



catawba county
planning

UNIFIED DEVELOPMENT ORDINANCE

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- CODE OF ORDINANCES
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¹Editor's note(s)—Ord. No. 2021-05, adopted June 21, 2021, amended the Code by repealing former ch. 44, §§ 44-101—44-110, 44-200—44-202, 44-209—44-217, 44-224—44-230, 44-241—44-248, 44-300—44-304, 44-316—44-320, 44-326—44-333, 44-341—44-347, 44-359—44-361, 44-369, 44-370, 44-

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400—44-407, 44-415—44-421, 44-428—44-429.19, 44-430—44-430.15, 44-431—44-436, 44-441, 44-443—44-443.19, 44-444—44-445.14, 44-446—44-446.02, 44-446.04—44-446.15, 44-447—44-447.20, 44-500—44-508, 44-514—44-527, 44-534—44-538, 44-543—44-546, 44-551—44-571, 44-600, 44-606—44-634.1, 44-635—44-637, 44-639—44-668, 44-685—44-685.20, 44-700—44-707, and 44-800—44-811; and adding a new ch 44. Former ch. 44 pertained to similar subject matter, and derived from Ord. No. 2007-001, adopted February 5, 2007; Ord. No. 2007-14, adopted July 9, 2007; Ord. No. 2007-22, adopted November 19, 2007; Ord. No. 2007-23, adopted November 19, 2007; Ord. No. 2007-24, adopted November 19, 2007; Ord. No. 2008-01, adopted January 22, 2008; Ord. No. 2008-17, adopted October 20, 2008; Ord. No. 2009-12, adopted November 16, 2009; Ord. No. 2011-11, adopted August 15, 2011; Ord. No. 2012-04, adopted February 20, 2012; Ord. No. 2012-11, adopted July 9, 2012; Ord. No. 2012-14, adopted September 17, 2012; Ord. No. 2012-15, adopted November 19, 2012; Ord. No. 2012-16, adopted November 19, 2012; Ord. No. 2013-15, adopted September 16, 2013; Ord. No. 2013-16, adopted September 16, 2013; Ord. No. 1, adopted March 17, 2014; Ord. No. 2014-02, adopted March 17, 2014; Ord. No. 2017-01, adopted January 17, 2017; Ord. No. 2017-02, adopted January 17, 2017; Ord. No. 2017-05, adopted March 20, 2017; Ord. No. 2017-07, adopted June 19, 2017; Ord. No. 2017-13, adopted November 20, 2017; Ord. No. 2018-11, adopted August 20, 2018; Ord. No. 2018-13, adopted September 17, 2018; Ord. No. 2020-14, adopted August 17, 2020; and Ord. No. 2021-01, adopted February 15, 2021. Ord. No. 2022-15, adopted September 19, 2022, Ord. No. 2023-04, adopted June 19, 2023

Cross reference(s)—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; streets, sidewalks and other public places, ch. 34; subdivisions, ch. 36; telecommunications, ch. 40; water and sewer, ch. 42.

State law reference(s)—Planning and regulation of development, G.S. § 153A-320 et seq.; grant of zoning power to counties, G.S. 153A-340.

(Ord. No. 2021-05, 6-21-2021)

Chapter 44 UNIFIED DEVELOPMENT ORDINANCE¹

ARTICLE I. IN GENERAL

Sec. 44-101. Title.

This chapter may be referred to and cited as "Unified Development Ordinance" and is sometimes referred to herein as "ordinance."

Sec. 44-102. Authority.

The articles contained within this chapter are enacted pursuant to G.S. ch. 160D. Where applicable, the county's general police powers are exercised pursuant to the power and authority established in G.S. 153A-121.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-103. General purpose and intent.

- (a) *Zoning*. The county is divided into zoning districts which establish permitted uses, dimensional standards, and design standards. The purposes of zoning and the zoning districts, in part, include:
- (1) Implementation of the comprehensive plan;
 - (2) Lessening congestion in the streets;
 - (3) Securing safety from fire, panic and other dangers;
 - (4) Promoting the health, safety and general welfare;
 - (5) Providing adequate light and air;
 - (6) Preventing the overcrowding of land;
 - (7) Avoiding undue concentration of population;
 - (8) Facilitating the adequate provision of transportation, water, sewer, schools, parks and other public infrastructure;
 - (9) Protecting the character of each district and its peculiar suitability for particular uses;
 - (10) Conserving the value of buildings;
 - (11) Encouraging the most appropriate use of land throughout the county; and
 - (12) Providing for orderly growth and development in future expansion areas of cities within the county.
- (b) *Subdivision regulation*. The purposes of the subdivision regulations, in part, include:
- (1) Providing for the orderly growth and development of the county;

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- (2) The coordination of streets and roads within proposed subdivisions with exiting or planned streets and roads and with other public facilities;
 - (3) The dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision and rights-of-way or easements for street and utility purposes, including the dedication of rights-of-way pursuant to G.S. 136-66.10 and/or 136-66.11;
 - (4) The distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety, and the general welfare;
 - (5) The wise and timely development of areas, in harmony with the land development plan(s) and other official plans of the county; and
 - (6) Accurate public records of land ownership, to facilitate land ownership transfer, the effective conduct of public and private business and the protection of private property rights.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-104. Applicability; general prohibition.

This chapter applies to all of Catawba County throughout the county except in areas subject to municipal planning and development regulation jurisdiction. No development may occur unless all applicable regulations and standards established by this chapter are complied with and all permits or land use decisions have been approved as provided for in this chapter, and no person shall commence or proceed with development without first securing any required development approval hereunder.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-105. Bona fide farm exemption.

- (a) In accordance with G.S. 160D-903, the provisions of divisions 2 and 3 of article III, article IV, article V and article VI of this chapter do not apply to bona fide farms, provided, however the provisions of article IV, section 44-429 are applicable to bona fide farms. However, this chapter shall apply to the use of farm property for nonfarm purposes.
- (b) "Bona fide farm purposes" include:
 - (1) The production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1. Activities incident to the farm include existing or new residences constructed to the applicable residential building code situated on the farm occupied by the owner, lessee, or operator of the farm and other buildings or structures sheltering or supporting the farm use and operation. For purposes of this section, "when performed on the farm" in G.S. 106-581.1(6) shall include the farm within the jurisdiction of the county and any other farm owned or leased to or from others by the bona fide farm operator, no matter where located.
 - (2) The production of a nonfarm product that the department of agriculture and consumer services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject to a conservation agreement under G.S. 106-743.2.

(c) For purposes of determining whether a property is being used for bona fide farm purposes, any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

- (1) A farm sales tax exemption certificate issued by the department of revenue.
- (2) A copy of the property tax listing showing that the property is eligible for participation in the present-use value program pursuant to G.S. 105-277.3.
- (3) A copy of the farm owner's or operator's schedule F from the owner's or operator's most recent federal income tax return.
- (4) A forest management plan.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-105.5. Agritourism.

- (a) In accordance with G.S. 160D-903, the provisions of divisions 2 and 3 of article III, article IV, article V and article VI of this chapter do not apply to agritourism which constitutes a bona fide farm purpose, as defined in section 44-105.
- (b) A building or structure that is used for agritourism is a bona fide farm purpose if the building or structure is located on a property that (i) is owned by a person who holds a qualifying farm sales tax exemption certificate from the department of revenue pursuant to G.S. 105-164.13E(a) or (ii) is enrolled in the present-use value program pursuant to G.S. 105-277.3.
- (c) Failure to maintain the requirements of subsection (b) above for a period of three years after the date the building or structure was originally classified as a bona fide farm purpose pursuant to this section shall subject the building or structure to the provisions of this ordinance.
- (d) "Agritourism" means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, or natural activities and attractions. A building or structure used for agritourism includes any building or structure used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-106. County public facilities.

County public facilities are a permitted use in all zoning districts; therefore, a special use permit is not required. County public facilities include schools, fire departments, rescue squads, sheriff's offices, utility pump stations, communication towers, water towers and treatment plants, resource recovery sites, sanitary landfills, recycling centers, refuse transfer stations and other public facilities. The facilities must meet all other site improvements and permitting requirements as required in this chapter.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-107. Consistency with VisionQuest, small area plans and other plans.

This chapter is designed to implement the county's comprehensive planning policies, including the following plans which may be modified from time to time: VisionQuest, Catawba Small Area Plan, Mountain View Small Area Plan, St. Stephens-Oxford Small Area Plan, Balls Creek Small Area Plan, Sherrills Ford Small Area Plan, Startown Small Area Plan, Plateau Small Area Plan, the U.S. 321 Corridor District Plan and any other land use plans adopted subsequent to this chapter.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-108. Coordination with other regulations.

- (a) *Generally.* Where there are conflicts between the regulations in this chapter and other lawfully adopted regulations involved in such considerations, those which establish the highest requirements or most stringent limitations shall govern except where specific exceptions are set forth in the regulations. Any prior regulations on matters contained within this chapter are hereby abolished, and the regulations set forth in this chapter are controlling from the date of adoption.
- (b) *Zoning.*
 - (1) When regulations made under authority of this chapter require a greater width or size of yards or courts, or require a lower height of a building or fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other statute or county ordinance or regulation, the regulations made under authority of this chapter shall govern.
 - (2) When the provisions of any other statute or county ordinance or regulation require a greater width or size of yards or courts, or require a lower height of a building or a fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of this chapter, the provisions of that statute or county ordinance or regulation shall govern.
- (c) Any permit or approval issued pursuant to this chapter shall attach to and run with the land.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-109. Severability.

- (a) If any word, phrase, sentence, part, section, subsection, or other portion of this chapter or any application to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.
- (b) Any permit issued under this chapter shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the county.

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- (c) If any provision of this ordinance is in conflict with the provisions of G.S. ch. 160D, such provision in this ordinance shall be deemed amended to comply with the provisions of G.S. ch. 160D.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-110. Rules of construction and location instructions for definitions and development standards.

- (a) *Word usage.* In the interpretation of this chapter, the provisions and rules of this section shall be observed and applied, except when the context clearly require otherwise:
- (1) The words "shall," "must" and "will" are mandatory in nature, implying an obligation or duty to comply with the particular provision.
 - (2) The words "may," "can," "should," "allow" or "encourage" are permissive in nature.
 - (3) Words used in the present tense include the future tense.
 - (4) Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise.
 - (5) Words used in the masculine gender include the feminine gender.
 - (6) The word "person" includes a firm, association, partnership, trust, company or corporation as well as an individual.
 - (7) The word "county" shall refer to Catawba County, North Carolina.
 - (8) The words "register of deeds" shall refer to the Catawba County Register of Deeds.
 - (9) The specific controls the general.
 - (10) 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.
 - (11) 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. The term "and" indicates that all the connected items, conditions, provisions, or events shall apply.
 - b. The term "or" indicates that one or several of connected items, conditions, provisions, or events shall apply.
- (b) *General definitions.* General definitions pertaining to this chapter are located in the appendix.
- (c) *Special development definitions.* Special development definitions are located within article IV and article V and include, but are not limited to, the following: floodplain, watershed, village center, manufactured home parks and signs. Definitions related to abandoned and junked vehicles are in article VIII, section 44-803.
- (d) *General development standards.* General development standards that are distinct and apart from special standards are located within the general standard sections located within article IV and article V.

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- (e) *Special development standards.* Special development standards are self-contained within the special or overlay districts in article IV, and include, but are not limited to, the following: floodplain, village centers, manufactured home parks and planned developments.
 - (f) *G.S. ch. 160D.* Definitions appearing in G.S. ch. 160D shall apply to this ordinance unless this ordinance provides a specific definition differing from the one in G.S. ch. 160D.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-111. Form and effect of approvals.

- (a) Any development approval issued pursuant to this chapter shall be in writing and shall contain a provision that the development shall comply with all applicable state and local laws. Development approvals may be issued in print or electronic form, provided that any development approval issued exclusively in electronic form shall be protected from further editing once issued. Applications for development approvals may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for development approval for such development as is authorized by the easement.
- (b) *Duration of development approval.* Unless a different period is specified by this chapter or other specific applicable law, or a different period is provided by a quasi-judicial development approval, a development agreement, or a local ordinance, a development approval issued pursuant to this chapter shall expire five years after the date of issuance if the work authorized by the development approval has not been substantially commenced. Unless provided otherwise by this chapter or other specific applicable law or a longer period is provided by local ordinance, if after commencement the work or activity is discontinued for a period of 12 months after commencement, the development approval shall immediately expire. The time periods set out in this subsection shall be tolled during the pendency of any appeal. No work or activity authorized by any development approval that has expired shall thereafter be performed until a new development approval has been secured. Nothing in this subsection shall be deemed to limit any vested rights secured under G.S. 160D-108.
- (c) *Extensions of time limits.* Extensions of time limits for approval may be approved by the board granting the original approval. Unless otherwise prohibited by state law or this chapter, the board may extend the time for expiration of an approval for an additional five years from the end of the original five-year period, if the application for extension is made in writing within the original timeframe based upon substantial progress. No additional extensions of any time limits for approvals are permitted, unless the board granting the original approval granted a phased timetable exceeding ten years. Before granting an extension, the board shall determine whether any applicable changes in land use regulations have occurred which would impose new requirements with respect to such approval, if an extension were denied, and the applicant were compelled to refile for an approval.
- (d) *Changes.* After a development approval has been issued, no deviations from the terms of the application or the development approval shall be made until written approval of proposed changes or deviations has been obtained. Minor modifications to development approvals may be administratively approved as specifically provided herein. For any major modification of an approval, the applicant shall follow the same development review and approval process required for issuance of the initial development approval.

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- (e) *Inspections.* The planning director may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable state and local laws and of the terms of the approval. In exercising this power, the planning director is authorized to enter any premises within the jurisdiction of the county at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

(Ord. No. 2021-05, 6-21-2021)

Secs. 44-112—44-199. Reserved.

ARTICLE II. ADMINISTRATIVE AGENCIES

DIVISION 1. ESTABLISHMENT OF ADMINISTRATIVE OFFICER

Sec. 44-200. Planning director.

The planning director, or his designee, shall administer this chapter. Wherever "planning director" is mentioned within this chapter, his designee is included by definition, and such designee shall have the same authority as the planning director. The planning director shall perform such duties as may be required or assigned under this chapter.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-201. Planning director duties, powers, and limitations.

- (a) The planning director shall have the power to grant zoning authorization permits and zoning compliance certificates 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 planning director shall make all necessary determinations and interpretations as required by this chapter.
- (b) If any proposed excavation, construction, moving, alteration, or use of land as set forth in an application for a zoning authorization permit is in conformity with this chapter, the planning director shall issue a zoning authorization permit; however:
 - (1) Issuance of a zoning authorization permit shall in no case be construed as waiving any section of this chapter.
 - (2) Under no circumstance is the planning director permitted to grant exceptions to the actual meaning of any clause, standard, 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) The planning director shall issue a permit when the standards and/or 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.
 - (4) If an application for a permit is denied, the planning director shall state in writing the reasons for the denial.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-201.5 Basic standards for issuance of approvals and determinations by planning director.

Upon issuance of any permit, determination approval or denial pursuant to this chapter, the planning director shall give written notice to the owner of the property that is the subject of the

determination and to the party who sought the determination, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. The notice shall be delivered to the last address listed for the owner of the affected property on the county tax abstract and to the address provided in the application or request for a determination if the party seeking the determination is different from the owner. It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the determination from the date a sign providing notice that a determination has been made is prominently posted on the property that is the subject of the determination, provided the sign remains on the property for at least ten days. The sign shall contain the words "Zoning Decision" or "Subdivision Decision" or similar language for other determinations in letters at least six inches high and shall identify the means to contact a local government staff member for information about the determination. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner, applicant, or person who sought the determination. Verification of the posting shall be provided to the staff member responsible for the determination. Absent any provision in this chapter to the contrary, posting of signs shall not be required.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-202. Appeals of planning director's actions.

All appeals of any decision of the planning director shall follow the procedures provided in this section.

- (1) *Appeals.* Except as provided in subsection (c) of this section, appeals of decisions made by the planning director under this chapter shall be made to the board of adjustment unless a different board is provided or authorized otherwise by statute or this chapter.
- (2) *Standing.* Any person who has standing under G.S. 160D-1402(c) or the county may appeal an administrative decision to the board. An appeal is taken by filing a notice of appeal with the county clerk. The notice of appeal shall state the grounds for the appeal.
- (3) *Time to appeal.* The owner or other party shall have 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to section 44-201.5 by first-class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.
- (4) *Record of decision.* The planning director who made the decision shall transmit to the board all documents and exhibits constituting the record upon which the decision appealed from is taken. The planning director shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.
- (5) *Stays.* An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed unless the planning director certifies to the board after notice of appeal has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the development regulation. In that case, enforcement proceedings shall not be stayed except by a restraining

order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the planning director a request for an expedited hearing of the appeal, and the board shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the development regulation shall not stay the further review of an application for development approvals to use such property; in these situations, the appellant or the county may request and the board may grant a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-203. Conflicts of interest of planning director and staff.

- (a) *Planning director.* The planning director shall not make a final decision on an administrative decision required by this chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the planning director or if the applicant or other person subject to that decision is a person with whom the planning director has a close familial, business, or other associational relationship. If the planning director has a conflict of interest under this section, the decision shall be assigned to the planning director's immediate supervisor. The planning director shall not be financially interested or employed by a business that is financially interested in a development subject to regulation under this chapter unless the planning director is the owner of the land or building involved.
- (b) *Staff.* No staff member shall make a final decision on an administrative decision required by this chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this chapter unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the county to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the county, as determined by the county.

(Ord. No. 2021-05, 6-21-2021)

Secs. 44-203—44-208. Reserved.

DIVISION 2. PLANNING BOARD

Sec. 44-209. Established.

There is established in and for the county a planning board that shall be known as the Catawba County Planning Board. The planning board shall perform such duties as may be required or assigned under this chapter or as may be directed by the board of county commissioners.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-210. Composition.

The planning board shall be composed of nine members, and up to three alternates, selected to represent various areas of the county. Representatives should be selected to adequately represent the small area planning areas when possible.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-211. Appointment.

The board of commissioners shall appoint the members of the planning board.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-212. Terms.

Terms on the planning board shall be for a four-year period. A planning board member shall be eligible for reappointment to the planning board. Each member shall serve until his successor is duly appointed. Planning board members shall, before entering their duties, qualify by taking an oath of office as required by G.S. 153A-26.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-213. Filling vacancies.

If a vacancy occurs in the membership of the planning board, other than by expiration of a term, the vacancy shall be filled by appointment by the board of county commissioners for the unexpired term.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-214. Compensation.

The members of the planning board shall receive compensation for their services as may be fixed from time to time by the board of commissioners.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-214.5. Conflicts of interest.

Members of the planning board shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A planning board member shall not vote on any ordinance amendment if the landowner of the property subject to the amendment is a person with whom the member has a close familial, business, or other associational relationship. For purposes of this section, a "close familial relationship"

means a spouse, parent, child, brother, sister, grandparent, or grandchild; the term includes the step, half, and in-law relationships.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-215. Comprehensive plan.

- (a) The county shall adopt and reasonably maintain a comprehensive plan, pursuant to G.S. 160D-501. Such maintenance shall review the goals, policies, and programs intended to guide the present and future physical, social, and economic development of the county.
- (b) The county's comprehensive plan is intended to guide coordinated, efficient, and orderly development within the county based on an analysis of present and future needs. Planning analysis may address inventories of existing conditions and assess future trends regarding demographics and economic, environmental, and cultural factors. The planning process shall include opportunities for citizen engagement in plan preparation and adoption.
- (c) The periodic maintenance and review of the county's comprehensive plan may, among other topics, address any of the following as determined by the planning board or as directed by the board of county commissioners:
 - (1) Issues and opportunities facing the county including consideration of trends, values expressed by citizens, community vision, and guiding principles for growth and development.
 - (2) The pattern of desired growth and development and civic design, including the location, distribution, and characteristics of future land uses, urban form, utilities, and transportation networks.
 - (3) Employment opportunities, economic development, and community development.
 - (4) Acceptable levels of public services and infrastructure to support development, including water, waste disposal, utilities, emergency services, transportation, education, recreation, community facilities, and other public services, including plans and policies for provision of and financing for public infrastructure.
 - (5) Housing with a range of types and affordability to accommodate persons and households of all types and income levels.
 - (6) Recreation and open spaces.
 - (7) Mitigation of natural hazards such as flooding, winds, wildfires, and unstable lands.
 - (8) Protection of the environment and natural resources, including agricultural resources, mineral resources, and water and air quality.
 - (9) Protection of significant architectural, scenic, cultural, historical, or archaeological resources.
 - (10) Analysis and evaluation of implementation measures, including regulations, public investments, and educational programs.
- (d) In addition to the comprehensive plan, the planning board may recommend for adoption to the county commissioners such other plans as deemed appropriate by the planning board. Such plans may include, but are not limited to, land-use plans, small area plans, neighborhood plans, hazard mitigation plans, transportation plans, housing plans, and recreation and open space plans.

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- (e) Adoption and Effect of Plans. Any plan contemplated by this section shall be adopted by the board of county commissioners with the advice and consultation of the planning board. Adoption and amendment of a comprehensive plan is a legislative decision and shall follow the process mandated for zoning text amendments set by section 44-325 below. Plans adopted under this section may be undertaken and adopted as part of or in conjunction with plans required under other statutes. Plans adopted under this chapter shall be advisory in nature without independent regulatory effect. Plans adopted under this chapter do not expand, diminish, or alter the scope of authority for development regulations adopted under this chapter. Plans adopted under this chapter shall be considered by the planning board and board of commissioners when considering proposed amendments to zoning regulations as required by section 44-327 below. If a plan is deemed amended by section 44-327 by virtue of adoption of a zoning amendment that is inconsistent with the plan, that amendment shall be noted in the plan.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-216. Intergovernmental cooperation.

- (a) The planning board shall work jointly with the planning boards of each municipality located in the county in all matters wherein the respective municipality and the county have a joint interest in the physical development of the area.
- (b) The planning board shall encourage the cooperation of the municipality within the county in any matters whatsoever which may concern the integrity of the county plan and to advise the board of commissioners with respect to the formulation of development programs and budgets for capital expenditures.
- (c) The planning board shall advise and make recommendations to the board of commissioners on all matters relating to the physical development of the county.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-217. Recommendations.

- (a) The planning board may make recommendations to the board of commissioners on new, updated, or revised comprehensive studies that are conducted for part or the entire planning jurisdiction of the county. Such studies may include, but are not limited to, studies of the physical, social, and economic conditions of the county that will best promote the health, safety, and general welfare of county citizens.
- (b) The planning board also conducts public hearings where they make recommendations to the board of commissioners on proposed amendments to the county's land use regulations, including the UDO, and amendments to the county's official zoning atlas.
- (c) The planning board shall also serve the functions set forth in section 44-324 pertaining to review of and comment on amendments to this chapter.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-218. Rules of procedure.

In the absence of action by the board of county commissioners adopting rules of procedure for the planning board, the planning board is authorized to adopt its own rules of procedure that are consistent with the provisions of this chapter and G.S. ch. 160D. A copy of any adopted rules of procedure shall be maintained by the county clerk and shall be posted on the county's web site. The planning board shall keep minutes of its proceedings.

(Ord. No. 2021-05, 6-21-2021)

Secs. 44-218—44-223. Reserved.***DIVISION 3. BOARD OF ADJUSTMENT*****Sec. 44-224. Established.**

There is established the Catawba County Board of Adjustment. The board of adjustment shall hear and decide all matters upon which it is required to pass under any statute or development regulation adopted under this chapter.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-225. Composition.

The board of adjustment shall be composed of five members, and up to three alternates, selected to represent various areas of the county. Representatives should be selected to adequately represent the small area planning areas when possible. Each alternate member serving on behalf of any regular member has all the powers and duties of a regular member.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-226. Appointment.

The board of commissioners shall appoint the members of the board of adjustment.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-227. Terms.

Terms on the board of adjustment shall be for a three-year period. A board member shall be eligible for reappointment to the board. Each member shall serve until his successor is duly appointed. Board of adjustment members shall, before entering their duties, qualify by taking an oath of office as required by G.S. 153A-26.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-228. Filling vacancies.

If a vacancy occurs in the membership of the board of adjustment, other than by expiration of a term, the vacancy shall be filled by appointment by the board of commissioners for the unexpired term.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-229. Compensation.

The members of the board of adjustment shall receive compensation for their services as may be fixed from time to time by the board of commissioners.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-230. Powers.

- (a) Pursuant to state law, the board of adjustment has the power to:
 - (1) Hear and decide appeals from and review any order, requirement, decision, or determination made by the planning director in the performance of his duties as the order, requirement, decision, or determination relates to this chapter.
 - (2) Hear and decide applications for the approval of those special uses requiring board approval.
 - (3) Hear and decide applications for variances. Nothing in this chapter shall be construed to authorize the board to permit a use in a district where that use is neither a permitted use nor a permissible special use.
 - (4) Hear and decide any other matters as may be required by this chapter.
 - (5) Make interpretations of the meaning and intent of this chapter.
- (b) Three members constitute a quorum for the purpose of transacting business.
- (c) Except for a variance, a simple majority vote of the board decides any quasi-judicial matter or routine business, such as electing a chair or determining the time of the next meeting.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-231. Conflicts of interest.

Members of the board of adjustment shall not vote on any quasi-judicial decision pursuant to this chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A board of adjustment member shall not vote on any quasi-judicial decision if the applicant is a person with whom the board member has a close familial, business, or other associational relationship. For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-232. Rules of procedure.

In the absence of action by the board of county commissioners adopting rules of procedure for the board of adjustment, the board of adjustment is authorized to adopt its own rules of procedure that are consistent with the provisions of this chapter and G.S. ch. 160D. A copy of any adopted rules of procedure shall be maintained by the secretary to the board and shall be posted on the county's web site. The board of adjustment shall keep minutes of its proceedings.

(Ord. No. 2021-05, 6-21-2021)

Secs. 44-233—44-240. Reserved.***DIVISION 4. SUBDIVISION REVIEW BOARD*****Sec. 44-241. Established.**

There is established the Catawba County Subdivision Review Board.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-242. Composition.

The subdivision review board shall consist of appointed representatives from various county departments, including planning, utilities and engineering, geographic information system, fire marshal's office, environmental health along with a citizen representative, a homebuilder's association representative and a representative from the school system where a proposed development is located.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-243. Appointment.

The subdivision review board shall consist of individuals as appointed by the board of commissioners. Subdivision review board members shall, before entering their duties, qualify by taking an oath of office as required by G.S. 153A-26.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-244. Terms.

The term for the citizen representative and the homebuilder's association representative shall be for a three-year period. All other terms shall be as long as the member's employment with the county or school system continues.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-245. Filling vacancies.

If a vacancy occurs in the membership of the subdivision review board, other than by expiration of a term, the vacancy shall be filled by appointment by the board of commissioners for the unexpired term.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-246. Compensation.

Members of the subdivision review board who are not county employees shall receive compensation for their services as may be fixed from time to time by the board of commissioners.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-246.5. Conflicts of interest.

Members of the subdivision review board shall not vote on any matter pursuant to this chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A subdivision review board member shall not vote on any matter if the applicant is a person with whom the member has a close familial, business, or other associational relationship. For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-247. Powers.

The subdivision review board shall have the authority to:

- (1) Review a sketch plat and authorize the submittal of the preliminary plat for review.
- (2) Review and approve, approve with modifications, or disapprove applications for approval of preliminary major plats in accordance with this chapter.
- (3) Review extensions for preliminary plat approval.
- (4) Present proposed subdivision regulation text amendments to the planning board.
- (5) Conduct public hearings for any appeals made pursuant to the Catawba County Code chapter 16, article V related to soil erosion and sedimentation control, and approve, overturn, or modify the county engineer's decision on an applicant's erosion control plan.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-248. Appeals process for subdivision review board decisions.

Any decision of the subdivision review board made in regard to this chapter may be appealed by the applicant, in writing, to the board of adjustment within 30 days following the date of the decision. The written appeal must be filed with the recording secretary of the board of adjustment. If a written

appeal is not made within the 30-day period, the matter shall be deemed closed, and the decision of the subdivision review board shall be final.

(Ord. No. 2021-05, 6-21-2021)

Secs. 44-249—44-260. Reserved.

DIVISION 5. HISTORIC DISTRICT COMMISSION (RESERVED)

Secs. 44-261—44-299. Reserved.

ARTICLE III. PROCEDURES

DIVISION 1. GENERALLY

Sec. 44-300. General procedural requirements.

- (a) The procedures for all applications have the following common elements:
 - (1) Submittal of a complete application, which includes the required fee payment as well as all necessary information;
 - (2) Review of the completed application by appropriate staff and boards;
 - (3) Action to approve, approve with conditions, or deny the application; and
 - (4) If approved, issuance of a permit.
 - (5) Applications, plan requirements, plat certificates for all residential and nonresidential development are located in the procedures manual. Development types, open space illustrations, connectivity and circulation, site and building design along with photographs and graphics are located in the design manual. These manuals are separate documents, which supplement the unified development ordinance. The manuals may be amended from time to time by the planning director as an administrative function where the modifications or amendments are not inconsistent or in conflict with the intent of the UDO. The design manual is not part of the regulatory requirements of the UDO.
- (b) Pre-application conference. The applicant should meet with the planning director to discuss the nature of the proposed application, application compatibility with current adopted plans and policy, application submittal requirements, the procedure for action, and the standards for evaluation of the application. While not mandatory, this process can be extremely helpful to the applicant in expediting the application process.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-301. Concept site plan.

- (a) A concept site plan must be submitted to the applicable board for a conditional zoning district or special district rezoning in accordance and in conformance with the procedures manual.

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- (b) The concept site plan must depict 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) Concept site plans must include data reasonably necessary for the board of commissioners to determine whether the proposed development meets the general requirements, limitations, and intent for a conditional zoning or special district request.
 - (d) Upon approval of the concept site plan by the board of commissioners, a detailed site plan must be submitted in conformance with section 44-317 and the procedures manual for a zoning authorization permit to be administratively approved.
 - (e) Changes in approved concept site plans.
 - (1) The planning director may approve minor changes to concept site plans, as long as they are in harmony with the action of the board of commissioners and provided that:
 - a. All applicable regulations in effect at the time of the establishment of the district are met; or
 - b. All applicable regulations currently in effect are met. Minor changes are those changes that do not meet the criteria established in subsection (2) below for an amendment.
 - (2) An amendment to the concept site plan requires approval by the board of commissioners and shall be handled as a new application.
 - a. The planning director will use the following criteria in determining whether a proposed change is an amendment. If any of the following criteria are met, the change constitutes an amendment:
 - 1. Any increase in intensity of use which means an increase in:
 - i. Usable floor area by more than ten percent;
 - ii. Number of dwelling or lodging units by more than ten percent; or
 - iii. Outside land area devoted to sales, displays, or demonstrations.
 - 2. Any change in parking areas resulting in an increase or reduction of more than ten percent in the number of spaces approved by the board of commissioners;
 - 3. Structural alterations affecting the basic size, form, style, and the like of the building, as shown on the approved concept site plan;
 - 4. A ten percent or more decrease in the amount or location of open space, recreation facilities, or landscape screens; or
 - 5. Substantial changes in pedestrian or vehicular access or circulation.
 - b. If the planning director determines that the proposed action is an amendment, the applicant shall be required to file a request for approval of the amendment, which shall follow the procedures for the original request.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-302. Phasing.

A development or subdivision may be constructed in phases, provided that:

- (1) A phasing plan shall be submitted showing any proposed phases of development; and
- (2) The degree and extent of road construction, water supply, sewage disposal, landscaping, parking, stormwater management, erosion and sedimentation control and other required improvements in the current phase, and previously approved phases, must be sufficient to serve or handle all development within the current phase.
- (3) In lieu of providing the improvements noted in subsection (b) above, the applicant may post a performance guarantee as provided for in section 44-361.
- (4) For subdivisions:
 - a. A subdivision phase must contain at least three lots; and
 - b. The amount of any required open space on a per-lot basis in a particular phase, including the current or any previously approved phase, is at least proportional to the open space requirements of the whole development. The approving authority has the right to grant a waiver on the proportional open space provided based on a phasing schedule.
- (5) Any phasing extensions or expirations are subject to the requirements of section 44-359.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-303. Completeness review.

- (a) *Generally.* The planning director shall review any application required by this chapter for completeness. An application is not deemed complete unless all the information required by this chapter and the procedures manual is included and all filing fees have been paid. Current application materials are available in the planning department.
- (b) *Time periods.* Whenever this article establishes a time period for processing an application, such time period shall not commence until the planning director has reviewed such application for completeness in order to determine whether the application has been properly submitted and the applicant has corrected all deficiencies in the application. Review for completeness is solely for the purpose of determining whether preliminary information required for submission with the application is sufficient to allow further processing and shall not constitute a decision as to whether the application complies with the provisions of this chapter.
- (c) *Scheduling of review board consideration.*
 - (1) A complete application must be submitted a minimum of 45 days prior to the regularly scheduled meeting of the applicable board where the request is considered.
 - (2) If the application is determined not to be complete, the planning director will specify those parts of the application that are incomplete and indicate the manner in which they can be made complete. The applicant will be furnished with a list and thorough description of the specific information needed to submit a complete application.
 - (3) Upon receipt of any missing materials or required fee, a new 45-day period may begin.

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- (d) *Effect of completeness determination.* The applicant must submit all information as specified in this chapter and in the procedures manual. The department or the reviewing agency may, in the course of processing the application, request the applicant to clarify or correct the information required for the application.
- (e) *Appeal of planning director's decision regarding completeness review.*
- (1) For purposes of this section, the boards referenced below are referred to as the "appellate board."
 - (2) All decisions of the planning director pertaining to completeness review may be appealed pursuant to section 44-202 as follows:
 - a. The board of adjustment will address completeness appeals of: detailed site plans, zoning authorization permits, zoning compliance certificates, zoning amendments, conditional districts, special use permits, variances and nonconformities.
 - b. The subdivision review board will address completeness appeals on subdivision sketch and preliminary plat applications.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-304. Fees.

No application, subject to this chapter, shall be accepted unless it is accompanied by all required fees established by the board of commissioners. Before any zoning authorization permit or zoning compliance certificate can be issued covering building or other operations regulated by this chapter, the applicant must pay a fee in an amount fixed by the board of commissioners.

(Ord. No. 2021-05, 6-21-2021)

Secs. 44-305—44-315. Reserved.

DIVISION 2. ZONING AUTHORIZATION PERMIT AND ZONING COMPLIANCE CERTIFICATE

Sec. 44-316. Generally.

Applicability. This section applies to any permitting action subsequent to approval of any detailed site plan as set forth in section 44-317. Administrative permits and certificates include:

- (1) Zoning authorization permits, section 44-318; and
- (2) Zoning compliance certificates, section 44-319.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-317. Site plan—Detailed.

- (a) *Detailed site plan approval.* Detailed site plans shall be administratively approved for the following:
- (1) Any nonresidential, duplex or multifamily application for a zoning authorization permit.

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- (2) Any supplemental use regulations as required in article VI and that is permitted by right in the applicable zoning district; or
 - (3) A concept site plan previously approved by legislative or quasi-judicial board action.
- (b) *Procedures for administrative detailed site approval.*
- (1) The applicant is encouraged to attend an informal pre-application meeting with the planning director before filing a detailed site plan application.
 - (2) An application for detailed site plan approval must be filed with the planning director and must include information listed in the procedures manual.
 - (3) The application shall be reviewed for completeness under section 44-303.
 - (4) On receipt of the detailed site plan application, the planning director shall review the application and notify the applicant in writing of any discrepancies between the detailed site plan and the requirements of this chapter. The notification may include any suggested minor changes and conditions needed to achieve compliance with this chapter without constituting an amendment requiring further board action. If necessary, the applicant must submit a revised detailed site plan to the planning director. The planning director shall approve, approve with conditions, or disapprove the detailed site plan.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-318. Zoning authorization permit.

- (a) *Applicability.*
- (1) A zoning authorization permit is required for all residential and nonresidential development regulated under this chapter, including developments approved by legislative or quasi-judicial board action.
 - (2) No new development activity, change of use or extension of existing uses shall occur until all permits applicable to the proposed development are issued.
 - (3) A zoning authorization permit is required prior to beginning excavation, construction, moving, or alteration except ordinary repairs. Repairs or alterations within a flood plain are subject to a zoning authorization permit.
- (b) *Criteria.*
- (1) All zoning authorization permit applications must be made in writing to the planning director on forms provided for that purpose. The planning director will keep a record of all applications on file.
 - (2) Every application for a single-family residential zoning authorization permit for construction, moving, alteration, or change in type of use must include a plot plan drawn to scale, showing the following in sufficient detail to enable the planning director to ascertain whether the proposed work or use is in conformance with this chapter:
 - a. The actual shape, location, and dimensions of the lot, or if the lot is not a lot of record, sufficient data must be provided to detail that the lot is a legally approved lot; and

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- b. 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; and
 - c. The existing and intended use of the lot and all structures upon it; and
 - d. Other information concerning the lot, adjoining lots, or other matters to determine compliance with this chapter. The zoning authorization permit must include necessary information for the planning director to make a determination that the plans are in conformance with this chapter.
 - (3) When two or more lots are proposed for one zoning authorization permit, a recorded deed must be submitted combining the lots into one zoning lot.
 - (4) A parcel of land created by deed recorded after July 31, 1982, shall not be occupied until such lot has a subdivision plat approved by the county in accordance with the subdivision regulations that were in place at the date of the creation of the deeded lot.
 - (5) A legal lot created and recorded on or before March 18, 1996, must have an access easement which has been recorded in the office of the register of deeds. The easement must be a minimum of 15 feet in width and connect to a state-maintained road.
 - (6) A legal lot created and recorded after March 18, 1996 must have a minimum 45-foot right-of-way connecting to a state-maintained road. A legal lot created and recorded after March 20, 2017 must have an NCDOT approved right-of-way connecting to a state-maintained road. An exception to this requirement is lots created for an estate settlement or lots exempt from subdivision regulations in accordance with subsection 44-341(a), which must have a minimum 15-foot access easement as required in subsection (5) above.
 - (7) A zoning authorization permit will not be issued for a principal or accessory residential structure within a recorded platted easement, such as a common area or lake access lot. An exception is allowed for a boat dock, boathouse or community recreation facility in association with the intended purpose of the recorded easement.
 - (8) A zoning authorization permit must be issued before the issuance of environmental health and building permits.
 - (c) *Issuance.*
 - (1) The planning director shall consult with applicable agencies, including but not limited to, the county engineer, the county division of environmental health, NCDOT, and NCDENR.
 - (2) The planning director shall not issue a zoning authorization permit unless a determination is made that all plans, specifications, and the intended use of the structures and land subject to the application conform in all respects to this chapter.
 - (d) *Administrative decisions.*
 - (1) Administrative decisions are routine, non-discretionary, zoning, or implementation matters carried out by the staff, including issuance of permits for permitted uses. The planning department is an administrative agent following the literal provisions of this chapter.
 - (2) The planning department may engage in some fact finding, (for example, as in making an initial determination as to whether a nonconforming use was in existence at the time a zoning provision was adopted). This involves determining objective facts that do not involve an element of discretion.

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- (3) In contrast to quasi-judicial hearings, administrative decisions are made without a hearing at all, with the staff member reviewing an application to determine if it is complete and compliant with objective standards set forth in this chapter.
- (e) *Expiration.* Zoning authorization permits expire one year after the date of issuance unless a valid building permit has been issued for the work authorized by the zoning authorization permit. When a building permit expires, the zoning authorization permit shall also automatically expire.
- (Ord. No. 2021-05, 6-21-2021)

Sec. 44-319. Zoning compliance certificate.

No building, structure, or zoning lot for which a zoning authorization permit has been issued, with exception of a single-family dwelling, can be used or occupied until the planning director has issued a zoning compliance certificate. The planning director shall conduct a final inspection before issuing the zoning compliance certificate to determine that all required improvements have been installed in conformance with the detailed site plan and zoning authorization permit or a performance guarantee has been approved as detailed in section 44-361. The certificate shall indicate that the building, structure, or lot complies with the zoning authorization permit and any applicable sections of this chapter. The issuance of a zoning compliance certificate does not waive any sections of this chapter.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-320. Revocation of permit or approval.

- (a) *Applicability.* A permit or approval issued pursuant to this division may be revoked by notifying the holder in writing stating the reason for the revocation. The county shall follow the same development review and approval process required for issuance of the development approval proposed to be revoked, including any required notice or hearing, in the review and approval of any revocation of that approval.
- (b) *Grounds for revocation.* A permit or approval issued pursuant to this division shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any provision of this chapter or any state law delegated to the county for enforcement purposes in lieu of the state; or for false statements or misrepresentations made in securing the approval. A permit or approval mistakenly issued pursuant to this division in violation of an applicable state or local law may also be revoked.
- (c) *Appeal.* The revocation of a development approval by the planning director shall be made by using the procedure set forth in section 44-202.
- (d) *Cumulative right.* The right to revoke a permit or approval, as provided in this section, will be in addition to initiation of enforcement actions under G.S. 160D-404 or any other provision of this ordinance.

(Ord. No. 2021-05, 6-21-2021)

Secs. 44-321—44-323. Reserved.

DIVISION 3. PROCEDURE FOR ADOPTING, AMENDING, OR REPEALING PROVISIONS OF THIS CHAPTER

Sec. 44-324. Generally.

- (a) *Applicability.* This section applies to any application to:
 - (1) Amend the official zoning map (a "rezoning"); or
 - (2) Change the regulations of this chapter (a "text amendment").
- (b) *Initiation.* A zoning map or text amendment may be initiated by the following:
 - (1) The board of commissioners;
 - (2) The planning board;
 - (3) An application by a subject property owner; or
 - (4) The planning staff.
- (c) *Application.* The procedure for filing for an amendment to this chapter is as follows:
 - (1) *Filing of applications.* All applications for amendments to this chapter must be in writing, on a form prescribed by the county, signed, and filed with the planning director.
 - (2) *Contents of application.* All applications for amendments to this chapter shall meet the concept site plan requirements as contained in the procedures manual, when applicable, and contain at least the following:
 - a. If the proposed amendment would require a change in the official zoning map to change only a portion of an existing parcel, a fully dimensional map showing the portion of the parcel covered by the proposed amendment;
 - b. 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
 - c. A detailed statement of all other circumstances, factors and reasons including a statement as to the reasonableness of the proposed zoning or text amendment, which the applicant offers in support of the proposed amendment, such as:
 - 1. Consistency with the comprehensive plan and other county-adopted plans;
 - 2. Compatibility of the proposed rezoning with the property and surrounding area; and
 - 3. The benefits and detriments of the proposed rezoning for the landowner, the immediate neighbors and the surrounding community.

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- d. If applicable, a legal description of such land.
 - (d) *Completeness review.* The applicant must comply with section 44-303.
 - (e) *Decision.*
 - (1) *Planning director recommendation.* The planning director shall accept an application if it is complete pursuant to subsection (d) above. The planning director shall then prepare and submit a written report with a recommendation to the planning board.
 - (2) *Planning board recommendation.*
 - a. The planning board shall receive the report from the planning director and conduct a public hearing on the proposed request in accordance with 44-325.
 - b. After hearing presentations, the planning board must review the amendment application, staff report, and additional information and comments submitted or presented to the planning board and must recommend in writing to the board of commissioners approval or denial of the application.
 - c. When conducting a review of proposed zoning text or map amendments pursuant to this section, the planning board shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the county commissioners that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the board of commissioners. If a zoning map amendment qualifies as a "large-scale rezoning" under subsection 44-326(3), the planning board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendation made.
 - (3) *Board of commissioners.*
 - a. If no written report is received from the planning board by the board of county commissioners within 30 days of referral of the amendment to that board, the board of county commissioners may act on the amendment without the planning board report. The board of county commissioners is not bound by the recommendations, if any, of the planning board.
 - b. Prior to the public hearing, the board of commissioners shall receive a report from the planning director including an overview of public comments received at the planning board hearing along with the recommendation of the planning director and planning board. The board of commissioners shall conduct a public hearing on the proposed request in accordance with 44-325. The board of commissioners shall then take one of the following actions:
 - 1. Approve the application by ordinance;
 - 2. Approve a modified version of the application by ordinance; or
 - 3. Deny the application.

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- c. Before completing review and making its final decision, the board of commissioners may postpone its discussion and/or action to a later meeting or refer the application back to the planning board for further consideration. In deciding whether to approve or deny an amendment application, the board of commissioners shall adopt a statement pursuant to section 44-327. The board of commissioners may adopt the statement furnished by staff, applicant, other agencies or may formulate its own statement.
 - (f) *Approval criteria.* The board of commissioners shall, at a minimum, consider the following factors for:
 - (1) *Map amendment (rezoning).*
 - a. The size of the tract in question;
 - b. Whether the proposal conforms with, and furthers the goals of, any applicable adopted comprehensive plans or other adopted plans, and the goals, objectives, and policies of this chapter;
 - c. Any change of character in the area due to installation of public facilities, other zoning changes, new growth trends, deterioration, and development;
 - d. The zoning districts and existing land uses of the surrounding properties, including a determination of whether the rezoning is compatible with the adjacent neighborhood, especially residential neighborhood stability and character; and
 - e. A detailed statement of any alleged error on the official zoning maps which would be corrected by the proposed map amendment.
 - (2) *Text amendment.*
 - a. A detailed statement of any 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; or
 - b. Changing conditions or trends; or
 - c. Whether the proposal conforms with, and furthers the goals of, any applicable adopted plans, and the goals, objectives, and policies of this chapter.
 - (g) *Effect of withdrawals or denials on applications.*
 - (1) An applicant may withdraw the application at any time by written notice to the planning director subject to the following conditions:
 - a. *Planning board.* Any application withdrawn, prior to or after the planning board's action on the public hearing, is not subject to a 12-month waiting period for re-submittal.
 - b. *Board of commissioners.* Any application withdrawn after the first advertisement of the board of commissioners' public hearing, or after a denial of the request may not be resubmitted within 12 months of the date of the board of commissioners' action on the public hearing, unless substantially changed.
 - (2) A withdrawn or denied application must follow the procedures for a new application.
 - (h) *Scope of approval.* A zoning text amendment or a rezoning does not authorize the development of land. The applicant or landowner must still secure all required zoning authorization permits and subdivision approvals after a text amendment or rezoning is approved.

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- (i) *Codification.* A zoning text amendment shall be codified as provided for in the Code. A change resulting from a map amendment shall be depicted on the official zoning map.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-325. Amendments generally; public hearing required.

Before adopting, amending, or repealing any provision of this ordinance, the board of county commissioners shall hold a legislative hearing. A notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. the notice shall be published the first time not less than ten days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included. Notice of public hearing will state the time and place of the public hearing, summarize the nature of the application and proposed development and invite interested parties to review the application at the planning department and submit oral or written comments on the application at the public hearing.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-325.5. Citizen comments.

If any resident or property owner in the county submits a written statement regarding a proposed amendment, modification, or repeal to a zoning regulation, including a text or map amendment, to the clerk to the board at least two business days prior to the proposed vote on such change, the clerk to the board shall deliver such written statement to the board of commissioners. If the proposed change is the subject of a quasi-judicial proceeding under this ordinance or any other statute, the clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the board shall not disqualify any member of the board from voting.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-326. Notice for zoning map amendments.

In addition to the public hearing requirements set forth in section 44-325 above, in the case of proposed zoning map amendments:

- (1) *Mailed notice.* The owners of affected parcels of land and the owners of all parcels of land abutting that parcel of land shall be mailed a notice of the hearing on a proposed zoning map amendment by first-class mail at the last addresses listed for such owners on the county tax records. For the purpose of this section, properties are "abutting" even if separated by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at least ten but not more than 25 days prior to the date of the hearing. The planning director will certify to the board of commissioners the date the notices were mailed.
- (2) *Posted notice.* The planning director shall prominently post a notice of the hearing on the site proposed for the amendment or on an adjacent public street or highway right-of-way. The notice shall be posted within the same time period specified for mailed notices of the hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on

each individual parcel is not required but the planning director shall post sufficient notices to provide reasonable notice to interested persons.

- (3) *Optional notice for large-scale zoning map amendments.* The first-class mail notice required under subsection (1) shall not be required if the zoning map amendment proposes to change the zoning designation of more than 50 properties, owned by at least 50 different property owners, and the board of commissioners elects to use the expanded published notice provided for in this section. In this instance, the county may elect to make the mailed notice provided for in subsection (1), or, as an alternative, elect to publish notice of the hearing as required by section 44-325, provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of section 44-326.
- (4) *Minor defect in notice.* Minor defects in notice will not impair the notice or invalidate proceedings pursuant to the notice if a good faith attempt has been made to comply with the applicable notice requirements.
- (5) *Administrative permits.* No notice will be required for an administrative permit issued pursuant to this chapter unless otherwise provided for by law.
- (6) *Minor changes*
 - a. After notice or completion of a public hearing, the planning director may allow minor changes to the application that are consistent with section 44-301(e)(2) subject to the following:
 - 1. Proposes fewer dwelling units, reduced floor area or decreases impervious surface than requested on the original application;
 - 2. Reduces the impact of the development; or
 - 3. Reduces the amount of land involved from that indicated in the notices of the hearing.
 - b. This subsection does not apply if the regulations, specific standards, conditions for approval of the rezoning or findings of fact applicable to the specific permit prohibit minor changes.
 - c. Unless the applicant re-initiates the application for the permit or development and a new notice is posted, the reviewing agency will not permit any of the following:
 - (1) An apparent change of the overall character of the project;
 - (2) A density or intensity increase of over ten percent;
 - (3) A use falling in a different general use category;
 - (4) A larger land area than indicated in the original application; or
 - (5) A greater variance than was indicated in the notice.
- (7) *Actual notice.* Except for a government-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by

the landowner or authorized agent, the applicant shall certify to the county that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of the hearing. Actual notice shall be provided in any manner permitted under G.S. 1A-1, Rule 4(j). If notice cannot with due diligence be achieved by personal delivery, certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2), notice may be given by publication consistent with G.S. 1A-1, Rule 4(j1). The person or persons required to provide notice shall certify to the county that actual notice has been provided, and such certificate shall be deemed conclusive in the absence of fraud.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-327. Zoning map (rezoning) and text amendments—Consistency statements required.

- (a) *Statement on consistency.* When adopting or rejecting any zoning text or map amendment, the board of commissioners shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under subsection 44-326(3), the board of commissioners' statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.
- (b) *Additional reasonableness statement for rezonings.* When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the board of commissioners. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning" under subsection 44-326(3), the board of commissioners' statement on reasonableness may address the overall rezoning.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-328. Conditional zoning district.

