

(8) The grinding operation must comply with any applicable regulations enforced by the state department of environment and natural resources. These include, but may not be limited to, those laws under the divisions of waste management and air quality. Copies of all materials submitted to the state, either as part of a notification or a permit application, shall be submitted to the county.

(Ord. No. 2002-07, § 515.108, 8-19-2002)

Sec. 44-228. Commercial and industrial wood waste grinding operations.

Planning and development staff may approve an application for this use subject to the following standards:

(1) The minimum lot size shall be two acres.

(2) Grinding operations shall have direct access to a collector or arterial street as shown on the corresponding thoroughfare plan. However, planning and development staff may approve a grinding operation on a secondary state department of transportation state-maintained road where the staff finds that the road is of sufficient width and quality. All grinding operations shall have an approved driveway permit from the state department of transportation.

(3) All traffic areas, including entrances and exits, within the area of operation shall be graveled or covered with a similar dust reduction material. Storage areas for mulch, dirt, wood waste or other similar materials need not be graveled.

(4) No grinder, screener or other similar equipment shall be located within 500 feet of any residential dwelling with the exception of the owner's or applicant's own residential dwelling. The site plan must include a footprint demonstrating where the equipment will be located in relation to dwellings locating on adjoining properties.

(5) Any grinder, screener, or similar equipment must be located a minimum of 50 feet from any property or road right-of-way lines. Any mulch, dirt, wood waste, or other similar material stored on the property must also be located a minimum of 50 feet from any right-of-way or property lines.

(6) Retention of existing vegetation shall be maximized to the extent practicable to buffer the operation from adjoining property or road rights-of-way and to serve as a noise and dust barrier. Where vegetation does not exist, a combination of a berm and landscaped buffer to achieve an initial screen of ten feet must be installed which will achieve 75 percent opacity within two years.

(7) The grinding operation must comply with any applicable regulations enforced by the state department of environment and natural resources. These include, but may not be limited to, those laws under the divisions of waste management and air quality. Copies of all materials submitted to the state, either as part of a notification or a permit application, shall be submitted to the county.

(Ord. No. 2002-07, § 515.109, 8-19-2002)

Sec. 44-229. Campground/recreational vehicle park.

The following standards shall be used for approval of a campground or recreational vehicle park use in the C-2 commercial district:

(1) *Group camp facilities operated on a profit or nonprofit basis.* Standards for group camp facilities operated on a profit or nonprofit basis are as follows:

a. No camp shall have a maximum design capacity of more than 150 campers.

b. Each group camp shall provide a minimum of one-half acre per camper.

c. All buildings and areas for organized recreational use shall be set back a minimum distance of 35 feet from any exterior property line, and a buffer shall be provided as set forth in section 44-151 in table 3 under "multifamily use."

d. Cabins in the camp shall be a minimum distance of 50 feet from one another and a minimum distance of 75 feet from any toilet facility. No cabin shall be more than 150 feet from toilet facilities.

e. A preliminary site plan drawn to a scale of not less than 200 feet to the inch nor more than 50 feet to the inch shall be submitted for each group camp facility application. The sketch shall include, among other things, the requirements set forth in this subsection (1) and other information that is required for a special use permit

application.

(2) *Campgrounds or recreational vehicle parks providing sites for tents and camping trailers.* Standards for campgrounds or recreational vehicle parks providing sites for tents and camping trailers are as follows:

a. The minimum size for tent and camping trailer campgrounds and recreational vehicle parks shall be five acres.

b. A minimum of 3,000 square feet of area shall be provided for each tent or trailer space.

c. All buildings, tent spaces, and trailer spaces shall be set back a minimum distance of 35 feet from any exterior property line, and a buffer strip shall be provided, as required in section 44-151 in table 3 under "multiple-family use."

d. A sanitary source of drinking water shall not be more than 200 feet, toilet facilities not more than 400 feet, and washhouses not more than 1,500 feet from any tent or trailer space. This shall not apply where community water and sewer connections are provided to trailers having self-contained kitchens and bathroom facilities.

(Ord. of 6-17-2002)

Secs. 44-230--44-255. Reserved.

ARTICLE VIII. NONCONFORMITIES*

***Cross references:** Buildings and building regulations, ch. 8.

Sec. 44-256. Classification.

(a) For the purposes of this chapter, nonconformities are classified as follows:

(1) Lots;

(2) Uses of land without structures;

(3) Uses of structures;

(4) Structures; and

(5) Characteristics of uses which were lawful when established but would be prohibited, regulated or restricted by this chapter or a subsequent amendment.

(b) Nonconformity may also be created where lawful public taking or actions pursuant to a court order have the same effect as violations of this chapter, if undertaken privately.

(Code 1995, § 515.120)

Sec. 44-257. Intent.

It is the intent of this chapter to allow nonconforming uses of buildings or structures, provided that they conform to the requirements of this article. However, it is not the intent of this chapter that nonconformity be used as grounds for the addition of other prohibited uses of structures on the zoning lot.

(Code 1995, § 515.121)

Sec. 44-258. Nonconforming land.

The following provide the conditions under which the nonconforming use of land shall be continued:

(1) Nonconforming uses of land shall not be enlarged or extended in any way.

(2) Any nonconforming uses of land may be changed to a conforming use or, with the approval of the board of adjustment, to any use more in character with the uses permitted in the district.

(Code 1995, § 515.122)

Sec. 44-259. Nonconforming buildings.

The conditions under which the nonconforming building shall be continued are the following:

(1) Nonconforming buildings and nonconforming uses of buildings may be enlarged upon the existing lot or tract which was, on March 20, 1989, part of a business or industrial lot or tract and intended for such use where, in the opinion of the board of adjustment, such extension would not substantially increase traffic volumes, air pollution, water pollution, noise pollution, provision of services and utilities or in some other way adversely affect the health, safety or welfare of the residents of the area. In permitting such extension, the board of adjustment may require appropriate conditions and safeguards in accord with this chapter.

(2) Any nonconforming building or use of buildings may be changed with the approval of the board of adjustment to any use more in character with uses permitted in the district. In permitting such change the board of adjustment may require appropriate conditions and safeguards in accord with this chapter.

(3) If active operations are discontinued for a continuous period of 180 days with respect to a nonconforming use of a building, such nonconforming use shall thereafter be occupied and used only for a conforming use.

(Code 1995, § 515.123)

Sec. 44-260. Rebuilding nonconforming uses after damage or destruction.

(a) Nonconforming single-family residences or two-family residences which are partially or fully destroyed may be rebuilt or repaired as a matter of right, provided that all other requirements of this Code are complied with, as it applies to the construction of single-family and two-family residences.

(b) (1) Nonconforming commercial, industrial and multifamily (three or more dwelling units) structures, which are partially or fully destroyed, may be rebuilt or repaired as a matter of right, provided that the board of adjustment can make the following findings:

a. The use will not adversely affect traffic.

b. The use will not adversely affect the physical environment pertaining to water pollution, air pollution, and noise pollution.

c. The use will not adversely affect the provision of services and utilities.

d. The use will not create a health or safety hazard.

e. The use will not adversely affect other property values.

f. The use will not impair the public safety and welfare of the surrounding neighborhood and substantial justice would be done in carrying out the request.

(2) In permitting such reconstruction, the board of adjustment may require appropriate conditions and safeguards to protect the purpose and intent of this chapter.

(c) In meeting to decide on the issuance of a permit under subsection (b) of this section, the board of adjustment must hold a public hearing. Notice of this hearing shall be posted on the property under consideration and advertised in a legal notice in a local newspaper for at least ten days prior to the hearing. The legal notice shall describe the request and shall appear at least once weekly for two consecutive weeks.

(Code 1995, § 515.124)

Sec. 44-261. Inventory of nonconforming uses.

The zoning administrator shall make an inventory of all uses of open land and uses of structures not meeting the requirements of this chapter. This inventory, which shall include all land within the zoning jurisdiction of the county, shall contain the location and a description of the use and the name and address, as contained in the current tax roll, of the owner of the lot on which each use is located. Additionally, for each use, the zoning administrator shall note the reason for the determination that each use falls under this section.

(Code 1995, § 515.125)

Secs. 44-262--44-290. Reserved.

ARTICLE IX. OFF-STREET PARKING AND LOADING

Sec. 44-291. Intent.

It is the intent of this article to encourage the appropriate location of off-street parking and off-street loading to:

(1) Provide the needed levels of service to the citizens of and visitors of the county and its environs;

(2) Avoid undue congestion on the streets;

(3) Protect the capacity of the street system to move traffic;

(4) Avoid unnecessary conflicts between vehicles and pedestrians;

(5) Preserve and enhance the designated pedestrian activity areas within the county; and

(6) Facilitate access from streets to off-street parking lots and structures and off-street loading spaces.

(Code 1995, § 515.135)

Sec. 44-292. Off-street parking required.

In all zoning districts, in connection with every industrial, commercial, institutional, residential or any other use, at the time any new structure is erected or any use of a structure or land is enlarged or increased in density or intensity, off-street parking shall be provided for automobiles in accordance with requirements contained in this article. Conformance with the new parking requirements in this article shall be for the new use or the enlarged portion of the use or structure, only, and not the existing use or structure, except when a legal structure is destroyed.

(Code 1995, § 515.136)

Sec. 44-293. Compliance.

The requirements for off-street parking space and off-street loading space applicable to newly erected or altered structures and uses shall be a continuing obligation of the owner of the real estate upon which any such structure is located, so long as the structure or use is in existence and its use requiring parking or loading or both continues. It shall be unlawful for an owner of any structure affected by this chapter to discontinue, change or dispense with or cause the discontinuance or change of the required vehicle parking or loading space apart from the discontinuance of such structure, without establishing alternative parking and loading space which meets the requirements of and is in compliance with this chapter.

(Code 1995, § 515.137)

Sec. 44-294. Methods of providing required parking.

(a) All required parking shall be located on the same zoning lot as the principal use it serves, except as provided in subsection (b) of this section.

(b) In lieu of actual construction of required on-site parking spaces, all or any portion of the off-street parking required in this article may be provided as follows: Required parking for a use on a zoning lot may be located on another zoning lot, either by itself or combined with parking for other uses, subject to certification by the zoning administrator that the following requirements have been met:

(1) The use being served by the off-site parking shall be a permitted principal use in the zoning district within which the zoning lot containing such parking is located.

(2) The off-site parking spaces shall be located within 350 feet walking distance of a public entrance to the structure or land area containing the use for which such spaces are required. A safe, direct, attractive, and convenient pedestrian route shall exist or be provided between the off-site parking and the use being served.

(3) The continued availability of off-site parking spaces, necessary to meet the requirements of this article, shall be ensured by an appropriate reciprocal easement, satisfactory to the county attorney and recorded with the register of deeds.

(4) For purposes of determining applicable minimum and maximum intensities, the land area devoted to off-site parking shall be added to the land area of the zoning lot containing the use being served by such parking and shall be subtracted from the area of the zoning lot containing the off-site parking.

(5) The provision of off-site required, off-street parking shall not apply to residential districts.

(6) Off-site required, off-street parking shall not be separated from the use it serves by arterial or collector streets, as shown on the thoroughfare plan, or other similar physical barriers to convenient access between the parking and the use.

(Code 1995, § 515.138)

Sec. 44-295. Joint-use facilities and shared parking.

(a) Nothing in this chapter shall be construed to prevent the joint use of off-street parking or off-street loading space for two or more structures or uses if the total of such spaces, when used together, will not be less than the sum of the requirements of the various individual uses computed separately in accordance with the requirements of this chapter.

(b) An agreement for such joint use, in the form of a reciprocal easement acceptable to the county attorney, shall be filed with the zoning administrator and recorded with the register of deeds.

(c) No part of an off-street parking area or off-street loading area required for any structure or use for the purpose of complying with this chapter shall be included as a part of an off-street parking area or off-street loading area similarly required for another structure or use unless the zoning administrator determines that the periods of peak demands for off-street parking for such structures or uses will not be simultaneous with or overlap each other.

(d) The zoning compliance permit covering such approval shall include the requirements that the permit is valid only so long as the conditions described in the application for the permit exist.

(Code 1995, § 515.139)

Sec. 44-296. Required parking spaces.

(a) *Required off-street parking spaces.* For the purposes of this chapter, off-street parking spaces are required as follows:

(1) The number of required off-street parking spaces shall be as set forth in the following table 4:

TABLE 4. REQUIRED PARKING SPACES	
Uses	**Spaces per Unit of Measure**
Agriculture and related uses:	
Roadside stand, commercial, per 1,000 sq. ft. GFA*	3.0
Stable, public, per five stalls	1.0
Cultural facilities:	
Art galleries, per 1,000 sq. ft. GFA	1.2

TABLE 4. REQUIRED PARKING SPACES	
Uses	**Spaces per Unit of Measure**
Museums, per 1,000 sq. ft. GFA	1.2
Libraries, per 1,000 square feet. GFA	1.2
Communication facilities:	
Radio and television studio, per 1,000 sq. ft. GFA	1.0
Radio and television transmitting and receiving facility, per employee	1.0
Community recreational uses:	
For each three persons able to use the facility at its maximum capacity	1.0
Plus, waiting spaces	10.0
Plus, for each two employees	1.0
Manufacturing, processing and assembly, per employee of largest shift	0.6
Membership organizations, per 1,000 sq. ft. GFA	3.3
Open uses of land, heavy:	
Junkyards, per employee	0.5
Plus, per 5,000 sq. ft. of lot area	1.0
Landfills, per employee of largest shift	1.0
Place of assembly, per seat	0.3

TABLE 4. REQUIRED PARKING SPACES	
Uses	**Spaces per Unit of Measure**
Public facilities:	
Public service facilities, per employee	1.0
Public use facilities, per 1,000 sq. ft. GFA	3.3
Correctional facilities, per employee	1.0
Plus, per 25 inmates	1.0
Residential support uses:	
Child and adult care center, per employee	1.0
Plus, per facility vehicle	1.0
Plus, per 15 children	1.0
Church/synagogue, per seat	0.3
Residential uses:	
Campground, per site	1.0
Plus ten additional	
Congregate living facility, per employee of largest shift	1.0
Plus, per facility vehicle	1.0
Plus, per resident	0.2

TABLE 4. REQUIRED PARKING SPACES	
Uses	**Spaces per Unit of Measure**
Dwelling units:	
Multiple-family:	
Efficiency, per dwelling unit	1.25
One bedroom, per dwelling unit	1.50
Two or more bedrooms, per dwelling unit	2.0
Single-family:	
Conventional, per dwelling unit	2.0
Manufactured home, per dwelling unit	2.0
Two-family, per dwelling unit	2.0
Fraternities and sororities, per 1,000 sq. ft. GFA	3.3
Life care treatment facility, per employee of largest shift	1.0
Plus, per facility vehicle	1.0
Plus, per resident	0.33
Professional residential facility, per employee of largest shift	1.0
Plus, per facility vehicle	1.0
Plus, per resident	0.2

TABLE 4. REQUIRED PARKING SPACES	
Uses	**Spaces per Unit of Measure**
Retail sales:	
Convenience goods, per 1,000 sq. ft. GFA	4.0
Eating establishment, per 1,000 sq. ft. GFA	10.0
Shopper goods, per 1,000 sq. ft. GFA	4.0
Drinking establishment, per 1,000 sq. ft. GFA	10.0
Furniture and home furnishings stores, per 1,000 sq. ft. GFA	1.0
Supermarket, per 1,000 sq. ft. GFA	5.0
Gas station, per four pumps	1.0
Manufactured home and recreational vehicle sales, per 1,000 sq. ft. GFA	2.0
Motor vehicle sales, per 1,000 sq. ft. GFA	2.0
Service stations, per four pumps	1.0
Plus, per repair bay	3.0
Specialty retail, per 1,000 sq. ft. GFA	5.0
All other retail, per 1,000 sq. ft. GFA	4.0
Schools:	
College/university, per student	0.5

TABLE 4. REQUIRED PARKING SPACES	
Uses	**Spaces per Unit of Measure**
Elementary, junior high:	
Per classroom	1.6
Per staff member	1.0
Senior high and technical school, per student	0.33
Plus, per staff member	1.0
Per classroom	1.6
Services:	
Airport, by individual review	
Airport support uses, by individual review	
Animal hospital/veterinary clinic, per 1,000 sq. ft. GFA	5.0
Banking:	
Automatic teller, per machine	2.0
Bank, per 1,000 sq. ft. GFA	4.0
Plus 100 ft. of queuing area per drive-in window	
Business and professional services and personal services office, per 1,000 sq. ft. GFA	3.5
Health services:	

TABLE 4. REQUIRED PARKING SPACES	
Uses	**Spaces per Unit of Measure**
Health practitioner's office, per 1,000 sq. ft. GFA	5.0
Hospitals, per bed	2.0
Medical and dental laboratories, per 1,000 sq. ft. GFA	4.0
Nursing, convalescent and extended care facilities, per bed	3.5
Rehabilitation center, per 1,000 sq. ft. GFA	4.0
Sanitarium/mental institution, per 1,000 sq. ft. GFA	2.0
Lodging places:	
Boardinghouses and roominghouses or bed and breakfast, per bedroom	1.0
Hotel/motel, per lodging unit	1.0
Conference/retreat center, for every five seats or for every five persons of maximum occupancy of building or assembly place, whichever is greater	1.0
Repair services:	
Motor vehicle repair, minor and major, per 1,000 sq. ft. GFA	4.0
Transportation:	
Bus terminal, per 1,000 sq. ft. waiting room	8.0
Railroad switching and classification yard, per employee	1.0
Taxistand, per employee	1.0

TABLE 4. REQUIRED PARKING SPACES	
Uses	**Spaces per Unit of Measure**
Train terminal, per 1,000 sq. ft. of waiting area	8.0
Truck terminal, per employee	1.0
Warehousing:	
Warehouse, per employee of largest shift	0.6
Warehouse, mini, per ten storage units	1.0
Plus, per employee	1.0
Miscellaneous:	
Adult uses, per 500 sq. ft.	3.0
Amusement park, by individual review	
Circuses, carnivals and fairs, by individual review	
Crematorium, per seat of chapel capacity	0.25
Plus, per employee	0.33
Dry cleaning plant, per employee on largest shift	1.0
Plus, per facility vehicle	1.0
Dry and wet storage, per storage bay	0.75
Flea markets, indoor, per 1,000 sq. ft. GFA	7.0
Flea markets, outdoor, per vendor	2.0

TABLE 4. REQUIRED PARKING SPACES	
Uses	**Spaces per Unit of Measure**
Lumberyard, per 1,000 sq. ft. GFA	2.0
Marina, per 1,000 sq. ft. GFA	4.0
Publishing and printing, per 1,000 sq. ft. GFA	1.0
Rental and leasing of light equipment, per 1,000 sq. ft. GFA	3.0
Rental and leasing of domestic vehicles, per 1,000 sq. ft. GFA	3.0
Rental and leasing of commercial vehicles and heavy equipment, per 1,000 sq. ft. GFA	3.0
Research activities, per employee	1.4
Slaughterhouse, per 1,000 sq. ft. GFA	1.0
Stadium, per seat	0.3
Wholesale distribution, per employee of largest shift	0.6

* GFA = Gross floor area

(2) Calculation of certain parking requirements. Where parking requirements relate to number of seats, and seating is in the form of undivided pews, benches and the like, 20 lineal inches shall be construed to be equal to one seat. Where parking requirements relate to movable seating in auditoriums and other assembly rooms, ten square feet of net floor area shall be construed to be equal to one seat, except where otherwise specified. Net floor area shall be the actual area occupied by seating and related aisles and shall not include accessory unoccupied areas or the thickness of walls.

(b) *Determination for unlisted uses.* The determination for unlisted uses shall be made as follows:

(1) The zoning administrator shall make a determination, for uses not listed in table 4, of the required off-street parking spaces.

(2) In making a determination, the zoning administrator shall be guided by the requirements for similar uses, the number and kind of vehicles likely to be attracted to the proposed uses and studies of the parking requirements of such uses in other jurisdictions.

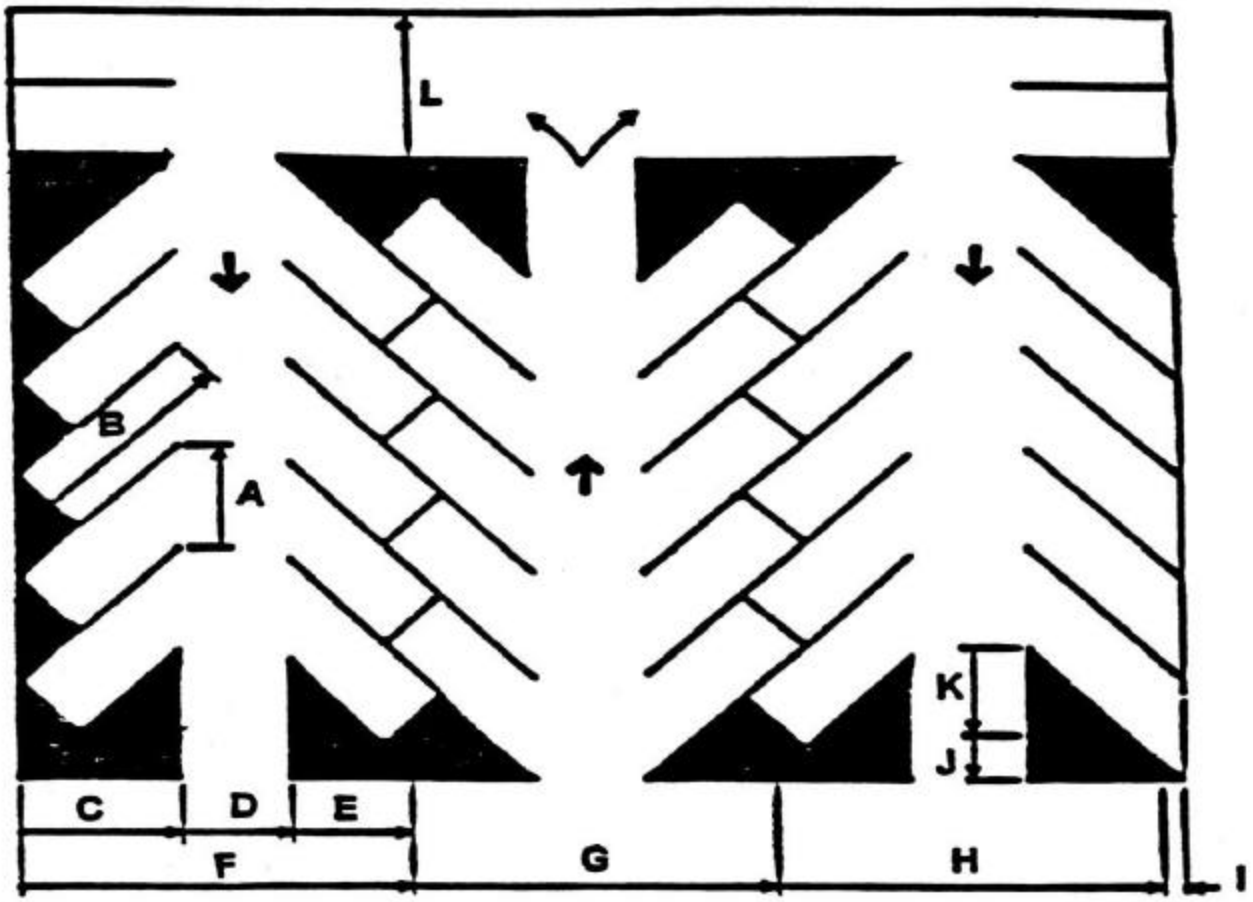
(Code 1995, § 515.140)

Sec. 44-297. Parking standards.

(a) *Regular car parking.* The minimum dimensions for required off-street spaces at various angles shall be shown in the following table 5 and illustrated by diagram 7:

TABLE 5						
Dimension	**Diagram 7**	**0°**	**45°**	**60°**	**75°**	**90°**
Stall width, parallel to aisle	A	9.0	12.7	10.4	9.3	9.0
Stall length of line	B	24.0	24.5	21.4	19.5	18.0
Stall depth to wall	C	9.0	17.0	18.5	19.0	18.0
Aisle width between stall lines	D	12.0	12.0	16.0	22.0	24.0
Stall depth, interlock	E	9.0	14.8	17.0	18.3	18.0
Module, wall to interlock	F	30.0	43.8	51.5	59.3	60.0
Module, interlocking	G	30.0	41.6	50.0	58.6	60.0
Module, interlock to curb face	H	30.0	41.8	49.4	56.9	58.0
Bumper overhang (typical)	I	0.0	1.5	1.8	2.0	2.0
Offset	J	--	6.3	2.7	0.5	0.0
Setback	K	24.0	11.0	8.3	5.0	0.0
Cross aisle, one-way	L	18.0	18.0	18.0	18.0	18.0
Cross aisle, two-way	--	24.0	24.0	24.0	24.0	24.0

DIAGRAM 7



(b) *Compact car parking.* Parking for compact cars may be provided for up to 30 percent of the required parking.

(1) Compact car parking may be provided for only nonresidential land uses.

(2) Compact car parking may only be provided for parking areas that have ten or more spaces.

(3) For 90-degree compact parking, the minimum stall width shall be eight feet, and the minimum stall length shall be 16 feet. There need be no provision for bumper overhang for compact parking.

(4) Compact parking spaces must be designated as being for the exclusive use of compact cars through the use of signs or pavement marking.

(5) The overall design must be reviewed and approved by the zoning administrator.

(6) The parking layout dimensions (in feet) for eight-foot compact parking stalls at various angles are shown in the following table 6 and illustrated by diagram 7 in subsection (a) of this section:

TABLE 6

Dimension	Diagram 7	0°	45°	60°	75°	90°
Stall width, parallel to aisle	A	8.0	11.3	9.2	8.3	8.0
Stall length of line	B	22.0	24.0	20.5	18.2	16.0
Stall depth to wall	C	8.0	17.0	17.8	17.6	16.0
Aisle width between stall lines	D	12.0	12.0	16.0	22.0	24.0
Stall depth, interlock	E	8.0	14.2	14.3	13.7	16.0
Module, wall to interlock	F	28.0	43.2	48.1	53.3	56.0
Module, interlocking	G	28.0	43.2	48.1	53.3	56.0
Module, interlock to curb face	H	28.0	43.2	48.1	53.3	56.0
Bumper overhang (typical)	I	0.0	0.0	0.0	0.0	0.0
Offset	J	0.0	5.7	2.3	0.0	0.0
Setback	K	22.0	11.3	8.0	4.1	0.0
Cross aisle, one way	L	18.0	18.0	18.0	18.0	18.0
Cross aisle, two way	--	24.0	24.0	24.0	24.0	24.0

(c) *Parking for persons with disabilities.* Parking for persons with disabilities shall be provided as follows:

(1) Parking for the disabled shall be provided in the following quantities:

Number of Parking Spaces	Number of Handicapped Spaces Required
1--25	**1**
26--50	**2**
51--75	**3**
76--100	**4**
101--150	**5**
151--200	**6**
201--300	**7**
301--400	**8**
401--500	**9**
501--1,000	**2 percent of total**
1,001 and over	**20 plus 1 for each 100 over 1,000**

(2) Such parking spaces for the disabled shall be designed and located as follows:

a. All spaces shall be accessible to a curb ramp or curb cut, when necessary to allow access to the building, structure, or use served, and shall be so located that users are not compelled to wheel behind parked vehicles.

b. Diagonal or perpendicular parking spaces shall be a minimum of 12 feet six inches wide.

c. Parallel parking spaces shall be located either at the beginning or end of a block or adjacent to an alley entrance. Curbs adjacent to such spaces shall be of a height which will not interfere with the opening and closing of motor vehicle doors.

d. Each such parking space shall be prominently outlined with paint and posted with a nonmovable fixed sign of a color and design approved by the state department of transportation.

(d) *Off-street parking design standards.* Off-street parking design standards shall be as follows:

(1) Except for single- and two-family dwellings, every off-street parking area shall be surfaced with asphaltic or concrete pavement or an alternative approved by the zoning administrator to provide a durable and dustless surface. In making a determination as to the suitability of a proposed alternative, the zoning administrator shall find such improvement provides:

a. A safe and permanent surface, suitable for the quantity and quality of traffic expected to use it.

b. A surface which will accept permanent delineation of parking spaces, aisles, accessways, and maneuvering areas.

c. A surface that will not contribute to subsidence, erosion, or sedimentation, either on site or off site.

(2) All off-street parking lots shall be graded and drained to dispose of all surface water accumulated within the area.

(3) Lighting, if provided, shall be directed away from public streets and residential areas and shall not be a hazard or distraction to motorists traveling on a street.

(4) Sales, dead storage, repair, dismantling and service of motor vehicles shall not be permitted on off-street parking spaces.

(5) All off-street parking spaces, including all areas for maneuvering, shall be located solely on private property and shall not use public property or public rights-of-way.

(6) All off-street parking areas shall be designed to provide safe and convenient circulation, in accordance with commonly accepted traffic engineering practices and subject to the review and approval of the zoning administrator in accordance with the practices.

(Code 1995, § 515.141)

Sec. 44-298. Landscaping standards.

(a) It is the intent of this section to protect and promote the public health, safety, and general welfare by requiring the landscaping of parking areas which will serve to:

(1) Reduce radiant heat from surfaces;

(2) Reduce wind and air turbulence;

(3) Reduce noise;

(4) Reduce the glare of automobile lights;

(5) Reduce stormwater drainage problems; and

(6) Protect and preserve the appearance, character, and value of adjacent properties.

(b) Except for one- or two-family dwellings, all parking facilities, unless located entirely underground, shall meet the following minimum landscaping requirements:

(1) Driveways into parking facilities shall be bordered by a buffer strip a minimum of eight feet in width, which shall be landscaped using shrubbery or low-growing evergreens planted in a minimum of a single row spaced five feet apart with the remaining in ground cover of seeded grass, sod, or rock, brick, or wood mulch or any combination.

(2) Ground-level parking facilities and the ground level of parking structures shall be landscaped by a buffer strip a minimum of eight feet in width exclusive of abutting right-of-way. The buffer shall consist of shrubbery of low-growing evergreen planted in a minimum of a single row spaced five feet apart with the remaining width in a ground cover of seeded grass, sod, or rock, brick or wood mulch or any combination. Where the parking facilities abut the required screening buffer, the buffer strip shall be deleted.

(3) Parking facilities, unless located on or within a structure, shall be encouraged to be separated from the exterior wall of a structure, exclusive of paved pedestrian entranceways or loading areas, by a buffer strip at least five feet in width which shall be landscaped.

(c) In providing the vegetation required in subsection (b) of this section, the retention of existing significant vegetation shall be encouraged.

(d) Maintenance of landscaping. All landscaping and screening which provides buffering and screening shall be maintained to continue their effectiveness.

(Code 1995, § 515.142)

Sec. 44-299. Required loading space.

(a) Every use requiring the receipt or distribution, by vehicles, of materials and merchandise shall have one or more loading berths or other space for standing, loading and unloading on the same or adjoining premises. Loading space shall be sufficient to allow normal loading and unloading operations of a kind and magnitude appropriate to the property served. Required loading space shall be available for the loading and unloading of vehicles and shall not be used for the storage of vehicles or materials or to meet off-street parking requirements or conducting the use.

(b) The requirements in the following table 7 shall apply to new structures or additions to structures and shall not be considered to make any existing structure nonconforming for lack of such off-street loading:

TABLE 7	
Land Use Classification	**Space Requirements**
Office and hotel uses larger than 5,000 square feet	**1 loading berth for every 10,000 sq. ft. of floor area, up to a maximum of 5 berths**
Industrial and commercial uses:	
Under 8,000 sq. ft.	**1**
8,000--25,000 sq. ft.	**2**
25,000--50,000 sq. ft.	**3**
50,000--100,000 sq. ft.	**4**
100,000 sq. ft. and over	**5**

(Code 1995, § 515.143)

Sec. 44-300. Loading space standards.

All off-street loading spaces shall meet the following standards:

(1) Off-street loading spaces shall be located and arranged so that a semitrailer truck (wheel base 50 class) or a local delivery vehicle, as appropriate, shall be able to gain access to and use such spaces.

(2) Loading space shall observe the minimum street and interior setbacks established for structures.

(3) All loading space and maneuvering space shall be surfaced with an all-weather material which shall be maintained in a safe, sanitary, and neat condition.

(4) No loading space shall be located so that a vehicle using such space intrudes on or hinders the use of the public right-of-way or adjacent properties.

(5) Each required off-street loading space shall have a minimum width of 12 feet and a minimum vertical clearance of 16 feet above the finished grade of the space. The length shall be a minimum of 30 feet for local delivery and 60 feet for semitrailers. A maximum of two-thirds of the required loading spaces can be used for local delivery vehicles.

(Code 1995, § 515.144)

Secs. 44-301--44-325. Reserved.

ARTICLE X. SPECIAL USES

DIVISION 1. GENERALLY

Sec. 44-326. Intent.

(a) It is the intention of the board of commissioners to create and from time to time amend a list of special uses within the table of permitted and permissible uses which, because of their inherent nature, extent and external effects, require special care in the control of their location and methods of operation. The board is aware of its responsibility to protect the public health, safety and general welfare and believes that certain uses which, now or in the future, may be included on this list are appropriately handled as special uses, subject to review in relation to general and specific requirements, rather than as uses permitted by right.

(b) In addition to the listing of such uses, the board of commissioners intends that the general standards, established in section 44-327, and the more specific requirements established in this article shall be used by the board of adjustment to direct deliberations upon applications for the approval of special uses. It is the express intent of the board of commissioners to delineate the areas of concern connected with each special use and to provide standards by which applications for that special use approval shall be evaluated.

(Code 1995, § 515.155)

Ordinance No. 2003-01

That section 44-327 of the Catawba County Code is hereby amended to read as follows:

44-327 GENERAL STANDARDS.

(a) The following general standards shall be met by all applicants for approval of special uses to this chapter:

(1) The use will not materially endanger the public health, safety, and general welfare, if located where proposed and developed and operated according to the application.

(2) The use, which is listed as a special use in the district in which it is proposed to be located, complies with all required regulations and standards, including article III of this chapter, unless greater or different regulations are contained in the individual standards for that special use.

(3) The use will not substantially injure the value of adjoining or abutting property.

(4) That the use is in compliance with the general plans for the physical development of the county as embodied in this chapter.

(b) The board of adjustment shall make these general findings based upon substantial evidence contained in its proceedings. It shall be the responsibility of the applicant to present evidence in the form of testimony, exhibits, documents, models, plans, and the like to support the application for approval of a special use. (Code 1995, § 515.156)

This 17th day of February, 2003.

/s/ Katherine W. Barnes, Chair
Catawba County Board of Commissioners

Sec. 44-328. Procedure for application.

(a) *Application submitted to zoning administrator.* The application for a special use for the purposes of

this chapter shall be submitted to the zoning administrator in accordance with the following:

(1) Applications for approval of special uses shall be filed with the zoning administrator, who shall before accepting any application ensure that it contains all required information, as specified in section 44-330.

(2) Applications which are not complete or which otherwise do not comply with this article shall not be accepted by the zoning administrator, but shall be returned forthwith to the applicant, with a notation by the zoning administrator of the deficiencies in the application.

(b) *Report on special uses.* For a special use, the zoning administrator shall submit within 30 days a report and recommendations to the board of adjustment.

(c) *Public hearing required.* A public hearing shall be required and notice shall be given as follows:

(1) Prior to consideration of the application for approval of a special use, a public hearing thereon shall be held by the board of adjustment.

(2) The zoning administrator shall cause public notice to be given of the date, time, and place of the public hearing to be held to receive comments, testimony, and exhibits pertaining to the application for approval of a special use.

(3) Such notice shall be published in a newspaper of general circulation in the county once a week for two successive weeks, with the first notice to be published not less than 15 nor more than 25 days prior to the date of the hearing.

(d) *Action on application.* The following actions may be taken on the application:

(1) After completion of the public hearing, the board of adjustment shall take action upon the application. This action shall be one of the following:

a. Approval;

b. Approval with conditions attached; and

c. Denial.

(2) In every case, the action of the board of adjustment shall include a summary of the evidence supporting the action taken by it on the application.

(e) *Action subsequent to decision.* The following actions shall be taken subsequent to the decision of the board of adjustment:

(1) The zoning administrator shall cause notice of the disposition of the application to be sent by certified mail to the applicant and a copy of the decision to be filed in the office of the zoning administrator.

(2) The zoning administrator, for approval or approval with conditions, shall issue the necessary permit in accord with the action.

(Code 1995, § 515.157)

Sec. 44-329. Imposed conditions.

(a) The board of adjustment may impose such reasonable conditions upon approval of a special use granted pursuant to this article as will afford protection of the public health, safety, and general welfare and ensure that substantial justice is done and equitable treatment provided.

(b) Such conditions shall run with the land and shall be binding on the original applicant as well as all successors, assigns, and heirs.

(Code 1995, § 515.158)

Sec. 44-330. Contents of application.

The application for approval of a special use for the purposes of this chapter shall be submitted on forms provided by the zoning administrator. Such forms shall be prepared so that, when completed, a full

and accurate description of the proposed use, including its location, appearance, and operational characteristics, shall be disclosed. Additionally, the forms shall, when completed by the applicant, disclose the following:

(1) The name and address of the owner of the property involved;

(2) The name and address of the applicant, if different from the owner; and

(3) All relevant information needed to show compliance with the general and specific standards governing the special use which is the subject of the application.

(Code 1995, § 515.159)

Sec. 44-331. Minor changes and modifications.

(a) The zoning administrator is authorized to approve minor changes in the approved plans of special uses, as long as they are in harmony with action of the board of adjustment, but shall not have the power to approve changes that constitute a modification of the approval. A modification shall require approval of the board of adjustment and shall be handled as a new application.

(b) The zoning administrator shall use the following criteria in determining whether a proposed action is a minor change or a modification:

(1) Any change in location or any increase in the size or number of signs shall constitute a modification.

(2) Any increase in intensity of use shall constitute a modification. An increase in intensity of use shall be considered to be an increase in usable floor area; an increase in number of dwelling or lodging units; or an increase in outside land area devoted to sales, displays, or demonstrations.

(3) Any change in parking areas resulting in an increase or reduction of five percent or more in the number of spaces approved by the board of adjustment shall constitute a modification. In no case shall the number of spaces be reduced below the minimum required by this chapter.

(4) Structural alterations significantly affecting the basic size, form, style, and the like of the building, as shown on the approved plan, shall be considered a modification.

(5) Substantial decrease in the amount or location of open space, recreation facilities, or landscape screens shall constitute a modification.

(6) A change in use shall constitute a modification.

(7) Substantial changes in pedestrian or vehicular access or circulation shall constitute a modification.

(c) The zoning administrator shall, before making a determination as to whether a proposed action is a minor change or a modification, review the record of the proceedings on the original application for the approval of the special use.

(d) The zoning administrator shall, if he determines that the proposed action is a modification, require the applicant to file a request for approval of the modification, which shall be submitted to the board of adjustment. The board of adjustment may approve or disapprove the application or approval of a modification and, prior to its action, may hold a public hearing thereon.

(Code 1995, § 515.160)

Secs. 44-332--44-341. Reserved.

DIVISION 2. STANDARDS FOR INDIVIDUAL SPECIAL USES

Sec. 44-342. Adult uses.

The following standards shall be used in deciding applications for approval of adult uses:

(1) All windows, doors, entries, and the like for all adult uses shall be so located, covered, screened, or otherwise treated that views of the interior of the establishment are not possible from any public or semipublic area, street, or way.

(2) No adult use shall be located within a 1,000-foot radius of another adult use. Distance shall be measured from property line to property line, along the shortest distance between property lines, without regard to the route of normal travel.

(3) No adult use shall be located within 500 feet of any residential district.

(4) Nothing in this section shall be construed to permit the operation of any business or the performance of any activity prohibited under any other section of this chapter or the laws of the county or state.

(Code 1995, § 515.162)

Sec. 44-343. Airport/airstrip.

The following standards shall be used in deciding applications for approval of airport/airstrip uses:

(1) No airport/airstrip shall be located on a parcel of land less than ten acres.

(2) All Federal Aviation Administration regulations that apply shall be met and indicated to the board prior to approval, if applicable.

(3) The minimum length for the landing strip shall be 3,000 feet long.

(4) Each end of the landing strip shall be at least 600 feet from any exterior property line of the parcel of land on which the airport/airstrip is located.

(5) The board may require other conditions that would protect the property values and living standards of properties in the area, including but not limited to sound barriers, hours of operation, size and type of aircraft, and the like.

(Code 1995, § 515.163)

Sec. 44-344. Animal hospitals and veterinary clinics.

The following standards shall be used in deciding applications for approval of animal hospital and veterinary clinic uses:

(1) All activities, with the exception of animal exercise yards, shall be conducted within an enclosed building.

(2) Buildings housing animal hospitals or veterinary clinics shall be located no closer than 100 feet from an adjacent residential district.

(3) Exercise and confinement yards shall be not less than 200 feet from any dwelling unit on adjacent property.

(Code 1995, § 515.164)

Sec. 44-345. Boardinghouse or rooming house or bed-and-breakfast operation.

The following standards shall be used in deciding an application for boardinghouse or roominghouse or bed-and-breakfast uses:

(1) All required off-street parking shall be located outside of required yards.

(2) No more than four bedrooms shall be devoted to accommodation of transients.

(3) The operators shall be full-time residents of the premises.

(4) Signs shall be limited to one nonilluminated sign of not more than four square feet.

(Code 1995, § 515.165)

Sec. 44-346. Campgrounds.

The following standards shall be used in deciding an application for approval of campground uses:

(1) *Group camp facilities operated on profit or nonprofit basis.* Standards for group camp facilities operated on a profit or nonprofit basis are as follows:

a. No camp shall have a maximum design capacity of more than 150 campers.

b. Each group camp shall provide a minimum of one-half acre per camper.

c. All buildings and areas for organized recreational use shall be set back a minimum distance of 50 feet from any exterior property line, and a buffer shall be provided as set forth in section 44-151, table 3, under "multifamily use."

d. Cabins in the camp shall be a minimum distance of 50 feet from one another and a minimum distance of 75 feet from any toilet facility. No cabin shall be more than 150 feet from toilet facilities.

e. A preliminary site plan drawn to a scale of not less than 200 feet to the inch nor more than 50 feet to the inch shall be submitted for each group camp facility application. The sketch shall include, among other things, the requirements set forth in this subsection and other information that is required for a special use permit application.

(2) *Camps providing sites for tents and camping trailers.* Standards for camps providing sites for tents and camping trailers are as follows:

a. The minimum size of a camp providing sites for tents and camping trailers shall be five acres of land.

b. A minimum of 3,000 square feet of area shall be provided for each tent or trailer space.

c. All buildings, tent spaces, and trailer spaces shall be set back a minimum distance of 50 feet from any exterior property line, and a buffer strip shall be provided, as required in section 44-151, table 3, under "multiple-family use."

d. A sanitary source of drinking water shall not be more than 200 feet, toilet facilities not more than 400 feet, and washhouses not more than 1,500 feet from any tent or trailer space. This subsection (2)d shall not apply where community water and sewer connections are provided to trailers having self-contained kitchens and bathroom facilities.

(Code 1995, § 515.166)

Sec. 44-347. Human and pet cemeteries.

(a) *Cemetery, human public.* The following standards shall be used in deciding an application for approval of a human public cemetery:

(1) All requirements of the state general statues regarding the interment of human dead shall be met.

(2) A minimum lot size of 85,000 square feet shall be provided.

(3) There shall be adequate space within the site for the parking and maneuvering of funeral corteges.

(4) No interment shall take place within 30 feet of any lot line.

(5) All structures shall be set back a minimum of 25 feet from any lot line.

(6) All structures over 25 feet in height must be set back a minimum of 25 feet plus two feet for each one foot of height over 25 feet to the maximum height permitted by the zoning district in

which it is located or 50 feet, whichever is more restrictive.

(b) *Cemetery, pet.* The following standards shall be used in deciding an application for approval of a pet cemetery:

(1) All applicable federal, state, and local regulations governing animal cemeteries shall have been met.

(2) A minimum lot size of 40,000 square feet shall be provided.

(3) No interment shall take place within 30 feet of any lot line.

(4) All structures shall be set back a minimum of 25 feet from any boundary line.

(5) All structures over 25 feet in height must be set back a minimum of 25 feet plus two feet for each one foot of height over 25 feet to the maximum height permitted by the zoning district in which it is located or 50 feet, whichever is more restrictive.

(Code 1995, § 515.167)

Sec. 44-348. Child and adult care centers.

The following standards shall be used in deciding an application for approval of child and adult care centers:

(1) A paved semicircular driveway, 20 feet in width with a minimum inside radius of 20 feet, shall be provided.

(2) A fenced outdoor playing area for children shall be provided in the rear yard.

(3) Uses designed to accommodate more than 30 children shall be located upon and shall have direct access to an arterial or collector street as shown on the thoroughfare plan.

(4) Uses designed to accommodate more than 30 children shall have a minimum lot size of 40,000 square feet.

(5) Child and adult care centers shall, as usual practice, be located as follows:

a. So that the center forms part of a group of community service uses, such as churches, schools, parks, and the like.

b. At the edges of commercial or office developments, where they will form a transition between these uses and surrounding residential uses.

c. If within a residential or agricultural area, where the use will be buffered from surrounding uses by environmentally sensitive areas or open space.

(6) The design, intensity, and scale of the child care center shall be compatible with the surrounding land uses and zoning.

(7) Evidence shall be provided that the requirements and standards of the state department of human resources have been and shall continue to be met.

(Code 1995, § 515.168)

Sec. 44-349. Community recreational uses.

The following standards shall be used in deciding an application for approval of community recreational uses:

(1) Where membership is not limited to residents of adjacent residential areas, the site shall have direct access to an arterial or collector street, as shown on the thoroughfare plan.

(2) All required yards shall be 40 feet.

(3) A minimum lot size of 20,000 square feet shall be provided.

(4) The light source of outdoor lighting fixtures shall not be directly visible from property outside the zoning lot on which it is located. Additionally, the maximum illumination permitted at the zoning lot line shall be 0.20 footcandle.

(Code 1995, § 515.169)

Sec. 44-350. Congregate living facilities.

The following standards shall be used in deciding an application for approval of congregate living facilities:

(1) No such use shall be established within 1,200 feet of another such use or a professional residential facility.

(2) The requirements and standards of the state department of human resources shall have been and shall continue to be met.

(3) No external evidence of such use, distinguishing the living facility from a regular dwelling, shall be visible from adjacent property, public or private.

(4) Each facility shall be designed and built to appear as similar to a residential structure as possible.

(Code 1995, § 515.170)

Sec. 44-351. Dragstrips and racetracks.

The following standards shall be used in deciding applications for approval of dragstrips and racetracks:

(1) The minimum lot size shall be 40 acres.

(2) The lot shall have direct access to an arterial street as shown on the thoroughfare plan.

(3) This use shall be considered, for the purposes of section 44-151, to be in group 3 and shall meet the provisions of section 44-151.

(Code 1995, § 515.171)

Sec. 44-352. Firing ranges.

The following standards shall be used in deciding applications for approval of firing ranges:

(1) Such a use shall not be located within 2,640 feet of any residence.

(2) The maximum caliber for rifled barrels shall be .45, for black powder barrels .60, and for nonrifled barrels 12 gauge.

(3) A projectile-proof backstop, consisting of concrete, steel, earth, or a combination thereof, at least 15 feet high shall be erected and maintained behind all target areas.

(Code 1995, § 515.172)

Sec. 44-353. Junkyards.

The following standards shall be used in deciding an application for approval of junkyards:

(1) This site shall have direct access to an arterial or collector street as shown on the thoroughfare plan.

(2) The provisions of section 44-151 shall be met. Additional buffering and screening shall be required so that materials shall not be visible from any street and any adjacent less intensive use of land.

(3) No material shall be stored closer than 30 feet from the zoning lot lines.

(Code 1995, § 515.173)

Sec. 44-354. Landfills.

In addition to the information received for all applications for approval of special uses, two copies of a completed landfill permit application form from the solid waste management section of the division of health services shall be required for landfills.

(Code 1995, § 515.174)

Sec. 44-355. Marinas and dry storage facilities.

The following standards shall be used in deciding applications for approval of marinas and dry storage facilities:

(1) All operations shall be so located as to prevent hazards to navigation.

(2) No material shall be stored closer than 30 feet from the zoning lot lines.

(Code 1995, § 515.175)

Sec. 44-356. Mining of earth products.

In addition to the information required for all applications for approval of special uses, the following shall be submitted as part of the application for mining of earth products:

(1) Two copies of a completed mining application form and an approved mining permit from the state department of environment, health and natural resources, land quality section.

(2) An operation plan, which shall include the following:

a. The date proposed to commence operations and their expected duration.

b. Proposed hours and days of operations.

c. Estimated type and volume of extraction.

d. Description of method of operation, including the disposition of topsoil, overburden, and byproducts.

e. Description of equipment to be used in the extraction process.

f. Any phasing of the operation and the relationship among the various phases.

g. Operating practices which will be followed to comply with the performance standards applicable to the operation.

(3) For mining activities, not including sand, soil and clay, the following specific standards shall be used in deciding an application for approval of a special use permit:

a. The permanent roads, defined as those to be used in excess of one year, within the excavation site shall be surfaced with a dustfree material from the nearest public road to the yard area. Also all permanent roads within 300 feet of any residentially zoned land should be treated the same.

b. Roads other than permanent shall be treated with dust inhibitors, such as water wagons, to reduce the generation of dust.

c. Where the proposed extraction shall take place within 300 feet of a dwelling, school, church, hospital, or commercial or industrial building, public building, or public land, a security fence at least six feet high shall be installed.

d. An undisturbed buffer of a minimum of 100 feet shall be maintained around the mining activity at all times, excluding entrance roads.

e. Adjacent to the mining activity a vegetated buffer a minimum of 30 feet, as described in section 44-151, shall be maintained.

f. No off-site refuse shall be dumped on site unless a permit has been issued by the state division of solid waste management for such an activity.

(Code 1995, § 515.176)

Sec. 44-357. Nursing, convalescent and extended care facilities.

The following standards shall be used in deciding applications for approval of nursing, convalescent and extended care facilities:

(1) All nursing, convalescent, and extended care facilities shall have direct access to a collector or arterial street, as shown on the thoroughfare plan.

(2) Minimum lot size shall be 30,000 square feet with a minimum frontage of 150 feet.

(3) Front, rear, and side setbacks shall be a minimum of 50 feet.

(4) Buffers and screening shall be as required by section 44-151.

(5) Signs shall be limited to one nonilluminated sign with a maximum area of six square feet. The sign shall be attached either flush to the wall of the building or else shall be located at ground level with a maximum height of four feet from the ground. No other external evidence of the use for identification or advertising purposes shall be permitted.

(6) Evidence shall be presented that all the requirements of the state have been and shall continue to be met.

(Code 1995, § 515.177)

Sec. 44-358. Public service facilities.

The following standards shall be used in deciding applications for approval of public service facilities:

(1) Operating requirements shall necessitate locating in the district.

(2) Buffers and screening shall be provided as required by section 44-151.

(3) Front, rear and side setbacks shall be a minimum of 50 feet.

(4) Whenever possible, such facilities shall be designed and constructed to have the same height and bulk as adjacent structures.

(5) The facility shall have direct access to a collector or arterial street as shown on the thoroughfare plan.

(Code 1995, § 515.178)

Sec. 44-359. Public use facilities.

The following standards shall be used in deciding applications for approval of public use facilities:

(1) The facility shall have direct access to a collector or arterial street as shown on the thoroughfare plan.

(2) Buffers and screening shall be as required by section 44-151.

(3) Front, rear, and side setbacks shall be a minimum of 50 feet.

(4) Whenever possible, such facilities shall be designed and constructed to have the same height and bulk as adjacent structures.

(Code 1995, § 515.179)

Sec. 44-360. Commercial roadside stands.

The following standards shall be used in deciding applications for commercial roadside stands:

(1) The use shall provide for all required off-street parking and loading on private property.

(2) The use shall be located along and shall have direct vehicular access to a public street.

(3) No sales or display activity shall be located on public land.

(4) Access to and from the site shall be in accord with the requirements of the sate department of transportation.

(Code 1995, § 515.180)

Sec. 44-361. Public stables.

The following standards shall be used in deciding applications for approval of public stables:

(1) Front, rear, and side yards shall be a minimum of 50 feet.

(2) Parking shall be provided at a ratio of one parking space for every five stalls.

(3) Buffers and screening shall be as required in section 44-151.

(4) The operator of the stable shall be responsible for using good management practices to discourage undesirable odors and insects.

(Code 1995, § 515.181)

Sec. 44-362. Kennels.

The following standards shall be used in deciding applications for approval of kennels.

(1) There shall be a minimum lot size of ten acres. (Ord Amd. 9/17/2001)

(2) All activities, with the exception of animal exercise areas, shall be conducted within an enclosed building. (Ord Amd. 9/17/2001)

(3) A 300-foot separation shall be maintained between the kennel, including exercise area, and any residential property line. (Ord Amd. 9/17/2001)

(4) The disposal methods for wastes generated shall be reviewed and approved by the environmental health section of the county health department. (Ord. passed 3-20-89)

(5) A group 2 buffer shall be provided pursuant to section 44-151 pertaining to buffers and screening.

(Code 1995, § 515.182)

Sec. 44-363. Nursery/landscaping businesses.

The following specific standards shall be used in deciding an application for approval of nursery/landscaping businesses:

(1) The site shall have at least 150 feet fronting along a state-maintained road.

(2) The minimum lot size shall be 60,000 square feet, with a maximum lot size of 120,000 square feet.

(3) All vehicles and/or equipment shall be stored in an enclosed building or under a roof.

(4) Front, rear, and side setbacks shall be a minimum of 40 feet.

(5) Uses shall meet all criteria set forth in section 44-151 of this chapter concerning buffering and screening.

(6) Structures constructed shall not exceed a maximum floor area ratio of 1:3.

(7) Mulch and gravel piles, etc., shall be located out of the front, rear and side setbacks.

(8) Commercial nursery/landscaping businesses being permitted as special uses in the R-2 residential district shall have gravel parking areas and driveways.

(Code 1995, § 515.183)

Sec. 44-364. Outdoor flea markets.

The following standards shall be used in deciding applications for approval of outdoor flea markets:

(1) The use shall have a minimum of at least five acres fronting along a collector road.

(2) All area used for vendors and aisles must be paved.

(3) Front, rear and side setbacks shall be a minimum of 60 feet.

(4) Evidence shall be presented that the requirements and standards of the county health department, environmental health section, have been met.

(5) The use must comply with sections 44-151 and 44-298 pertaining to buffering and landscaping criteria for the county.

(6) The use must meet the requirements of section 44-296 of this chapter concerning required parking spaces.

(Code 1995, § 515.184)

Sec. 44-365. Radio frequency test facilities.

The following standards shall be used in deciding applications for approval of radio frequency test facilities:

(1) Minimum lot size shall be 15 acres.

(2) The facility shall be constructed to minimize the impact on the current land use. Enclosed habitable working areas, incorporated into the facility, shall not total more than 625 square feet.

(3) The front, rear, and side setbacks shall be a minimum of 100 feet.

(4) Security fences shall be installed around towers and other structures and facilities to prevent undesirable access to structures.

(5) Private parking shall be provided according to article IX of this chapter. Improved access from one part of the facility to other structures and parking may be gravel or the equivalent.

(6) The maximum height of any part of this facility shall be no greater than 60 feet.

(7) The requirement of a 15-foot buffer, set forth in section 44-151, shall be waived.

(8) All of the requirements of the Federal Communications Commission must be met, if applicable.

(Code 1995, § 515.185) (Ord. Amd. 10/21/2002)

Sec. 44-366. Manufactured home parks.

(a) The regulations and requirements applying to manufactured home parks are found in chapter 26.

(b) Manufactured home parks may be established in an R-2 zone in accordance with the general procedures and requirements set forth in chapter 26.

(c) It is the intent of this chapter to provide for development of such parks in scale with surrounding areas, at locations appropriate and in accord with standards set forth in chapter 26, designed to meet the needs of the residents, and to achieve a satisfactory relationship to adjoining and nearby property.

(Code 1995, § 515.186)

Sec. 44-367. Sawmills.

The following standards shall be used in deciding applications for approval of sawmills:

(1) The minimum lot size shall be three acres with a maximum land area of six acres.

(2) A minimum of 75 feet along an arterial or collector road or a dedicated, platted and recorded 45-foot right-of-way shall be required to provide access to the parcel.

(3) The permanent roads, defined as those to be used in excess of one year, shall be surfaced with a dustfree material from the nearest public road to the yard area. Also, a 100-foot gravel area shall be maintained to be used as an entrance for this sawmill operation.

(4) No such use shall be established within 1,000 feet of any residential dwelling.

(5) Hours of operation shall be between 7:00 a.m. and 7:00 p.m., Monday through Friday.

(6) Any sawmill, planer, edger, stacker, debarker, chipper, cyclone, conveyor belt, trailer, or other similar equipment which is an integral part of the sawmill must be set back at least 100 feet from the property line. Any logs, lumber, slabs, or sawdust stored on the property must be set back at least 30 feet from the property line.

(7) This use shall comply with section 44-151 pertaining to buffers and screening criteria for the county.

(8) This use shall comply, where applicable, with all federal, state and local environmental regulations.

(9) All applicable driveway permits must be obtained from the state department of transportation.

(Code 1995, § 515.187)

Sec. 44-368. Television and/or tower facilities.

(a) The purpose of this section is to establish general guidelines for the siting of towers and antennas. The goals of this section are to:

(1) Encourage the location of towers in nonresidential/nonhistorical areas and minimize the total number of towers throughout the community;

(2) Enhance the ability of the providers of television and/or radio services to provide such services to the community quickly, effectively and efficiently;

(3) Encourage strongly the joint use of new and existing tower sites;

(4) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal; and

(5) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas.

(b) Communication companies are encouraged to locate television and/or radio antennas on or in structures other than a tower. Such structures may include church steeples, transmission line towers, utility/light poles, water towers, etc. Where such facilities are not available, collocation of facilities is encouraged. When a new tower is proposed to be sited, a determination of whether the location will provide a minimal level of coverage versus optimal coverage shall be taken into consideration. The following standards shall be used in the approval of the siting of new towers:

(1) Evidence that the applicant has investigated the possibilities for locating the proposed facilities on an existing tower where a minimal level of coverage can be provided. Such evidence shall consist of the following:

a. Copies of letters sent to owners of all existing towers within a one-mile radius of the proposed site, requesting the following information:

1. Tower height;

2. Existing and planned tower users;

3. Whether the existing tower could accommodate the proposed antenna without causing instability or radio frequency interference; and

4. If the proposed antenna cannot be accommodated on the existing tower, an assessment of whether the existing tower could be structurally strengthened or whether the antenna's transmitters and related equipment could be protected from electromagnetic interference, and a general description of the means and projected cost of shared use of the existing tower;

b. A copy of all responses within 30 days from the mailing date of the letter required by subsection (1)a of this section; and

c. A summary explanation of why the applicant believes the proposed facility cannot be located on an existing tower.

d. A summary explanation of why the applicant believes that the use of an alternative tower structure is not possible.

e. Provision of sound engineering evidence demonstrating that location in the proposed district is necessary in the interest of public safety or is a practical necessity.

(2) Evidence that the tower is structurally designed to support at least one additional user, and

the special use application includes a statement that the owner of the tower is willing to permit other users to attach communication facilities, on a commercially reasonable basis, which do not interfere with the primary purpose of the tower. The tower owner may require that such other users agree to negotiate reasonable compensation to the owner from any liability which may result from such attachment. The site plan shall indicate a location for at least one equipment building in addition to that proposed for use by the applicant. Priority for collocation on the proposed tower shall be given to antennas that will serve a public safety need for the community.

(3) Buffering of the site shall be installed in accordance with section 44-151, which contains table 3, buffer matrix. In order to provide spatial separation and create visual block from adjacent properties and streets, a buffer shall be installed around the outside of all improvements on the site, including the tower and guy anchors, any ground buildings or equipment, and security fencing. Ground buildings located in a residential district may be located outside the buffered area if they are constructed so the exterior appearance of the building has the appearance of a residential dwelling, including pitched roof and frame or brick veneer construction. The applicant shall submit scaled elevations of such buildings to assist in the evaluation of compliance with this appearance criteria. The tower's guy anchors may be screened or fenced separately in order to comply with the requirements of this section.

(4) The base of the tower and each guy anchor shall be surrounded by a security fence or wall at least eight feet in height unless the tower and all guy anchors are mounted entirely on a building over eight feet in height. The tower's guy anchors may be screened or fenced separately in order to comply with the requirements of this section.

(5) No outside storage shall be allowed on any facility site.

(6) Associated buildings located in any residential district shall not be used as an employment center for any worker. This subsection (b)(6) does not prohibit the periodic maintenance or periodic monitoring of equipment and instruments.

(7) The tower shall meet all applicable Federal Aviation Administration (FAA) standards and shall not restrict or interfere with air traffic or air travel from or to any existing or proposed airport. Any lighting shall not project onto surrounding residential property.

(8) The minimum lot size requirement shall be in accordance with table 2, schedule of area, height, bulk and placement regulations, based upon the zoning district where the tower is proposed to be located or the setback requirements of subsection (b)(12) of this section, whichever is greater.

(9) The color of the tower shall be neutral, except to the extent required by federal law, so as to minimize its visual impact.

(10) In order to protect the public from unnecessary exposure to electromagnetic radiation, the tower owner shall provide documentation, such as a signed affidavit, indicating that the power density levels do not exceed levels certified by the Federal Communications Commission.

(11) No commercial advertising shall be allowed on the facility's site.

(12) The setback of the base of the tower from all adjacent property lines shall be one foot for each foot in height. This setback may be reduced by the board of adjustment upon a finding that failure to grant a setback reduction would have the effect of prohibiting the provision of personal wireless services, that the reduction serves the general intent and purpose of this chapter and the adopted comprehensive plan and that the reduction will not substantially interfere with or injure the rights of others whose property would be affected by the reduced setback. In no case shall the setback be reduced to less than 50 percent of the tower height. To encourage shared use of towers, applications for towers which will operate with more than one user immediately upon completion may have a ten-percent reduction in the required setbacks. Also, to encourage the construction of monopole structures, monopole towers may have a 20-percent reduction in the required setbacks. To encourage location of towers in existing forested areas with a minimum depth of 65 feet, the tower may have a 20-

percent reduction in the required setbacks. In no case shall the setback be less than those required for the underlying zoning district. Such setback reductions shall only be allowed upon a professional engineering certification which states that the structure's construction will cause the tower to crumble inward so that if a collapse occurs no damage to structures on adjacent zoning lots will result.

(13) Notice shall be provided to the zoning administrator when the tower is placed out of service. Towers which are not used for a period of six months or more shall be removed by the owner of the tower within 120 days of receipt of notification to that effect.

(Code 1995, § 515.188; Ord. No. 2002-10, § 515.188, 10-21-2002)

Cross references: Telecommunications, ch. 42.

Sec. 44-369. Hospice house residential facilities.

The following standards shall be used in deciding applications for approval of hospice house residential facilities:

(1) The facility shall have direct access to a collector or arterial street as shown on the thoroughfare plan.

(2) Buffers and screening shall be as required by section 44-151.

(3) Parking shall be provided pursuant to section 44-296 pertaining to required parking.

(4) Minimum lot size shall be 30,000 square feet with a minimum road frontage of 150 feet.

(5) Front, rear, and side setbacks shall be a minimum of 50 feet.

(6) Signs shall be limited to one nonilluminated sign with a maximum area of 16 square feet. The sign shall be attached either flush to the wall of the building or shall be located at ground level with a maximum height of four feet from the ground. No other external evidence of the use for identification or advertising purposes shall be permitted.

(Code 1995, § 515.189)

Sec. 44-370. Conference/retreat centers.

The following standards shall be used in deciding applications for approval of conference/retreat centers:

(1) A minimum lot size of five acres shall be provided.

(2) This facility shall be used by organized groups only.

(3) All required yard setbacks shall be 100 feet.

(4) The site shall have direct access to an arterial or collector street, as shown on the thoroughfare plan.

(5) The light source of outdoor lighting fixtures shall not be directly visible from property outside the zoning lot on which the fixture is located. Additionally, the maximum illumination permitted at the zoning lot line shall be 0.20 footcandle.

(6) The requirements and standards of the state department of environment and natural resources shall be met.

(7) This use shall be considered, for the purpose of section 44-151, to be in group 2 and shall meet the buffer provisions of such section.

(Code 1995, § 515.190)

Sec. 44-371. Recreational fish lake or pond.

The following standards shall be used in evaluating applications for approval of a recreational fish lake or pond:

(1) A minimum lot size of five acres shall be provided.

(2) All required yard setbacks shall be 100 feet.

(3) The site shall have direct access to a major thoroughfare, arterial or collector street, as shown on the county thoroughfare plan.

(4) Off-street parking shall be provided in accordance with section 44-296, which pertains to required parking spaces for temporary events. The parking area must be a dustless and durable surface.

(5) The light source of outdoor lighting fixtures shall not be directly visible from property outside the zoning lot on which it is located. The maximum illumination permitted at the zoning lot line shall be 0.20 footcandle. All lighting shall be shown on the site plan with applicable typical diagrams.

(6) No alcohol shall be permitted on the premises.

(7) No electronic sound amplification shall be permitted.

(8) A site plan, drawn to scale, shall indicate location of water, parking, bathroom facilities and other planned structures and shall be submitted to the zoning office with the application.

(9) Proof of commercial insurance is required.

(10) The requirements and standards of the state department of environmental and natural resources shall be met for adequate sewage disposal facilities.

(11) Signs shall be limited to one nonilluminated sign with a maximum area of 16 square feet.

(Code 1995, § 515.191)

Sec. 44-372. Membership organizations.

The following standards shall be used in deciding applications for approval of membership organizations:

(1) This use shall be considered, for the purpose of section 44-151, to be in group 2 and shall meet the buffer provisions of such section.

(2) This site shall have direct access to an arterial or collector street, as shown on the thoroughfare plan.

(3) The light source of outdoor lighting fixtures shall not be directly visible from property outside the zoning lot on which the fixture is located. Additionally, the maximum illumination permitted at the zoning lot line shall be 0.20 footcandle.

(4) Paved parking spaces required shall be as follows:

a. One space for each three persons able to use the facility at its maximum capacity.

b. Plus ten waiting spaces.

c. Plus one parking space for each two employees.

(5) All required yard setbacks shall be 40 feet.

(6) Signage shall be limited to one nonilluminated sign with a maximum area of 15 square feet.

(Code 1995, § 515.192)

Sec. 44-373. Land-clearing and inert debris (LCID) landfills.

The following standards shall be used in deciding applications for approval of land-clearing and inert debris (LCID) landfills:

(1) The designated area of the landfill must be two acres or less. LCID landfills larger than two acres require a state permit.

(2) The facility may only be used for the purpose of disposal of land-clearing debris, concrete, brick, concrete block, uncontaminated soil, used pavement asphalt, gravel or rock, untreated or unpainted wood, or yard waste. The facility may not be used for the disposal of

construction or demolition debris.

(3) The landfill must be located out of the 100-year floodplain and not in a wetland.

(4) The landfill must be 100 feet from any property line.

(5) The landfill must be 100 feet from any residential dwelling or commercial or public building.

(6) The landfill must be 100 feet from any well.

(7) The landfill must be 50 feet from all surface waters.

(8) The landfill must be placed above the seasonal high groundwater table.

(9) The owner must furnish soil borings for determining adequate separation from groundwater.

(10) The facility must be adequately secured by means of gates, chains, berms, or fences, etc.

(11) A sign, with minimum letter size of four inches, must be posted at the entrance stating "Authorized Persons Only" and "No Trespassing--Keep Out."

(12) A surveyed map of the property shall be prepared. The survey map shall be either 8 1/2 inches by 11 inches or 8 1/2 inches by 14 inches. The map must show the following:

a. Name of the owner, property lines, north arrow, scale, bearings and distances taken from the deed.

b. Disposal area delineated.

c. Certification and seal of the registered land surveyor or registered engineer.

d. The review officers' certificate to be signed by a county review officer.

A memorandum of the land-clearing and inert debris landfill along with an attached survey map delineating the landfill must be recorded at the office of the county register of deeds. After the documents are recorded, a copy must be furnished to the county planning and community development office.

(13) Adequate soil cover must be applied monthly, and the final cover must be a minimum of two feet of compacted earth properly graded with establishment of suitable vegetative cover.

(14) The permit shall be issued for not more than five years.

(15) An LCID landfill permit must be obtained from the county department of health, environmental health section, pursuant to section 32-37.

(16) The facility must meet, be permitted and operated in accordance with the state solid waste managements rules, 15A NCAC 13B.

(Code 1995, § 515.193)

Sec. 44-374. Zoos.

The following standards shall be used in deciding applications for approval of zoos:

(1) Minimum lot size shall be ten acres.

(2) This use shall be considered, for the purpose of section 44-151, to be in group 2 and shall meet the buffer provisions of such section.

(3) This site shall have direct access to an arterial or collector street, as shown on the thoroughfare plan.

(4) The light source of outdoor lighting fixtures shall not be directly visible from property outside the zoning lot on which the fixture is located. Additionally, the maximum illumination permitted at the zoning lot line shall be 0.20 footcandle.

(5) Paved parking spaces required shall be as follows:

a. One space for each three persons able to use the facility at its maximum capacity.

b. Plus ten waiting spaces.

c. Plus one parking space for each two employees.

(6) All required yard setbacks shall be 100 feet.

(7) Signage shall be limited to one nonilluminated sign with a maximum area of 16 square feet.

(8) No more than 25 percent of any area under roof, exclusive of animal containment areas, may be dedicated to retail sales.

(9) No external evidence of retail sales shall be permitted.

(Code 1995, § 515.194)

Sec. 44-375. Accessory dwelling unit/guesthouse.

The following standards shall be used in deciding applications for approval of an accessory dwelling unit/guesthouse:

(1) The use must comply with all requirements of the county health department, environmental health section, for on-site sewage and well regulations.

(2) A detached accessory dwelling unit shall be permitted as an accessory to any detached single-family dwelling unit. The accessory dwelling unit shall be clearly subordinate to the principal structure.