- (a) *Intent.* The conditional zoning districts included in this section allow for the consideration of certain uses that, because of their nature or scale, have particular impacts on both the immediate area and the community as a whole and are created or established for selected criteria as indicated in the applicability section below. The development of these uses cannot be predetermined and controlled by general district regulations. In addition, circumstances arise when a general zoning district designation would not be appropriate for a certain property, but specific uses permitted under the district would be consistent with the objectives of this section. To accommodate those

situations, this section establishes the conditional zoning district process. A conditional zoning district is not intended for securing speculative zoning for a proposal but rather is based on a firm development proposal.

- (b) *Applicability.* Conditional zoning districts may be appropriate when one or more of the following factors, separate or in combination, are proposed:
 - (1) The tract size meets or exceeds the minimum acreage for the corresponding zoning district;
 - (2) The tract is within a designated non-residential node, corridor, village or commercial center as identified in the small area plans, as amended from time to time;
 - (3) The aggregate square footage of the non-residential building(s) on a single zoning lot is more than 50,000 square feet gross leasable area regardless of the number of uses within the building or structures planned; or
 - (4) Planned developments.
- (c) *Application.* Except as provided in this chapter, petitions to establish a conditional zoning district must be submitted and will be processed in accordance with the provisions in this chapter pertaining to zoning text and zoning map amendments. Property may be placed in a conditional district only in response to a petition by all owners of the property to be included. Applications shall be submitted on a form provided by the county.
- (d) *Contents of application.* All applications must include a concept site plan, drawn to scale, and supporting text that, as approved, will become part of the ordinance amendment. The concept site plan must include any supporting information and text that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that in addition to all predetermined ordinance requirements, will govern the development and use of the property. The applicant shall, at a minimum, include each of the items listed below, in addition to the items required in section 44-327 as the same may from time to time be amended, and any other applicable sections of this chapter. The concept site plan, including all additional information shown on it, and the following checklist shall constitute part of the petition for rezoning to a conditional zoning district:
 - (1) A vicinity map showing the property's general location in relation to major streets, railroads, waterways.
 - (2) A drawing of the parcel showing the approximate boundaries of the site, including the parcel identification number.
 - (3) All existing easement, reservations, and rights-of-way on the property(ies) in question.
 - (4) Delineation of areas within the regulatory floodplain as shown on the official flood hazard boundary maps for the county and delineation of watershed boundaries labeled with their respective classifications.
 - (5) Existing and proposed topography at five-foot contour intervals or less and significant topographical and other natural features affecting development of the site.
 - (6) For residential uses, the number of units and an outline of the area where the structures will be located. For nonresidential uses, the approximate square footage of all structures and an outline of the area where the structure will be located.

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- (7) The approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways and traffic, parking, and circulation plans, showing the proposed locations and arrangement of parking spaces and access points to adjacent streets including typical parking space dimension and locations along with typical street cross sections. This shall include all existing and proposed points of access to public streets.
 - (8) All proposed setbacks, buffers, screening and landscaping required by this chapter and regulations of other agencies or otherwise proposed by the petitioner. In addition, the location of significant trees or tree stands on the subject property must be identified.
 - (9) The approximate location on the site of the proposed buildings, structures, and other improvements and the approximate dimensions, including height, of proposed buildings and other structures.
 - (10) A sample of the exterior features of proposed principal structures.
 - (11) The proposed phasing of the project.
 - (12) The proposed number, location, type and size of all signs. This must include a sample diagram of the sign design.
 - (13) Dedication or reservation of right-of-way.
 - a. Right-of-way dedication is required for all conditional zoning districts fronting along roadways funded for improvements in the current state transportation improvement program (STIP) and must be indicated on any subdivision plat, site plan, or zoning authorization permit applications. When right-of-way is dedicated, density bonuses are provided as shown in section 44-502(b) and (c).
 - b. The building setback would include the required setback plus half the estimated right-of-way needed for future road improvements.
- (e) *Additional information.* When dealing with the conditional zoning district process, it may be desirable to request additional information in order to evaluate a proposed use and its relationship to the surrounding area. Therefore, the planning director, planning board and/or board of commissioners may request additional information in addition to that required above, as they deem necessary.
- (f) *Review.* In evaluating an application for the establishment of a conditional zoning district, it is appropriate for the planning board and board of commissioners to consider the following:
- (1) Adherence to the general policies and objectives of the adopted land use plan, particularly in relation to the proposed site and surrounding area;
 - (2) The potential impacts on the surrounding area, including but not limited to the absolute certainty the specific use(s), traffic, stormwater, land values and the compatibility of land use activities. Higher standards and conditions may be proposed for the development, and other community benefits, mutually agreed upon by the developer and county;
 - (3) Addresses spot zoning;
 - a. Size of tract;
 - b. Compatibility with adopted plan;

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- c. Public benefits and detriments of proposed rezoning; and
 - d. The relationship between proposed use and current use of adjacent properties; and
 - (4) The reasonableness of the proposed rezoning, defined as:
 - a. Supporting the general policies, goals and objectives of the adopted comprehensive land use plan and small area plans;
 - b. Promoting the harmony and compatibility of the proposed conditional zoning district in relationship to the surrounding land uses;
 - c. Serving the best interest of the community;
 - d. Promoting economic development; and
 - e. Encouraging different uses in close proximity to lessen traffic and environmental concerns.
 - (5) Consistency statement. The planning board and the board of commissioners shall adopt consistency statements as required in sections 44-324 and 44-327 of this chapter.
 - (g) *Conditions of approval of petition.* In approving a petition for the reclassification of a piece of property to a conditional zoning district, the planning board may recommend and the board of commissioners may of its own accord require that reasonable and appropriate conditions be attached to approval of the petition. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to county ordinances, plans adopted pursuant to section 44-215, or the impacts reasonably expected to be generated by the development or use of the site. For example, conditions that relate to the relationship of the proposed uses to the surrounding property, proposed support facilities (e.g., parking areas, pedestrian circulation systems), screening and landscaping, timing of development, street and right-of-way improvements, water and sewer improvements, provisions of open space, and other matters that the planning board and board of commissioners may find appropriate or the petitioner may propose. Such conditions of approval may include, but are not limited to, the dedication of right-of-way or easements for streets and/or utilities to serve the development. The petitioner shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the board of commissioners. Only those conditions mutually approved in writing by the board of commissioners and the petitioner may be incorporated into the conditional zoning district.
 - (h) *Effect of approval.* If a petition for conditional zoning district is approved the development and use of the property shall be governed by:
 - (1) The standards and regulations applicable to the district's zoning classification;
 - (2) The approved site plan for the district;
 - (3) Any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district; and
 - (4) All general and additional rules, regulations and conditions are binding on the property as an amendment to these regulations and the zoning map.
 - (i) *Zoning map designation.* Following approval of the petition for a conditional zoning district, the subject property shall be identified on the zoning map by the appropriate district designation followed by the letters "CD."

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- (j) *Substantial change requiring an amendment—Determination.* Before making a determination as to whether a proposed change constitutes an amendment which qualifies as a substantial change, the planning director shall review the record of the proceedings on the original application for the approval of the conditional zoning district.
- (1) An amendment comprising a substantial change requires approval by the board of commissioners and shall be handled as a new application for a zoning text or zoning map amendment. A change in a specific or general use category shall be deemed a substantial change.
 - (2) The planning director will use the following criteria in determining whether a proposed change is an amendment constituting a substantial change to the approved conditional zoning district:
 - a. An increase in intensity of use which means an increase in:
 1. Usable floor area by more than ten percent or
 2. Outside land area devoted to sales, displays, or demonstrations.
 - b. Any change in parking areas resulting in a reduction of ten percent or more in the number of spaces approved by the board of commissioners.
 - c. Structural alterations significantly affecting the basic size, form, style, and the like of the building, as shown on the approved plan.
 - d. A ten percent or more decrease in the amount or location of open space, recreation facilities, or landscape screening.
 - e. Substantial changes in pedestrian or vehicular access or circulation.
 - (3) If the planning director determines that the proposed action is a substantial change, he shall inform the applicant in writing of his determination. The applicant may in turn file a petition for a zoning text amendment or zoning map amendment.
- (k) *Minor changes and modifications.* The planning director shall have the delegated authority to approve minor changes that do not involve a change in uses permitted or the density of overall development permitted in the conditional zoning district provided they are in harmony with the action of the board of commissioners. A minor change shall mean any change(s) that:
- (1) Any change in location or any increase in the size or number of signs;
 - (2) Any time an applicant agrees to impose standards that are more stringent than those previously approved by the board of commissioners; or
 - (3) All other changes or modifications to the conditional zoning district shall be treated the same as zoning map amendments and shall be processed in accordance with this division 3.
 - (4) If multiple parcels of land are subject to conditional zoning, the owners of individual parcels may apply for modification of the conditions so long as the modification would not result in other properties failing to meet the terms of the conditions. Any modifications approved shall only be applicable to those properties whose owners petition for the modification.
- (l) *Expiration of approval.* Approval by the board of commissioners of conditional zoning under this division shall constitute a site-specific vesting plan for the involved properties as described in G.S. 160D-108(d)(3)(c). Such plan shall remain vested for a period of two years from the date of

approval by the county commissioners. The board of commissioners may provide in its initial approval of an application that vesting is in effect for a period exceeding two years, but not exceeding five years, if warranted by the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions, or other considerations. Vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly approved by the board of commissioners. Such extension is in the discretion of the board of commissioners, and a determination to extend may only be made after compliance with all procedural provisions applicable in this division to initial applications for conditional use. Failure to abide by the terms and conditions of an approval will result in a forfeiture of vested rights.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-329. Quasi-judicial procedures.

- (a) *Applicability.* Boards shall follow quasi-judicial procedures in determining appeals of administrative decisions, special use permits, expansions or changes to nonconformities, variances, or any other quasi-judicial decision.
- (b) *Filing applications and appeals; priority for agenda.* The following procedures shall be followed in the preparation of the agenda for a board of adjustment meeting in respect to the cases that shall be heard:
 - (1) A matter for the board of adjustment must be filed and accepted 45 days before the scheduled board meeting, counting the day of the board meeting as the forty-fifth day.
 - (2) The application and any supporting documentation required to be filed for a matter before the board of adjustment, must be complete and any applicable filing fee must be paid at the time the application is submitted or the application shall not be accepted. When a complete application is filed, the date and time of filing shall be written on the face of the application.
 - (3) The general policy is to schedule cases on a first come, first serve basis, in accordance with the date and time the application was properly filed.
 - (4) The agenda for the board of adjustment will not exceed five cases unless the planning director determines that some cases may be expeditiously disposed of.
 - (5) The planning director has the discretion to not schedule any matter for the next regularly scheduled meeting of the board of adjustment if the planning director determines more time is needed to investigate and prepare a review in order to make an appropriate presentation before the board.
 - (6) Matters that cannot be scheduled for the forthcoming meeting of the board of adjustment will automatically be scheduled on a first come, first serve basis for the next scheduled meeting of the board of adjustment.
 - (7) If the board of adjustment hears any matter, the board may continue that matter for the consideration of additional or rebuttal evidence that could not have reasonably been presented at the initial meeting.
- (c) *Notice of hearing.* Notice of evidentiary hearings conducted pursuant to this chapter shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the

hearing; and to any other persons entitled to receive notice as provided by this chapter. In the absence of evidence to the contrary, the county may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least ten days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the planning director shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.

- (d) *Administrative materials.* The secretary to the board shall transmit to the board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.
- (e) *Presentation of evidence.* The applicant, the county, and any person who would have standing to appeal the decision under G.S. 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board. Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the timeliness of an appeal or the standing of a party, may be made to the board. The board chair shall rule on any objections, and the chair's rulings may be appealed to the full board. These rulings are also subject to judicial review pursuant to G.S. 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.
- (f) *Appearance of official new issues.* The official who made the decision or the person currently occupying that position, if the decision maker is no longer employed by the county, shall be present at the evidentiary hearing as a witness. The appellant shall not be limited at the hearing to matters stated in a notice of appeal. If any party or the county would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.
- (g) *Oaths.* The chair of the board or any member acting as chair and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board determining a quasi-judicial matter, willfully swears falsely is guilty of a class 1 misdemeanor.
- (h) *Subpoenas.* The board making a quasi-judicial decision under this chapter through the chair or, in the chair's absence, anyone acting as chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, the applicant, the county, and any person with standing under G.S. 160D-1402(c) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be immediately appealed to the full board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board or the party seeking the

subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

- (i) *Appeals in nature of certiorari.* When hearing an appeal in the nature of certiorari, the hearing shall be based on the record below, and the scope of review shall be as provided in G.S. 160D-1402(j).
- (j) *Voting.* The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under subsection (n) below shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.
- (k) *Decisions.* The board shall determine contested facts and make its decision within a reasonable time. When hearing an appeal, the board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards, and be approved by the board and signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the development regulation specifies. The decision of the board shall be delivered within a reasonable time by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective. The person required to provide notice shall certify to the county that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud.
- (l) *Judicial review.* - Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-1402. Appeals shall be filed within the times specified in G.S. 160D-1405(d).
- (m) *Subsequent hearings.* Should a matter fail to receive a favorable vote of approval, any applicant must wait one year before the matter may be submitted again for the board's consideration.
- (n) *Application withdrawal.* Should an application be withdrawn after the first notice of the evidentiary hearing, the application shall be considered to be denied, and any applicant must wait one year before the matter may be submitted again for the board's consideration.
- (o) *Impartiality.* A member of any board exercising quasi-judicial functions pursuant to this chapter shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-331. Appeals.

The board of adjustment shall hear and decide all appeals from and review any zoning order, requirement, decision, or determination made by the planning director. Any such appeal shall be conducted as provided in section 44-202.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-332. Special use permits.

- (a) *Applicability.* This section applies to any use that is designated as a special use in table 44-403-1.
- (b) *Application.* The application for a special use permit, along with a detailed site plan, must be submitted to the planning director and must include the information required by the procedures manual.
- (c) *Completeness review.* The applicant must comply with section 44-303.
- (d) *Quasi-judicial hearing required.* A quasi-judicial hearing shall be required which follows the quasi-judicial process in section 44-329.
- (e) *Decision.* Within 45 days of the receipt of an application, the planning director shall submit a report to the board of adjustment. The board of adjustment shall then approve, approve with conditions, or disapprove the application.
- (f) *Approval criteria.*
 - (1) Before any application for a special use is 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 this section are met. The board shall make appropriate findings, supported by evidence in its record, on each general and specific standard.
 - (2) General standards.
 - a. The following general standards must be met for approval of special uses pursuant 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 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; and
 - 4. The use is consistent with any adopted area plans that encompass the property subject to the application.

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- b. The board of adjustment shall make these general findings based upon substantial evidence contained in its proceedings. The board may refer to staff's report to aid in its deliberations. The applicant has the responsibility of presenting evidence in the form of testimony, exhibits, documents, models, plans, and the like to support the application for approval of a special use.
 - (3) Imposed conditions.
 - a. The board of adjustment may propose such reasonable conditions, upon approval of a special use granted pursuant to this chapter, as will afford protection of the public safety and welfare and substantial justice done.
 - b. Such conditions shall run with the land and shall be binding on the original applicant as well as all successors, assigns, and heirs.
 - c. Notwithstanding the foregoing, conditions may be imposed only when consented to by the applicant in writing.
 - (g) *Expiration.* Special use permits are valid for five years from the date the board of adjustment approved the use and shall automatically expire at that time unless the property is being used in conformance with all requirements of the permit.
 - (h) *Amendments and minor changes.* Before making a determination as to whether a proposed action is an amendment or a minor change, the planning director will review the record of the proceedings on the original application for the approval of the special use.
 - (1) An amendment requires approval by the board of adjustment and shall be handled as a new application. A change in use shall constitute a new application.
 - (2) The planning director may approve minor changes in an approved special use permit, as long as they are in harmony with the action of the board of adjustment. The planning director will use the following criteria in determining whether a proposed change is an amendment to the approved special use permit:
 - a. Any increase in intensity of use which means an increase in:
 - 1. Usable floor area;
 - 2. Number of dwelling or lodging units; or
 - 3. Outside land area devoted to sales, displays, or demonstrations.
 - b. Any change in parking areas resulting in an increase or reduction of ten percent or more in the number of spaces approved by the board of adjustment.
 - c. Structural alterations significantly affecting the basic size, form, style, and the like of the building, as shown on the approved detailed site plan.
 - d. A ten percent or more decrease in the amount or location of open space, recreation facilities, or landscape screens.
 - e. Substantial changes in pedestrian or vehicular access or circulation.
 - (3) If the planning director determines that the proposed action is an amendment based on the criteria in subsection (2) above, the applicant shall be required to file a request for an amendment to the special use permit, which shall be submitted to the board of adjustment.

The board of adjustment shall hold a quasi-judicial hearing and approve or disapprove the amendment.

(i) *Scope of approval.*

- (1) After the approval of a special use detailed site plan, a zoning authorization permit may be issued. A zoning authorization permit shall not be issued if the development activities do not conform to the approved detailed site plan.
- (2) The site plan is binding on the applicant and any successors in title unless it expires or is amended as provided in this section.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-333. Variances.

- (a) *Applicability.* This section applies to any application to vary any dimensional requirements or modify any of the provisions of this chapter, provided no change in permitted uses may be authorized by variances granted under this section.
- (b) *Application.* The application for a variance, along with a plot plan, sealed by a licensed professional, must be submitted to the planning director and must include information required by the procedures manual.
- (c) *Completeness review.* The applicant must comply with section 44-303.
- (d) *Quasi-judicial hearing required.* A quasi-judicial hearing shall be required which follows the quasi-judicial process in section 44-329.
- (e) *Decision.*
 - (1) Within 45 days of receipt of an application, the planning director shall submit a report to the board of adjustment.
 - (2) After hearing the planning director's report and completion of the quasi-judicial hearing, the board of adjustment shall approve, approve with conditions, or disapprove the application.
 - (3) The concurring vote of four-fifths of the board is necessary to grant a variance.
- (f) *Approval criteria.*
 - (1) When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the board of adjustment shall vary any of the provisions of the zoning regulation upon a showing of all of the following:
 - (2) Unnecessary hardship would result from the strict application of the regulation. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
 - (3) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

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- (4) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
 - (5) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.
 - (g) *Affirmative findings required.* Each finding of fact required by subsection (f) above 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 four categories.
 - (h) *Conditions.* Appropriate conditions may be imposed on any variance, provided the conditions are reasonably related to the variance.
 - (i) *Expiration.* A variance does not expire and runs with the land.
 - (j) *Change to variance.* A change to an approved variance requires a new variance application.
 - (k) *Zoning authorization permit.* After approval of a variance, the applicant must apply for a zoning authorization permit before undertaking any development authorized by the variance.
- (Ord. No. 2021-05, 6-21-2021)

Secs. 44-334—44-340. Reserved.

DIVISION 4. SUBDIVISION PROCEDURES

Sec. 44-341. Generally.

- (a) *Applicability.*
 - (1) Subdivision shall mean all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development, whether immediate or future, and shall include all divisions of land involving the dedication of a new street or a change in existing streets.
 - (2) No subdivision within the county's planning and development regulation jurisdiction shall be filed or recorded until it shall have been submitted to and approved by the board of commissioners, and until this approval shall have been entered on the face of the plat in writing by an authorized representative of the county. The county's review officer, pursuant to G.S. 47-30.2, shall not certify a subdivision plat that has not been approved in accordance with these provisions nor shall the clerk of superior court order or direct the recording of a plat if the recording would be in conflict with this section.
- (b) *Exemptions.* The following shall not be included within the definition of "subdivision" nor be subject to the regulations authorized by this article:
 - (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the local government as shown in its subdivision regulations.
 - (2) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved.

- (3) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
- (4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the local government, as shown in its subdivision regulations.
- (5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under G.S. ch. 29.

(c) *Classification of subdivisions.*

- (1) There are three categories of subdivisions subject to this division: major, minor and family. The plat classification and required approvals for each type of subdivision are listed in table 44-341-1 below.
- (2) For purposes of this chapter, a "family subdivision" means a subdivision where lots are conveyed to members of the lineal family or siblings. "Lineal family" includes great-grandparents, grandparents, parents, children, grandchildren, great-grandchildren. Lots can be conveyed as a gift or for a nominal consideration.

Table 44-341-1. Plat Classifications and Required Approvals

Classification	Description	Preliminary Plat Required	Final Plat Required
Major subdivision	• New roads, built to NCDOT standards, are required with rights-of-way dedication;	✓	✓
	• Existing right-of-way dedicated on or after October 1, 1975 but road not built to NCDOT standards; or	✓	✓
	• The subdivision does not meet the definition of a family or minor subdivision as defined in this table.	✓	✓
	• Subdivisions of 200 or more lots must be approved as a planned development (sec. 44443)	✓	✓
Minor subdivision	• Creation of not more than three new lots after March 18, 1996 that front along an existing state-maintained road. One of the three new lots includes the residual/original parcel leaving a maximum of two additional lots; or		✓
	• Creation of not more than three new lots after March 18, 1996 that front along a minimum 45-foot dedicated right-of-way that was platted and recorded before October 1, 1975 (G.S. 136-102.6) and is constructed to standards which will allow NCDOT to maintain (paved, dirt or gravel). One of the three new lots include the residual/original parcel leaving a maximum of two additional lots; or		✓
	• Creation of not more than three new lots after March 18, 1996 that front along an existing non state-maintained road which is built to NCDOT standards as verified by the NCDOT or a North Carolina registered professional engineer (PE).		✓

	One of the three new lots includes the residual/original parcel leaving a maximum of two additional lots.		
Family subdivision	<ul style="list-style-type: none"> • Creation of not more than three new lots after March 18, 1996 for lineal family or sibling members. One of the three new lots includes the residual/original parcel leaving a maximum of two lots for other lineal or sibling family members where a newly dedicated unimproved NCDOT approved right-of-way is required. 		✓

- (d) *Approval does not constitute acceptance.* The approval of a plat shall not be deemed to constitute the acceptance by the county or public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat. However, the board of commissioners may by resolution accept any dedication made to the public of lands or facilities for streets, parks, public utility lines, or other public purposes, when the lands or facilities are located within the county's planning jurisdiction. Unless a city, county, or other public entity operating a water system shall have agreed to begin operation and maintenance of the water system or water system facilities within one year of the time of issuance of a certificate of occupancy for the first unit of housing in a subdivision, the county shall not require dedication of water systems or facilities as a condition for subdivision approval.
- (e) *Effect of subdivision regulations on naming streets.* It shall be unlawful for any person to lay out any new street or road, and to name such street or road on any plat, by any marking, or in any deed or instrument without first getting the approval of the appropriate authority as specified in the procedures manual. Any person violating this subsection shall be guilty of a misdemeanor.
- (f) *Markers and monuments.*
- (1) Monuments must comply with the requirements of the North Carolina General Statutes and the current edition of the Standards of Practice for Land Surveying in North Carolina and be placed in all subdivisions.
 - (2) Any permanent monuments or markers displaced or destroyed during the course of development or construction in the subdivision shall be accurately witnessed and replaced upon completion of such development or construction.
- (g) *Agencies given opportunity to make recommendations.* The following agencies shall be given an opportunity to make recommendations concerning an individual subdivision plat before the plat is approved:
- (1) The district highway engineer as to proposed state streets, state highways, and related drainage systems; and
 - (2) The county health director or local public utility, as appropriate, as to proposed water or sewerage systems.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-342. Sketch plats/preliminary plats.

- (a) *Filing.* Applications for approval of subdivision plats must be filed with the planning director for the subdivision review board's consideration.

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- (1) *Sketch plat.* A sketch plat is an optional submittal that is less detailed than a preliminary plat and may be considered by the subdivision review board for review purposes. The procedures manual shall be followed for required information on a sketch plat. A review of a sketch plat gives the developer direction as to how to proceed with the preliminary plat and does not constitute authorization to proceed with any development improvements.
 - (2) *Preliminary plat.* A preliminary plat submittal is required as noted in table 44-341-1 above, and has sufficient detail to be considered by the subdivision review board for approval. Substantial details are noted in the procedures manual and at a minimum must include: topography, lot lines and dimensions, existing structures, easements, proximity to airports/airstrips, street plans and profiles, drainage patterns and design.
- (b) *Completeness review.* The applicant must comply with section 44-303.
- (c) *Decision.*
- (1) *Planning director.* The planning director shall review an application for a major subdivision plat and make recommendations to the subdivision review board, including the recommendations of other affected agencies of government. The subdivision review board shall take action as provided in this section.
 - (2) *Subdivision review board.*
 - a. The subdivision review board shall approve, approve with conditions, or deny the major subdivision application. The subdivision review board shall take action on applications submitted 45 days prior to the regularly scheduled subdivision review board meeting, unless the applicant consents in writing to an extension of this time limit.
 - b. If the subdivision review board or planning director determines that the application does not comply with this section, the application and related materials shall be returned to the applicant with written findings as to required corrections and/or completions necessary prior to resubmission. A new time period of at least 45 days prior to the regularly scheduled meeting is required for each resubmission. If the planning director or subdivision review board determines that the errors are minor, the application may be revised and resubmitted without resubmitting the application.
 - c. Where applications are approved without conditions, the planning director shall notify the applicant of the approval date.
 - d. Where applications are approved with conditions, the planning director shall notify the applicant in writing of the conditions and the reasons.
 - e. Where applications are denied, the planning director shall notify the applicant of the reasons. All such notices shall be in writing and dispatched by first class mail to the applicant within ten working days of the date of decision by the subdivision review board.
 - f. The decision, and the grounds for the decision, shall be recorded in the minutes of the subdivision review board.
 - (3) *Failure to act.* When the subdivision review board fails to take action on the application within the time period prescribed above, the application is deemed to be approved without conditions. If the application is returned for correction of errors or omissions and resubmittal, or the applicant agrees to an extension of the time limitations, the action shall be taken

within the new time limit or the time limit agreed to by the applicant. If action is not taken within the revised time period, the application is deemed to be approved without conditions.

- (d) *Extensions of approval and substantial progress.*
 - (1) Upon approval of the preliminary plat by the subdivision review board, the applicant has up to five years to complete all improvements in compliance with this chapter and obtain final plat approval. An additional extension of five years may be granted by the subdivision review board only where the applicant demonstrates good cause and where there has been a substantial expenditure of resources directly related to the subdivision development as reviewed by the subdivision review board. Examples of substantial expenditures include consulting fees from development specialists for the survey of the property, soil evaluation, erosion control plan, engineering design for roadway, waterlines, sewer lines, permit fees or fees associated with land preparation such as clearing, rough grading or fine grading.
 - (2) In all cases where extensions are granted, the cumulative time period for obtaining final plat approval shall not exceed a total period of ten years from the date of the initial preliminary plat approval.
- (e) *Copy.* A copy of the decision approving the preliminary plat will be maintained in the planning office.
- (f) *Successive applications.* There is no limit on successive applications for preliminary plat approval; however, before a new preliminary plat application can be accepted a written request must be submitted from the previous applicant or current owner to withdraw a preliminary plat previously approved. The subdivision review board must vote on the withdrawal of the previous preliminary plat before considering the new application.
- (g) *Amendments.* Minor changes may be administratively approved. If the amendment is not a minor change, a preliminary plat shall be amended by filing and obtaining approval from the subdivision review board. An amendment to a preliminary plat includes:
 - (1) When the location of a road is altered or a new road is proposed;
 - (2) Additional lots are proposed;
 - (3) The amount and location of open space is revised; or
 - (4) Addition or deletion of community amenities.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-343. Major subdivision final plats.

- (a) *Preliminary plat approval required.* Preliminary plat approval must be obtained before applying for final plat approval.
- (b) *Application time frame.* An application for final plat approval must be filed with the planning director within five years of the preliminary plat approval, unless an extension is approved; otherwise, the preliminary plat approval shall expire.
- (c) *Completeness review.* The applicant must comply with section 44-303.
- (d) *Decision.* The planning director shall administratively approve the final major plat within ten working days from receipt of a complete final subdivision submittal. All required improvements

must be complete or a performance guarantee package, as detailed in section 44-361, must be submitted and approved by the planning director.

(e) *Approval criteria.*

- (1) The final plat shall be approved if it conforms to the approved preliminary major plat and all preliminary conditions of approval; and
- (2) Except where a performance guarantee has been approved, all required improvements must be completed by the applicant, or his agents, and inspected and approved by appropriate public officials or agencies before final plats can be approved; and
- (3) The final plat meets the requirements of the procedures manual.

(f) *Successive applications.* There is no limit on successive applications for final plat approval.

(g) *Amendment.* A final plat may be amended by filing and obtaining approval of a new application for final plat approval.

(h) *Recording.* If an approved major subdivision final plat is not recorded in the register of deeds office within 60 days of approval, the plat expires and a new plat must be submitted.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-344. Minor subdivisions.

(a) *Initiation.* A minor subdivision plat approval is initiated by filing an application for final plat approval with the planning director.

(b) *Completeness review.* The applicant must comply with section 44-303.

(c) *Administrative review and approval.* A minor subdivision plat is administratively reviewed and approved by the planning director. The planning director shall have up to ten working days to review the minor subdivision plat and approve or deny the minor subdivision plat.

(d) *Compliance with chapter.* No application for a minor subdivision plat shall be approved unless it complies with all applicable requirements of this chapter.

(e) *Amendment.* A minor subdivision plat may be amended by filing and obtaining approval of a new application for minor subdivision plat approval.

(f) *Recording.* If an approved minor subdivision plat is not recorded in the register of deeds office within 60 days of approval, the plat expires and a new plat must be submitted.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-345. Family subdivisions.

(a) *Filing of application.* A family subdivision plat approval is initiated by filing an application for final plat approval with the planning director.

(b) *Completeness review.* See section 44-303.

(c) *Review.* A family subdivision plat is administratively reviewed and approved by the planning director. The planning director shall have up to ten working days to review the family subdivision

plat and determine if it meets the requirements for approval of a family subdivision in accordance with the following:

- (1) The application and plat indicate that it qualifies as a family subdivision as defined in this article;
 - (2) The applicant must sign an affidavit attesting to the linear or sibling relationship that qualifies the applicant for the family subdivision;
 - (3) Where right-of-way is less than the NCDOT approved width, additional right-of-way has been dedicated;
 - (4) If an existing publicly dedicated road crosses entirely through the property being subdivided, an NCDOT approved right-of-way width is required to be extended entirely through the subject property along the path of the existing public road; and
 - (5) The right-of-way, as shown on the submitted plat, is located where a road can feasibly be built.
- (d) *Amendment.* A family subdivision plat may be amended by filing and obtaining approval of a new application for family subdivision plat approval.
- (e) *Recording.* If an approved family subdivision plat is not recorded in the register of deeds office, within 60 days of approval, the plat expires and a new plat must be submitted.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-346. Appeals process.

- (a) *Appeals of planning director's actions.* Any subdivision-related decision of the planning director may be appealed to the board of adjustment by the applicant or his agent within 30 days and shall be governed by section 44-202.
- (b) *Appeals of subdivision review board's actions.* Actions of the subdivision review board may be appealed to the board of adjustment. Appeals must be filed in the planning department, by the applicant of the subdivision plat or his agent, within 30 days of the date of the action of the subdivision review board.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-347. Vacating a plat and road abandonment.

- (a) *Applicability.* The owner of a parcel subject to an approved plat may vacate the plat at any time before any lot in the plat is sold. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat. If lots in the plat have been sold or built upon, the plat, or any part of the plat, may be vacated on the application of all the owners of lots in the plat with approval obtained in the manner prescribed for the original plat.
- (b) *Initiation.* The owner or owners of lots in any approved subdivision, must initiate a plat vacation by filing a final plat with the planning director.
- (c) *Completeness review.* See section 44-303.

(d) *Decision.*

- (1) *Vacated plat.* The vacated plat shall be approved under the procedures for which the original plat was approved. The approving entity shall approve or deny an application for a plat vacation.
- (2) *Road abandonment.*
 - a. A major subdivision road that is dedicated to the public but not yet accepted by NCDOT cannot be abandoned without approval from the subdivision review board.
 - b. A family/minor subdivision road that is dedicated to the public but not yet accepted by NCDOT cannot be abandoned without county planning approval.
 - c. Roads dedicated to the public, not open or used within 15 years after dedication, may be withdrawn in accordance with G.S. 136-96 without NCDOT or county approval.

(e) *Approval criteria.*

- (1) No application for a plat vacation shall be approved unless it complies with all applicable requirements of this chapter.
 - (2) The approving entity shall not approve an application for a plat vacation if it will materially injure the rights of any nonconsenting property owner or any public rights related to public improvements unless expressly agreed to by the agency with jurisdiction over such improvements.
- (f) *Recording.* After the new plat is approved, the plat must be recorded, within 60 days, with the register of deeds office. Upon the execution and recording of the new plat, the vacated plat has no effect. The resubdivision of the land covered by a plat that is vacated shall be platted in the same manner as is prescribed by this chapter for an original plat.

(Ord. No. 2021-05, 6-21-2021)

Secs. 44-348—44-350. Reserved.

DIVISION 5. SITE SPECIFIC EXPIRATIONS (RESERVED)

Secs. 44-351—44-359. Reserved.

DIVISION 6. DEVELOPMENT MAINTENANCE AND GUARANTEES

Sec. 44-360. Homeowners' associations.

- (a) *Applicability.* This section applies to any situation where a homeowners' association or similar legal entity is responsible for the maintenance and control of roads, open space, recreational facilities, or other common areas and facilities associated with a subdivision or other application for development approval.
- (b) *Duties.* The homeowners' association shall:

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- (1) Have clear legal authority to maintain and exercise control over the common areas, roads and facilities; and
 - (2) Have the power to compel contributions from development residents to cover their proportionate shares of the costs associated with the maintenance of the common areas and facilities; and
 - (3) Be established before any dwelling unit or lot in the development is sold or any building in the development is occupied.
- (c) *Documentation.*
- (1) Documents establishing a homeowners' association or similar legal entity in accordance with this section must be submitted and reviewed by the county attorney before any plat for the development is recorded. The documents must state that the homeowners' association has legal authority to carry out the provisions of this chapter or in lieu of the developer may submit an affidavit to this effect.
 - (2) The review by the planning director shall be limited to ensuring compliance with subsection (b) above.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-361. Completion of improvements and performance guarantees.

- (a) *Generally.* In lieu of completion of all or part of the required improvements, and prior to approval of the final subdivision plat or issuance of a zoning compliance certificate, the applicant may post a performance guarantee in the amount of 125 percent of the reasonably estimated cost of completion at the time the performance guarantee is issued.
- (b) The term "performance guarantee" shall mean any of the following forms of guarantee:
 - (1) Surety bond issued by any company authorized to do business in this state.
 - (2) Letter of credit issued by any financial institution licensed to do business in this state.
 - (3) Other form of guarantee that provides equivalent security to a surety bond or letter of credit, including cash or cash equivalent deposited with the county to be held as provided herein.
- (c) *Requirements.*
 - (1) Except for certified checks, sureties shall not be accepted unless the county attorney has made a review and rendered a written opinion that the interests of the county are fully protected.
 - (2) Cash or cash equivalents must be deposited with the county finance director, as escrow agent, who shall deposit same in an interest-bearing escrow account of the county, with all interest accruing to the applicant.
 - (3) The terms of any letter of credit must include the absolute right of the county finance director 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. The letter of credit must be valid for up to 12 months from the date that the performance guarantee was approved.

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- (d) *Plans, contracts and construction programs.* Procedures for submission of plans, contracts and construction programs are as follows:
- (1) In order to demonstrate the reasonably estimated cost of completion of improvements proposed hereunder, the applicant has the option of submitting either:
 - a. Executed contracts, from state-licensed contractors, which shall contain a provision allowing for the county, in the county's discretion, to assume such contract in the event of a default by the applicant in its obligations hereunder; or
 - b. A per-unit cost sheet submitted by a registered, professional engineer who has civil engineering qualifications.
 - (2) Plans, specifications, quantities, unit costs or executed contracts must be provided by the applicant to the planning director, together with a schedule indicating time of initiation and completion of the work. The complete performance guarantee package must be submitted concurrently with the final plat.
 - (3) The planning director shall seek information from relevant government agencies, including county engineering staff, as to sufficiency of the costs and the reasonableness of construction plans.
- (e) *Amount, time limits, approval and extensions of performance guarantee.* The performance guarantee must include the terms, amount, time of initiation and completion of the work, reasons for extension, and provisions for release of the guarantee upon completion of the work.
- (1) *Amount.* The guarantee shall be in the amount of 125 percent of the reasonably estimated cost of completion at the time the performance guarantee is issued.
 - (2) *Time limit.* The time between initiation and the completion of the required improvements shall not exceed one year from the date the performance guarantee was approved.
 - (3) *Approval.* If the information is complete and the guarantee amount is satisfactory, the planning director shall administratively approve the performance guarantee package.
 - (4) *Completion or extension.* The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement by the local government that the improvements for which the performance guarantee is being required are complete. If the improvements are not complete and the current performance guarantee is expiring, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period until such required improvements are complete. A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are the subject of the performance guarantee or any extension. The form of any extension shall remain at the election of the developer. Any extension of the performance guarantee shall not exceed 125 percent of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.
 - (5) The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion.
 - (6) No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this subsection or in the proceeds of any such performance guarantee other than the following:

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- a. The county.
 - b. The developer at whose request or for whose benefit such performance guarantee is given.
 - c. The person or entity issuing or providing such performance guarantee at the request of or for the benefit of the developer.
- (f) *Inspections; reports; cost responsibility.* Procedures for inspections and reports and the responsibility for the cost are as follows:
- (1) Applicable government agency shall make an inspection to determine whether work has started as scheduled, make periodic inspections during the course of work, and make a final inspection to determine whether stages of construction required under the performance guarantee have been completed in accord with the terms of the guarantee.
 - (2) Within ten days of the inspections, copies of reports of the results should be provided to the planning director.
 - (3) The applicant is responsible for all costs associated with making the inspections and preparing the reports.
 - (4) In lieu of having inspections conducted by the government body, the applicant, at his cost, may elect to have a registered, professional engineer licensed in North Carolina conduct the inspections, as stated above, and submit reports to the planning director.
- (g) *Action on inspection reports.* The following actions may be taken regarding inspection reports:
- (1) *Reports indicating satisfaction of requirements.* Where reports indicate satisfactory completion of work within time limits set and are in accord with the terms of the performance guarantee, for agreed-upon stages or for the entire work, the planning director shall indicate so in writing to the applicant, any surety company involved and the county manager. The county manager, upon such notification and any further assurance he may require from the county attorney or government agency exercising operating control, shall then release the performance guarantee in accord with the terms thereof.
 - (2) *Reports indicating failure to satisfy requirements.* Where the reports indicate failure to complete work on schedule in full compliance with the terms of the performance guarantee, the planning director shall indicate so in writing to the applicant, government agency exercising control, any surety company involved, and the county manager. Such notice shall indicate that unless action required under the terms of the performance guarantee is completed within 30 days of the date of such notification, the performance guarantee or portions thereof, set forth in its terms, shall be called. Unless such action is completed, as evidenced by inspections and reports from government agency exercising control transmitted through the planning director, the county manager shall call the performance guarantee or affected portions thereof.
 - (3) *Reports indicating unsatisfactory progress.* Where such reports indicate that work initiated appears unlikely to be completed on schedule, and where the performance guarantee provides for extension of time for cause, the planning director shall notify, in writing, the applicant and any surety company involved, concerning the potential need for an application for an extension. Where notice has been given, no application for an extension shall be considered following the expiration of the original schedule date.

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- (h) *Failure to complete work under performance guarantee.* Where work required under the terms of any performance guarantee is not completed by the applicant, and following the call of the guarantee, the county manager shall take the necessary action to procure the completion of the required improvements at the earliest reasonable time, according to the plans and specifications.
 - (i) *Guarantee of other government agency or public utility.* Where all or part of required subdivision or development improvements are to be completed by another government agency or public utility, the planning director may accept the written guarantee of the agency to complete the improvements within a time to be mutually agreed upon.
 - (j) *Building permits and certificates of occupancy.*
 - (1) Unless a performance guarantee has been approved by the planning director, building permits may not be issued for construction of any structures in the development or subdivision.
 - (2) Certificates of occupancy may be issued, and buildings occupied, only when all of the following improvements are met:
 - a. Under normal weather conditions, streets must be passable for private, service, and emergency vehicles.
 - b. Driveways must be passable under normal weather conditions.
 - c. Adequate drainage must be installed and operative to ensure that, there will be no flooding of the building site or access ways to the site under normal weather conditions.
 - d. Erosion control measures must be in place in accordance with the county's soil, erosion and sedimentation control ordinance (chapter 16, article V in the County Code).
 - e. Domestic or public water supply and sanitary sewerage or septic tank must be installed and operative.
 - (3) No permits or certificates shall be issued unless all remaining required improvements are covered by a performance guarantee and the applicant accepts tort liability pending completion of all required improvements.

(Ord. No. 2021-05, 6-21-2021)

Secs. 44-362—44-368. Reserved.

DIVISION 7. ENFORCEMENT PROCEDURES

Sec. 44-369. Zoning violations.

- (a) *Generally.*
 - (1) Whenever 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.
 - (2) 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.

- a. *Notices of violation.* When staff determines work or activity has been undertaken in violation of a development regulation adopted pursuant to this chapter or other local development regulation or any state law delegated to the county for enforcement purposes in lieu of the state or in violation of the terms of a development approval, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the local government that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-1123 or G.S. 160D-1206 or otherwise provided by law, a notice of violation may be appealed to the board of adjustment pursuant to section 44-202.
- b. *Stop work orders.* Whenever any work or activity subject to regulation pursuant to this chapter or other applicable local development regulation or any state law delegated to the county for enforcement purposes in lieu of the state is undertaken in substantial violation of any state or local law, or in a manner that endangers life or property, staff may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped. The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefor, and the conditions under which the work or activity may be resumed. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail. The person or persons delivering the stop work order shall certify to the local government that the order was delivered and that certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-1112 and G.S. 160D-1208, a stop work order may be appealed pursuant to section 44-202. No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1 misdemeanor.
- c. *Remedies.* Any violation of this chapter may be enforced by any remedy provided by G.S. 153A-123. If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used or developed in violation of this chapter or of any development regulation or other regulation made under authority of this chapter, the county, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, use, or development; to restrain, correct or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-370. Subdivision violations.

Any person who, being the owner or agent of the owner of any land located within the planning jurisdiction of the county, thereafter, subdivides his land in violation of the ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this ordinance and recorded in the office of the county register of deeds, shall be guilty of a class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The county may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision regulation. Building permits required pursuant to G.S. 160D-1108 may be denied for lots that have been illegally subdivided, and no water, sewer or other public facilities or services may be extended to or connected to any land for which approval of a subdivision is required under this chapter unless all section of this chapter are satisfied. In addition to other remedies, a local government may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.

(Ord. No. 2021-05, 6-21-2021)

Secs. 44-371—44-399. Reserve

ARTICLE IV. ZONING DISTRICTS

DIVISION 1. GENERALLY

Sec. 44-400. Establishment of districts.

Purpose: This article divides the county into various districts for purposes of zoning. Within each district, this article describes the permitted uses or building types, densities, intensities, and dimensional standards such as setbacks, permitted height, and floor area ratio. The purpose of this article is to implement the county's small area plans, protect neighborhoods, and provide for economic development.

- (a) *Zoning districts.* The following zoning districts are established by the county:

Table 44-400-1. Zoning Districts Established

Rural Conservation (RCon)	
Residential (R-80)	
Residential (R-40)	
Residential (R-30)	
Residential (R-20)	
Residential (R-15)	
Residential (R-12)	
Residential (R-10)	
Residential (R-7)	
Catawba River Corridor (CRC-O)	
Floodplain Management (FPM-O)	
Mixed-Use Corridor (MUC-O)	
Planned Development (PD)	
Planned Development-Industrial Park (PD-IP)	

- (b) *Conditional zoning districts.* This chapter establishes conditional zoning districts that correspond to the general zoning districts. The conditional zoning districts have the same name as the general and zoning district designation along with the designation -CD. For example, a conditional zoning district that corresponds to residential (R-20) has the designation R-20-CD.
- (c) *Overlay districts.* The overlay districts designated in subsection (1) may impose greater restrictions, require higher development standards, prohibit certain uses, and require additional approvals, as stated in the overlay district regulations.

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- (d) *Special districts.* Special districts are general use districts that are established to address unique situations or special public benefits, such as large employment generators. However, unlike overlay districts, special districts include their own use, dimensional and other standards, and serve as general use districts in the locations where they are mapped.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-401. Zoning map.

The official zoning map is maintained by the county geographic information system (GIS) department.

- (1) *Adoption of official zoning map.* The official zoning map is adopted by reference and declared to be part of this chapter. Where boundaries and designations are not shown directly on the basic map sheets, they are indicated by overlays to such sheets or as separate maps. Overlays or separate maps have the same force and effect as the basic map sheets.
- (2) *Inset maps.* Where the scale of the basic map sheets or supplemental maps are inadequate for presentation of details in particular areas, such areas may be cross referenced on the basic map sheets or included on supplemental maps or separate inset maps at an appropriate scale.
- (3) *Zoning map replacement.* The board of commissioners may direct the preparation of a new official zoning map. The new official zoning map replaces the previous official zoning map upon approval by the board pursuant to G.S. 160D-105.
- (4) *Authentication.* The signature of the chairperson of the board of commissioners shall authenticate the official zoning map. The signature shall be attested by the signature of the clerk to the board, and shall bear the seal of the county under the following words: "This is to certify that the Official Zoning Map referred to was approved on _____."
- (5) *Official zoning map amendment, updating and authentication.* The official zoning map shall be amended, updated and authenticated as follows:
 - a. *Amendment.* The official zoning map is subject to amendment by this chapter as set out in section 44-324 above. Any proposed amendment shall be identified by reference to the map sheet and/or supplement, and a legal description or other property identification or such other information as is required to make specific the application of the amendment.
 - b. *Updating.* Amendments to the official zoning map shall be updated on the official zoning map by the planning director. Prior to such updating, a certified copy of the amendment shall be physically attached to each map sheet, supplement, or schedule sheet to be changed and prominently marked: "Amendment effective _____: GIS mapping incomplete."
 - c. *Authentication of amendments.* Amendments shall be authenticated by entries made by the planning director on map sheets, supplements, schedule sheets affected, and a record of the nature and date maintained. The 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 chapter, and an indication of the nature of the change sufficient to facilitate specific identification.

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- (6) *Unauthorized changes prohibited.* No changes of any nature shall be made in the official zoning map, except as set forth in this chapter. Any unauthorized changes by any person is a violation of this chapter and punishable as provided by law. This subsection does not preclude action under other applicable criminal state statutes against any person alleged to have made unauthorized changes in this chapter.
 - (7) *Final authority for official zoning map.* Regardless of the existence of purported copies of all or part of the official zoning map which may from time to time be made, published, or reproduced, the official zoning map is the final authority as to the current zoning status of all lands and waters within the zoning jurisdiction of the county.
 - (8) The official zoning map shall be available for public inspection and copying. The map may be in paper or a digital format approved by the county. Copies of the zoning district map may be reproduced by any method of reproduction that gives legible and permanent copies.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-402. Boundaries of districts.

- (a) *District symbol on official zoning map.* A district symbol or name shown within district boundaries on the official zoning map indicates that district regulations pertaining to the district extend throughout the whole area surrounded by the boundary line, except as otherwise specifically provided.
- (b) *Uncertainty as to boundaries.* Where uncertainty exists as to boundaries of districts or other areas delineated for regulatory purposes in the official zoning map, the following rules shall apply:
 - (1) 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. If a right-of-way is abandoned, the boundary remains in its location.
 - (2) Boundaries indicated as approximately following boundaries of streets, alleys, other public or private property lines, rights-of-way, or easements shall follow such boundaries.
 - (3) Boundaries indicated as approximately following mean high-water lines or centerlines of rivers, lakes, coves or other bodies of water shall be construed as following such mean high-water lines or centerlines. If the mean high-water line or centerline changes, the boundary shall be construed as moving with the change.
 - (4) Boundaries indicated as approximately parallel to or extensions of features described in subsections (1), (2), and (3) above shall be construed as being parallel to or extensions of such features.
 - (5) Where distances are not specifically indicated on any map in the official zoning map, they shall be determined by reference to the scale of the map.
 - (6) 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) Where parcels of land and water areas have been inadvertently excluded from a zoning district classification in any manner, the parcel shall be classified to conform to the district

which surrounds it or which is most restrictive adjacent to it, until changed after a public hearing.

(8) Where remaining uncertainty or conflict occurs:

- a. In other circumstances not covered in this section where existing natural or manmade features are at variance with those shown in the official zoning map, where the official zoning map is illegible or unclear, where interpretation based on such rules would produce contradiction or conflict with the intent of this chapter, or upon request from the planning director or an affected property owner, the board of adjustment shall make a finding and interpretation concerning the boundaries involved in accordance with the intent and purpose of this chapter.
- b. When such finding and interpretation involve only correction to the official zoning map or any official supplement and do not change the zoning of any lot, the board of commissioners 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 of commissioners shall initiate a proposed corrective amendment.

(9) Where the rules of interpretation set forth in subsections (1), (2), and (3) above would produce a variation of the actual location from the mapped location and this would change the zoning status of a lot or parcel, the boundary shall be interpreted to avoid such change.

- (c) *Action where a zoning lot contains two or more zoning district designations.* Where a zoning lot contains two or more district designations, the regulations of the underlying general district fronting the public street shall govern, except where the lot fronts on Lakes Hickory, Lookout or Norman or the main stem Catawba River. In these cases, the underlying general district fronting the lake or main stem river shall govern.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-403. Use regulations.

- (a) The permitted use and structures within each zoning district are shown in table 44-403-1, use matrix.
- (b) Uses or structures that are not expressly listed in the use matrix or throughout this chapter are permitted in districts where similar uses are permitted. The planning director may determine that a use is materially similar if:
 - (1) The use is listed within the same structure or function classification as the use specifically listed in the use matrix, as determined by the land-based classification standards (LBCS) of the American Planning Association; or
 - (2) If the use cannot be located within one of the LBCS classifications pursuant to subsection (1) above, the planning director shall refer to the most recent version of the North American Industry Classification System (NAICS), published by the Executive Office of the President, Office of Management and Budget.
- (c) The letter symbols in Table 44-403-1 have the following meanings.

The letter ...	Has the following meaning ...
P	<i>Permitted uses.</i> The letter "P" indicates that the listed use is permitted by-right within the zoning district. Permitted uses are subject to all other applicable standards of this chapter.
S	<i>Special uses.</i> The letter "S" indicates that the listed use is permitted within the respective zoning district only after review and approval of a special use permit, in accordance with the review procedures of section 44-328. Special uses are subject to all other applicable standards of this chapter and those requirements that may reasonably be imposed by the county consistent with the criteria set forth in section 44-328 and any supplementary use regulations that apply to the use.
A	<i>Accessory uses.</i> An "A" indicates that the listed use is permitted only where it is accessory to another use that is permitted in the district on the same lot.
O	<i>Overlay districts.</i> The overlay districts designated may impose greater restrictions, require higher development standards, prohibit certain uses, and require additional approvals, as stated in the overlay district regulations.
	<i>Prohibited uses.</i> A blank cell indicates that the use is not permitted in the district or a zoning procedure is required for approval as listed in the reference column.