(3) No more than one accessory dwelling unit shall be permitted on a single deeded lot in conjunction with the principal dwelling unit.

(4) The accessory dwelling unit shall be owned by the same person as the principal dwelling.

(5) Accessory dwelling units shall adhere to the maximum permitted height requirement for the zoning district in which the unit is to be located.

(6) An accessory dwelling unit shall not be served by a driveway separate from that serving the principal dwelling unless the accessory dwelling unit is accessed from a different road or street than the principal structure.

(7) An accessory dwelling unit shall not exceed 650 square feet or 50 percent of the gross heated floor area of the principal dwelling. The accessory dwelling unit may be combined with a garage, workshop, etc.

(8) An accessory dwelling unit shall adhere to the setbacks for the district in which they are to be located.

(9) The accessory dwelling unit must comply with all applicable sections of the state residential building code.

(Code 1995, § 515.195)

Sec. 44-376. Museums.

The following standards shall be used in deciding applications for approval of museums:

(1) The use shall have direct access to an arterial or collector street.

(2) A minimum lot size of 40,000 square feet shall be required.

(3) Retail sales shall be limited to five percent of the total usable floor area of the use.

(4) No external evidence of retail sales shall be permitted.

(5) The light source of outdoor lighting fixtures shall not be directly visible from property outside the zoning lot on which the fixture is located. Additionally, the maximum illumination permitted at the zoning lot line shall be 0.20 footcandle.

(6) Signage shall be limited to one nonilluminated sign with a maximum area of 16 square feet.

(7) This use shall be considered, for the purpose of section 44-151, to be in group 1 and shall meet the buffer provisions of such section.

(8) Parking spaces required shall be two parking spaces per 1,000 square feet of gross floor area in accordance with sections 44-296 through 44-300. Parking spaces shall be paved unless the board of adjustment determines that graveled spaces will be appropriate in the planned setting.

(Code 1995, § 515.196)

Sec. 44-377. Professional residential facilities.

The following standards shall be used in deciding applications for approval of professional residential facilities:

(1) All professional residential facilities shall have direct access to a collector or arterial street, as shown on the thoroughfare plan.

(2) Minimum lot size shall be 30,000 square feet with a minimum frontage of 150 feet.

(3) Front, rear, and side setbacks shall be a minimum of 50 feet.

(4) Buffers and screening shall be as required by section 44-151.

(5) Signs shall be limited to one nonilluminated sign with a maximum area of six square feet. The sign shall be attached either flush to the wall of the building or else shall be located at ground level with a maximum height of four feet from the ground. No other external evidence of the use for identification or advertising purposes shall be permitted.

(6) Evidence shall be presented that all the requirements of the state have been and shall continue to be met.

(Code 1995, § 515.197)

Sec. 44-378. Permanent wood waste grinding operation.

The following standards shall be used in deciding an application for a permanent wood waste grinding operation:

(1) The minimum lot size shall be five acres.

(2) Grinding operations shall have direct access to a collector or arterial street as shown on the corresponding thoroughfare plan. However, the board of adjustment may approve a grinding operation on a secondary state department of transportation state-maintained road where the board finds that the road is of sufficient width and quality. All grinding operations shall have an approved driveway permit from the state department of transportation.

(3) All traffic areas, including entrances and exits, within the area of operation shall be graveled or covered with a similar dust reduction material. Storage areas for mulch, dirt, wood waste or other similar materials need not be graveled.

(4) No grinder, screener, or other similar equipment shall be located within 500 feet of any residential dwelling with the exception of the owner's or applicant's own residential dwelling. The site plan must include a footprint demonstrating where the equipment will be located in relation to dwellings locating on adjoining properties.

(5) Any grinder, screener, or similar equipment must be set back at least 100 feet from the property lines. Any mulch, dirt, wood waste, or other similar material stored on the property must be located at least 50 feet from any property or road right-of-way lines.

(6) No grinders, screeners, loaders, dozers, or other similar equipment shall be operated at the site except between 8:00 a.m. and 5:00 p.m. Monday through Friday; however, wood waste may be delivered to the site until 6:00 p.m. Monday through Friday, provided such deliveries are made by self-dumping trucks and the materials are not moved from the dumping point other than between 8:00 a.m. and 5:00 p.m. Monday through Friday. Wholesale and retail sales are allowed between 8:00 a.m. and 5:00 p.m. Monday through Friday. The board of adjustment may approve hours of operation other than those set forth in this subsection.

(7) The retention of existing vegetation shall be maximized to the extent practicable to buffer the operation from adjoining property and road rights-of-way and to serve as a noise and dust barrier. Where vegetation does not exist, a combination of a berm and landscaped buffer to achieve an initial screen of ten feet must be installed which will achieve 75 percent opacity within two years.

(8) The grinding operation must comply with any applicable regulations enforced by the state department of environment and natural resources. These include, but may not be limited to, those laws under the divisions of waste management and air quality. Copies of all materials submitted to the state, either as part of a notification or a permit application, shall be submitted to the county.

(Ord. No. 2002-07, § 515.198, 8-19-2002)

Secs. 44-379--44-395. Reserved.

ARTICLE XI. PLANNED DEVELOPMENT DISTRICTS

DIVISION 1. GENERALLY

Sec. 44-396. Intent; objectives; scope of article.

(a) Within districts or within districts which may be created, it is intended to permit establishment of new planned development (PD) districts for specialized purposes where tracts, suitable in location, area, and character for the uses and structures proposed, are to be planned and developed on a unified basis. Suitability of tracts for the development proposed shall be determined primarily by reference to the adopted land use plan and to the performance standards of the separate categories of planned developments with due consideration given to the existing and prospective character of surrounding development.

(b) Planned development districts shall be so related to the general development pattern and the objectives of the adopted land use plan as to provide for comfort and convenience of residents; facilitate protection of the character of surrounding neighborhoods; and reduce automotive traffic congestion by a reasonably close relationship, either in distance or in time, between origins and destinations of persons living, working, or visiting in such developments. Housing, commercial and service facilities, and principal places of employment shall be so related by physical proximity and by major street networks as to promote these objectives.

(c) Within planned development districts, regulations adapted to such unified planning and development are intended to accomplish the purposes of zoning and other applicable regulations to an equivalent or higher degree than where such regulations are intended to control unscheduled development on individual lots. Such regulations are designed to promote economical and efficient land use, an improved level of amenities, appropriate and harmonious variety, creative design, and a better environment.

(d) In view of the substantial public advantages of planned development, it is the intent of this article to promote and encourage development in this form where appropriate in location and character.

(Code 1995, § 515.200)

Sec. 44-397. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Planned development means land under unified control to be planned and developed:

(1) When more than one principal structure is planned on a zoning lot or when two or more permitted uses per principal structure are developed on a single zoning lot;

(2) In a single development operation or a definitely programmed series of development operations, including all lands and buildings;

(3) For principal and accessory structures and uses substantially related to the character and

purposes of the district;

(4) According to comprehensive and detailed plans which include not only streets, utilities, lots or building sites, and the like, but also site plans for all buildings as intended to be located, constructed, used and related to each other, and plans for other uses and improvements on the land as related to the buildings; and

(5) With a program for provision, operation, and maintenance of such areas, facilities and improvements as will be for common use by some or all of the occupants of the district, but which will not be provided, operated, or maintained at general public expense.

(Code 1995, § 515.201)

Cross references: Definitions generally, § 1-2.

Sec. 44-398. Relation to zoning, subdivision and other regulations; modification of regulations.

(a) The planned development regulations which follow in this article shall apply generally to the initiation and regulation of all planned development districts. Where there are conflicts between the special planned development regulations in this article and general zoning, subdivision, or other regulations or requirements, the planned development regulations in this article shall apply in planned development districts, unless the board of commissioners finds, in the particular case, that provisions in this article do not serve public purposes to a degree at least equivalent to such general zoning, subdivision, or other regulations or requirements.

(b) Where actions, designs, or solutions proposed by the applicant are not literally in accord with applicable planned development or general regulations, but the board of commissioners makes a finding, in the particular case, that public purposes are satisfied to an equivalent or greater degree, the board of commissioners may make specific modification of the regulations in the particular case. However, where floor area and similar ratios, as well as maximum permitted densities, have been established by this article, the board of commissioners shall not act, in a particular case, to modify such ratios or maximums.

(c) Except as indicated in subsections (a) and (b) of this section, notwithstanding procedures and requirements generally in effect, procedures and requirements set forth in this article for particular classes of planned development districts shall apply in planned development districts, to any amendments creating such districts, and to issuance of all required permits therein.

(Code 1995, § 515.202)

Sec. 44-399. Where and how permitted.

Planned development districts may be established by amendment to the official zoning atlas and related amendatory action, changing the designation of a lot from its existing classification to one of the several planned development districts contained in this article, where tracts suitable in location and character for the uses and structures proposed are to be planned and developed on a unified basis, according to the requirements and procedures set forth in this article. Planned development districts shall be appropriately located with respect to intended functions, to the pattern and timing of development, in accord with the adopted land use plan, and to public and private facilities existing or clearly to be available by the time the development reaches the stage where they will be needed. All requirements specified in sections 44-44 and 44-45 shall be met, as well as the following specific requirements:

(1) *Relation to major transportation facilities.* Planned development districts shall be so located with respect to expressways, arterial and collector streets and shall be so designed as to provide direct access to and from such districts without creating traffic along local streets in residential neighborhoods outside the district.

(2) *Relation to public utilities, facilities, and services.* Relation to public utilities, facilities, and services is as follows:

a. Planned development districts shall be so located in relation to sanitary sewers, water lines, storm and surface drainage systems, and other utility systems and installations that neither extension nor enlargement of such systems will be required in manner, form, character, location, degree, scale of timing resulting in higher net public cost, or earlier incursion of public cost than would development in forms

generally permitted under current zoning and development policies for the area.

b. Such districts shall be so located with respect to necessary public facilities (for example, schools, parks, and playgrounds in the planned development-housing (PD-H) districts) as to have access to such facilities in the same degree as would development permitted under existing zoning and shall be so located, designed, and scaled that access for public services is equivalent to, and net cost for such services is not greater than, access and net costs for public services for development as permitted under existing development controls. However, if applicants will:

1. Provide private facilities, utilities, and services approved by appropriate public agencies as substituting on an equivalent basis, and ensure their satisfactory continuing operation, permanently or until similar public utilities, facilities, or services are available and used; or

2. Make provisions acceptable to the county for offsetting any added net public cost or early commitment of public funds made necessary by such development;

then the proposed planned development district may be approved.

c. In computing net public costs, difference in anticipated public installation, operation and maintenance costs and difference in anticipated public revenue shall be considered. Expenses involved in making such determinations shall be paid by applicants. Determinations shall be made by the county or by experts acceptable to the county.

(3) *Physical character of site; relation to surrounding property.* The tract shall be suitable for development in the manner proposed without hazards to persons or property, on or off the tract, free from the probability of flooding, erosion, subsidence or slipping of the soil, or other dangers. Conditions of soil, groundwater level, drainage, and topography shall all be appropriate to both the kind and pattern of use intended. If appropriate to the form of planned development, lands to be included in planned development districts may be divided by streets, alleys, rights-of-way, or easements, but shall be so located, dimensioned, and arranged as to permit unified planning and development and to meet all requirements in connection therewith, as well as to provide necessary protection against adverse relationships between uses in the district and uses in surrounding areas.

(4) *Reduction or increase in minimum area generally required.* In connection with a particular planned development rezoning proposal, the board of commissioners may approve as part of the amendment action:

a. Lesser areas than generally required upon findings that special circumstances require such reduction, and the other requirements can be met in such lesser area, provided that no such reduction shall amount to more than ten percent of the area generally required; or

b. Greater areas than generally required upon findings that the proposed plan of development or the character of the property involved, in themselves or as it may reasonably be expected to develop, require such increase to meet the requirements and intent of planned development zoning or to provide necessary special protection.

(5) *Additions to planned development districts not subject to minimum area requirements.* Where planned development additions are proposed to existing planned development districts and where the land and the proposed plan of development are approximately related to the existing planned development district and provide necessary safeguards in relation to the surrounding area, planned development amendments allowing such additions may be made without regard to the minimum area requirements set forth in this article. Such additions may be of the same classification as the planned development district being added to or may be of another classification, if the board of commissioners approves the other classification and proposed plans therefor as complementary to the original planned development district.

(Code 1995, § 515.203)

Sec. 44-400. Procedure for amendments.

(a) *Applications; materials to be submitted.* Applications for planned development amendments shall be submitted as for other amendments as provided in sections 44-44 and 44-45. Material submitted with the application or on subsequent request by the zoning administrator shall include, in addition to the basic material required by sections 44-44 and 44-45, all plans, maps, studies, and reports which may reasonably be required to make the determinations called for in the particular case, with sufficient copies for necessary referrals and records. More specifically, all of the following shall be required before the application shall be considered filed for processing:

(1) *Report.* A report identifying all property ownerships and beneficial interests within the boundaries of the proposed planned development district and giving evidence of unified control of its entire area. The report shall state agreement of all present owners and holders of beneficial interest to:

a. Proceed with the proposed development according to regulations existing when the map amendment creating the planned development district is passed, with such modifications as may be set by the board of commissioners in the manner provided in section 44-398;

b. Conform in the process of development to the preliminary development concept plan and to proposals for staging of development, according to requirements set forth in subsections (a)(3) and (a)(5) of this section; and

c. Provide such bonds, dedications, easements, guarantees, agreements, deeds of trust, contracts, and/or covenants acceptable to the county attorney as may be reasonably necessary to protect the public interest in completion of such development according to approved plans, and for provision and continuing operation and maintenance of such areas, facilities, and functions as are not to be provided, operated, or maintained at general public expense, and provide such dedications, contributions, or guarantees as are required for provision of needed public facilities and services.

(2) *Survey.* A survey of the proposed planned development district showing property lines and ownerships and existing features, including streets, alleys, easements, utility lines, existing land use, general topography, and physical features.

(3) *Preliminary development concept plan.* A preliminary development concept plan as follows:

a. A preliminary development concept plan for the planned development district shall be required, indicating the following:

1. The name of the proposed planned development, and the names of the developer and professional planner.

2. Scale, date, north arrow.

3. Location, height, floor area, and use of existing structures, if any, and approximate location, orientation, height, floor area, and use of proposed structures or portions of structures.

4. Points of ingress and egress for principal pedestrian, private automotive, and waterway traffic, and circulation patterns within the planned development district.

5. Location, character, and scale of parking and service facilities, such as area and number of spaces in parking lots, character of structural parking, and the like; location of principal service areas for major structures or complexes.

6. Relation of abutting land uses and zoning districts, including, where view protection is an objective, location of principal public viewpoints into or through the proposed planned development district.

7. Existing lots and blocks, if any, and general pattern of proposed lots and blocks, if any.

8. Location of existing public and quasipublic facilities for pedestrian use or common enjoyment, excluding automotive uses; scale of such systems; indication of open air and internal components.

b. The preliminary development concept plan is required for determination as to internal relationships between or among uses and activities proposed and their supporting systems and facilities, and relation to surrounding uses, activities, systems, and facilities.

c. With respect to preliminary development concept plans, it is the intent of this article that such plans shall include all data reasonably necessary for determining whether the proposed development meets the specific requirements and limitations, and the intent, concerning a particular type of planned development district. Therefore, information in addition to that specified in this subsection may be requested in connection with preliminary development concept plans, when necessary to make such determinations with respect to a particular planned development district. Such information shall be provided, if reasonably necessary to make such determinations, before processing proceeds.

(4) *Special surveys, approvals, or reports.* Special surveys, approvals, or reports required by law in the circumstances of a particular planned development proposal are required where development of a major element of the proposal or the entire proposal is dependent upon such special surveys, approvals, or reports.

(5) *Indications as to nature and succession of staging.* Where a planned development is to be constructed in stages, indications as to the nature of the planned development, uses, location, and floor areas or residential densities to be developed, and timing of the beginning and end of development of the first stage; and similar information on succeeding stages; provided that, in lieu of an indication of specific timing on succeeding stages, the initiation of succeeding stages may be made dependent upon completion of all or substantial portions of the first stage, within the time limits provided.

(6) *Proposals on provision and continuing operation and maintenance of facilities for common use.* Proposals describing provisions to be made concerning establishment and continuing operation and maintenance of such areas, facilities, and improvements as will be for common use by some or all of the occupants of the district and persons visiting the district, but which will not be provided, operated, or maintained at general public expense, are required. These proposals shall give adequate assurance to the county that such areas, facilities and improvements will be continued, operated, and maintained without future expense to the taxpayers of the county.

(7) *Proposals concerning restrictive covenants.* Proposals concerning any restrictive covenants to be recorded with respect to property included in the planned development district are required.

(b) *Preliminary review of application.* On receipt of the application, preliminary concept plan, and detailed proposals as indicated in subsection (a) of this section, the zoning administrator shall cause a study to be made by the planning and information technology department, the county engineer and such other agencies or officials as appear appropriate in the circumstances of the case to determine conformity with the adopted land use plan, zoning, and other regulations applicable in the case.

(c) *Preliminary conference with applicant.* A preliminary conference shall be held with the applicant in accordance with the following:

(1) Following such study, unless complete conformity is found, the applicant shall be notified in writing by the zoning administrator of discrepancies and of the willingness of the zoning administrator to confer for the purpose of assisting in bringing the material submitted as nearly as possible into conformity with requirements or to define specifically the modifications of regulations which seem justified in view of equivalent service of public purposes by the proposal.

(2) If the applicant does not desire to participate in such conferences, the zoning administrator shall proceed to prepare the report described in subsection (d) of this section.

(3) If the applicant joins in such conferences, changes may be made in the original proposal, further conferences may be held, and additional material may be requested to guide in determinations.

(4) If the applicant joins in such conferences, the normal period specified for the zoning administrator's study of amendments shall be waived by the applicant, so that sufficient time may be available for the conferences.

(5) In the course of such preliminary conferences, recommendations for changes shall be recorded in writing along with the reasons therefor and shall become part of the record in the case. Applicants shall indicate, in writing, their agreement to such recommendations or their disagreement and the reasons therefor; such response by applicants shall also be included in the record.

(d) *Zoning administrator's recommendations.* The zoning administrator's recommendations are submitted as follows:

(1) At such time as further conferences appear unnecessary or at any time on request of the applicant, the zoning administrator shall prepare a written report to the planning board and the board of commissioners, containing findings as to the following:

a. The suitability of the tract for the general type of planned development zoning proposed, physical characteristics of the land, and relation of the proposed development to surrounding areas and existing and probable future development;

b. Relation to major roads, utilities and other facilities, and services;

c. The adequacy of evidence on unified control and suitability of any proposed agreements, contracts, deed restrictions, sureties, dedications, contributions, guarantees, or other instruments; or the need for such instruments; or for amendments in those proposed;

d. The suitability of proposed plans and the desirability of amendments;

e. The adherence of planned development or general regulations or desirable specific modifications in planned development or general regulations as applied to the particular case, based on a determination that such modifications are necessary or justified in the particular case by demonstration that the public purposes of planned development or other regulations would be met to at least an equivalent degree by such modifications; and

f. The suitability of the proposed time for the beginning and the completion of the planned development.

(2) Based on such findings, the zoning administrator shall recommend approval of the planned development amendment proposed, approval conditioned on specific modifications, or disapproval, with recorded reasons therefore.

(e) *Actions by board of commissioners.* Actions that may be taken by the board of commissioners are as follows:

(1) Actions by the board of commissioners shall be as provided for amendments generally as provided in sections 44-44 and 44-45. It may grant the application in accord with planned development and other regulations applicable, may approve with modifications as provided in section 44-398, or may deny the application.

(2) If the amendment is granted, the board of commissioners shall, in its amending action, approve the preliminary development concept plan or indicate required modifications. Such approved plan, with required modifications, if any, shall be binding in determinations concerning final development plans.

(3) If the amendment is granted, the development shall be required to be in accord with final development plans meeting the requirements of this article and other regulations, as

supplemented or modified by the board of commissioners in the particular case as part of the amending action, and shall conform to any time limitations established by the board of commissioners on beginning and completion of the development as a whole or in specified stages.

(4) Before development may proceed, agreements, contracts, added restrictions, sureties, and other instruments involved shall be in form approved by appropriate officers or agencies.

(f) *Zoning administrator's action on final plans.* The zoning administrator's actions on final plans are as follows:

(1) After a planned development district has been established, no building permit shall be issued therein unless and until the zoning administrator has approved final plans and reports for the development as a whole or for stages or portions thereof deemed satisfactory in relation to total development. The form and content of such final plans and reports shall be as prescribed in the zoning, subdivision, or related regulations, generally or for particular planned development districts, and in the rules of the county and other affected agencies.

(2) Approval of final plans and reports shall be based on compliance with regulations applying at the time the land was zoned to planned development status, including such specific modifications as were made by the board of commissioners in its amending action.

(3) Final plan approval is an administrative action. No public notice or hearing is required in connection with approval proceedings on final plans or changes in approved plans. The zoning administrator may hold meetings, with such notice as he deems appropriate, in connection with such actions.

(4) Upon approval of final plans and reports, building permits shall be issued in the same manner as for building permits generally, provided that any requirements concerning the order and location in which building permits are to be issued in the particular planned development district shall be observed.

(5) Except as provided in subsection (g) of this section, approval of final plans and reports shall be binding on the applicants and any successors in title, so long as planned development zoning applies to the land.

(g) *Changes in approved preliminary plans.* Procedures for changes in approved preliminary plans are as follows:

(1) Changes in approved preliminary plans may be permitted by the zoning administrator, with review and concurrence by the county attorney, on application by the original applicant or successors in interest, but only upon making a finding that such changes are in accord with:

a. All applicable regulations in effect at the time of the amendment creating the planned development district, as modified in the amending section;

b. All applicable regulations currently in effect, without modification; or

c. The approved development concept plan, including any required modifications.

(2) In reaching his decision as to whether or not the change is substantial enough to require reference to the board of commissioners, the zoning administrator shall use the following criteria:

a. Any increase in intensity of use shall constitute a modification requiring action by the board of commissioners. An increase in intensity of use shall be considered to be an increase in usable floor area; an increase in the number of dwelling or lodging units; or an increase in outside land area devoted to sales, displays, or demonstrations.

b. Any change in parking resulting in an increase or reduction of five percent or more in the number of spaces approved shall constitute a change requiring action by the board of commissioners.

c. Structural alternations significantly affecting the basic size, form, and style of buildings, as shown on the approved plan, shall be considered a change requiring consideration by the board of commissioners.

d. Any reduction in the amount of open space, resulting in a decrease of more than five percent or any substantial change in the location or characteristics of open space, shall constitute a change requiring consideration by the board of commissioners.

e. Any change in use from one use group to another shall constitute a change requiring consideration by the board of commissioners.

f. Substantial changes in pedestrian or vehicular access or circulation shall constitute a change requiring consideration by the board of commissioners.

(3) Changes other than as indicated in subsection (g) of this section shall be made only by new planned developments or other amendments.

(h) *Expiration of time limits of amendments.* Time limits of planned development amendments expire as follows:

(1) If actions required in any amendment establishing a planned development district are not taken within the time limit set, the zoning administrator shall review the circumstances and recommend to the board of commissioners that:

a. Planned development zoning for the entire area be continued with revised time limits;

b. Planned development zoning be continued for part of the area, with or without revised time limits, and the remainder be rezoned to an appropriate category; or

c. The entire district be rezoned from planned development to an appropriate category.

(2) Such recommendations shall include proposals for appropriate action in respect to any legal instruments in the case.

(Code 1995, § 515.204)

Secs. 44-401--44-425. Reserved.

DIVISION 2. PD-H PLANNED DEVELOPMENT-HOUSING DISTRICTS

Sec. 44-426. Scope.

A planned development-housing (PD-H) district shall be used when more than one principal structure is planned on a zoning lot or when three or more residential units per principal structure are developed on a single zoning lot. The regulations and requirements in this division apply to planned development-housing (PD-H) districts, defined for purposes of this article as planned development districts primarily for dwellings and related uses and facilities.
(Code 1995, § 515.205)

Sec. 44-427. Procedures for establishment of district.

Planned development-housing (PD-H) districts may be established in accordance with the general procedures and requirements set forth in section 44-400 and with intensities and in locations in accordance with the official zoning atlas.
(Code 1995, § 515.205(A))

Sec. 44-428. Permitted principal and accessory uses and structures.

Permitted principal and accessory uses and structures in the planned development-housing (PD-H) district are as follows:

(1) *Principal uses and structures permitted generally.* The following principal uses and structures are permitted generally:

a. One-family, two-family, and multiple-family dwellings.

b. Churches.

c. Schools.

d. Noncommercial social, recreational, and cultural facilities, such as neighborhood or community centers, game rooms, libraries, golf courses, swimming pools, tennis courts, and the like.

e. Structures and uses required for operation of a public utility, performance of a governmental function, or performance of any function necessary for the operation or maintenance of the planned development, and otherwise permitted under this division or general regulations, subject to the requirements thereof.

(2) *Permitted accessory uses and structures.* Uses and structures are permitted which are customarily accessory and clearly incidental to permitted principal uses and structures, including, in a multifamily building or closely related complex of multifamily buildings having a total of at least 50 dwelling units, establishments for sale of convenience goods, eating and drinking establishments, and professional and personal service establishments, provided that the floor area occupied by all such establishments shall not total an amount in excess of ten percent of the residential floor area of such multiple-family building or complex. Such establishments shall be designed and scaled to meet only the requirements of occupants and their guests. There shall be no evidence of such establishments from any public street.

(Code 1995, § 515.205(B))

Sec. 44-429. Minimum land areas.

The minimum gross land area required for formation of a planned development-housing (PD-H) district in each zoning district shall be as follows:

(1) R-1, five acres.

(2) R-2, ten acres.

(3) R-3, five acres.

(Code 1995, § 515.205(C))

Sec. 44-430. Maximum allowed density of residential development permitted.

For the planned development-housing (PD-H) district, the maximum permitted density of residential development within the various zoning districts shall be as shown in section 44-88, table 2.

(Code 1995, § 515.205(D))

Sec. 44-431. Site planning.

(a) *External relationships.* For the planned development-housing (PD-H) district, site planning within the zoning districts shall provide protection of the development from potentially adverse surrounding influences and protection of surrounding areas from potentially adverse influences within the development. In particular:

(1) Principal vehicular access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. Merging and turnout lanes or traffic dividers and extra width of the approach street shall be required where existing or anticipated heavy flows indicate a need. In general, local streets shall not be connected with streets outside the districts in such a way to encourage use of such local streets by substantial amounts of through traffic.

(2) Access for pedestrians and cyclists entering or leaving the district shall be by safe and convenient routes. Such access need not be adjacent to or limited to the vicinity of vehicular access points. Where there are crossings of pedestrian ways and vehicular routes at edges of planned developments, such crossings shall be safely located, marked, and controlled; and where such ways are exposed to substantial vehicular traffic at edges of districts, safeguards may be required to prevent crossings except at designated points. Bicycle or bridle paths, if provided, shall be so related to the pedestrian way system that street crossings are combined.

(3) Protection of visibility, automotive traffic, cyclists and pedestrians. Protection of visibility and automotive traffic for cyclists and pedestrians shall be as generally provided in section 44-121. In addition, where there is pedestrian or bicycle access from within the development to

a street at its edges by paths or across yards or other open space without a barrier to access to the street, no material impediment to visibility, as defined therein, shall be created to be maintained within areas appropriate to the circumstances of the case, but in any event within a visibility triangle equivalent to that required in section 44-121.

(4) Uses adjacent to single-family residence districts. Where a planned development-housing district adjoins a single-family district without intervening permanent open space at least 50 feet in width serving as a separation for buildable areas, the portion of the perimeter of the planned development-housing district so adjoining shall be planned and developed only for uses permitted in the adjoining residential district and in accordance with all other requirements for such district, provided that, in lieu of development, common open space for the planned development-housing district to a depth of 50 feet from the district boundary may be permitted. No intensive recreational use or off-street parking shall be permitted within 25 feet of the district boundary in such circumstances.

(5) Yards, fences, walls, or vegetative screening at edges of planned development-housing districts shall be provided where needed to protect residents from undesirable views, lighting, noise or other off-site influences or to protect occupants of adjoining residential districts from similar adverse influences within the planned development-housing district. In particular, extensive off-street parking areas and service areas for loading and unloading vehicles, other than passenger, and areas for storage and collection of refuse and garbage shall be screened. The buffer requirements of section 44-151 shall be met.

(6) Height limitations at edges of planned development-housing districts. Except along boundaries where adjoining districts permit greater heights within similar areas, in addition to height limitations applying generally within planned development-housing districts, no portion of any building in such district shall project though imaginary planes leaning inward from district boundaries at an angle representing an increase in height of six inches for each 12 inches of horizontal distance perpendicular to the district boundary.

(7) Signs visible from outside planned development-housing districts. No signs visible from outside planned development-housing districts shall be erected within such districts other than, and not to exceed, two signs identifying the development, with total maximum surface area not to exceed 16 square feet, at each principal entrance to the development. In addition, during the process of construction and initial sale of rental within such development, temporary announcement signs may be allowed, as provided in section 44-955.

(b) *Internal relationships.* The site plan shall provide for safe, efficient, convenient, and harmonious grouping of structures, uses and facilities; for appropriate relation of space inside and outside buildings to intended uses and structural features; and for preservation of desirable natural features and minimum disturbance of natural topography. In particular:

(1) Streets, drives, parking and service areas shall provide safe and convenient access to dwelling units and general facilities and for service and emergency vehicles. Streets shall not be so laid out as to encourage outside traffic to traverse the development on local streets, nor occupy more land than is required to provide access as indicated, nor create unnecessary fragmentation of the development into small blocks. In general, block size shall be the maximum consistent with use and shape of the site and the convenience and safety of occupants.

(2) Vehicular access to streets shall be limited and controlled as follows:

a. If the street or portion thereof serves 50 or less dwelling units, vehicular access from off-street parking and service areas may be directly to the street from the sites of individual dwelling units. Determination of number of dwelling units served shall be based on normal routes of traffic anticipated in the development.

b. Vehicular access to other streets or portions of streets from off-street parking and service areas shall be so combined, limited, located, designed, and controlled as to channel traffic from and to such areas conveniently, safely, and in a manner which minimizes marginal traffic friction and promotes free flow of traffic on streets without excessive interruption.

(3) Ways for pedestrians and cyclists; use by emergency or service vehicles:

a. Walkways shall form a logical, safe, and convenient system for pedestrian access to all dwelling units, project facilities, and principal off-site pedestrian destinations. Maximum walking distance in the open between dwelling units and parking areas, delivery areas, and refuse and garbage storage areas intended for use of occupants shall not exceed 100 feet.

b. Walkways to be used by substantial numbers of children as play areas or routes to school or other destinations shall be so located and safeguarded as to minimize contacts with normal automotive traffic. If substantial bicycle traffic is anticipated, bicycle paths shall be coordinated with the walkway system. Street crossings shall be held to a minimum on such walkways, shall be located and designed to promote safety, and shall be appropriately marked and otherwise safeguarded.

c. Pedestrian ways and bicycle paths, appropriately located, designed, and constructed, may be combined with other easements and used by emergency and service vehicles, but shall not be used by other automotive traffic, including motorbikes and motorcycles.

(4) Protection of visibility, automotive traffic, cyclists, and pedestrians. Protection of visibility for automotive traffic, cyclists, and pedestrians shall be provided in section 44-121.

(Code 1995, § 515.205(E))

Secs. 44-432--44-460. Reserved.

DIVISION 3. PD-SC PLANNED DEVELOPMENT-SHOPPING CENTER DISTRICTS

Sec. 44-461. Scope.

A planned development-shopping center (PD-SC) district shall be used when more than one principal structure is planned on a zoning lot or when two or more permitted uses per principal structure are developed on a single zoning lot. The regulations and requirements in this division apply to planned development-shopping center districts, defined as planned development districts for neighborhood, PD-SC(N); community, PD-SC(C); or regional, PD-SC(R), shopping centers.
(Code 1995, § 515.206)

Sec. 44-462. Procedure for establishment of districts; intent.

Planned development-shopping center (PD-SC) districts may be established in accordance with the general procedures and requirements as set forth in section 44-400. It is the intent of this division to provide for development of such centers in scale with surrounding market areas, at locations appropriate, and in accord with standards set forth in this division to serve areas not already conveniently and adequately provided with commercial and service facilities of the kind proposed. It is further the intent to permit the establishment of such districts only where planned centers with carefully related buildings, parking and service areas, and landscaped open space will serve clearly demonstrated public need, reduce marginal traffic friction below that which would result from strip commercial development, and protect property values in surrounding neighborhoods. It is further intended that planned development-shopping center districts shall provide a broad range of facilities and services appropriate to the general need of the area serviced; to these ends:

(1) *Planned development-shopping center neighborhood PD-SC(N) districts.* The intent for and access to planned development-shopping center neighborhood PD-SC(N) districts are as follows:

a. *Intent.* Planned development-shopping center neighborhood districts are intended generally to be built around a supermarket as the major use and to provide for the sale of convenience goods, for provision of personal services, and for other frequent needs of a trade area with a population of one to 4,000 within approximately one to ten minutes' driving time.

b. *Access.* Planned development-shopping center neighborhood centers shall be located only with direct access to and preferably at intersections of streets of a

collector or more intensive category or on suitable frontage roads adjacent to such streets. Access from local streets is prohibited, except where such access would not encourage through traffic on such streets.

(2) *Planned development-shopping center community PD-SC(C) districts.* The intent for and access to planned development-shopping center neighborhood PD-SC(C) districts are as follows:

a. *Intent.* Planned development-shopping center community districts are intended generally to be built around a junior department store or substantial variety store as the major tenant, in addition to a supermarket. Such centers which do not usually have a full-line department store normally serve a trade area population of 10,000 to 25,000 within 10 to 15 minutes' driving time.

b. *Access.* Planned development-shopping center community centers shall be located only with direct access to and preferably at intersections of streets of an arterial or more intensive category or on suitable frontage roads adjacent to such streets. Such centers may have secondary access to collector streets. Access from local streets is prohibited, except where such access would not encourage through traffic on such streets.

(3) *Planned development-shopping center regional PD-SC(R) districts.* The intent for and access to planned development-shopping center regional PD-SC(R) districts are as follows:

a. *Intent.* Planned development-shopping center regional districts are intended to be built around one or more full-line department stores and to serve a trade area of 100,000 or more within 25 minutes' driving time.

b. *Access.* Planned development-shopping center regional centers shall be located only at intersections of freeways or at intersections of arterial streets and controlled access roads or on suitable frontage roads adjacent to such streets or to freeways, if near interchanges. Such centers may have secondary access to collector streets. Access from local streets is prohibited, except where such access would not encourage through traffic on such streets.

(Code 1995, § 515.206(A))

Sec. 44-463. Permitted principal and accessory uses and structures.

The principal and accessory uses and structures in this section may be permitted in planned development-shopping center (PD-SC) districts, subject to the limitations and requirements set forth. The listings are intended to be illustrative, except where limitations are set forth, rather than rigidly inclusive, and planned development-shopping center rezoning may be denied if a proposed center does not provide a sufficient range of establishments to provide for the general needs of the trade area proposed to be served. Principal and accessory uses and structures are permitted in the districts as follows:

(1) *Planned development-shopping center neighborhood PD-SC(N) districts.* In the PD-SC(N) district, the following principal and accessory uses and structures are permitted:

a. Retail stores, except those dealing primarily in secondhand merchandise other than antiques, including the following:

1. Bakeries, confectioneries, delicatessens, fish markets, meat markets, and the like, with products processed or prepared on the premises sold only at retail on the premises.

2. Clothing stores, shoe stores.

3. Drugstores, newsstands, tobacco shops.

4. Florists, gift shops, jewelry stores, stationery stores, specialty shops.

5. Groceries, supermarkets.

6. Hardware, sporting goods, garden supply stores.

7. Variety stores.

b. Personal service establishments, including the following:

1. Barbershops, beauty shops.

2. Cleaning and laundry agencies; cleaning and laundry establishments not employing more than five persons in cleaning and/or laundry operations, and processing only goods delivered to and picked up from the premises by individual customers; coin-operated laundry and dry cleaning facilities.

c. Eating and drinking establishments.

d. Medical and dental offices and clinics, but not general office use; establishments for fitting and repairing eyeglasses, hearing aids, and the like.

e. Service stations, but not repair garages, provided that not more than one service station shall be permitted in any planned development shopping center neighborhood district and that no site service station shall occupy more than 25,000 square feet.

f. Public buildings and uses appropriate to the character of the district or requiring location within the district.

g. Public utilities installations and substations, provided that public utilities offices or storage or maintenance operations shall not be permitted. Utilities substations other than individual transformers shall be screened from adjacent residential districts by a masonry wall or a fence with a properly maintained screening hedge.

h. Uses and structures which are customarily accessory and clearly incidental to permitted principal uses and structure.

(2) *Planned development-shopping center community PD-SC(C) districts.* In the PD-SC(C) district, principal and accessory uses and structures are permitted the same as in the planned development-shopping center neighborhood PD-SC(N) district, with the following additions and variations:

a. Shopping goods stores.

b. Financial institutions, such as branch banks and savings and loan institutions.

c. Offices, with total office space not exceeding ten percent of total gross leasable area.

d. Service stations, but not repair garages, provided that no more than two service stations shall be permitted in any planned development shopping center district, that no service station site shall consist of more than 25,000 square feet, and that total area in service station use shall not exceed five percent of the area of the district.

e. Theaters.

(3) *Planned development-shopping center regional PD-SC(R) districts.* Principal and accessory uses and structures permitted in the PD-SC(R) district are the same as for planned development shopping center community PD-SC(C) districts, with the following additions and variations:

a. Automotive supply establishments.

b. Bowling alleys and similar commercial recreation establishments.

c. Offices, with total office space not exceeding 20 percent of total gross leasable area.

d. Service stations, but not repair garages, provided that no service station site shall exceed 25,000 square feet and that total area in service station use shall not exceed two percent of the area of the district.

(Code 1995, § 515.206(B))

Sec. 44-464. Minimum and maximum net land area.

(a) Minimum net land area required for creation of planned development-shopping center (PD-SC) districts and the maximum net land area permitted shall be as follows:

District	Minimum Acres	Maximum Acres
PD-SC(N)	1.0	6.0
PD-SC(C)	6.1	25.0
PD-SC(R)	25.1	No Limit

(b) Minimum land area requirements shall not apply where a planned development-shopping center district previously created is proposed for enlargement, but such enlargement shall not result in exceeding the maximum set for the class of district unless the proposed amendment is for establishment of a different class and all other requirements for that class are met.

(Code 1995, § 515.206(C))

Sec. 44-465. Height limitations.

Maximum height of buildings within 35 feet of property lines at the edges of the planned development-shopping center (PD-SC) district shall be 75 feet. Height may be increased one foot for each foot of additional distance from such property lines.

(Code 1995, § 515.206(D))

Sec. 44-466. Pedestrian and landscaped common areas.

An area equal to at least 0.20 times the land area of the planned development-shopping center (PD-SC) district shall be reserved for pedestrian use and landscaping and shall be improved and maintained accordingly. Such area may include covered malls for general pedestrian use, exterior walkways, play areas for children, outdoor seating area, and the like where the facilities are available for common use by tenants and visitors. Improved deck and roof areas may be included as such common area.

(Code 1995, § 515.206(E))

Sec. 44-467. Off-street parking and loading requirements.

For the planned development-shopping center (PD-SC) district, off-street parking shall be provided as required by article IX of this chapter. Off-street loading shall be provided with area location and design appropriate to the needs of occupants of the district and protection of adjacent property from adverse effects. No space designated as required off-street parking space for the general public shall be used as off-street loading space or maneuvering room for vehicles being loaded or unloaded.

(Code 1995, § 515.206(F))

Sec. 44-468. Underground electric and telephone utilities.

Electric and telephone service lines shall be underground in any planned development-shopping center (PD-SC) district.

(Code 1995, § 515.206(G))

Sec. 44-469. Sign limitations.

(a) No signs intended to be read from outside the planned development-shopping center (PD-SC) district shall be permitted except the following:

(1) One sign structure, not exceeding 35 feet in height and having not more than two sign surface areas, may be erected to identify the center along each principal street frontage from which there is a major entrance to the center. Such signs, which may not exceed 200 square feet in total sign area, may identify the center, as a whole, and the establishment's activities and facilities within the center, but shall not include other advertising.

(2) Signs directing traffic.

(3) For individual establishments, not to exceed one sign for each wall exposed to adjoining streets other than minor residential streets, mounted on the building, and not extending

above its lower roofline. Such sign shall not exceed ten percent of the area of the wall involved, provided that a sign area of 30 square feet shall not be exceeded.

(b) Insofar as reasonably practicable, no signs in planned development-shopping center districts shall be oriented toward nearby residential districts.

(Code 1995, § 515.206(H))

Sec. 44-470. Site planning.

(a) *External relationships.* Site planning for external relationships in the planned development-shopping center (PD-SC) districts shall be as follows:

(1) Orientation of permitted uses and structures shall be toward streets other than adjacent local streets in residential neighborhoods and away from such neighborhoods, whether or not the district is separated from residential areas by streets.

(2) Vehicular and pedestrian access shall be as follows:

a. Principal vehicular access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. Merging and turnout lanes, frontage streets, and/or traffic dividers shall be required where existing or anticipated heavy flows indicate need.

b. Whether required or provided voluntarily, such merging and turnout lanes, frontage streets and/or traffic dividers may be included as part of the required yard adjacent to the street; provided, however, that no such lanes, streets, or dividers shall be located in any part of any required landscaped yard established as required in subsection (a)(3)a of this section.

c. Pedestrian access may be provided at any suitable locations within the district, but shall, where practicable, be separated from vehicular access points in order to reduce congestion, marginal friction, and hazards, except where signalization is used in such a manner as to control pedestrian and vehicular movements safely.

(3) External yards with a minimum width of 35 feet shall be provided along all property lines at edges of planned development-shopping center districts except where such districts adjoin other commercial or industrial districts. Landscaping and use of such yards, except where traversed by permitted vehicular accessways, shall be as follows:

a. Along collector or arterial streets, except in areas described in subsection (a)(3)b of this section, the nearest 15 feet to the right-of-way shall be maintained in landscaping, which may include walkways, unless turnout or merging lanes are provided, in which case the nearest ten feet to the turnout or merging lane shall be landscaped. The remainder of such yard may be used for off-street parking.

b. Where side yards in residential districts adjoin the planned development shopping center district without an intervening street, the nearest 15 feet to the zoning boundary line within the planned development-shopping center district shall be maintained in landscaping, not including walkways other than continuations of sidewalks along the street, for a distance equal to minimum front yard depth required in the adjoining residential district, and no vehicular access or parking shall be permitted in such landscaped area.

c. Where lots in residential districts face a planned development-shopping center district across local streets, the nearest ten feet to the right-of-way within the planned development shopping center district shall be maintained in landscaping, and no off-street parking shall be permitted in such area. Vehicular and pedestrian access through such landscaped strip shall be only where provided for convenience of residents of adjoining residential area and shall not be so located or provided as to encourage general public access or through traffic on local residential streets.

d. In all other yards, except where adjacent to commercial or industrial districts, the nearest ten feet to the district boundary shall be maintained in landscaping, including walkways, except for permitted vehicular accessways; no off-street parking shall be

permitted in such area.

e. In general, landscaping as required in this subsection (a)(3) shall be of a nature which conceals extensive parking areas, service areas within the district, and other undesirable views into the district, where such concealment is reasonably practicable, but shall not create hazards to automotive traffic or pedestrians by reducing visibility at intersections within or adjoining the district.

f. Where deemed necessary for protection of adjacent property against the adverse effects of noise, lights or undesirable view, fences, walls, or hedges of an appropriate character shall be required. The buffer requirements of section 44-151 shall be met.

(b) *Internal relationships.* Site planning for internal relationships in the planned development-shopping center (PD-SC) districts shall be as follows:

(1) In general, the plan shall provide a unified and well-organized arrangement of buildings, service areas, parking, pedestrian, and landscaped common areas providing for maximum comfort and convenience of visitors and occupants. Commercial buildings shall be so grouped in relation to parking areas that, after visitors arriving by automobile enter the walkway system, establishments can be visited conveniently with a minimum of internal automotive movements.

(2) Facilities and access routes for shopping center deliveries, servicing, and maintenance shall be so located and arranged as to prevent interference with pedestrian traffic in the center.

(3) Service stations, if provided, shall be so located that operations do not interrupt pedestrian or traffic flows in other parts of the center.

(4) Loading zones where customers pick up goods shall be so located and arranged as to prevent interference with pedestrian movement.

(Code 1995, § 515.206(I))

Sec. 44-471. Maximum permitted floor ratio.

The maximum permitted floor ratio in planned development-shopping center (PD-SC) districts shall be as follows:

District	Maximum Floor Area Ratio
PD-SC(N)	**1:5**
PD-SC(C)	**1:3**
PD-SC(R)	**1:3**

(Code 1995, § 515.206(J))

Secs. 44-472--44-500. Reserved.

DIVISION 4. PD-O-I PLANNED DEVELOPMENT-OFFICE AND INSTITUTIONAL DISTRICTS

Sec. 44-501. Scope; intent; permitted locations.

(a) A planned development-office and institution (PD-O-I) district shall be used when more than one principal structure is planned on a zoning lot or when two or more permitted uses per principal structure are developed on a single zoning lot.

(b) Planned development-office and institutional districts may be established in accordance with the general procedures and requirements set forth in section 44-400. Such districts are defined as planned development districts for establishment of complementary groupings of office and institutional uses. Where developments exist or are proposed and previously approved

developments are in progress, which are of a nature substantially in accord with the intent of this article, they may be rezoned to planned development-office and institutional status and shall thereafter be subject to the regulations and requirements for such districts.

(c) It is the intent of this division to provide for development of such districts at locations appropriate in terms of the adopted land use plan in accordance with standards set forth in this division.

(d) It is further intended that planned development-office and institutional development shall be scaled, balanced, and located to reduce general traffic congestion by providing employment close to principal places of residence and convenient pedestrian circulation systems.

(e) Within such districts, it is intended that uses shall be so arranged that:

(1) Major vehicular traffic flows and other disquieting influences be so separated from residential areas as to protect privacy and tranquility; and

(2) General commercial and service uses be concentrated for maximum pedestrian convenience and located for easy accessibility by workers and visitors.

(f) Where such districts adjoin residential neighborhoods, it is intended that arrangement of buildings, uses, open space, and vehicular access be such as to provide appropriate transition and reduce potentially adverse effects.

(Code 1995, § 515.207(A))

Sec. 44-502. Permitted principal uses and structures.

The following permitted principal uses and structures are allowed in planned development-office and institution (PD-O-I) districts:

(1) Offices; clinics, other than veterinary offices or clinics; studios; laboratories.

(2) Funeral homes.

(3) Banks, savings and loan associations, and similar financial institutions.

(4) Hospitals.

(5) Structures and uses required for operation of a public utility or performance of a governmental function, except uses involving extensive storage, or with storage as the principal purpose.

(6) Schools, primary and secondary.

(7) Churches.

(8) Cemeteries, human.

(9) Business, professional, labor, civic, social, and fraternal offices.

(10) Child care nurseries; day care centers; prekindergarten, kindergarten, play and other special schools, or day care facilities for young children.

(11) Adult care centers.

(12) Libraries, museums, and galleries.

(13) Auditoriums and their accessory facilities.

(14) Community center buildings.

(Code 1995, § 515.207(B))

Sec. 44-503. Permitted accessory uses and structures.

Uses and structures which are customarily accessory and clearly incidental to permitted principal uses and structures shall be permitted in the planned development-office and institution (PD-O-I) district.

(Code 1995, § 515.207(C))

Sec. 44-504. Permitted intensity of development.

The maximum permitted floor area ratio in the planned development-office and institution (PD-O-I) district shall be 1:2.
(Code 1995, § 515.207(D))

Sec. 44-505. Setbacks required adjacent to residential districts.

(a) Where planned development-office and institution (PD-O-I) districts adjoin residential districts without an intervening street or alley, a setback at least 30 feet in width shall be provided along such joint boundary.

(b) Setbacks required in subsection (a) of this section shall not be used for parking, nor shall they be used for driveways serving five or more parking spaces.
(Code 1995, § 515.207(E))

Sec. 44-506. Site planning.

(a) *External relationships.* Relations of the planned development-office and institution (PD-O-I) district to surrounding areas shall be as provided for planned development-housing districts in section 44-431(a).

(1) *Requirement for arterial or collector access.* No planned development-office and institutional district shall be created except where direct access to an arterial street or collector street is available, or is made available, at convenient locations at the edges of or within the district. Such street access shall be at a scale and of a character suited to the needs of occupants and visitors.

(2) *Location of uses in relation to adjoining residential districts.* Where a planned development-office and institutional district adjoins any district, with or without an intervening street or alley, to the maximum extent reasonably practicable, nonresidential uses and signs shall be located or oriented away from the residential district.

(3) *Buffers.* The buffer requirements of section 44-151 shall be met.

(b) *Internal relationships.* The site plan shall provide for safe, efficient, convenient, and harmonious groupings of structures, uses, facilities, and open spaces in a manner facilitating pedestrian movement between major origins and destinations within and adjacent to the district with a minimum of conflicts with vehicular traffic. In particular:

(1) Pedestrian systems through buildings shall be related to a network of exterior open spaces reserved for pedestrian use and enjoyment. Interior and exterior pedestrian ways shall be scaled for anticipated traffic and form a convenient pattern connecting major concentrations of uses within the district.

(2) Streets, parking areas, and service areas shall be so located and designed as to separate private vehicular use within the district from principal pedestrian areas. Such separation may be horizontal, with vehicular areas concentrated and grouped in a logical location, at edges of the district adjacent to major or collector streets, or vertical, with vehicular areas under buildings.

(3) Spacing of buildings or portions of buildings shall be as provided in article IV of this chapter.
(Code 1995, § 515.207(F))

Sec. 44-507. Sign limitations.

The following limitations and requirements shall apply to signs in planned development-office and institution (PD-O-I) districts:

(1) Off-site advertising signs are prohibited in PD-O-I districts.

(2) No signs intended to be read from outside the district, or from public streets within the district, shall be permitted except as indicated in this section. Limitations in this subsection shall not be construed to apply to signs visible only from pedestrian ways or private streets and adjoining buildings and groups within the district or to signs or sign structures erected by

the county.

(3) General identification signs for the development as a whole shall be permitted as follows: One sign structure, not exceeding 35 feet in height, and having not more than two sign surface areas, each limited to 40 square feet, may be erected inside or outside required setbacks adjacent to public streets, provided that no such sign shall overhang any public way or be so located or constructed as to create a dangerous impediment to traffic visibility. Such signs may identify the development as a whole and bear directional information, but shall contain no advertising matter.

(4) Minor directional sign structures, having not more than two sign surface areas, each limited to four square feet, may be erected as reasonably necessary for the safety and convenience of visitors to the center.

(5) Identification signs for major buildings or complexes shall be erected only upon the walls of buildings and shall not project more than 1 1/2 feet beyond the wall upon which mounted nor above the lower roofline. Only one such sign shall be permitted for each face of the building visible from a public street other than a minor residential street, except that where the length of such face of the building exceeds 150 feet, a second sign shall be permitted. Minimum area allotment for any such sign shall be 100 square feet or two percent of the surface area of the building on the exposure involved, up to a maximum of 200 square feet. Such signs shall indicate only the name of the building or complex and the nature of the establishments therein.

(6) Signs identifying individual establishments or offices from public streets shall be permitted as follows:

a. One sign mounting, attached to the wall of the building, and containing not more than two sign surfaces, each with maximum surface area of 30 square feet, shall be permitted. Such sign shall not project more than 18 inches from the wall to which attached or extend above any lower roofline or in any case above a height of 20 feet above ground level.

b. One identification sign, not exceeding two square feet in area, shall be permitted on each display window and on each principal entrance.

(Code 1995, § 515.207(G))

Secs. 44-508--44-535. Reserved.

DIVISION 5. PD-MU PLANNED DEVELOPMENT-MIXED USE DISTRICTS

Sec. 44-536. Scope; applicability.

A planned development-mixed use (PD-MU) district shall be used when more than one principal structure is planned on a zoning lot or when two or more permitted uses per principal structure are developed on a single zoning lot. This division applies to planned development-mixed use districts.
(Code 1995, § 515.208)

Sec. 44-537. Establishment of district; intent.

(a) Planned development-mixed use (PD-MU) districts may be established in accordance with the general procedures and requirements set forth in section 44-400. Such districts are defined as planned development districts for establishment of complementary groupings of residential, commercial, and office uses. Where existing developments exist or proposed and previously approved developments are in progress, which are of a nature substantially in accord with the intent of this chapter, they may be rezoned to planned development-mixed use status and shall thereafter be subject to the regulations and requirements for such districts.

(b) It is the intent of this division to provide for development of such districts at locations appropriate in terms of the adopted land use plan and in close proximity to collector and arterial street facilities, in accord with standards set forth in this division.

(c) It is further intended that planned development-mixed use development shall be in complexes within

which mutually supporting residential, commercial, and office uses are scaled, balanced, and located to reduce general traffic congestion by providing housing close to principal destinations and convenient pedestrian circulation systems.

(d) Within such districts, it is intended that uses shall be arranged horizontally or vertically so that:

(1) Residential uses be so separated from major vehicular traffic flows and other disquieting influences as to protect privacy and tranquility; or

(2) General commercial and service uses be concentrated for maximum pedestrian convenience and located for easy accessibility by residents of the district, workers within the district, and commercial frontage is uninterrupted by residential or office uses; and

(3)

(a) Major office uses be so located as to be convenient to collector or arterial streets.

(b) Where such districts adjoin residential neighborhoods, it is intended that arrangement of buildings, uses, open space, and vehicular access be such as to provide appropriate transition and reduce potential adverse effects.

(Code 1995, § 515.208(A))

Sec. 44-538. Permitted principal and accessory uses and structures.

Permitted principal and accessory uses and structures in the planned development-mixed use (PD-MU) district are as follows:

(1) The following permitted principal uses and structures are allowed:

a. One-family, two-family, and multifamily dwellings, detached, semidetached, and attached.

b. Offices, clinics, studios, laboratories.

c. Banks, savings and loan associations, and similar financial institutions.

d. Retail stores, except those dealing in secondhand merchandise.

e. Eating and drinking establishments, catering establishments, delicatessens, and bakeries with products sold at retail on the premises.

f. Barbershops, beauty shops, and similar personal service establishments.

g. Laundry and dry cleaning collection stations, laundry and dry cleaning plants employing not more than five persons in any one shift in actual laundering, or dry cleaning establishments where equipment is operated by customers.

h. Tailoring, custom dressmaking, millinery, and similar establishments with on-premises retail sales only.

i. Repair establishments for home appliances, bicycles, lawn mowers, shoes, clocks and watches, and the like.

j. Hotels, motels.

k. Child care nurseries; day care centers; prekindergarten, kindergarten, play and other special schools; or day care facilities for young children.

l. Adult care centers.

m. Churches, synagogues, temples, and the like.

n. Recreation establishments, including theaters, bowling alleys, pool rooms, billiard parlors, and the like.

o. Structures and uses required for operation of a public utility or performance of a

governmental function, except uses involving extensive storage, or with storage as the principal purpose; railroad rights-of-way, stations or tracks, but not railroad yards, or major storage or warehousing operations.

(2) Automobile sales or repair and service stations are not permitted in this district.

(3) Accessory uses and structures which are customarily and clearly incidental to permitted principal uses and structures shall be permitted in this district.

(Code 1995, § 515.208(B))

Sec. 44-539. Minimum required gross land area.

The minimum required gross land area for the establishment of planned development-mixed use (PD-MU) districts shall be 80,000 square feet.
(Code 1995, § 515.208(C))

Sec. 44-540. Maximum permitted floor area ratio.

The maximum permitted floor area ratio for planned development-mixed use (PD-MU) districts shall be 1:2.
(Code 1995, § 515.208(D))

Sec. 44-541. Pedestrian and landscaped common areas.

In the planned development-mixed use (PD-MU) district, for uses other than residential, the same amount of area shall be required in pedestrian and landscaped areas as would be required as open space for a residential use. In relation to nonresidential uses, such space may include covered malls for general pedestrian use as well as exterior walkways, play areas for children, outdoor seating areas, and the like. When covered malls are so included, they shall be excluded in computing floor area.
(Code 1995, § 515.208(E))

Sec. 44-542. Recreation space.

Recreation space shall not be required in the planned development-mixed use (PD-MU) district, except in connection with residential uses.
(Code 1995, § 515.208(F))

Sec. 44-543. Off-street parking.

In the planned development-mixed use (PD-MU) district, off-street parking shall be provided as required in article IX of this chapter.
(Code 1995, § 515.208(G))

Sec. 44-544. Minimum yard requirements adjacent to public streets.

In the planned development-mixed use (PD-MU) district, minimum front yards adjacent to public streets shall be 30 feet.
(Code 1995, § 515.208(H))

Sec. 44-545. Yards required adjacent to residential districts.

Where planned development-mixed use (PD-MU) districts adjoin residential districts without an intervening street or alley, a yard at least 20 feet in width, if a side yard, or depth, if a rear yard, shall be provided along such joint boundary.
(Code 1995, § 515.208(I))

Sec. 44-546. Restriction on vehicular use of yards required adjacent to public streets.

In the planned development-mixed use (PD-MU) district, yards required adjacent to public streets shall not be used for parking, and yards required adjacent to residential districts shall not be used for driveways serving five or more parking spaces.

(Code 1995, § 515.208(J))

Sec. 44-547. Site planning.

(a) *External relationships.* Relation of the planned development-mixed use (PD-MU) district to surrounding areas shall be as provided for planned development-housing districts in section 44-431(a).

(1) *Requirement for street access.* No planned development-mixed use district shall be created except where direct access to an arterial street is available, or is made available, at convenient locations at the edges of or within the district. Such street access shall be at a scale and of a character suited to the needs of occupants and visitors.

(2) *Location of uses in relation to adjoining residential districts.* Where a planned development-mixed use district adjoins any residential district, with or without an intervening street or alley, to the maximum extent reasonably practicable, residential uses within the planned development mixed use district shall be located adjacent to the residential district, and nonresidential uses and signs shall be located and oriented away from the residential district.

(3) *Buffers.* The buffer requirements of section 44-151 shall be met.

(b) *Internal relationships.* The site plan shall provide for safe, efficient, convenient, and harmonious groupings of structures, uses, facilities, and open spaces in a manner facilitating pedestrian movement between major origins and destinations within and adjacent to the district with a minimum of conflicts with vehicular traffic. In particular:

(1) Pedestrian through buildings shall relate to a network of exterior open spaces reserved for pedestrian use and enjoyment. Interior and exterior pedestrian ways shall be scaled for anticipated traffic and form a convenient pattern connecting major concentrations of uses within the district.

(2) Streets, parking areas, and service areas shall be so located and designed as to separate private vehicular use within the district from principal pedestrian areas. Such separation may be horizontal, with vehicular areas concentrated and grouped in a logical location at edges of the district adjacent to major or collector streets, or vertical, with vehicular areas under buildings.

(3) Relationship of uses shall be such that major commercial and service establishments are grouped for maximum pedestrian convenience along frontages uninterrupted by residential or general office occupancies. Residential or general office uses may either be in separate areas within the districts or may be separated vertically from commercial and service concourses.

(4) Spacing of buildings or portions of buildings shall be as provided in article IV of this chapter.

(Code 1995, § 515.208(K))

Secs. 44-548--44-575. Reserved.

DIVISION 6. PD-IP PLANNED DEVELOPMENT-INDUSTRIAL PARK DISTRICTS

Sec. 44-576. Scope.

A planned development-industrial park (PD-IP) district shall be used when more than one principal structure is planned on a zoning lot or when two or more permitted uses per principal structure are developed on a single zoning lot. The regulations and requirements in this division apply to planned development-industrial park districts.

(Code 1995, § 515.209)

Sec. 44-577. Establishment of district; intent; location.

(a) Planned development-industrial park (PD-IP) districts may be established in accordance with the general procedures and requirements set forth in section 44-400. Such districts are defined as planned development districts for establishment of complementary groupings of related manufacturing, processing, assembly, research activities, and related uses. It is the intent of this

division to provide for development of such districts at locations appropriate in terms of the adopted land use plan and in accord with standards set forth in this division.

(b) It is further intended that planned development-industrial park districts shall be developed to:

(1) Encourage concentration of complementary uses grouped adjacent to streets serving large traffic volume, providing well-planned development on sites with adequate frontage and depth to permit controlled access to streets and reduce marginal traffic friction;

(2) Serve as an alternative to further extensions of industrial zoning allowing disorderly strip development; and

(3) Protect stability and property values in surrounding residential neighborhoods.

(Code 1995, § 515.209(A))

Sec. 44-578. Minimum area required for establishment of access requirements.

No planned development-industrial park (PD-IP) district shall be established with a land area of less than ten acres, with width and depth adequate for the plan proposed, but with at least 200 feet of frontage on an arterial or collector street.

(Code 1995, § 515.209(B))

Sec. 44-579. Permitted principal and accessory uses and structures.

For the planned development-industrial park (PD-IP) district, permitted principal and accessory uses and structures shall be according to article III of this chapter and the corresponding zoning districts. Business and professional service offices are permitted uses. In addition, applications for amendments to planned development-industrial park zoning districts may be denied, if the proposed district does not contain facilities deemed complementary and compatible or if a particular group of uses, in themselves complementary and compatible, would be inappropriate in the location proposed because of the character of surrounding development and zoning.

(Code 1995, § 515.209(C))

Sec. 44-580. Maximum floor area ratio.

Maximum floor area ratio permitted in any planned development-industrial park (PD-IP) district shall be 1:3.

(Code 1995, § 515.209(D))

Sec. 44-581. Height limitations.

In the planned development-industrial park (PD-IP) district, maximum height of buildings shall be 75 feet. Structures of greater height shall be permitted if, for every foot of height or portion thereof above 75 feet, such structures shall be set back one foot more than the minimum setback specified.

(Code 1995, § 515.209(E))

Sec. 44-582. Off-street parking and loading requirements.

Off-street parking and loading requirements for the planned development-industrial park (PD-IP) district shall be as established in article IX of this chapter.

(Code 1995, § 515.209(F))

Sec. 44-583. Underground electric and telephone utilities.

Electrical and telephone service lines shall be underground in any planned development-industrial park (PD-IP) district.

(Code 1995, § 515.209(G))

Sec. 44-584. Sign limitations.

Sign limitations in the planned development-industrial park (PD-IP) district shall be as provided for planned development-shopping center districts in section 44-469.

(Code 1995, § 515.209(H))

Sec. 44-585. Site planning.

For the planned development-industrial park (PD-IP) district, site planning considerations and requirements shall be as provided for planned development-mixed use districts in section 44-547.
(Code 1995, § 515.209(I))

Secs. 44-586--44-610. Reserved.

ARTICLE XII. HISTORIC DISTRICTS

Sec. 44-611. Purpose.

The historic districts of the county are among the most valued and important assets of the county. They are established for the purpose of:

(1) Protecting and conserving the heritage of the county and the state;

(2) Safeguarding the character and heritage of the districts by preserving the individual districts as a whole and any individual property therein that embodies important elements of its social, economic, cultural, political or architectural history;

(3) Promoting the conservation of such districts for the education, pleasure and enrichment of residents of the districts, the county and the state as a whole;

(4) Fostering civic beauty; and

(5) Stabilizing and enhancing property values throughout the districts;

thus contributing to the improvement of the general health and welfare of the citizens of the county and the residents of the districts.
(Code 1995, § 515.220)

Sec. 44-612. Scope.

Historic districts, when established, will be a series of districts which overlap and overlay existing zoning districts, the extent and boundaries of which are as indicated on the official zoning atlas. The boundaries of the historic districts will be shown on the official zoning atlas.
(Code 1995, § 515.221)

Sec. 44-613. Procedures for establishing district.

(a) Parties desiring to establish a historic district may petition the planning board following the procedure used for all amendments to this chapter.

(b) The planning board shall give recommendations for the appropriateness of the establishment of a historic district to the board of commissioners.

(c) Upon receipt of the planning board's recommendation, the board of commissioners will either deny the request for the establishment of the historic district or proceed with the provisions of G.S. 160A-400.1 et seq. for the establishment of such a district. If it so desires, the board of commissioners can appoint a special advisory panel to give it a recommendation concerning the establishment of such a district. The board of commissioners can withhold action on such request, however, until it receives this advisory panel's recommendation. In the board's decision, it is not bound to follow the recommendation of either the planning board or such advisory panel.

(Code 1995, § 515.222)

Secs. 44-614--44-640. Reserved.

ARTICLE XIII. SPECIAL DISTRICTS

DIVISION 1. GENERALLY

Sec. 44-641. Intent.

(a) It is the intent of this article to permit creation of special districts:

(1) In general areas officially designated as having special and substantial interest in protection of existing or proposed character or of principal views of, from or through the areas;

(2) Surrounding individual buildings or grounds where there is special and substantial interest in protecting such buildings and their visual environment; or

(3) In other cases where special and substantial interest required modification of otherwise applicable zoning regulations or repeal and replacement of such regulations for the accomplishment of the special purposes for which the special district is established.

(b) It is further intended that such districts and the regulations adopted for them shall be in accord with and promote the purposes set out in the adopted land development plan and other officially adopted plans of the county in accordance therewith and shall encourage land use and development in substantial accord with the physical design set out therein.

(Code 1995, § 515.235)

Sec. 44-642. Effect of designation.

Special districts may either:

(1) Supplant districts or portions of districts existing at the time of creation of a particular special district; or

(2) Have the effect of modifying requirements, regulations and procedures applying in existing districts or districts created and remaining after special districts are superimposed, to the extent indicated in the particular special amendment.

(Code 1995, § 515.236)

Sec. 44-643. Recommendation for zoning.

(a) *Generally.* Recommendations for creation of special zoning districts shall be prepared only by the zoning administrator, on his own initiative or at the direction of the board of commissioners. Each recommendation shall identify the proposed zoning by the special prefix and a number identifying the particular district, as for example special district-3, together with whatever other identification appears appropriate, and shall contain information and proposals as indicated in this section concerning the areas, buildings, and/or premises proposed for such regulation.

(b) *Statement of intent.* The recommendation for special district zoning shall include a statement of intent, specifying the nature of the special and substantial interest involved, and the objectives to be promoted by special regulations and/or procedures within the district as a whole or within subareas of the district, if division into such subareas is reasonably necessary for achievement of regulatory purposes.

(c) *Proposed district boundaries.* The recommendations shall include a map and pertinent supplementary material indicating, as applicable, the following:

(1) The boundaries of the special district and any subareas, if any, established within the district for purposes of special regulations.

(2) The zoning designations of all portions of underlying districts, if any, which will remain after special zoning is superimposed and the general regulations of which will be affected by the superimposed special zoning. Where it is proposed to change the boundaries or zoning designation of remaining underlying districts affected in the same action by which special

zoning is applied, the map shall show the nature and location of such change.

(3) The location and zoning designation of districts or portions of districts to be supplanted by special zoning.

(d) *Proposed regulations.* The recommendations shall include regulations designed to promote the special purposes of the district, as set out in the statement of intent. In particular such regulations may require submission of detailed site plans, building plans and elevations, and maps indicating the relation of proposed development to surrounding or otherwise affected property in terms of the following:

(1) Location, amount, character, and continuity of open space;

(2) Protection of desirable principal views;

(3) Convenience of access through and between buildings or in other locations where appropriate for public purposes and where such access will reduce pedestrian congestion on public streets;

(4) Separation of pedestrian and vehicular traffic;

(5) Signs;

(6) Lighting;

(7) Mixtures of proposed uses; and

(8) Other matters appropriate to required determinations of the relation to the special interest of the district and the objectives to be promoted.

(e) *Special approval requirements.* The regulation may require special review of development plans by the zoning administrator, the planning board, the board of commissioners, or other officials or agencies of the county generally within the special district or in designated portions of the district, and generally for all development or for specified classes of development. Where special approval or a special use permit is required, no building permit or certificate of occupancy shall be issued until after written approval or for development other than that which is in accord with approved plans and instruments involved.

(f) *Provisions for alterations from regulations applying generally.* In connection with special plan or special use permit requirements, regulations for a particular special district or for specified classes of special districts may also authorize or require alterations from regulations applying generally within such districts.

(1) *Authorized alterations.* Procedures for authorized alterations are as follows:

a. The body, officials, or agencies charged with responsibility for such special plan or special use permit review in special districts shall authorize alterations from regulations generally applying in such districts only upon written application by those submitting plans in a particular case, and only upon making written findings that:

1. A plan proposed by an applicant, while not strictly in accord with regulations applying generally within the district, meets intended purposes and provides public protection to an equivalent or greater degree; or

2. In the particular circumstances of the case, strict application of the regulations is not necessary for the accomplishment of intended purposes or the provision of public protection, at the time or under foreseeable circumstances.

b. No such alteration shall increase population density or maximum floor area above that generally permitted in the district.

c. Where such special plan or special use permit review involves more than one body, official or agency, no such alteration shall be allowed except upon complete concurrence of all bodies, agencies or officials charged with a role in the decision-making process.

(2) *Required alterations.* Procedures for required alterations are as follows:

a. The body, officials, or agencies charged with responsibility for such special plan or special use permit review in special districts may require alterations from regulations generally applying in such districts only upon making written findings in a particular case that, for reasons specifically set forth, such alterations are especially necessary for the public protection or the protection of the environs of particular buildings and premises.

b. Among other things, such alterations may require relocation of or increase in yards or other open spaces generally required; reduction in height generally permitted; additional limitation on uses, signs, or illumination; and buffering and screening to a greater degree than generally required. No such alteration shall decrease the population density or maximum floor area generally permitted in the district.

c. Where such special plan or special use permit review involves more than one body, official or agency, no such alteration shall be required except upon complete concurrence of all bodies, agencies or officials charged with a role in the decision-making process.

(g) *Recording authorized or required alterations.* Where alterations are thus authorized or required, notation shall be made in the official zoning atlas by appropriate identification of the property, the instrument involved and the date of the action.

(h) *Alteration not considered variance.* An alteration, under this section, is declared not to be a variance, as controlled by chapter 2, article IV, division 3, and section 44-42; and the two terms are not to be considered synonymous.