- (d) The reference column in table 44-403-1 indicates the article, division or section of this chapter where additional regulations are required for the specific use. Sections are referenced as "44-xxx." The letter "S" references the section for special use standards and the letter "P" references the section for supplemental regulations.

Table 44-403-1. Use Matrix

Uses	RCon Rural Conservation	R-80 Residential	R-40 Residential	R-30 Residential	R-20 Residential	R-15 Residential	R-12 Residential	R-10 Residential	R-7 Residential)	O-I Office- Institutional	RC Rural Commercial	HC Highway Commercial	LI Light Industrial	GI General Industrial	Reference
Accessory dwelling/guesthouse	P	P	P	P	P	P	P	P	P						44-631
Accessory structures	A	A	A	A	A	A	A	A	A	A	A	A	A	A	44-607
Adult care center	S	S	S	S	S	S	S			P	P	P	A	A	44-646
Adult care homes										P		P			
Adult uses														S	44-639
Advertising agency										P	P	P			
Agriculture, forestry, fishing and hunting	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Airport/airstrip/runway/taxiway	S	S	S											S	44-640
Amusement park/arcade (outdoor or indoor)												P			
Animal hospital/veterinary clinic	S	S	S	S	S							P	P	P	S = 44-666 P = 44-608
Animal husbandry	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Animal slaughter														P	
Antique stores											P	P			
Apparel and footwear											P	P			
Appliances												P			
Aquaculture	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Aquarium												P			
Arboreta	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Architect										P	P	P			
Armory													P	P	
Art gallery	S	S	S							P	P	P			44-643
Arts and graphics services										P		P			

Uses	RCon Rural Conservation	R-80 Residential	R-40 Residential	R-30 Residential	R-20 Residential	R-15 Residential	R-12 Residential	R-10 Residential	R-7 Residential)	O-I Office- Institutional	RC Rural Commercial	HC Highway Commercial	LI Light Industrial	GI General Industrial	Reference
Asphalt products														P	
Assembly and construction-type plants													P	P	
Assembly/theater facilities outdoor or drive-in												P			44-609
Auditors and bookkeepers										P	P	P			
Auto, truck, boat, recreation vehicle and motorcycle sales												P			
Automatic bank teller/ATM, portable concession stands, ice machines										A	A	A	A	A	44-610
Automotive supplies											P	P			
Bakery, mfg.													P	P	
Bakeries, confectioneries, delicatessens, fish markets, meat markets (retail)											P	P			
Banks, finance and insurance										P	P	P	P	P	
Barbershop										P	P	P			
Batting cage												P			
Beauty shop										P	P	P			
Bedding and carpet, mfg.													P	P	
Beer, wine, and liquor store												P			
Bicycle sales and service											P	P			
Billiard or pool hall												P			
Boardinghouse, rooming house and bed and breakfast	S	S	S	S	S	S	S	S	S	P	P	P			S = 44-644 P = 44-611
Boat works, mfg.													P	P	

Uses	RCon Rural Conservation	R-80 Residential	R-40 Residential	R-30 Residential	R-20 Residential	R-15 Residential	R-12 Residential	R-10 Residential	R-7 Residential)	O-I Office- Institutional	RC Rural Commercial	HC Highway Commercial	LI Light Industrial	GI General Industrial	Reference
Book and stationery store										P	P	P			
Bottling plants													P	P	
Bowling lanes												P			
Breweries													P	P	
Brick, tile and pottery yards														P	
Building cleaning and maintenance services											P	P	P		
Bus garages and terminal													P	P	
Business back yard (see editor's note following this table)	A	A	A	A	A	A	A	A	A						44-634.1
Business cottage	S	S	S	S	S	S	S	S	S						44-665
Business—Home occupation	A	A	A	A	A	A	A	A	A						44-615
Cabinet shops/case goods											P	P	P	P	
Camera and photography supplies											P	P			
Campground/recreational vehicle park	S	S	S	S								P			S = 44-645 P = 44-612
Canvas goods, mfg.													P	P	
Cardboard containers, mfg.													P	P	
Carwash												P			
Car rental												P	P	P	
Caterer											P	P	P	P	
Cemetery, pet	S	S	S							P		P			44-648
Cemetery, human	S	S	S							P		P			44-648
Cemetery, private															
Chemical, mfg.														P	
Child care center	S	S	S	S	S	S	S			P	P	P	A	A	44-646

Uses	RCon Rural Conservation	R-80 Residential	R-40 Residential	R-30 Residential	R-20 Residential	R-15 Residential	R-12 Residential	R-10 Residential	R-7 Residential)	O-I Office- Institutional	RC Rural Commercial	HC Highway Commercial	LI Light Industrial	GI General Industrial	Reference
Church, synagogue or places of worship	P	P	P	P	P	P	P	P	P	P	P	P			
Clothing and textiles, mfg.													P	P	
Coin-operated laundry												P			
College/university/technical college										P	P	P	P	P	
Computer and electronic product, mfg.													P	P	
Concrete products production, mfg.														P	
Conference/retreat/event center	S	S	S	S	S					P		P			44-649
Construction trailer/temporary office	P	P	P	P	P	P	P	P	P	P	P	P	P	P	44-613
Contractor' s office											P	P	P	P	
Convenience store with or without gas pumps											P	P			
Correctional facility														P	
Crematorium										A		A	P	P	
Dance school or classes										P	P	P			
Department store												P			
Detective agency										P	P	P			
Dormitory										A					
Dragstrip/race track													S	S	44-650
Drinking establishment												P			
Dredging, shoreline stabilization and off-site pier construction operations	S	S	S	S							S	S	P	P	44-667
Drugstore										P	P	P			
Dry cleaning or laundry												P			

Uses	RCon Rural Conservation	R-80 Residential	R-40 Residential	R-30 Residential	R-20 Residential	R-15 Residential	R-12 Residential	R-10 Residential	R-7 Residential)	O-I Office- Institutional	RC Rural Commercial	HC Highway Commercial	LI Light Industrial	GI General Industrial	Reference
Dwelling, multifamily															Rezoning to PD 44-443
Dwelling, single-family	P	P	P	P	P	P	P	P	P						Subdivisions of 200 or more lots developed cumulatively must be rezoned to PD 44-443
Dwelling, two-family (duplex)	P	P	P	P	P	P	P	P	P						44-614 Duplex developments of 3 or more duplex units must be rezoned to PD 44-443
Dwelling, doublewide/multi-section manufactured home: Class A - meets county appearance criteria	O	O	O	O	O	O	O	O	O						O = sec. 44-432 Also allowed in: (1) Existing conforming or nonconforming manufactured home parks (2) MHP special district (sec. 44-447.02) (3) Nonconforming manufactured home subdivisions (sec. 44-703(c)) (4) Nonconforming switch-outs (sec. 44-703(e) and (f)) (5) Accessory dwelling/guesthouse (sec. 44-631)

Uses	RCon Rural Conservation	R-80 Residential	R-40 Residential	R-30 Residential	R-20 Residential	R-15 Residential	R-12 Residential	R-10 Residential	R-7 Residential)	O-I Office- Institutional	RC Rural Commercial	HC Highway Commercial	LI Light Industrial	GI General Industrial	Reference
Dwelling, singlewide manufactured home: Class B - meets county appearance criteria															<p>Allowed in:</p> <p>(1) Existing conforming or nonconforming manufactured home parks</p> <p>(2) MHP special district (sec. 44-447.02)</p> <p>(3) Nonconforming manufactured home subdivisions (sec. 44-703(c))</p> <p>(4) Bona fide farms where home is not visible from public ROW</p> <p>(5) Temporary during site built home construction in DWMH-O (sec. 44-630)</p> <p>(6) Nonconforming switch-outs (sec 44-703(e))</p> <p>(7) Accessory dwelling/guesthouse (sec. 44-631)</p>

Uses	RCon Rural Conservation	R-80 Residential	R-40 Residential	R-30 Residential	R-20 Residential	R-15 Residential	R-12 Residential	R-10 Residential	R-7 Residential)	O-I Office- Institutional	RC Rural Commercial	HC Highway Commercial	LI Light Industrial	GI General Industrial	Reference
Dwelling, singlewide/doublewide/multisection manufactured home—Class C—Pre- HUD approved metal-on-metal mobile home															
Dwelling, doublewide/multi-section manufactured home Class D—HUD approved metal-on-metal manufactured home															Class D units located in Catawba County as of March 18, 1996, can be relocated to (1) Manufactured home subdivisions of 3 or more lots approved on or before March 18, 1996, located in DWMH- O (sec. 44-703(c)(2)) (2) Manufactured home parks approved on or before March 18, 1996, located in or out of the DWMH-O (sec. 44- 703(d)(5))

Uses	RCon Rural Conservation	R-80 Residential	R-40 Residential	R-30 Residential	R-20 Residential	R-15 Residential	R-12 Residential	R-10 Residential	R-7 Residential)	O-I Office- Institutional	RC Rural Commercial	HC Highway Commercial	LI Light Industrial	GI General Industrial	Reference
Dwelling, singlewide manufactured home—Class E—HUD approved metal-on-metal manufactured home															Class E units located in Catawba County as of March 18, 1996 can be relocated to: (1) Nonconforming manufactured home subdivisions of 3 or more lots approved on or before March 18, 1996 located in DWMH-O (sec. 44-703(c)(2)) (2) Manufactured home parks approved on or before March 18, 1996 located in or out of the DWMH-O (sec. 44-703(d)(5))
Dwelling, modular home	P	P	P	P	P	P	P	P	P						
Electrical appliances and equipment, mfg.													P	P	
Electrical/electronic repair service										P	P	P			
Employment agency/temp. services										P	P	P			
Equipment rental												P	P	P	
Exterminators												P	P	P	
Fabric store											P	P			
Family care home	P	P	P	P	P	P	P	P	P						

Uses	RCon Rural Conservation	R-80 Residential	R-40 Residential	R-30 Residential	R-20 Residential	R-15 Residential	R-12 Residential	R-10 Residential	R-7 Residential)	O-I Office- Institutional	RC Rural Commercial	HC Highway Commercial	LI Light Industrial	GI General Industrial	Reference
Farm and heavy equipment sales and rental												P	P	P	
Farm machinery, mfg.													P	P	
Farm supplies											P	P			
Fertilizers, mfg.													P	P	
Fiberglass, mfg.													P	P	
Firing/shooting range (outdoor)	S														44-651
Firing/shooting range (indoor)												P			
Flea market (indoor)												P	P	P	
Flea market (outdoor)													S	S	44-652
Floor covering store											P	P			
Florist											P	P			
Flour and feed mill, mfg.													P	P	
Food and food products, mfg.													P	P	
Food catering											P	P			
Funeral home										P	P	P	P	P	
Furniture (except case goods), mfg.														P	
Furniture and home furnishings												P			
Furniture refinishing and repair											P	P	P	P	
Garbage disposal services													P	P	
Gift shop											P	P			
Glass and mirror shop											P	P			
Glass products, mfg.													P	P	
Golf course and ranges	P	P	P	P	P	P	P	P	P	P		P			
Golf driving range												P			
Greenhouse—Commercial	S	S	S								P	P	P	P	44-653

Uses	RCon Rural Conservation	R-80 Residential	R-40 Residential	R-30 Residential	R-20 Residential	R-15 Residential	R-12 Residential	R-10 Residential	R-7 Residential)	O-I Office- Institutional	RC Rural Commercial	HC Highway Commercial	LI Light Industrial	GI General Industrial	Reference
Greenhouse—Private	A	A	A	A	A	A	A	A	A						
Greenways	A	A	A	A	A	A	A	A	A	A	A	A			
Grocery store, supermarket											P	P			
Gun and ammunitions sales												P			
Gunsmith, repair services												P			
Gymnasiums										P	P	P			
Ham radio antenna	A	A	A	A	A	A	A	A	A						
Hardware store											P	P			
Headquarters of processing and assembly firms										P			P	P	
Health club										P	P	P			
Health practitioner's office										P	P	P			
Heating and refrigeration shop											P	P	P	P	
Hobby, toy and craft store											P	P			
Home health & home care agencies										P	P	P			
Home improvement centers												P			
Home occupation	A	A	A	A	A	A	A	A	A						44-615
Hosiery mills													P	P	
Hospice house/palliative care	S	S	S	S	S	S				P					44-647
Hospital										P					
Hotel/motel										P		P	P		
House mover													P	P	
Ice mfg.													P	P	
Incinerator, composting, or similar facility														P	
Industrial supplies and equipment													P	P	

Uses	RCon Rural Conservation	R-80 Residential	R-40 Residential	R-30 Residential	R-20 Residential	R-15 Residential	R-12 Residential	R-10 Residential	R-7 Residential)	O-I Office- Institutional	RC Rural Commercial	HC Highway Commercial	LI Light Industrial	GI General Industrial	Reference
Interior designer										P	P	P			
Jewelry store											P	P			
Junkyard														P	44-616
Kennel	S	S	S										S	S	44-641
Landfill, beneficial fill	P	P	P	P	P	P	P	P	P	P	P	P	P	P	44-617
Landfill, land-clearing and inert debris (LCID)	S	S	S	S	S								S	S	44-654
Landfill, sanitary	S	S	S										S	S	44-668
Leather products													P	P	
Linen and uniform supply services												P	P	P	
Live/work unit										A	A	A			
Livestock sales														P	
Locksmith, repair services										P	P	P			
Lumberyard														P	
Machine and welding shop													P	P	
Machine tools—mfg.													P	P	
Mailing service										P	P	P			
Manufactured home park															Rezoning to MHP 44-447
Manufactured home sales												P			
Marina and dry-storage facilities	S	S	S	S							P	P	P	P	S = 44-655 P = 44-618
Meatpacking plants														P	
Medical and dental lab										P	P	P			
Membership organization	S	S	S	S	S	S				P	P	P			S = 44-656
Metal fabricating plant														P	

Uses	RCon Rural Conservation	R-80 Residential	R-40 Residential	R-30 Residential	R-20 Residential	R-15 Residential	R-12 Residential	R-10 Residential	R-7 Residential)	O-I Office- Institutional	RC Rural Commercial	HC Highway Commercial	LI Light Industrial	GI General Industrial	Reference
Mining of earth products (rock & stone)														S	44-657
Mining of earth products (sand, soil, clay)	S	S	S	S									S	S	44-657
Mini-warehouse												P	P	P	44-619
Model dwelling unit/sales office	P	P	P	P	P	P	P	P	P						44-622
Monument works and sales												P	P	P	
Motor vehicle repair, major											P	P	P	P	
Motor vehicle repair, minor											P	P	P	P	
Motor vehicle repair (residential)	P	P	P	P	P	P	P	P	P						44-626
Movie theater (outdoor)												P			44-609
Movie theater (indoor)												P			
Museum	S	S	S							P	P	P			44-658
Music store											P	P			
Music studio											P	P	P	P	
Natural gas, petroleum, fuels, alternative distribution center													P	P	
Nursery/landscaping business, commercial	S	S	S								P	P	P	P	44-659
Nursing, convalescent, extended care facilities, rehabilitation centers										P	P	P			
Office building										P	P	P			
Office uses										P	P	P			
Open storage											A	A	A	A	44-527
Optician and optical supply store										P	P	P			
Outdoor seasonal sales	P	P	P								P	P			44-621

Uses	RCon Rural Conservation	R-80 Residential	R-40 Residential	R-30 Residential	R-20 Residential	R-15 Residential	R-12 Residential	R-10 Residential	R-7 Residential)	O-I Office- Institutional	RC Rural Commercial	HC Highway Commercial	LI Light Industrial	GI General Industrial	Reference
Paint and wallpaper store											P	P			
Paints, varnishes, finishes, mfg.														P	
Paper goods, mfg.													P	P	
Par-three golf	P											P	P	P	
Pawnshop												P	P		
Pet shop											P	P			
Pharmaceutical manufacturing													P	P	
Photo finishing laboratory										P	P	P			
Photocopying and printing services										P	P	P			
Photography studio										P	P	P			
Plastic products mfg.													P	P	
Plumbing and heating supplies												P	P	P	
Precision instruments													P	P	
Processing plant, mfg.													P	P	
Professional services										P	P	P			
Public service facility	S	S	S	S	S	S	S	S	S	S	S	S	S	S	44-660
Public use facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	44-620
Public utility facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Publishing and printing													P	P	
Radio and television broadcasting										P			P	P	
Recreational uses, community (freestanding)	S	S	S	S	S					P	P	P			44-661
Recreational fish lake or pond	S	S	S								P	P	P	P	44-662
Refinery, mfg.														P	
Rehabilitation center										P		P			

Uses	RCon Rural Conservation	R-80 Residential	R-40 Residential	R-30 Residential	R-20 Residential	R-15 Residential	R-12 Residential	R-10 Residential	R-7 Residential)	O-I Office- Institutional	RC Rural Commercial	HC Highway Commercial	LI Light Industrial	GI General Industrial	Reference
Rental and leasing of light equipment												P	P	P	
Rental and leasing of heavy equipment													P	P	
Residential care facility—Up to 6 residents	P	P	P	P	P	P	P	P	P						44-647
Residential care facility—Over 6 residents	S	S	S	S	S	S				P					44-647
Research facilities										P			P	P	
Restaurant (less than 2,500 ft.)										P	P	P			
Restaurant (more than 2,500 ft.)											P	P			
Retail sales (unless otherwise enumerated)											P	P			
Reupholstery											P	P	P	P	
Roadside stand, commercial	S	S	S								P	P			44-663
Roadside stand, residential	A	A	A	A	A	A	A	A	A						
Rubber products mfg.													P	P	
Saddlery/tack shop											P	P			
Sales office/model dwelling unit—residential development	P	P	P	P	P	P	P	P	P						44-622
Sawmill/planing mill														P	
Schools (elementary, middle, high)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Secondhand store and swap shop											P	P			
Sheet metal shop, mfg.													P	P	
Shipping/storage container	A	A	A	A	A	A	A	A	A	A	A	A	A	A	44-623
Shoe repair and shining											P	P			
Shoe store											P	P			

Uses	RCon Rural Conservation	R-80 Residential	R-40 Residential	R-30 Residential	R-20 Residential	R-15 Residential	R-12 Residential	R-10 Residential	R-7 Residential)	O-I Office- Institutional	RC Rural Commercial	HC Highway Commercial	LI Light Industrial	GI General Industrial	Reference
Sign shop											P	P	P	P	
Slaughterhouse														P	
Small motor repair												P	P	P	
Solar farm, (utility-scale solar application)	*	*											P	P	*Rezoning to RCon-CD and R-80-CD, 44-328 and 44-633
Solid waste landfill affiliated enterprise	P	P	P	P	P								P	P	
Sporting goods											P	P			
Springs, mfg.													P	P	
Specialty trade office											P	P	P	P	
Stable—public	S	S	S												44-642
Surveyor										P	P	P			
Swimming pool, private	A	A	A	A	A	A	A	A	A						44-624
Tailoring and dressmaking shop										P	P	P			
Taxidermy											P	P	P	P	
Telecommunication facilities, collocation/modification wireless	A	A	A	A	A	A	A	A	A	A	A	A	A	A	Article VI, Division 4
Telecommunication facilities, wireless	S	S	S	S	S	S	S	S	S	S	S	S	S	S	Article VI, Division 4
Television and/or radio tower facilities	S	S	S							P	P	P	P	P	Article VI, Division 4
Temporary use/special event	P	P	P							P	P	P	P	P	44-625
Textile finishing and dyeing, mfg.													P	P	
Tire sales												P	P	P	
Tire recapping/retreading													P	P	
Tobacco products, mfg.													P	P	

Uses	RCon Rural Conservation	R-80 Residential	R-40 Residential	R-30 Residential	R-20 Residential	R-15 Residential	R-12 Residential	R-10 Residential	R-7 Residential)	O-I Office- Institutional	RC Rural Commercial	HC Highway Commercial	LI Light Industrial	GI General Industrial	Reference
Tobacco shop											P	P			
Tower structure, alternate	A	A	A	A	A	A	A	A	A	A	A	A	A	A	Article VI, Division 4
Transfer/freight company													P	P	
Travel agency										P	P	P			
Truck terminal													P	P	
Upholstering shops													P	P	
Variety store											P	P			
Vehicle maintenance/repair residential	P	P	P	P	P	P	P	P	P						44-626
Vehicle parking—domestic, recreational & commercial	P	P	P	P	P	P	P	P	P						44-627
Vending company													P	P	
Warehouse													P	P	
Watch, clock and jewelry repair											P	P			
Wholesale distribution													P	P	
Winery or brewery		*	*								P	P	P	P	*Rezoning to PD-CD 44-328, 44-443, and 44-632
Wood waste grinding operation, industrial													P	P	44-628
Wood waste grinding operation, temporary, on-site	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Wooden box factory, mfg.													P	P	
Woodworking shop, mfg.											P	P	P	P	
Yard/garage sale	A	A	A	A	A	A	A	A	A						44-629
Zoo	S	S	S										P	P	44-664

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-404. Dimensional regulations.

(a) *Calculation and rounding of requirements.*

- (1) When making calculations as directed in this chapter, for example, off-street parking requirements, round to the next highest whole number.
- (2) No portion of a lot used in connection with an existing or proposed building, structure or use and which is necessary for compliance with the area, height and/or 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.

(b) *Dimensional standards.* Except as specifically provided in this chapter, regulations governing the density, maximum permitted floor area ratio, minimum lot size and width, required front, side and rear setbacks, maximum permitted height of structure, and gross leasable area are shown in table 44-404-1, dimensional standards.

Table 44-404-1. Dimensional Standards

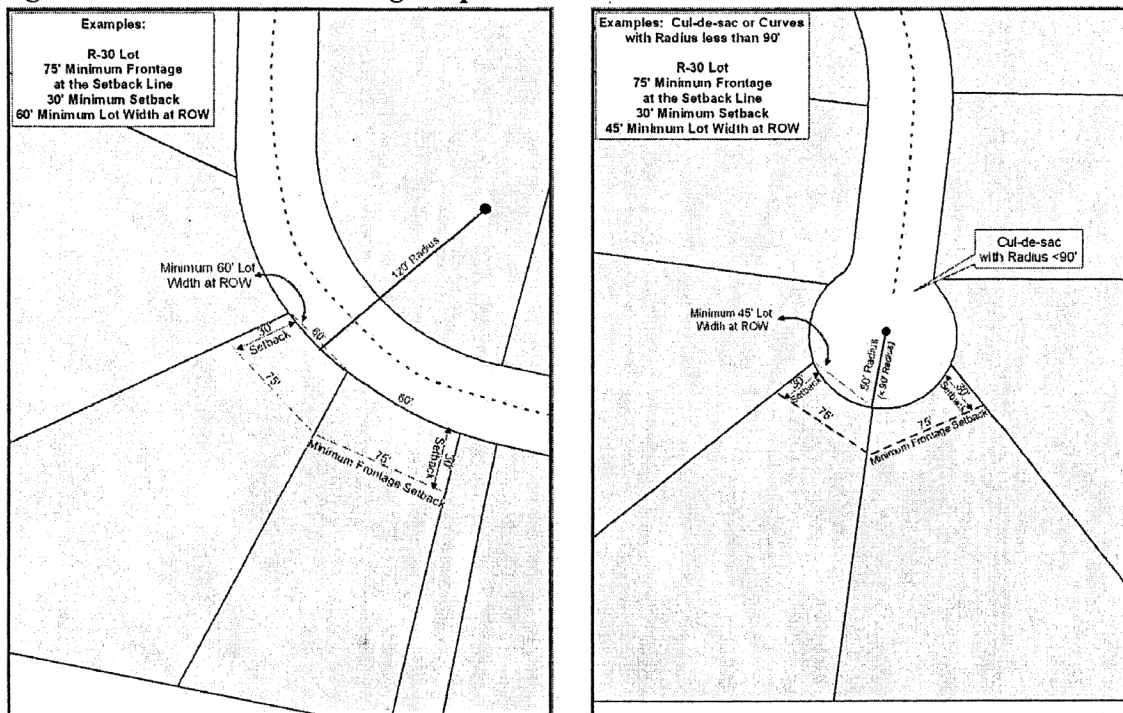
	Density (maximum dwelling units per acre)	Floor Area Ratio (maximum)	Lot Size (minimum, square feet)	Lot Width (minimum, feet)	Front Setback (minimum, feet)	Side Setback (minimum, feet)	Rear Setback (minimum, feet)	Height	Gross Leasable Area (GLA) max. per development, square feet
Rural Conservation (RCon)	0.2	-	217,800 (5 acres)	250	100	30	50	45	-
Residential (R-80)	0.5	-	Single family - 80,000 Duplex - 120,000	150(2)	30	15	30	45	-
Residential (R-40)	1.0	-	Single family - 40,000 Duplex - 60,000	100(2)	30 20(3)	15	30	45	-
Residential (R-30)	1.5	-	Single family - 30,000 Duplex - 45,000	75	30 20(3)	15	30	45	-
Residential (R-20)	2.0	-	Single family - 20,000 or 15,000 with public water and/or sewer Duplex - 30,000 or 22,500 w/ public water and/or sewer	75	30 20(3)	15	30	45	-
Residential (R-15)	3.0	-	Single family - 15,000 Duplex - 22,500	75	30 20(3)	15	30	45	-
Residential (R-12)	3.6	-	Single family - 12,000 Duplex - 18,000	75	20	10	20	45	-
Residential (R-10)	4.4		Single family - 10,000 Duplex - 15,000	60	20	10	20	45	
Residential (R-7)	6.2		Single family - 7,000 Duplex - 10,500	60	20	10	20	45	
Office-Institutional (O-I)		1:5	20,000	100	30	20	30	45	-
Rural Commercial (RC)		1:5	20,000	100	30	20	30	45	15,000
Highway Commercial (HC)		1:3	40,000	150	35	20	35	70	50,000
Light Industrial (LI)		1:3	40,000	100	30	25	35	70	-
General Industrial (GI)		1:2.5	60,000	150	40	25	35	70	-

Notes:

- (1) Churches/synagogues and places of worship, that apply for and qualify for tax exempt status with the county, may have a maximum height of 70 feet. In addition, steeples and belfries, which project above the total height of the structure, are allowed to have additional height, equal to that of the worship structure.
- (2) Lots on the turning circles of cul-de-sacs may have a minimum 75 feet of lot width.
- (3) A setback of 20 feet is allowed along one internal street front for corner lots within residential subdivisions.

-
- (c) *Density*. Density refers to dwelling units per gross acre, and applies only to cluster subdivisions as defined in section 44-544 and multifamily or mixed-use buildings, if permitted in the zoning district.
- (d) *Floor area ratio*. Floor area ratio is the gross floor area of all nonresidential buildings or structures on a lot, divided by the total lot area. See definitions for calculation example.
- (e) *Lot area*. The area of a lot means the total area within its boundaries, excluding all rights-of-way. Minimum lot area is the minimum square footage required for a lot by this chapter. The minimum area does not include submerged lands nor street rights-of-way. The minimum lot size for a duplex is 1.5 times the lot size of a single-family dwelling, as indicated in table 44-404-1.
- (f) *Frontage and lot width*.
- (1) *Generally*. Lot width shall be measured across the required front setback line, except as provided in subsection (f)(2) below. The front setback line is construed to be parallel to the front lot line. In determining the front lot line for different lot types, as defined in subsection (i) below and depicted in figure 44-404-1, lot types, the following rules shall be used:
- a. On interior lots, the front lot line is the lot line that abuts a street.
 - b. On corner lots, the lot lines parallel to each of the streets are both considered to be front lot lines for regulatory purposes.
 - c. On multiple frontage lots, all portions adjacent to streets are considered to be front lot lines for regulatory purposes.
- (2) *Lot frontage*. Lot frontage shall not be less than 80 percent of the required minimum lot width except for lots on the turning circles of cul-de-sacs or at similar points of street curvature where the radius of the right-of-way line is less than 90 feet. In the case of a cul-de-sac or where a right-of-way radius is less than 90 feet, the minimum frontage shall be 45 feet. Figure 44-404-1 indicates the relationships involved.

Figure 44-404-1. Lot frontage requirement.



(3) *Diminishing lot width.* Lot width shall not be less than 45 feet for any part of its width. The planning director may waive this requirement based on topography, original lot configuration, utility easements or rights-of-way and other natural features.

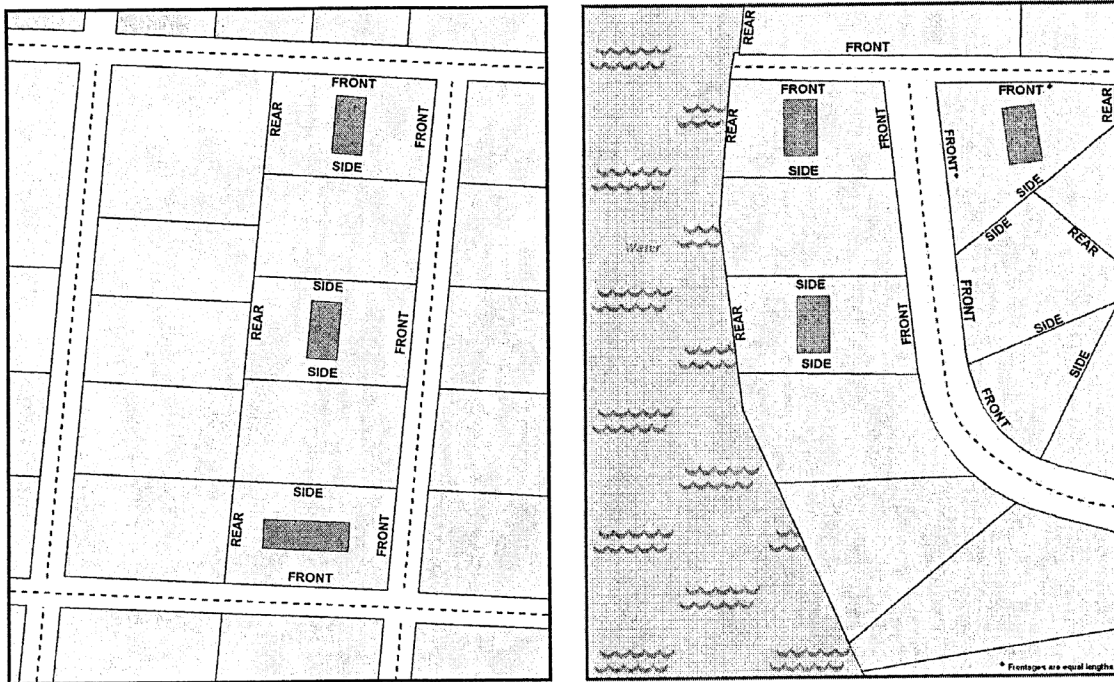
(4) *Lot width-to-depth ratio.*

- a. Depth of residential major and minor development lots cannot exceed five times the width, except for lots with attached dwellings or when portions in excess of that depth are for the purpose of providing separation from major streets or railroads, rights-of-ways, easements, wetlands, water areas, protective strips, original lot configuration or severe topography.
- b. The width-depth ratio does not apply when:
 1. The width of a lot exceeds 300 feet;
 2. The lot is for nonresidential purposes;
 3. Creating a family subdivision.

(g) *Setbacks.*

- (1) *Generally.* A setback is an imaginary line that governs the siting of buildings and structures on a lot. Figure 44-404-2 indicates the nomenclature and location of setbacks. Setbacks are measured from the property lot lines, not considering private easement boundaries.

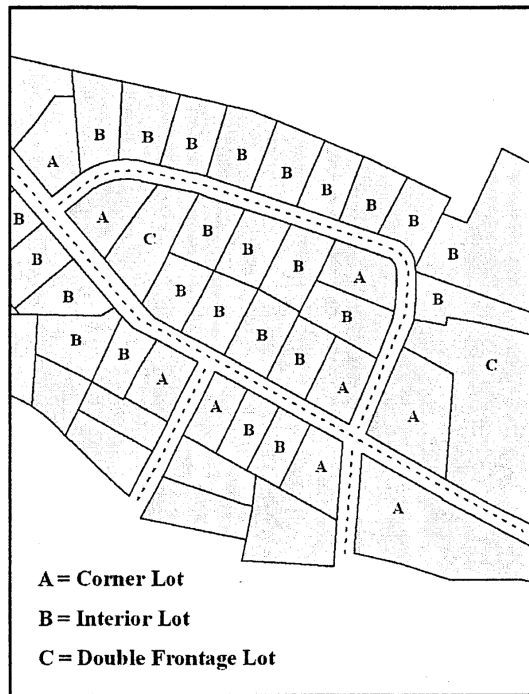
Figure 44-404-2. Setback types.



- (2) *Front setbacks.* The front setback is an imaginary line extending the entire width of the lot and parallel to the front lot line. The setback requirement in table 44-404-1 is measured perpendicular to the front lot line at the closest point to the front lot line.
- (3) *Side setbacks.* The side setback is an imaginary line extending the entire length of the lot and parallel to the side lot line. The setback requirement in table 44-404-1 is measured perpendicular to the side lot line at the closest point to the side lot line.
- (4) *Rear setbacks.* The rear setback is an imaginary line extending the entire width of the lot and parallel to the rear lot line. The setback requirement in table 44-404-1 is measured perpendicular to the rear lot line at the closest point to the rear lot line.
- (5) *Corner and multiple frontage lot setbacks.* A corner or multiple frontage lot must observe the front yard setbacks for all frontages facing the streets. The rear lot line is the lot line that is opposite to the front with the shortest boundary. If the lot has equal frontage on two streets, frontage will be determined in accordance with the prevailing area lot patterns. See table 44-404-1 as well as figure 44-404-2 above.
- (6) *Projections into setbacks.*
 - a. Cornices, eaves, stoops, gutters, and similar architectural features as determined by the planning director which are attached to a zoning regulated structure may project no more than three feet into the required front setback, five feet into the required rear setback and two feet into the required side setback.
 - b. Mechanical equipment, such as air conditioning units, heat pumps, heating equipment, solar panels attached to principal dwellings, and similar installations, may not project into the required front setback, but may project five feet into the required rear setback and two feet into the required side setback.

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- c. Features, such as stairs, not attached to a zoning regulated structure, are not subject to the setback requirements.
 - (h) *Height.*
 - (1) *Excluded portions of structures.* Except where specifically provided otherwise, the height limitations of this chapter do not apply to:
 - a. 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 the roof area or extend over ten feet in height;
 - b. Spires, 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;
 - c. Firewalls or parapet walls provided that such walls shall not extend more than five feet above the roof.
 - (2) *Aviation hazard.* It is the responsibility of the property owner locating a structure within 5,280 feet of a documented public/private airstrip to obtain a certification from FAA and/or NCDOT verifying that the height of the proposed structure will not be an aviation hazard.
 - (i) *Lot types.* Figure 44-404-3 illustrates the terminology used with reference to corner, interior and double frontage lots.
 - (1) In figure 44-404-3, 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 is 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.
 - (2) In figure 44-404-3, lot "B" is an interior lot. An interior lot is a lot other than corner lot and abutting one street. Alleys are not considered streets for purposes of this definition.
 - (3) In figure 44-404-3, lot "C" is a double frontage lot. A double frontage lot is a lot other than a corner lot, and has frontage on more than one street. Alleys are not considered streets for purposes of this definition.

Figure 44-404-3. Lot Types



(Ord. No. 2021-05, 6-21-2021)

Sec. 44-405. Placement of dwelling units on a lot.

- (a) Only one residential dwelling or duplex, and its customary accessory structures, is allowed per zoning lot as a matter of right.
- (b) Dwelling units shall be sited with the front of the structure running parallel to a street in order to achieve consistency and harmony with surrounding structures. The planning director shall have the authority to grant a waiver in the site placement of homes on a case by case basis. This waiver will be based in the topography of the site and any other specific conditions of the site.
- (c) On corner lots the property owner may choose which frontage to face the home.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-406. Access.

- (a) A legal lot created and recorded on or before March 18, 1996, must have access to an access easement which has been recorded in the office of the register of deeds. The easement must be a minimum of 15 feet in width and connect to a state-maintained road.
- (b) A legal lot created and recorded after March 18, 1996 must have a minimum 45-foot right-of-way to a state-maintained road. A legal lot created and recorded after March 20, 2017 must have an NCDOT approved right-of-way connecting to a state-maintained road. In non-family subdivision situations, the road must be constructed to NCDOT standards.

An exception to this requirement is lots created for an estate settlement or lots exempt from subdivision regulations as defined in subsection 44-341(a)(1), which must have a minimum 15-foot easement as required in subsection (a) above. No construction standards are required.

- (c) In addition to minimum setback and building spacing requirements specified in this chapter, all buildings and other structures, land preparation, and landscaping must 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.
- (d) No residentially zoned land may be used for vehicular or pedestrian access to land or structures in other zoning districts, except as provided in this chapter or other lawful regulations.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-407. Visibility of intersections.

No structure or portion of any structure may be placed or erected; no motor vehicle, trailer or equipment may be allowed to park, stand, stop or be stored; and no vegetation may 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. The visibility shall be unobstructed between the heights of two and one-half 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 10 feet along the minor; and
- (3) Connect the ends of the measurements to form a triangle.

(Ord. No. 2021-05, 6-21-2021)

Secs. 44-408—44-414. Reserved.

DIVISION 2. GENERAL DISTRICTS

Sec. 44-415. Rural conservation (RCon).

Purpose: The rural conservation (RCon) district is established in areas that are characterized by large lots, agricultural uses and open lands. These areas may include prime farmland and unique topographical or environmental restrictions that are remote from existing developed areas. This district promotes rural development patterns that are characterized by the following:

- ◆ *Low densities, including large lots that are surrounded by contiguous swaths of natural areas or agricultural land.*
- ◆ *A setback and lot size consistent with the existing, natural terrain.*
- ◆ *Narrow, winding streets that follow the natural topography.*
- ◆ *Natural or agricultural areas with a prevalence of forested or agricultural land uses.*

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- (a) *Plan consistency.* The RCon district carries forth the principles associated with the preservation and conservation of rural lands throughout the county where very low density is desirable in order to protect environmentally sensitive areas, agricultural areas, viewsheds, and other acreage of strategic importance. RCon districts may be mapped pursuant to individual comprehensive rezoning studies or individual request(s) submitted by landowners.
 - (b) *Minimum lot size requirement.* The minimum lot size required in the RCon district is five acres.
 - (c) *Cluster subdivision option.* Cluster subdivision designs are encouraged in the RCon district. Cluster subdivisions permit more development potential in exchange for preserving additional open space. Cluster subdivisions are subject to the standards in section 44-544.
 - (d) *Density bonus for affordable housing.* As an incentive to provide affordable housing based upon the HUD standards and in an effort to achieve diverse housing, a developer can receive a density bonus. For each affordable house constructed, an additional lot is allowed which can be developed for market-rate housing, up to 20 percent maximum of the base density allowed. This density bonus applies in both the conventional and cluster subdivisions.
 - (e) *Uses.* The uses allowed in the RCon district are listed in table 44-403-1, use matrix, except for:
 - (1) Single-family residential subdivisions consisting of 200 lots or more; developed cumulatively; and
 - (2) Three or more two-family (duplex) units on separate lots developed cumulatively.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-416. Residential districts (R-80, R-40, R-30, R-20, R-15, R-12, R-10, and R-7).

Purpose: The R-80, R-40, R-30, R-20, R-15, R-12, R-10 and R-7 districts have dimensional standards and use restrictions consistent with single-family residential development and less than three two-family (duplex) units on separate lots planned cumulatively.

- (a) *Plan consistency.* The residential zoning districts relate to the residential density recommendations from the small area plans at the time of their acceptance as listed in table 44-416-1 below. The county's intent is that no rezoning to a zoning classification will be approved unless the location conforms to the designated land use categories except when changing conditions warrant the zoning change and a corresponding change to the comprehensive plan or small area plans. The zoning district designation recommended in the small area plans and depicted in table 44-416-1 do not necessarily accurately reflect the official zoning map adopted at the time of the adoption of the UDO.

Table 44-416-1. Plan Consistency, Residential Zoning Districts

District	Plan Categories
R-80	Balls Creek 2 Acre Lots
	Catawba 2 Acre Density Districts
	Mountain View Low Density
	Sherrill's Ford Rural
	Startown Low Density
	Plateau Lower Density
R-40	Balls Creek 1 Acre Lots
	Catawba 1 Acre Density Districts
	St. Stephens-Oxford Low Density
	Plateau Medium Density
R-30	Balls Creek 0.75 Acre Lots
	Catawba 0.75 Acre Density Districts
	Sherrill's Ford Medium Density
	St. Stephens-Oxford Medium Density
R-20	Catawba 0.5 Acre Density Districts
	Mountain View High Density
	Sherrills Ford High Density
	St. Stephens-Oxford High Density
	Startown Higher Density
	Plateau High Density
R-15	Mountain View High Density
	St. Stephens-Oxford High Density
	Startown High Density
	Plateau Higher Density
R-12, R-10 and R-7	None noted

- (b) *Minimum lot size requirement.* The minimum lot size required in each residential district is listed in table 44-404-1, Dimensional Standards. Where public water is provided either by a municipality or the county in an R-20 district, the next smallest lot size, R-15, is allowed by right where indicated in the applicable small area plan. Where public utilities (water, sewer or a combination of both) are provided either by a municipality or the county in a lower-density district (R-30 and R-40), a rezoning to a higher-density district (R-7 through R-20) is required in order to achieve higher density.
- (c) *Cluster subdivision option.* Cluster subdivision designs are encouraged in all residential districts. Cluster subdivisions permit more development potential in exchange for preserving more open space. Cluster subdivisions are subject to the standards noted in section 44-544.
- (d) *Density bonus for affordable housing.* As an incentive to provide affordable housing, based upon the HUD standards and in an effort to achieve diverse housing, a developer can receive a density bonus. For each affordable house constructed, an additional lot is allowed which can be developed for market-rate housing, up to 20 percent maximum of the base density allowed. This density

bonus applies in both the conventional and cluster subdivisions. Lot sizes may be adjusted to accommodate density bonuses.

- (e) *Uses.* The uses allowed in the R-80, R-40, R-30, R-20, R-15, R-12, R-10 and R-7 district are listed in table 44-403-1, use matrix, except for:
- (1) Single-family residential subdivisions consisting of 200 lots or more; developed cumulatively; and
 - (2) Three or more two-family (duplex) units on separate lots developed cumulatively.
- (f) *Family care homes.* A family care home, as defined in the appendix to this chapter and G.S. 160D-907, shall be deemed a residential use of property for zoning purposes and shall be a permissible use in all residential districts.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-417. Rural commercial (RC).

Purpose: This district provides small areas for offices, services, and retail uses, all designed in scale with surrounding residential uses. The district regulations are designed to protect and encourage the transitional character of the district by permitting uses and building forms that are compatible with the rural areas of the county. This district establishes setback and area standards that are compatible with residential neighborhoods.

- (a) *Plan consistency.* The rural commercial district relates to the small area plan land use categories designated in table 44-417-1. The county's intention is that no rezoning to a zoning classification will be approved unless the location conforms to the designated land use categories except where changing conditions warrant the zoning change and a corresponding change to the comprehensive plan.

Table 44-417-1. Plan Consistency, RC District

District	Plan Categories	Maximum Leasable Area (sq. ft.) per development	Maximum Acres
RC	Balls Creek, Mountain View, Sherrills Ford, St. Stephens-Oxford, Startown and Plateau Rural Commercial Nodes	15,000	10

- (b) *Maximum district size.* The intent of the county is that no application for a zoning amendment, alone or in combination with a contiguous RC and O-I district, will be approved if it would cause the total size of the combined districts at each individual node to exceed ten acres.
- (c) *Minimum lot size requirement.* The minimum lot size required in the RC district is 20,000 square feet.
- (d) *Uses.* The uses allowed in the RC district are listed in table 44-403-1, use matrix. More than one use in a building or multiple building are allowed in a RC district provided the total leasable area does not exceed 15,000 square feet.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-418. Highway commercial (HC).

Purpose: This district provides areas for regional highway-oriented business, office, service and civic uses. The district regulations are designed to protect and encourage the transitional character of the districts by permitting uses and building forms that are compatible with the surrounding area.

- (a) *Plan consistency.* The highway commercial district relates to the small area plan land use categories designated in table 44-418-1. The county's intention is that no rezoning to a zoning classification will be approved unless the location conforms to the designated land use categories except where changing conditions warrant zoning changes and a corresponding change to the comprehensive plan.

Table 44-418-1. Plan Consistency, HC District

District	Plan Categories	Maximum Leasable Area (sq. ft.) per development	Maximum Acres
HC	Balls Creek, Catawba, Mountain View, Sherrill's Ford, St. Stephens-Oxford, Startown, and Plateau Neighborhood Commercial Nodes	50,000	25
	Mountain View, and St. Stephens-Oxford, Highway Commercial Corridor	50,000 (greater than 50,000 approved as PD)	N/A
	Sherrills Ford, Balls Creek, St. Stephens-Oxford, and Startown MUC-O portion of village	50,000 (greater than 50,000 approved as PD)	N/A
	St. Stephens-Oxford Mixed Use Corridor	50,000 (greater than 50,000 approved as PD)	N/A
	St. Stephens-Oxford Neighborhood Commercial and Office-Institutional	50,000 (greater than 50,000 approved as PD)	N/A
	Catawba, St. Stephens-Oxford, and Startown Community Center	50,000 (greater than 50,000 approved as PD)	N/A
	Sherrills Ford Regional Commercial Center	50,000 (greater than 50,000 approved as PD)	N/A

- (b) *Maximum district size for neighborhood commercial nodes.* The intent of the county is that no application for a zoning amendment in a neighborhood commercial node, alone or in combination with a contiguous HC and O-I district, will be approved if it would cause the total size of the combined districts at each individual node to exceed 25 acres.
- (c) *Minimum lot size requirement.* The minimum lot size required in the HC district is 40,000 square feet.

- (d) *Uses.* The uses allowed in the HC district are listed in table 44-403-1, use matrix. More than one use in a building or multiple building are allowed in a HC district provided the total leasable area does not exceed 50,000 square feet.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-419. Office-institutional (O-I).

Purpose: The O-I district provides for office, institutional, civic, or other low intensity commercial uses. This district may buffer single-family residential neighborhoods from higher intensity residential neighborhoods or adjacent commercial districts.

- (a) *Plan consistency.* The office-institutional district relates to the small area plan land use categories designated in table 44-419-1 below. The county's intention is that no rezoning to a zoning classification will be approved unless the location conforms to the designated land use categories except where changing conditions warrant zoning changes and a corresponding change to the comprehensive plan.

Table 44-419-1. Plan Consistency, O-I District

District	Plan Categories	Maximum Leasable Area (sq. ft.) per development	Maximum Acres
O-I	Sherrills Ford, Balls Creek, St. Stephens-Oxford, and Startown MUC-O portion of Village	50,000 (greater than 50,000 approved as PD)	N/A
	Sherrills Ford Hwy. 150 Multifamily/Office-Institutional Corridor	50,000 (greater than 50,000 approved as PD)	N/A
	Mountain View and St. Stephens-Oxford Highway Commercial Corridor	50,000 (greater than 50,000 approved as PD)	N/A
	St. Stephens-Oxford Office-Institutional Node	50,000	N/A
	Catawba, St. Stephens-Oxford and Startown Community Center	50,000 (greater than 50,000 approved as PD)	N/A
	St. Stephens-Oxford Neighborhood Commercial/Office-Institutional	50,000 (greater than 50,000 approved as PD)	N/A
	St. Stephens-Oxford Mixed Use Corridor	50,000 (greater than 50,000 approved as Mixed-Use PD)	N/A
	Balls Creek, Catawba, Mountain View, Sherrill's Ford, St. Stephens-Oxford, Startown, and Plateau Neighborhood Commercial Nodes	50,000	25
	Balls Creek, Mountain View, Sherrill's Ford, St. Stephens-Oxford, Startown, and Plateau Rural Commercial Nodes	15,000	10

- (b) *Maximum district size in neighborhood commercial nodes.* The intent of the county is that no application for a zoning amendment in a neighborhood commercial node, alone or in combination

with a contiguous HC and O-I district, will be approved if it would cause the total size of the combined districts at each individual node to exceed 25 acres.

- (c) *Maximum district size in rural commercial nodes.* The intent of the county is that no application for a zoning amendment in a rural commercial node, alone or in combination with a contiguous RC and O-I district, will be approved if it would cause the total size of the combined districts at each individual node to exceed ten acres.
- (d) *Minimum lot size requirement.* The minimum lot size required in the O-I district is 20,000 square feet.
- (e) *Uses.* The uses allowed in the O-I district are listed in table 44-403-1, use matrix. More than one use in a building or multiple buildings are allowed in an O-I district provided the total leasable area does not exceed the maximum area listed in table 44-419-1 above.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-420. Light industrial (LI).

Purpose: The light industrial (LI) district permits light manufacturing, processing and assembly uses, warehousing, distribution and servicing enterprises and limited office activities. This district supports the county's policies to promote economic development opportunities.

- (a) *Plan consistency.* This district implements the following small area plan land use categories:
 - (1) St. Stephens-Oxford—Industrial;
 - (2) Catawba—Industrial;
 - (3) Balls Creek-Hwy. 321 Business corridor between Newton and Maiden;
 - (4) E-1 zoning (now LI) in small area plans.

The county's intention is that no rezoning to a zoning classification will be approved unless the location conforms to the designated land use categories except where changing conditions warrant zoning changes and a corresponding change to the comprehensive plan.

- (b) *Minimum lot size requirement.* The minimum lot size required in the LI district is 40,000 square feet.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-421. General industrial (GI).

Purpose: This district provides for intensive manufacturing, processing and assembly uses. This district promotes the county's policies to promote economic development opportunities. The uses permitted in this district may be very intensive, with their impacts controlled by performance or design standards.

- (a) *Plan consistency.* This district implements the following small area plan land use categories:
 - (1) St. Stephens-Oxford—Industrial;
 - (2) Catawba—Industrial;
 - (3) E-2 zoning (now GI) in small area plans.

The county's intention is that no rezoning to a zoning classification will be approved unless the location conforms to the designated land use categories except where changing conditions warrant zoning changes and a corresponding change to the comprehensive plan.

- (b) *Minimum lot size requirement.* The minimum lot size required in the GI district is 60,000 square feet.

(Ord. No. 2021-05, 6-21-2021)

Secs. 44-422—44-427. Reserved.

DIVISION 3. OVERLAY DISTRICTS

This division sets forth overlay districts which are intended to impose different requirements on certain properties within the underlying conventional or conditional districts. The overlay districts described in this division are shown on a map entitled "Official Zoning Overlay Map," and said map is incorporated herein by reference. The provisions of this chapter regarding the custody, maintenance, control and reproduction of the official zoning map shall apply to the aforesaid overlay map.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-428. Catawba River Corridor (CRC-O).