(Code 1995, § 515.237)

Sec. 44-644. Procedures for adoption of special amendments.

Subject to such additional requirements as are set out under this article, adoption of special amendments shall be by the same procedures as for amendments generally, as set forth in sections 44-44 and 44-45.

(Code 1995, § 515.238)

Secs. 44-645--44-670. Reserved.

DIVISION 2. LAKE NORMAN SURFACE WATER DISTRICT (SPECIAL DISTRICT-1)

Sec. 44-671. Statement of intent.

Lake Norman is the largest of the manmade reservoirs in the Catawba River system, which flows through the North Carolina Piedmont into South Carolina. The lake, constructed in 1962 to provide water, electric power and recreation for the region, has a surface area of 32,510 acres. Portions of Lake Norman extend into the southeastern portion of the county, where large tracts of land adjoining the lake have been committed to development. Duke Power Company owns extensive acreage to serve its power plant located on the shores of the lake. The recreational and scenic opportunities around the lake have been recognized by developers, and numerous residential and second home communities have been created along the lakeshore. It is the intent of this chapter to protect the Lake Norman surface water district for the enhancement of recreation, water safety, and scenic beauty on and around Lake Norman.

(Code 1995, § 515.239(A); Ord. No. 2002-04, § A, 7-8-2002)

Sec. 44-672. Boundaries.

(a) This division shall apply to the surface waters of Lake Norman lying below the contour elevation 760 feet above mean sea level USGS datum and to land located within 1,000 feet of the shoreline on such lake when measured from full pond level; contour elevation 760 feet above mean sea level USGS datum.

(b) Any structures or manmade improvements which are to be placed on, above, within, or adjacent to the waters of Lake Norman which by their placement affect the use of waters, including but not

limited to piers, floating pier extensions, floating boathouses, moorings or floats, marine railways, hoists and lifts, breakwaters, fillings, dredging, signs, lighting, and overhead transmission lines, public and private swimming areas and private bridges, shall be subject to this division.

(c) All dimensional requirements in this division, when reference is made to the water surface, shall be measured from the full pond level, elevation 760 feet above mean sea level USGS datum.

(Code 1995, § 515.239(B)

Sec. 44-673. Regulations.

The following shall apply in the Lake Norman surface water district (special district-1):

(1) *Piers and docks.* Piers and docks shall be subject to the following:

a. Piers may extend over the water a maximum distance of 120 feet from the shore.

b. In no event shall a pier, when located in a cove, extend more than one-third the width of the cove measured from the shore at the point of the proposed construction to the nearest point on the opposite shore.

c. Piers shall have two white reflectors, a minimum of six inches above the 760-foot contour, on each farthermost corner of the pier in the water, reflecting light parallel to the shore in each direction, and also directly across the water.

d. White reflectors shall also be placed at intervals of not more than 15 feet six inches above the water, on each side of the pier beginning at its outermost extension into Lake Norman, extending to the 760-foot contour on the shore.

(2) *Moorings and floats.* When placed in the lake for navigational purposes, moorings and floats shall be so placed only with the expressed written approval of the Lake Norman Marine Commission or state wildlife commission. When placed for the purpose of mooring boats or other legal and authorized floating objects, the moorings shall be separated on every side from any other mooring by a distance of 50 feet and located so as to permit unobstructed passage of through boats. They shall be anchored in such a manner as not to deny or obstruct access to Lake Norman from boat docks, piers or boat-launching ramps.

(3) *Marine railways.* Marine railways shall have permanent signs, complying with the requirements of the uniform marking system, designating the location of the marine railway. No such installation shall extend above the normal or natural lakebed at the time of construction more than 18 inches, between a horizontal measurement extending from the 760-foot contour to a water depth of 15 feet below the 760-foot contour. The location of railways and signs shall be approved by the Lake Norman Marine Commission.

(4) *Breakwaters.* Breakwaters, when constructed for the purpose of protecting docks, piers, or other facilities, shall be so placed as to protect the particular facility for its width only and shall not offer area protection which might overly obstruct passage on the lake. Further, they shall be so located and marked as not to be a hazard to boating at any time. Breakwaters shall be approved by the Lake Norman Marine Commission prior to installation.

(5) *Hoists and lifts.* Prior to installation, all hoists and lifts, due to the unique nature of their construction, shall be determined by the county building inspector to conform to all federal and state requirements applying thereto.

(6) *Filling.* All fill projects shall be approved by the Lake Norman Marine Commission. All fill placed above the water level and adjacent to Lake Norman shall be faced with riprap to prevent fill from being eroded into the lake. All fill shall be sufficiently compacted to reach 90 percent maximum dry density, using the standard proctor test.

(7) *Dredging.* All dredging shall be conducted in such a way that the spoil therefrom is not placed back in the lake and shall be approved by the Lake Norman Marine Commission and other agencies as required prior to commencement.

(8) *Signs.* Signs, other than navigational signs, shall not be allowed on the surface of the lake nor within 25 horizontal feet of the water edge at the 760-foot contour. Lighted signs shall have fixed, indirect or internal lighting. There shall be no off-site advertising signs placed or

maintained so as to be visible from the lake.

(9) *Lighting.* Lighting, which offers navigational aid on Lake Norman, whether public or private, shall be approved by the Lake Norman Marine Commission prior to installation. When installed for purposes other than navigation, lighting shall not be moving or flashing nor colored in any manner, except a continuous nonflashing yellow light for insect control. Regardless of purpose, all lighting shall be of such intensity as not to cause night blindness for boat operators on the lake nor inhibit vision.

(10) *Overhead transmission lines.* Overhead power transmission and distribution lines and communications lines shall be constructed to a minimum height of 48 feet, at maximum deflection, above the 760-foot contour.

(11) *Swimming areas.* Public and private swimming areas shall not be defined in water beyond a depth of 15 feet nor more than 80 feet from the shoreline. Private swimming areas may be marked and protected in keeping with state wildlife commission regulations.

(Code 1995, § 515.239(C); Ord. No. 2002-04, § C, 7-8-2002)

Secs. 44-674--44-700. Reserved.

DIVISION 3. WATERSHED PROTECTION DISTRICT (SPECIAL DISTRICT-2)

Sec. 44-701. Statement of intent.

(a) Surface waters of the state and county are a precious but delicate natural resource.

(b) They are life-sustaining for humans, animals, and vegetation both directly and as a source of recharge for the underground aquifers. They provide an essential link in almost all natural processes, provide opportunities for recreation and refreshment, supply industrial needs for process and cooling water, generate power, and contribute immeasurably to scenic beauty.

(c) Most important, surface waters provide raw water for domestic consumption and fire protection to scores of communities in the state, including several in the county and its surrounding jurisdictions.

(d) It is essential for the protection of the public health, safety, and general welfare that the integrity of these surface waters be protected from pollution, so that the well-being of present and future residents and visitors to the county and surrounding jurisdictions be assured, the costs of furnishing potable water be minimized, and the quality and quantity of surface water be protected.

(e) It is the intent of the watershed protection district (special district-2) to provide regulations which will limit the exposure of watersheds, under the jurisdiction of the county and used as sources of supply for public water systems, to pollution. The sources of such pollution include leachate from septic tank nitrification fields; stormwater runoff; accidental spillage from residential, commercial and industrial operations; and the like.

(f) These occurrences can contribute biological contamination, turbidity from soil erosion and sedimentation, nutrient enhancement, and heavy metal pollution, all of which endanger the water supplies of communities dependent on these watersheds for life-giving and life-sustaining water.

(Code 1995, § 515.240(A))

Sec. 44-702. Authority.

The state legislature has, in G.S. 153A-121 and in G.S. 143-211--143-215.741, delegated the responsibility or directed local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. The county enacts into law this division, known as the watershed protection district (special district-2), as required by the Water Supply Watershed Protection Act of 1989.
(Code 1995, § 515.240(B))

Sec. 44-703. Boundaries.

(a) The boundaries of the watershed protection district (special district-2) encompassing the watersheds

within the county's jurisdiction are shown as overlay districts on the official zoning atlas and are adopted as part of this chapter. Where watershed boundaries follow tomographic boundaries and the official zoning atlas does not accurately represent the actual topographic boundary, a surveyed plat prepared by a registered land surveyor may be submitted to the county as evidence that one or more properties along these boundaries do not lie within the watershed area.

(b) The watershed protection overlay district shall, as appropriate, impose greater restrictions, require higher development standards, prohibit certain uses and require additional approvals as stated in this division.

(c) The water quality critical area (WQCA) is established as a subdistrict of the special district-2. The water quality critical area is depicted on the official zoning atlas.

(Code 1995, § 515.240(C))

Sec. 44-704. Existing development and exceptions to applicability.

(a) Existing development, as defined in this section, is not subject to the requirements of this division. The term "existing development" is defined as those projects that are built or those projects that at a minimum have established a vested right under state law as of the effective date of this division (January 1, 1994) based on at least one of the following criteria:

(1) Having expended substantial resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project;

(2) Having an outstanding valid building permit as authorized by G.S. 153A-344.1 and 160A-385.1; or

(3) Having an approved site-specific or phased development plan as authorized by G.S. 153A-344.1 and 160A-385.1.

(b) A preexisting lot of record owned prior to the effective date of this division (January 1, 1994), regardless of whether a vested right has been established, may be developed for single-family residential purposes without being subject to the restrictions of this division, provided the property is zoned for this use and it meets the underlying zoning requirements.

(c) Expansions to structures, other than single-family, classified as existing development must meet the requirements of this division; however, the built-upon area of the existing development is not required to be included in the density calculations.

(d) Any existing nonresidential or multifamily (three or more dwelling units) structure or built-upon area not in conformance with the density or built-upon restrictions of this division that has been damaged or removed may be repaired and/or reconstructed provided it meets the following conditions:

(1) The repair or reconstruction is in compliance with article X of this chapter;

(2) Repair or reconstruction is initiated within 12 months and completed within two years of such damage; and

(3) The total amount of built-upon area may be increased according to the built-upon restrictions as allowed for existing development.

(e) Uses existing on January 1, 1994, but which would not be permitted to be established in the watershed protection district in which they are located, may continue subject to article VIII of this chapter, except as follows:

(1) When such nonconforming use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.

(2) Such nonconforming use of land shall be changed only to an allowed use.

(3) Expansions may be allowed subject to the built-upon restrictions as allowed for existing development.

(f) If the requirements of this section conflict with other portions of this division, the more restrictive of each particular item shall apply.

(Code 1995, § 515.240(D))

Sec. 44-705. Definitions.

The definitions found in this section apply specifically to this division and are intended to supplement the definitions found in section 44-4. The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animal unit means a unit of measurement developed by the U.S. Environmental Protection agency that is used to compare different types of animal operations.

Balance of watershed (BW) means the land area outside of the critical area which contributes surface drainage to a WS-II or WS-III watershed.

Best management practice (BMP) means a structural or nonstructural management-based practice used singularly or in combination to reduce non-point-source inputs to receiving waters in order to achieve water quality protection goals.

Buffer (watershed only) means an area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

Built-upon area includes that portion of a development project that is covered by impervious or partially impervious cover, including building, pavement, gravel roads, recreation facilities such as tennis courts, and the like. Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.

Cluster development means the grouping of buildings in order to conserve land resources and provide for innovation in the design of the project. This term includes nonresidential development as well as single-family residential subdivisions and multifamily developments that do not involve the subdivision of land.

Existing lot of record means a lot which is part of a subdivision, a plat of which has been recorded in the office of the register of deeds prior to January 1, 1994, in accordance with the subdivision regulations in effect at the time of recordation, or a lot described by metes and bounds, the description of which has been so recorded prior to July 31, 1982.

Hazardous material means any substance listed as such in SARA section 302, extremely hazardous substances, CERCLA hazardous substances, or section 311 of CWA (oil and hazardous substances).

Landfill (discharging) means a facility with liners, monitoring equipment and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.

Nonresidential development means all development other than residential development, agriculture and forestry.

Protected area (PA) means the area adjoining and upstream of the critical area of WS-IV watersheds. The boundaries of the protected area are defined as within five miles upstream of and draining to a water supply reservoir or to the ridgeline of the watershed, whichever comes first; or within ten miles of and draining to a water intake located in a stream or river or to the ridgeline of the watershed, whichever comes first.

Residential development means buildings for residence, such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, and the like, and their associated outbuildings, such as garages, storage buildings, gazebos, and the like.

Single-family residential means any development where no building contains more than one dwelling unit, every dwelling unit is on a separate lot except for approved temporary manufactured home permits, and where no lot contains more than one dwelling unit except for approved temporary manufactured home permits.

Toxic substance means any substance or combination of substances, including disease-causing

agents, which, after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions including malfunctions or suppression in reproduction or growth, or physical deformities in such organisms or their offspring or other adverse health effects.

Variance, major, means a variance that results in any one or more of the following:

(1) The complete waiver of any nonnumerical management requirement.

(2) The relaxation, by a factor of more than ten percent, of the buffer numerical standard.

(3) The relaxation of any density or built-upon area numerical standard.

Variance, minor, means a variance that does not qualify as a major variance.

Water-dependent structure means any structure for which the use requires access to or proximity to or situated within surface waters to fulfill its basic purpose, such as boatramps, boathouses, docks and bulkheads. Ancillary facilities, such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas, are not water-dependent structures.

Water quality critical area (WQCA) means the area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one-half mile from the normal pool elevation of the reservoir in which the intake is located or the ridgeline of the watershed, whichever comes first; or one-half mile upstream from the intake located directly in the stream or river (run of the river) or the ridgeline of the watershed, whichever comes first.

Watershed means the entire land area contributing surface drainage to a specific point, such as the water supply intake.
(Code 1995, § 515.240(E))

Cross references: Definitions generally, § 1-2.

Sec. 44-706. Regulations.

(a) *Applicability.* The regulations of the watershed protection district (special district-2) shall be considered as an overlay district on whatever district regulations are imposed by other portions of this chapter. They shall, as appropriate, impose greater restrictions and require higher development standards.

(b) *WS-II watershed area--water quality critical area (WS-II-WQCA).* In order to maintain a low intensity land use development pattern, single-family residential uses are allowed on a lot with a minimum area of 80,000 square feet. All other residential and nonresidential development shall be allowed at a maximum six percent built-upon area. New sludge application sites and landfills (sanitary or discharging) are specifically prohibited.

(1) *Density and built-upon limits.* Density and built-upon limits are as follows:

a. For single-family residential development, the minimum lot area shall not be less than 80,000 square feet, except when approved as a cluster development according to section 44-708.

b. All other residential and nonresidential development shall not exceed six percent built-upon area on a project-by-project basis. For the purpose of calculating the built-upon area, total project area shall include acreage in the tract on which the project is to be developed.

(2) *Uses allowed.* The following uses are allowed:

a. Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990. Agricultural activities conducted after January 1, 1993, shall maintain a minimum ten-foot vegetative buffer or equivalent control, as determined by the soil and water conservation commission, along all perennial waters indicated on the most recent versions of USGS 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies.

Animal operations greater than 100 animal units shall employ best management practices recommended by the soil and water conservation commission. The soil and water conservation commission is the designated management agency responsible for implementing this subsection (b)(2)a.

b. Forestry, subject to the provisions of the Forest Practices Guideline Related to Water Quality (15 NCAC II.6101-.0209). The division of forest resources is the designated management agency responsible for implementing this subsection (b)(2)b.

c. Residential development.

d. Nonresidential development, excluding landfills (sanitary or discharging), and sites for land application of residuals or petroleum contaminated soils.

(c) *WS-II watershed area--balance of watershed (WS-II).* In order to maintain a low intensity land use development pattern, single-family residential uses are allowed on a lot with a minimum area of 40,000 square feet. All other residential and nonresidential development shall be allowed at a maximum of 12 percent built-upon area; in addition, nonresidential uses may occupy five percent of the balance of watershed area outside the water quality critical area, with a 70-percent built-upon area when approved as a 5/70 bonus permit according to section 44-707.

(1) *Density and built-upon limits.* Density and built-upon limits are as follows:

a. For single-family residential development, the minimum lot area shall not be less than 40,000 square feet, except when approved as a cluster development according to section 44-708.

b. All other residential and nonresidential development shall not exceed 12 percent built-upon area on a project-by-project basis, except that up to five percent of the balance of watershed may be developed for nonresidential uses to 70 percent built-upon area on a project-by-project basis subject to approval of a 5/70 bonus permit according to section 44-707. For the purposes of calculating the built-upon area, total project area shall include acreage in the tract on which the project is to be developed.

(2) *Uses allowed.* The following uses are allowed:

a. Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990. The soil and water conservation commission is the designated management agency responsible for this subsection (c)(2)a.

b. Forestry, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC II.6101-.0209). The division of forest resources is the designated management agency responsible for implementing this subsection (c)(2)b.

c. Residential development.

d. Nonresidential development excluding discharging landfills.

(d) *WS-III watershed area--water quality critical area (WS-III-WQCA).* In order to maintain a low to moderate land use intensity pattern, single-family residential uses are allowed on a lot with a minimum area of 40,000 square feet. All other residential and nonresidential development shall be allowed to a maximum of 12 percent built-upon area. New sludge application sites and landfills (sanitary or discharging) are specifically prohibited.

(1) *Density and built-upon limits.* Density and built-upon limits are as follows:

a. For single-family residential development, the minimum lot area shall not be less than 40,000 square feet, except when approved as a cluster development according to section 44-708.

b. All other residential and nonresidential development shall not exceed 12 percent built-upon area on a project-by-project basis. For the purpose of calculating the built-

upon area, total project area shall include acreage in the tract on which the project is to be developed.

(2) *Uses allowed.* The following uses are allowed:

a. Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990. Agricultural activities conducted after January 1, 1993, shall maintain a minimum ten-foot vegetative buffer or equivalent control, as determined by the soil and water conservation commission, along all perennial waters indicated on the most recent versions of USGS 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Animal operations greater than 100 animal units shall employ best management practices recommended by the soil and water conservation commission. The soil and water conservation commission is the designated management agency responsible for implementing this subsection (d)(2)a.

b. Forestry, subject to the provisions of the Forest Practices Guideline Related to Water Quality (15 NCAC II.6101-.0209). The division of forest resources is the designated management agency responsible for implementing this subsection (d)(2)b.

c. Residential development.

d. Nonresidential development, excluding landfills (sanitary or dscharging), and sites for land application of residuals or petroleum contaminated soils.

(e) *WS-III watershed area--balance of watershed (WS-III-BW).* In order to maintain a low to moderate land use intensity pattern, single-family residential uses are allowed on lots with a minimum area of 20,000 square feet. All other residential and nonresidential development shall be allowed a maximum of 24 percent built-upon area. In addition, nonresidential uses may occupy five percent of the balance of watershed area outside the water quality critical area, with a 70-percent built-upon area when approved as a 5/70 bonus permit according to section 44-707.

(1) *Density and built-upon limits.* Density and built-upon limits are as follows:

a. For single-family residential development, the minimum lot area shall not be less than 20,000 square feet, except when approved as a cluster development according to section 44-708.

b. All other residential and nonresidential development shall not exceed 24 percent built-upon area on a project-by-project basis, except that up to five percent of the balance of watershed area may be developed for nonresidential uses to 70 percent built-upon area on a project-by-project basis subject to approval of a 5/70 bonus permit according to section 44-707. For the purposes of calculating the built-upon area, total project area shall include acreage in the tract on which the project is to be developed.

(2) *Uses allowed.* The following uses are allowed:

a. Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990. The soil and water conservation commission is the designated management agency responsible for this subsection (e)(2)a.

b. Forestry, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC II.6101-.0209). The division of forest resources is the designated management agency responsible for implementing this subsection (e)(2)b.

c. Residential development.

d. Nonresidential development excluding discharging landfills.

(f) *WS-IV watershed area--water quality critical area (WS-IV-WQCA).* Only new development activities that require an erosion/sedimentation control plan under state law are required to meet the

requirements of this division when located in the WS-IV watershed. Written verification of project exemption shall be submitted from the agency responsible for enforcement of the erosion/sedimentation program. In order to address a moderate to high land use intensity pattern, single-family residential uses are allowed on a lot with a minimum area of 20,000 square feet. All other residential and nonresidential development shall be allowed 24 percent built-upon area. New sludge application sites and landfills (sanitary or discharging) are specifically prohibited.

(1) *Density and built-upon limits.* Density and built-upon limits are as follows:

a. For single-family residential development, the minimum lot area shall not be less than 20,000 square feet, except when approved as a cluster development according to section 44-708.

b. All other residential and nonresidential development shall not exceed 24 percent built-upon area on a project-by-project basis. For the purpose of calculating the built-upon area, total project area shall include acreage in the tract on which the project is to be developed.

(2) *Uses allowed.* The following uses are allowed:

a. Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990. Agricultural activities conducted after January 1, 1993, shall maintain a minimum ten-foot vegetative buffer or equivalent control, as determined by the soil and water conservation commission, along all perennial waters indicated on the most recent versions of USGS 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Animal operations greater than 100 animal units shall employ best management practices recommended by the soil and water conservation commission. The soil and water conservation commission is the designated management agency responsible for implementing this subsection (f)(2)a.

b. Forestry, subject to the provisions of the Forest Practices Guideline Related to Water Quality (15 NCAC II.6101-.0209). The division of forest resources is the designated management agency responsible for implementing this subsection (f)(2)a.

c. Residential development.

d. Nonresidential development, excluding landfills (sanitary or discharging), and sites for land application of residuals or petroleum contaminated soils.

(g) *WS-IV watershed area--protected area (WS-W-PA).* Only new development activities that require an erosion/sedimentation control plan under state law are required to meet the requirements of this division when located in a WS-IV watershed. Written verification of project exemption shall be submitted from the agency responsible for enforcement of the erosion/sedimentation program. In order to address a moderate to high land use intensity pattern, single-family residential uses are allowed on a lot with a minimum area of 20,000 square feet without public water or sewer or 15,000 square feet with public water or sewer where a curb and gutter street system is not installed. All other residential and nonresidential development shall be allowed at a maximum of 24 percent built-upon area if a curb and gutter system is installed or 36 percent built-upon area if a curb and gutter system is not installed.

(1) *Density and built-upon limits.* Density and built-upon limits are as follows:

a. For single-family residential development, the minimum lot area shall not be less than 20,000 square feet without public water or sewer or 15,000 square feet with public water or sewer where a curb and gutter street system is not installed. An exception to these requirements is when a cluster development is approved according to section 44-708.

b. All other residential and nonresidential development shall not exceed 24 percent built-upon area if a curb and gutter system is installed or 36 percent built-upon area if a curb and gutter system is not installed.

(2) *Uses allowed.* The following uses are allowed:

a. Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990. The soil and water conservation commission is the designated management agency responsible for this subsection (g)(2)a.

b. Forestry, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC II.6101-.0209). The division of forest resources is the designated management agency responsible for implementing this subsection (g)(2)b.

c. Residential development.

d. Nonresidential development.

(Code 1995, § 515.240(F)

Sec. 44-707. 5/70 bonus permit.

(a) In addition to the nonresidential built-upon restrictions for the balance of WS-II and WS-III watersheds as stated in section 44-706, nonresidential uses may occupy no more than five percent of the balance of each WS-II and WS-III watershed outside the water quality critical area, with a maximum 70 percent built-upon area when approved as a 5/70 bonus permit. The 5/70 bonus permit shall be considered as a special use permit that will be reviewed by the board of adjustment and be subject to all rules and procedures as established in article X of this chapter. Requests for a 5/70 bonus permit will be considered in order of receipt of completed applications. A 5/70 bonus permit shall be valid for two years, and if the development has not begun within that time period the permit shall expire and a reapplication cannot be made for an additional year.

(b) In reviewing an application for a 5/70 bonus permit, the board of adjustment shall make the findings of fact as stated in section 44-327. In addition, the board of adjustment shall consider whether the property can be developed as proposed according to any or all of the following pertinent factors:

(1) Whether the proposal is in conformance with the county's current land use plan.

(2) Whether the development is in coordination with the county's and Hickory-Newton-Conover Urban Area's thoroughfare plans.

(3) The likelihood of the proposed development based on site-specific factors, such as but not limited to soil type; topography; distance to public utilities, such as water, sewer and gas lines; and road access.

(4) Projects must minimize built-upon surface area and direct stormwater runoff away from surface waters.

(Code 1995, § 515.240(G))

Sec. 44-708. Cluster development.

Clustering of development is allowed in all watershed areas under the following conditions:

(1) Minimum lot sizes are not applicable to single-family cluster development projects; however, the overall density of the project shall meet the associated density as required in section 44-706.

(2) Built-upon area of projects shall not exceed that allowed for the applicable critical area or protected area/balance of the watershed as required in section 44-706.

(3) All built-upon areas shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow.

(4) The remainder of the tract shall remain in a vegetated or natural state. The title to the open space shall be conveyed to an incorporated homeowners' association for management, to a local government for preservation as a park or open space, or to a conservation organization for preservation in a permanent easement.

(5) The requirements of article XI of this chapter shall be met.

(Code 1995, § 515.240(H))

Sec. 44-709. Buffer area required.

(a) In the watershed protection district (special district-2), a minimum 30-foot-wide vegetative buffer is required for all new development along all perennial waters indicated on the most recent version of USGS 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies.

(b) No new development which requires a zoning compliance permit is allowed in the buffer except for water-dependent structures and public projects, such as road crossings, railroad rights-of-way and the like, where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater best management practices. Desirable artificial streambank or shoreline stabilization is permitted.

(Code 1995, § 515.240(I))

Sec. 44-710. Administration.

(a) Administration of this division shall be as provided under article II of this chapter. Zoning compliance permits shall be issued for development in the watershed protection district (special district-2) as prescribed in article II of this chapter. In addition to the general information required for a zoning compliance permit, the following shall be submitted on site plans, as applicable:

(1) The square footage and percent of built-upon area for nonresidential and residential development excluding single-family. The area required to remain as nondevelopable land shall be noted on the site plan.

(2) The location of all perennial streams and natural drainage areas on the property.

(3) The location and landscaping proposed for all required buffer areas.

(b) The county may make amendments to this division as provided under sections 44-44 and 44-45. Under no circumstances shall the county adopt such amendments that would cause this division to violate the watershed protection rules as adopted by the state environmental management commission. The zoning administrator shall keep records of all amendments to the water supply watershed regulations and shall provide copies of all amendments upon adoption to the state division of water quality.

(c) The zoning administrator shall keep a record of variances to the local watershed protection district. This record shall be submitted for the calendar year to the state division of water quality section on or before January 1 of the following year and shall provide a description of each project receiving a variance and the reasons for granting the variance.

(d) The zoning administrator shall keep records of the county's utilization of the provision that a maximum of five percent of the noncritical area of WS-II-BW and WS-III-BW watersheds may be developed with nonresidential development to a maximum of 70 percent built-upon surface area. Records for each watershed shall include the total acres of noncritical watershed area, total acres eligible to be developed under this option, total acres approved for this development option and individual file records for each development that is approved in these areas.

(Code 1995, § 515.240(J))

Sec. 44-711. Variances.

(a) The board of adjustment shall have the power to authorize, in specific cases, minor variances from the terms of this division as will not be contrary to the public interest. An application for a variance shall be in conformance with chapter 2, article IV, division 2, and section 44-42. In addition, the county shall notify and allow a reasonable comment period for all other local governments having jurisdiction in the designated watershed and the entity using the water supply for consumption where the variance is being considered. In granting of a variance the board of adjustment shall make findings as required in chapter 2, article IV, division 2, and sections 44-42 and 44-43.

(b) If an application calls for the granting of a major variance, and if the board of adjustment decides in

favor of granting the variance, the board shall prepare a preliminary record of the hearing within 30 days.

(1) The preliminary record of the hearing shall include the following:

a. The variance application;

b. The hearing notices;

c. The evidence presented;

d. Motions, offers of proof, objections to evidence and rulings on them;

e. Proposed findings and exceptions; and

f. The proposed decision, including all conditions proposed to be added to the permit.

(2) The preliminary record shall be sent to the environmental management commission for its review as follows:

a. If the commission concludes from the preliminary record that the variance qualifies as a major variance and that the property owner can secure no reasonable return from nor make any practical use of the property unless the proposed variance is granted and will not result in a serious threat to the water supply, the commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The commission shall prepare a commission decision and send it to the board of adjustment. If the board of commissioners approves the variance as proposed, the board shall prepare a final decision granting the proposed variance. If the commission approves the variance with conditions and stipulations, the board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.

b. If the commission concludes from the preliminary record that the variance qualifies as a major variance and that the property owner can secure a reasonable return from or make a practical use of the property without the variance or the variance, if granted, will result in a serious threat to the water supply, the commission shall deny approval of the variance as proposed. The commission shall prepare a commission decision and send it to the board of adjustment. The board shall prepare a final decision denying the variance as proposed.

(Code 1995, § 515.240(K))

Sec. 44-712. High density development.

(a) *Requirements.* Development projects which require a sedimentation and erosion control plan in a WS-IV watershed area which are being developed as a planned development as defined in article XI of this chapter may propose to be developed under a high density option as described in this section and must meet the following requirements:

(1) WS-IV watershed area--water quality critical area (WS-IV-WQCA). Where single-family residential development exceeds two dwelling units per acre on the overall project or other residential and nonresidential development exceeds 24 percent built-upon area, engineered stormwater controls shall be used to control runoff from the first one inch of rainfall, and development shall not exceed 50 percent built-upon area.

(2) WS-IV watershed area--protected area (WS-IV-PA). Where single-family residential development exceeds two dwelling units per acre on the overall project or three dwelling units per acre on the overall project with public water or sewer where a curb and gutter system is not installed or other residential and nonresidential development exceeds 24 percent built-upon area with curb and gutter installed or 36 percent built-upon area for projects without a curb and gutter street system, engineered stormwater controls shall be used to control the first one inch of rainfall, and development shall not exceed 70 percent built-upon area.

(3) A minimum 100-foot-wide buffer consistent with section 44-709 shall be provided for all developments using the high density option.

(b) *High density development permits.* Those development projects requesting to use the high density development option shall follow the review, public hearing and approval procedures as set forth in this article XI of this chapter. The application for high density planned developments shall include the information required in this section and in this article.

(c) *Stormwater control structures.* Standards for stormwater control structures are as follows:

(1) All stormwater control structures shall be designed by either a state-registered professional engineer or landscape architect, to the extent that G.S. ch. 89A allows. Other stormwater systems shall be designed by a state-registered professional with qualifications appropriate for the type of system required. Registered professionals are defined as professional engineers, landscape architects to the extent that G.S. ch. 89A allows, and land surveyors to the extent that the design represents incidental drainage within a subdivision, as provided by G.S. 89C-3[7].

(2) All stormwater controls shall use wet detention ponds as a primary treatment system. Wet detention ponds shall be designed for specific pollutant removal according to modeling techniques approved by the state division of water quality. Specific requirements for these systems shall be in accordance with the following design criteria:

a. Wet detention ponds shall be designed to remove 85 percent of total suspended solids in the permanent pool and storage runoff from a one-inch rainfall from the site above the permanent pool.

b. The design runoff storage volume shall be above the permanent pool.

c. The discharge rate from these systems following the one-inch rainfall design storm shall be such that the runoff does not draw down to the permanent pool level in less than two days and that the pond is drawn down to permanent pool level within at least five days.

d. The mean permanent pool depth shall be a minimum of three feet.

e. The inlet structure shall be designed to minimize turbulence using baffles or other appropriate design features.

f. Vegetative filters shall be constructed for the overflow and discharge of all stormwater wet detention ponds and shall be at least 30 feet in length. The slope and width of the vegetative filter shall be determined so as to provide a nonerosive velocity of flow through the filter for a ten-year, 24-hour storm within a ten-year, one-hour intensity with a slope of five percent or less. Vegetation in the filter shall be natural vegetation, grasses or artificially planted wetland vegetation appropriate for the site characteristics.

(3) In addition to the vegetative filters required in subsection (c)(2) of this section, all land areas outside of the pond shall be provided with a ground cover sufficient to restrain erosion within 30 days after any land disturbance. Upon completion of the stormwater control structure, a permanent ground cover shall be established and maintained as part of the maintenance agreement in subsection (d)(3) of this section.

(4) A description of the area containing the stormwater control structure shall be prepared and filed consistent with subsection (g)(2) of this section as a separate deed with the office of the register of deeds for the county along with any easements necessary for general access to the stormwater control structure. The deeded area shall include the detention pond, vegetative filters, all pipes and water control structures, berms, dikes, and the like and sufficient area to perform inspections, maintenance, repairs and reconstruction.

(5) Qualifying areas of the stormwater control structure may be considered pervious when computing total built-upon area. However, if the structure is used to compute the percentage of built-upon area for one site, it shall not be used to compute the built-upon area for any other site or area.

(d) *Posting of financial security.* Posting of financial security is required as follows:

(1) All new stormwater control structures shall be conditioned on the posting of adequate

financial assurance for the purpose of construction, maintenance, repair or reconstruction necessary for adequate performance of the stormwater control structures.

a. Construction security. Financial security to ensure that the required stormwater control structures are installed as required shall be provided to the county so that, if these structures are not properly installed, the county may use the financial security to have such structures properly installed. The bond or other instrument shall be in an amount equal to 1.25 times the total cost of constructing the stormwater control structure, as estimated by the applicant and approved by the board of commissioners. The total cost of the stormwater control structure shall include the value of all materials such as piping and other structures; seeding and soil stabilization; design and engineering; and grading, excavation, fill, and the like. The costs shall not be prorated as part of a larger project, but under the assumption of an independent mobilization.

b. Maintenance security. Financial security to ensure that the required stormwater control structures are properly maintained shall be provided to the county so that, if these structures are not properly maintained, the county may use the financial security to have such structures properly maintained or repaired. Consistent with subsection (g)(3) of this section, the applicant shall deposit with the county either cash or other instrument approved by the board of commissioners that is readily convertible into cash at face value. The cash or security shall be in an amount equal to 15 percent of the total cost of the stormwater control structure or the estimated cost of maintaining the stormwater control structure over a ten-year period, whichever is greater. The estimated cost of maintaining the stormwater control structure shall be consistent with the approved operation and maintenance plan or manual provided by the developer under subsection (e)(1) of this section. The amount shall be computed by estimating the maintenance cost for 25 years and multiplying this amount by two-fifths or 0.4.

(2) Financial assurance shall be in the form of a certified check, a no-contest irrevocable bank letter of credit or a performance and payment bond underwritten by a state-licensed corporate surety company. Except for a certified check, such sureties shall not be accepted unless the county attorney has made a review thereof and rendered a written opinion that the interests of the county are fully protected. The certified check should be deposited with the county manager, as escrow agent, who shall deposit it in an interest-bearing escrow account of the county. The no-contest irrevocable bank letter of credit shall be from a banking corporation licensed to do business in the state and having an office in the county. The terms of the letter shall include the absolute right of the county manager to withdraw funds from the bank forthwith upon the county manager's certifying to the bank that the terms and conditions of the performance guarantee have been breached.

(3) The applicant shall enter into a binding operation and maintenance agreement between the county and all interests in the development. The agreement shall require the owning entity to maintain, repair and, if necessary, reconstruct the stormwater control structure in accordance with the operation and management plan or manual provided by the developer. The operation and maintenance agreement shall be filed with the county register of deeds.

(4) Default under the construction security. Upon default of the applicant to complete the stormwater control structure as spelled out in the performance bond or other security, the county may obtain and use all or any portion of the funds necessary to complete the improvements based on an engineering estimate. The county shall return any funds not spent in completing the required improvements to the owning entity.

(5) Default under the maintenance security. Upon default of the owning entity to maintain, repair and, if necessary, reconstruct the stormwater control structure in accordance with the operation and maintenance agreement, the county shall obtain and use all or any portion of the cash security to make the necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after exhausting all other remedies seeking the owning entity to comply with the terms and conditions of the operation and maintenance agreement. The county shall not return any of the deposited cash funds.

(e) *Maintenance and upkeep.* Maintenance and upkeep shall be provided as follows:

(1) An operation and maintenance plan or manual shall be provided by the developer for each stormwater control structure, indicating what operation and maintenance actions are needed, what specific quantitative criteria will be used for determining when those actions are to be taken and, consistent with the operation and maintenance agreement, who is responsible for those actions. The plan shall clearly indicate the steps that will be taken for restoring a stormwater control structure to design specifications if a failure occurs.

(2) Landscaping and grounds management shall be the responsibility of the owning entity. However, vegetation shall not be established or allowed to mature to the extent that the integrity of the control structure is diminished or threatened or to the extent of interfering with any easement or access to the stormwater control structure.

(3) Except for general landscaping and grounds management, the owning entity shall notify the planning and development department prior to any repair or reconstruction of the stormwater control structure. All improvements shall be made consistent with the approved plans and specifications of the stormwater control structure and the operation and maintenance plan or manual. After notification by the owning entity, the zoning administrator shall inspect the completed improvements and shall inform the owning entity of any required additions, changes or modifications and of the time period to complete the improvements. The zoning administrator may consult with an engineer or landscape architect, to the extent that G.S. ch. 89A allows.

(4) Amendments to the plans and specifications of the stormwater control structure and/or operation and maintenance plan or manual shall be approved by the board of commissioners. Proposed changes shall be prepared by a state-registered professional engineer or landscape architect, to the extent that G.S. ch. 89A allows, and submitted to and reviewed by the zoning administrator.

a. If the board of commissioners approves the proposed changes, the owning entity of the stormwater control structure shall file sealed copies of the revisions with the planning and development department.

b. If the board of commissioners disapproves the changes, the proposal may be revised and resubmitted as a new proposal. If the proposal has not been revised and is essentially the same as that already reviewed, it shall be returned to the applicant.

c. If the board of commissioners finds that the operation and maintenance plan or manual is inadequate for any reason, the zoning administrator shall notify the owning entity of any required changes and shall prepare and file copies of the revised agreement with the office of the register of deeds of the county, the planning and development department and the owning entity.

(f) *Application and inspection fees.* Application and inspection fees shall be required as follows:

(1) Processing and inspection fees shall be submitted in the form of a check or money order payable to the county. Applications shall be returned if not accompanied by the required fee.

(2) A permit and inspection fee schedule, as approved by the county, shall be available from the zoning administrator.

(3) Inspection fees shall be valid for 60 days. An inspection fee shall be required when improvements are made to the stormwater control structure consistent with subsection (e)(3) of this section, except when a similar fee has been paid within the last 60 days.

(g) *Inspections and release of the performance bond.* Inspections shall be made and the performance bond shall be released in accordance with the following:

(1) The stormwater control structure shall be inspected by the zoning administrator after the owning entity notifies the department that all work has been completed. At this inspection, the owning entity shall provide the following:

a. The signed deed, related easements and survey plat for the stormwater control

structure ready for filling with the office of the register of deeds for the county.

b. A certificate sealed by an engineer or landscape architect, to the extent that G.S. ch. 89A allows, stating that the stormwater control structure is complete and consistent with the approved plans and specifications.

(2) The zoning administrator shall present the materials submitted by the developer and the inspection report and recommendations to the planning board at its next regularly scheduled meeting.

a. If the planning board approves the inspection report and accepts the certification, deed and easements, the board shall file the deed and easements with the office of the register of deeds for the county, release up to 75 percent value of the construction security and issue a letter of approval for the stormwater control structure.

b. If deficiencies are found, the planning board shall direct that improvements and inspections be made and/or documents be corrected and resubmitted to the planning board.

(3) No sooner than one year after the filing date of the deed, easements and maintenance agreement, the developer may petition the planning board to release the remaining value of the construction security. Upon receipt of the petition, the zoning administrator shall inspect the stormwater control structure to determine whether the controls are performing as designed and intended. The zoning administrator shall present the petition, inspection report and recommendations to the planning board.

a. If the planning board approves the report and accepts the petition, the developer shall deposit with the county a financial security for maintenance in an amount equal to that described in subsection (d)(1)b of this section, after which the board shall release the remaining construction security.

b. If the planning board does not accept the report and rejects the petition, the board shall provide the developer with instructions to correct any deficiencies and all steps necessary for the release of the performance bond or other security.

(4) A certificate of occupancy permit shall not be issued for any building within the permitted development until the planning board has approved the stormwater control structure, as provided in subsection (g)(2) of this section.

(5) All stormwater control structures shall be inspected by the county at least on an annual basis to determine whether the controls are performing as designed and intended. The costs of the inspections shall be the responsibility of the owning entity and shall be according to a fee schedule approved by the county. Records of inspections shall be maintained on forms approved or supplied by the state division of water quality. Annual inspections shall begin within one year of the filing date of the deed for the stormwater control structure.

(6) If the county discovers the need for corrective action or improvements, the zoning administrator shall notify the owning entity of the needed improvements and the date by which the corrective action is to be completed. All improvements shall be made consistent with the plans and specifications of the stormwater control structure and operation and maintenance plan or manual. After notification by the owning entity, the zoning administrator may consult with an engineer or landscape architect, to the extent that G.S. ch. 89A allows.

(Code 1995, § 515.240(L))

Secs. 44-713--44-740. Reserved.

DIVISION 4. MOUNTAIN PROTECTION DISTRICT (SPECIAL DISTRICT-3)

Sec. 44-741. Statement of intent.

(a) Mountains are the predominant natural landmarks in the county. These landforms provide identification and orientation to residents and visitors alike. Rising as they do abruptly from the surrounding Piedmont landscape, they are readily identifiable symbols of the county.

(b) Their steep slopes, profuse vegetation, erodible soils, and poor soil percolation characteristics pose severe problems for development. Normal development techniques, following the ordinary development regulations in this chapter, the subdivision regulations set forth in chapter 36 of this Code and related regulations, are likely to endanger the native flora and fauna on the mountains, cause severe disruptions adjacent to and downstream from the mountains, impair the physical integrity of the mountains' surface, and impinge adversely upon their landmark status.

(c) It is the intent of the mountain protection district (special district-3) regulations to avoid these hazards, while preserving the unique status which the mountains hold in the county and permitting reasonable continuing use to be made of the land within the special district-3.

(Code 1995, § 515.241(A))

Sec. 44-742. Boundaries.

The boundaries of the mountain protection district (special district-3) are as shown on the official zoning atlas.

(Code 1995, § 515.241(B))

Sec. 44-743. Regulations.

(a) *Generally.* The regulations of the mountain protection district (special district-3) shall be considered an overlay on whatever district regulations are imposed by other portions of this chapter and the subdivision regulations set forth in chapter 36 of this Code. They shall, as appropriate, impose greater restrictions, require higher development standards, prohibit certain uses, and require additional approvals, as stated in this section.

(b) *Permitted uses.* The following uses are permitted uses within the special district-3:

(1) Bona fide farms and hobby farms.

(2) Dwelling units:

a. Single-family.

b. Two-family.

c. Manufactured homes, classes A and B.

(3) Home occupations.

(4) Customary accessory uses.

(5) Public parks.

(6) Manufactured home, temporary.

(c) *Permitted special uses.* The following uses are permissible special uses, subject to the procedures and requirements of article III of this chapter, in the special district-3: camps.

(d) *Required minimum lot size.* The required minimum lot sizes shall be as follows:

(1) For single-family, two-family and manufactured homes, 40,000 square feet per dwelling unit.

(2) For camps, ten acres.

(e) *Maximum permitted impervious area.* The maximum permitted impervious area shall be as follows:

(1) The maximum permitted impervious area for a minimum 40,000-square-foot lot shall be 2,400 square feet which includes all roads, driveway, and other impervious areas as defined in subsection (e)(2) of this section. For all lots greater than 40,000 square feet, the maximum permitted impervious area shall be six percent of the area of the lot.

(2) Impervious area of the lot shall include all areas covered by structures, plus all areas paved with Portland cement and bituminous concrete or similar material where private streets are used, and one-half the paved area of the private street easement shall be used in calculating the impervious area of the adjacent lot.

(f) *Maximum permitted height.* The maximum permitted height of structures in the special district-3 shall be 35 feet above the average finished grade elevation adjacent to the structure.

(g) *Special use permit.* A special use permit is required as follows:

(1) No storm drainage facilities or clearing of the natural vegetative cover shall be permitted in the special district-3 until a special use permit therefor is approved by the board of adjustment.

(2) The special use permit shall be issued only upon the approval by the board of adjustment of a stormwater management plan which addresses stormwater and erosion control measures.

(3) Engineering calculations of runoff quantities shall be based upon sound engineering principles using the rainfall intensity that is expected from a ten-year, 24-hour return frequency storm.

(Code 1995, § 515.241(C))

Secs. 44-744--44-770. Reserved.

DIVISION 5. CATAWBA RIVER CORRIDOR DISTRICT (SPECIAL DISTRICT-4)

Sec. 44-771. Statement of intent.

(a) The Catawba River and its banks are the most obvious, important and valuable natural resources in the county.

(b) The river is the source of water for the people, farmers, and manufacturers of the county. The river corridor contributes to the economic and spiritual enhancement of the county through increased property values, aesthetic enrichment, and recreational opportunities. It is the habitat for fish and wildlife and native plants. Thus, it is an economically and ecologically important area.

(c) The Catawba River corridor, consisting of the river and its banks as it runs through the county's jurisdiction, must be protected from pollution caused by erosion and sedimentation, agricultural and industrial runoff, and natural and manmade obstruction. This stewardship is essential for the preservation of the public health, safety, and welfare. The river corridor must be maintained for the use, benefit and enjoyment of present and future residents of and visitors to the county. This is the purpose towards which this division is directed.

(Code 1995, § 515.242(A))

Sec. 44-772. Boundaries.

The boundaries of the Catawba River corridor district (special district-4) are shown on the official zoning atlas.

(Code 1995, § 515.242(B))

Sec. 44-773. Regulations.

(a) *Generally.* The regulations of the Catawba River corridor district (special district-4) shall be considered an overlay on whatever district regulations are imposed by other portions of this chapter and subdivision regulations set forth in chapter 36 of this Code. They shall, as appropriate, impose greater restrictions and require additional approvals, as stated in this section.

(b) *Permitted uses.* The permitted uses shall be the same as allowed in the underlying district governed by zoning regulations already in place before overlay is applied.

(c) *Permitted special uses.* The following uses are permissible special uses, subject to the procedures and requirements of articles III and X of this chapter, in the special district-4: camps.

(d) *Maximum permitted height.* The maximum permitted height of structures in the special district-4 shall be 35 feet.

(Code 1995, § 515.242(C))

Sec. 44-774. Special use permit.

(a) No storm drainage facilities, clearing of the natural vegetative cover for a commercial or industrial facility, or construction of a permanent commercial or industrial facility shall be permitted in the Catawba River corridor district (special district-4) until a special use permit therefor is approved by the board of adjustment.

(b) The special use permit shall be issued only upon the approval by the board of adjustment of a stormwater management plan which addresses stormwater runoff and erosion control measures.

(c) Engineering calculations of runoff quantities shall be based upon sound engineering principles using the rainfall intensity that is expected from a ten-year, 24-hour return frequency storm.

(Code 1995, § 515.242(D))

Secs. 44-775--44-800. Reserved.

DIVISION 6. 321-ECONOMIC DEVELOPMENT DISTRICT (321-ED) (SPECIAL DISTRICT-5)

Sec. 44-801. Statement of intent.

(a) The adopted U.S. 321 corridor district plan represents formal policy statements by the county concerning land use and land development within the corridor. The 321-economic development district (321-ED) is designed to implement these policy statements and achieve the desired goals for the 321 corridor. Specifically, the 321-ED district will accomplish the following:

(1) Promote a sensitive conversion of farmland and vacant land to more urban uses.

(2) Support development that is compatible with and, whenever possible, enhances the visual attractiveness of the land.

(3) Promote well-planned, economically viable development of all types.

(4) Ensure safe and efficient traffic flow along the U.S. 321 corridor district roadways.

(5) Protect the environment by providing clean air, clean water and an appropriate mix of natural vegetation and wildlife.

(6) Encourage orderly and sensitive planned development, especially at the interchanges.

(7) Avoid uncoordinated, strip development patterns.

(8) Promote flexibility in individual site design including diversification in the location of structures, parking areas and other components.

(9) Encourage the efficient use of land to facilitate an economical arrangement of buildings, traffic circulation systems, land uses and utilities.

(10) Provide for more usable and suitably located recreation facilities and other public and common facilities than would not otherwise be provided under conventional land development procedures.

(11) Encourage high quality development.

(12) Ensure that adequate traffic capacity is available to serve proposed projects.

(13) Create an environment that supports opportunities for alternative residential development that consists of well-planned, affordable housing.

(14) Encourage cooperation between local governments concerning municipal growth and service extensions.

(15) Support mixed-use projects that enhance opportunities to work, shop, entertain and recreate on the same or adjacent sites.

(16) Enhance the economic, tax and employment base for the county and each municipality.

(b) It is the intent of the 321-ED district to implement these strategies as well as the specific policies contained in the U.S. 321 corridor district plan. More specifically, the district is designed to combine the general characteristics and provisions of one or more existing zoning districts and incorporate the policies of the U.S. 321 corridor district plan. Similar to planned development districts, the 321-ED district will promote high-quality development through well-planned, well-designed development.

(Code 1995, § 515.243(A))

Sec. 44-802. Boundaries.

The boundaries of the 321-economic development district (321-ED) (special district-5) are shown on the official zoning atlas, and the 321-ED district is the only new zoning classification, besides existing residential, allowed in the U.S. 321 corridor. The U.S. 321 corridor is defined in the adopted 321 corridor district plan. Because of the unique nature of the 321-ED district, requests to rezone land to the 321-ED district shall only be allowed within the 321 corridor district boundaries, set forth in the adopted 321 corridor district plan and corresponding maps.

(Code 1995, § 515.243(B))

Sec. 44-803. Applicability.

(a) Persons wishing to develop property of any size, type or density within the 321-economic development district (321-ED) (special district-5) shall comply with the standards in this division in addition to the applicable requirements of this chapter. More specifically, no building or structure shall be erected or altered for any purpose except in accordance with the requirements in this division.

(b) Existing single-family, site-built or manufactured homes and duplexes are exempt from the requirements of the 321-ED district as long as the property is being used for residential purposes. Additions to such structures or accessory uses are permitted subject to the zoning requirements of the district prior to the time the property was rezoned to the 321-ED district. Existing single-family, site-built or manufactured homes and duplexes which are partially or fully destroyed may be rebuilt or repaired as a matter of right. Churches and existing commercial/office institutional/industrial uses or properties are exempt from the provisions of the 321-ED district; however, they shall be subject to the requirements of this chapter prior to their inclusion in the corridor.

(c) The provisions of this plan shall not be applicable to county public facilities as stipulated in section 44-5(k).

(d) The 321-ED district regulations in this division shall apply generally to the development of land through the review process contained in this division. Where there are conflicts between the special regulations in this division and general zoning, subdivision, or other regulations or requirements, the more restrictive requirement shall apply in 321-ED districts, unless the county planner finds, in the particular case, that provisions in this division do not serve public purposes to a degree at least equivalent to such general zoning, subdivision, or other regulations or requirements.

(e) Where actions, designs, or solutions proposed by the applicant are not literally in accord with applicable 321-ED regulations or general regulations, but the county planner makes a finding, in the particular case, that public purposes are satisfied to an equivalent or greater degree, the county planner may make specific modification of the regulations in the particular case. However, where floor area and similar ratios as well as maximum permitted densities have been established by this division, the county planner shall not act, in a particular case, to modify such ratios or maximums.

(f) Except as indicated in this section, notwithstanding procedures and requirements generally in effect, procedures and requirements set forth in this division shall apply in 321-ED districts to any

amendments creating such districts and to issuance of all required permits.
(Code 1995, § 515.243(C))

Sec. 44-804. Appeals.

For the purposes of this division, appeals shall follow the procedures set forth in section 44-44.
(Code 1995, § 515.243(D))

Sec. 44-805. Definitions.

The definitions found in section 44-4 shall apply to the 321-economic development district (321-ED) (special district-5). In addition, for purposes of the 321-ED district, in determining whether the minimum five-acre requirement for a general development plan (GDP) is met, five acres shall be defined as any parcel having a combined total acreage of greater than or equal to 4.5 acres.
(Code 1995, § 515.243(E))

Cross references: Definitions generally, § 1-2.

Sec. 44-806. Permitted principal and accessory uses and structures and special uses.

(a) Generally, the 321-economic development district (321-ED) (special district-5) shall include two distinct use elements:

(1) *321-ED(MX):* Any combination of retail commercial, office/institutional and residential components but never exclusively large-lot single-family homes.

(2) *321-ED(I):* Primarily industrial/warehousing/distribution with an accessory office/institutional component.

(b) One of these two elements shall be indicated on all rezoning applications and shall be delineated on the official zoning atlas.

(c) More specifically, the following principal and accessory uses and structures may be permitted in the 321-ED districts, subject to the limitations and requirements set forth. The listings are intended to be illustrative, except where limitations are set forth, rather than rigidly inclusive. Uses which are not expressly listed shall be permitted in the district where similar uses are permitted:

(1) 321-ED(MX) districts. The following uses are permitted:

a. Retail stores, except those dealing primarily in secondhand merchandise other than antiques, including the following:

1. Bakeries, confectioneries, delicatessens, fish markets, meat markets, and the like, with products processed or prepared on the premises sold only at retail on the premises.

2. Clothing stores, shoe stores.

3. Drugstores, newsstands, tobacco shops.

4. Florists, gift shops, jewelry stores, stationery stores, specialty shops.

5. Groceries, supermarkets.

6. Hardware, sporting goods, garden supply stores.

7. Variety stores.

b. Financial institutions.

c. Service stations, but not repair garages, provided that no more than two service stations shall be permitted in any GDP, and that no service station site shall consist of more than 25,000 square feet of the GDP site, and that total area in service station use shall not exceed five percent of the area of the GDP site.

d. Theaters.

e. Personal service establishments, including but not limited to:

1. Barbershops, beauty shops.

2. Cleaning and laundry agencies; cleaning and laundry establishments not employing more than ten persons in cleaning and/or laundry operations, and processing only goods delivered to and picked up from the premises by individual customers; coin-operated laundry and dry-cleaning facilities.

f. Bowling alleys and similar commercial recreation establishments.

g. Offices; clinics, other than veterinary offices or clinics; studios; laboratories; business, professional, labor, civic, social, and fraternal offices.

h. Funeral homes.

i. Banks, savings and loan associations, and similar financial institutions.

j. Hospitals.

k. Schools.

l. Hotels/motels.

m. Child care nurseries; day care centers; prekindergarten, kindergarten, play and other special schools, or day care facilities for young children.

n. Adult care centers.

o. Libraries, museums, and galleries.

p. Auditoriums and their accessory facilities.

q. Social, recreational, and cultural facilities, such as neighborhood or community centers, game rooms, libraries, golf courses, swimming pools, tennis courts, and the like.

r. Eating and drinking establishments.

s. Structures and uses required for operation of a public utility or performance of a governmental function, except uses involving extensive storage, or with storage as the principal purpose. Utility substations other than individual transformers shall be screened as set forth in this division. The uses shall be appropriate to the character of the surrounding land uses.

t. Dwellings, single-family (large-lot, zero-lot-line and cluster), two-family, and multiple-family, provided that they are part of a mixed use GDP where a wide range of residential densities and options exist and in some instances may include land devoted to retail and/or office uses intended to serve the on-site residential development.

u. Uses and structures which are customarily accessory and clearly incidental to permitted principal uses and structures.

(2) 321-ED(I) districts. Permitted principal and accessory uses and structures shall be according to table 1 in section 44-87 and the corresponding E-1 zoning district. Business and professional service offices are also permitted uses.

(3) Prohibited uses. For the purposes of maintaining visual attractiveness of the 321 corridor, the following uses are not permitted in any 321-ED district:

a. Aboveground pipelines.

b. Asphalt products processing.

c. Auto repair or auto service shops.

d. Auto sales, storage or salvage yards.

e. Dragstrips or racetracks.

f. Drive-in theaters.

g. Flea markets (outdoor).

h. Lumberyards.

i. Manufactured and modular home sales.

j. Mining of earth products.

k. Open conveyor belts.

l. Open storage.

m. Solid waste disposal sites.

n. Tire recapping shops.

o. Wrecking yards or junkyards.

(d) The following uses may be allowed as special uses in the 321-ED district in areas zoned R-2 residential and must be developed using the general development standards of the 321-ED district:

(1) Airstrip.

(2) Boardinghouse, roominghouse and bed and breakfast.

(3) Campgrounds.

(4) Cemetery, human public.

(5) Cemetery, pet.

(6) Circus, carnival or fair.

(7) Commercial nurseries/landscaping businesses.

(8) Ham radio antenna.

(9) Hospice house-residential facility.

(10) Kennel.

(11) Membership organizations.

(12) Public service facilities.

(13) Public use facilities.

(14) Radio frequency test facility.

(15) Recreational fish lake or pond.

(16) Roadside stand, commercial.

(17) Telecommunications tower.

The approval of all special use requests in the 321-ED district must follow the procedures set forth in article X.
(Code 1995, § 515.243(F))

Sec. 44-807. General development plan required.

Any person wishing to develop land in the 321-economic development district (321-ED) (special district-5) shall submit a general development plan (GDP) for approval. The following general provisions shall apply to all GDPs:

(1) *Contents of proposal.* The proposal must include the following:

a. The use of extraordinary screening and buffering from roadways and adjacent sites

that virtually eliminates views from all directions;

b. Provisions that indicate that the majority of storage will occur in an enclosed building;

c. Provisions to significantly contain noise, odors, smoke and dust and light on site; and

d. Financial guarantees that public roadways that are damaged by the movement of heavy equipment or earthen materials shall be repaired at no cost to the public:

(2) *Minimum parcel size.* Except as otherwise provided in this division, the minimum parcel size for submitting a GDP for review shall be five acres of contiguous property. Property may be subdivided into lots less than five acres subject to the requirements of subdivisions in subsection (3) of this section. The property may include more than one owner and more than one recorded lot, provided that the total property equals or exceeds five acres and the submitted GDP includes development plans for the entire project site. Rezonings to the 321-ED district for property less than five acres may be requested, provided that any proposed GDP site will equal five acres or more. A GDP for a parcel or combined parcels of less than five acres, but greater than one acre, may be approved provided the overall polices and goals contained within the highway 321 corridor plan will not be compromised. GDPs pertaining to a parcel or combined parcels of less than five acres will be considered subject to the following criteria being met:

a. Where a GDP, less than five acres, also provides for coordinated development with adjoining developments, including connected roads and shared driveways, such a plan may be approved provided the new development will not have independent driveway access onto a major/minor thoroughfare. The interior roads and driveways must be designed and built to connect to existing roads in the adjoining development. Any such plan shall be reviewed and approved by the planning board.

b. The remaining standards of the 321-ED zoning district are met.

(3) *Subdivisions.* Subdivisions of land shall be allowed in the 321-ED district only through review and approval of a GDP so as not to compromise the integrity of the GDP regulations and to avoid interference with the assemblage of smaller parcels for more appropriate development. Land that is subdivided as part of a GDP project shall conform to the following in addition to other county regulations:

a. *Parcel size.* Individual lot sizes shall be as indicated by the table in section 44-809(d)(3) pertaining to district site design and improvement standards, general subdivision lot requirements.

b. *Road designs.* All roads shall conform to the most recent design standards set forth by the state department of transportation.

c. *Applicable site design standards.* All applicable site design and improvement standards included in this division shall be adhered to upon plan submittal. The county planner shall determine what requirements apply.

d. *Future development of subdivided lots.* All future development of individual parcels in the subdivision shall submit a GDP and adhere to all applicable site design and improvement standards included in this division.

(4) *Residential development.* The following shall apply to all residential development in the 321-ED district:

a. *New site-built homes in 321-ED(I) district.* So as to not interfere with the assemblage of smaller parcels for more appropriate nonresidential uses, site-built single-family homes shall be prohibited in any 321-ED(I) district. However, the permanent or temporary placement of one single-section or multisection manufactured home on an existing lot of record shall be permitted as a use by right in any 321-ED(I) district subject to the dimensional, appearance and setup requirements in sections 44-181 and 44-182.

b. *New site-built homes in 321-ED(MX) district.* Site-built single-family homes shall be permitted in the 321-ED(MX) district only as a portion of a mixed use project. The 321-ED(MX) district is intended to encourage a mixture of development types including a range of residential types and densities. All applicable standards and procedures included in this division shall be adhered to for all residential development projects in the 321-ED(MX) district.

c. *Existing residential uses and structures in 321-ED district.* Existing single-family, site-built or manufactured homes and duplexes are exempt from the requirements of the 321-ED district as long as the property is being used for residential purposes. Additions to such structures or accessory uses are permitted subject to the zoning requirements of the district prior to the time the property was rezoned to the 321-ED district. Existing single-family site-built or manufactured homes and duplexes which are partially or fully destroyed may be rebuilt or repaired as a matter of right.

(Code 1995, § 515.243(G))

Sec. 44-808. General development plan review.

(a) *Review process.* The following review process shall apply to all general development plan (GDP) projects in the 321-economic development district (321-ED) (special district-5):

(1) *Zoning enforcement officer.* Initial contact with the zoning enforcement officer.

(2) *Preapplication conference.* The conference will be a relatively informal meeting between developers and local government staff from each county department or outside agency as (e.g., planning, engineering, fire marshal, sheriff's department, state department of transportation district engineer, state division of water quality, U.S. Army Corps of Engineers). As much information as possible, preferably including sketch plans, should be presented to the local government staff by the developer. The developer may waive this meeting and submit the application for GDP review.

(3) *Application filing and staff review.* The application and review process is as follows:

a. The developer shall submit a GDP. On receipt of the GDP application, site plan, and detailed proposals as indicated in this section, the county planner shall cause a study to be made by the planning and zoning department, the county engineer and such other agencies or officials as appear appropriate in the circumstances of the case to determine conformity with the adopted land use plan, zoning and other regulations applicable in the case. Staff comments and concerns will be compiled by the county planner, who, in turn, assists the developer in making any necessary adjustments to the plans.

b. Following such review, unless complete conformity is found, the applicant shall be notified in writing by the county planner of discrepancies. The county planner will then work with the applicant in bringing the material submitted as nearly as possible into conformity with requirements or to define specifically the modifications of regulations which seem justified in view of equivalent service of public purposes by the proposal.

c. At such time as further changes appear unnecessary, the county planner shall review the GDP to ascertain whether the GDP meets the requirements of the 321-ED district.

d. The county planner shall approve the GDP, conditioned on specific modifications, or disapprove, with recorded reasons therefor. After a GDP has been approved, zoning, watershed and building permits shall be issued in the same manner as for building permits generally, provided that any requirements concerning the order and location in which building permits are to be issued in the particular GDP shall be observed.

e. Except as provided in subsection (a)(4) of this section, approval of final plans and reports shall be binding on the applicants and any successors in title, so long as 321-ED zoning applies to the land.

f. GDP approval is an administrative action unless it is required to be approved by the planning board based on the size of the parcel as indicated in section 44-807(2)a pertaining to GDP requirements for minimum parcel size. No public notice or hearing is required in connection with approval proceedings on final plans or changes in approved plans. For nonresidential development, close coordination with the county economic development corporation (EDC) will be encouraged.

(4) *Changes in plans.* Changes in approved plans may be permitted by the county planner on application by the original applicant or successors in interest. A revised plan shall be required when the following occurs:

a. Any increase in intensity of use. An increase in intensity of use shall be considered to be an increase in usable floor area; an increase in the number of dwelling or lodging units; or an increase in outside land area devoted to sales, displays or demonstrations.

b. Any change in parking resulting in an increase or reduction of five percent or more in the number of spaces approved.

c. Any reduction in the amount of open space, resulting in a decrease of more than five percent or any substantial change in the location or characteristics of open space.

d. Any change in use.

e. Substantial changes in pedestrian or vehicular access or circulation.

The county planner shall review the revised GDP to ascertain whether it meets the requirements of the current 321-ED district.

(b) *GDP submittal requirements.* Material submitted with the application or on subsequent request by the county planner shall include all plans, maps, studies and reports which are required to make the determinations called for in the particular case, with sufficient copies for necessary referrals and records. More specifically, all of the following shall be required before the application shall be considered filed for processing:

(1) *Written report and agreement.* A report identifying all property ownerships and beneficial interests within the boundaries of the proposed GDP and giving evidence of unified control of its entire area. The report shall state agreement of all present owners and holders of beneficial interest:

a. To proceed with the proposed GDP review;

b. To conform with the process and standards for development review and to proposals for staging of development, according to requirements set forth in subsection (b) of this section;

c. To provide such bonds, dedications, easements, guarantees, agreements, deeds of trusts, contracts and/or covenants acceptable to the county attorney as necessary to protect the public interest in completion of such development according to approved plans and for provision and continuing operation and maintenance of such areas, facilities and functions as are not to be provided, operated or maintained at general public expense, and to provide such dedications, contributions or guarantees as are required for provision of needed public facilities and services; and

d. General intentions concerning future selling and/or leasing of property and structures.

(2) *Site survey.* A survey of the proposed GDP site showing property lines and ownerships and existing features, including streets, alleys, easements, utility lines, existing land use, general topography and physical features.

(3) *Site plan requirements.* A site plan for the GDP, drawn at a scale no smaller than one inch equals 200 feet shown graphically. The site plan and all accompanying maps must be a minimum of 18 inches by 24 inches. Five copies of the site plan and accompanying maps shall be submitted to the county planner. Photos, diagrams and other visual aids may be

used as support documentation. The site plan and accompanying information shall, where applicable, include the following:

a. The name of the proposed development, and the names of the developer and professional planner.

b. Scale, date, north arrow.

c. Existing site conditions, including floodplains, wetlands, watershed designations, forest and vegetative cover, unique natural features, topographic contours, slopes over 15 percent and other site conditions listed in this subsection.

d. General plans for grading and site preparation. This may be submitted as a statement if more appropriate.

e. Quantitative data, including acreage of tracts to be included in the project, including any proposed lot lines, building densities, parcel size, open space calculations, market analysis and other calculations required by the county.

f. Location, height, floor area, and use of existing structures, if any, and approximate location, orientation, height, floor area and use of proposed structures or portions of structures.

g. Location, dimensions and proposed general uses (retail, office, etc.) of all buildings, including all required setback and buffer area boundaries as required in this division.

h. Planned street circulation system, including all ingress and egress points, loading/service areas and pedestrian walkways including crosswalks. Traffic flow shall be delineated by directional arrows, and all drectional and/or motorist aids shall be indicated.

i. Location, character and scale of parking and service facilities, such as area and number of spaces in parking lots, character of structural parking and the like.

j. Location of all service, maintenance, mechanical and trash/refuse areas and manner of screening as provided for in this division.

k. Identification of surrounding land uses, streets and zoning; relation of abutting land uses and zoning districts, including, where view protection is an objective, location of principal public viewpoints into or through the site.

l. General schematic landscape plan providing for the requirements in this division. The type, number, location and size (current and projected) of all plantings must be shown.

m. Proposed treatment of the perimeter of the development, including fences, vegetative screens/buffers and walls.

n. Existing lots and blocks, if any, and general pattern of proposed lots and blocks, if any.

o. Location and acreage of existing or proposed public and quasipublic facilities for pedestrian use or common enjoyment, excluding automotive uses; scale of such systems; indication of open air and internal components.

p. Location of all existing and proposed lighting standards complete with routing of electrical supply and the circumference area that will be lighted by each standard.

q. Location, type, size and capacity of all existing and proposed utility systems.

r. Location, type and dimensions of all existing and proposed signs, including electrical routing and required setbacks. Detailed drawings and any technical data for the proposed signs shall be included.

The site plan is required for determination as to internal relationships between or among uses and activities proposed and their supporting systems and facilities, and relation to surrounding uses, activities, systems and facilities. With respect to site plans, it is the intent

of this division that such plans shall include all data necessary for determining whether the proposed development meets the specific requirements and limitations and the intent concerning development in the 321-ED district. Therefore, information in addition to that specified in this subsection may be requested in connection with the site plan when necessary to make such determinations with respect to a particular GDP. Such information shall be provided, where necessary, to make such determinations before processing proceeds.

(4) *Special surveys or reports.* Special surveys, approvals or reports required by law in the circumstances of a particular GDP proposal are required where development of a major element of the proposal or the entire proposal is dependent upon such special surveys, approvals or reports.

(5) *Phasing plans.* Where a GDP is to be constructed in stages, the infrastructure and improvements must be in place on the initial phase before subsequent phases are developed.

(6) *Restrictive covenants.* Proposals concerning any restrictive covenants to be recorded with respect to property included in the 321-ED district are required.

(7) *Additional requirements.* The following additional maps, renderings and/or documentation shall also be submitted:

a. Stormwater controls and watershed regulations must be addressed early in the GDP project review process. This must include compliance with water supply watershed ordinances. Watershed permits shall be issued with the GDP approval.

b. Manner of disposing of solid waste.

c. Provisions for placing all utilities underground.

d. Potential historical or cultural sites, as identified in the county land development plan, the U.S. 321 corridor district plan or other adopted county documents or those listed on state or federal historic preservation lists, and means to protect them from the encroachment of incompatible uses.

(8) *Driveway permit application.* The state department of transportation issues driveway permits for new driveway connections to the state highway system. Indication that a driveway permit has been applied for from the state department of transportation must be submitted.

(9) *Site access study.*

a. A site access study, commonly referred to as a "traffic impact analysis or traffic impact statement," shall be prepared and submitted for the GDP when recommended by the state department of transportation district engineer. The site access study may also be prepared by the applicant to refute the necessity of one or more required traffic improvements. This study shall be completed by a professional engineer licensed in the state and familiar with the standard practice of site access analysis. A formal recommendation by the state district engineer concerning a refuted requirement may be substituted for the study.

b. The site access study will be used to determine and describe how traffic generated by new or altered land uses will be served by the existing relevant road network and what adjustments must be made to maintain the same or similar level of service. The following information must be prepared as part of the site access study:

1. Peak hour trip generation for the proposed land use. Trip generation rates shall be obtained from Trip Generation, an Institute of Traffic Engineers (ITE) publication.

2. Trip distribution to attractors and surrounding areas.

3. Capacity analysis of adjacent intersections and all proposed access points in accordance with the latest federal highway administration (FHWA) highway capacity manual.

4. Alternative analysis for a number of access points and any alternatives proposed by the developer or the local government.

5. Recommendations for the necessary number and location of access points in accordance with calculated capacity and alternative analysis.