Purpose:

- ◆ *The Catawba River and its banks, lakes, creeks, tributaries, etc. are the most obvious, important and valuable natural resources in the county. The river corridor must be maintained for the use, benefit and enjoyment of present and future residents of and visitors to the county.*
 - ◆ *The river is the source of water for the people, farmers, and manufacturers of the county. The river corridor contributes to the county's economy and general welfare through increased property values, aesthetic enrichment, and recreational opportunities. The river is the habitat for fish and wildlife and native plants.*
 - ◆ *The Catawba River corridor, consisting of the lakes, 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.*
- (a) *Plan consistency.* This section implements the St. Stephens-Oxford, Sherrills Ford and Catawba small area plans.
- (b) *Boundaries.* The Catawba River Corridor Overlay district shall extend landward a distance of 500 feet from the high water elevation of Lake Hickory and Lookout Shoals in addition to the Catawba River mainstem and 1,000 feet landward from the high water elevation of Lake Norman.
- (c) *Consistency with other regulations.* Development within the first 50 feet landward shall meet the requirements of the state's Catawba River Basin Riparian Buffer Rules (15A NCAC 2B.0243), as enforced by the NCDENR.

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- (d) *Minimum lot size requirement.* The minimum lot size in the Catawba River Corridor Overlay district shall be 40,000 square feet (R-40) on Lake Hickory, Lookout Shoals and the Catawba River mainstem and 30,000 square feet (R-30) on Lake Norman. Cluster developments are encouraged, and subject to the regulations in section 44-544.
 - (e) *Minimum lot width requirement.* The minimum lot width requirement for waterfront lots in the Catawba River Corridor Overlay district is 100 feet as measured along the waterfront. For nonwaterfront lots, the lot width requirement for the underlying zoning district shall apply.
 - (f) *Flag lot allowance.* A maximum of three flag lots are allowed along a state-maintained road or a new subdivision road provided that a minimum of 45 feet of road frontage is provided. The creation of more than three cumulative lots will require a road built to NCDOT standards and be subject to the major subdivision requirements in article V.

Flag lots must meet the following dimensional criteria:

- (1) The length of the pole can not exceed five times the frontage width; and
 - (2) The square footage of the land area within the flag pole may be used in the calculation of the minimum lot size requirement.
- (g) *Nonresidential and multifamily development stormwater design requirements.* Low-impact development (LID) techniques shall be incorporated into the design of all nonresidential and multifamily development within the Catawba River Corridor Overlay district. LID stormwater practices shall be designed based on the current best available practices and standards such as those provided by the Low Impact Development Center at www.lowimpactdevelopment.org. The county engineer shall review all stormwater plans.
 - (h) *Accessory structure setback.* Accessory structures must be setback 30 feet from the rear property line at the lake or river front as measured from the high water elevation.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-429. Floodplain management overlay (FPM-O).

Purpose: 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 public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. 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 prone areas by uses vulnerable to floods or other hazards. The purpose of this chapter is 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:

- ◆ *Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;*
- ◆ *Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;*
- ◆ *Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;*

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- ◆ *Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and*
 - ◆ *Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or which may increase flood hazards to other lands.*

The objectives of this section are:

- ◆ *To protect human life, safety and health;*
- ◆ *To minimize expenditure of public money for costly flood control projects;*
- ◆ *To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;*
- ◆ *To minimize prolonged business losses and interruptions;*
- ◆ *To minimize damage to public facilities and utilities, (i.e. water and gas mains; electric, telephone, cable and sewer lines; streets; and bridges) located in flood prone areas;*
- ◆ *To help maintain a stable tax base by providing for the sound use and development of flood prone areas; and*
- ◆ *To ensure that potential homebuyers are aware that property is in a special flood hazard area.*

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-429.01. Statutory authorization.

The state has, in G.S. chapter 143, article 21, part 6; chapter 153A, article 18, parts 3 and 4; chapter 153A, article 6, part 121; and § 160D-923 delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-429.02. Legal status provisions.

This chapter in part comes forward by reenactment of some of the provisions of the flood damage prevention ordinance enacted on September 3, 1980, as amended, 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 are reserved and may be enforced. The enactment of this article shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the county enacted on September 3, 1980, as amended, which are not reenacted in this article are repealed.

The dates of the initial flood insurance rate maps for each municipal jurisdiction within the county are as follows:

Brookford December 18, 1979

Catawba September 3, 1980

Claremont March 3, 2003

Conover September 3, 1980

Hickory August 3, 1981

Long View September 3, 1980

Maiden September 3, 1980

Newton September 3, 1980

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-429.03. Effect upon outstanding floodplain development permits.

Nothing contained in this chapter shall require any change in the plans, construction, size or designated use of any development, or any part for which a floodplain development permit has been granted by the planning director before the time of passage of this chapter; provided, however, that if construction is not begun under such outstanding permit within a period of six months subsequent to the date of issuance of the outstanding permit, the construction or use shall be in conformity with the provisions of this chapter.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-429.04. General provisions.

- (a) *Lands to which this chapter applies.* This chapter shall apply to all special flood hazard areas (SFHA) within the jurisdiction of the county.
- (b) *Basis for establishing the special flood hazard areas.* The special flood hazard areas are those identified under the cooperating technical state (CTS) agreement between the state and FEMA in its flood insurance study (FIS) and its accompanying flood insurance rate maps (FIRM) for the county dated September 5, 2007, which are adopted by reference and declared to be a part of this chapter. The initial flood insurance rate maps are as follows for the jurisdictional areas at the initial date:

Catawba County Unincorporated Area, dated September 3, 1980.

- (c) *Establishment of floodplain development permit.* A floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities within special flood hazard areas as determined in subsection 44-429.04(b).
- (d) *Compliance.* No structure or land shall be located, extended, converted, altered, or developed in any way without full compliance with the terms of this chapter and other applicable regulations.
- (e) *Abrogation and greater restrictions.* This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- (f) *Interpretation.* In the interpretation and application of this chapter, all provisions shall be considered as minimum requirements:
 - (1) Considered as minimum requirements;
 - (2) Liberally construed in favor of the board of commissioners; and
 - (3) Deemed to neither limit nor repeal any other powers granted under state statutes.

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- (g) *Warning and disclaimer of liability.* The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This chapter 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 chapter or any administrative decision lawfully made hereunder.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-429.05. Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

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

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

Appeal. A request from a review of the planning director's interpretation of any provision of this chapter.

Area of shallow flooding. A designated AO on a community's flood insurance rate map (FIRM) with base flood depths determined to be 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. See "special flood hazard area (SFHA)."

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

Base flood. The flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE). A determination of the water surface elevations of the base flood as published in the flood insurance study. When the BFE has not been provided in a "special flood hazard area," it may be obtained from engineering studies available from a federal, state or other source using FEMA-approved engineering methodologies. This elevation, when combined with the "freeboard," establishes the "regulatory flood protection elevation."

Building. See "structure."

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

Development. 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.

Disposal defined as in G.S. 130A-290(a)(6).

Elevated building. A nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Encroachment. The advance or infringement of uses, fill, excavation, buildings, structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing manufactured home park or manufactured home subdivision. 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, was completed before the initial effective date of the floodplain management regulations adopted by the community.

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; and/or the unusual and rapid accumulation or runoff of surface waters from any source.

Flood boundary and floodway map (FBFM). An official map of a community, issued by the Federal Emergency Management Agency, on which the special flood hazard areas and the floodway are delineated. This official map is a supplement to and shall be used in conjunction with the flood insurance rate map (FIRM).

Flood hazard boundary map (FHBM). 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. The insurance coverage provided on the National Flood Insurance Program.

Flood insurance rate map (FIRM). An official map of a community, issued by the Federal Emergency Management Agency, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

Flood insurance study (FIS). An examination, evaluation, and determination of flood hazard areas, corresponding water surface elevations (if appropriate), flood insurance risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The flood insurance study report includes flood insurance rate maps (FIRM) and flood boundary and floodway maps (FBFM) if published.

Floodprone area. See "floodplain."

Floodplain or floodprone area. Any land area susceptible to being inundated by water from any source.

Floodplain development permit. Any type of permit that is required in conformance with the provisions of this chapter, prior to the commencement of any development activity.

Floodplain management. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain management regulations. This chapter, building code, health regulations, special-purpose chapters of the County Code, and other applications of police power. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

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

Floodway. 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.

Flood zone. A geographical area shown on a flood hazard boundary map or flood insurance rate map that reflects the severity or type of flooding in the area.

Floor. The top surface of an enclosed area in a building, including basement, for example, the top of slab in concrete slab construction or the top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

Freeboard. The height added to the base flood elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effects of urbanization of the watershed. The base flood elevation plus the freeboard establishes the regulatory flood protection elevation.

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

Hazardous waste management facility. A facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste as defined in G.S. ch. 130A, art. 9.

Highest adjacent grade (HAG). The highest natural elevation of the ground surface, prior to construction, next to the walls of the proposed structure.

Historic structure. 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 local inventory of historic landmarks in communities with a certified local government (CLG) program; or
- (4) Certified as contributing to the historical significance of a historic district designated by a community with a CLG program.

Certified local government (CLG) programs are approved by the U.S. Department of Interior in cooperation with the North Carolina Department of Cultural Resources through the state historic

preservation officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

Letter of map amendment (LOMA). A letter provided by FEMA certifying the property is not in the floodplain.

Lowest adjacent grade (LAG). The elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building. For zones A and AO, use the natural grade elevation prior to construction.

Lowest floor. 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 limited 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 non-elevation design requirements of this chapter.

Manufactured home. 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. A parcel, or contiguous parcels of land divided into two or more manufactured home lots for rent or sale. (Also see new manufactured home park.)

Market value. The building value, excluding the land value and that of any accessory structures or other improvements on the lot, established by independent certified appraisal, replacement cost depreciated by age of building and quality of construction (actual cash value), or adjusted tax assessed values.

Mean sea level. For the purposes of the NFIP, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum use as a reference for establishing varying elevations within the floodplain to which base flood elevations (BFE) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

New construction. Structures for which the start of construction commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

Nonconforming building or development. Any legally existing building or development which fails to comply with the current provisions of this chapter.

Non-encroachment area. 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 as designated in the flood insurance study report.

Planning director. The individual appointed to administer and enforce the floodplain management regulations.

Post-FIRM. Construction or other development for which the start of construction occurred on or after the effective date of the initial flood insurance rate map.

Pre-FIRM. Construction or other development for which the start of construction occurred before the effective date of the initial flood insurance rate map.

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

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

Recreational vehicle (RV). 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 towed by a light-duty truck; and
- (4) Not designed for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

Reference level. The portion of a structure or other development that must be compared to the regulatory flood protection elevation to determine regulatory compliance. For structures within special flood hazard areas designated as zone A1-A30, AE, A, A99 or AO, the reference level is the top of the lowest floor or bottom of lowest attendant utility including ductwork, whichever is lower.

Regulatory flood protection elevation. The elevation, in relation to mean sea level, to which the reference level of all structures and other development located within special flood hazard areas must be protected. Where base flood elevations (BFE) have been determined, this elevation shall be the BFE plus two feet of freeboard. Where no BFE has been established, this elevation shall be at least two feet above the highest adjacent grade.

Remedy a violation. To bring the structure or other development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the chapter or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

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

Salvage yard. Any nonresidential property used for the storage, collection, and/or recycling of any type of equipment, and including, but not limited to, vehicles, appliances and related machinery.

Solid waste disposal facility. Any facility involved in the disposal of solid waste, as defined in G.S. 130A-290(a)(35).

Solid waste disposal site. Any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method, as defined in G.S. 130A-290(a)(36).

Special flood hazard area (SFHA). The land in the floodplain subject to a one percent or greater chance of being flooded in any given year as determined in subsection 44-429.04(b) of this chapter.

Start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either 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.

Structure. A walled and roofed building, a manufactured home, or a gas or liquid storage tank that is principally above ground. For floodplain management purposes, "principally above ground" means other manmade facilities or infrastructure principally above ground.

Substantial damage. Damage of any origin sustained by a structure during any one-year period 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 also definition of substantial improvement.)

Substantial improvement. Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost 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 repair work performed. The term does not include either:

- (1) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Variance. A grant of relief from the requirements of this chapter.

Violation. 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 the floodplain management overlay district is presumed to be in violation until such time as that documentation is provided.

Water surface elevation (WSE). The height, in relation to mean sea level (existing grade in case of zone AO), of floods of various magnitudes and frequencies in the floodplains of riverine areas.

Watercourse. A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

(Ord. No. 2021-05, 6-21-2021)

ADMINISTRATION AND ENFORCEMENT

Sec. 44-429.06. Designation of planning director.

The planning director is appointed to administer and implement the provisions of this chapter.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-429.07. Floodplain development application, permit and certification requirements.

Application requirements. Application for a floodplain development permit shall be made to the planning director before any development activities located within special flood hazard areas. The following items must be presented to the planning director to apply for a floodplain development permit:

- (1) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - a. The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - b. The boundary of the special flood hazard area as delineated on the FIRM or other flood map as determined in subsection 44-429.04(b), or a statement that the entire lot is within the special flood hazard area;
 - c. Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in subsection 44-429.04(b);
 - d. The boundary of the floodway(s) or non-encroachment area(s) as determined in subsection 44-429.04(b);
 - e. The base flood elevation (BFE) where provided as set forth in subsection 44-429.04(b), section 44-429.10 or section 44-429.16;
 - f. The old and new location of any watercourse that will be altered or relocated as a result of proposed development;
- (2) Proposed elevation, and method thereof, of all development within a special flood hazard area including but not limited to:
 - a. Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
 - b. Elevation in relation to mean sea level to which any non-residential structure in zone AE, A or AO will be flood-proofed; and
 - c. Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.
- (3) If floodproofing, a floodproofing certificate (FEMA form 81-65) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.
- (4) A foundation plan drawn to scale which shall include details of the proposed foundation system to ensure all provisions of this chapter are met. These details include but are not limited to:
 - a. The proposed method of elevation, if applicable (for example, fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);

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- b. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with subsection 44-429.15(4)c, when solid foundation perimeter walls are used in zones A, AO, AE, and A1-30.
- (5) Usage details of any enclosed areas below the lowest floor.
 - (6) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;
 - (7) Certification that all other local, state and federal permits required prior to floodplain development permit issuance have been received.
 - (8) Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure that the provisions of subsections 44-429.15(6) and (7) are met.
 - (9) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-429.08. Permit requirements.

At a minimum, the floodplain development permit must include:

- (1) A description of the proposed development;
- (2) The special flood hazard area determination for the proposed development in accordance with available data specified in subsection 44-429.04(b);
- (3) The regulatory flood protection elevation required for the reference level and all attendant utilities;
- (4) The regulatory flood protection elevation required for the protection of all public utilities;
- (5) All certification submittal requirements with timelines;
- (6) A statement that no fill material shall encroach into the floodway or non-encroachment area of any watercourse, as applicable;
- (7) The flood openings requirements, if in zone A, AO, AE or A1-30; and
- (8) Limitations of below BFE enclosure uses (if applicable), (i.e., parking, building access and limited storage only).

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-429.09. Certification requirements.

(a) *Elevation certificates.*

- (1) An elevation certificate (FEMA form 81-31) or floodproofing certificate (FEMA form 81-65) is required after the reference level is established. Within seven calendar days of establishment of the reference level elevation, it is the duty of the permit holder to submit to the planning

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- director, a certification of the elevation of the reference level, in relation to mean sea level. Elevation certification must be prepared and certified by, or under the direct supervision of, a registered land surveyor or professional engineer. Any work done within the seven-calendar-day period, and prior to submission of the certification, is at the permit holder's risk. The planning director shall review the certificate data submitted. Deficiencies detected by such review must be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.
- (2) A final as-built elevation certificate (FEMA form 81-31) is required after construction is completed and prior to certificate of compliance/occupancy issuance. The permit holder has the duty to submit to the planning director a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The planning director shall review the certificate data submitted. Deficiencies must be corrected by the permit holder immediately and prior to certificate of compliance/occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a certificate of compliance/occupancy.
- (b) *Floodproofing certificate.* If nonresidential floodproofing is used to meet the regulatory flood protection elevation requirements, a floodproofing certificate (FEMA form 81-65), with supporting data, an operational plan, and an inspection and maintenance plan, is required prior to the actual start of any new construction. The permit holder has the duty to submit to the planning director a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification must be prepared and certified by, or under the direct supervision of, a professional engineer or architect. The planning director shall review the certificate data, operational plan, and the inspection and maintenance plan submitted by the permit holder. Deficiencies detected by such review must be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a certificate of compliance/occupancy.
- (c) *Engineered foundation certification.* If a manufactured home is placed within zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provision of subsection 44-429.15(3)b.
- (d) *Watercourse alteration, relocation.* If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation must all be submitted by the permit applicant prior to issuance of a floodplain development permit.
- (e) *Certification exemptions.* The following structures, if located within zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) above:
- (1) Recreational vehicles meeting requirements of subsection 44-429.15(6)a;
 - (2) Temporary structures meeting requirements of subsection 44-429.15(7); and

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- (3) Accessory structures less than 150 square feet meeting requirements of subsection 44-429.15(8).

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-429.10. Duties and responsibilities of the planning director.

At a minimum, the planning director is responsible for the following:

- (1) Review all floodplain development applications and issue permits for all proposed development within special flood hazard areas to assure that the requirements of this chapter have been satisfied;
- (2) Review all proposed development within special flood hazard areas to assure that all necessary local, state and federal permits have been received.
- (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 FEMA;
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained;
- (5) Prevent encroachments within floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of section 44-429.16 are met;
- (6) Obtain actual elevation (in relation to mean sea level) of the reference level, (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with section 44-429.09;
- (7) Obtain actual elevation (in relation to mean sea level) to which the new or substantially improved structures and all utilities have been floodproofed in accordance with the provisions of section 44-429.09;
- (8) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of section 44-429.09;
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of section 44-429.09 and subsection 44-429.15(2);
- (10) Where interpretation is needed as to the exact location of boundaries of the special flood hazard areas, floodways, or non-encroachment areas (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 has 30 days to appeal the interpretation as provided in this article;
- (11) When BFE data has not been provided in accordance with subsection 44-429.04(b), obtain, review and reasonably utilize any base flood elevation (BFE) data, along with floodway data or non-encroachment area data available from a federal, state or other source, including data developed pursuant to subsection 44-429.16(2)b, in order to administer the provisions of this chapter;

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- (12) When BFE data is provided but no floodway or non-encroachment area data has been provided in accordance with subsection 44-429.04(b), obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this chapter;
 - (13) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel or structure in a special flood hazard area is above the BFE, advise the owner of the option to apply for a letter of map amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file;
 - (14) Permanently maintain all records that pertain to the administration of this chapter and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended;
 - (15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the planning director shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local chapter and the terms of the permit. In exercising this power, the planning director has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action;
 - (16) Issue stop-work orders as required. Whenever a building or part of a building is being constructed, reconstructed, altered, or repaired in violation of this chapter, the planning director may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stopped, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor;
 - (17) Revoke floodplain development permits as required. The planning director may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and 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 floodplain development permit mistakenly issued in violation of an applicable state or local law may also be revoked;
 - (18) Make periodic inspections throughout the special flood hazard areas within the jurisdiction of the community. The planning director 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;
 - (19) Follow through with corrective procedures of section 44-429.11;
 - (20) Review, provide input, and make recommendations for variance requests;
 - (21) Maintain a current map repository to include, but not limited to, the FIS report, FIRM and/or other official flood maps/studies adopted under subsection 44-429.04(b), including any revisions thereto including letters of map change, issued by the state and/or FEMA. Notify the state and FEMA of mapping needs;

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- (22) Coordinate revisions to FIS reports and FIRM, including letters of map revision based on fill (LOMR-F) and letters of map revision (LOMR).

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-429.11. Corrective procedures.

- (a) *Violations to be corrected.* When the planning director finds violations of applicable state and local laws, he must notify the owner or occupant of the building of the violation. The owner or occupant must each immediately remedy each of the violations of law cited in such notification.
- (b) *Actions in event of failure to take corrective actions.* If the owner of a building or property fails to take prompt corrective action, the planning director shall give the owner written notice, by certified or registered mail, to the owner's last known address or by personal service, stating:
- (1) That the building or property is in violation of the floodplain management regulations;
 - (2) That a hearing will be held before the planning director at a designated place and time, not later than ten days after the date of the notice, at which time the owner is entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
 - (3) That following the hearing, the planning director may issue an order to alter, vacate, or demolish the building, remove fill as applicable.
- (c) *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed above, the planning director shall find that the building or development is in violation of the flood damage prevention ordinance, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 60 calendar days, nor more than 180 calendar days. Where the planning director 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.
- (d) *Appeal.* Any owner who has received an order to take corrective action may appeal from the order to the board of adjustment by giving notice of appeal in writing to the secretary of the board of adjustment within 10 days following issuance of the final order. In the absence of an appeal, the order of the planning director shall be final. The board of adjustment shall hear an appeal within a reasonable time and may affirm, modify and affirm or revoke the order.
- (e) *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 adjustment following an appeal pursuant to this chapter, he or she shall be guilty of a misdemeanor and shall be punished in accordance with the law.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-429.12. Variance procedures.

- (a) The board of adjustment shall act as the appellate board and hear and decide requests for variances from the requirements of this chapter.
- (b) Any person aggrieved by the decision of the board of adjustment may appeal such decision to the court, as provided in G.S. ch. 7A.

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- (c) Variances may be issued for:
- (1) 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;
 - (2) Functionally dependent facilities if determined to meet the definition as stated in section 44-429.05, provided provisions of subsections 44-429.12(i)(2), (3), and (5) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; and
 - (3) Any other type of development, provided it meets the requirements of this chapter.
- (d) In passing upon such applications, the board of adjustment shall consider all technical evaluations, all relevant factors, all standards specified in this chapter along with the following:
- (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 of the facility of a waterfront location as defined in section 44-429.05 as a functionally dependent facility, 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) 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) A written report addressing each of the above factors must be submitted with the application for a variance.
- (f) Upon consideration of the factors listed above and the purposes of this chapter, the board of adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this chapter.
- (g) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to \$25.00

per \$100.00 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

- (h) The planning director shall maintain the records of all appeal actions and report any variances to FEMA and the state upon request.
- (i) Conditions for variances:
 - (1) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or chapters;
 - (2) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge;
 - (3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
 - (4) Variances shall only be issued prior to development permit approval;
 - (5) 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 result in increased flood heights, additional threats to public safety or extraordinary public expense; create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or chapters.
- (j) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in special flood hazard areas provided that all of the following are met:
 - (1) The use serves a critical need in the community;
 - (2) No feasible location exists for the use outside the special flood hazard area;
 - (3) The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation;
 - (4) The use complies with all other applicable federal, state and local laws; and
 - (5) The county has notified the secretary of the state department of crime control and public safety of its intention to grant a variance at least 30 calendar days prior to granting the variance.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-429.13. Penalties for violation.

Violation of the provisions of this chapter or failure to comply with any of its requirements, 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 chapter or fails to comply with any of its requirements shall be charged with a misdemeanor. Each day a violation continues shall be considered a separate and distinct offense. Nothing contained within this chapter

shall prevent the county from taking other lawful action as is necessary to prevent or remedy any violation.

(Ord. No. 2021-05, 6-21-2021)

PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 44-429.14. General standards.

In all areas of special flood hazard the following are required:

- (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure;
- (2) All new construction and substantial improvements must be constructed with materials and utility equipment resistant to flood damage;
- (3) All new construction or substantial improvements must be constructed by methods and practices that minimize flood damages;
- (4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities must be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the regulatory flood protection elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches;
- (5) All new and replacement water supply systems must be designed to minimize or eliminate infiltration of floodwaters into the systems;
- (6) New and replacement sanitary sewage systems must 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 must be located and constructed to avoid impairment to them or contamination from them during flooding;
- (8) Any alteration, repair, reconstruction, or improvements to a structure which is in compliance with the provisions of this chapter, must meet the requirements of new construction as contained in this chapter;
- (9) Nothing in this chapter prevents the repair, reconstruction, or replacement of a building or structure existing on September 3, 1980, the effective date of the original ordinance, and located totally or partially within the floodway, non-encroachment area, or stream setback, provided that the bulk of the building or structure below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback is not increased and provided that the repair, reconstruction, or replacement meets all of the other requirements of this chapter;
- (10) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted in special flood hazard areas, except by variance as specified in subsection 44-429.12(j). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a special flood hazard area only if the

structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified in accordance with the provisions of section 44-429.09;

- (11) All subdivision and other development proposals must be consistent with the need to minimize flood damage;
- (12) All subdivision and other development proposals must have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (13) All subdivision and other development proposals must have adequate drainage provided to reduce exposure to flood hazards; and
- (14) All subdivision proposals and other development proposals must have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (15) When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.
- (16) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation shall apply.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-429.15. Specific standards.

All special flood hazard areas where BFE data has been provided, as set forth in subsection 44-429.4(b) or section 44-429.16, the following provisions, in addition to the provisions of section 44-429.14, are required.

- (1) *Residential construction.* New construction and substantial improvement of any residential structure, including manufactured homes, shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in section 44-429.05.
- (2) *Nonresidential construction.* New construction and substantial improvement of any commercial, industrial, or nonresidential structure, must have the referenced level including basement, elevated no lower than the regulatory flood protection elevation, as defined in section 44-429.05. Structures located in A, AO, AE and A1-30 zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the required flood protection 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. For AO zones, the floodproofing elevation shall be in accordance with subsection 44-429.19(2). A registered professional engineer or architect must certify that the standards of this subsection are satisfied. Such certification must be provided to the official as set forth in section 44-429.09, along with operational and maintenance plans.
- (3) *Manufactured homes.*

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- a. New and replacement manufactured homes must be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in section 44-429.05.
 - b. Manufactured homes must be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured/Mobile Homes, 1995 Edition, and any revision thereto 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 must be supported by reinforced piers or an engineered foundation. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.
 - c. All enclosures or skirting shall be in accordance with subsection 44-429.15(4).
 - d. 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 flood prone areas. This plan must be filed and approved by the planning director and the local emergency management coordinator.
- (4) *Elevated buildings.* Fully enclosed area, of new construction and substantially improved structures, which is below the regulatory protection elevation:
- a. Cannot be designed or used for human habitation, but may only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area must be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of the enclosed area must not be finished or partitioned into separate rooms, except to enclose storage areas;
 - b. Must be constructed entirely of flood resistant materials at least to the regulatory flood protection elevation; and
 - c. Must include, in zones A, AO, AE, and A1-30, measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria;
 - 1. A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 - 2. The total net area of all openings must be at least one square inch for each square foot of enclosed area subject to flooding;
 - 3. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
 - 4. The bottom of all required openings can be no higher than one foot above the adjacent grade;

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5. Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
 6. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, do not require flood openings. Masonry or wood underpinning, regardless of structural status, are considered to be an enclosure and requires openings as outlined above.

(5) *Additions/improvements.*

- a. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 1. Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more nonconforming than the existing structure.
 2. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- b. Additions to post-FIRM structures with no modifications to the existing structure, other than a standard door in the common wall, require only the addition to comply with the standards for new construction.
- c. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 1. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
 2. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(6) *Recreational vehicles.* Recreational vehicles must either:

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

(7) *Temporary nonresidential structures.* Prior to the issuance of a floodplain development permit for a temporary structure, applicants must submit to the planning director a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information must be submitted in writing for review and written approval:

- a. A specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;
- b. The name, address and phone number of the individual responsible for the removal of the temporary structure;

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- c. The timeframe prior to the event during which a structure will be removed (for example, a 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 entity responsible for physical removal of the structure; and
 - e. The designation, accompanied by documentation, of a location outside the special flood hazard area, to which the temporary structure will be moved.
- (8) *Accessory structures.* When accessory structures (sheds, detached garages, etc.) are to be placed within a special flood hazard area, the following criteria must be met:
- a. Accessory structures cannot be used for human habitation, (including work, sleeping, living, cooking or restroom areas);
 - b. Accessory structures cannot be temperature-controlled;
 - c. Accessory structures must be designed to have low flood-damage potential;
 - d. Accessory structures must be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
 - e. Accessory structures must be firmly anchored in accordance with the provisions of subsection 44-429.14(1);
 - f. All service facilities, such as electrical, must be installed in accordance with the provisions of subsection 44-429.14(4);
 - g. Flood openings to facilitate automatic equalization of hydrostatic flood forces must be provided below regulatory flood protection elevation in conformance with the provisions of subsection 44-429.15(4)c; and
 - h. An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with the provisions of section 44-429.09.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-429.16. Standards for floodplains without established base flood elevations.

Within the special flood hazard areas designated as approximate zone A and established in subsection 44-429.04(b) where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of section 44-429.14, apply:

- (1) No encroachments, including fill, new construction, substantial improvements, or new development, are permitted within a distance of 20 feet from each side from the top of each bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) The BFE used in determining the regulatory flood protection elevation must be determined based on the following criteria:

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- a. When BFE data is available from other sources, all new construction and substantial improvements within such areas must comply with all applicable provisions of this chapter and must be elevated or floodproofed in accordance with standards in sections 44-429.14 and 44-429.15.
 - b. When floodway data is available from a federal, state, or other source, all new development within floodway areas shall also comply with the requirements of sections 44-429.15 and 44-429.18.
 - c. All subdivision, manufactured home park and other development proposals located within special flood hazard areas must provide BFE data if development is greater than five acres or has more than 50 lots/manufactured home sites. The BFE data must be adopted by reference in accordance with subsection 44-429.04(b) and utilized in implementing this chapter.
 - d. When BFE data is not available from a federal, state, or other source as outlined above, the reference level must be elevated or floodproofed (nonresidential) to or above the regulatory flood protection elevation as defined in section 44-429.05. Requirements of section 44-429.15 shall also apply.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-429.17. Standards for riverine floodplains with BFE but without established floodways or non-encroachment areas.

Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a special flood hazard area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- (1) Standards outlined in sections 44-429.14 and 44-429.15.
- (2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-429.18. Floodways and non-encroachment areas.

Areas designated as floodways or non-encroachment areas are located within the special flood hazard areas established in subsection 44-429.04(b). The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in sections 44-429.14, and 44-429.15 shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments, are to be permitted unless:

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- a. It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the planning director prior to issuance of floodplain development permit, or
 - b. A conditional letter of map revision (CLOMR) has been approved by FEMA. A letter of map revision (LOMR) must also be obtained upon completion of the proposed encroachment.
- (2) If subsection (1) is satisfied, all development must comply with all applicable provisions of this chapter.
 - (3) No manufactured homes are permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:
 - a. The anchoring and the elevation standards of subsection 44-429.15(3); and
 - b. The no encroachment standards of subsection 44-429.16(1) are met.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-429.19. Standards for areas of shallow flooding (AO zones).

Located within the special flood hazard areas established in subsection 44-429.04(b) are areas designated as shallow flooding areas. 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. In addition to sections 44-429.14 and 44-429.15, all new construction and substantial improvements of all structures must meet the following requirements:

- (1) The reference level must be elevated at least as high as the depth number specified on the FIRM in feet, plus a freeboard of two feet, above the highest adjacent grade; or at least two feet above the highest adjacent grade plus a freeboard of two feet if no depth number is specified.
- (2) Nonresidential structures may, in lieu of elevation, be floodproofed to the same level as listed above so that the structure, together with attendant utility and sanitary facilities, below that level must be 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. Certification is required as in accordance with section 44-429.09 and subsection 44-429.15(2).
- (3) Adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-430. Mixed-use corridor (MUC-O).

Purpose: This district's standards relate to building form, design, signage, landscaping, parking, access management, and appearance. This district may be used to accomplish one or more of the following public purposes:

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- ◆ *Provide a mixed-use corridor with connections to a village district;*
 - ◆ *Provide a walkable mixed-use area that is inviting to pedestrians and convenient for the traveling public;*
 - ◆ *Establish higher development standards along major road corridors in the county;*
 - ◆ *Provide a mixture of commercial, office and residential uses; and*
 - ◆ *Establish building form and architectural standards compatible with the historical character of the area.*

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-430.01 Plan consistency.

The MUC-O district is established to implement the following small area plan land use categories:

- (1) Sherrills Ford Village-Mixed Use, Hwy. 150 Corridor Commercial and Office/Institutional and Regional Commercial/Mixed Use Center designations;
- (2) St. Stephens/Oxford Highway Commercial and Office/Institutional Corridor and Mixed-Use Corridor designations; and
- (3) Mountain View Highway Corridor Commercial and Office/Institutional designation.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-430.02. Boundaries.

Where any uncertainty exists with respect to the boundary of any district as shown on the zoning map, the district is deemed to extend from the edge of the right-of-way of the corridor road as designated in this section. Where additional uncertainty exists, the regulations under section 44-402 shall apply. If the chapter does not indicate otherwise, both sides of the road are considered a corridor road. For purposes of this section, the following road segments are designated as corridor roads:

- (1) *NC Hwy. 150.*
 - a. From the Catawba River to the Lincoln County line, with exception of a section from the Seaboard Coast railroad right-of-way, located west of Slanting Bridge Road (SR 1844), extending west to the bridge of the Mountain Creek arm of Lake Norman. The district extends 500 feet from the edge of the right-of-way on both sides of Hwy. 150 and is referred to as the "Hwy. 150 Corridor"; and
 - b. The regional commercial/mixed use center at the intersection of Hwy. 150 and Hwy. 16 as designated in the Sherrills Ford Small Area Plan.
- (2) *NC Hwy. 16.*
 - a. Hwy. 16 North from the planning jurisdiction of the City of Conover to 1,000 feet north of the intersection of C & B Farm Road (SR 1487) extending 1,000 feet from the edge of the right-of-way on both sides of Hwy. 16, referred to as the "Greater Rock Barn Economic Development District."

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- b. Hwy. 16 South extending 500 feet from the edge of the right-of-way on both sides of Hwy. 16 at the following rural commercial nodes designated in the small area plans:
 - 1. Smyre Farm Road (SR 1884) and Bethany Church Road (SR 1804);
 - 2. Balls Creek Road (SR 1810) and Providence Mill Road (SR 1810); and
 - 3. Buffalo Shoals Road (SR 1003) referred to as the "Hwy. 16 South Commercial Node District."
 - (3) Rock Barn Road (SR 1709) from the planning jurisdiction of the City of Conover to 3,500 feet north of the intersection of St. Johns Church Road (SR 1712) extending 1,000 feet from the edge of the right-of-way on both sides of Rock Barn Road, referred to as the "Greater Rock Barn Economic Development District."
 - (4) Springs Road (SR 1453) from the planning jurisdiction of the City of Hickory to the intersection of County Home Road (SR 1484) extending 500 feet from the edge of the right-of-way on both sides of Springs Road, referred to as the "Springs Road Corridor."
 - (5) NC Hwy. 127 from the planning jurisdiction of the City of Hickory to the intersection of Mountain Grove Road (SR 1128) extending 500 feet from the edge of the right-of-way on both sides of Hwy. 127, referred to as the "Hwy. 127 Corridor."

Right-of-way, as referenced above, is defined as the land within the legally defined property whose title vests in the state and is designated or intended for highway purposes.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-430.03. Applicability.

This section applies to all land designated as the MUC-O on the zoning map.

- (1) Except as provided in subsection (4) below, the MUC-O district applies to the extent that there is any inconsistency between the MUC-O district and the underlying general or special use district.
- (2) This section applies to any of the following activities within the MUC-O district:
 - a. Any change of use;
 - b. Any minor or major expansion to an existing commercial structure as noted in table 44-430.03-1;
 - c. Any development of vacant tracts that occurs after the effective date of this section; and
 - d. Any subdivision of land.
- (3) This section does not apply to existing single-family, site-built or manufactured homes or duplexes that are used for residential purposes. Additions to such structures or accessory uses are permitted subject to the zoning requirements of the district and section 44-404. Existing single-family, site-built or manufactured homes and duplexes that are partially or fully destroyed may be rebuilt or repaired as a matter of right as allowed in subsection 44-705(b). If a tract of land is vacant at the time this chapter is adopted, a single-family home may be constructed on the property as a matter of right subject to other applicable zoning regulations contained within this chapter.

- (4) The applicant may propose actions, designs, or solutions (hereinafter "alternative standards") that are not literally in accord with this section but that embody its spirit. Alternative standards may be approved provided that they comply with the spirit of the regulations in the particular case, and that the public purposes of this Section are satisfied to an equivalent or greater degree.
- (5) Compliance with this chapter is required in accordance with table 44-430.03-1.

Table 44-430.03-1. Compliance Table, MUC-O District

<p>C = Compliance with all applicable standards required.</p> <p>R = Retrofit to the extent practical as determined by the planning director. An appeal of the planning director's decision shall follow the process detailed in section 44-331.</p> <p>Existing building expansion (minor): Expansion to buildings less than or equal to 25% of the current leasable/heated area.</p> <p>Existing building expansion (major): Expansion to buildings greater than 25% of the current leasable/heated area.</p>										
	Site standards	Building design standards/site	Driveway connection/access management	Streetscape landscaping	Buffering and screening	Landscaping of parking areas	Parking	Pedestrian design	Site lighting	Signs
Parking area expansion (minor 12—24 spaces)	N/A	N/A	R	R	R	R	R	R	R	N/A
Parking area expansion (major 25 or more spaces)	N/A	N/A	R	R	C	C (for new spaces only)	C	R	C	N/A
Change of use	R	R	R	R	R	R	R	R	R	R
Existing building expansion (minor)	R	R	R	R	R	R	R	R	R	R
Existing building expansion (major)	C	C	R	R	C	C	C	C	C	C
New building construction undeveloped site (including outparcels)	C	C	C	C	C	C	C	C	C	C

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-430.04. Site plan required.

Any person wishing to develop a lot or parcel in the MUC-O is encouraged to have at least five acres incorporated into an integrated site plan. A site plan for parcels less than five acres that existed prior to the adoption of the MUC-O district may be accepted by the planning director if a determination

is made that practical difficulties exist and all opportunities have been exhausted. In addition, the site plan may be considered provided that the development standards in the MUC-O district are met to the extent feasible. A separate zoning site plan must be submitted showing applicable chapter requirements. An architectural plan must also be submitted indicating compliance with the applicable building design and site standards.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-430.05. Uses.

- (a) Uses allowed in the MUC-O district are those that would typically occupy smaller scale commercial/retail/office type uses where the general public would utilize specific goods and services.
- (b) The uses allowed in the RC, HC, and O-I districts as shown in table 44-403-1, use matrix are permitted in the MUC-O district, with the exception of subsection (d) below. In addition, multifamily development is permitted as a component of a mixed-use project and shall not comprise the entirety of the overall development.
- (c) A family subdivision, as defined in this chapter, is allowed provided that no more than two driveway cuts and/or rights-of-way are created which connect to the corridor road. Where the tract of land has 1,000 feet or more of corridor road frontage, a family subdivision will be allowed with up to three driveway cuts and/or rights-of-way connecting to the corridor road.
- (d) The following uses are prohibited in the MUC-O district (excluding land areas in the Highway Commercial (HC) nodes along Hwy. 16 South as referenced in subsection 44-430.02(2)b. The Hwy. 16 South nodes allow all permitted uses listed in table 44-403-1 under the HC category.

Table 44-430.05-1. Prohibited Principal Uses in MUC-O District

The following list of prohibited principal uses are applicable to the MUC-O district with exception of the land areas in the Highway Commercial (HC) nodes along Highway 16 South as referenced in subsection 44-430.02(2)b. The Highway 16 South nodes allow all permitted uses listed in table 44-403-1 under the HC category.

Amusement park/arcade (outdoor)	Dragstrips or racetracks	Open storage
Armory	Equipment rental, heavy	Pawnshop
Auto storage or salvage yards	Farm supplies	Roadside stand, commercial
Batting cage (outdoor)	Greenhouse, commercial	Sanitarium and mental institution
Boardinghouse, rooming house	Industrial supplies and equipment	Minor subdivision of land for non-family, single-family residential uses
Bus terminal	Lumber and building materials sales	Wholesale distribution
Campgrounds	Manufactured/modular home sales	Wood waste grinding operations (industrial)
Cemetery, human public	Miniature golf (outdoor)	Zoo
Cemetery, pet	Movie theater (drive-in)	
Circus, carnival and (permanent) fair	Municipal garage	

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- (e) The following uses are permitted with supplemental standards as shown in subsections (d)(1) through (5) below.

Table 44-430.05-2. Permitted Principal Uses in MUC-O with Supplemental Regulations

Auto, truck, boat, recreation vehicle and motorcycle sales or rentals	Golf driving range	Nightclub
Billiard or pool hall	Mini-warehouse	Par-three golf
Carwash (free standing)	Motor vehicle repair, major	Rental of light equipment and supplies
Dry storage facilities	Motor vehicle repair, minor	

- (1) *Auto, truck, boat, light equipment, recreation vehicle and motorcycle sales or rentals, motor vehicle repair (major and minor) or dry storage facilities.*
- All display/inventory must be located in an enclosed building, utilizing window display; or
 - All frontages of the site must be screened with ornamental fencing, a minimum of six feet high, bracketed by stone or brick columns, with a maximum separation of 18 feet apart. The fence cannot be located in the front setback. Fencing is not required in front of the office, when the office abuts the setback or the fencing line; and
 - Landscaping requirements of article V must be met. In addition, landscaping must be installed along the entire frontages to achieve 50 percent opacity within two to three years, at a six-foot height, both in plan (aerial) view and elevation (street level) view;
 - Plant species must be a minimum of 75 percent evergreen; and
 - A mixture of species and a variety of shapes and forms must be utilized throughout the frontage landscaping; or
 - A maintained, earthen-mound or berm may be installed with vegetation, to achieve 50 percent opacity from the top of the berm to the height of six feet, both in plan (aerial) view and elevation (street level) view. Plants must be a minimum of 75 percent evergreen and a minimum three-gallon in size and two feet in height at the time of planting. The berm must have a minimum base width of 12 feet. This mound or berm cannot impound stormwater runoff or direct runoff to adjacent properties.
 - No stacking of items or materials outdoors is permitted;
 - All display, inventory, structures, parking areas, and other improvements must be setback a minimum 50 feet from the right-of-way;
 - Vehicle service entrances must be rear entry, or in the rear or side yard for a corner lot on the lower classified street; and
 - Dry storage facilities must meet the requirements of section 44-618 and cannot have open sides or bays visible from any rights-of-way. All storage must be within the facility.
- (2) *Golf driving range, par-three golf.*

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- a. Fairways and driving ranges and nets must be setback a minimum of 150 feet from the rights-of-way.
 - b. All frontages of the site must be screened with ornamental fencing, a minimum of six feet high, bracketed by stone or brick columns, with a maximum separation of 18 feet apart. The fence cannot be located in the front setback. Fencing is not required in front of the office, when the office abuts the setback or the fencing line; and
 - c. Landscaping requirements of article V must be met. In addition, landscaping must be installed on frontages to achieve 50 percent opacity within two to three years, at a six-foot height, both in plan (aerial) view) and elevation (street level) view;
 - 1. Plant species must be a minimum of 75 percent evergreen; and
 - 2. A mixture of species and a variety of shapes and forms must be utilized throughout the frontage landscaping; or
 - 3. A maintained, earthen mound or berm may be installed with vegetation, to achieve 50 percent opacity from the top of the berm to the height of six feet, both in plan (aerial) view and elevation (street level) view. Plants must be a minimum of 75 percent evergreen and a minimum three-gallon in size and two feet in height at the time of planting. The berm must have a minimum base width of 12 feet. This mound or berm cannot impound stormwater runoff or direct runoff to adjacent properties.
- (3) *Carwash (freestanding).*
- a. All frontages of the site must be screened with ornamental fencing, a minimum of six feet high, bracketed by stone or brick columns, with a maximum separation of 18 feet apart. The fence cannot be located in the front setback. Fencing is not required in front of the office, when the office abuts the setback or the fencing line; and
 - b. Landscaping requirements of article V must be met. In addition, landscaping must be installed on frontages to achieve 50 percent opacity within two to three years, at a six-foot height, both in plan (aerial) view) and elevation (street level) view;
 - 1. Plant species must be a minimum of 75 percent evergreen; and
 - 2. A mixture of species and a variety of shapes and forms must be utilized throughout the frontage landscaping; or
 - 3. A maintained, earthen-mound or berm may be installed with vegetation, to achieve 50 percent opacity from the top of the berm, to the height of six feet, both in plan (aerial) view and elevation (street level) view. Plants must be a minimum of 75 percent evergreen and a minimum three-gallon in size and two feet in height at the time of planting. The berm must have a minimum base width of 12 feet. This mound or berm cannot impound storm water runoff or direct runoff to adjacent properties.
- (4) *Mini-warehouse.*
- a. All supplemental standards of section 44-619 must be met.
 - b. All frontages of the site must be screened with ornamental fencing, a minimum of six feet high, bracketed by stone or brick columns, with a maximum separation of 18 feet

apart. The fence cannot be located in the front setback. Fencing is not required in front of the office, when the office abuts the setback or the fencing line; and

- c. Landscaping requirements of article V must be met. In addition, landscaping must be installed on frontages to achieve 50 percent opacity within two to three years, at a six-foot height, both in plan (aerial) view) and elevation (street level) view.
 - 1. Plant species must be a minimum of 75 percent evergreen; and
 - 2. A mixture of species and a variety of shapes and forms must be utilized throughout the frontage landscaping; or
 - 3. A maintained, earthen mound or berm may be installed with vegetation, to achieve 50 percent opacity from the top of the berm to the height of six feet, both in plan (aerial) view and elevation (street level) view. Plants must be a minimum of 75 percent evergreen and a minimum three-gallon in size and two feet in height at the time of planting. The berm must have a minimum base width of 12 feet. This mound or berm cannot impound storm water runoff or direct runoff to adjacent properties.

- (5) *Billiard or pool hall, nightclub.* Neon or fluorescent-colored signs cannot be displayed on the exterior of the building, in windows or doors visible from the rights-of-way.

(Ord. No. 2021-05, 6-21-2021, Ord. No. 2022-15, 09-19-2022)

Sec. 44-430.06. Site standards.

- (a) *Scope.* The standards and regulations in this section should be adhered to for all development in the MUC-O district. The general provisions include:
 - (1) *Long-range plans.* The development must conform to all long-range plans concerning such issues as road building and utility extensions.
 - (2) *General site design.* In general, the site design must attempt to reduce cut and fill; protect groundwater resources; avoid unnecessary paved surfaces; provide adequate access and promote visual attractiveness.
 - (3) *Suitable sites.* The site must 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.
 - (4) *Unified site planning.* If appropriate to the form of development, lands included in the MUC-O district may be divided by streets, alleys, rights-of-way or easements, but must be so located, dimensioned and arranged as to permit unified planning and development and to meet all requirements in connection and to provide necessary protection against adverse relationships between uses in the district and uses in surrounding areas.
- (b) *Preservation.* Protecting environmentally sensitive land, open space and historical sites should be given high priority in site design. More specifically the following must 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 FEMA flood hazard maps;
 - (3) *Steep slopes.* Slopes in excess of 20 percent over intervals of ten feet or more; and
 - (4) *Historic sites.*
- (c) *Dimensional requirements for lots within a site plan.* Subdivision of land in the MUC-O district requires review and approval of a site plan. Individual lots in the MUC-O district must conform to table 44-430.06-1. Building setbacks, measured as the minimum distance measured from the edge of the street right-of-way and/or nearest property line to be as follows:

Table 44-430.06-1. Dimensional Standards, MUC-O District

Minimum lot size	20,000 square feet
Minimum lot width	100 feet
Building setbacks, measured as the minimum distance measured from the edge of the street right-of-way and/or nearest property line to be as follows:	
Front setback on internal streets	10 feet
Side setback (principal structures)	6 feet, or 0 feet for attached buildings
Rear setback (principal structures)	20 feet or 30 feet if adjacent to a residential use or district
Setback required from corridor road	35 feet
Accessory structures, side/rear setback	0 feet
Encroachments	Canopies and awnings may encroach into the front setback up to 8 feet

Figure 44-430.06-1. Dimensional standards MUC-O district



Dimensional requirements
for lots in a MUC-O



Setback
requirements



Awning encroachment

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-430.07. Building design standards/site standards.

These standards provide building designs that accommodate diversity in style and building materials striving to define a distinct character while maintaining a high quality of development standards. Buildings are oriented to maximize the convenience of pedestrian walkability. These

standards further provide development patterns that avoid the excessive linear expansive rooflines of strip plazas.

- (1) *Building size.* For buildings exceeding an aggregate square footage of 50,000, a planned development special district rezoning is required in accordance with section 44-443. Individual buildings within the MUC-O cannot exceed 65,000 square feet of gross floor area. An exception to building size may be considered, during the rezoning process, for a village center or a planned development special district.
- (2) *Street line preservation.*
 - a. Where a major or minor thoroughfare is planned to be built or widened and initial roadway design and right-of-way locations have been completed and funded in the current state transportation improvement program (STIP), all building setbacks must be measured from the expanded right-of-way for these improvements. All parking, landscape and buffering installations must be located outside of the expanded right-of-way.
 - b. Future roads or road improvements that are shown on the urban area transportation plan or the county's thoroughfare plan must be indicated on any subdivision plat, site plan, or zoning authorization permit applications. Buildings, structures, parking, landscape and buffering installations must be located outside the proposed right-of-way or pavement edge of such improvements where these locations are indicated on the urban area transportation plan or the county's thoroughfare plan.
- (3) *Type of construction.* The following standards must be met for building construction in the MUC-O.
 - a. *Building front.* Ribbed paneling consisting of vinyl or metal as the primary building material or unpainted cinder blocks are prohibited as the building material for the front of a building facing a public right-of-way. Metal and vinyl, of a ribbed-panel design, may be used as accent materials, as part of the façade face comprising no more than 25 percent. For the purposes of this subsection, buildings located on corner lots are only considered to have one front.
 - b. *Façade(s) visible from a publicly dedicated or private right-of-way.* Building façade(s) consisting of ribbed vinyl or metal as the primary building material or unpainted cinder blocks are prohibited as the building material along the portion(s) of the building which are visible from private or public rights-of-way. Metal and vinyl, of a ribbed-panel design, may be used as accent materials, as part of the façade face comprising no more than 25 percent. An exception to allow any building material can be made where a solid vegetative screen exists or is installed which shields that portion of the façade(s) from private or public rights-of-way, as determined by the planning director.
 - c. *Façade(s) not visible from a publicly dedicated or private right-of-way.* Sides not visible from public rights-of-way may use ribbed paneling, painted cinder blocks or other materials.
 - d. *Roofs.* Roofs may be of a standing seam metal material, but ribbed metal is not allowed. Roof colors must be of a neutral tone, such as beige, brown, grey or subtle natural colors such as forest green or black. An exception to the color requirement may be approved by the planning director.