6. An appendix, which shall include all calculations, technical data, visual diagrams and other applicable information.

7. A traffic mitigation plan that suggests alternative improvements aimed at correcting any adverse impacts, or decreases in the levels of service, caused by the new development.

c. The existing relevant traffic network includes all of the major and minor thoroughfares and collectors from the point of origin at the proposed development up to and including intersections with secondary roads. The study must show the impact of the proposed development on the level of service of the relevant streets in the traffic network. The term "level of service" refers to the categories A through F set forth in the U.S. 321 corridor district plan.

d. The county, with assistance from the Hickory-Newton-Conover Metropolitan Planning Organization (MPO) and the state department of transportation district engineer, will review the site access study for compliance with these requirements. Projected traffic demands and necessary improvements created by a proposed GDP project will be evaluated by the county, the MPO and the state department of transportation district engineer.

e. The results of the corresponding impacts shall be evaluated relative to the computed levels of service at various timeframes and durations as defined in the highway capacity manual. A plan for mitigating any adverse impacts shall be proposed by the developer and approved by the county prior to the issuance of any building permits. The traffic mitigation plan shall be based on the results of the traffic impact study and shall include proposed improvements, a cost estimate, a construction schedule and the extent of participation by the proposed development.

f. If adequate facilities cannot be provided by the county or the state department of transportation, the county may require that: (i) the developer of the project provide the necessary improvements to overcome the deficiency, or (ii) the development be delayed until the public sector makes the improvements, or (iii) the development be staged to coincide with staged improvements to ensure that roadway facilities are available concurrent with development.

(Code 1995, § 515.243(H))

Sec. 44-809. Site design and improvement standards.

(a) *Scope.* The standards and regulations in this section shall be adhered to for all development and related activities within the 321-economic development district (321-ED) (special district-5):

(b) *General provisions.* The following general provisions shall apply:

(1) *Other regulations.* The site design shall conform to all local, state and federal regulations through the GDP review process.

(2) *Long-range plans.* It shall also conform to all long-range plans concerning such issues as road building and utility extensions.

(3) *General site design.* In general, the site design shall attempt to reduce cut and fill; protect groundwater resources; avoid unnecessary paved surfaces; provide adequate access; promote visual attractiveness; and mitigate adverse impacts of noise, odor, traffic, drainage and utilities on adjacent properties.

(4) *Suitable sites.* The site shall be suitable for development in the manner proposed without hazards to persons or property, on or off the site, free from the probability of flooding, erosion, subsidence or slipping of the soil, or other dangers. Conditions of soil, groundwater

level, drainage and topography shall all be appropriate to both the kind and pattern of use intended.

(5) *Unified site planning.* If appropriate to the form of development, lands to be included in 321-ED districts may be divided by streets, alleys, rights-of-way or easements, but shall be so located, dimensioned and arranged as to permit unified planning and development and to meet all requirements in connection therewith, as well as to provide necessary protection against adverse relationships between uses in the district and uses in surrounding areas.

(c) *Preservation.* Protecting environmentally sensitive land and historical sites should be given high priority in site design. More specifically the following shall be preserved whenever feasible:

(1) Wetlands. Wetlands as defined through field inspection by the U.S. Army Corps of Engineers.

(2) Floodplains. Lands in the floodplain as identified on Federal Emergency Management Agency flood hazard maps.

(3) Steep slopes. Slopes in excess of 20 percent over intervals of ten feet or more;

(4) Historic sites.

(d) *Dimensional requirements.* The following dimensional requirements shall be adhered to:

(1) *Permitted building height.* Buildings up to 75 feet shall be allowed in the 321-ED district subject to the setback requirements set forth in this section. Additional building heights shall be allowed subject to an increase in building setbacks of one foot for each additional one foot in building height.

(2) *Building setbacks.* The minimum building setback (required yard) from the edge of all street rights-of-way, planned street rights-of-way and property lines for the outer boundaries of the development shall be as follows:

Setback From . . .	**Feet**
U.S. 321 freeway right-of-way	100
Major and minor thoroughfare rights-of-way	75
All other road rights-of-way (public or private)	50
Nonresidential property lines	50
Residential property lines	75

(3) *General subdivision lot requirements.* In subdivisions approved through the GDP process, design of interior individual lots shall adhere to the following dimensional requirements, except for requirements included in the site design and improvement standards in subsection (k)(5) and (6) of this section pertaining to mixed use development provisions (321-ED(MX) district only), residential developments and nonresidential standards:

Use Elements	**Lot**		**Yards**		
Minimum Sizes	**Overall (sq. ft.)**	**Width (feet)**	**Front (feet)**	**Side (feet)**	**Rear (feet)**
321-ED(MX)	20,000	100	30	20	30
321-ED(I)	40,000	100	30	25	35

(4) *Street line Preservation.* Where a major and minor thoroughfare is planned to be built or

widened and initial roadway design and right-of-way locations have been completed, all building setbacks shall account for these improvements. When a future road or road improvement is shown on the county thoroughfare plan or the Hickory-Newton-Conover Urban Area thoroughfare plan, the developer is to take possible road improvements into account in the site design.

(5) *Nonresidential densities.* To encourage land assemblage, floor area ratios (FARs) shall be permitted on a sliding scale as follows:

Project Size (acres)	Maximum FAR
5.00--24.99	**1:3**
25.00--49.99	**1:2.75**
50.00--74.99	**1:2.5**
75.00--99.99	**1:2.25**
100.00--199.99	**1:2**
200.00 and greater	**1:1.75**

(e) *Circulation system design.* The following circulation system requirements shall apply to all development in the 321-ED district:

(1) *Generally.* 321-ED districts shall be so located with respect to expressways, arterial and collector streets, and shall be so designed as to provide direct access to and from such districts without creating traffic along minor streets in residential neighborhoods outside the district.

(2) *Access to major roads.* All GDPs shall have access to at least one major or minor thoroughfare unless it is less than the minimum parcel size requirement as noted in section 44-807(2)a pertaining to the GDP requirement for minimum parcel size.

(3) *Access points permitted.* One access point shall be allowed on any property with less than 400 feet of frontage on a major or minor thoroughfare. Two access points shall be allowed on major and minor thoroughfares if the property has frontage that equals or exceeds 400 feet on a major or minor thoroughfare and the results of a site access study or a recommendation from the state department of transportation indicate the need for a second access point. Three access points shall be allowed if the property has frontage that equals or exceeds 800 feet on a major or minor thoroughfare and the results of a site access study or a recommendation from the state department of transportation indicate the need for a third access point. Three access points shall be the maximum number of access points allowed for a single project on any major or minor thoroughfare.

(4) *Location of access points.* The location of access points shall be in conformance with the state department of transportation's policies for street and driveway connections.

(5) *Off-site traffic improvements.* Transition tapers and deceleration lanes shall be required for all GDP projects where a site access study requires or a recommendation from the state department of transportation indicates that such improvements are necessary. The costs of deceleration lanes and transition tapers shall be the responsibility of the owner or developer of the property.

(6) *Shared access.* Mutual shared access agreements shall be required between adjacent property owners with frontage on major or minor thoroughfares when site plans are submitted concurrently. When access is to be shared, easements, liability arrangements and a maintenance agreement must be submitted to the local government prior to occupancy. Where no mutual shared access is feasible due to topographical or other physical constraints, access shall be in conformance with the state department of transportation's policies for street and driveway connections.

(7) *Connected interior driveways/parking.* Adjacent commercial developments with access to a

major or minor thoroughfare shall connect interior parking and driveways. Where adjacent commercial property is vacant, sufficient provisions to connect to the properties shall be submitted. Parcels with frontage on major or minor thoroughfares shall also be required to provide or reserve sufficient access to any adjacent properties with poor or nonexistent access. See subsection (e)(6) of this section pertaining to shared access. When a GDP is submitted for a tract that is located immediately adjacent to properties less than five acres that front along a common public street, the plan shall include the provision of reasonable access to the adjacent properties by one of the following ways:

a. Building layout shall be shown with a break or open space to allow for construction of a future road serving the adjoining property. The plan shall locate such future road site at a location where, according to sound engineering practices, actual construction of the road would be practical.

b. The internal road circulation pattern on the site plan shall show a roadway that will be constructed as part of the GDP which connects to the adjoining property.

(8) *Channelization.* Channelization (the separation of conflicting traffic movements into well-defined paths of travel by traffic islands or significant pavement markings) improvements shall be considered where a site access study indicates the possible existence of significant turning conflicts involved with the new development.

(9) *Signalization.* Only after all other traffic improvements have been explored shall signalizations be installed. Traffic signals will reduce turning conflicts but may significantly disrupt traffic flow.

(10) *Street design.* All streets shall be designed and paved to meet state department of transportation standards.

(f) *Landscaping, buffering and screening.* The following landscaping requirements shall apply to all development in the 321-ED district:

(1) *Construction cleanup.* All dead or dying trees, stumps, litter, brush, weeds or other debris shall be removed from the site at the time of occupancy.

(2) *Maintenance.* All landscaping and screening shall be maintained so as to continue their effectiveness.

(3) *Landscaping of disturbed land.* Landscaping of all cuts and fills shall be sufficient to prevent erosion. All roadway slopes shall also be landscaped.

(4) *Interior street landscaping.* For multitenant, multiparcel or multibuilding developments, shade trees shall be planted along both sides of all interior access streets, excluding streets not typically used by the public. Typical plantings must include as a minimum 14 shade trees per 1,000 linear feet which are at least eight feet tall at planting and will be 20 feet tall at maturation and which are similar in size and shape.

(5) *Entranceways.* Multitenant, multiparcel or multibuilding developments must provide for the installation of a median-type entranceway at all entrances on major or minor thoroughfares. The median shall be grassed and landscaped.

(6) *Use of existing topography.* Developments shall utilize existing topography, such as hills, ridges and berms, to screen parking and maintenance areas to the maximum extent possible.

(7) *Highway 321 buffer.* A 50-foot landscaped buffer area shall be required for the portion of all development adjacent to the U.S. 321 right-of-way. The buffer shall include the following improvements:

a. One tree (eight feet tall in three years) per 50 linear feet of frontage;

b. One tree (smaller ornamental tree) per 50 feet of linear feet of frontage; and

c. One shrub or similar planting per 15 linear feet of frontage.

d. The remaining area shall include a ground cover of seeded grass, sod, or rock,

brick, or wood mulch or any combination of these items.

The developer may substitute existing vegetation for some or all of these requirements when practical. Buildings or parking areas shall be prohibited in the buffer areas. The buffer areas shall extend along the entire length of the lot.

(8) *Residential buffers.* When a 321-ED district directly abuts a residential zoning district, all of the structures for the nonresidential uses shall be set back 75 feet from the residential property lines. This area shall be labeled as the "natural buffer area." No buildings, signs or parking are allowed in this area. The buffer must include a row of evergreen trees placed not more than five feet apart which would form a continuous hedge of at least eight feet tall at planting. Low-growing evergreen shrubs shall fill in all gaps between the trees. Opaque fencing, six feet tall, or existing topography may be used in lieu of vegetative screening for all or part of the natural buffer area if the same or better screening will result. The intent of this requirement is to heavily screen the development from the residential district.

(9) *Water body buffers.* An undisturbed natural buffer shall be provided along all rivers, streams, creeks and other natural bodies of water which: (i) are identified as perennial waters on the United States Geological Survey (USGS) quadrangle topographic maps; and (ii) qualify as environmentally sensitive areas (i.e., floodplains as delineated by the Federal Emergency Management Agency, and wetlands, as identified by the U.S. Army Corps of Engineers through field inspection). Where such resources are present, no design shall be approved unless it complies with the requirements of all applicable federal, state and local laws and regulations pertaining to these resources. These laws and regulations include but are not limited to section 404 of the Clean Water Act and its implementing regulations, article XIV of this chapter pertaining to flood damage prevention and division 3 of this article pertaining to the watershed protection district. Existing undesirable vegetation may be cleared and the buffer revegetated or landscaped within a reasonable time period to minimize sedimentation and erosion. Manmade bodies of water, such as retention ponds or aesthetic water attractions, are not subject to this requirement. These areas may be used to calculate required open space as provided for in this section.

(10) *Parking area landscaping.* Where parking facilities are located in the front of the development, the following landscaping standards are required:

a. The standard for all parking areas shall be one shade tree, at least four feet tall at planting and eight feet within three years, per 2,000 square feet of space dedicated as parking. The trees shall be evenly spaced throughout the parking area. Five percent of the parking areas shall be landscaped with plantings (bushes, shrubs, flower beds). The perimeter landscaping standards shall not be combined with the parking area requirements. No more than 15 spaces may be in a continuous row without being interrupted by landscaping and at least one shade tree.

b. A landscape buffer area, 35 feet wide, shall be required along all roads, which buffer shall include as a minimum one of the following:

1. One tree (eight feet tall in three years) per 50 linear feet of frontage;

2. One tree (smaller ornamental tree) per 50 feet of linear feet of frontage; and

3. One shrub or similar planting per 15 linear feet of frontage.

The remaining area shall include a ground cover of seeded grass, sod, or rock, brick, or wood mulch or any combination of these items; a continuous row of shrubbery; a landscaped, stabilized earthen berm of at least four feet above parking lot grade level; or a wall. Attention shall be given to ensure that traffic safety measures are adhered to, including sight distance triangles. It is the intention of this requirement to create a more pedestrian-friendly environment; reduce urban heat; reduce wind and air turbulence; reduce noise; reduce the glare of automobile lights; reduce stormwater drainage problems; and protect and preserve the appearance, character and value of adjacent properties. It is not the intention of this requirement to decrease visibility or to unreasonably screen buildings or signs. No interior buffers are required between individual parcels or buildings in multiparcel or multitenant

developments, such as shopping centers and industrial/office parks. This requirement is intended to provide a natural edge to an increasingly urban environment. If significant existing topography or other natural barriers provide a sufficient natural edge, the landscaped buffer areas may be waived.

(11) *Maintenance area screening.* All loading, shipping, storage, maintenance, trash/refuse and mechanical areas shall be heavily landscaped with mature trees, at least six feet tall, or other screening, also six feet tall, while providing sufficient space for ingress and egress of vehicles. Mechanical areas on the tops of buildings shall be screened.

(12) *Entrance landscaping.* Landscaping shall be provided at site entrances, in public recreation/open space areas and adjacent to buildings. The type and amount of landscaping required shall be allowed to vary with the type of development.

(g) *Pedestrian design.* The following pedestrian design requirements shall apply to all development in the 321-ED district:

(1) *Generally.* In general, the plan shall provide a unified and well-organized arrangement of buildings, service areas, parking, pedestrian and landscaped common areas providing for maximum comfort and convenience of visitors and employees. Commercial buildings shall be so grouped in relation to parking areas that, after visitors arriving by automobile enter the walkway system, establishments can be visited conveniently with a minimum of conflicts with vehicles.

(2) *Pedestrian design.* For multitenant/building/parcel projects, the site plan shall include provisions for pedestrian-scale amenities, which may include benches, picnic tables, courtyards, plazas, water attractions and trash receptacles. These enhancements are essential to creating an efficient and functional environment as well as promoting a sense of place. An area shall be reserved for pedestrian use and/or open space and shall be improved and maintained accordingly. Such areas may include covered malls for general pedestrian use, exterior walkways, outdoor seating areas and the like where the facilities are available for common use by employees and visitors. Required buffer areas and setback yards as well as improved deck and roof areas may be used to meet this requirement.

(3) *Heavy traffic generators.* Service stations, fast food restaurants and similar uses, if provided, shall be so located that operations do not interrupt pedestrian or traffic flows in other parts of the development.

(4) *Location of loading zones and maintenance areas.* Loading zones where customers pick up goods shall be so located and arranged as to prevent interference with pedestrian movement within the development. Facilities and access routes for shopping center deliveries, servicing, and maintenance shall be so located and arranged as to prevent interference with pedestrian traffic in the center.

(5) *Pedestrian travel.* All buildings or building clusters within the development shall be connected with linkages other than roads (sidewalks, bikeways and walking paths). When feasible, these linkages shall be provided between adjacent sites. Pedestrian access may be provided at any suitable locations within the district, but shall, where practicable, be separated from vehicular access points in order to reduce congestion, marginal friction and hazards, except where signalization is used in such a manner as to control pedestrian and vehicular movements safely.

(6) *Natural areas.* Protecting environmentally sensitive areas for use as open space in the development should be given a high priority in site design. The GDP shall identify these environmentally sensitive areas (e.g., floodplains as delineated by the Federal Emergency Management Agency, and wetlands, as identified by the U.S. Army Corps of Engineers through field inspection). Where such resources are present, no design shall be approved unless it complies with the requirements of all applicable federal, state and local laws and regulations pertaining to these resources. These laws and regulations include but are not limited to section 404 of the Clean Water Act and its implementing regulations, article XIV of this chapter pertaining to flood damage prevention and division 3 of this article pertaining to the watershed protection district.

(h) *Parking.* The following requirements shall apply to all parking in the 321-ED district:

(1) *Generally.* Off-street parking shall be provided as required by article IX of this chapter pertaining to off-street parking and loading. Off-street loading shall be provided with area location and design appropriate to the needs of occupants of the district and protection of adjacent property from adverse effects. No space designated as required off-street parking space for the general public shall be used as off-street loading space or maneuvering room for vehicles being loaded or unloaded.

(2) *Interior parking encouraged.* Parking lots shall be kept separate and shall be located in the interior sections of multiple-building developments when possible. In single-building developments, parking areas shall be located in the rear of the site when practical. If parking must be located in the front of buildings, the parking area landscaping requirements listed in subsection (f)(10) of this section pertaining to landscaping, buffering and screening, and parking area landscaping.

(3) *Parking setbacks.* Where parking is located in the front, all parking areas shall be located behind the landscaped buffer areas and set back a minimum of eight feet from all buildings. This separation shall be grassed and landscaped and may include sidewalks.

(4) *Connected parking areas.* All parking areas should be linked to parking on adjacent project sites. When adjacent property is zoned 321-ED, provisions shall be made to allow for this parking connection when the property develops.

(i) *Signs.* The following requirements shall apply to all signage in the 321-ED district:

(1) *Generally.* All signs for the GDP project shall conform to the requirements in article XV of this chapter, except where the requirements included in this subsection are more restrictive. Additionally, the following shall apply:

a. No on-site sign larger than six square feet may be located closer than 100 feet from another similar or larger sign.

b. All signs shall be located in such a manner to avoid impeding the view of motorists or pedestrians.

c. No signs shall be located in any street right-of-way. Signs may be placed in the landscaped buffer areas.

(2) *Prohibited signs.* The following signs shall be prohibited on any land zoned 321-ED:

a. Off-site outdoor advertising (billboards).

b. Portable signs.

c. Roof signs.

d. Mechanical movement signs.

e. Posters, streamers, or similar devices used to attract attention.

f. Windblown signs (banners, balloons, streamers, etc.).

g. Electronic changeable copy signs except for time and temperature signs not exceeding 15 square feet.

(3) *Permitted Signs.* The following signs shall be permitted:

a. 1. One on-site sign structure for multitenant/building/parcel development, having not more than two sign surface areas, may be erected to identify the center along each section of road frontage on a major or minor thoroughfare from which there is a median entranceway to the center. Such signs may not exceed 300 square feet in total sign area; may not be over 35 feet in height; may identify the center, as a whole, and the establishments' activities and facilities within the center but shall not include other advertising; or

2. One on-site sign structure for single-tenant/building/parcel development,

having not more than two sign surface areas, may be erected to identify the site along each section of road frontage on a major or minor thoroughfare from which there is a median entranceway to the site. The following height and area requirements shall apply, based on the type road that the establishment fronts on:

b. 1. One wall sign shall be permitted for individual establishments or buildings within the project for each wall exposed to adjoining streets, mounted on the building and not extending above its bwer roofline. Such sign shall not exceed ten percent of the area of the wall involved, provided that a sign area of 30 square feet shall not be exceeded; or

2. One additional on-site sign shall be permitted for individual establishments or buildings within a multitenant/building/parcel project, which shall have a width of no more than five percent of the building frontage, not to exceed seven feet, and a height of no more than four feet. The ground area around the sign shall also include landscaping (flowers, shrubs, etc.).

SIGN REQUIREMENTS FOR INDIVIDUAL ESTABLISHMENTS

Lanes	Speeds	Area (sq. ft.)	Height (feet)
2	15--25	10	5
2	30--40	20	6
2	45--55	50	16
4	15--25	15	6
4	30--40	35	11
4	45--55	80	18
6	15--25	20	14
6	30--40	40	16
6	45--55	100	20
Freeway	55+	150	28

Source: Street Graphics and the Law, Mandelker and Ewald, 1988.

c. Signs directing traffic shall be permitted but shall not exceed five square feet per side.

(j) *Site appearance.* Site appearance shall be in accordance with the following:

(1) *High quality design.* Building designs in the 321-ED district shall promote a diversity in style while striving to define a distinct character and maintain a high quality development standard.

(2) *Underground utilities.* All on-site utilities (electrical, telephone, etc.) shall be located underground unless technical restrictions exist for doing so. Provisions shall be made to significantly reduce the visual blight of any aboveground utilities.

(3) *Lighting.* Lighting shall be provided at intersections, along walkways, in parking lots, between buildings and at development entrances. All lighting shall be arranged to reflect the light away from adjacent properties and roadways. The maximum height shall be 25 feet for all

lighting standards. Spacing of the standards shall be four times the height of the standard. Alternative lighting design may be approved which meets or exceeds the lighting pattern required in this subsection (j)(3). The lighting plans shall be endorsed by the utility provider.

(4) *Paving materials.* Design and choice of paving materials in pedestrian areas, including crosswalks and sidewalks, shall include brick, concrete (aggregate exposed finish), cement pavers, brick pavers or similar materials.

(k) *Mixed use development for 321-ED(MX) district only.* The following apply to mixed use development for the 321-ED(MX) district only:

(1) *Intent.* The mixed use development concept intends to:

a. Permit a flexible mixture of various residential development types which may include certain commercial/office/civic establishments primarily serving the residents living in the development.

b. Encourage commercial and office uses that do not attract large volumes of traffic and continuous consumer turnover.

c. Provide for an alternative to strip-style, highway-oriented commercial uses.

d. Permit uses that promote the construction of new buildings and the conversion of existing buildings that maintain the visual character and architectural scale of other uses in the same project.

e. Minimize the visual and functional conflicts between residential and nonresidential uses within and surrounding the development.

f. Create relatively self-contained residential neighborhoods that provide many services on site that would otherwise require frequent automobile use.

(2) *Permitted uses.* The following uses shall be permitted in mixed use developments provided that the use compatibility criteria in subsection (k)(3) of this section are adhered to for each proposed use:

a. Residential uses, including multifamily (including townhouses), duplexes, zero-lot-line single-family homes, and typical large-lot single-family detached homes.

b. Retail specialty shops, including the sale of gifts, antiques, flowers, books, jewelry, wearing apparel; craft shops; and other similar uses.

c. Personal service shops, including tailors, beauty salons, barbers, shoe repair, dressmaking and other similar uses.

d. Business offices, including financial services (excluding drive-in windows) real estate sales, travel agencies, insurance sales, advertising, mailing services, and other similar uses.

e. Studios for dance, art, music, photography or similar uses.

f. Professional offices for doctors, lawyers, dentists, chiropractors, engineers, architects and other similar uses.

g. Mixed use structures containing one or more dwelling units and other nonresidential uses permitted in this subsection.

h. Government buildings or structures necessary to serve the residents of the development, including but not limited to schools, libraries, post offices, utility maintenance buildings.

i. Accessory buildings and uses.

(3) *Use compatibility criteria.* The permitted uses listed in subsection (k)(2) of this section must adhere to all of the following compatibility criteria to be permitted:

a. There is a clear relationship between nonresidential and residential uses on any one

site or adjacent sites.

b. The use will not attract large volumes of vehicular traffic nor require more than one access point.

c. Minimum visual and functional conflict will be created between the proposed uses or nearby uses.

d. Anticipated noise and congestion created by the use will be insignificant, especially in the evenings.

e. The bulk, height and scale of the buildings will be compatible with surrounding or proposed residential development.

(4) *Mixed use development standards; general design guidelines.* In addition to the applicable 321-ED district requirements listed in this division, all mixed use developments must conform to the standards in this subsection (k)(4). Without limiting the inventiveness and creativity of the developer, the general design guidelines shall be adhered to:

a. All building sites and/or buildings shall be accessed on interior streets, not on thoroughfares or arterials or collectors.

b. The placement of all buildings shall take into consideration topography, privacy, building height, orientation, drainage and aesthetics.

c. The commercial development on the site shall preferably be located at the development entranceways at major or minor thoroughfares unless significantly reliant on pedestrian customers. Higher density residential development shall be located along major interior roads between or at intersections.

d. Common, accessible open space shall be required for all mixed use developments. The open space shall be pedestrian oriented and shall include such amenities as park benches, walking trails and gazebos. Parking or vehicular access within these areas shall be prohibited. The open space must comprise at least 20 percent of the gross project area and may be more when the reduced lot sizes are used or transfer-of-development rights are granted.

e. The site shall be divided into clusters or mini-neighborhoods that separate the different development types. This must be done while maintaining the interconnectivity and accessibility of all uses. The number of units per cluster shall be between four and 20. The use of curving culs-de-sac off interior collector roads is recommended to achieve the clusters.

f. There must be one central focus area to the project. The focus may be a recreation or common open space area (playground, tennis courts, golf course), an entertainment facility (clubhouse, meeting facility, amphitheater) or a pedestrian-oriented commercial area needing little or no parking.

g. There shall be several small pocket parks that serve as convenient passive open space and/or recreation areas for those directly adjacent residents.

h. Sidewalks, five feet wide, shall be included with all interior access street and parking area designs. Sidewalks may be constructed at the time of development or may be phased in over a period of several years as demand warrants. If the sidewalks are to be phased in over time, the developer must make payments to a fund that would pay for the sidewalks over time. This payment arrangement must be satisfactory to the county planner. All sidewalks between residential, open space and commercial sections shall be safe and lead to storefronts, not service areas.

(5) *Residential developments.* Standard, large lot residential developments, exclusive of any other residential type, are not permitted in the 321-ED district. However, large, single-family lots shall be permitted in conjunction with other residential types including the following:

a. *Clustered single-family and duplexes.*

1. Minimum lot size: 20,000 square feet. However, lots may be reduced by up

to 50 percent of the minimum required lot size, provided that at least 75 percent of the balance of the original lot size must be preserved as common open space, accessible by all reduced building sites. Up to 50 percent of the common open space may be located in a designated floodplain or may be reserved for a public use.

2. Minimum lot width: 50 feet (60 feet for duplexes); add ten feet on corner lots.

3. Minimum front yard: 15 feet (25 feet where the lot abuts a dedicated street or a large-lot single-family home site).

4. Minimum side yards: ten feet.

5. Minimum rear yards: 20 feet.

6. Maximum height: 35 feet or 2 1/2 stories.

7. Accessory buildings shall be located in the rear yard no closer than five feet from the principal dwelling or five feet from any property line and no more than ten feet in height.

b. *Zero-lot-line.* Zero-lot-line development allows the construction of single-family dwellings on individual recorded lots without a side yard requirement on one side. This concept permits the better use of the entire lot by compacting the front, rear and side yards into one or more internal gardens which may be completely walled or screened. This type of development is an affordable alternative to standard large-lot single-family dwelling units and apartments, condominiums or townhouses, which usually share common walls.

1. Minimum lot size: 20,000 square feet. However, lots may be reduced by up to 75 percent of the minimum required lot size, provided that at least 75 percent of the balance of the original lot size must be preserved as common open space, accessible by all reduced building sites. Up to 50 percent of the common open space may be located in a designated floodplain or may reserved for a public use (school, library, community building, etc.).

2. Minimum lot width: 40 feet (50 feet on corner lots).

3. Minimum front yard: ten feet (25 feet where the lot abuts a dedicated street or a large-lot single-family home site).

4. Minimum side yards: ten feet on one side, zero feet on the opposite. However, in no case shall a zero-lot-line dwelling be closer than ten feet to the lot line of a large-lot single-family home site or a dedicated street.

5. Minimum rear yards: 20 feet.

6. Maximum height: 35 feet or 2 1/2 stories.

7. Dwellings shall be constructed against one side lot line, and no windows, doors or other openings shall be permitted on this side. The developer must provide for an unobstructed wall maintenance easement of five feet on the adjacent property.

8. Accessory buildings shall be located in rear yard no closer than five feet from the principal dwelling or five feet from any property line and no more than ten feet in height.

c. *Multifamily.* To encourage land assemblage, densities for all multifamily projects shall be administered on the sliding scale as follows; this is based on the acreage of the project:

Project Acreage Allocated for Residential Uses	Dwelling Units per Acre
5 or less	Not permitted
5--9.99	10
10--14.99	12
15--19.99	14
20 or more	16

1. In no case shall there be more than four multifamily units in one linear designed building. Where the design is nonlinear, the county planner shall determine the number of attached units that are appropriate.
2. Minimum front yard: 15 feet (25 feet where the lot abuts a dedicated street or a large-lot single-family home site).
3. Minimum side yards: ten feet.
4. Minimum rear yards: 20 feet.
5. Maximum height: 35 feet or 2 1/2 stories.

(6) *Nonresidential standards.* The permitted commercial uses listed in subsection (k)(2) of this section are allowed in the GDP zoning district through the GDP review process. These uses shall comply with the following standards:

a. The permitted uses listed in subsection (k)(2) of this section must comply with the use compatibility criteria in subsection (k)(3) of this section.

b. The following site design and dimensional standards shall apply for all nonresidential components of a mixed use development:

1. Minimum lot size: 10,000 square feet.
2. Minimum lot width: 50 feet (60 feet for duplexes); add ten feet on corner lots.
3. Maximum height: 35 feet or 2 1/2 stories.
4. Accessory buildings shall be located in rear yard no closer than five feet from the principal dwelling or five feet from any property line and no more than ten feet in height.

(7) *Parking requirements.* The following parking requirements shall apply to multifamily and nonresidential components of all mixed use developments:

a. The minimum number of off-street parking spaces shall comply with the requirements of article IX of this chapter pertaining to off-street parking and loading requirements.

b. The parking area locational criteria and design and standards of subsection (f) of this section pertaining to landscaping, buffering and screening and subsection (h) of this section pertaining to parking shall be adhered to for all mixed use developments.

c. On-street parking, provided by the developer, may be allocated by the county planner as a portion of the required on-site parking requirements until the allocation of these spaces is completed. To be allocated, the parking space may be no further than 200 feet from the establishment's main entrance.

(Code 1995, § 515.243(l))

Secs. 44-810--44-835. Reserved.

ARTICLE XIV. FLOOD DAMAGE PREVENTION*

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***Cross references:** Floodplains and manufactured home parks, § 26-101.

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DIVISION 1. GENERALLY

Sec. 44-836. Statutory authorization.

G.S. 143-215.51--143-215.61, 153A-121--153A-157, and 153A-340--153A-390 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.
(Code 1995, § 512.01)

Sec. 44-837. Effect on rights and liabilities; existing building permits.

(a) *Effect on rights and liabilities under existing article.* This article in part comes forward by reenactment of some of the provisions of the flood damage prevention ordinance enacted on September 3, 1980, as amended on January 1, 1990, and it is not the intention to repeal but rather to reenact and continue to enforce without interruption such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this article on May 2, 1994, shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention chapter of the county enacted on September 3, 1980, as amended on January 1, 1990, which are not reenacted in this article are repealed.

(b) *Effect upon outstanding building permits.* Nothing within this article shall require any change of plans, construction, size or designed use of any building, structure, or part thereof for which a building permit has been granted by the county before May 2, 1994; provided, however, that when construction has not begun under such outstanding permit within a period of 60 days subsequent to May 2, 1994, construction or use shall be in conformity with this article.

(Code 1995, § 512.02)

Sec. 44-838. Findings of fact.

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

(b) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(Code 1995, § 512.03)

Sec. 44-839. Statement of purpose.

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

(1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

(4) Control filling, grading, dredging, and other development which may increase erosion or flood damage; and

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(Code 1995, § 512.04)

Sec. 44-840. Objectives.

The objectives of this article are to:

(1) Protect human life and health;

(2) Minimize expenditure of public money for costly flood control projects;

(3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) Minimize prolonged business interruptions;

(5) Minimize damage to public facilities and utilities, such as water and gas mains; electric, telephone and sewer lines; streets; and bridges located in floodplains;

(6) Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize flood-blight areas; and

(7) Ensure that potential homebuyers are notified that property is in a flood area.

(Code 1995, § 512.05)

Sec. 44-841. Definitions.

Unless specifically defined in this section, words or phrases used in this article shall be interpreted so as to give them meaning that they have in common usage and to give this article its most reasonable meaning. The definitions found in this section apply specifically to this article and are intended to supplement the definitions found in section 44-4.

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

Addition (to an existing building) means an extension or increase in the floor area or height of a building or structure. Additions to existing buildings shall comply with the requirements of new construction, unless the addition, renovation or reconstruction to any building, was constructed prior to the initial flood insurance study for that area and the addition, renovation or reconstruction does not equal 50 percent of the present market value of the structure. Where a firewall is provided between the addition and the existing building, the addition shall be considered a separate building and must comply with the standards for new construction.

Appeal means a request from a review of the local administrator's interpretation of any section of this article.

Area of shallow flooding means a designated AO or VO zone on a community's flood insurance rate map (FIRM) with base flood depths from one to three feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of special flood hazard means the land area within the zoning jurisdiction of the county which is subject to a one-percent or greater chance of flooding being equaled or exceeded in any given year.

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

Basement means the lowest story of a structure which has its floor subgrade on all sides.

Breakaway wall means a wall, having a design safe loading resistance of not less than ten or more than 20 pounds per square foot, which is not part of the structural support of a building, and designed to collapse under specific lateral forces without causing damage to the foundation system or elevated portion of the building. A wall with loading resistance of more than 20 pounds per square foot requires a professional engineer's or architect's certificate.

Building means any structure built for the support, shelter, or enclosure of any occupancy or storage.

Development means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures; mining, dredging, filling, grading, paving, excavation, or drilling operations; or storage of equipment or materials.

Elevated building means a nonbasement building built, for a building in zone A1--A30, AE, A, A99, AO, AH, B, C, or X, to have the top of the elevated floor above the ground by means of pilings, columns (posts and piers), shear walls parallel to the flow of water, and adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. For zones A1--A30, AE, A, A99, AO, AH, B, C, and X, the term "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.

Existing manufactured home park or manufactured home subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are affixed, including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads, is completed before September 30, 1980.

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

Flood and *flooding* mean a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters; and

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

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

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

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

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

Floor means the top surface of an enclosed area in a building, including basement, i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

Functionally dependent facility means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, including but not limited to port or docking facilities for loading and unloading of cargo or passengers, shipbuilding and repair or seafood processing facilities. This term does not include longterm storage, manufacture, sales or service.

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

Historic structure means any structure that is:

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

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

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

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by an approved state program as determined by the Secretary of the Interior or approved directly by the Secretary of the Interior in states without approved programs.

Levee means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water, so as to provide protection from temporary flooding.

Levee system means a flood protection system consisting of a levee and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this article.

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

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

Mean sea level means the average height of the sea for all stages of the tide. It is used as a reference for establishing varying elevations within the floodplain. For purposes of this article, the term is synonymous with National Geodetic Vertical Datum (NGVD).