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- e. *Type of building materials encouraged.* Examples of building materials which are encouraged include masonry, wood, fibrocement product such as hardboard, textured vinyl and stucco and other new and innovative materials as they become available in the marketplace. Green roofs and Leadership in Energy and Environmental Design (LEED) construction or equivalent standards are encouraged.
 - f. *Exemptions.* Existing buildings that are listed in the National Register of Historic Places are exempt from these standards where they are in conflict with the Secretary of Interior guidelines.
 - g. *Building shapes.* Building shapes are not restricted as long as they meet all other requirements, including building and fire codes.
- (4) *Roof pitch.* Roof pitches less than 3/12 and flat roofs will require a parapet wall. An exception to the parapet wall is made for green roof installation covering the surface area suitable for vegetation. A pitched roof must be profiled by eaves a minimum of six inches from the building face or with a gutter. Convenience store canopies cannot have a consistently flat roof. The pitch of the canopy and exterior materials must resemble the roof of the principal structure.

Figure 44-430.07-1. Convenience store canopy with roof form that resembles principal structure.



- (5) *Front facade treatment.* Front facades include facades abutting public or private street rights-of-way, excluding rear elevation facades. Architectural elements like windows and doors, bulkheads, masonry piers, transoms, cornice lines, window hoods, awnings, canopies, and other similar details must be used on all facades fronting public or private street rights-of-way. Building wall offsets, including projections, recesses, changes in floor level, must be used in order to: relieve the visual effect of a single, long blank wall. These features are all designed to encourage a pedestrian friendly environment, add variety and provide interest.

- a. For buildings greater than 75,000 square feet, where the front facade including the main entrance is greater than 60 feet in length, at least 33 percent of the length must contain recesses and projections of four feet or more from the primary building line.
- b. The first floor of all building facades, fronting the public or private street rights-of-way, regardless of building size must be designed to complement architectural aesthetics by:
 1. Limiting blank walls to no more than 40 feet in length for buildings 75,000 square feet or less;
 2. Limiting blank walls to no more than 60 feet in length for buildings greater than 75,000 square feet; and
 3. Including glass windows or doors, false window panels/treatments, awning, murals or framed openings comprising at least 20 percent of the wall area.
- a. Roofline offsets should be provided to lend architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.
- b. Building facades having public access shall be separated at least every 400 feet by either a street or pedestrian amenity such as park benches, gazebos, water features, etc.
- c. Ventilation grates or emergency exit doors at the first floor level in the building facade, which are oriented to any public street, must be decorative.

Figure 44.430.07-2. Pedestrian friendly design features.



(6) *Building entrances.*

- a. Customer entrances must include at least three of the features below:
 - ◆ Canopies or porticos;
 - ◆ Roof overhangs;
 - ◆ Recesses/projections;
 - ◆ Arcades;
 - ◆ Raised corniced parapets over the door;
 - ◆ Peaked roof forms;

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- ◆ Arches;
 - ◆ Outdoor patios;
 - ◆ Display windows;
 - ◆ Architectural details such as tile work and moldings which are integrated into the building structure and design; or
 - ◆ Integral planters or wing walls that incorporate landscaped areas and/or places for sitting.
- b. The side and rear of buildings, visible from the right-of-way, must include at least one of the above features listed in (1) above.
- (7) *Site appearance.* The site design and overall appearance should achieve proportionality and connectivity with adjacent sites to the extent possible while recognizing that individual businesses and uses developed within the corridor are separate and have unique characteristics.
- (8) *Underground utilities.* All on-site utilities (electrical, telephone, etc.) must be located underground unless technical restrictions exist for doing so. Provisions must be made to significantly reduce the visual blight of any aboveground utilities.
- (9) *Paving materials.* Permitted paving materials for crosswalks, sidewalks, and similar pedestrian pathways include brick, concrete (aggregate exposed finish), cement pavers, brick pavers or materials that are similar in appearance and durability. Pervious paving materials are encouraged provided that they are similar in appearance and durability to that which is listed above. Breaking pavement patterns is to establish pedestrian spaces, which can be more easily recognized by the motoring public thus increasing a high level of safety for both parties.
- (10) *Outside display/storage.* Outside display or storage of inorganic product must be screened from any state maintained road in accordance with subsections 44-523(f)(2) and (3). Product can be displayed under a roof overhang area without screening; however, a defined unobstructed walkway of five feet must be maintained along the entire frontage of the building.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-430.08. Multifamily development and design standards.

- (a) Multifamily development is only allowed as a component of a commercial and/or office mixed-use development. Multifamily development can include apartments, townhomes, rowhouses, or duplexes.
- (b) The multifamily development must be connected by vehicular and pedestrian ways to the mixed use commercial and/or office uses.
- (c) To encourage uniformity along a street, consistent setbacks for residential units apply.
- (d) Front-loaded garages, where constructed for multifamily developments, should be at least ten feet behind the primary plane of the front facade of the residential structure.

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- (e) On-street parking for multifamily development is allowed and is encouraged to be located adjacent to public open spaces and parks.
 - (f) Sidewalks, for multifamily developments, must be provided on one side of residential streets with a minimum five-foot width.

(Ord. No. 2021-05, 6-21-2021, Ord. No. 2022-15, 09-19-2022)

Sec. 44-430.09. Driveway connection/access management.

- (a) *Driveway connection/access management.* The minimum distance between a new driveway and an existing state road intersection must conform to the requirements in table 44-430.09-1 below. Where the NCDOT Policy on Street and Driveway Access to North Carolina Highways conflicts with these regulations, the stricter of the standards applies. The minimum distance between four-way intersections on a corridor road is 1,500 feet.

Table 44-430.09-1. Driveway Connections/Access Management, MUC-0 District

Frontage (feet)	Number of Driveways Allowed	Minimum Spacing (feet)
Less than 500	1	N/A
501—999	2	400
More than 1000	3	400

Figure 44-430.09-1. Driveway connections/access management, MUC-O district



- (b) *Internal street separation.* Internal streets shall be separated by a minimum of 200 feet.
- (c) *Off-site traffic improvements.* The requirements of subsection 44-446.09(4) apply to the MUC-O district.
- (d) *Shared access.* The requirements found in subsection 44-446.09(5) apply to the MUC-O district.
- (e) *Connected interior driveways/parking.* The requirements found in subsection 44-446.09(6) apply to the MUC-O district.
- (f) *Channelization.* Channelization improvements must be installed where significant turning conflicts are involved with the new development. "Channelization" means the separation of conflicting traffic movements into well-defined paths of travel by traffic islands or significant pavement markings.
- (g) *Signalization.* Only after all other traffic improvements have been explored may signalizations be installed.
- (h) *Street design.* All streets, with exception of alleys, must be designed and paved to meet NCDOT standards. Streets can be designated as either public or private. Neighborhood streets must be designed for a maximum 30 mph speed limit.
- (i) *Cul-de-sac length.* Cul-de-sac street segments (street portion between intersections), designed to be so permanently, shall not be longer than 500 feet to the beginning of the turning point. Exceptions can be made in cases where unusual land configuration, topography or interconnectivity dictates otherwise, as determined by the approval authority.

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- (j) *Block length.* Block lengths cannot exceed 1000 feet. Exceptions can be made in cases where unusual land configuration, topography or interconnectivity dictates otherwise, as determined by the approval authority.
 - (k) *Curbing.* Interior streets must be curbed. The standard two-foot-six-inch curb and gutter section is preferred; however, concrete valley gutter is an allowable type.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-430.10. Streetscape landscaping.

- (a) *Existing road buffer and interior street landscaping.* All public interior streets and development fronting along corridor roads must provide the following along all street frontages:
 - (1) A three- to five-foot landscape strip between the curb and sidewalk, subject to NCDOT approval.
 - (2) A minimum five-foot wide sidewalk on both sides of street for mixed-use development, subject to section 44-518 and NCDOT approval.
 - (3) A ten-foot (minimum) landscape strip behind the right-of-way (within the front setback).
 - (4) Street trees must be planted adjacent to the sidewalk and must meet the following.
 - a. An average of one shade tree is required for every 40 linear feet of lot frontage on each side of the street, or where overhead lines are present, street trees of low-growing varieties must be planted an average of one tree for every 30 feet of street frontage on each side of the street. Trees should be spaced approximately equal distance.
 - b. Each tree, at the time of installation, shall have a clear trunk height of at least five feet and a minimum caliper of two inches. The tree must be a minimum 15-gallon container size or balled and burlapped at time of planting. An appropriate mulch bed must be provided around the tree.
 - c. In the absence of overhead lines in the planting area, the shade tree should achieve a mature height of over 20 feet and a mature spread of at least 15 feet.
 - d. All trees planted within the right-of-way shall require approval by NCDOT through an encroachment agreement.
- (b) *Entranceways.* Multitenant, multiparcel or multibuilding developments must install a median-type entranceway at all entrances on major or minor thoroughfares, subject to NCDOT approval. The median must be grassed and landscaped with shrubbery and small decorative trees.

Figure 44-430.10-1. Landscaping, MUC-O district.



(Ord. No. 2021-05, 6-21-2021)

Sec. 44-430.11. Buffering and screening.

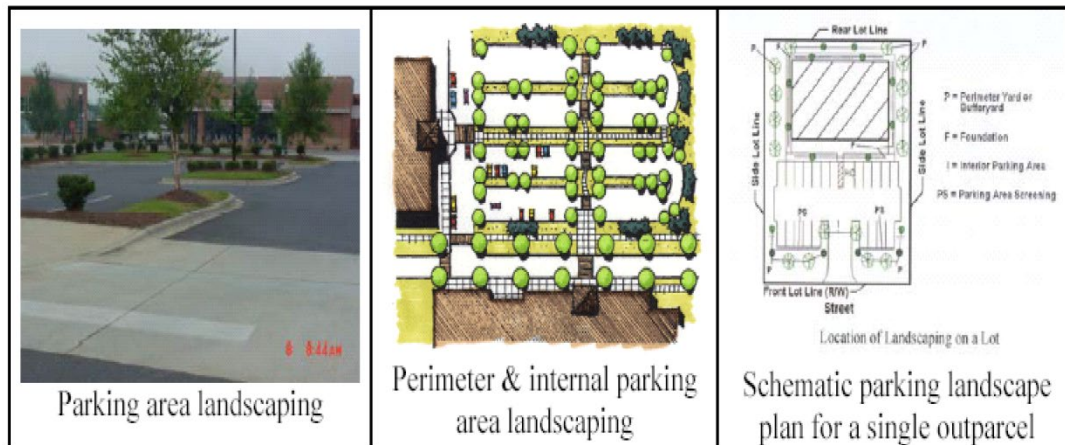
- (a) *Residential buffers.* When the district directly abuts a residential zoning district, a landscaped buffer meeting the requirements found in subsection 44-523(f) is required.
- (b) *Water body buffers.* When natural bodies of water are on site, the requirements found in subsection 44-446.10(9) apply.
- (c) *Solid waste screening.* Solid waste or trash handling areas must be screened from adjacent properties and from public view, including rights-of-way, by an enclosure constructed of materials compatible with the materials on the front building wall of the principal building. All areas must have a solid and closeable gate.

Figure 44-430.11-1. Solid waste screening.



- (d) *Mechanical equipment screening.* All mechanical equipment, such as air conditioners or pumps, must be screened from view of all streets, public places and neighboring properties, through the use of features such as berms, fences, building walls, false facades, or dense landscaping. Chain link fencing cannot be used. Mechanical equipment on rooftops must be screened from the view of the street with parapets, designed features and other materials compatible with the building and suitable for screening. An exception to the screening requirement is made for photo-voltaic (solar) panels.
- (e) *Maintenance area screening.* All loading and service areas must be screened to the extent practical from view of all streets and adjoining properties of less intensive use with a buffer meeting the requirements of subsection 44-523(f). If the loading area abuts the perimeter buffering, the loading area is not required to be screened.
- (f) *Foundation plantings.* The pedestrian entranceway and/or surface parking facilities must be separated from the exterior wall of any principal structure by a landscape buffer. The landscaped buffer strip must be at least five feet in width along the building foundation. An exception to this requirement is allowed where the building square footage exceeds 75,000 and where raised 15-gallon planters containing evergreen shrubs/trees are provided on both sides of all pedestrian ingress and egress locations.
- (g) *Construction cleanup, maintenance, and landscaping of disturbed land.* During the construction of a project, the requirements found in subsections 44-446-10(a), (b) and (c) apply.
- (h) *Parking areas.* Parking areas, including perimeter and internal areas, must be landscaped in conformance with subsections 44-523(d) and (e).

Figure 44-430.11-2. Parking design.



(Ord. No. 2021-05, 6-21-2021)

Sec. 44-430.12. Parking.

The requirements found in article V, division 5 apply to off-street parking. An exception to the number of parking space requirements may be considered for parking within a planned development special district during the rezoning process based upon documented industry standards or market studies. The following requirements also apply:

- (1) *Generally.*
 - a. *Landscaping.* Parking is discouraged in the area between the road and the front or side of a principal building or structure. If parking is proposed within this area, the parking area landscaping requirements in subsections 44-523(d) and (e) must be met.
 - b. *On-street parking permitted.* The number of required off-street parking spaces is reduced by the number of on-street parking spaces permitted along the lot frontage of the proposed development.
- (2) *Off-street loading.* Off-street loading must be screened as provided in section 44-526. No space designated as a required off-street parking space, for the general public, can be used as off-street loading space or maneuvering room for vehicles being loaded or unloaded.
- (3) *Interior parking.*
 - a. When a parking lot is located in front of a building, a pedestrian walkway must connect a customer entrance to the public street.
 - b. Shared parking lots can be located in the interior sections of multiple-building developments provided screening, buffering, landscaping, pedestrian amenities and setbacks are followed.
- (4) *Connected parking areas.* Properties within the MUC-O district shall connect interior parking and driveways. Where adjacent property is vacant, sufficient provisions to connect to the properties shall be submitted.

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- (5) *Commercial vehicle parking.* Only one parked commercial vehicle can be visible from streets.
 - (6) *Bicycle parking.* All nonresidential and multifamily development within the MUC-O shall include an improved area for the purpose of securing bicycles. Bicycle parking facilities should be designed in accordance with the recommendations from the Association of Pedestrian and Bicycle Professionals (APBP) or equivalent standards.

Figure 44-430.12-1. Parking options.



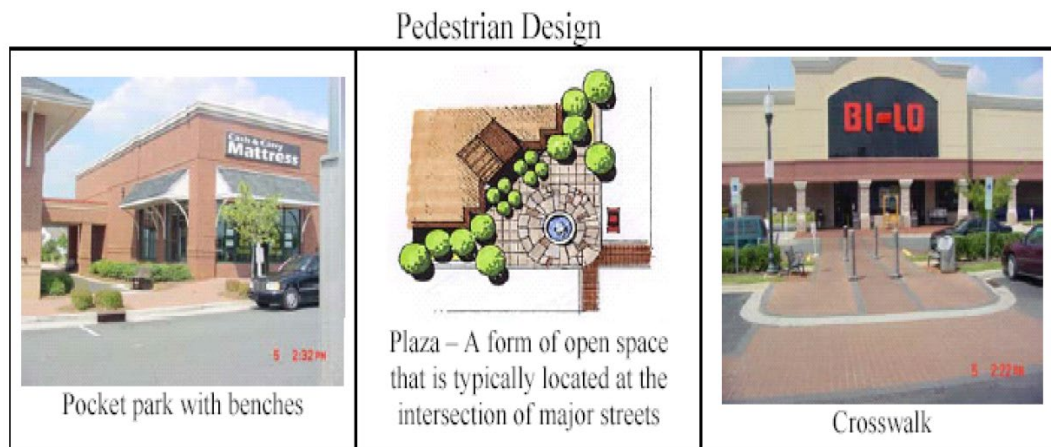
(Ord. No. 2021-05, 6-21-2021)

Sec. 44-430.13. Pedestrian design.

These standards are designed to provide a unified and well-organized arrangement of buildings, service areas, parking, pedestrian and landscaped common areas (including pocket parks), maximum comfort and convenience of visitors and employees. Commercial buildings are grouped in relation to parking areas such that, after visitors arriving by automobile enter the walkway system, establishments can be visited conveniently with a minimum of conflicts with vehicles. Pedestrian design enhancements are required in order to create an efficient and functional environment as well as promoting a sense of place.

- (1) *Pedestrian design requirements.* For multitenant/building/parcel projects, the site plan must include provisions for pedestrian-scale amenities, which may include benches, picnic tables, pocket parks, courtyards, plazas, water attractions and trash receptacles. An area must be reserved for pedestrian use and/or open space and be improved and maintained accordingly. Such areas may include covered malls for general pedestrian use, exterior walkways/crosswalks, outdoor seating areas where the facilities are available for common use by employees and visitors. Required buffer areas and setbacks as well as improved deck and roof areas may be used to meet this requirement.

Figure 44-430.13-1. Pedestrian amenities.



- (2) *Heavy traffic generators.* Convenience stores, fast-food restaurants and similar uses, if provided, must be located so that operations do not block pedestrian or traffic flows in other parts of the development.
- (3) *Location of loading zones and maintenance areas.* Loading zones where customers pick up goods must be located and arranged to prevent interference with pedestrian movement within the development. Facilities and access routes for shopping center deliveries, servicing, and maintenance must be located and arranged to prevent interference with pedestrian traffic in the center.
- (4) *Pedestrian travel.* All buildings or building clusters within the development must be connected with linkages other than roads (sidewalks, bikeways and walking paths). When feasible, as determined by the planning director, linkages must be provided between adjacent existing developments and/or continue to the site parcel line to provide access to adjacent future developments. Pedestrian access may be provided at any suitable locations within the district but, 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.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-430.14. Lighting.

This section provides direction in controlling light spillage and glare so as not to adversely affect motorists, pedestrians, and land uses of adjacent properties. Lighting intensities should be controlled to ensure that light and glare are not directed at adjacent properties, neighboring areas, and motorists. The following general provisions apply:

- (1) *Generally.*
 - a. Light fixtures (not attached to buildings) must be affixed to a pole, which may be of metal, fiberglass, or concrete. Wooden poles are not permitted.
 - b. All fixtures must be either semi-cutoff or full cutoff fixtures only.

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- c. The maximum height of the light source (light bulb), detached from a building, is 20 feet. An exception to the light height requirement may be considered for light fixtures up to 35 feet within a planned development special district during the rezoning process.
 - d. No fixture can be located in close proximity to residentially zoned property which would contribute to light spillage upon the residential property.
- (2) *Outdoor illumination of building, landscaping and signs.* The following provisions apply to the outdoor illumination of buildings, landscaping and signs:
- a. Floodlights, spotlights or any other similar lighting cannot be used to illuminate buildings or other site features unless they are an integral architectural element that is designated on the development plan. Floodlights or other type of lighting attached to light poles that illuminate the site and/or building(s) are prohibited. When approved, exterior lighting should be integrated with the architectural character of the building.
 - b. The unshielded outdoor illumination of any building or landscaping is prohibited. To avoid light spillage, only semi-cutoff, cutoff, or full cutoff fixtures can be used.
 - c. Lighting fixtures used to illuminate a sign must either be by directed ground lighting sign or mounted on the top of the sign and be shielded from the sight of passing motorists.
- (3) *Lighting for convenience store aprons and canopies.* In addition to the provisions of subsections (1) and (2) above, the following provisions apply:
- a. The lighting fixture bulbs must be recessed into a canopy ceiling so that the bottom of the fixture is flush with the ceiling so that light is restrained to no more than 85 degrees from vertical.
 - b. As an alternative to recessed ceiling lights, indirect lighting may be used where the light is directed upward and then reflected down from the underside of the canopy. In this case, light fixtures must be shielded so that direct illumination is focused exclusively on the underside of the canopy.
 - c. Lights shall not be mounted on the top or sides (facia) of the canopy, and the sides of the canopy cannot be externally illuminated.
 - d. The lighting for new facilities (pump islands and under canopies) cannot exceed the average horizontal illumination of ten foot-candles at grade level.

Figure 44-430.14-1. Lighting.



(4) *Prohibited lighting and fixtures.* The following are prohibited:

- a. Vertical burn lamps, and similar lighting fixtures.
- b. Canopies and awnings used for building accents which have internal illumination.
- c. Flashing, colored or obtrusive lighting.
- d. The use of laser source light or any similar high intensity light for outdoor advertising or entertainment.
- e. The operation of searchlights for advertising purposes.
- f. Black lights and neon lights (including argon and similar rare gas fixtures), except for signage.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-430.15. Signs.

The following requirements apply to all signage.

- (1) *Generally.* All signs delineated on a detailed site plan must conform to the requirements in article V, division 7, except where the requirements included in this subsection are more restrictive. The following also apply:
 - a. No freestanding on-site sign larger than six square feet may be located closer than 100 feet from another similar or larger sign.
 - b. No signs may be placed within any sight triangle, as that term is defined by article V, division 7 of the County Code.
 - c. No signs can be located in any street right-of-way. Signs may be placed in the landscaped buffer areas.

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- d. An exception to the standards in subsections (2)a and b below may be considered for signs within a planned development special district during the rezoning process.
- (2) *Permitted signs.* The following signs are permitted:
- a. One freestanding sign, having no more than two sign surface areas, may be erected. The signs may not exceed 50 square feet per side for back-to-back signs and may not be over 16 feet in height.
 - b. Wall signs are permitted subject to section 44-562.
 - c. In addition to one freestanding sign, one static fascia canopy sign is permitted on each side visible from the public right-of-way. Each canopy sign may have a maximum area equal to 25 percent of the canopy fascia surface, up to a maximum height of two feet.
- (3) *Prohibited permanent signs.* The following are prohibited as permanent signs, but they may be displayed to coincide with a grand opening or other special event. A property may not display one or more such signs for a continuous period of more than 30 days, and a property may not display one or more such signs for more than 45 days during any calendar year:
- a. Portable signs.
 - b. Roof signs.
 - c. Mechanical movement signs.
 - d. Posters, streamers, or similar devices used to attract attention to the site, advertise a product or communicate a message.
 - e. Windblown signs (banners, balloons, streamers, etc.).

Figure 44-430.15-1. Signs.



(Ord. No. 2021-05, 6-21-2021)

Sec. 44-431. Historic districts (HD-O)—Reserved.

Sec. 44-432. Doublewide manufactured home (DWMH-O).

Purpose: This section establishes a class A doublewide or multi-section overlay district to provide opportunities for the siting of affordable housing, implement small area plan policies regarding the location of manufactured homes and to comply with the requirements of G.S. 160D-910.

Class A doublewide/multisection manufactured homes are subject to the requirements of this section. All class A doublewide and multisection manufactured homes must meet the following appearance criteria:

- (1) *Length-width ratio.* The main portion of the building must have a length not exceeding four times the building width.
- (2) *Roof construction and pitch.* The pitch of the main roof of the building must have a minimum rise of two and one-half feet for each 12 feet of horizontal run. The roof must be finished with a type of shingle that is commonly used in standard residential construction or standing seam painted metal. A retrofitted standing seam roof or shingle roof must be designed by a professional engineer and must be made a part of the load-bearing walls of the existing structure.
- (3) *Exterior finish.* The exterior siding must 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.* Dwelling units must be sited with the front running parallel to the street providing access to the site. On corner lots the property owner may chose which frontage to face the home. On culs-de-sac, the dwelling unit must be sited with the front of the home being parallel to the street access.
- (5) *Tongue removal.* The towing tongue must be removed upon final placement of the unit.
- (6) *Underskirting and permanent steps.* Underskirting and permanent steps must be provided as follows:
 - a. Class A manufactured homes in overlay districts must be permanently placed on a brick, concrete block or other masonry foundation. The foundation must be continuous and unpierced except for ventilation as required by the state regulations for manufactured/mobile homes.
 - b. All doublewide and multisection manufactured homes which are placed on rental lots, where the home and lot are in separate ownership, must 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 include, but are not 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 must be installed in accordance with the manufacturers' specifications.
 - c. All doublewide and multisection manufactured homes must have either a deck or porch with steps. This structure must be located in front of the home. The deck or porch must be a minimum of 36 square feet. All steps, decks, porches and entrances must be

installed and constructed in accordance with the standards set by the state regulations for manufactured/mobile homes or, when applicable, the building code.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-433. Mountain protection (MP-O).

Purpose:

- ◆ *Mountains are the predominant natural landmarks in the county. These land forms 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.*
 - ◆ *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 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.*
 - ◆ *The intent of the mountain protection district (MP-O) regulations is 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 MP-O.*
 - ◆ *Architectural guidelines help reduce the visual prominence of buildings on the mountain sides so that the natural character of the mountains are still apparent.*
- (a) *Plan consistency.* This district implements the mountain area protection policies of the Balls Creek, Sherrills Ford and Mountain View small area plans.
 - (b) *Boundaries.* The boundaries of the MP-O district are defined as the land area above the 1,100-foot contour on Baker Mountain and Anderson Mountain as identified on the U.S.C. topographic maps.
 - (c) *Permitted uses.* The following uses are permitted by right within the MP-O, except in areas where the underlying district prohibits these uses:
 - (1) Hobby farms.
 - (2) Dwelling units, single-family or two-family.
 - (3) Home occupations.
 - (4) Customary accessory uses.
 - (5) Public parks.
 - (d) *Prohibited uses.* Manufactured homes are prohibited in the MP-O district.
 - (e) *Average density.* The average density allowed in the MP-O district is one unit per two acres. To minimize impacts to environmentally sensitive areas, cluster subdivision designs are strongly encouraged. Under the cluster subdivision design, density from higher slope categories would be transferred to the least sensitive and lower slope category on the tract. Cluster subdivisions are subject to the standards in section 44-544.
 - (f) *Development standards.* In addition to the subdivision standards in article V, the design of developments in the MP-O district must incorporate the following:

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- (1) A contour map which includes a scale and contour interval on the site plan to determine the average slope of the tract of land in its natural state and the proposed road network and lots;
 - (2) The preservation and minimization of impacts to naturally significant sites when feasible;
 - (3) The preservation of significant existing trees and other significant existing vegetation on the site. Nothing prohibits the clearing of vegetation for firebreaks within developments in the MP-O;
 - (4) The integration with and preservation of existing site topography, including, but not limited to, such characteristics as steep slopes, existing drainage features, rock outcroppings, ridgelines and scenic topographic features;
 - (5) The preservation of significant habitat areas, as identified in Catawba County's Natural Heritage Inventory, where practically feasible;
 - (6) If the development abuts a publicly owned natural area or conserved land, the project must be compatible with the management of the natural area or conserved land. In order to achieve this, the development plan must include measures, such as increased setbacks or open space, to provide a transition between the development and the publicly owned natural area or conservation land; and
 - (7) Good grading design for safety and aesthetics must, unless impractical as determined by the subdivision review board, include the following:
 - a. Roadways follow natural contours instead of being cut through landforms.
 - b. Utilization of landform or contour measures to produce cut-and-fill slopes compatible with the existing land character. Continuous unbroken graded slope surfaces that are visible from offsite are discouraged.
 - c. Graded slopes contoured by varying slope increments.
 - d. Varied housing pad elevations above street level to avoid appearance of monotonous, flat, level pads.
 - e. Single-loaded streets (streets with lots and building pads on one side only) are encouraged on steep terrain so grading can be reduced.
 - f. Building envelopes shall be noted on the subdivision plat for both horizontal and vertical boundaries for future construction. Also the limits for clearing of vegetation within this building envelope shall be noted.
- (g) *Residential designs standards.* The following design standards apply to all new residential development in the MP-O in order to maintain the natural, rural aesthetic characteristics of the area:
- (1) Structures should be designed to conform to and be built into the natural terrain and not be located at the crest of a ridge. Different types of foundations, such as pier and beam, step or slab are encouraged to limit excavation and filling.
 - (2) Exterior lighting on individual lots must be muted, fully shielded and directed to avoid illuminating entire structures, creating glare on the night sky, and attracting attention to particular areas for reasons other than security.

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- (3) The maximum permitted height of structures is 30 feet above the average finished grade elevation adjacent to the structure. The average finished grade elevation is calculated by summing the height of the structure at the point of the highest adjacent grade and at the point of the lowest adjacent grade and dividing by two.
 - (4) Disturbance of natural vegetation around any building footprint is limited to 30 feet, unless practical reasons necessitate additional clearing, such as for a septic tank drainfield. This separation allows for a defensible space for minimizing the risk of wildfire damage to the structure.
 - (5) The use of fire "smart" vegetation species and techniques, as identified by the state forest service, is encouraged for use in the residential landscape to minimize the vulnerability of the structure to fire.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-434 AMENDMENT ADOPTED BY THE BOC ON 5/16/2022

Sec. 44-434. Watershed Protection District (WP-O).

Purpose:

◆ *Surface waters of the state and county are a precious but delicate natural resource. 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.*

◆ *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.*

◆ *For the protection of the public health, safety, and general welfare, it is essential 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.*

◆ *The intent of the watershed protection district (WP-O) is 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.*

◆ *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.*

◆ *This section is enacted pursuant to NCGS §153A-121 and §143-211 through 143-215.74I.*

(Ord. No. 2007-001, 2-5-2007)

Sec. 44-434.01. Boundaries.

- (a) The boundaries of the Watershed Protection District (WP-O) encompassing the watersheds within the County's jurisdiction are shown as overlay districts on the official zoning map and are adopted as part of this Chapter. Where watershed boundaries follow topographic boundaries and the official zoning map 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 does 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 section.

(Ord. No. 2007-001, 2-5-2007)

Sec. 44-434.02. Existing development and exceptions to applicability.

- (a) Existing development, as defined in this section, is exempt from the requirements of the Watershed Protection District. 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 section (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 NCGS §153A-344.1; or
 - (3) Having an approved site-specific or phased development plan as authorized by NCGS §153A-344.1.
- (b) Reserved.
- (c) Expansions to structures, other than single-family, classified as existing development must meet the requirements of this section; however, the built-upon area of the existing development is not required to be included in the density calculations.
- (d) Any existing nonresidential or multi-family (three or more dwelling units) structure or built-upon area not in conformance with the density or built-upon restrictions of this section 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 VII, nonconformities.
 - (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 VII, Nonconformities, except as follows:
 - (1) When such nonconforming use of land has been changed to an allowed use, it cannot revert to any prohibited use.
 - (2) Expansions may be allowed subject to the built-upon restrictions as allowed for existing development.

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- (f) If the requirements of this section conflict with other portions of this chapter, the more restrictive of each particular item apply.
 - (g) Exclusions and exceptions to the rules described in Chapter 2B of Title 15A of the North Carolina Administrative Code, as amended, shall also be exclusions and exceptions to the requirements of the Watershed Protection District.
- (Ord. No. 2007-001, 2-5-2007; Ord. No. 2020-14, 8-17-2020)

Sec. 44-434.03. Definitions.

The definitions found in this section apply specifically to this section and are intended to supplement the definitions found in the appendix. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Balance of Watershed (BW). The area adjoining and upstream of the critical area in a WS-II and WS-III water supply watershed. The "balance of watershed" is comprised of the entire land area contributing surface drainage to the stream, river, or reservoir where a water supply intake is located.

Best Management Practices (BMP). A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals

Buffer (watershed only). 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 (does not allow water to infiltrate from surface to subsurface) or partially impervious cover, including buildings, pavement, gravel areas (such as roads, parking lots, and paths), recreation facilities (such as tennis courts). Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.

Cluster Development. The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project including minimizing stormwater runoff impacts. This term includes nonresidential development as well as single-family residential subdivisions and multi-family developments. For purposes of this Chapter, Planned Unit Developments and Mixed Use Developments are considered Cluster Developments.

Critical Area. 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 to the ridge line 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 ridge line of the watershed (whichever comes first). Local governments may extend the critical area as needed. Major landmarks

such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.

Existing Lot of Record. 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.

Landfill (discharging). A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A Article 9 of the N.C. General Statutes. For the purpose of this ordinance this term does not include composting facilities.

Nonresidential Development. All development other than residential development, agriculture and forestry.

Protected Area (PA). The area adjoining and upstream of the critical area of WS-IV Watersheds. The boundaries of the protected area are defined as within five (5) miles upstream of and draining to the normal pool elevation of the reservoir or to the ridgeline of the watershed, whichever comes first; or within ten (10) miles of and draining to a water intake located in a stream or river or to the ridgeline of the watershed, whichever comes first.

Registered Professional. Professional engineers, landscape architects to the extent that NCGS Chapter 89A allows, and land surveyors to the extent that the design represents incidental drainage within a subdivision, as provided by NCGS §89C-3(7).

Residential Development. Buildings for residence, such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, and their associated outbuildings, such as garages, storage buildings, gazebos, and customary home occupations.

Single-Family Residential. Any development where no building contains more than one (1) dwelling unit, every dwelling unit is on a separate lot, and where no lot contains more than one (1) dwelling unit except for approved accessory dwelling units.

Stormwater Control Measure (SCM). A permanent structural device, including any vegetated conveyance, that is designed, constructed, and maintained to remove pollutants from stormwater runoff by promoting settling or filtration; or to mimic the natural hydrologic cycle by promoting infiltration, evapo-transpiration, post-filtration discharge, reuse of stormwater or a combination thereof.

Surface Waters. All waters of the State as defined in NCGS §143-212 except underground waters.

Toxic Substance. 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 cause other adverse health effects.

Variance, Major. A variance that results in any one or more of the following:

- The relaxation, by a factor of more than ten percent (10%), of any management requirement under the low density option; or
- The relaxation, by a factor of more than five percent (5%), of the buffer, density or built-upon area requirement under the high-density option; or
- Any variation in the design, maintenance or operation requirements of a wet detention pond or other approved stormwater management system.

Variance, Minor. A variance that does not qualify as a major variance.

Water Dependent Structure. Any structure for which the use requires access to or proximity to or situated within surface waters to fulfill its basic purpose, such as boat ramps, 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.

Watershed. The entire land area contributing surface drainage to a specific point, such as the water supply intake or alternatively, the geographic region within which water drains to a particular river, stream or body of water.

(Ord. No. 2007-001, 2-5-2007; Ord. No. 2017-13, 11-20-2017)

Sec. 44-434.04. WS-II Watershed Area — Critical Area (WS-II-CA).

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 are allowed at a maximum six percent built-upon area. Stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable. New residuals application sites and landfills are specifically prohibited.

(a) *Density and built-upon limits.*

- (1) For single-family residential development, the minimum lot area shall not be less than 80,000 square feet, except when approved as a cluster subdivision according to section 44-544.
- (2) All other residential and nonresidential development cannot exceed 6% built-upon area on a project-by-project basis. For the purpose of calculating the built-upon area, total project area includes acreage in the tract on which the project is to be developed.

(b) *Uses allowed.* The following uses are permitted:

- (1) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 and all rules and regulations of the soil and water conservation commission.
- (2) Forestry, subject to the provisions of the Forest Practices Guideline Related to Water Quality (15A NCAC 11.0101-.0209). The division of forest resources is the designated management agency responsible for implementing this subsection.
- (3) Residential development.
- (4) Nonresidential development, excluding landfills and sites for land application of residuals or petroleum-contaminated soils.

(Ord. No. 2007-001, 2-5-2007)

Sec. 44-434.05. WS-II Watershed Area—Balance of Watershed (WS-II-BW).

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 are allowed at a maximum of 12 percent built-upon area; in addition, nonresidential uses may occupy ten percent of the balance of watershed area outside the critical area, with a 70 percent built-upon area when approved as a 10/70 Bonus Permit according to section 44-434.10. Stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable.

(a) *Density and built-upon limits.* Density and built-upon limits are as follows:

- (1) For single-family residential development, the minimum lot area is at least 40,000 square feet, except when approved as a cluster subdivision according to section 44-544.
- (2) All other residential and nonresidential development cannot exceed 12 percent built-upon area on a project-by-project basis, except that up to ten 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 10/70 Bonus Permit according to section 44-434.10. For the purposes of calculating the built-upon area, total project area includes acreage in the tract on which the project is to be developed.

(b) *Uses allowed.* The following uses are permitted:

- (1) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990;
- (2) Forestry, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15A NCAC 11.0101-.0209). The division of forest resources is the designated management agency responsible for implementing this subsection;
- (3) Residential development; and
- (4) Nonresidential development excluding discharging landfills.

(Ord. No. 2007-001, 2-5-2007)

Sec. 44-434.06. WS-III Watershed Area — Critical Area (WS-III-CA).

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 is permitted at a maximum of 12 percent built-upon area. Stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable. New residuals application sites and landfills are specifically prohibited.

(a) *Density and built-upon limits.* Density and built-upon limits are as follows:

- (1) For single-family residential development, the minimum lot area is at least 40,000 square feet, except when approved as a cluster subdivision according to section 44-544.
- (2) All other residential and nonresidential development cannot exceed 12 percent built-upon area on a project-by-project basis. For the purpose of calculating the built-upon area, total project area includes acreage in the tract on which the project is to be developed.

(b) *Uses allowed.* The following uses are permitted:

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- (1) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 and all rules and regulations of the soil and water conservation commission.
 - (2) Forestry, subject to the provisions of the Forest Practices Guideline Related to Water Quality (15A NCAC 11.0101-.0209). The division of forest resources is the designated management agency responsible for implementing this subsection.
 - (3) Residential development.
 - (4) Nonresidential development, excluding landfills and sites for land application of residuals or petroleum-contaminated soils.

(Ord. No. 2007-001, 2-5-2007)

Sec. 44-434.07. 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 are allowed a maximum of twenty-four percent (24%) built-upon area. In addition, nonresidential uses may occupy ten percent of the balance of watershed area outside the critical area, with a seventy percent (70%) built-upon area when approved as a 10/70 Bonus Permit according section 44-434.10. Stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable.

(a) *Density and built-upon limits.* Density and built-upon limits are as follows:

- (1) For single-family residential development, the minimum lot area must be at least 20,000 square feet, except when approved as a cluster subdivision according to section 44-544.
- (2) All other residential and nonresidential development cannot exceed 24 percent built-upon area on a project-by-project basis, except that up to 10 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 10/70 Bonus Permit according to section 44-434.10. For the purposes of calculating the built-upon area, total project area must include acreage in the tract on which the project is to be developed.

(b) *Uses permitted.* The following uses are permitted:

- (1) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
- (2) Forestry, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15A NCAC 11.0101-.0209). The division of forest resources is the designated management agency responsible for implementing this subsection.
- (3) Residential development.
- (4) Nonresidential development excluding discharging landfills.

(Ord. No. 2007-001, 2-5-2007)

Sec. 44-434.08. WS-IV Watershed Area — Critical Area (WS-IV-CA).

Only new development activities that require an erosion/sedimentation control plan under state law are required to meet the requirements of this section when located in the WS-IV Watershed. Written verification of project exemption must be submitted from the entity 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 is allowed twenty-four percent (24%) built-upon area. Stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable. New residuals application sites and landfills are specifically prohibited.

(a) *Density and built-upon limits.* Density and built-upon limits are as follows:

- (1) For single-family residential development, the minimum lot area must be at least 20,000 square feet, except when approved as a cluster subdivision according to section 44-544.
- (2) All other residential and nonresidential development cannot exceed 24 percent built-upon area on a project-by-project basis. For the purpose of calculating the built-upon area, total project area includes acreage in the tract on which the project is to be developed.

(b) *Uses permitted.* The following uses are permitted:

- (1) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 and all rules and regulations of the soil and water conservation commission.
- (2) Forestry, subject to the provisions of the Forest Practices Guideline Related to Water Quality (15A NCAC 11.0101-.0209). The division of forest resources is the designated management agency responsible for implementing this subsection.
- (3) Residential development.
- (4) Nonresidential development, excluding landfills and sites for land application of residuals or petroleum-contaminated soils.

(Ord. No. 2007-001, 2-5-2007)

Sec. 44-434.09. 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 Section when located in a WS-IV watershed. Written verification of project exemption must be submitted from the entity 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 are 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. Stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable.

(a) *Density and built-upon limits.* Density and built-upon limits are as follows:

- (1) For single-family residential development, the minimum lot area must be at least 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 subdivision is approved according to section 44-544.
- (2) All other residential and nonresidential development cannot 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. For the purpose of calculating the built-upon area, total project area includes acreage in the tract on which the project is to be developed.

(b) *Uses permitted.* The following uses are permitted:

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- (1) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
 - (2) Forestry, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15A NCAC 11.0101-.0209). The division of forest resources is the designated management agency responsible for implementing this subsection.
 - (3) Residential development.
 - (4) Nonresidential development.

(Ord. No. 2007-001, 2-5-2007)

Sec. 44-434.10. 10/70 Bonus Permit.

- (a) In addition to the nonresidential built-upon restrictions for the balance of WS-II and WS-III Watersheds as stated in sections 44-434.05 and 44-434.07, nonresidential uses may occupy no more than ten percent (10%) of the balance of each WS-II and WS-III watershed outside the critical area, with a maximum seventy percent (70%) built-upon area when approved as a 10/70 Bonus Permit. The 10/70 Bonus Permit must be considered as a Special Use Permit that must be reviewed by the Board of Adjustment and is subject to all rules and procedures as established in Article III. Requests for a 10/70 Bonus Permit will be considered in order of receipt of completed applications. A 10/70 Bonus Permit is valid for two (2) years, and if the development has not begun within that time period the permit shall expire. Reapplication cannot be made for a period of twelve (12) months following the date the permit expired.
- (b) In reviewing an application for a 10/70 Bonus Permit, the Board of Adjustment shall make the findings of fact as stated in subsection 44-332. 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 thoroughfare plan and urban area transportation plan.
 - (3) The feasibility 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. Stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable.
- (c) Where developments are approved under a 10/70 Bonus Permit, a 100-foot wide vegetative buffer is required for 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.

(Ord. No. 2007-001, 2-5-2007)

Sec. 44-434.11. Watershed Cluster Development.

Clustering of development is permitted in all watershed areas under the following conditions:

- (a) Minimum lot sizes are not applicable to single-family watershed cluster development projects; however, the overall density of the project must meet the associated density as required in sections 44-434.04 through 44-434-09.

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- (b) 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 sections 44-434.04 through 44-434-09.
 - (c) All built-upon areas shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow.
 - (d) The remainder of the tract must remain in a vegetated or natural state. The title to the open space must 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.

(Ord. No. 2007-001, 2-5-2007)

Sec. 44-434.12. Buffer Area Required.

- (a) In the watershed protection overlay (WP-O), 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. Developments approved under the high-density option, including the 10/70 Bonus Permit, are required to maintain a 100-foot wide vegetative buffer.
- (b) No new development which requires a Zoning Authorization 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.

(Ord. No. 2007-001, 2-5-2007)

Sec. 44-434.13. Administration.

- (a) Administration of this section shall be as provided under Article III. Zoning Authorization Permits shall be issued for development in the Watershed Protection Overlay (WP-O) as prescribed in Article III. In addition to the general information required for a Zoning Authorization Permit, the following must be submitted on detailed 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 non-developable land must be noted on the detailed 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 Planning Director administers the stormwater programs and shall have the following powers and duties:
 - (1) To review and approve or disapprove applications for approval of plans pursuant to this Article.
 - (2) To make determinations and render interpretations of this Article.
 - (3) To review and approve applications.
 - (4) To enforce the provisions of this Article in accordance with the enforcement provisions.
 - (5) To designate appropriate other person(s) who shall carry out the powers and duties of stormwater administrator.

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- (c) The County may make amendments to this Section as provided by this Chapter. Under no circumstances shall the County adopt such amendments that would cause this section to violate the watershed protection rules as adopted by the North Carolina State Environmental Management Commission. The Planning Director 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.
 - (d) The Planning Director shall keep a record of variances to the local watershed protection district. This record shall be submitted, for the calendar year, to the North Carolina Department of Environmental Quality, Water Resources 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.
 - (e) The Planning Director shall keep records of the County's utilization of the provision that a maximum of ten percent (10%) of the noncritical area of WS-II-BW and WS-III-BW watersheds may be developed with nonresidential development to a maximum of seventy percent (70%) 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.
- (Ord. No. 2007-001, 2-5-2007)

Sec. 44-434.14. Variances.

- (a) The Board of Adjustment may authorize, in specific cases, minor variances from the terms of this section that will not be contrary to the public interest. An application for a variance must conform with section 44-333. In addition, the County shall notify and allow two (2) weeks for response from 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 subsection 44-333(f).
- (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 thirty (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 ("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 Adjustment 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. Any appeal of the decision must be filed pursuant to Section 44-329.

(Ord. No. 2007-001, 2-5-2007)

Sec. 44-434.15. 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 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 - Critical Area (WS-IV-CA). Where single-family residential development exceeds a density of one (1) dwelling unit per 20,000 square feet on the overall project or other residential and nonresidential development exceeds twenty-four percent (24%) built-upon area, engineered stormwater controls must be used to control runoff from the first one (1) inch of rainfall, and development cannot exceed fifty percent (50%) built-upon area.
- (2) WS-IV Watershed Area - Protected Area (WS-IV-PA). Where single-family residential development exceeds a density of one (1) dwelling unit per 20,000 square feet on the overall project, or one (1) dwelling unit on 15,000 square feet 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 twenty four percent (24%) built-upon area with curb and gutter installed, or thirty six percent (36%) built-upon area for projects without a curb and gutter street system, engineered stormwater controls must be used to control the first one inch of rainfall, and development cannot exceed seventy percent (70%) built-upon area.
- (3) A minimum 100-foot wide buffer consistent with section 44-434.12 must be provided for all developments using the high-density option.

- (b) *High-Density Development Permits and Procedures.* Developers requesting to use the High-Density Development option must follow the application, review, public hearing and approval procedures as required by this Chapter for Planned Developments along with the following procedures:

- (1) For all activities which are subject to this Article, no person shall initiate, proceed or undertake any land disturbing or development activity for which a permit is required without first being issued a written Stormwater Control Permit. All other required applications must be received and permits must be obtained prior to the start of the work. These may include but are not limited to soil erosion and sedimentation control, flood damage prevention, subdivision, and building permits and inspections.

(2) Approval or denial of the proposed stormwater plan shall be in writing. In the case of denial, the reasons for denial shall be clearly stated. The applicant may appeal decisions of the Planning Director to the Subdivision Review Board ("SRB") within fifteen (15) days after receipt of written notice of disapproval. Only the applicant can appeal the decision of the Planning Director. Hearings held pursuant to this section shall be conducted by the SRB within thirty (30) days after the date of the appeal. The SRB shall decide appeals within fifteen (15) days after the date of the hearing on a stormwater plan. The SRB may uphold or overturn the decision of the Planning Director. If the SRB upholds the disapproval of a proposed plan, the applicant shall then be entitled to appeal the SRB's decision to the Board of Adjustment within fifteen (15) days of receipt of the SRB's decision. An appeal of the SRB decision pursuant to this section must conform with the provisions of Section 44-329.

(3) The Planning Director shall take action on revisions to a stormwater plan which has been previously denied within fifteen (15) days of receipt of the revised plan application.

(4) If a revised application is not re-submitted within sixty (60) days from the date the applicant was notified of the denial of the proposed stormwater plan, the application shall be considered withdrawn and a new submittal shall be required along with the appropriate fee and pursuant to the current standards.

(5) Application for an amendment to a stormwater plan in written and graphic form may be made at any time. Until such time that any amendment is approved by the Planning Director, it shall be unlawful to deviate from the approved plan. Appeal from the decision of the Planning Director as to an application for amendment to a stormwater plan must be in accordance with the provisions of subsection (b)(2) of this section.

(6) An approved plan shall become null and void if the applicant has failed to make progress on the site within twelve (12) months after the date of approval. The stormwater administrator may grant a single, six (6) month extension of this time limit, for good cause shown, upon receiving written request from the applicant before the expiration of the approved plan. In granting an extension, the Planning Director may require compliance with standards adopted since the original application was submitted unless there has been substantial reliance on the original permit and the change in standards would infringe the applicant's vested rights.

(7) The County may not approve a final plat or issue a building permit until:

- a. The Stormwater Control Application has been approved by the Planning Director; and
- b. Other conditions of preliminary subdivision plat approval are met related to construction of required infrastructure or an approved Financial Security is posted.

(8) Upon completion of the required improvements, the Registered Professional must submit to the Planning Director as-built plans of the installed stormwater improvements or certify the existing plans as as-built if no changes have occurred. These plans must indicate that Stormwater Control Measures were constructed in accordance with this Ordinance.

- (c) *SCM Application, Plan Review, and Inspection Fees for High-Density Development.* Application, plan review, and inspection fees are required as follows:

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- (1) Processing and inspection fees must be submitted in the form of a check or money order payable to Catawba County. Applications will be returned and labeled incomplete if not accompanied by the following:
 - a. SCM Application Form;
 - b. Payment of the SCM Application Review Fee;
 - c. Proposed Site Plan and SCM Plan ("Plans") with either written or graphic representations describing the SCM system in sufficient detail for review and any related easement documents;
 - d. SCM Operation and Maintenance Manual;
 - e. SCM Maintenance Agreement as required below; and
 - f. Performance Bond for construction of the SCM ("Construction Security") in accordance with the provisions of section (f) below.
 - (2) Before an Application is deemed complete, the Planning Director or the Applicant can request a consultation on a concept plan to discuss procedural steps, timing, or any post-construction SCM changes or modifications necessary for the Project.

(d) *Final SCM Inspection, Approval and Recordation:* Upon completion of the SCM, but prior to a Certificate of Occupancy ("CO") being issued, the Planning Director must verify completion of the following:

- (1) Applicant shall provide a sealed set of as-built plans, executed Maintenance and Easement Agreements, Maintenance Bond, and certification by a Registered Professional that the SCM has been constructed in accordance with the approved plans. The Planning Director may issue CO's where multiple units are served by the SCM, in which case the Planning Director may elect to withhold a percentage of permits or CO's until as-built plans are submitted and the final inspection and approval has occurred.
- (2) Following final inspection and approval of the SCM and final as-built plans, the final plat, if there were deviations from the original plat, Maintenance Agreement, Easements and Deed of Conveyance of the SCM to the HOA (if applicable) must be recorded with the Catawba County Register of Deeds Office.
- (3) Following final inspection and approval of the SCM and upon the posting and approval of a perpetual Maintenance Bond ("Maintenance Security") in accordance with the provisions of section (f) below, the Construction Security may be released.

(e) *Stormwater Control Measures.* Standards for SCM's are as follows:

- (1) All SCM's must be designed by a Registered Professional with qualifications appropriate for the type of system required.
- (2) All SCMs must comply with the provisions of Section 15A NCAC 02H .1050 of the North Carolina Administrative Code, as amended, and meet the following design criteria:
 - a. Be designed to remove eighty-five percent (85%) of total suspended solids in runoff from a one-inch rainfall from the site above the permanent pool.
 - b. The discharge rate following the one-inch design storm must be such that the runoff draws down to the pre-storm stage within five (5) days, but not less than two (2) days; or
 - c. The post development peak discharge rate must equal the predevelopment rate for the one-year, 24-hour storm.
- (3) All land areas outside of the SCM must be provided with a ground cover sufficient to restrain erosion within fourteen (14) days after any land disturbance for flat lands and seven (7) days

after any land disturbance for slopes steeper than 3:1. Upon completion of the SCM, a permanent ground cover must be established and maintained as part of the Maintenance Agreement.

- (4) The area containing the SCM must be depicted on the final recorded plat filed in the office of the Catawba County Register of Deeds containing any easements necessary for general access to the SCM. The described area must include the SCM, vegetative filters, all pipes and water control structures, berms, and dikes. Maintenance access must have a minimum width of ten (10) feet, not to include lateral or incline slopes that exceed 3:1 (horizontal to vertical), and extend to the nearest public right-of-way.
- (5) Qualifying areas of the SCM 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 cannot be used to compute the built-upon area for any other site or area.

(f) *Posting of Financial Security and Maintenance Agreement.* Posting of Financial Security is required as follows:

- (1) All new SCM's must be conditioned on the posting of adequate Financial Security for the purpose of construction, maintenance, repair or reconstruction necessary for adequate performance of the SCM.
 - a. *Construction Security.* Financial Security to ensure that the required SCM's are installed as required must 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 must be in an amount equal to 1.25 times the total cost of constructing the SCM, as estimated by the applicant and approved by the Planning Director. The total cost of the SCM must include the value of all materials such as piping and other structures; seeding and soil stabilization; design and engineering; and grading, excavation and fill. The costs cannot be prorated as part of a larger project, but are considered under the assumption of an independent mobilization.
 - b. *Maintenance Security.* Financial Security, to ensure that the required SCM's are properly maintained, must be provided to the County consistent with subsection (2) below so that, if these structures are not properly maintained, the County may use the Financial Security to have the structures properly maintained or repaired. The cash or security must be in an amount equal to fifteen percent (15%) of the total cost of construction of the SCM, as defined in subsection (a) above, or the estimated cost of maintaining the SCM over a ten (10) year period, whichever is greater. The estimated cost of maintaining the SCM must be consistent with the approved Operation and Maintenance Manual provided by the developer under subsection (g)(1) below.
- (2) *Financial Security.* Financial Security must 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 cannot be accepted unless the County Attorney has reviewed them and rendered a written opinion that the interests of the County are fully protected. The certified check must be deposited with the County Manager, as escrow agent, who shall deposit the check in an interest-bearing escrow account of the County. The no-contest irrevocable bank letter of credit must be from a banking corporation licensed to do business in the state and having an office in the County. The terms of the letter must include the absolute right of the County Manager to withdraw funds from the bank upon the County Manager's certifying to the bank that the terms and conditions of the performance guarantee have been breached.

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- (3) Default under the Construction Security. Upon default of the applicant to complete the SCM 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. The County may collect the difference should the amount of the reasonable cost of such action exceed the amount of the security held. The difference will be collected from the applicant.
 - (4) Default under the Maintenance Security. Upon default of the owning entity to maintain, repair and, if necessary, reconstruct the SCM in accordance with the Maintenance Agreement, the County must obtain and use all or any portion of the cash security to make the necessary improvements based on an engineering estimate. The expenditure of funds must be made after exhausting all other remedies seeking the owning entity to comply with the terms and conditions of the Maintenance Agreement. The County shall not return any of the deposited cash funds.
 - (5) Maintenance Agreement. The applicant must enter into a binding Maintenance Agreement between the County and all interested parties in the development. The Agreement must require the owning entity to maintain, repair, or reconstruct the SCM in accordance with the Operation and Maintenance Manual provided by the developer. The Maintenance Agreement must be referenced on the final plat and must be filed with the Catawba County Register of Deeds upon final plat approval. If no subdivision plat is recorded for the site, then the Maintenance Agreement must be recorded with the Catawba County Register of Deeds and a copy provided to the Planning Director.
- (g) *Maintenance and Upkeep.* Maintenance and upkeep must be provided as follows:
- (1) An Operation and Maintenance Manual must be provided by the developer for each SCM, 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 Maintenance Agreement, who is responsible for those actions. The plan must clearly indicate the steps that will be taken for restoring an SCM to design specifications if a failure occurs.
 - (2) Landscaping and grounds management must be the responsibility of the owning entity. However, vegetation must not be established or allowed to mature to the extent that the integrity of the SCM structure is diminished or threatened or to the extent of interfering with any easement or access to the SCM.
 - (3) Except for general landscaping and grounds management, the owning entity must notify the Planning Department prior to any repair or reconstruction of the SCM. All improvements must be made consistent with the approved plans and specifications of the SCM and the Operation and Maintenance Manual. After notification by the owning entity, the Planning Director shall have the completed improvements inspected and inform the owning entity of any required additions, changes or modifications and of the time period to complete the improvements. The Planning Director may consult with a Registered Professional.
 - (4) Amendments to the plans and specifications of the SCM and/or Operation and Maintenance Manual must be approved by the Planning Director. Proposed changes must be prepared by a Registered Professional and submitted to and reviewed by the Planning Director.
 - a. If the Planning Director approves the proposed changes, the owning entity of the SCM must file sealed copies of the revisions with the Planning Department.
 - b. If the Planning Director 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, the proposal will be returned to the applicant. Appeal from the decision of the Planning Director as to an application for amendment to a stormwater plan must be in accordance with the provisions of subsection (b)(2) of this section.

- c. If the Planning Director finds that the Operation and Maintenance Manual is inadequate for any reason, the Planning Director shall notify the owning entity of any required changes and prepare and file copies of the revised Operation and Maintenance Manual with the Planning Department and the owning entity.
 - (5) All SCM's will be inspected by a qualified inspector at least on an annual basis to determine whether the controls are performing as designed and intended. The costs of the inspections are the responsibility of the owning entity. Records of inspections shall be maintained on forms approved or supplied by the North Carolina Department of Environmental Quality (NCDEQ). Annual inspections will begin within one year of the filing date of the deed for the SCM.
 - (6) If the County discovers the need for corrective action or improvements, the Planning Director shall notify the owning entity of the needed improvements and the date by which the corrective action is to be completed. All improvements must be made consistent with the plans and specifications of the SCM and Operation and Maintenance Manual. After notification by the owning entity, the Planning Director may consult with a Registered Professional.
- (Ord. No. 2007-001, 2-5-2007; Ord. No. 2017-13, 11-20-2017; Ord. No. 2022-09, 5-16-22)

Sec. 44-435. Reserved.

Sec. 44-436. Economic development overlay (ED-O).

Purpose: The economic development overlay district (ED-O) is designed to accomplish the following:

- ◆ *Promote a sensitive conversion of farmland and vacant land to more urban uses.*
- ◆ *Support development that is compatible with and, whenever possible, enhances the visual attractiveness of the land.*
- ◆ *Promote well-planned, economically viable development of all types.*
- ◆ *Protect the environment by providing clean air, clean water and an appropriate mix of natural vegetation and wildlife.*
- ◆ *Encourage orderly and sensitive planned development, especially at the interchanges.*
- ◆ *Avoid uncoordinated, strip development patterns.*
- ◆ *Promote flexibility in individual site design including diversification in the location of structures, parking areas and other components.*
- ◆ *Encourage the efficient use of land to facilitate an economical arrangement of buildings, traffic circulation systems, land uses and utilities.*
- ◆ *Provide for more usable and suitably located recreation facilities and other public and common facilities that would not otherwise be provided under conventional land development procedures.*
- ◆ *Encourage high quality development.*

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- ◆ *Ensure that adequate traffic capacity is available to serve proposed projects.*
 - ◆ *Create an environment that supports opportunities for alternative residential development that consists of well-planned, affordable housing.*
 - ◆ *Encourage cooperation between local governments concerning municipal growth and service extensions.*
 - ◆ *Support mixed-use projects that enhance opportunities to work, shop, entertain and recreate on the same or adjacent sites.*
 - ◆ *Enhance the economic, tax and employment base for the county.*
- (a) *Plan consistency.* This section implements the land use recommendations of the U.S. 321 Corridor District Plan and the following small area plans:
- (1) Mtn. View.
 - (2) Startown.
 - (3) Catawba.
 - (4) St. Stephens/Oxford.
- (b) *Applicability.* The economic development overlay (ED-O) shall apply to the following areas:
- (1) U.S. Hwy. 321 corridor, as depicted in the 321 Eco-Tech Development Plan adopted July 11, 2011; and
 - (2) I-40 industrial corridor consisting of two strips of land with the first concentrated at Exit 138 at the Town of Catawba/Hwy. 10 interchange and the second including tracts of land north of the Conover/Claremont industrial areas. These areas are indicated as "business/light industrial park" and "industrial" in the Catawba and St. Stephens/Oxford small area plans, respectively. This area is referred to as the "I-40 corridor."
- (c) *Development standards.*
- (1) New residential subdivisions, existing and new single-family, site-built or manufactured homes and duplexes are exempt from the requirements of the ED-O district.
 - (2) Churches and existing commercial/office institutional/industrial uses or properties are exempt from the provisions of the ED-O district.
 - (3) With the exception of subsection c.3 below, property being developed for nonresidential or multifamily uses:
 - a. In the Hwy. 321 corridor component of the ED-O must:
 - 1. Be rezoned to 321-ED(MX) or (I). Schools; public use facilities and public utility facilities are exempt from rezoning; and
 - 2. Meet the regulations of the 321-economic development (321-ED) special district, section 44-446.
 - b. In the I-40 corridor component of the ED-O must:
 - 1. Be rezoned to the applicable zoning district. Schools; public use facilities and public utility facilities are exempt from rezoning; and

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2. Meet the regulations of the 321-economic development (321-ED) special district, section 44-446.
- c. Special uses listed below are allowed within the ED-O and do not require a rezoning, but must comply with the procedures set forth in section 44-328 and standards within article VI for the specific use.
1. Airstrip;
 2. Boardinghouse, rooming house 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; and
 17. Telecommunications tower.

(Ord. No. 2021-05, 6-21-2021)

Secs. 44-437—44-440. Reserved.

DIVISION 4. SPECIAL DISTRICTS

Sec. 44-441. Generally.

Purpose. It is the intent of this article to establish special districts for the purposes of:

- ◆ *Protecting existing or proposed character or principal views of, from or through the areas;*
- ◆ *Protecting buildings and their visual environment where there is special and substantial interest in; or*
- ◆ *Creating higher development standards to accomplish the purpose for which the special district is established.*

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- ◆ *Promoting the purposes set out in the adopted small area plans and other officially adopted plans of the county and to encourage land use and development in substantial accord with the physical design set out in the plans.*

- (a) *Special district regulations.* The special district regulations are designed to promote the intent of the district, as set out in each district's purpose statement. In particular, such regulations may require submission of concept 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 determine the relation of the special interest district and the objectives to be promoted.
- (b) *Procedure for approval of special districts.* Applications for special districts will be processed as a zoning map amendment (rezoning); therefore, the procedures outlined in section 44-326 must be followed.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-442. Reserved.

Sec. 44-443. Planned development (PD).

Purpose: The planned development district is established to encourage the master planning of large scale, multiple and/or mixed-use development patterns. Applicants who propose a planned development have more flexibility and creativity in design than is possible under conventional zoning regulations. The planned development process:

- ◆ *Allows for the layout of uses and open space that promote high standards in design and construction which furthers the purposes of the small area plans.*
- ◆ *Encourages well planned, efficient development to promote economical and efficient land uses.*
- ◆ *Allows a planned and coordinated mix of land uses which are compatible and are harmonious but were previously discouraged by conventional zoning procedures.*

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- ◆ *Encourages the development of contiguous large lot parcels into an integrated and orderly pattern, with particular attention to developing an efficient and coordinated network of internal streets.*
 - ◆ *Promotes the clustering of structures and other uses in order to preserve unique and natural features such as woodlands, wetlands, natural drainage systems and scenic areas.*
 - ◆ *Reserves adequate public right-of-way within development areas for the eventual extension of arterial and collector streets, including proper width and spacing of such streets.*
 - ◆ *A planned development is defined based upon the following general characteristics:*
 - ◆ *Aggregate size and number of non-residential buildings.*
 - ◆ *Mixture of housing types including single family with multifamily.*
 - ◆ *A combination of uses such as retail/commercial with residential or office uses.*

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-443.01. Applicability.

The PD district is required when one or more of the following factors are proposed:

- (1) The aggregate square footage of the nonresidential building(s) on a single zoning lot is more than 50,000 square feet gross leasable area regardless of the number of uses within the building or structures planned;
- (2) Multifamily attached units (apartments, condominiums, townhouses, two or more duplex buildings on the same lot, etc.) for rent or sale;
- (3) Three or more duplex buildings on separate adjoining lots, planned cumulatively as of the adoption of this chapter (see section 44-614 for design criteria); or
- (4) A mix of housing types on a single zoning lot. An example of a mix of housing types would include the combination of single-family dwellings with duplex, multifamily or zero lot line developments. This does not include a lot with an accessory dwelling unit or temporary manufactured home.
- (5) A single-family residential subdivision consisting of 200 or more lots planned cumulatively as of the adoption of this chapter. Subdivisions of less than 200 lots may chose to apply for a PD district at the developer's option.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-443.02. General criteria for planned development amendments.

PD districts may be established in accordance with the general procedures and requirements set forth in this article and the following criteria. Enhanced design standards and negotiated amenities may apply subject to an application made for a voluntary planned development-conditional zoning in accordance with section 44-327. The negotiated amenities could include public open space, trails, bicycle paths, conservation easements, traffic improvements, buffering and connectivity.

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- (1) *Relation to major transportation facilities.* PD districts should be located within easy access to expressways, arterial and collector streets to provide direct access to and from the district without creating traffic along surrounding local streets in residential neighborhoods.
 - (2) *Relation to public utilities, facilities, and services.*
 - a. When PD districts require connection to sanitary sewer or water lines, the extension or enlargement of such systems cannot result in higher net public cost, or earlier incursion of public cost than other types of development generally permitted under current zoning and development policies for the area. Connection to public water and sewer must conform to county code and policy.
 - b. PD districts for multifamily uses are not permitted unless public water and sewer is available.
 - c. PD districts, and uses within districts, should be located with respect to necessary public facilities (for example, schools, parks, and playgrounds in the PD districts that have housing uses).
 - (3) *Plan consistency.*
 - a. When nonresidential uses are proposed in a PD district, the district may be considered in any of the commercial, office and institutional or mixed use future land use designations identified in the small area plans, with exception of rural and neighborhood commercial nodes.
 - b. When multifamily housing is proposed in a PD district, the district may be considered in any commercial, office and institutional, mixed use or multifamily areas designated in the small area plans, with exception of rural and neighborhood commercial nodes.
 - c. A PD consisting of three or more duplexes may be considered in any commercial, office and institutional, mixed use or residential (single-family or multifamily) areas designated in the small area plans.
 - d. Consideration is given to the existing and prospective character of surrounding development to help protect property values in surrounding neighborhoods.
 - (4) *Concept site plan relationships.* PD districts must be proposed according to site plans which include amenities such as streets, utilities, lots, buildings, parking, service areas, landscaped open space and their relationships to each other. Plans for other uses and improvements, along with a program for provision, operation, and maintenance of such areas whether for public or private use, must also be provided. Procedure requirements in section 44-326 must be met.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-443.03. Site plans.

In general, the concept site plan must 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 must be grouped, in relation to parking areas, so that visitors arriving by automobile can enter the walkway system, establishments can be visited conveniently with a minimum of internal automotive movements.

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- (1) *External relationships.* Relation of the planned development district to surrounding areas must be as follows:
 - a. *Requirement for street access.* No planned development should be located except where direct access to an arterial street is available, or will be made available, at convenient locations at the edges of or within the district. Street access must be at a scale and of a character suited to the needs of occupants and visitors.
 - b. *Location of uses in relation to adjoining residential districts.* Where a planned development adjoins any residential district, with or without an intervening street or alley, to the maximum extent reasonably practicable, residential uses within the planned development district must be located adjacent to the residential district, and nonresidential uses and signs located and oriented away from the residential district.
 - (2) *Internal relationships.* The concept 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:
 - a. Pedestrian amenities must relate to a network of exterior open spaces reserved for pedestrian use and enjoyment. Pedestrian ways must be scaled for anticipated traffic and form a convenient pattern connecting major concentrations of uses within the district.
 - b. Streets, parking areas, and service areas must be located and designed to separate private vehicular use within the district from principal pedestrian areas. The 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.
 - c. Relationship of uses must work so that major commercial and service establishments are grouped for maximum pedestrian convenience along frontages. Residential or general office uses may be in separate areas within the districts or be separated vertically from commercial and service areas.
 - d. The development must be in complexes where residential (when proposed), 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. In general, local streets cannot be connected with streets outside the districts in such a way to encourage use of such local streets by substantial amounts of through traffic.
 - e. A vacated building and an adaptive reuse plan for buildings greater than 75,000 square feet ("big box" design) must be submitted at the site plan approval stage.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-443.04. Permitted principal and accessory uses and structures.

Permitted principal and accessory uses and structures in the planned development district are as follows:

- (1) The following permitted principal uses and structures are allowed:

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- 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 establishments, not including vehicle sales;
 - 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. Family care centers;
 - m. Churches, synagogues, temples, and the like;
 - n. Colleges, universities, technical college;
 - o. Schools—Elementary, middle and high;
 - p. Recreation establishments such as theaters and bowling alleys;
 - q. Miniwarehouses; and
 - r. 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, truck, recreational vehicle, boat, motorcycle sales or repair stations are not permitted in this district.
- (3) Accessory uses and structures which are customarily and clearly incidental to permitted principal uses and structures are permitted in this district.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-443.05. Minimum required gross land area.

The minimum required gross land area for the establishment of a planned development district is 80,000 square feet. Additional adjoining land may be combined with existing planned development

districts. When this occurs, the additional land will be considered as part of the total development with regards to size and standards required in this chapter. Adjoining land to be considered must be developed in harmony with the existing planned development with regards to review procedures, uses, design, access, and other standards as provided in this chapter.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-443.06. Maximum permitted floor area ratio.

The maximum permitted floor area ratio (FAR) for a planned development district is 1:2. In addition, all built-upon requirements of section 44-434, watershed protection district (WP-O), must be met.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-443.07. Pedestrian and landscaped common areas.

- (a) Nonresidential planned development must reserve an area equal to 15 percent of the land area of the planned development for pedestrian use and landscaping and shall be improved and maintained accordingly. Such space may include covered malls for general pedestrian use as well as exterior walkways, pocket parks, play areas for children, outdoor seating areas, and the like. When covered malls are included, they must be excluded in computing floor area.
- (b) The requirements of section 44-518 must be met. If sidewalks are installed, the land area can be counted toward the open space common area requirement.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-443.08. Open/recreation space.

- (a) Open space for passive or active recreation is required in a planned development for residential uses. The amount of open space must be in accordance with section 44-543 based on the number of housing units in the development.
- (b) The requirements of section 44-518 must be met. If sidewalks are installed, the land area can be counted toward the open space common area requirement.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-443.09. Landscaping buffer and screening requirements.

The landscaping buffer and screening requirements of article V, division 4 must be met. Planned developments must install a median-type entranceway at main entrances, subject to NCDOT approval. The median must be grassed and landscaped with shrubbery and small decorative trees.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-443.10. Off-street parking.

Off-street parking must be provided as required in article V, division 5.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-443.11. Underground utilities.

All telephone, electric, cable and other utilities must be underground in any planned development.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-443.12. Signs.

Signs in planned development must be in conformance with the regulations established in article V, division 7.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-443.13. Minimum setback requirements adjacent to public streets.

Minimum front setbacks adjacent to public streets must be 30 feet. Structures built on properties fronting along existing roads in the R-40 district or along a rural preservation corridor must meet setbacks in table 44-404-1.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-443.14. Setbacks required adjacent to residential or nonresidential districts.

- (a) Where a nonresidential planned development district adjoins a residential district without an intervening street or alley, a setback at least 50 feet in width must be provided along such joint boundary.
- (b) Where a residential planned development district adjoins a residential district without an intervening street or alley, a setback at least 50 feet in width must be provided along such joint boundary. No intensive recreational use or off-street parking is permitted within 25 feet of the district boundary in such circumstances.
- (c) Where a planned development district adjoins a nonresidential district, a 35 foot perimeter setback must be provided.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-443.15. Architectural elements.

Buildings within the PD must be designed with a consistent architectural theme and color scheme. Building height, rhythm, articulation, massing and bulk must be compatible with the individual site attributes and be compatible with the surrounding neighborhoods. The following also apply:

- (1) *Building facades.* PD building facades must contain setback relief and a variety of roof component shapes.
- (2) *Big box design.* For buildings greater than 75,000 square feet ("big box" design) where the storefront length is greater than 60 feet, recesses and projections of four feet or more from the primary building line must be provided comprising a total of at least 33 percent of the

storefront length along all sides facing public streets. An exception to the recesses and projections requirements may be granted where the intended affect can be accomplished through a different architectural design which breaks up the appearance of the building facade.

(3) *Building construction standards.*

- a. *Building front.* Ribbed paneling consisting of vinyl or metal material, or unpainted cinder blocks are prohibited as the building material for the front of a building facing a public right-of-way. For the purposes of this subsection, buildings located on corner lots are only considered to have one front.
- b. *Facade(s) visible from public rights-of-way.* Building facade(s) consisting of ribbed vinyl or metal material, or unpainted cinder blocks are prohibited along the portion(s) of the building, other than the front, which are visible from public rights-of-way. An exception can be made where a solid vegetative screen exists or is installed which shields that portion of the facade(s) from public view, as determined by the planning director.
- c. *Facade(s) not visible from public right-of-way.* Sides not visible from public rights-of-way may use ribbed paneling, painted cinder blocks or other materials.
- d. *Type of building materials encouraged.* Examples of building materials which are encouraged include masonry, wood, fibrocement product, such as hardboard, textured vinyl and stucco and other new and innovative materials as they become available in the marketplace; and

(4) Garage fronts in a duplex or multifamily PD must be de-emphasized and not be the most prominent architectural feature of the house.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-443.16. Street design.

- (a) All streets must be designed and paved to meet the NCDOT standards. Streets can be designated as either public or private. A public street is intended to be petitioned for maintenance by NCDOT. A private street is not maintained by NCDOT; however, is required to be designed and constructed to NCDOT standards.
- (b) Turn lanes along the road frontage are required, subject to NCDOT approval.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-443.17. Lighting.

Lighting intensities should be controlled to ensure that light and glare are not directed at adjacent properties, neighboring areas, and motorists. The lighting standards in section 44-522 shall be adhered to.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-443.18. Subdividing in planned developments.

Individual lots can be established within a planned development, in residential or nonresidential districts, after a detailed site plan has been approved. Lots are not subject to lot area and internal setback requirements; however, all built-upon requirements of section 44-434 Watershed protection district (WP-O) must be met. Perimeter setback requirements of section 44-443.14 must be met. The procedures in article III, division 4 for subdividing the planned development shall be followed.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-443.19. Street line preservation.

- (a) Right-of-way dedication is required for all planned development districts fronting along roadways funded for improvements in the current state transportation improvement program (STIP) and must be indicated on any subdivision plat, site plan, or zoning authorization permit applications. When right-of-way is dedicated, density bonuses are provided as shown in subsections 44-502(b) and (c).
- (b) The building setback would include the required setback plus one-half the estimated right-of-way needed for future road improvements.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-444. Planned development-industrial parks (PD-IP).

Purpose: Planned development-industrial park (PD-IP) districts are defined as planned development districts for establishment of complementary groupings of related manufacturing, processing, assembly, research activities, and related uses. The intent of this division is to provide for development of such districts at locations appropriate in terms of the adopted small area plans and in accord with standards set forth in this section. The planned development-industrial park district must be developed to:

- ◆ *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;*
 - ◆ *Serve as an alternative to further extensions of industrial zoning allowing disorderly strip development; and*
 - ◆ *Protect stability and property values in surrounding residential neighborhoods.*
- (a) *Plan consistency.* A PD-IP may be considered in the following land use designations within the small area plans:
 - (1) St. Stephens-Oxford—Industrial;
 - (2) Catawba—Industrial;
 - (3) Balls Creek-Hwy. 321 business corridor between Newton and Maiden;
 - (4) E-1 (now LI) and E-2 (now GI) zoning in small area plans.

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- (b) *Applicability.* A PD-IP district must be approved when more than one industrial principal structure is planned on a zoning lot or when two or more permitted industrial uses per principal structure are developed on a single zoning lot.
 - (c) *Minimum area required for establishment of access requirements.* A PD-IP district can be established with a land area of less than ten acres. Width and depth of the property must be adequate for the plan proposed and the tract of land must have at least 200 feet of frontage on an arterial or collector street.
 - (d) *Permitted principal and accessory uses and structures.* Permitted principal and accessory uses and structures must be according to the corresponding industrial zoning districts. Business and professional service offices are permitted uses. In addition, applications for amendments to PD-IP 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. A PD-IP does not allow residential housing.
 - (e) *Maximum floor area ratio.* Maximum floor area ratio permitted in any PD-IP district is 1:3.
 - (f) *Height limitations.* The maximum height of buildings will be considered as part of the PD approval process.
 - (g) *Off-street parking and loading requirements.* Off-street parking, landscaping and loading requirements for the PD-IP district must be in accordance with article V.
 - (h) *Underground electric and telephone utilities.* Electrical, telephone and other service lines must be underground in all PD-IP districts.
 - (i) *Sign limitations.* Sign limitations in the PD-IP district must be as provided for in article V, division 7.
 - (j) *Site planning.* Site planning considerations and requirements, including pedestrian design, must be as provided for in planned development districts, section 44-443.03. The PD-IP district is not subject to the architectural requirements of the PD district.
 - (k) *Development boundary setbacks.*
 - (1) When a PD-IP district abuts a single-family district, the building setbacks from the perimeter of PD-IP district must be a minimum of 50 feet. The setback areas must be landscaped in accordance with subsection 44-523(f).
 - (2) When a PD-IP district abuts a commercial district, the building setbacks from the perimeter of the PD-IP district must be a minimum of 35 feet. Such setback areas must be landscaped in accordance with subsection 44-523(f).
 - (3) When a PD-IP district abuts a public street, the building setbacks from the street must be a minimum of 35 feet. Street trees shall be planted in accordance with subsection 44-523(h).

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-445. Village center (VC).

Purpose: In general, a village center (VC) district is established to accommodate the following goals:

- ◆ *Development with modest size and scale that accommodates and promotes pedestrian access and walkable communities generally to serve a trade area within a three-mile radius.*

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- ◆ *Promote a design that results in residentially scaled buildings fronting on, and aligned with, interconnected streets having a common town square, village green or central square serving as a focal point.*
 - ◆ *Promote the use of neighborhood greens, landscaped streets, boulevards (a street designed with a central median, planted with trees, as a central feature), parkways, and "single-loaded" streets woven into street and block patterns that provide neighborhood identity and space for social activity, parks, and visual enjoyment.*
 - ◆ *Provide buildings for common or institutional purposes, such as civic or religious assembly, that act as visual landmarks and symbols of identity.*
 - ◆ *Promote the location of dwellings, shops, and workplaces in close proximity to each other, the scale of which accommodates and promotes pedestrian travel for trips within the community.*
 - ◆ *Preserve greenways, scenic vistas, agricultural lands, and natural areas and utilize open space for recreational and environmental protection purposes.*
 - ◆ *Design building heights to be greatest in the storefront area and transition to lower heights outward from the storefront area to the boundary of the village center.*
 - ◆ *Design buildings in the village residential area to be comparable in height and massing with the adjacent and nearby properties as well as the surrounding neighborhood.*
 - ◆ *Create housing densities to be highest within the central residential area, transitioning to progressively lower densities moving outwards from the center of the village center district to the village residential area. This transition can be accomplished using thoughtful architectural design, height, and massing.*
 - ◆ *Provide a diversity of housing types to support the life cycle of the village residents.*
 - ◆ *Provide for connectivity between uses with multiple connections and relatively direct routes.*
 - ◆ *Provide traffic calming, keeping streets as narrow as possible.*

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-445.01. Applicability.

The village center is a special district where the uses and standards in this section apply.

- (1) *Classical villages.* The classical village provides for a range of complementary uses and may consist of up to four areas:
 - a. *Storefront area.* This area serves as the village core and is the center of pedestrian activity. A typical village core is an area radiating one-eighth to one-quarter mile (or up to a five-minute walk for an average adult) from the "Main-Main" intersection or a primary focal point such as a town square or village green. All mixed use/commercial uses of the village must be located only within the storefront area and consists of the most intense urban buildings in both massing and use. This area provides a variety of retail shops and services to support the needs of village residents and other local residents, complemented by other compatible business, civic, institutional and upper-story residential uses in commercial-type buildings in a manner consistent with a small

downtown or central market place in the community. Upper-story dwelling units above nonresidential uses are encouraged. First-floor residential uses are prohibited. The storefront areas must be constructed by the time 50 percent of the residential component has been built.

- b. *Central residential area.* This area provides a wide variety of housing types in close proximity to the storefront area when the village contains commercial uses or the village core when commercial uses are not present. This area serves as an ideal location for medium- to high-density housing. The housing, together with the core, provide a network of well-connected, pedestrian-scaled streets. In addition, where transit stops are located in the core, there is a significant transit user population within walking distance. The central residential area serves as the transition from the intensity of the core to the surrounding lower density neighborhoods. The size of the area is largely a function of the scale of the village center, and walking distances to the core.
 - c. *Village residential area.* This area is required in all villages, generally located outside the central residential area, and contains primarily single-family detached dwelling units, but may include multifamily and accessory dwelling units. While these areas should be seamlessly connected to the central residential area and/or the storefront area by pedestrian-oriented streets, transitions from the adjacent areas should be accomplished through the proper design of the public realm of the street (including the use of traffic calming features on existing streets) as well through appropriate massing, scale, and architectural design of the buildings.
 - d. *Village greenway area.* This area is required in all villages. This area must consist of a combination of natural wooded area (if pre-existing) and managed areas such as multiple greens, commons, squares and parks in accordance with table 44-445.10-1.
- (2) *Alternative component.* In some cases, a village development may include a fifth component of a commercial corridor. Where a commercial corridor is proposed, the MUC-O standards in section 44-430 must be met.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-445.02. Plan consistency.

A village center may be considered in any of the village future land use designations identified in the Balls Creek, Sherrills Ford, St. Stephens-Oxford or Startown small area plans by rezoning an area of land from its existing classification to a village center district.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-445.03. Standards pertaining to a village as a whole.

- (a) *Accessory dwelling units.* An accessory dwelling unit is permitted, if included on the approved concept site plan, provided it is part of a detached garage and the accessory dwelling unit's square footage is no more than 50 percent of the heated square footage of the principal unit. A special use permit, in accordance with section 44-638, is required for an accessory dwelling unit that was not approved as part of the original village center concept site plan.

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- (b) *Setbacks.* Accessory structures must maintain a 5-foot rear and side setback and are not allowed in the front setback.
 - (c) *Garages.* Front-loaded garages (a garage having its vehicular entry door facing the street) must be at least ten feet behind the primary plane of the front facade of the residential structure.
 - (d) *Greenways; public open space.* A minimum of 30 percent of the overall tract must be permanently protected as greenways and/or public open space with the majority of this land within the greenway area.
 - (e) *Overall form.*
 - (1) *Buffers.* New village development must be compact with a well-defined edge or buffer between new developed areas of the village and adjacent rural area.
 - (2) *Preservation of natural resources, etc.* Areas of new construction must be located to best preserve natural resources, cultural features, and scenic vistas. Modification of existing topography must be minimized to the greatest extent possible.
 - (3) *Block design.*
 - a. Villages must be designed in a general grid pattern of blocks and interconnecting streets and rear lanes, defined by buildings, landscaping, pedestrian ways, sidewalks and street furniture. To avoid the monotony of a rigid grid layout and to better conform to the natural terrain, streets may include frequent gentle curves.
 - b. The maximum length of a block should be 500 feet. This length may be extended up to 800 feet when mid-block footpaths are provided.
 - c. Blocks of the dimensions described above may be reshaped when topography, existing vegetation, or hydrology considerations influence block shape and size.
 - d. In the storefront area, at least one pedestrian pathway, a minimum of eight feet wide, should be provided for every 250 feet of street frontage, which connects with rear parking lots.
 - e. Each block that includes storefronts and/or townhouse lots less than 40 feet wide must be designed to include a rear alley serving parking areas or garages in the rear.
 - f. Local access streets must be configured using a design speed of 25 mph. Traffic calming techniques include "T" intersections (an intersection where it is not possible to proceed in a straight direction, but where vehicles must come to a full stop and turn to either the right or left), traffic islands, circles, loops or crescents, roundabouts, three-way and four-way stop signs. Speed bumps should be avoided and used only as a last choice. The distance between "T" intersections must not exceed three blocks or 1,500 linear feet, which ever is less. "T" intersections must be located in harmony with offset requirements from other intersections to insure traffic flow efficiency.
 - (4) *Roadway separation for village centers.* Residential uses, excluding upper story dwelling units in the storefront area, cannot be located within:
 - a. Five hundred feet of an arterial highway having four or more lanes, or
 - b. Three hundred feet of a two-lane state highway, unless effectively screened from public view by virtue of topography, dense vegetation or other physical or visual barriers.

(5) *Use transitions.*

- a. Similar land uses should face one another across a street, while dissimilar land uses should abut along alleys or rear parking areas.
- b. At least 80 percent of dwelling units should be within 1,500 feet from the storefront area.
- c. Nonresidential uses, intended to serve an area beyond the village, must be located to permit vehicular access from outside the village, without passing through residential streets.
- d. Single-family uses must be separated from multifamily uses by either a street or village green and must have compatible architecture facades to the extent feasible.

(6) *Uniformity.* To encourage uniformity along a street, consistent setbacks for residential units apply.

(7) *Sidewalks.* Within the storefront, central residential and village residential areas sidewalks must be provided on both sides of commercial and residential streets, subject to section 44-518. In the managed greenway area, as dictated in section 44-445.14, sidewalks must be provided to the greenway area. All sidewalks must be a minimum of five feet wide.

(8) *Street design and construction.* All streets within the village center must be designed and constructed to NCDOT standards. The developer can choose from either NCDOT's traditional neighborhood design guidelines or subdivision roads minimum construction standards.

(9) *Underground utilities.* All new on-site utilities (electric, telephone, cable, etc.) in village centers must be located underground unless technical restrictions prohibit doing so. The approving board shall determine if technical restrictions are applicable. Appropriate utility easements must be noted on final plats referring to underground utility locations.

(10) *Public amenity sites.*

- a. Where applicable, bus stop areas must be provided at strategic locations.
- b. Decorative public benches must be provided at bus stops and at strategic locations, such as in greens, commons, squares and parks.
- c. Decorative bike racks must be provided at strategic locations with a paved pad designed to accommodate it.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-445.04. Housing types within the storefront area.

Upper-story dwellings above nonresidential uses are allowed in a condominium ownership or rental arrangement within a higher-density setting.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-445.05. Housing types within the central residential area.

The central residential area is designed to provide a variety of housing types in order to accommodate persons with a range of income levels.

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- (1) The central residential area must consist of at least two dwelling types.
 - (2) The majority of housing types must be duplex or multifamily dwellings.
- (Ord. No. 2021-05, 6-21-2021)

Sec. 44-445.06. Housing types within the village residential area.

The village residential must only contain single-family detached housing types.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-445.07. Dimension standards applicable to the central residential area.

Building-to-building distance across a street refers to the horizontal distance between the facades of buildings on opposite sides of a street, excluding open porches, stoops and projecting eaves. Dwellings on opposite sides of the street should be located at least 70 feet, but no more than 90 feet, across from one another, except along boulevards and when buildings face onto greens, commons, or other greenways.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-445.08. Residential density.

- (a) *Density.* The density, or number of dwelling units, in the village center district applies to three density ranges where public water and/or sewer is available:
 - (1) Low density (one to three dwellings units per acre) within the village residential area;
 - (2) Medium density (four to six dwellings per acre) within the central residential area; and
 - (3) High density (seven to 16 dwellings per acre) within the storefront or central residential areas.
- (b) *Available area.* The area available for dwelling units pertains to lands outside of the required greenway area.
- (c) *Density bonus.* Residential bonus densities in the central and village residential areas above the established thresholds is permitted when certain public objectives are met:
 - (1) *Affordable housing.* For every one affordable housing unit, one additional housing unit can be permitted, up to a total of 20 percent above the total permitted density. Affordable housing is defined as units sold or rented to families earning less than the county median income, as determined by the U.S. Department of Housing and Urban Development.
 - (2) *Greenway area.* For every one percent increase in greenway area, a one percent increase in residential dwelling units can be obtained up to a total increase of ten percent above the permitted density.
 - (3) *Public use facilities.* A density increase may be granted and specified in the terms and conditions of a development agreement where the village provides for the dedication of land for public use facilities including but not limited to, active and passive public parks and recreation areas, public buildings, school sites, etc.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-445.09. Retail/commercial density.

The total acreage set aside for retail and commercial uses should not exceed 30 percent of the total village area.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-445.10. Dimension standards and density table for a village center.

Table 44-445.10-1 below establishes the building envelope and lot dimensional standards for the VC district.

Table 44-445.10-1. Village Center Dimensional Standards

Dimensions	Storefront (core)	Central Residential	Village Residential	Greenway Area
Lot size (min. sq. ft.)		5,000 or 8,000 with accessory unit	5,000 or 8,000 with accessory unit	
Lot size (duplex and multifamily)		For 2-5 unit family dwellings; 2,500 sq. ft. to 4,000 sq. ft. per lot		
Frontage/lot width (min. ft.)	20	40	40	
Frontage build-out (%)— Lots up to 50 ft. of frontage width	100%	80%	—	
Frontage build-out (%)— Lots exceeding 50 ft. of frontage width	0%	20%	—	
Front setback (min. ft.)	0	5	12	
Front setback (max. ft.)	10	20	30	
Side setback (min. ft.)	0	5	8	
Rear setback (min. ft.)	20	20	20	
Height (max. ft.)	40	40	35	
Max. impervious coverage (%)	80	75	60	
Area size (as a percentage)	Up to 30% of the total village	Up to 40% of development	30% of village area	

The limits depicted under area size in table 44-445.10-1 above may be modified subject to the following factors:

- (1) Topography, surrounding land uses, availability of utilities, market conditions, etc.

- (2) Commercial buildings and their associated parking areas may occupy more area of the village if they include second-story nonretail uses.
- (3) The height limitations of this chapter do not apply to chimneys, spires, gables, cupolas, standpipes, flagpoles, monuments, transmission towers, radio or television antennas, cables, water tanks and similar structures and necessary mechanical appurtenances for the village district, provided that no exception covers, more than ten percent of the area of the building's roof or the ground on which it is located. Such architectural features on institutional, civic or religious buildings may equal the height of the building.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-445.11. Permitted uses.

- (a) *Permitted uses.* Permitted uses ("P") for the VC district are shown in table 44-445.11-1 below. Additional compatible uses in a village center may be permitted in accordance with the LBCS and NAICS classification system.

Table 44-445.11-1. Permitted Uses in VC District

Uses	Storefront Area	Central Residential	Village Residential	Greenway Area
Active recreation	P	P	P	
Business—Bed-and-breakfast establishments	P	P		
Business—Day-care centers	P	P		
Business—Gasoline stations along major arterial roads	P			
Business—Professional offices, personal or professional services and civic and institutional uses such as schools, libraries and places of worship	P	P		
Business—Retail uses, professional offices, personal or professional services	P			
Civic and institutional uses such as schools, libraries, and places of worship	P			
Governmental or public uses, excluding storage of materials, trucking or repair facilities, private or municipal sanitary landfills	P			
Active noncommercial recreation areas, such as playing fields, playgrounds, courts, and bikeways, provided such areas do not consume more than half of the minimum required greenways or ten acres, whichever is less. Parking facilities for the same shall also be permitted, provided they must not be included in the required greenways.				P

Uses	Storefront Area	Central Residential	Village Residential	Greenway Area
Agricultural and horticultural uses, excluding uses that involve structures. Specifically excluded are livestock operations involving swine, poultry, mink, and other animals likely to produce highly offensive odors.				P
Conservation of open land in its natural or managed state				P
Easements for drainage, access, sewer or water lines, or other public purposes				P
Golf courses may comprise up to 50 percent of the required greenways, but shall not include driving ranges or miniature golf. Golf course parking areas and any associated structures shall not be included within the required greenway calculation.				P
Neighborhood greenways uses such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses				P
Pastureland for horses and other grazing livestock. Equestrian facilities (including commercial facilities and barns to house animals) shall be permitted but may not consume more than half of the required greenways. Outdoor riding arenas are permitted. Indoor riding arenas are not permitted. Parking areas shall not be included within the required greenway calculation.				P
Infiltration areas for stormwater management facilities, provided that such areas do not occupy more than 25 percent of the required greenways				P
Home occupations	P	P	P	
Residential—Two- to 16-unit family dwellings	P	P		
Residential—Accessory dwelling units that are architecturally integrated with the primary structure or accessory buildings		P	P	
Residential—Accessory uses		P	P	
Residential—Live/work units. Ground floor for business and upper-story for residential.	P	P		
Residential—Single-family detached dwellings		P	P	
Uses in table 44-403-1 under the RC or O-I districts except those prohibited in subsection (b)(2) below	P			

(b) *Prohibited uses.*

- (1) Uses that are not specifically permitted in table 44-445.11-1 above or that are similar in use and character as referenced in the LBCS and NAICS classification system are prohibited.
- (2) Specifically prohibited uses in the village center include:
 - ◆ Commercial green house;
 - ◆ Convenience store with gas pumps;
 - ◆ Farm supplies;
 - ◆ Funeral home;
 - ◆ Hospice/palliative care;
 - ◆ Hospital;
 - ◆ Landfill;
 - ◆ Motor vehicle repair;
 - ◆ Nursery/landscaping;
 - ◆ Nursing/convalescent extended care center;
 - ◆ Portable concession stands and ice machines;
 - ◆ Telecommunication tower (stand-alone).

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-445.12. Design standards for storefront area.

- (a) *Design considerations along a highway corridor.* Village design standards must coordinate with MUC-O design standards in overlay areas designated in the SAPs.
- (b) *Architectural design guidelines.*
 - (1) *Massing.* All new construction must visually be of similar scale and massing as traditional scale of commercial buildings in historic hamlets and villages. The massing of larger commercial buildings must be de-emphasized using, but not limited to, one of the following methods:
 - a. The use of projecting and recessed wall sections, to reduce their apparent overall bulk. Facade breaks must be at least three feet in depth. Such breaks in facades and rooflines should occur at intervals of no more than 50 feet.
 - b. Storefront buildings located on the same side of the street and block must be attached, or located not more than 15 feet apart, except when separated by a pocket park or a common, green or square.
 - (2) *Architectural style and detail.*

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- a. Buildings may be either traditional in their architectural character or a contemporary expression of historically traditional styles and forms, respecting the scale, proportion, character, and materials of shops.
 - b. Buildings must articulate the line between the ground and upper levels with a cornice, canopy, balcony, arcade or other architectural feature.
 - c. The use of special architectural elements such as towers, turrets and corner cutoffs, is encouraged at major street corners to accent structures and provide visual interest. These elements must be kept in scale with the overall structure.
- (3) *Main entrances.*
- a. As one of the most important parts of the facade, the main entrance must be easily identifiable. Doors and entryways must follow a traditional storefront design (usually recessed) and be compatible with the architectural style of the structure.
 - b. Main entrances must be from the front sidewalk, except in courtyard designs. Secondary entrances may open to a rear parking lot.
 - c. When a building is located on a corner, the entrance must be located on the corner with an appropriate building articulation, such as a chamfered corner, turret, canopy or other similar building feature.
- (4) *Rear entrances and facades.* When rear parking is provided, the provision of secondary rear entrances and pleasing rear facades is strongly encouraged. The design of the rear entrances and facades should be appropriately detailed to provide an attractive appearance, but should not be overly embellished to compete with the main storefront. Rear entrances should be marked by attractive signs. Signs should be modestly scaled to fit the character of the more utilitarian rear facade. Planters, awnings and landscaping may be used to identify rear entrances as well as improve the appearance of the structure.
- (5) *Lighting.* Lighting standards of the MUC-O, section 44-430.14, must be met.
- (6) *Solid waste screening.*
- a. Dumpsters or trash handling areas must be screened from adjacent properties and from public view, with a minimum six-foot-high solid fence or wall using materials similar in appearance and durability as the principal structure. All the areas must have a solid and closeable gate.
 - b. Trash receptacles must be decorative and located so they are not obtrusive but are in harmony with the character of the village.
- (7) *Service areas.* All loading, shipping, storage, and maintenance areas viewed from the street must be heavily landscaped with mature evergreen trees, at least six feet tall, or other six-foot-tall opaque screening constructed of materials that are the same as the primary building, while providing sufficient space for ingress and egress of vehicles.
- (8) *Mechanical equipment.* The mechanical equipment must be screened from the street and customer entrances by walls, fencing and/or landscaping. Mechanical equipment on rooftops must be screened from the view of the street.
- (9) *Windows.*

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- a. At ground level, the majority of the nonresidential buildings' front elevation must be windows. At a minimum, one side elevation must have some windows. Windows on other elevations is optional.
 - b. Clear glass must be used on ground floor windows. Tinted glass providing a minimum of 50 percent light transmission is limited for use only in transoms and windows above the ground floor. The use of bronze tinted or reflective glass is prohibited.
 - c. The use of transom windows is strongly encouraged.
 - d. If aluminum window frames are used they must be factory coated. Bare aluminum window frames are prohibited.
- (10) *Roofs.* Roofs must be pitched with overhanging eaves, or flat with articulated parapets and cornices. Roof materials can include slate (either natural or manmade) or shingle (either wood, asphalt or concrete composition). Metal roofing can be used if it resembles traditional slate or shingle design. Specifically excluded are corrugated metal roofs. Roofs must be earth-tone in color. The use of fascias, dormers, and gables is encouraged to provide visual interest.
- (11) *Awnings.*
- a. Awnings may be constructed from heavy canvas, matte finish vinyl or fabric. Metal, plastic, shiny vinyl and transparent material awnings are prohibited.
 - b. A minimum eight-foot vertical clearance between the sidewalk and the lowest part of the awning must be maintained.
 - c. Awnings must break at the vertical divisions of the structure (for example, the break between the display windows and the entrance).
 - d. The highest point of a storefront awning must not be higher than the midpoint between the second story windowsills and the top of the first floor storefront window or transom.
- (12) *Building materials.*
- a. Exterior wall surface materials of all building sides may include wood shingle, brick, fiber cement siding, stucco and textured vinyl. Other products that resemble textures found in the historic villages and towns may also be used. The use of smooth vinyl, cinder-block walls, poured concrete walls, painted brick, wood composite, corrugated or metal paneling is prohibited.
 - b. Artificial-looking veneers that appear to be "added on" to a structure are strongly discouraged.
 - c. The number of different wall materials must be kept to a minimum, preferably no more than two.
 - d. Commercial grade windows and doors must be used.
- (13) *Color.* Exterior of buildings must be earth-tone in color.
- (c) *Landscaping of commercial buildings.* In addition to the landscaping requirements of section 44-523, the following regulations apply:

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- (1) To reduce maintenance, ensure longevity, and reinforce the indigenous materials of the area, landscaping around commercial buildings and their parking lots should emphasize native species of trees, shrubs, and flowers.
 - (2) Plant species should be selected to provide visual interest at different times of the year, with relatively low maintenance needs.
 - (3) The facades of storefront buildings may be separated from the sidewalk by a landscaped strip no greater in depth than five feet, except as necessary to accommodate outdoor eating establishments, or in courtyard designs.
- (d) *Signs.* In addition to the sign requirements in article V, division 7, signs must conform to the following regulations:
- (1) Monument signs are allowed. Pole signs are prohibited.
 - (2) Signs must be affixed to a building facade, canopy, or arcade.
 - (3) Sidewalk signs must not interfere with pedestrian walkways.
 - (4) The tops of wall mounted signs (except window signs) must be located no higher than the sills of second-story windows.
 - (5) The shape and design of signs are encouraged to be unique but subtle and compatible with each other.
 - (6) Signs must be earth-tone in color.
 - (7) Signs may be illuminated. Flashing, moving, LED and any other electronic lighting is prohibited.
 - (8) Moving signs and signs with moving elements are prohibited.
 - (9) External neon signs are prohibited. Nonflashing neon signs may be displayed inside windows provided they occupy no more than 15 percent of the glass area of the window in which they are displayed.
 - (10) In addition to one freestanding sign, one static fascia canopy sign is permitted on sides visible from the public right-of-way. Each canopy sign may have a maximum area equal to 25 percent of the canopy fascia surface, up to a maximum height of two feet.
- (e) *Parking.* On-street parking is encouraged. Other required parking must meet the parking requirements in section 44-534.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-445.13. Residential design standards for central and village residential areas.

- (a) *Architecture.* Single-family, multifamily (two- to 16-unit) dwellings and accessory dwellings may be either traditional in their architectural character or a contemporary expression of historically traditional styles and forms, with respect to scale, proportion, character, and materials. Different housing types and price ranges should be intermixed rather than physically segregated. Dwellings must be designed so that:
- (1) Dwellings front directly onto streets, rather than parking areas.
 - (2) The majority of homes must be oriented with their gable-ends facing the street.

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- (3) The majority of homes must have a covered front entry porch, raised a minimum of 18 inches above ground level.
 - (4) Multifamily (two- to 16-unit) dwellings must be designed to resemble large single-family residences.
 - (5) Roof pitch with slopes between 8:12 and 12:12 is encouraged.
 - (6) Fire escapes are prohibited on any side of an accessory dwelling unit except at the rear.
 - (7) Issuance of permits for accessory units that are proposed and built as part of the original village concept site plan are not required to have board of adjustment approval for a special use permit. All off-street parking for accessory dwelling units must be located to the side or rear and visually screened from adjoining properties.

(b) *Building materials.*

- (1) Exterior wall surface materials of all building sides may include wood shingle, brick, fiber cement siding, stucco and textured vinyl. Other products that resemble textures found in historic villages and towns are also permitted. The use of smooth vinyl, cinder-block walls, poured concrete walls, painted brick, wood composite, corrugated or metal paneling is prohibited.
- (2) Artificial-looking veneers that appear to be "added on" to a structure are strongly discouraged.
- (3) The number of different wall materials must be kept to a minimum, preferably no more than two.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-445.14. Village greenway area.

- (a) Greenways must consist of a combination of natural greenway areas (if pre-existing) and managed greenway areas. Natural greenway areas include meadows, woodlands, large specimen trees, wetlands, floodplain and steep slopes. Managed greenway areas may contain multiple greens, commons, squares and parks. Managed greenway areas must serve a variety of outdoor leisure and assembly needs of village residents and enhance the form and appearance of the village. Managed greenways must be distributed throughout the village in the village residential area, the central residential area and to a minor amount in the storefront area.
- (b) Within all villages, a larger, primary, centrally located managed greenway area between 20,000 square feet and 40,000 square feet in size is required.
- (c) A portion of the required greenway areas must be within commercial areas.
- (d) All managed greenway areas must be planted with shade trees along their edges no more than 40 feet apart.
- (e) The views of greens, commons and squares must be maximized by locating greenways as a terminal vista as often as possible, such as the ends of streets at three-way intersections, and/or along the outer edges of curving streets.
- (f) The majority of managed greenway areas must remain for passive recreation activities such as walking/biking trails, sitting and or picnic areas. The remainder of the managed greenway areas

can contain active recreation facilities such as playing fields for team sports, golf courses, tennis and basketball courts. Playing fields, playgrounds and courts must be set back at least 100 feet from the perimeter of abutting properties.