National Geodetic Vertical Datum (NGVD) means a vertical control, corrected in 1988, used as a reference for establishing varying elevations within the floodplain.

New construction means structures for which the start of construction commenced on or after the effective date of the ordinance from which this article is derived and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including at a minimum the installation of utilities, the construction of streets, and either final grading or the pouring of concrete slabs, is completed on or after September 30, 1994.

Nonconforming building or use means any legally existing building or use which fails to comply with this article.

Recreational vehicle means a vehicle which is:

(1) Built on a single chassis;

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

(3) Designed to be self-propelled or permanently towable by a light-duty truck; and

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

Reference feature means the receding edge of a bluff or eroding frontal dune or, if such a feature is not present, the normal high water line or the seaward line of permanent vegetation if high water line cannot be identified.

Remedy a violation means to bring the structure or other development into compliance with state or local floodplain management regulations or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include but are not limited to protecting the structure or other affected development from flood damages, implementing the enforcement sections of this article or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other developments.

Start of construction means the first placement of permanent construction of a structure, including a manufactured home, on a site, such as pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units, or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building. This does not apply to new construction or substantial improvements under the Coastal Barrier Resources Act (PL 97-348), but does apply to substantial improvements generally. For this article, the term "start of construction" means that date the building permit was issued, provided that the actual start of construction, repair, reconstruction, rehabilitation, addition, or improvement was within 180 days of the permit date.

Structure means a walled and roofed building, a manufactured home, including a gas or liquid storage tank, or other manmade facilities or infrastructures that are principally above ground.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See *Substantial improvement.*

Substantial improvement means any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual work or repair performed. The term does not, however, include either any project for improvement of a structure to comply with existing state and local health, sanitary, or safety code specifications which are solely necessary to ensure safe living conditions, or any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Substantially improved existing manufactured home park or subdivision means where the repair, reconstruction, rehabilitation or improvements of the streets, utilities and pads equal or exceed 50 percent of the value of the streets, utilities and pads before the repair, reconstruction, or improvement commenced.

Variance means a grant of relief to a person from the requirements of this article which permits construction in a manner otherwise prohibited by this article where specific enforcement would result in unnecessary hardship.

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this article is presumed to be in violation until such time as that documentation is provided.
(Code 1995, § 512.06)

Cross references: Definitions generally, § 1-2.

Sec. 44-842. Applicability.

This article shall apply to all areas of special flood hazard within the jurisdiction of the county.
(Code 1995, § 512.07)

Sec. 44-843. Establishment of special flood hazard areas.

The areas of special flood hazard identified by the Federal Emergency Management Agency in its flood insurance study for the county, dated September 30, 1980, with accompanying maps and other supporting data, and any revisions thereto are adopted by reference and declared to be a part of this article.
(Code 1995, § 512.08)

Sec. 44-844. Compliance; zoning compliance permit.

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

(b) A zoning compliance permit shall be required in conformance with this article prior to the commencement of any development activities.

(Code 1995, § 512.09)

Sec. 44-845. Abrogation and greater restrictions.

This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
(Code 1995, § 512.10)

Sec. 44-846. Interpretation.

In the interpretation and application of this article, all sections shall be considered as minimum requirements, liberally construed in favor of the board of commissioners, and deemed to neither limit nor repeal any other powers granted under state statutes.
(Code 1995, § 512.11)

Sec. 44-847. Disclaimer of liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This article does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the county or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made under this article.
(Code 1995, § 512.12)

Secs. 44-848--44-875. Reserved.

DIVISION 2. ADMINISTRATION AND ENFORCEMENT*

***Cross references:** Administration, ch. 2.

Sec. 44-876. Designation of local administrator.

The zoning administrator is appointed to administer and implement this article.
(Code 1995, § 512.30)

Sec. 44-877. Duties of zoning administrator.

Under this article, duties of the zoning administrator shall include but not be limited to the following:

(1) Review all zoning compliance applications to ensure that the requirements of this article have been satisfied.

(2) Advise the permittee that additional federal or state permits may be required and, if specific

federal or state permits are known, require that copies of such permits be provided and maintained on file with the development permit.

(3) Notify adjacent communities and the state department of crime control and public safety, division of emergency management, state coordinator for the national flood insurance program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

(4) Ensure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished.

(5) Prevent encroachments within floodways unless the certification and flood hazard reduction provisions of division 3 of this article are met.

(6) Obtain actual elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved structures, in accordance with section 44-878(a)(7) and (b).

(7) Obtain the actual elevation, in relation to mean sea level, to which the new or substantially improved structures have been floodproofed, in accordance with section 44-878(a)(7) and (b).

(8) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with section 44-917(c).

(9) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

(10) When base flood elevation data or floodway data has not been provided in accordance with section 44-843, obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, including data developed pursuant to section 44-919(d), in order to administer this article.

(11) When the exact location of boundaries of the areas of special flood hazard conflict with the current, natural topography information at the site, the property owner may apply and be approved for a letter of map amendment (LOMA) by the Federal Emergency Management Agency. A copy of the LOMA issued from the Federal Emergency Management Agency will be maintained by the zoning administrator in the permit file.

(12) Make on-site inspections of projects in accordance with sections 44-879 through 44-886.

(13) Serve notices of violations, issue stop work orders, revoke permits and take corrective actions in accordance with sections 44-879 through 44-886.

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

(Code 1995, § 512.31)

Sec. 44-878. Zoning compliance; certification.

(a) For the purposes of this article, application for zoning compliance shall be made to the zoning administrator on forms furnished by him prior to any development activities. The application may include but not be limited to plans in duplicate drawn to scale showing the nature, location, dimensions, and elevators of the area in question; existing or proposed structures; and the location of fill, materials, storage areas and drainage facilities. Specifically, the following information is required:

(1) A plot plan that shows the 100-year floodplain contour or a statement that the entire lot is within the floodplain must be provided by the development permit applicant when the lot is within or appears to be within the floodplain as mapped by the Federal Emergency Management Agency or the floodplain identified pursuant to either section 44-877(10) or sections 44-918 and 44-919. The plot plan must be prepared by or under the direct

supervision of a registered land surveyor or professional engineer and certified by same.

(2) The plot plan required by subsection (a)(1) of this section must show the floodway, if any, as identified by the Federal Emergency Management Agency or the floodway identified pursuant to either section 44-877(10) or section 44-918.

(3) Where base flood elevation data is provided in accordance with this section or section 44-877(10), an application for a zoning compliance permit within the flood hazard area shall show the following:

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

b. If the structure has been floodproofed in accordance with section 44-917(c), the elevation, in relation to mean sea level, to which the structure was floodproofed.

(4) Where the base flood elevation data is not provided, the application for a zoning compliance permit must show construction of the lowest floor at least two feet above the highest adjacent grade.

(5) Where any watercourse will be altered or relocated as a result of proposed development, the application for a zoning compliance permit shall include the following:

a. A description of the extent of watercourse alteration or relocation;

b. An engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and

c. A map showing the location of the proposed watercourse alteration or relocation.

(6) When a structure is floodproofed, the applicant shall provide a certificate from a registered professional engineer or architect that the nonresidential floodproofed structure meets the floodproofing criteria in section 44-917(c).

(7) A floor elevation or floodproofing certification is required after the lowest floor is completed. Within 21 calendar days of establishment of the lowest floor elevation or floodproofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the zoning administrator a certification of the elevation of the lowest floor or floodproofed elevation, whichever is applicable, in relation to mean sea level.

(b) The certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the surveyor or engineer. When floodproofing is utilized for particular building, the certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by the engineer or architect. Any work done within the 21-day calendar period and prior to submission of the certification shall be at the permit holder's risk. The zoning administrator shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make such corrections required shall be cause to issue a stop work order for the project.

(Code 1995, § 512.32)

Sec. 44-879. Inspections.

(a) *Work in progress.* As the work pursuant to a permit issued under this article progresses, the zoning administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to this article and the terms of the permit. In exercising this power, the administrator has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.

(b) *Periodic inspections.* The zoning administrator and each member of his inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(Code 1995, § 512.33)

Sec. 44-880. Stop work orders.

Whenever a building or part thereof is being constructed, reconstructed, altered or repaired in violation of this article, the administrator may order the work to be immediately stopped. The stop work order shall be in writing and directed to the person doing the work. The stop work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Violation of a stop work order constitutes a misdemeanor.
(Code 1995, § 512.34)

Sec. 44-881. Revocation of permits.

The zoning administrator may revoke and require the return of the zoning compliance permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.
(Code 1995, § 512.35)

Sec. 44-882. Correction of violations.

Under this article, when the zoning administrator finds violations of applicable state and local laws, it shall be his duty to notify the owner or occupant of the building of the violation. The owner or occupant shall each immediately remedy the violations of law in the property he owns.
(Code 1995, § 512.36)

Sec. 44-883. Failure to take corrective actions.

If the owner of a building or property shall fail to take prompt corrective action required under this article, the zoning administrator shall give him written notice, by certified or registered mail, to his last known address or by personal service that:

(1) The building or property is in violation of this article;

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

(3) Following the hearing, the zoning administrator may issue such order to alter, vacate, or demolish the building or to remove fill as appears appropriate.

(Code 1995, § 512.37)

Sec. 44-884. Order to take corrective action.

If, upon a hearing held pursuant to the notice prescribed in section 44-83, the zoning administrator shall find that the building or development is in violation of this article, he shall make an order in writing to the owner, requiring the owner to remedy the violation, within such period, not less than 60 days, as the administrator may prescribe. However, where the administrator finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.
(Code 1995, § 512.38)

Sec. 44-885. Appeal.

Any owner who has received an order to take corrective action required under this article may appeal from the order to the board of commissioners by giving notice of appeal in writing to the zoning administrator and the clerk of the board of commissioners within ten days following issuance of the final order. In the absence of an appeal, the order of the zoning administrator shall be final. The board of commissioners shall hear an appeal within a reasonable time and may affirm, modify and affirm or revoke the order.
(Code 1995, § 512.39)

Sec. 44-886. Failure to comply with orders.

If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken or fails to comply with an order of the board of commissioners following an appeal pursuant to this article, he shall be guilty of a misdemeanor and shall be punished in the discretion of the court.
(Code 1995, § 512.40)

Sec. 44-887. Variances.

(a) The board of adjustment as established by the county shall hear and decide appeals and requests for variances from the requirements of this article.

(b) Any person aggrieved by the decision of the appeal board or any taxpayer may appeal such decision to the court, as provided in G.S. ch. 7A.

(c) Variances may be issued for the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(d) In passing upon such applications, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this article, and:

(1) The danger that materials may be swept onto other lands to the injury of others;

(2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity to the facility of a waterfront location, where applicable;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The compatibility of the proposed use with existing and anticipated development;

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

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters, and the effects of wave action, if applicable, expected at the site; and

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

(e) The considerations listed in subsection (d) of this section shall be submitted to the appeal board, in writing, and included in the application for a variance.

(f) Upon consideration of the factors listed in subsection (d) of this section and the purposes of this article, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

(g) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(h) Conditions for variances are as follows:

(1) Variances may not be issued when the variance will make the structure in violation of federal, state, or local laws, regulations, or ordinances.

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

(3) Variances shall only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship; and

c. A determination that the granting of a variance will not:

1. Result in increased flood heights, additional threats to public safety, or extraordinary public expense;

2. Create a nuisance;

3. Cause fraud on or victimization of the public; or

4. Conflict with existing local laws or ordinances.

(4) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. Such notification shall be maintained with a record of all variance actions.

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

(Code 1995, § 512.41)

Sec. 44-888. Penalty.

Violation of this article or failure to comply with any of the requirements of this article, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this article or who fails to comply with any of its requirements shall, upon conviction, be punished in accordance with section 1-14. Each day such violation continues shall be considered a separate offense. Nothing contained in this section shall prevent the county from taking such other lawful action as is necessary to prevent or remedy any violation.
(Code 1995, § 512.99)

Secs. 44-889--44-915. Reserved.

DIVISION 3. FLOOD HAZARD REDUCTION STANDARDS

Sec. 44-916. General standards.

(a) In all areas of special flood hazard the following are required:

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

(2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(3) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages;

(4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems;

(6) New and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems, and discharges from the systems into floodwaters;

(7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding; and

(8) Any alteration, repair, reconstruction, or improvements to a structure which is in compliance with this article shall meet the requirements of new construction (i.e., section 44-917) as contained in this article.

(b) Nonconforming buildings or uses in all areas of special flood hazard. Nonconforming buildings or uses may not be enlarged, replaced, or rebuilt unless such enlargement or reconstruction is accomplished in conformance with this article. However, nothing in this article shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of the ordinance from which this article is derived and located totally or partially within the floodway zone, provided that the bulk of the building or structure below the base flood elevation in the floodway zone is not increased and provided that such repair, reconstruction, or replacement meets all of the other requirements of this article.

(Code 1995, § 512.20)

Sec. 44-917. Specific standards.

(a) *Required.* In all areas of special flood hazard where base flood elevation data has been provided, as set forth in section 44-843 or 44-877(10), the standards of this section are required.

(b) *Residential construction.* New construction or substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated no lower than two feet above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided.

(c) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial, or nonresidential structure, including manufactured homes, shall have the lowest floor, including basement, elevated no lower than two feet above the level of the base flood elevation. Structures located in A zones may be floodproofed in lieu of elevation, provided that all areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in section 44-878(a)(7) and (b).

(d) *Manufactured homes.* Standards for manufactured homes are as follows:

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

(2) Manufactured homes that are to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to subsection (d)(1) of this section must be elevated so that the lowest floor of the manufactured home is elevated no lower than two feet above the base flood elevation and be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement.

(3) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. For the purposes of this subsection, manufactured homes must be anchored to resist flotation, collapse, or lateral movement in accordance with the regulations for manufactured homes and modular housing adopted by the commissioner of insurance pursuant to G.S. 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis at least 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or other foundation elements of at least equivalent strength. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.

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

(e) *Recreational vehicles.* A recreational vehicle is ready for highway use if it is on wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices, and has no permanently attached additions. Recreational vehicles placed on sites shall either:

(1) Be on site for fewer than 180 consecutive days;

(2) Be fully licensed and ready for highway use; or

(3) Meet the requirements of sections 44-916 and subsection (d) of this section.

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

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

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

b. The bottom of all openings shall be no higher than one foot above grade; and

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

(2) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

(3) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas.

(g) *Temporary structures.* Prior to the issuance of a development permit, the following requirements must be met for a temporary structure:

(1) All applicants must submit to the zoning administrator prior to the issuance of a zoning compliance permit a plan for the removal of such structure if a hurricane or flash flood warning notification occurs. The plan must include the following information:

a. A specified time period for which the temporary use will be permitted.

b. The name, address and phone number of the individual responsible for the removal of the temporary structure.

c. The timeframe prior to the event during which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification).

d. A copy of the contract or other suitable instrument with a trucking company to ensure the availability of removal equipment when needed.

e. The designation, accompanied by documentation, of a location outside the floodplain to which the temporary structure will be moved.

(2) The information required in subsection (g)(1) of this section shall be submitted in writing to the local administrator for review and written approval.

(h) *Accessory structures.* When accessory structures (sheds, detached garages, etc.) with a value of $3,000.00 or less are to be placed in the floodplain, the following criteria shall be met:

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

(2) Accessory structures shall be designed to have low flood-damage potential.

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

(4) Accessory structures shall be firmly anchored in accordance with section 44-916(1).

(5) Service facilities, such as electrical and heating equipment, shall be installed in accordance with section 44-916(4).

(6) Openings to relieve hydrostatic pressure during a flood shall be provided below base flood elevation in conformance with subsection (f) of this section.

(i) *Floodways.* Located within areas of special flood hazard established in section 44-843 are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris and potential projectiles and have erosion potential. The following shall apply within such areas:

(1) No encroachments, including fill, new construction, substantial improvements and other developments, shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood. Such certification and technical data shall be presented to the zoning administrator.

(2) If subsection (i)(1) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction sections of this article.

(3) No manufactured homes shall be permitted, except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision, provided the anchoring and the elevation standards of section 44-917(d) are met.

(Code 1995, § 512.21)

Sec. 44-918. Streams without base flood elevations; floodways.

Located within the areas of special flood hazard established in section 44-843 are small streams where no base flood data has been provided or where no floodways have been identified. The following apply within such areas:

(1) No encroachments, including fill, new construction, substantial improvements, or new development, shall be permitted within a distance of 20 feet from the top of each streambank, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) If subsection (1) of this section is satisfied and base flood elevation data is available from other sources, all new construction and substantial improvements within such areas shall comply with all applicable flood hazard reduction sections of this article and shall be elevated or floodproofed in accordance with elevations established in accordance with section 44-877(10). When base flood elevation data is not available from a federal, state, or other source, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade.

(Code 1995, § 512.22)

Sec. 44-919. Subdivision proposals.

(a) All subdivision proposals shall be consistent with the need to minimize flood damage.

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

(c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(d) Base flood elevation data shall be provided for subdivision proposals and other proposed development which is greater than the lesser of 50 lots or five acres.

(Code 1995, § 512.23)

Cross references: Protection from flooding in subdivisions, § 36-76.

Sec. 44-920. Areas of shallow flooding (AO zones).

Located within the areas of special flood hazard established in section 44-843 are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. The following shall apply within such areas:

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

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

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

b. Be completely floodproofed together with attendant utility and sanitary facilities to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(Code 1995, § 512.24)

Secs. 44-921--44-945. Reserved.

ARTICLE XV. SIGNS*

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***Cross references:** Signs in manufactured home parks, § 26-98.

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Sec. 44-946. Intent.

It is the intent of this article to regulate the number, size, and location of signs in all zoning districts. This article expressly exempts from control all church signs. This article is designed, among other purposes, to stabilize and protect property values, maintain the visual attractiveness of the county, and promote public safety.

(Code 1995, § 513.01)

Sec. 44-947. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Banner means any sign made of lightweight fabric or similar material that is mounted to a pole or a building at one or more edges. National flags; state, county or municipal flags; or the official flag of any institution or business shall not be considered a banner.

Flag means any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as

a symbol of any government, institution, business or other entity.

Limited access sign means a sign which directs attention to a business, commodity, service, entertainment, or attraction sold, offered, or existing within 500 feet of an entrance to a limited access highway. Such sign is designed to be seen from the limited access highway, but does not generally front along the limited access highway.

Off-premises directional sign means an off-premises sign which directs attention to a business, commodity, service, entertainment, or attraction sold, offered, or existing upon a lot in which the use cannot be seen from a collector or arterial street.

Off-premises sign means a sign which directs attention to a business, commodity, service, entertainment or attraction sold, offered, or existing elsewhere than upon the same lot where such sign is displayed. The term "off-premises sign" includes an outdoor advertising sign (billboard) on which space is leased or rented by the owner thereof to others for the purpose of conveying a commercial or noncommercial message.

On-premises sign means a sign which directs attention to a business, commodity, service, entertainment, or attraction sold, offered or existing on the same lot where such sign is displayed.

Pennant means any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

Portable sign means any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported.

Sign means any structure designed to inform or attract the attention of persons not on the premises on which the device is located. This definition specifically exempts church signs. Regarding surface area computations:

(1) The surface area of a sign is computed as including the entire area within a parallelogram, triangle, circle, semicircle or other regular geometric figure, including all of the elements of the display, but not including blank making (a plain strip, bearing no advertising matter around the edge of the sign), frames, display of identification or licensing officially required by any governmental body, or structural elements outside the sign surface and bearing no advertising matter. For signs mounted back to back or angled away from each other, the surface area of each sign is to be computed. For cylindrical signs, signs in the shape of cubes, or other signs which are substantially three-dimensional with respect to their display surfaces, the entire display surface or surfaces is included in computations of area.

(2) For embellishments (display portions of signs extending outside the general display area), surface area extending outside the general display area and bearing advertising material is to be computed separately as part of the total surface area of the sign. See the following diagrams on number and area of signs.

Signs, number of. For the purpose of determining the number of signs, a sign is to be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without an organized relationship of units, where strings of lights are used, or where there is a reasonable doubt about relationships of elements, each element of light is considered to be a single sign. Where single surfaces are intended to be read from different directions (as for back-to-back signs or those angled from each other), each surface is considered to be a single sign. See the following diagrams on number and area of signs.
(Code 1995, § 513.02)

Cross references: Definitions generally, § 1-2.

One sign with border

One sign without border

One sign - separate letters

One sign with embellishments

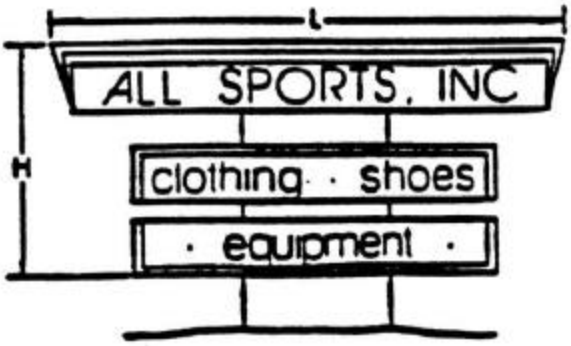
One sign - Area measured as a circle

One sign - Area measured as a triangle

One sign - Area measured as a rectangle

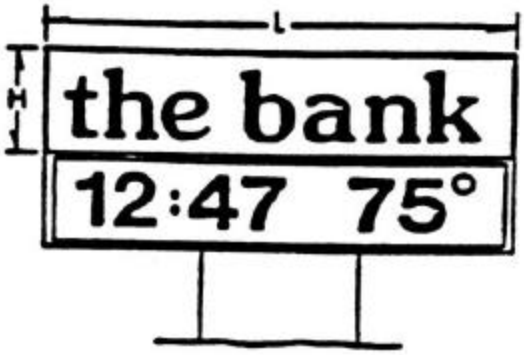
Two signs - Advertising separate facilities/units not related

One sign - Units all related/not random display



Time/temperature Signs

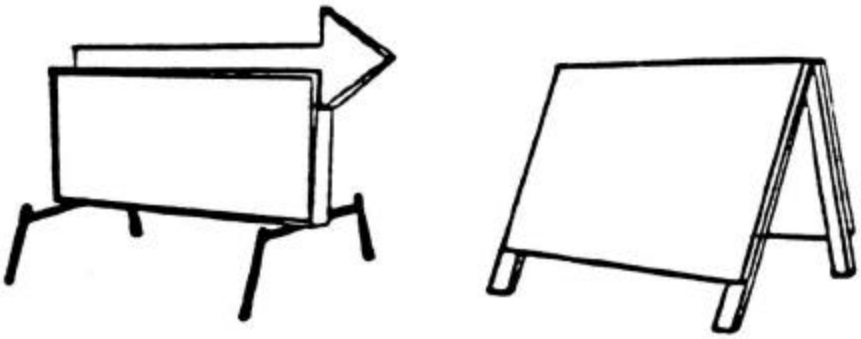
One sign - Area does not include time/temperature



Awning Signs

One sign - Area includes symbols and letters

Portable Signs



Sec. 44-948. Applicability; exceptions.

All signs and sign structures visible from public rights-of-way shall be erected, maintained, and operated in accordance with this article and other relevant controls, unless specifically excepted. Signs not subject to this article are listed in section 44-949.
(Code 1995, § 513.03)

Sec. 44-949. Exemptions.

The following signs are not subject to the control of this article:

(1) Church signs.

(2) Signs not exceeding two square feet in area, not of a commercial nature, and bearing only property identification numbers and names; post office box numbers; and names of occupants of the premises.

(3) Legal notices, identification and informational signs and traffic directional signs erected by or on behalf of a governmental body.

(4) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights.

(5) Signs directing and guiding traffic on private property, but which bear no advertising matter and do not exceed four square feet in area.

(6) Insignia of nonprofit charitable organizations.

(7) Signs such as banners, flags, and pennants made of lightweight fabric, plastic or similar materials, whether or not containing a message of any kind.

(Code 1995, § 513.04)

Sec. 44-950. Traffic safety precautions.

The following practices in relation to signs are prohibited, notwithstanding any other sections in this article, in order to preserve the safety of pedestrian and vehicular movement:

(1) No sign shall be erected so that any part of it intrudes into the sight preservation triangle established by section 44-121.

(2) No sign shall use such word as "stop," "slow," "caution," "danger" or similar language which may be confused with traffic directional signs erected by governmental agencies.

(3) No sign shall be erected so as to, by its location, color, nature or message, permit it to be confused with or obstruct the view of traffic signals or would tend to be confused with the warning lights of an emergency or public safety vehicle.

(4) No sign shall contain pulsating, rotating, or flashing lights, except those showing time and temperature information.

(Code 1995, § 513.05)

Sec. 44-951. Prohibited locations.

(a) Except where specifically exempted by this article, all signs shall be located outside of required yards and public rights-of-way.

(b) No sign shall be attached to any utility pole, tree, rock or other material object.

(Code 1995, § 513.06)

Sec. 44-952. Direct illumination.

No source of illumination on a sign, such as floodlights, spotlights, unshielded bulbs, and the like, shall shine directly into any public right-of-way or any adjacent residential property.
(Code 1995, § 513.07)

Sec. 44-953. Permits; standards generally; maintenance.

The following apply to signs regulated by this article:

(1) *Zoning compliance permit required.* Before any sign shall be erected or structurally altered, a zoning compliance permit shall be obtained, except for those signs specifically exempted from such a requirement, as provided in section 44-38. If actual work for the permitted sign, on the site, is not commenced within six months from the date of such sign permit, the permit shall automatically become null and void.

(2) *Construction standards.* All signs shall be constructed and installed in accordance with the applicable provisions of the state building code.

(3) *Electrical standards.* All illuminated signs shall be installed in accordance with the applicable provisions of the state building code.

(4) *Maintenance.* All signs and sign structures shall be maintained in good structural and aesthetic condition. Deficiencies, such as but not limited to chipped paint, broken plastic, missing letters, disfigured surfaces, and partial illumination, shall be evidence of a lack of maintenance.

(Code 1995, § 513.08)

Sec. 44-954. Nonconformities.

All signs not in conformity with this chapter shall be altered to comply with this chapter or removed within one year of the notice of nonconformity.
(Code 1995, § 513.09)

Sec. 44-955. Temporary signs.

The following temporary, unlighted signs may be erected in the manner prescribed without the issuance of a zoning compliance permit:

(1) Real estate signs as follows:

a. For lots of less than one acre, a single sign on each street frontage may be erected. It shall not exceed six square feet in area; shall observe a front setback of ten feet; shall contain the message that the property is for sale, lease or rent and the name, address and phone number of the agent. The sign shall be removed immediately upon the sale, option or lease of the property.

b. For lots of one acre or more in area, such signs may be up to 32 square feet in area.

(2) A single construction site identification sign shall be permitted. It shall not exceed 64 square feet in area; shall be located at least ten feet from the front property line; and may contain in its message identification of the project and its owner and/or developer, architect, engineer, land planner, landscape architect, contractor and subcontractors. The sign shall only be displayed for the duration of the project.

(3) Signs erected for not more than 14 days announcing openings, closings, and management changes.

(4) Signs erected for not more than 14 days announcing a noncommercial and off-premises civic or philanthropic event.

(Code 1995, § 513.10)

Sec. 44-956. On-premises signs.

On-premises signs shall be allowed as follows:

(1) All signs shall comply with section 44-121.

(2) The maximum number of on-premises signs on a zoning lot is one.

(3) A single consolidated sign, of unified design and construction, shall be required when more than one use is located on a single lot.

(4) All on-premises signs shall observe the maximum permitted sign area requirements of section 44-957.

(5) A single on-premises sign is permitted on each additional street front on multiple frontage lots, provided it is separated from any other on-premises sign by 150 feet and is located a minimum of 100 feet from any residential district.

(6) All parts of the sign and sign structure must be located outside all rights-of-way. The applicant for any sign permit shall be responsible for obtaining right-of-way information.

(7) All on-premises signs shall observe the maximum permitted sign area requirements of section 44-957.

(8) The maximum sign height shall be 35 feet or 35 feet above the elevation of the pavement adjacent to the sign, whichever is higher.

(Code 1995, § 513.11)

Sec. 44-957. Schedule of maximum permitted on-premises signs by zoning district.

The schedule of maximum permitted on-premises signs by zoning district is as follows:

District	Maximum Area (sq. ft.)	Illuminated
R-1	16	No
R-2	16	No
R-3	16	No
O-I	2% of area of building front	Yes
C-1	2 per linear foot of building front up to a maximum of 200	Yes
C-2	2 per linear foot of building front up to a maximum of 200	Yes
C-3	2 per linear foot of building front up to a maximum of 200	Yes
E-1	2 per linear foot of building front up to a maximum of 200	Yes
E-2	2 per linear foot of building front up to a maximum of 200	Yes
Subdivision	32	Yes
Nonconforming uses	32	Yes

(Code 1995, § 513.12)

Sec. 44-958. Portable signs.

Unless specifically exempted under section 44-949, portable signs shall be classified for regulation as: on-premises signs, off-premises signs, off-premises directional signs, or limited access signs and shall be subject to the conditions applicable to such signs.
(Code 1995, § 513.13)

Ordinance No. 2003-17

BE IT ORDAINED that the Catawba County Code of Ordinances, Chapter 44, Zoning, Article XV. SIGNS, Section 44-959, Off-premises signs, is hereby amended to read as follows:

Sec. 44-959. Off-premise signs.

The following apply to off-premise signs:

(1) The maximum permitted area shall be 380 square feet per face for signs abutting I-40 and Highway 16 north, and 250 square feet per face for all other signs.

(2) The maximum sign height shall be 35 feet as measured from the top of the structure to the road level or ground, whichever is higher. The maximum sign height for signs fronting along limited access highways shall be 50 feet or 50 feet as measured from the top of the structure to the road level or ground, whichever is higher.

(3) All components of the sign shall observe the yard requirements of the district within which they are located. However, if on the lot for which the permit has been applied or adjacent lots, signs have previously been erected which are uniformly beyond the required front yard line, then the sign shall not be closer to the front yard line than the pre-existing sign which is closest to that line.

(4) Signs shall be separated from any structure on the same lot by a minimum of 50 feet.

(5) Off-premise signs shall be permitted in C-2, E-1 and E-2 zoning districts only.

(6) Off-premise signs are prohibited in the Highway 321 corridor on land zoned 321-ED. In addition, off-premise signs are prohibited along NC Hwy. 150, NC Hwy. 127, NC Hwy. 10, and NC Hwy. 16 within the jurisdiction of Catawba County.

(7) Any sign shall be located a minimum of 400 feet from any park, school, or residentially zoned property, with this distance being measured from the nearest point of the sign to the nearest point of the property line of those uses stipulated above.

(8) Roof-mounted signs are prohibited.

(9) Signs shall be limited to one per lot. Back-to-back or V-shaped signs shall be permitted, provided the interior angle between signs does not exceed 15 degrees. Double stacked units are prohibited. For purposes of safety, only one message per face of sign shall be permitted.

(10) The distance between off-premise~~s~~ signs shall be, for federal aid primary highways (I-40 and 16 north), 1,000 feet between signs on the same side of the right-of-way and 500 feet for signs on opposite sides of the right-of-way. The distance between off-premise signs, in all other circumstances, shall be 1,000 feet, measured radially from the sign. The off-premise~~s~~ sign shall be a minimum of 500 feet from the use, product or service to which it refers.

(11) Off-premise signs shall comply with section 44-121: Visibility of intersections.

(12) The poster material of the off-premise sign shall be made of all-weather, fade-resistant material such as vinyl or similar synthetic material. For short-term advertisers (60-days or less), other material may be used subject to it being properly maintained to avoid separation and flagging from the billboard.

(13) Lighting, if installed, shall be placed at the top of the sign and be directed such that the illumination is contained to the sign area of the off-premise sign. Flashing or strobe lights are prohibited.

(14) No vegetation on public property, including the public right-of-way, shall be cut for the purpose of increasing or permitting visibility to the off-premise sign unless pre-approved by the governmental authority having jurisdiction, such as NCDOT.

(15) A notarized letter from the property owner stating that a lease agreement has been executed with the billboard company shall accompany any application for a Zoning Compliance permit.

In addition, a letter of intent from a prospective advertiser or advertising agency for the initial use of the sign board shall accompany any application for a Zoning Compliance permit.

(16) The back of the sign and the structural pole shall be painted in an earth-tone color, which includes shades of gray and brown.

(17) All new sign structures must be supported by a steel monopole.

This 15th day of September, 2003.

/s/ Katherine W. Barnes, Chair
Catawba County Board of Commissioners

Sec. 44-960. Off-premises directional signs.

A single off-premises directional sign is permitted under the following standards:

(1) The principal use cannot be visible from a collector or arterial street and must be:

a. Located in an office-institutional, commercial, or industrial district;

b. A legal nonconforming use established prior to 1974; or

c. A properly permitted home occupation.

(2) The sign shall not exceed 16 square feet for a single establishment nor 48 square feet for more than one establishment nor exceed six feet in height. Signs for permitted home occupations shall not exceed four square feet in area.

(3) The sign shall be of unified design when more than one establishment displays a sign on the same zoning lot.

(Code 1995, § 513.15)

Sec. 44-961. Subdivision name markers.

The following apply to subdivision signs:

(1) All costs will be the responsibility of the applicant.

(2) It shall be the responsibility of the applicant to maintain the marker or the area around the marker. The markers shall be removed, if not properly maintained, at no expense to the public.

(3) A maximum of two such markers shall be permitted for each entrance.

(4) If the sign is to be located within the right-of-way of any state system road, the applicant shall be responsible for obtaining the approval of the state division of highways.

(5) The sign shall not exceed 32 square feet in area.

(6) Illumination of the sign shall be permitted.

(Code 1995, § 513.16)

Sec. 44-962. Political signs.

Nonilluminated political signs are permitted in the front yard. For further information, see the following definitions set forth in section 44-4: "yard," "yard, front," "yard, rear," "yard, side." The signs shall be removed two weeks after the election to which they pertain.

(Code 1995, § 513.17)

Sec. 44-963. Limited access user's signs.

For businesses located within 500 feet of the beginning of the limited access portions of I-40 and the intersection of an arterial street having access thereto, a single sign may be permitted as follows:

(1) Maximum height is limited to 60 feet and a maximum area of 100 square feet.

(2) a. Notwithstanding subsection (1) of this section, the board of adjustment may allow a greater height, up to a maximum of 120 feet, in order to permit seven seconds of visibility of the sign prior to the beginning of the exit ramp for traffic traveling at the legal speed limit.

b. If the board allows additional height, the maximum sign size may be increased five square feet for each foot of allowed height above 60 feet.

(3) Signs shall observe the yard requirements of the district within which they are located with the exception of the front setback. All parts of the sign and the sign structure must be out of the right-of-way.

(4) Where a limited access highway user's sign is installed on a nonvacant lot, there can be an additional on-premises sign installed, if it is separated from the limited access highway user's sign by more than 500 feet.

(Code 1995, § 513.18)

Sec. 44-964. Violations.

Any person violating any section of this article shall be subject to all applicable enforcement, appeal, variance provisions of this chapter.
(Code 1995, § 513.98)

Sec. 44-965. Penalty.

Any person violating any section of this article for which no other penalty is set forth shall be subject to the penalty set forth in section 44-48.
(Code 1995, § 513.99)