(g) Calculations for required greenway cannot include above-ground power line rights-of-way.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-446. 321-economic development district (321-ED).

Purpose: The 321-economic development district (321-ED) is designed to accomplish the following:

- ◆ *Promote a sensitive conversion of farmland and vacant land to more urban uses.*
- ◆ *Support development that is compatible with and, whenever possible, enhances the visual attractiveness of the land.*
- ◆ *Promote well-planned, economically viable development of all types.*
- ◆ *Ensure safe and efficient traffic flow along the U.S. 321 corridor and other roadways as designated in the small area plans.*
- ◆ *Protect the environment by providing clean air, clean water and an appropriate mix of natural vegetation and wildlife.*
- ◆ *Encourage orderly and sensitive planned development, especially at the interchanges.*
- ◆ *Avoid uncoordinated, strip development patterns.*
- ◆ *Promote flexibility in individual site design including diversification in the location of structures, parking areas and other components.*
- ◆ *Encourage the efficient use of land to facilitate an economical arrangement of buildings, traffic circulation systems, land uses and utilities.*
- ◆ *Provide for more usable and suitably located recreation facilities and other public and common facilities that would not otherwise be provided under conventional land development procedures.*
- ◆ *Encourage high-quality development.*
- ◆ *Ensure that adequate traffic capacity is available to serve proposed projects.*
- ◆ *Create an environment that supports opportunities for alternative residential development that consists of well-planned, affordable housing.*
- ◆ *Encourage cooperation between local governments concerning municipal growth and service extensions.*
- ◆ *Support mixed-use projects that enhance opportunities to work, shop, entertain and recreate on the same or adjacent sites.*
- ◆ *Enhance the economic, tax and employment base for the county and each municipality.*

The intent of the 321-ED district is to implement strategies as well as specific policies contained in the U.S. 321 corridor district plan and the Mountain View and Startown small area plans. Similar to

planned development districts, the goal of the 321-ED district is to promote high-quality development through well-planned, well-designed development. The county's policy is that the 321-ED district is the only new zoning classification that will be approved in the U.S. 321 corridor for nonresidential and multifamily development. The U.S. 321 corridor is defined in the adopted U.S. 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.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-446.01. Applicability.

- (a) This section applies to any application for nonresidential or multifamily development approval within the 321-economic development district (321-ED), except as provided below.
- (b) New residential subdivisions, existing single-family, site-built or manufactured homes and duplexes are exempt from the requirements of the 321-ED district. Additions to such structures or accessory uses are permitted, without board of adjustment approval, subject to the zoning requirements of the district, before 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) This section does not apply to county public facilities as stipulated in section 44-106.
- (d) Where there are conflicts between the special regulations in this section and general zoning, subdivision, or other regulations or requirements, the more restrictive requirement shall apply in 321-ED districts, unless the planning director finds, in the particular case, that provisions in this section do not serve public purposes to a degree at least equivalent to such general zoning, subdivision, or other regulations or requirements.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-446.02. Permitted uses.

- (a) *Use elements.* The 321-ED district includes two subdistricts:
 - (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.

One of these two subdistricts shall be indicated on all rezoning applications and shall be delineated on the official zoning map.

- (b) *Permitted uses.* More specifically, the following principal and accessory uses and structures may be permitted in the 321-ED districts, subject to the limitations and requirements listed. The following uses are permitted in the 321-ED (MX) districts:

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- (1) Retail stores, except those dealing primarily in secondhand merchandise other than antiques, including the following:
 - a. Bakeries, confectioneries, delicatessens, fish markets, meat markets, or other stores, with products processed or prepared on, and sold only for, retail on the premises.
 - b. Clothing stores, shoe stores;
 - c. Drugstores, newsstands, tobacco shops;
 - d. Florists, gift shops, jewelry stores, stationery stores, specialty shops;
 - e. Groceries, supermarkets;
 - f. Hardware, sporting goods, garden supply stores; and
 - g. Variety stores.
 - (2) Financial institutions.
 - (3) Convenience stores (with or without gas pumps), but not repair garages, provided that no more than two convenience stores shall be permitted on any one site, and that no convenience store site can consist of more than 25,000 square feet or five percent of the area of the site, whichever is less.
 - (4) Theaters.
 - (5) Personal service establishments, including but not limited to:
 - a. Barbershops, beauty shops;
 - b. 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.
 - (6) Bowling alleys and similar commercial recreation establishments.
 - (7) Offices; clinics; studios; laboratories; business, professional, labor, civic, social, and fraternal offices.
 - (8) Funeral homes.
 - (9) Banks, savings and loan associations, and similar financial institutions.
 - (10) Hospitals.
 - (11) Schools.
 - (12) Hotels/motels.
 - (13) Child care nurseries; day care centers; prekindergarten, kindergarten, play and other special schools, or day care facilities for young children.
 - (14) Adult day care centers.
 - (15) Libraries, museums, and galleries.
 - (16) Auditoriums and their accessory facilities.

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- (17) Social, recreational, and cultural facilities, such as neighborhood or community centers, game rooms, libraries, golf courses, swimming pools, tennis courts.
 - (18) Eating and drinking establishments.
 - (19) 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 must be screened as set forth in this chapter. The uses must be appropriate to the character of the surrounding land uses.
 - (20) Dwellings, single-family (large-lot, zero-lot-line and cluster), two-family, and multifamily, provided they are part of a mixed-use site plan 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.
 - (21) Uses and structures which are customarily accessory and clearly incidental to permitted principal uses and structures.
- (c) *321 ED-I districts.* Permitted principal and accessory uses and structures in the 321 ED-I district shall be according to table 44-403-1 and the corresponding LI zoning district. Business and professional service offices are also permitted uses.
- (d) *Prohibited uses.* For the purposes of maintaining visual attractiveness of the 321 corridor, the following uses are not permitted in any 321-ED district:
- (1) Aboveground pipelines;
 - (2) Asphalt products processing;
 - (3) Auto repair or auto service shops;
 - (4) Auto sales, storage or salvage yards;
 - (5) Drag strips or racetracks;
 - (6) Drive-in theaters;
 - (7) Flea markets (outdoor);
 - (8) Lumberyards;
 - (9) Manufactured and modular home sales;
 - (10) Mining of earth products;
 - (11) Open conveyor belts;
 - (12) Solid waste disposal sites;
 - (13) Tire recapping shops;
 - (14) Veterinary offices or clinics; and
 - (15) Wrecking yards or junkyards.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-446.03. Reserved

Sec. 44-446.04. Residential development.

The following apply to all residential development in the 321-ED district:

- (1) *New site-built homes in the 321 ED(I) district.* So as to not interfere with the assemblage of smaller parcels for more appropriate nonresidential uses, single-family dwellings are prohibited in any 321-ED(I) district.
- (2) *New site-built homes in the 321-ED(MX) district.* Site-built single-family homes are permitted in the 321-ED(MX) district only as part 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.
- (3) *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.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-446.05. Detailed site plan required.

- (a) *Contents.* No building permit shall be issued in the 321-ED district until a detailed site plan is approved as provided in section 44-317. In addition to the requirements of section 44-317, the detailed site plan must include the following:
 - (1) Provisions that indicate any storage will occur in an enclosed building;
 - (2) Provisions to significantly contain noise, odors, smoke and dust and light on site; and
 - (3) 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.
- (b) *Minimum parcel size.* The minimum parcel site for submitting a site plan for review in the 321-ED district is five acres of contiguous property. Property may be subdivided into lots less than five acres subject to the requirements of subdivisions in subsection (c) below. 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 site plan includes development plans for the entire development parcel. A site plan for parcels less than five acres that existed prior to the adoption of the 321-ED district (July 22, 1996) may be accepted by the planning director if a determination is made that practical difficulties exist and all opportunities have been exhausted. A site plan for a parcel or combined parcels of less than five acres, but greater than one acre, may be approved provided the overall policies and goals contained within the Highway 321 corridor plan will not be compromised. A site plan pertaining to a parcel or combined parcels of less than five acres will be considered subject to the following criteria being met:
 - (1) Where a site plan with less than five acres provides for coordinated development with adjoining developments, including connected roads and shared driveways, the site 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; and

- (2) The remaining standards of the 321-ED zoning district are met.
- (c) *Subdivisions.* Subdivisions are permitted in the 321-ED district only through review and approval of a site plan so as not to compromise the integrity of the site plan regulations and to avoid interference with the assemblage of smaller parcels for more appropriate development. In addition to other county regulations, land that is subdivided as part of a site plan project must conform to the following:
 - (1) *Parcel size.* Individual lot sizes must be as indicated in table 44-446-2 below.
 - (2) *Road designs.* All roads must conform to the most recent design standards of NCDOT.
 - (3) *Future development of subdivided lots.* All future development of individual parcels in the subdivision requires a site plan which must conform to all applicable site design and improvement standards included in this section.
 - (4) *Applicable site design standards.* The site design must comply with all improvement standards included in this section.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-446.06. General development standards.

The following general provisions apply:

- (1) *Other regulations.* The site design must conform to all local, state and federal regulations through the site plan review process.
- (2) *Long-range plans.* The plan must 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 must 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 must 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 must 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 the 321-ED district may be divided by streets, alleys, rights-of-way or easements, but must be so located, dimensioned and arranged as to permit unified planning and development and to meet all requirements, as well as to provide necessary protection against adverse relationships between uses in the district and uses in surrounding areas.
- (6) *Phasing.* Where a site plan is to be constructed in stages, the infrastructure and improvements must be in place on the initial phase before subsequent phases are developed.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-446.07. Preservation.

Protecting environmentally sensitive land and historical sites should be given high priority in site design. Unless the planning director determines that preservation would interfere with all economically feasible use of the property, or if preservation is not possible because of unique topography, the following must be preserved:

- (1) Wetlands as defined through field inspection by the U.S. Army Corps of Engineers;
- (2) Lands in the floodplain as identified on FEMA flood hazard maps;
- (3) Slopes in excess of 20 percent over intervals of ten feet or more; and
- (4) Historic sites.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-446.08. Dimensional requirements.

Development must conform to the following dimensional requirements:

- (1) *Permitted building height.* Buildings up to 75 feet are allowed in the 321-ED district subject to the setback requirements set forth in this section. Additional building heights are 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 from the edge of all street rights-of-way, planned street rights-of-way and property lines for the outer boundaries of the development are as follows:

Table 44-446.08-1. Building Setbacks, 321-ED District

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 site-plan process, design of interior individual lots must conform to the following dimensional requirements, except for requirements included in the site design and improvement standards in subsections 44-446.15(d) and (e).

Table 44-446.08-2. Subdivision Lot Requirements, 321-ED District

Use Elements	Lot	Setbacks			
Minimum sizes	Overall (sq. ft.)	Width (feet)	Front (feet)	Side (feet)	Rear (feet)
ED(MX)	20,000	100	30	20	30
ED(I)	40,000	100	30	25	35

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- (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 must be measured from the expanded right-of-way for these improvements. Future roads or road improvements that are shown on the urban area transportation plan and the county's thoroughfare plan must be indicated on any subdivision plat, site plan, or zoning authorization permit applications. Buildings and structures must be located outside the proposed right-of-way or pavement edge of such improvements where these locations are indicated on the urban area transportation plan and the county's thoroughfare plan and roadway design and right-of-way has been identified.
- (5) *Nonresidential densities.* To encourage land assemblage, floor area ratios (FAR) are permitted on a sliding scale as follows:

Table 44-446.08-3. Floor Area Ratio (FAR), 321-ED District

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

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-446.09. Circulation system design.

The following circulation system requirements apply to all development in the 321-ED district:

- (1) *Generally.* 321-ED districts must have direct access to an arterial, collector, major or minor thoroughfare street and be designed to minimize traffic in residential neighborhoods.
- (2) *Access to major roads.* All site plans must depict access to at least one major or minor thoroughfare unless the plan is less than the minimum parcel size requirement as noted in subsection 44-446.05(b).
- (3) *Access points permitted.*
 - a. One access point is allowed on any property with less than 500 feet of frontage on a major or minor thoroughfare.
 - b. Two access points are allowed on major and minor thoroughfares if the property has frontage that equals or exceeds 500 feet on a major or minor thoroughfare and the results of a site access study or a recommendation from the NCDOT indicate the need for a second access point.
 - c. Three access points are allowed if the property has frontage that equals or exceeds 1,000 feet on a major or minor thoroughfare and the results of a site access study or a recommendation from the NCDOT indicate the need for a third access point. Three

access points are the maximum number of access points allowed for a single project on any major or minor thoroughfare.

- d. The location of access points must conform to NCDOT policies for street and driveway connections.
 - (4) *Off-site traffic improvements.* The applicant must provide a site access study when required by NCDOT. Transition tapers and deceleration lanes are required for all site plan projects where a site access study requires or a recommendation from NCDOT indicates that such improvements are necessary. The costs of deceleration lanes and transition tapers are the responsibility of the owner or developer of the property.
 - (5) *Shared access.* Mutual shared access agreements are 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 must conform to NCDOT policies for street and driveway connections.
 - (6) *Connected interior driveways/parking.* Adjacent commercial developments with access to a major or minor thoroughfare must connect interior parking and driveways. Where adjacent commercial property is vacant, sufficient provisions to connect to the properties must be submitted. Parcels with frontage on major or minor thoroughfares are required to provide or reserve sufficient access to any adjacent properties with poor or nonexistent access. See subsection (5) above pertaining to shared access. When a site plan is submitted for a tract that is located immediately adjacent to properties less than five acres which front along a common public street, the plan must provide reasonable access to the adjacent properties by one of the following:
 - a. Building layout must be shown with a break or open space to allow for construction of a future road serving the adjoining property. The plan must show future road site(s) 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 must show a roadway connection to the adjoining property that will be constructed as part of the site plan.
 - (7) *Channelization.* Channelization improvements must be installed where significant turning conflicts are involved with the new development. "Channelization" means the separation of conflicting traffic movements into well-defined paths of travel by traffic islands or significant pavement markings.
 - (8) *Signalization.* Only after all other traffic improvements have been explored can signalizations be installed, subject to NCDOT approval.
 - (9) *Street design.* All streets must be designed and paved to meet NCDOT standards.
- (Ord. No. 2021-05, 6-21-2021)

Sec. 44-446.10. Landscaping, buffering and screening.

The following landscaping requirements apply to all development in the 321-ED district:

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- (1) *Construction cleanup.* All dead or dying trees, stumps, litter, brush, weeds or other debris must be removed from the site at the time of occupancy.
 - (2) *Maintenance.* All landscaping and screening must be maintained so as to continue their effectiveness.
 - (3) *Landscaping of disturbed land.* Landscaping of all cuts and fills must be sufficient to prevent erosion. All roadway slopes must be landscaped.
 - (4) *Interior street landscaping.* For multitenant, multiparcel or multibuilding developments, shade trees must be planted along both sides of all interior access streets, excluding streets not typically used by the public. Street trees must be planted adjacent to the sidewalk and must meet the following:
 - a. An average of one shade tree is required for every 40 linear feet of lot frontage on each side of the street or, where overhead lines are present, street trees of low-growing varieties must be planted an average of one tree for every 30 feet of street frontage on each side of the street. Trees should be spaced approximately equal distance.
 - b. Each tree, at the time of installation, shall have a clear trunk height of at least five feet and a minimum caliper of two inches. The tree must be a minimum 15-gallon container size or balled and burlapped at time of planting. An appropriate mulch bed must be provided around the tree.
 - c. In the absence of overhead lines in the planting area, the shade tree should achieve a mature height of over 20 feet and a mature spread of at least 15 feet.
 - d. All trees planted within the right-of-way shall require approval by NCDOT.
 - (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 must be grassed and landscaped.
 - (6) *Use of existing topography.* Developments must 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 is required for the portion of all development adjacent to the U.S. 321 right-of-way. The buffer must include the following improvements planted in an offset pattern:
 - a. One tree (two-inch caliper) 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 must 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 are prohibited in the buffer areas. The buffer areas must extend along the entire length of the lot.

- (8) *Residential buffers.*
 - a. When a 321-ED district directly abuts a residential zoning district, all of the structures for the nonresidential uses must be set back 75 feet from all residential property lines. This

area must be labeled as the "natural buffer area." No buildings, signs or parking are allowed in this area.

- b. The buffer must meet the requirements of subsection 44-523(f).
- (9) *Water body buffers.* An undisturbed natural buffer must be provided along all rivers, streams, creeks and other natural bodies of water which:
- a. Are identified as perennial waters on the United States Geological Survey (USGS) quadrangle topographic maps; and
 - b. Qualify as environmentally sensitive areas (for example, floodplains as delineated by FEMA, and wetlands, as identified by the U.S. Army Corps of Engineers through field inspection).

Where the 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, and all requirements of this chapter. 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 apply:
- a. *Internal landscaping.* Internal landscaping must meet the requirements of subsection 44-523(e).
 - b. *Perimeter parking landscaping.* Perimeter parking landscaping must meet the requirements of subsection 44-523(d).
- (11) *Foundation plantings.* The pedestrian entranceway and/or surface parking facilities outside of the commercial areas must be separated from the exterior wall of any principal structure by a landscape buffer. The landscaped buffer strip must be at least five feet in width along the building foundation.
- (12) *Maintenance area screening.* All loading, shipping, storage, maintenance, trash/refuse and mechanical areas must be landscaped in accordance with section 44-526.
- (13) *Open storage screening.* Open storage must comply with the screening requirements in section 44-527.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-446.11. Pedestrian access.

Purpose: This section is designed to ensure that the site plan provides 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 should be grouped in relation to parking areas such that, after visitors arriving by automobile enter the walkway system, establishments can be visited conveniently with a minimum of conflicts with vehicles. Pedestrian

enhancements are essential to creating an efficient and functional environment as well as promoting a sense of place.

- (a) *Pedestrian design.* For multitenant/building/parcel projects, the site plan must include provisions for pedestrian-scale amenities, which may include benches, picnic tables, courtyards, plazas, water attractions and trash receptacles. An area must be reserved for pedestrian use and/or open space. This area must be improved with a hard surface, or a combination of hard surfaces and landscaping and/or pedestrian-scale amenities. Such areas may include covered malls for general pedestrian use, exterior walkways, and outdoor seating areas where the facilities are available for common use by employees and visitors. Required buffer areas and setbacks as well as improved deck and roof areas, may be used to meet this requirement.
- (b) *Heavy traffic generators.* Convenience stores, fast-food restaurants and similar uses, if provided, must be so located that operations do not interrupt pedestrian or traffic flows in other parts of the development.
- (c) *Location of loading zones and maintenance areas.* Loading zones where customers pick up goods must 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 must be so located and arranged as to prevent interference with pedestrian traffic in the center.
- (d) *Pedestrian travel.* All buildings or building clusters within the development must be connected with linkages other than roads (i.e. sidewalks, bikeways and walking paths). When feasible, these linkages must be provided between adjacent sites. Pedestrian access may be provided at any suitable locations within the district, but should 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.
- (e) *Natural areas.* Protecting environmentally sensitive areas for use as open space in the development should be given a high priority in site design. The site plan must identify these environmentally sensitive areas, for example, floodplains as delineated by FEMA, and wetlands, as identified by the U.S. Army Corps of Engineers through field inspection. Where these 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 and all requirements of this chapter.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-446.12. Parking.

The following requirements apply to all parking in the 321-ED district:

- (1) *Generally.* Off-street parking must be provided as required in article V, division 5. Off-street loading must 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 must be used as off-street loading space or maneuvering room for vehicles being loaded or unloaded.
- (2) *Rear parking encouraged.*

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- a. Parking lots are encouraged to be located in the rear of multiple-building developments and not visible from streets.
 - 1. If the parking facility is visible from a street, a landscape island is required for every ten spaces in a continuous row.
 - 2. If the parking facility is not visible from a street, a landscape island is required for every 15 spaces in a continuous row.
 - b. In single-building developments, parking areas must 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 subsections 44-523(d) and (e) must be met.
- (3) *Parking setbacks.* All parking areas must be located outside of the required setbacks and have a minimum of eight feet separation from all buildings. This separation must 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 must be made to allow for this parking connection when the property develops.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-446.13. Signs.

The following requirements apply to all signage in the 321-ED district:

- (1) *Generally.* All signs for the site plan must conform to the requirements in article V, division 7, except where the requirements included in this subsection are more restrictive. The following also 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. No signs may be placed within any sight triangle, as that term is defined by article V, division 7 of the County Code; and
 - c. No signs must be located in any street right-of-way. Signs may be placed in the landscaped buffer areas.
- (2) *Prohibited signs.* In addition to the signs prohibited in article V, division 7, the following signs are prohibited on any land zoned 321-ED:
 - a. Off-premise signs, including billboards;
 - b. Portable signs, whether temporary or permanent;
 - c. Roof signs;
 - d. Rotating multi-panel technology signs;
 - e. Posters, streamers, or similar devices used to attract attention (temporary or permanent);
 - f. Permanent windblown signs (banners, balloons, streamers, etc.).
- (3) *Permitted signs.* The following signs are permitted:

- a. One on-premises sign for a development with multiple buildings, parcels, or establishments, having not more than two sign surface areas, may be erected along each section of road frontage on a major or minor thoroughfare from which there is a median entranceway to the development. The signs may not exceed 100 square feet on each side of a back-to-back sign; may not be over 20 feet in height; and may identify the development, as a whole, and the establishments, buildings, and parcels within the development, but it must not contain any other commercial copy; or
- b. One on-premises sign for development with multiple buildings, parcels, or establishment, having not more than two sign surface areas, may be erected to identify the development along each section of road frontage on a major or minor thoroughfare from which there is a median entranceway to the development. The following height and area requirements apply, based on the type road that the development fronts:

Table 44-446.13-1. On-site Sign Requirements for Single Developments in 321-ED District

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
Source: Street Graphics and the Law, Mandelker and Ewald, 1988.			

- c. One additional on-premises sign, with a maximum area of 12 square feet, with a maximum height of six feet, is permitted for each individual building within a development.
- d. Wall signs are permitted subject to section 44-562.
- e. Light-emitting diodes (LED), tri-vision, electronic messages and other similar technologies are allowed. This technology can be utilized subject to the following:
 1. Pulsating or flashing sign structures or messages are prohibited.
 2. LED signs must hold a static message a minimum of eight seconds.
- f. In addition to one freestanding sign, one static fascia canopy sign is permitted on sides visible from the public right-of-way. Each canopy sign may have a maximum area equal to 25 percent of the canopy fascia surface, up to a maximum height of two feet.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-446.14. Site appearance.

Purpose: This subsection promotes building designs in the 321-ED district that provide diversity in style with distinct character and a high quality development standard.

- (a) *Underground utilities.* All on-site utilities (electrical, telephone, etc.) must be located underground unless technical restrictions exist for doing so. Provisions must be made to significantly reduce the visual blight of any aboveground utilities.
- (b) *Lighting.* Lighting must be provided at intersections, along walkways, in parking lots, between buildings and at development entrances. All lighting must be arranged to reflect the light away from adjacent properties and roadways. The maximum height is 25 feet for all lighting standards. Spacing of the standards is four times the height of the standard. Alternative lighting design may be approved which meets or exceeds the lighting pattern required in this subsection. The lighting plans must be endorsed by the utility provider.
- (c) *Paving materials.* Design and choice of paving materials in pedestrian areas, including crosswalks and sidewalks, include brick, concrete (aggregate exposed finish), cement pavers, brick pavers or similar materials. Pervious paving materials are encouraged provided that they are similar in appearance and durability to that which is listed above.
- (d) *Rooftop equipment.* Rooftop mechanical equipment shall be screened or sited so as not to be visible from the ground level.
- (e) *Building construction materials.* The following standards must be met for building construction in the 321-ED district:
 - (1) *Building front.* Ribbed paneling consisting of vinyl or metal material, or unpainted cinder blocks are prohibited as the building material for the front of a building facing a public right-of-way. For the purposes of this subsection, buildings located on corner lots are only considered to have one front.
 - (2) *Facade(s) visible from public rights-of-way.* Ribbed paneling consisting of vinyl or metal material, or unpainted cinder blocks are prohibited along the portion(s) of the building, which are visible from public rights-of-way. An exception can be made for the side or rear facade, where a solid vegetative screen exists or is installed which shields that portion of the facade(s) from public view, as determined by the planning director.
 - (3) *Facade(s) not visible from public right-of-way.* Sides not visible from public rights-of-way may use ribbed paneling, painted cinder blocks or other materials.
 - (4) *Type of building materials encouraged.* Examples of building materials which are encouraged include masonry, wood, fibrocement product, such as hardboard, textured vinyl and stucco and other new and innovative materials as they become available in the marketplace.
 - (5) *Exception—Building construction materials.* An exception to subsection a and b above, to allow ribbed vinyl or metal panels, is made for development within the 321-ED(I) district.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-446.15. Mixed use development in the 321-ED(MX) district.

Purpose: The 321-ED(MX) district regulations are designed to:

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- ◆ *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.*
 - ◆ *Encourage commercial and office uses that do not attract large volumes of traffic and continuous consumer turnover.*
 - ◆ *Provide for an alternative to strip-style, highway-oriented commercial uses.*
 - ◆ *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.*
 - ◆ *Minimize the visual and functional conflicts between residential and nonresidential uses within and surrounding the development.*
 - ◆ *Create relatively self-contained residential neighborhoods that provide many services on site that would otherwise require frequent automobile use.*
- (a) *Permitted uses.* See subsection 44-446.02(b).
- (b) *Use compatibility criteria.* The site plan shall include an analysis of the following compatibility guidelines:
- (1) There is a clear relationship between nonresidential and residential uses on any one site or adjacent sites.
 - (2) The use will not require more than one access point.
 - (3) Minimum visual and functional conflict will be created between the proposed uses or nearby uses.
 - (4) Anticipated noise and congestion created by the use will be insignificant, especially in the evenings.
 - (5) The bulk, height and scale of the buildings will be compatible with surrounding or proposed residential development.
- (c) *Mixed-use development standards—General design guidelines.* In addition to the applicable 321-ED district requirements listed in this section, all mixed-use developments must conform to the following standards:
- (1) All building sites and/or buildings shall be accessed on interior streets, not on thoroughfares or arterials or collectors.
 - (2) The placement of all buildings shall take into consideration topography, privacy, building height, orientation, drainage and aesthetics.
 - (3) 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.
 - (4) Common, accessible open space is 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

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- 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.
- (5) 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 use of curving cul-de-sac off interior collector roads is recommended to achieve the clusters.
 - (6) 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.
 - (7) There shall be several small pocket parks that serve as convenient passive open space and/or recreation areas for the adjacent properties.
 - (8) 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 planning director. All sidewalks between residential, open space and commercial sections shall be safe and lead to storefronts, not service areas.
- (d) *Residential developments.* Single-family dwelling units are permitted in conjunction with other residential types including the following:
- (1) Clustered single-family and duplexes, subject to the following:
 - a. *Minimum lot size:* 20,000 square feet. Lot sizes 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.
 - b. *Minimum lot width:* 50 feet (60 feet for duplexes); add ten feet on corner lots.
 - c. *Minimum front setback:* 15 feet (25 feet where the lot abuts a dedicated street or a large-lot single-family home site).
 - d. *Minimum side setbacks:* Ten feet.
 - e. *Minimum rear setbacks:* 20 feet.
 - f. *Maximum height:* 35 feet or three stories.
 - g. *Accessory buildings:* Accessory buildings shall be located in the rear setback no closer than five feet from the principal dwelling or five feet from any property line and no more than ten feet in height.
 - (2) *Zero-lot-line.* Zero-lot-line development allows the construction of single-family dwellings on individual recorded lots without a side setback requirement on one side. This concept permits the better use of the entire lot by compacting the front, rear and side setbacks 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.

- a. *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 be reserved for a public use (school, library, community building, etc.).
 - b. *Minimum lot width:* 40 feet (50 feet on corner lots).
 - c. *Minimum front setback:* Ten feet (25 feet where the lot abuts a dedicated street or a large-lot single-family home site).
 - d. *Minimum side setbacks:* 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.
 - e. *Minimum rear setbacks:* 20 feet.
 - f. *Maximum height:* 35 feet or three stories.
 - g. *Location of dwellings.* Dwellings shall be constructed against one side lot line, and no windows, doors or other openings are permitted on this side. The developer must provide for an unobstructed wall maintenance easement of five feet on the adjacent property.
 - h. *Accessory buildings.* Accessory buildings shall be located in rear setback no closer than five feet from the principal dwelling or five feet from any property line and no more than ten feet in height.
- (3) *Multifamily.* To encourage land assemblage, densities for all multifamily projects shall be administered on the sliding scale as follows (densities are based on the size of the development parcel allocated to residential use):

Table 44-446.15-1. Multifamily Density, 321-ED(MX) Subdistrict

Development Parcel Allocated for Residential Uses (Acres)	Dwelling Units per Acre
Less than 5	Not permitted
5—9.99	10
10—14.99	12
15—19.99	14
20 or more	16

- a. *Multifamily units:* In no case shall there be more than four multifamily units in one linear-designed building or more than ten units where the design is not linear.
- b. *Minimum front setback:* 15 feet (25 feet where the lot abuts a dedicated street or a large-lot single-family home site).
- c. *Minimum side setbacks:* Ten feet.
- d. *Minimum rear setbacks:* 20 feet.

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- e. *Maximum height:* 35 feet or three stories.
- (e) *Nonresidential standards.* The permitted commercial uses listed in subsection 44-446.02(b) are allowed in the 321-ED (MX) district. These uses shall comply with the following standards:
- (1) The nonresidential uses are encouraged to comply with the use compatibility guidelines in subsection (b) above.
 - (2) The following site design and dimensional standards apply to all nonresidential components of a mixed use development:
 - a. *Minimum lot size:* 10,000 square feet.
 - b. *Minimum lot width:* 50 feet (60 feet for duplexes); add ten feet on corner lots.
 - c. *Maximum height:* 35 feet or three stories.
 - d. *Accessory buildings.* Accessory buildings shall be located in rear setback no closer than five feet from the principal dwelling or five feet from any property line and no more than ten feet in height.
- (f) *Parking requirements.* The following parking requirements shall apply to multifamily and nonresidential components of all mixed-use developments.
- (1) The minimum number of off-street parking spaces shall comply with the requirements of article V, division 5 pertaining to off-street parking and loading requirements.
 - (2) The parking area location criteria and design and standards of subsection 44-446.10(10) and section 44-446.12 shall be adhered to for all mixed use developments.
 - (3) On-street parking that is located within 200 feet of the establishment's main entrance shall be counted toward the required off-street parking requirements.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-447. Manufactured home parks (MHP).

Purpose: The purpose of this section is to:

- ◆ *Further the orderly layout of manufactured home parks;*
- ◆ *Help secure safety from fire, floods, panic, congestion and other dangers in manufactured home parks;*
- ◆ *Provide for adequate light, air, and open space in manufactured home parks; and*
- ◆ *Ensure that facilities for transportation, parking, water, sewer, and recreation are provided to residents of manufactured home parks within this chapter's jurisdiction.*

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-447.01. Definitions.

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

Cul-de-sac. A permanent dead-end street with an area at the dead end for the purpose of turning around, having a minimum radius of 50 feet.

Existing conforming manufactured home park. A park that is operating within a zoning district where manufactured home parks are permitted in accordance with this chapter and was approved and constructed under the county's manufactured home park ordinance adopted on March 30, 1973.

Existing nonconforming manufactured home park. A park operating outside of a zoning district where manufactured home parks are permitted or has been operating before the adoption of the county's manufactured home park ordinance adopted on March 30, 1973.

Lot. Includes the word "plot," "parcel," or "tract."

Manufactured home park. A piece of land held in single or corporate ownership and developed in a unified manner for the placement of three or more manufactured homes to be occupied for living and sleeping purposes.

Manufactured home space. An area within an approved manufactured home park meeting all applicable requirements for the purpose of setting up a manufactured home.

One-way street. A street intended for traffic to flow in one direction.

Operating permit. A license issued by the planning director to the operator of an approved manufactured home park authorizing the park to conduct business.

Public water system. A water system provided by a municipality and/or county jurisdiction. It does not include private community wells which are approved by the NCDENR.

Setup. The process of placement of a manufactured home on a manufactured home space and includes the minimum requirements for blocking, wiring, plumbing, and anchoring in accordance with applicable local, state, and federal construction regulations.

Steps. A structural component bonded or fastened as one unit in accordance with the state building code and is for the purpose of ingress and egress from manufactured homes.

Street and road are synonymous in meaning.

Street jog. An intersection where one-half of the cross street is offset from the other half of the cross street so that the two halves do not lay in a straight line.

Structure. Includes the word "building."

Tie down. The process of anchoring a manufactured home to the ground in accordance with applicable local, state, and federal construction regulations.

Two-way street. A street intended for traffic to flow in two directions.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-447.02. Permitted uses.

- (a) Class A and B (doublewide/multisection and singlewide) manufactured homes meeting the following appearance criteria are allowed as permitted uses in manufactured home parks:
 - (1) *Roof construction and pitch.* The pitch of the main roof of the building must have a minimum rise of two and one-half feet for each 12 feet of horizontal run. The roof must be finished with a type of shingle that is commonly used in standard residential construction. A retrofitted

standing seam roof or shingle roof must be designed by a professional engineer and must be made a part of the load-bearing walls of the existing structure.

- (2) *Exterior finish.* The exterior siding must 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.
 - (3) *Tongue removal.* The towing tongue must be removed upon final placement of the unit, underskirted or screened with shrubbery. Such shrubbery must be of a height to ensure a total visual barrier of the towing apparatus and maintained so as to continue its effectiveness.
 - (4) *Underskirting and permanent steps.* Underskirting and permanent steps must be provided. The manufactured home must have the entire perimeter 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 include, but are not 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 must be installed in accordance with the manufacturers' specifications.
 - (5) *Deck.* The manufactured home must have either a deck or porch with steps. This structure must be located in front of the home. The deck or porch must be a minimum of 36 square feet. If the homeowner chooses to construct the deck or porch larger than 36 square feet, it must meet the building code. All steps, decks, porches and entrances must be installed and constructed in accordance with the standards set by the state regulations for manufactured/mobile homes or, when applicable, building code.
- (b) Existing singlewide or doublewide manufactured homes not meeting the appearance criteria in subsection (a) above which are located in parks approved prior to the adoption of this chapter are grandfathered at their current location.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-447.03. Nonconforming manufactured home parks.

Nonconforming manufactured home parks must meet the requirements in subsection 44-703(d).

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-447.04. Conforming manufactured home parks.

- (a) Manufactured home parks that are operating as existing conforming approved parks as of the effective date of the chapter may continue to operate under the terms of the operating permit originally issued. However, any expansion of the park must conform to this chapter. If the park has its operating permit revoked or if it ceases operation for a period of 90 days, the park cannot reopen until it complies with all the standards of this section as well as all other applicable state and local laws.
- (b) Manufactured homes must meet the appearance criteria as stated in section 44-447.02 above.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-447.05. Inspections.

In order to achieve the objectives of this chapter, authorized representatives of all review agencies are authorized and allowed to enter the property on which a proposed or operating park exists and make such necessary inspections as may be required to enforce this chapter. Inspections will be made during the regular business hours of the agencies. Failure to permit such inspections may result in delays of plan approval or loss of the operating permit.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-447.06. Loss of operating permit.

Upon issuance of an operating permit to an approved manufactured home park, the operator of the park must operate the park in compliance with this chapter and all applicable laws and regulations. If any of the inspecting agencies discover a violation of an applicable regulation, the agency will notify the planning director. Upon receipt of this notification, the planning director shall notify the holder of the operating permit of the park of such violation and grant a 30-day grace period in which to correct the violation. If, at the end of 30 days, the planning director and a representative from the agency find corrections have not been made, the operating permit may be revoked and returned, along with the tenant roster, within five days to the planning director. The owner may reapply to open and operate the park at a later date; however, the park must meet any changes in this chapter that may be in effect at that time.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-447.07. Notice to tenants.

Upon receipt of a tenant roster by the planning director, notice shall be given to each tenant of the nature of the violation and loss of the permit and tenants will have to vacate the premises within 90 days.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-447.08. Penalty.

Any person who is the owner or developer of a manufactured home park or any person who is the agent of the owner or developer of a manufactured home park who violates any section of this chapter shall be given notice of such violation by the planning director and be given a maximum of 30 days to correct the violation or be guilty of a misdemeanor. Following notice by the planning director, each day a violation exists, shall be considered a separate offense and may be prosecuted in accordance with G.S. 14-4. If at the end of 30 days the violation has not been corrected, the operating permit shall be revoked in accordance with section 44-447.06.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-447.09. Manufactured home spaces.

- (a) *Placement of homes.* Every manufactured home placed in a manufactured home park must be placed in a space that has been properly approved and is currently listed on the park operating permit.
- (b) *Minimum acreage and space design.* Any site, tract of land or lot to be developed as a manufactured home park cannot be less than five acres in area, excluding street rights-of-way. The minimum space design in manufactured home parks is determined by the provision of sewer facilities. The following minimum space requirements also take into account the need for adequate space to prevent overcrowding, prevent fire hazards, provide sufficient light and air:
 - (1) The minimum space requirements where public water and sewer are available are as follows:
 - a. Minimum space size is 5,500 square feet.
 - b. Minimum space width is 50 feet.
 - c. Minimum space setback requirements are:
 - 1. On the street side or front, ten feet.
 - 2. On sides, ten feet.
 - 3. On rear or side opposite street, ten feet.

Note: Setbacks are measured to the body or box of the manufactured home and not to the pull structure or hitch on the end of the home.
 - (2) The minimum space requirements where public water is available and a septic system is used are as follows:
 - a. Minimum space size is 12,000 square feet.
 - b. Minimum space width is 50 feet.
 - c. Minimum space setbacks are:
 - 1. On street side or front, ten feet.
 - 2. On sides, ten feet.
 - 3. On rear or side opposite street, ten feet.

Note: Setbacks are measured to the body or box of the manufactured home and not to the pull structure or hitch on the end of the home.
- (c) *Corners marked.* Each space must have the front and rear corners clearly marked so that visual establishment of the boundaries of each space can be made. This requirement applies during the inspection and approval phases, and markers may be removed from a space after it is occupied by a home and has passed all inspections. Reestablishment of corners may be required by authorized inspectors at future times in order that verification of compliance with this chapter.
- (d) *Spaces numbered.* Each manufactured home space must have a permanent number to identify the space. The numbers must be four inches in height and be visible from the street in front of the space.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-447.10. Street and parking requirements.

- (a) *Access.* The primary access to all manufactured home parks must be either from a publicly maintained street on the NCDOT system or from a street that has been properly approved and placed on public record in accordance with this chapter.
- (b) *Minimum street design.* All streets within a manufactured home park must be graded and paved with an impermeable material. Minimum pavement widths of streets within manufactured home parks are as follows:
 - (1) Two-way street, 20 feet;
 - (2) One-way street, 18 feet;
 - (3) Cul-de-sac, 60 feet; and
 - (4) Speed bumps, 200 feet apart with the first bumps being placed within the first 200 feet of street after entering the park.
- (c) *Intersections.* All streets in manufactured home parks must intersect as nearly as possible at 90-degree angles; however, in no case can a street intersect another street at less than a 60-degree angle. Street jogs of less than 100 feet are not allowed.
- (d) *Cul-de-sac.* All permanent dead-end streets or culs-de-sac must be marked by a sign as a dead-end or no out. The sign must be provided, installed, and maintained by the park owner/operator.
- (e) *Parking.* Each manufactured home space must have a minimum of 400 square feet of parking area. This area may be in the form of off-street parking contained on the space or a parking apron a minimum of nine feet wide parallel to the street. The parking area must be paved with an impermeable material. If there is off-street parking on the space, a setback of a minimum of four feet is required between the edge of the street and the parking area. This drive or setback space must also be paved with an impermeable material.
- (f) *Drive access to streets outside park.* In no case can a manufactured home space have direct access to a street or road outside the manufactured home park except through the approved street layout of the park.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-447.11. Utility requirements.

- (a) *Generally.* The approval and installation of all utility improvements in a manufactured home park, including but not limited to water, sewer, electricity, and solid waste collection, must be in accordance with this section.
- (b) *Water.* Each and every manufactured home located in a manufactured home park must be supplied water from an approved public water system. Before a final approval and operating permit may be issued to a manufactured home park, the public water system must be installed to meet the local jurisdiction's standards. Individual water wells are not permitted in manufactured home parks.
- (c) *Sewer.* Each and every manufactured home in a manufactured home park must be supplied with either a hookup to a municipal or package sewer system or an approved septic tank system. Before

final approval and an operating permit may be issued to a manufactured home park, the proposed method of sewage disposal must be certified as being installed to meet all state and local regulations by the county division of environmental health or the local jurisdiction's standards. If septic tank systems are to be used, there must be a separate tank for each manufactured home space.

- (d) *Electrical hookups.* Each and every manufactured home space in a manufactured home park must be provided with its own separate metered electrical service. Installation of this electrical service must be in accordance with the building code and all other state and local regulations that apply. Before a final approval or operating permit may be issued to a manufactured home park, the building inspector must certify that the proposed electrical service has been installed to meet all applicable codes.
- (e) *Streetlights.* Streetlights must be provided in manufactured home parks in sufficient numbers and spaced appropriately to provide a continuous and uninterrupted lighting pattern on all streets in the manufactured home park. Installation of streetlights must be in accordance with applicable building code. Before final approval or an operating permit may be issued to a manufactured home park, the building inspector must certify that the streetlights installed meet all applicable codes.
- (f) *Solid waste collection.* Solid waste and refuse collection must be provided in manufactured home parks in accordance with the solid waste requirements of the County Code. Before final approval or any operating permit may be issued to a manufactured home park, the county division of environmental health must certify that the proposed method of solid waste collection is in accordance with the County Code.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-447.12. Recreation and open-space requirements.

All proposed manufactured home parks must provide a recreational area for the occupants. The minimum requirements are ten percent of the total park area. Recreational areas must be located to be free of traffic hazards and easily accessible to all park occupants.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-447.13. Space preparation and grade.

All manufactured home spaces in proposed parks must be prepared and graded so there is a slope of no more than three percent where the manufactured home is to be located.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-447.14. Steps.

All manufactured home spaces in proposed parks must have a solid, well constructed set of steps built in accordance with building code. Loosely stacked brick, block, or other materials are not permitted. The manufactured home owner has the responsibility to furnish the steps.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-447.15. Setup and tie down.

All manufactured homes located in proposed parks must be set up and tied down in accordance with the building code and all other applicable state and local codes.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-447.16. Signs.

Manufactured home park signs must be in accordance with sign regulations in article V, division 7.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-447.17. Office.

Manufactured home parks are allowed to set aside one space for the placement of an office to conduct the business of operating the park. This office may be of permanent or manufactured construction. Activities associated with the office must be in accordance with the zoning regulations set forth in this chapter.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-447.18. Buffer.

All manufactured home parks must provide a buffer between the park and any property adjacent to the park, including road frontage. All buffers must consist of a double row of evergreens staggered at a maximum of six feet apart, and having a minimum height of six feet at the time of planting, to block visual access to all adjoining properties. Existing on-site vegetation, which forms an opaque visual buffer, can be used in lieu of the evergreens.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-447.19. Screening.

All manufactured home parks must provide screening around all waste disposal receptacles including dumpsters. The screening must be opaque and at least six feet high. Chain link or wire fencing with plastic slats or screening fabric does not meet the requirements of this section.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-447.20. Operating permit.

Upon final approval of the manufactured home park, the planning director will issue an operating permit. There is no fee associated with this permit. The operating permit does not exempt the owner or operator from any other permits that may be required by federal, state local laws. This operating permit must be placed in a conspicuous place in the park and be available for inspection upon demand by authorized officials.

(Ord. No. 2021-05, 6-21-2021)

Secs. 44-448—44-499. Reserved.

ARTICLE V. DEVELOPMENT STANDARDS

Purpose: This article consolidates the standards for development approval. Standards include design, screening and buffering, infrastructure improvements, parking, natural resource protection, and signage.

DIVISION 1. GENERAL

Sec. 44-500. Applicability.

- (a) This article applies to all new development or expansions to existing development when the expansion cumulatively is equal to or greater than 50 percent of the existing aggregate leasable floor area of all structures on the development parcel. If the expansion is less than 50 percent then the requirements of this article apply only to the expansion area. If the expansion is less than ten percent no additional improvements are necessary.
- (b) No part of a setback, area, open space, or off-street parking and loading space required for one structure or use can be included as meeting requirements of another, except where specific provisions are made in this chapter.

(Ord. No. 2021-05, 6-21-2021)

DIVISION 2. SITE DESIGN

Sec. 44-501. Applicability.

This division applies to site design for streets, blocks, lots and structures.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-502. Relationship to thoroughfare and land development plans and density bonuses.

Arrangement, character, extent, width, grade and location of all streets in new developments, including subdivisions and special districts, must conform to the urban area transportation plan, county thoroughfare plan and any other officially adopted thoroughfare/transportation plans, small area plans or other land use plans and must be considered in relationship to:

- ◆ Existing and proposed transportation patterns;
- ◆ Topographic and other natural features;
- ◆ Public convenience and safety; and
- ◆ Appropriate relationship to proposed uses of land to be served by such streets and existing or potential land uses in adjoining areas.

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- (1) *Reservation of rights-of-way.* Rights-of-way must be reserved along roads which are designated to be widened in the urban area transportation plan or county thoroughfare plan. The reservation area must be void of any improvements such as parking or structures. Density bonuses are provided as shown in subsection (3)a.2.
 - (2) *Dedicated right-of-way.* Density bonuses, as shown in subsection (c) below, are provided where a development dedicates right-of-way for:
 - a. Future road-widening improvements designated in the urban area transportation plan or county thoroughfare plan that are not required by NCDOT for road improvements associated with the project; or
 - b. New road alignments designated in the urban area transportation plan or county thoroughfare plan.
 - (3) *Density bonuses.* Density bonuses are allowed as follows:
 - a. *Nonresidential.*
 1. The area allowed for the building in the floor area ratio listed in table 44-404-1 may be increased by 0.5. For example, a nonresidential development in the HC district would be allowed a 1:2.5 floor area ratio for the dedication of right-of-way instead of 1:3, resulting in increased floor area allowed.
 2. Parking may be reduced at a ratio of 2:1, meaning for every two square feet of reserved or dedicated right-of-way; the parking can be reduced by one square foot, as approved by the planning director. For example, a 200-foot frontage needing a five-foot-wide reserved right-of-way equals 1,000 square feet of reserved right-of-way, divided by two, equals 500 square feet which is the equivalent of three parking spaces, based on a nine-foot by 19-foot parking space. This parking-reduction incentive in exchange for right-of-way reservation or dedication applies to developments of any size (from a half acre lot size on up).
 - b. *Residential.* Residential densities can be increased by a factor of 1.10 of what is permitted in table 44-404-1 for reservation or dedication of right-of-way.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-503. Conservation, erosion, sedimentation and stream buffers.

Purpose: Site design is encouraged to incorporate good design practices which take into account: conservation, environmental protection and preservation of steep slopes and watersheds by utilizing best management practices. Designs should:

- ◆ *Implement the small area plans by protecting environmental resources and agricultural land;*
- ◆ *Protect public health and safety by guarding against environmental degradation resulting from the inappropriate development patterns such as soil erosion and sedimentation, impaired water quality and reductions in air quality; and*
- ◆ *Implement official state policy to conserve and protect lands and waters for the benefit of all citizens, to control and limit the pollution of air and water, and to protect forests, wetlands, historical sites, open lands, and places of beauty.*

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- (a) Developments must meet the requirements of the soil, erosion and sedimentation control ordinance in chapter 16, article V in the Catawba County Code, where applicable;
 - (b) Developments must provide stormwater management facilities where required by the National Pollutant Discharge Elimination System (NPDES) regulations, North Carolina Environmental Management Commission, and any stormwater management ordinances or regulations adopted by the county after the effective date of this chapter.
 - (c) *Watershed protection.* Developments must meet requirements of the watershed protection overlay district (section 44-434), where applicable.
 - (d) *Mountain protection.* Developments must meet requirements of the mountain protection overlay district (section 44-433), where applicable.
 - (e) *Grading, filling.* In any grading or filling operations, desirable topsoil must be conserved and redistributed, particularly to cover exposed subsoils.
 - (f) *Vegetation preservation.*
 - (1) Trees, shrubs and ground cover existing at the beginning of development must be preserved to the maximum extent feasible, where there are species in locations likely to add amenity to the completed development.
 - (2) Clear cutting is prohibited in new subdivision developments with the exception for the building envelope to include the housing units, accessory structures, necessary roads, septic systems, wells, public utilities and active recreation. The thinning of underbrush, shrubs and trees is allowed provided that a tree canopy remains and the ground is stabilized.
 - (3) The clearing of nuisance vegetation in new developments, such as kudzu, weeds, etc. is allowed. Also individual trees, such as scrub pines, can be cut that are dead, diseased or damaged, or if they pose a threat to human life or property.
 - (g) *Stream buffers—Perennial.* Vegetation in a 30-foot wide segment adjoining all perennial streams, as defined on the USGS topographic maps, must be retained in all new subdivision developments. Access to water dependent structures and activities are allowed.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-504. Blocks.

- (a) *General design criteria.* Lengths, widths and shapes of blocks must be determined in accordance with the following:
 - (1) Provision of adequate building sites suitable to the special needs of the type of use contemplated (residential, commercial, industrial or other);
 - (2) Zoning requirements related to lot sizes and dimensions;
 - (3) The need for convenient access, circulation, traffic control and safety; and
 - (4) The maximum length of a street segment should not exceed 1,000 feet unless topography, drainage, natural water features or surrounding development patterns dictate otherwise as determined by the subdivision review board.
- (b) *Pedestrian crosswalks within blocks.*

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- (1) Pedestrian crosswalks must be provided at locations that provide public access to public spaces and facilities and may be required at additional locations.
 - (2) The minimum width of a crosswalk is five feet.
 - (3) Crosswalks must be delineated in paint, brick or scored pavement.
 - (4) Required pedestrian access may be used by emergency vehicles, but cannot be used by other motor vehicles.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-505. Double frontage lots.

- (a) Double frontage lots are discouraged except:
 - (1) Where essential to provide residential separation from traffic arteries; or
 - (2) To overcome other disadvantages of orientation or topography.
- (b) A nonaccess easement shall be provided along the line of double frontage lots abutting traffic arteries, across which there must be no right of access unless specifically authorized by the approving board.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-506. Suitable building sites.

Lots for buildings must contain suitable building sites. In determining whether the site is suitable for building, the following will be used:

- (1) Area outside of required setbacks;
- (2) Area outside designated floodplain area;
- (3) Area outside of power line and other utility easements;
- (4) Topography;
- (5) Configuration reasonably adapted to building; and
- (6) Ability to accommodate on-site water and wastewater systems whether public or private.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-507. Unsuitable building sites.

Where a lot or parcel is not intended for residential or nonresidential building purposes, such as a utility substation or community well lot, the lot must be identified on the plat and noted: "Not for residential or nonresidential building purposes."

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-508. Arrangement and location of structures.

- (a) All buildings and other structures, land preparation, and landscaping must be located and arranged on lots to provide safe and convenient access for emergency purposes, fire protection, servicing, and off-street parking and loading located on the premise.
- (b) No private land in residential zoning district may be used for vehicular or pedestrian access to land or structures that are not permitted in that district.
- (c) Structures including buildings, mausoleums, and columbaria adjacent to or within cemeteries shall be setback a minimum of ten feet from the edge of a gravesite's crypt, vault, or grave marker.

(Ord. No. 2021-05, 6-21-2021)

Secs. 44-509—44-513. Reserved.***DIVISION 3. INFRASTRUCTURE AND IMPROVEMENTS***

Purpose: This division establishes requirements for infrastructure improvements, dedication, reservation and minimum design standards.

Sec. 44-514. Applicability.

- (a) This division ensures that infrastructure improvements are provided as a result of the demands created by the development project.
- (b) Before development approval, each development must complete construction of the required improvements that apply to the classification of the development submitted and all conditions of approval.
- (c) The improvements must be installed and paid for by the developer, unless other means of financing are approved by the county.
- (d) Land must be dedicated and/or reserved in each development as specified in this chapter.
- (e) Each concept and detailed site plan must comply with the minimum standards of design established by this chapter and the procedures manual.

(Ord. No. 2021-05, 6-21-2021)

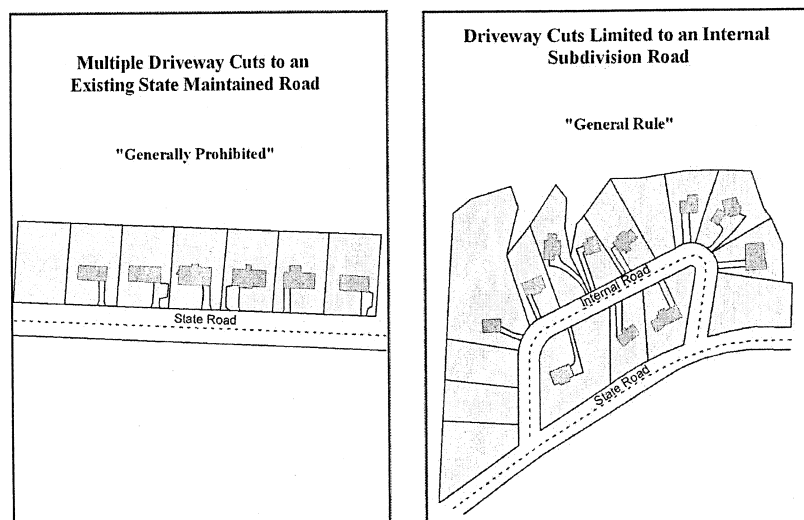
Sec. 44-515. Access management.

Purpose: Access management serves to:

- ◆ *Improve the efficiency of roadway systems;*
- ◆ *Minimize traffic congestion;*
- ◆ *Avoid unsafe traffic circulation conditions by regulating the number of access points for new development;*
- ◆ *Enhance the emergency services and access between sites;*

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- ◆ *Provide improved internal circulation and parking capabilities; and*
 - ◆ *Reduce conflict points and increase distance between driveways.*
- (a) **Applicability.** This section applies to all development and subdivisions, except for family subdivisions and estate settlements.
- (b) **Shared driveways.** Adjacent property owners may construct a shared driveway by written mutual agreement to serve both properties. Shared driveways must be designed and constructed to NCDOT residential subdivision road standards, with exception of the right-of-way.
- (c) **Out-parcels.** Access to "out-parcels" as part of a larger development should be provided from the development's internal circulation system dependent upon:
- (1) Length of road frontage adjacent to the development; or
 - (2) Location of the out-parcel relative to the internal circulation system.
- (d) **Internal circulation.** Internal street systems or service roads must be constructed where they would eliminate or reduce multiple-lot access connections directly to a state maintained road.
- (1) No more than three driveway cuts on an existing road are allowed for a development, including all phases under single ownership, without creating an internal street. See Figure 44-515-1 below.
 - (2) The approving board may grant an exception to subsection (d)(1) above based on topography, water features, road classification, connectivity or surrounding development patterns.
 - (3) A large tract in single ownership, not separated by a state road, cannot be subdivided for the purpose of circumventing the requirement in subsection (d)(1) above.

Figure 44-515-1. Driveway management



- (e) **Reserve strips.** Reserve strips (spite strips) of land for the sole purpose of controlling access to streets or circumventing right-of-way dedication are prohibited.

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- (f) *Half streets.* Half streets are prohibited, except where the subdivision review board determines that it will be practical to construct the other half of the street when the adjoining property is developed.
 - (g) *Permits for connection to state roads.* An approved NCDOT driveway connection permit is required for any change of use or connection of a nonresidential, multifamily, duplex and major subdivision development street to any existing state system road. This permit is required before any construction which connects the development road to the state system road, whether that development road is public or private.
 - (h) *Marginal access street.*
 - (1) Where a tract of land to be subdivided adjoins a principal arterial, minor arterial or major thoroughfare as designated on urban area transportation plan or the county thoroughfare plan, the subdivider must:
 - a. Provide a collector road parallel to the arterial/thoroughfare, or
 - b. Utilize the development's public road for access to double frontage lots.
 - (2) Where double frontage lots are utilized, private driveways cannot have direct access to the arterial/thoroughfare to avoid stripping of driveways along the higher classified road. When it is not feasible for the subdivider to provide a collector road or utilize double frontage or when the board determines that the installation of such would result in a less desirable development design, the board may grant an exception to this requirement. The board must find that the spirit and intent of this chapter are met and the circumstances particular to the subject property, such as topography, shape of the tract, water features, or surrounding development patterns warrant the exception.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-516. Street standards.

- (a) *Applicability.* This section applies to any development, subdivision or any other action that requires construction of internal roads. The term "private" as it appears in this chapter, refers to the maintenance responsibilities only of the road and not the dedication status, with the exception of subsection (d) below pertaining to neighborhood private roads.
- (b) *Designation.* All road rights-of-way must be designated in writing on the face of the plat as being a:
 - (1) *Dedicated public ROW.* A ROW that has been dedicated to the public, but does not necessarily refer to construction status nor does it infer the acceptance for maintenance by NCDOT.
 - (2) *State road.* A constructed road with a designated "SR" number which is being maintained by NCDOT.
 - (3) *Private road.* A constructed road that is not dedicated to the public and will be maintained by an entity other than NCDOT. See subsection (d) below.
- (c) *Roads standards within major subdivisions and developments.*
 - (1) All roads must have a dedicated right-of-way with roads designed and constructed to minimum NCDOT standards within the subdivision and to a state maintained road.

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- (2) The construction of alleys and service roads in villages and planned developments must meet applicable NCDOT standards.
 - (3) Roads must be maintained by the developer, owner(s) or homeowners' association until the NCDOT assumes responsibility for the maintenance. Maintenance responsibility must be noted on the final plat/plans.
 - (4) Roads that are not eligible to be accepted into the NCDOT system must still be dedicated for public use and be built in accordance with NCDOT standards. Where a road has been offered for public dedication, that offer may not be withdrawn without prior review and approval from the county reviewing agency.
 - (5) Curvilinear streets are encouraged in all subdivisions.
 - (6) Round-about designs are encouraged in planned developments to encourage traffic calming and enhance aesthetically-pleasing neighborhoods.
- (d) *Private roads.* A private road is a road that meets the minimum NCDOT construction standards and meets NCDOT classification standards as verified by a state-licensed professional engineer (PE), but is not dedicated to the public and will not be maintained by the NCDOT.
- (1) Private roads may be allowed in the following situations:
 - a. When the road is not eligible to be taken into the NCDOT maintenance system;
 - b. Roads proposed in special districts, such as planned developments or villages; or
 - c. Where the approving authority makes a determination that a public road is impractical.
 - (2) Private roads are reviewed with the development proposal by the applicable reviewing county board. Private roads, approved by the board, must be perpetually maintained privately by a homeowners' association. At a minimum, the maintenance agreement must include the following:
 - a. A legally incorporated homeowners' association must be established for the property owners within the entire development;
 - b. All property owners within the development must be members of the homeowners' association;
 - c. The developer must convey, in a fee simple ownership, all private roads within the development to the homeowners' association;
 - d. The homeowners' association must have the responsibility for all maintenance of private roads.
 - e. The passage of the responsibility for maintenance of private roads from the developer to the homeowners' association must be noted in the deed of each purchaser of property within the development.
 - f. At the time of preparation of the sales agreement, the developer must include a disclosure statement to the prospective buyer. The disclosure statement must provide an explanation of the consequences and responsibilities regarding the maintenance of a private road and must fully and accurately disclose the party who is responsible for the construction and maintenance of the development roads.

Table 44-516-1. Road Classification and Construction Standards—Residential and Nonresidential

Proposed Subdivision/Development Type	Right-of-Way Standards	Construction Standards Required by Developer
Estate settlement	See note (1)	None
Family subdivision	NCDOT standards	None
Minor subdivision along a 45-foot dedicated right-of-way that had been recorded before October 1, 1975, and is not constructed to standards which will allow NCDOT to maintain.	NCDOT standards (minimum 45 feet)	Roads must be designed and constructed, including paving, to NCDOT standards from the development to a state-maintained road.
Minor subdivision along a 45-foot dedicated right-of-way that had been recorded before October 1, 1975 and is constructed to standards which will allow NCDOT to maintain (dirt or gravel).	NCDOT standards (minimum 45 feet)	None
Minor subdivision along a 45 foot dedicated right-of-way that had been recorded on or after October 1, 1975 and where the road construction is verified to meet NCDOT standards (note: where road not built to NCDOT standards is a major subdivision).	NCDOT standards (minimum 45 feet)	None
Major subdivision	NCDOT standards	Roads must be design and constructed, including paving, to NCDOT standards from the development to a state-maintained road.
Subdivision with private roads (see subsection (d) above)	NCDOT standards	Minimum NCDOT classification and construction standards.
Nonresidential and multi-family development (when not approved as a subdivision)	NCDOT standards (2)	Roads must be paved to NCDOT standards from the development, including entire road frontage of property, to a state-maintained road.

Notes:

- (1) In order to obtain a zoning authorization permit for construction, a minimum 15-foot access easement as noted in section 44-406 is required.

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- (2) An exception to the right-of-way requirement may be allowed by the approving authority subject to the following conditions:
 - a. The tract has an active development which is proposed to be re-developed;
 - b. A less intense use is proposed for the tract; and
 - c. A determination is made that practical difficulties exist and all opportunities have been exhausted.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-517. Street connectivity.

Purpose: In general, interconnected developments provide for improved traffic flow, safety, reduce overall traffic congestion, provides access within and between adjoining developments and may be required by the county approving authority, while culs-de-sac are generally discouraged by the county.

- (a) *External connectivity.* Multiple accesses into a development may be required to provide additional ingress and egress. In determining whether to require multiple accesses, the county approving authority shall look at the following:
 - (1) The overall number of lots served by the street system;
 - (2) The proposed street system pattern;
 - (3) The configuration and natural features of the tract of land;
 - (4) The amount of road frontage available; and
 - (5) The classification of NCDOT roads.
- (b) *Internal connectivity.* Internal connectivity is needed for convenient access, circulation, traffic control and safety.
 - (1) *Street segment.* The maximum length of a street segment cannot exceed 1,000 feet unless interconnectivity can be achieved by exceeding the maximum, or topography, drainage, natural water features surrounding development patterns dictate otherwise, as determined by the county approving authority.
 - (2) *Projecting streets.*
 - a. Parcels must be arranged to allow for the opening of future streets and further development.
 - b. Where adjoining areas are subdivided, proposed development must connect to adjoining stub outs or existing streets, subject to subsection d. below. The following applies:
 1. The streets in the proposed development must align with the existing adjoining streets.
 2. A reciprocal agreement must be provided indicating the road maintenance responsibilities for each subdivision using the interconnected road network. The agreement shall remain in force until NCDOT accepts maintenance responsibilities of the road(s).

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3. The road used for interconnectivity between the adjoining subdivisions should be for purposes of a secondary access and not be used as the primary entrance to the subdivision.
 - c. Where adjoining areas are not subdivided, the arrangement of streets in the development must provide for the projection of streets stubbing to adjoining unsubdivided areas, subject to subsection d. below. Where stub out roads are required to be extended to the adjoining property line, the stub out must be:
 1. Dedicated with a continuous minimum NCDOT approved right-of-way to the property line in addition to right-of-way for the turn-around (cul-de-sac preferred or hammerhead); and
 2. Constructed to NCDOT standards including an improved turn-around which must qualify for inclusion into the NCDOT maintenance system.
 - d. Continuation of an existing street or projection of a new street is not required where it would cause a street to project into a floodplain, topography constraints, other natural features or where other limitations or factors would prohibit the practical connectivity as determined by the county approving authority.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-518. Sidewalks.

Purpose: An interconnected system of sidewalks or trails, provides a public benefit as an alternative transportation mode to automobiles, provides recreational opportunities within a development and connects developments.

(a) Nonresidential requirements.

- (1) Pervious or impervious sidewalks, or a fee in-lieu, subject to subsection (c) below, are required for new developments along external roads where the property is part of an approved multi-modal plan such as a NCDOT bicycle/pedestrian plan and other plans including but not limited to the Carolina Thread Trail Plan and the Parks Master Plan. Sidewalks may also be required along one or both sides of all public external and internal streets within the project unless development patterns dictate otherwise.
- (2) Sidewalks must run the entire length of the property along the right-of-way, and be a minimum width of five feet.
- (3) Sidewalks/pedestrian facilities, or a fee in-lieu, are required for special district developments, subject to subsection (a)(1) above, and overlay districts as follows:
 - a. MUC-O in section 44-430.10;
 - b. PD in section 44-443.07;
 - c. PD-IP in section 44-444(10);
 - d. 321-ED in 44-446.11(d); and
 - e. Village in subsection 44-445.03(e)(7).

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- (4) When subsection (1) above applies, sidewalks with a minimum width of five feet, are required along the front of commercial buildings adjacent to foundation plantings as required in subsection 44-523(g).
 - (5) All sidewalks constructed within the public right-of-way require approval by NCDOT through an encroachment agreement.
 - (6) All sidewalks, whether constructed within or outside of the public right-of-way, must be maintained by the developer, unless or until maintenance responsibilities are transferred or assigned to a homeowners association or other responsible entity.
- (b) *Residential requirements.*
- (1) Pervious or impervious sidewalks or hard surfaced pedestrian walkways, with a minimum width of five feet, are required along one side of the street for all new residential developments when 25 or more lots are proposed within the R-20 or higher density districts.
 - a. The number of lots are cumulatively counted for the entire development as approved from the date of adoption of this chapter (February 6, 2007).
 - b. Cul-de-sac roads less than 500 feet in length, without intersecting roads, are exempt from the sidewalk requirement.
 - (2) Sidewalks are also required along the frontage of new residential developments where the property is part of an approved multi-modal plan such as, but not limited to, the Carolina Thread Trail Plan, Parks Master Plan, or a NCDOT bicycle/pedestrian plan.
 - (3) The improved secondary open space requirement in subsection 44-543(d) may be used to meet the sidewalk requirement.
 - (4) All sidewalks constructed within the public right-of-way require approval by NCDOT through an encroachment agreement.
 - (5) All sidewalks, whether constructed within or outside of the public right-of-way, must be maintained by the developer, unless or until maintenance responsibilities are transferred or assigned to a homeowners association or other responsible entity.
 - (6) A fee in-lieu may be approved, subject to subsection (c) below.
- (c) *Fee in-lieu.* The county will determine whether sidewalks are required or a fee in-lieu will be accepted. The county will consider the thoroughfare/transportation/multi-modal plan(s), connectivity, surrounding land uses and other factors, such as surrounding development patterns, anticipated or current pedestrian usage, etc. in determining whether to accept a fee in-lieu or require sidewalk installation. The fee in-lieu will be equivalent to the cost of sidewalk installation and backfill, for materials and labor, as quoted by a licensed contractor. These funds may be used for installation of sidewalks or bike paths, based on the transportation plan(s) and trails designated in the county master parks and recreation plan or other adopted multi-modal plans. The fee in-lieu is a one-time payment that is collected at the time of final approval which runs with the land and is not subject to an additional assessment at a future time.
- (Ord. No. 2021-05, 6-21-2021)

Sec. 44-519. Easements and underground utilities.

- (a) *Utility easements.* Utility easements must be noted on final development plans. The easements must be sufficiently wide to provide for installation of such utilities and access for maintenance and operation.
- (b) *Utilities in drainage easements.* Utilities in drainage easements are permitted only upon specific authorization from the reviewing board and only in the locations authorized. The reviewing board may approve utilities in drainage easements where it determines that adequate measures have been taken to avoid erosion, flooding, or other situations that would damage the utilities.
- (c) *Underground utilities.* All new on-site utilities (electric, telephone, cable, etc.) in major subdivisions, nonresidential and multifamily developments must be located underground unless technical restrictions prohibit doing so. The approving board shall determine if technical restrictions are applicable.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-520. Fire protection.

All lots served by a municipal or county public water supply system in a development must be in accordance with applicable fire protection regulations.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-521. Water supply and sanitary sewer.

- (a) *Public water supply required.* Public water supply is required in a residential and non-residential development as follows:
 - (1) Any development which has public water system lines available must extend the public water system throughout the development to each lot as required by the county's water extension ordinance (chapter 42, article II of County Code).
 - (2) Where public water is not available, the lots must be served by individual wells approved by the county division of environmental health or a community well system approved by the state department of environment, health and natural resources.
- (b) *Public sanitary sewer required.* Public sanitary sewer is required in a residential and non-residential development as follows:
 - (1) Any development which has public sewer system lines available must extend the public sewer system throughout the development to each lot in accordance with building code and the current county sewer ordinance in effect.
 - (2) Where public sewer is not available, each lot in the development must be served by an individual on-site septic system approved by the county division of environmental health or a private sewer system approved by the state department of environment, health and natural resources. On-site septic system approval is not required for parcels greater than five acres. The development plat must indicate that the parcel(s) have not been evaluated for building purposes.

(Ord. No. 2021-05, 6-21-2021)

Cross reference(s)—Water and sewers, ch. 42.

Sec. 44-522. Lighting standards.

Purpose: This section provides requirements for development to control light spillage and glare so as not to adversely affect motorists, pedestrians, and owners of adjacent properties.

- (a) *Generally.*
- (1) Subsection (b), (c) and (d) below apply to nonresidential and multifamily development. Subsection (e) below applies to new single-family residential subdivision development only.
 - (2) All fixtures must be either semi-cutoff or full-cutoff fixtures only.
 - (3) No fixture for nonresidential or multifamily development can be located within 20 feet of a residentially zoned property.
- (b) *Outdoor illumination of building, landscaping and signs.* The following provisions apply to the outdoor illumination of buildings, landscaping and signs:
- (1) Floodlights, spotlights or any other similar lighting cannot be used to illuminate buildings or other site features unless they are an integral architectural element that is designated on the development plan. Floodlights or other type of lighting attached to light poles that illuminate the site and/or building(s) are prohibited. When approved, exterior lighting should be integrated with the architectural character of the building.
 - (2) The unshielded outdoor illumination of any building or landscaping is prohibited. To avoid light spillage, only semi-cutoff, cutoff, or full cutoff fixtures can be used.
 - (3) Lighting fixtures used to illuminate a sign must either be by directed ground lighting sign or mounted on the top of the sign and be shielded from the sight of passing motorists.
- (c) *Lighting for convenience store aprons and canopies.* In addition to the provisions of subsections (a) and (b) above, the following provisions apply:
- (1) Recessed ceiling lights are encouraged; however, as an alternative indirect lighting may be used where the light is directed upward and then reflected down from the underside of the canopy. In this case, light fixtures must be shielded so that direct illumination is focused exclusively on the underside of the canopy.
 - (2) Lights shall not be mounted on the top or sides (facia) of the canopy, and the sides of the canopy cannot be externally illuminated.
 - (3) The lighting for new facilities (pump islands and under canopies) cannot exceed the average horizontal illumination of ten foot-candles at grade level.
- (d) *Prohibited lighting and fixtures.* The following are prohibited:
- (1) Vertical burn lamps and similar lighting fixtures.
 - (2) Flashing, colored or obtrusive lighting.
 - (3) The use of laser source light or any similar high intensity light for outdoor advertising or entertainment.

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- (4) The operation of searchlights for advertising purposes.
 - (5) Black lights and neon lights (including argon and similar rare-gas fixtures), except for signage.
 - (e) *Single-family residential development.* When a common form of street lighting is provided in single-family residential subdivisions, it must be low-level intensity and consist of uniform fixtures. This section does not apply to individual residential lighting.

(Ord. No. 2021-05, 6-21-2021)

DIVISION 4. LANDSCAPE BUFFERS AND SCREENING

Sec. 44-523. Landscaping standards.

Purpose: Landscaping, visual screening and buffers must be provided for all nonresidential and multifamily uses for the following:

- ◆ *Remove, reduce, lessen or absorb the impact between one use or zone and another;*
 - ◆ *Break up and reduce the impact of large parking areas;*
 - ◆ *Provide aesthetic and visual interest;*
 - ◆ *Obscure the view of outdoor storage, dumpsters, parking and loading areas;*
 - ◆ *Provide protection from soil erosion, radiant heat, glare from headlights, noise pollution, storm water drainage problems; and*
 - ◆ *Improve the urban and rural landscape resulting from the impacts of development and disturbance.*
- (a) *Applicability.*
 - (1) The landscaping requirements for parking applies to all surface parking facilities, except for one- or two-family dwellings not subject to a planned development.
 - (2) The landscaping requirements do not apply to underground parking facilities.
 - (b) *Generally.*
 - (1) Required landscaping cannot obstruct visibility at intersections as required in section 44-407.
 - (2) In providing the vegetation required by this division, the retention of existing significant vegetation is encouraged.
 - (3) All dead or dying trees, stumps, litter, brush, weeds or other nuisance materials must be removed from the site at the time of occupancy.
 - (4) All roadway slopes must be landscaped and all cuts and fills must be designed and/or vegetated to be sufficient to prevent erosion.
 - (5) Developments must utilize existing topography, such as hills, ridges and berms, to screen parking and maintenance areas to the maximum extent possible.
 - (6) All landscaping and screening which provide buffering and screening must be maintained as depicted on the detailed site plan. All landscaping and screening must be maintained by the developer, unless or until maintenance responsibilities are transferred or assigned to

individual(s), a homeowners' association or other responsible entity. Sustainable maintenance systems, such as rain barrels or cisterns, which are architecturally compatible with the structure, are encouraged.

- (7) All plant material used must be classified as safe to use in USDA hardiness zone seven or less, to ensure they can survive an average minimum temperature of zero degrees Fahrenheit. Drought tolerant plant materials are encouraged.
- (8) The Manual of Woody Landscape Plants, latest edition, by Michael A. Dirr should be used as reference for the plant material standards.

(c) *Driveway landscaping requirements.*

- (1) Paved driveways into parking facilities must be bordered by a landscape strip a minimum of eight feet in width; or
- (2) The landscape strip must consist of:
 - a. At least 75 percent evergreens spaced a maximum of six feet apart in a minimum single or staggered row; or
 - b. A row of ornamental trees spaced a maximum of 15 feet apart on each side of the driveway.
 - c. The driveway landscape strip is required to extend 60 feet from the right-of-way or the full length of the driveway, whichever is less.
 - d. The balance of the landscape strip must be covered with turf, a ground cover such as annuals or perennial planting beds, ornamental grasses, rock or wood mulch.
- (3) In lieu of the landscape strip bordering the driveway, landscaped planting beds may be installed at both sides of the driveway entrance having an area equal to that of the area of the driveway landscape strip; and
- (4) Any area where the driveway landscape strip abuts the parcel perimeter buffer, that portion of the driveway landscape strip is not required.

(d) *Perimeter landscaping requirements for parking facilities.*

- (1) *Parking facility—Rear yard.* The perimeter of surface parking lots and the ground level of parking decks must be landscaped by a vegetative strip a minimum of eight feet in width. The landscaping strip must consist of 75 percent evergreens planted in a single or staggered row a minimum of six feet apart. The remaining 25 percent may consist of ornamental trees or deciduous shrubs. Ornamental trees may be planted intermittently throughout the perimeter landscape strip. The plantings consisting of low-growing evergreen shrubs, with the exception of the ornamental trees, cannot exceed three feet in height in order to address safety and visibility issues.
- (2) *Parking facility—Front or side yard.* The perimeter of surface parking lots and the ground level of parking decks must be landscaped by a vegetative strip a minimum of 12 feet in width, exclusive of abutting reserved or dedicated right-of-way. For parking facility perimeters in the front or side yard, require a staggered double row of vegetation which includes 75 percent low-growing evergreen shrubs planted six feet on center. The remaining 25 percent of the vegetation may be planted with ornamental trees or low-growing deciduous shrubs. Ornamental trees may be planted intermittently throughout the perimeter landscape strip.

The plantings consisting of low-growing evergreen shrubs, with the exception of the ornamental trees, cannot exceed three feet in height in order to address safety and visibility issues.

- (3) Manicured turf, crushed brick, stone, ground-hugging vines or shrubs, ground cover, annuals, perennials, ornamental grasses, rock or wood mulch must cover the balance of the area.
- (4) Where the parking facilities are within 35 feet of the perimeter buffer abutting the side or rear yard, the parking perimeter landscape strip may be deleted.


(e) *Internal parking area landscaping.*

- (1) All parking areas must have landscaped islands.
 - a. If the parking facility is visible from a street, a landscape island is required for every ten spaces in a continuous row.
 - b. If the parking facility is not visible from a street, a landscape island is required for every 15 spaces in a continuous row.
- (2) Each island must be a minimum of eight feet in any horizontal dimension, with concrete or asphalt curbing.
 - a. The island must contain at least one major shade tree having a clear trunk height of at least five feet and a minimum of two-inch caliper diameter at breast height (DBH). The tree must be a minimum 15-gallon size or balled and burlapped at time of planting.
 - b. Turf, ground cover, perennials, ornamental grasses, rock or wood mulch must cover the balance of the landscape island.
- (3) Foundation plantings or plantings along the perimeter of the parking lot, or in any part of a yard, is not considered as meeting the interior parking landscape requirement.

(f) *Parcel perimeter buffer.*

- (1) *Buffer requirement.* More intensive uses must buffer between adjoining less intensive uses as defined in table 44-523-1.

Table 44-523-1. Use Intensity

<div style="text-align: center;"> <p>Less Intensive Use</p>  <p>More Intensive Use</p> </div>	Single-family and two-family
	Nonresidential uses in residential districts, for example churches, schools and special uses
	Multifamily uses
	O & I uses
	RC or HC uses
	LI and GI uses

- (2) *Width of vegetative buffer area.* Each required vegetative buffer area must have a minimum width of 15 feet.
- (3) *Screening.* Screening within the buffer area must consist of one of the following to create a solid screen:

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- a. A dense vegetative planting incorporating trees and/or shrubs of a variety that must be equally effective in winter and summer to achieve a solid continuous visual screen within five years after the initial installation.
 - 1. All plant materials must be a conifer or broadleaf evergreen to achieve a minimum height of six feet within five years.
 - 2. Trees and/or shrubs must be adequately spaced.
 - 3. If a buffer area is greater than 100 feet in length, more than one species of plant material is required in order to minimize insect and disease infestations.
 - 4. One ornamental tree or large canopy tree is required for every 150 linear feet of buffer area. It may be planted in the buffer area or in the immediate adjacent area. It shall meet the following minimum standards:
 - i. Each tree, at the time of installation, must have a clear trunk height of at least five feet and a minimum caliper DBH of two inches or a 15-gallon container size or balled and burlapped at time of planting.
 - ii. Mature height must be at least 20 feet unless overhead utilities are in the planting area.
 - b. No additional buffering is required if:
 - 1. Existing vegetation, located on the subject property, affords the degree of buffering and screening, in terms of height, opacity and separation, equivalent to or exceeding that found in a. above; or
 - 2. Existing vegetation, located on the adjoining property, affords the degree of buffering and screening, in terms of height, opacity and separation, equivalent to or exceeding that found in subsection (f)(3)a if the subject property owner acquires a preservation easement from the adjoining property owner. The preservation easement must be recorded at the county register of deeds and state that vegetation will be maintained and no structure will be built in the easement.
 - c. A six-foot opaque structure such as a solid masonry wall, or a solid fence that is compatible with the principal structure. Chain link fencing cannot be used to meet this requirement; or
 - d. A maintained, three-foot earthen-mound or berm with vegetation to achieve a six-foot screen with a minimum base width of 12 feet. This mound or berm cannot impound stormwater runoff or direct runoff to adjacent properties. All plant materials must be evergreen and a minimum three-gallon in size and two feet in height at the time of planting. Trees and/or shrubs shall be adequately spaced to form a solid continuous visual screen within three years after the initial installation. If a buffer area is greater than 100 feet in length, more than one species of plant material is required in order to minimize insect and disease infestations.
- (4) Exceptions to parcel perimeter screening requirements.
- a. Where a commercial or office-institutional development is proposed on a lot adjoining a vacant lot, the developer may be exempted from the parcel perimeter screening requirements, if the following conditions are met:

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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; and
 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.
- b. Where a church/synagogue or other places of worship or school is proposed on a lot adjoining a vacant or built upon lot, the place of worship or school can be exempted from the perimeter buffer requirements if the following conditions are met:
 1. Adjoining landowners execute a written acknowledgment of their consent to the waiver of such screening criteria and of its legal ramifications; and
 2. The waiver is recorded at the register of deeds in both the grantor's and grantee's names.
 - c. Where topography exists such that the effect of the screening cannot be achieved as determined by the planning director.
- (g) *Foundation plantings.* The pedestrian entranceway and/or surface parking facilities must be separated from the exterior wall of any principal structure by a landscape buffer. The landscaped buffer strip must be at least five feet in width along the building foundation or on the opposite side of the building entrance sidewalk. If the architecture makes this impractical, planter boxes which occupy 40 percent of the building façade length, or large flower pot type containers spaced a maximum of 20 feet on center along the entire façade may be used as an alternative.
- (h) *Street trees.*
- (1) *Street trees—Multifamily or nonresidential.* Street trees must be planted in all multifamily or nonresidential developments. All public interior streets and development fronting along existing external roads must provide the following along all street frontages:
 - a. A three- to five-foot landscape strip between the curb and sidewalk, when sidewalks are required.
 - b. A ten-foot (minimum) landscape strip behind the right-of-way (within the front setback).
 - c. Street trees must be planted adjacent to the sidewalk or right-of-way and must meet the following.
 1. An average of one shade street tree is required for every 40 linear feet of road frontage on each side of the street, or where overhead lines are present, street trees of low-growing varieties must be planted an average of one tree for every 30 feet of street frontage on each side of the street. Trees should be spaced approximately equal distance.
 2. Each tree, at the time of installation, shall have a clear trunk height of at least five feet and a minimum caliper of two inches or a minimum 15-gallon container size or balled and burlapped at time of planting. An appropriate mulch bed must be provided around the tree.

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3. In the absence of overhead lines in the planting area, the shade street tree should achieve a mature height of over 20 feet and a mature spread of at least 15 feet.
 4. All trees planted within the public right-of-way shall require approval by NCDOT through an encroachment agreement.
 5. Street trees, whether planted within or outside of the public right-of-way, must be maintained by the developer, unless or until maintenance responsibilities are transferred or assigned to individual(s), a homeowners association or other responsible entity.
- (2) *Street trees—Residential.* Street trees must be planted in all major subdivision developments along the internal subdivision roads and the frontage of a corner lot on an existing external road, where it intersects with the internal subdivision road. Street trees must be planted adjacent to the sidewalk (when required) or right-of-way and must meet one of the following:
- a. Two-inch caliper or 15-gallon container street trees must be planted in a staggered pattern every 50 feet of street frontage as measured along the street centerline; or
 - b. Existing vegetation which meet the standards of subsection (h)(2)a. above.
 - (i) *Alternative buffers and screening.* In lieu of compliance with the buffer and screening requirements in subsection (f)(3) above, an applicant may submit to the planning director for his review and approval a detailed plan and specifications for landscaping and screening. The planning director may approve the alternative 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 the requirements.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-524. Screening of mechanical equipment.

All mechanical equipment, such as air conditioners or pumps, must be screened from view of all streets, public places and neighboring properties, through the use of features such as berms, fences, building walls, false facades, or dense landscaping. Chain link fencing cannot be used. Mechanical equipment on rooftops must be screened from the view of the street with parapets, designed features and other materials compatible with the building and suitable for screening. An exception to the screening requirement is made for photo-voltaic (solar) panels.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-525. Central solid waste storage area.

All new buildings and uses, except for single-family and two-family dwellings, must provide facilities for the central storage of solid waste within the lot. Where facilities are provided outside of a building, they must 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 principal building. All the areas must have a solid and closable gate.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-526. Screening of loading and service areas.

All loading and service areas must be screened from view of all streets and adjoining properties of less intensive use of through a buffer meeting the requirements of subsection 44-523(f). If the loading area abuts the perimeter buffering, the loading area is not required to be screened.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-527. Screening of open storage.

Open storage must be screened from any street or any less intensive land use, as required in table 44-523-1 based on the principal use. Screening of the area used for open storage must meet the same requirements of subsections 44-523(f)(2) and (3). Open storage must be setback from adjoining property lines in accordance with the setback required for the principal structure (see table 44-404-1).

(Ord. No. 2021-05, 6-21-2021)

Secs. 44-528—44-533. Reserved.***DIVISION 5. PARKING***

Purpose: This division ensures that businesses and residents have adequate parking, provides design and maintenance requirements, and reduces the impacts of excessive parking. This division establishes minimum number of parking spaces with flexibility for reducing the minimum spaces in unique situations, parking ratios, along with parking lot design, shared parking opportunities and similar standards.

Sec. 44-534. Off-street parking.**(a) Applicability.**

- (1) This section applies to all applications for development approval, unless the application is specifically exempted by another provision of this chapter.
- (2) The minimum parking requirements of this division apply to the entire development when the expansion cumulatively is equal to or greater than 50 percent of the existing aggregate leasable floor area of all structures on the development parcel. If the expansion of the leasable floor area is less than 50 percent, then the parking requirements apply only to the expansion area.

(b) Compliance.

- (1) The developer is responsible for the construction and maintenance of the required off-street parking space and off-street loading space. This obligation continues while the structure or use is in existence.
- (2) An owner of any structure affected by this chapter cannot discontinue or change the required vehicle parking or loading spaces, apart from the discontinuance of the structure, unless alternative parking and loading space are approved as required by this division.

(c) Methods of providing required parking.

- (1) All required parking must be located on the same lot as the principal use it serves, except as provided in subsection (c)(2) below.
- (2) In lieu of actual construction of required on-site parking spaces, required parking for a use on a lot may be located on another lot if the requirements of subsections (c)(2)a through e below, are met. The offsite parking may be combined with parking for other uses, subject to approval by the planning director.
 - a. The use being served by the off-site parking is a permitted principal use in the zoning district within which the lot containing such parking is located.
 - b. The off-site parking spaces must be located within 500 feet of a public entrance to the structure or land area containing the use for which such spaces are required.
 - c. A safe, direct, attractive, and convenient pedestrian route must exist or be provided between the off-site parking and the use being served.
 - d. The continued availability of off-site parking spaces, necessary to meet the requirements of this division, must be ensured by an appropriate reciprocal easement, satisfactory to the county attorney, and recorded with the register of deeds.
 - e. Off-site required, off-street parking cannot 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.

(d) *Minimum number of parking spaces.*

- (1) *Schedule of off-street parking spaces.* The number of required off-street parking spaces are shown in table 44-534-1:
 - a. An exception to the number of parking space requirements may be considered for parking based upon documented industry standards or market studies.

Table 44-534-1. Required Parking Spaces

Uses	Spaces per Unit of Measure
<i>Agriculture and related uses:</i>	
Greenhouse-commercial, per 250 sq. ft. GFA* of sales and office area	1.0
Nursery/landscaping business, per 250 sq. ft. GFA of sales and office area	1.0
Roadside stand, commercial, per 1,000 sq. ft. GFA	3.0
Stable, public, per five stalls	1.0
<i>Cultural facilities:</i>	
Art galleries, per 1,000 sq. ft. GFA	1.2
Museums, per 1,000 sq. ft. GFA	1.2
Libraries, per 1,000 square feet. GFA	1.2
<i>Communication facilities:</i>	
Radio and television studio, per 1,000 sq. ft. GFA	1.0
Radio and television transmitting and receiving facility, per employee	1.0
<i>Community recreational uses:</i>	
For each three persons able to use the facility at its maximum capacity	1.0
Plus, waiting spaces, if applicable	10.0

Uses	Spaces per Unit of Measure
Plus, for each two employees	1.0
<i>Manufacturing, processing and assembly</i> , per employee of largest shift	0.6
<i>Membership organizations</i> , per 1,000 sq. ft. GFA	3.3
<i>Open uses of land, heavy:</i>	
Junkyards, per employee	0.5
Plus, per 5,000 sq. ft. of lot area	1.0
Landfills, per employee of largest shift	1.0
<i>Public facilities:</i>	
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
<i>Recreational uses:</i>	
Athletic fields, per field	20
Campground, per employee	1.0
Plus ten additional	
Campground, group camping, per employee	1.0
Plus, per camp vehicle	1.0
Plus, ten additional	
Golf course, per hole	3.0
Indoor, for every five persons of maximum occupancy of building	1.0
<i>Residential support uses:</i>	
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
<i>Residential uses:</i>	
Congregate living facility, per employee of largest shift	1.0
Plus, per facility vehicle	1.0
Plus, per resident	0.2
Dormitories, fraternities and sororities, per 1,000 sq. ft. GFA	3.3
Dwelling units:	
Multifamily:	
Efficiency, per dwelling unit	1.25
One bedroom, per dwelling unit	1.50
Two or more bedrooms, per dwelling unit	2.0
Two-family, per dwelling unit if garage is not constructed	2.0
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

Uses	Spaces per Unit of Measure
Plus, per resident	0.2
<i>Retail sales:</i>	
Convenience store with or without gas pumps, per 1,000 sq. ft. GFA	4.0
Plus, per employee for largest shift	1.0
Drinking establishment, per 1,000 sq. ft. GFA	10.0
Furniture and home furnishings stores, per 1,000 sq. ft. GFA	1.0
Grocery store/supermarket, per 1,000 sq. ft. GFA	5.0
Manufactured home and recreational vehicle sales, per 1,000 sq. ft. GFA	5.0
Motor vehicle sales, per 1,000 sq. ft. GFA	2.0
Restaurant, per 1,000 sq. ft. GFA	10.0
Other retail, per 1,000 sq. ft. GFA	4.0
<i>Schools:</i>	
College/university, per student	0.5
Elementary, middle/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
<i>Services:</i>	
Airport, by individual review	
Airport support uses, by individual review	
Animal hospital/veterinary clinic, per 1,000 sq. ft. GFA	3.0
<i>Banking:</i>	
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, professional services and personal services office, per 1,000 sq. ft. GFA	3.5
<i>Health services:</i>	
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
<i>Lodging places:</i>	
Boardinghouses and rooming houses 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
<i>Repair services:</i>	

Uses	Spaces per Unit of Measure
Motor vehicle repair, minor and major, per 1,000 sq. ft. GFA	4.0
Specialty repair services, per 1,000 sq. ft. GFA	3.0
<i>Transportation:</i>	
Bus terminal, per 1,000 sq. ft. waiting room	8.0
Truck terminal, per employee	1.0
<i>Warehousing:</i>	
Warehouse, per employee of largest shift	0.6
Warehouse, mini, per 20 storage units	1.0
Plus, per employee	1.0
<i>Miscellaneous:</i>	
Adult uses, per 500 sq. ft.	3.0
Amusement park, by individual review	
Assembly, place of, per seat	0.3
Circuses, carnivals and fairs, by individual review	
Contractor's office, per 1,000 sq. ft. GFA	3.5
Contractor's shop area, per employee of largest shift	0.6
Funeral home or 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
Flea markets, indoor, per 1,000 sq. ft. GFA	7.0
Flea markets, outdoor, per vendor	2.0
Lumberyard, per 1,000 sq. ft. GFA	2.0
Marina office, retail and restaurant areas, per 1,000 sq. ft. GFA	4.0
Plus dry storage, per storage bay	.10
Plus wet storage, per storage bay	.25
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 vehicles, per 1,000 sq. ft. GFA	3.0
Research activities, per employee	1.4
Slaughterhouse, per 1,000 sq. ft. GFA	1.0
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 and benches, 24 lineal inches is 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 is construed to be equal to one seat, except where otherwise specified. Net floor area must be the actual area occupied by seating and related aisles and must not include accessory unoccupied areas or the thickness of walls.

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- (e) *Determination for unlisted uses.* The determination for unlisted uses will be made as follows:
- (1) The planning director shall make a determination of the required off-street parking spaces for uses not listed in table 44-534-1.
 - (2) In making a determination, the planning director will 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.
- (f) *Maximum number of parking spaces.*
- (1) If the proposed number of off-street parking spaces exceeds the minimum number of required spaces, the additional spaces must be composed of pervious pavement, or a bio-retention basin, rain garden, or equivalent measure must be provided to manage stormwater runoff. In no case shall the maximum number of spaces exceed 125 percent of the minimum number of spaces required.
 - (2) The maximum number of off-street parking spaces permitted does not include required disabled accessible spaces.
 - (3) The maximum number of parking spaces permitted does not apply to parking structures.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-535. Joint-use facilities and shared parking.

- (a) When two or more uses, either on a single parcel or multiple parcels, provide for shared parking spaces, the number of parking spaces required for each individual business as shown in table 44-534-1, may be reduced by no more than ten percent of the total number of spaces. More than ten percent reduction in required parking spaces would constitute an amendment to the approved plan and must be resubmitted to the applicable authority for approval.
- (b) An agreement for such joint use, in the form of a reciprocal easement acceptable to the county attorney, must be filed with the planning director and recorded with the county register of deeds.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-536. Parking standards.

- (a) *Regular car parking.* The minimum dimensions for required off-street spaces at various angles are shown in the table 44-536-1 and illustrated in figure 44-536-1 below.

Table 44-536-1. Parking Dimensions

	Figure 44-536-1 reference	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

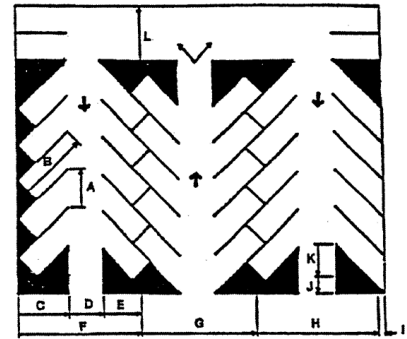


Figure 44-536.1. Parking Components

- (b) *Compact car parking.* Parking for compact cars may be provided for up to 30 percent of the required parking.
- (1) Ten percent of the total parking required must be compact car parking for parking areas that have ten or more spaces.
 - (2) For 90-degree compact parking, the minimum stall width is eight feet, and the minimum stall length is 16 feet. Bumper overhang for compact parking is not required.
 - (3) Compact parking spaces must be designated as being for the exclusive use of compact cars through the use of signs or pavement marking.
 - (4) The parking layout dimensions (in feet) for eight-foot compact parking stalls at various angles are shown in table 44-536-2 below and illustrated in figure 44-536-1 above.

Table 44-536-2. Compact Car Spaces

Parking components	Figure 44-536-1 reference	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 must meet North Carolina Accessibility Code.

- (1) Accessible parking spaces must be provided as follows in table 44-536-3 below:

Table 44-536-3. Disabled Parking Requirements

Number of Required Parking Spaces	Number of Disabled Parking Spaces Required. (These spaces are included in the total number of required spaces.)
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% of total
1,001 and over	20 plus 1 for each 100 over 1,000

- (2) Parking spaces for the disabled must be designed and located as follows:
- All users must have direct access to a curb ramp, curb cut or sidewalk when necessary to allow access to the building, structure, or use served.
 - Diagonal or perpendicular parking spaces must be a minimum of 12½ feet wide.

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- c. Parallel parking spaces must be located either at the beginning or end of a block or adjacent to an alley entrance. Curbs adjacent to the spaces must be of a height which will not interfere with the opening and closing of motor vehicle doors.
 - d. Parking spaces must be prominently outlined with paint different from ordinary striping and posted with a permanent fixed sign of a color and design approved by NCDOT.
- (d) *Off-street parking design standards.* Off-street parking design standards are as follows:
- (1) Except for single-family dwellings, every off-street parking area and driveway must have a hard surface consisting of asphalt or concrete pavement, or an alternative approved by the planning director, to provide a durable and dustless surface. In making a determination as to the suitability of a proposed alternative, the planning director must find the 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; and
 - c. A surface that will not contribute to subsidence, erosion, or sedimentation, either on site or off site.
 - (2) All off-street parking lots must be graded and drained to dispose of all surface water accumulated within the area and not channeled to adjoining property.
 - (3) Lighting intensities should be controlled to ensure that light and glare are not directed at adjacent properties, neighboring areas, and motorists.
 - (4) Sales, dead storage, repair, dismantling and service of motor vehicles is not permitted on off-street parking spaces.
 - (5) Off-street parking spaces, including all areas for maneuvering, must be located solely on private property and not on public property or public rights-of-way. In addition, off-street parking is allowed:
 - a. Within the front setback, if one or more of the following factors are present, including but not limited to: severe topography, location of septic tank/repair areas, wells, other utilities, corner lot, irregular shaped lot, or to achieve inner-connectivity; or
 - b. If located in the rear of the building, parking may be located within the required setback; or
 - c. If located on the side of the building, parking may be located within the required setback.
 - (6) All off-street parking areas must be designed to provide safe and convenient circulation, in accordance with commonly accepted traffic-engineering practices.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-537. Loading standards.**(a) Required loading space.**

- (1) Every use requiring the receipt or distribution by vehicles, of materials and merchandise, must have one or more loading berths or other space for standing, loading and unloading on the same or adjoining premise.
- (2) Loading space must be sufficient to allow normal loading and unloading operations of a kind and magnitude appropriate to the property served.
- (3) Required loading space must be available for the loading and unloading of vehicles and cannot be used for the storage of vehicles or materials, off-street parking requirements, or conducting the principal use.

(b) Loading space standards. All off-street loading spaces must meet the following standards:

- (1) Off-street loading spaces must be located and arranged so that a semi tractor-trailer truck (wheelbase 50 class) or a local delivery vehicle, as appropriate, must be able to gain access to and use such spaces;
- (2) Loading space must meet the minimum street and interior setbacks established for structures;
- (3) All loading space and maneuvering space must be surfaced with a dustless, all-weather material and maintained in a safe, sanitary, and neat condition;
- (4) No loading space may be located so that a vehicle using the space intrudes on or hinders the use of the public right-of-way or adjacent properties; and
- (5) Each required off-street loading space must have a minimum width of 12 feet and a minimum vertical clearance of 16 feet above the finished grade of the space. The length must be a minimum of 20 feet for local delivery and 60 feet for semi tractor-trailers.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-538. Bicycle parking.

Bicycle-parking facilities shall be installed as part of nonresidential and multifamily developments within 500 feet of bicycle corridors identified in officially adopted bikeway plans. Bicycle-parking facilities should be designed in accordance with the recommendations from the Association of Pedestrian and Bicycle Professionals (APBP) or equivalent standards.

(Ord. No. 2009-12, 11-16-2009)

Secs. 44-539—44-542. Reserved.***DIVISION 6. NEIGHBORHOOD RECREATION/OPEN SPACE***

Purpose: Neighborhood recreation/open space:

- ◆ *Is a vital part of the community, often serves as a gathering point of neighborhood activity and exists for the quiet enjoyment of the exclusive neighborhood.*

- ◆ *Enhances and preserves private property values, and also serves the immediate and future needs of area residents in the same way as other capital improvements such as streets, water mains and sanitary and storm sewers serve residents of a neighborhood.*
- ◆ *Includes pedestrian/bicycle trails preferably located within natural greenway systems, and includes neighborhood parks that serve nearby residents.*
- ◆ *Ensures that adequate usable neighborhood open space, parks and recreation facilities are provided in a manner consistent with the adopted small area plans.*
- ◆ *Provides for the reasonable, proportionate impacts of new development.*
- ◆ *Achieves the goals of the small area plans to encourage the retention of existing vegetation on the perimeter and frontage of the development.*

Sec. 44-543. Neighborhood recreation/open space for non-cluster developments.

- (a) *Applicability.* The following developments must provide land for parks, sidewalks, trails, greenway, recreational and open space purposes:
- (1) All major residential conventional subdivisions must dedicate land or fee in-lieu of land for open space.
 - (2) Mixed-use development that contains residential uses; and
 - (3) Multifamily use.
- (b) *Amount of land or fee in-lieu.* In determining whether the county will accept a fee in-lieu of or proposed on-site open space, the county shall consider the parks and open space master plan, the comprehensive or small area plans and other accepted plans and the potential for connectivity with other developments or open space.
- (1) *Determination.* The amount of land to be provided for neighborhood recreation/open space in conventional subdivisions must be 2,500 square feet per dwelling unit, based on the following equation:

Required open space = the number of dwelling units × 2,500 square feet per dwelling
 - (2) *Payment in lieu of open space.* In lieu of providing open space on site, a developer may make a one-time payment in the amount of \$1,000.00 per lot. The fee in-lieu is payable to the parks trust fund for development of capital projects associated with the county parks master plan or other accepted plans.
 - (3) *Open space incentive.* As an incentive to provide additional open space, a conventional subdivision can receive a density bonus for providing additional open space beyond the requirement in subsection (b)(1) above. For every 100 square feet of open space per lot above the minimum open space requirement (up to a maximum of 3,500 square feet) an increase in the number of lots is allowed at a direct proportion ranging from a minimum one percent to a maximum of ten percent of the total lots allowed. For example, a 100-lot subdivision proposes a total of 3,000 square feet of open space per lot. This represents 500

square feet beyond the 2,500-square-foot minimum open space requirement. Next, determine the multiplier for each 100-square-foot increment of additional open space using the following equation: the open space proposed per lot minus 2,500 then divide by 100. In the example, the equation would be: $(3,000 - 2,500) / 100 = 5$, which also is the percentage multiplier for the lot bonus allowed. Finally, determine the number of bonus lots using the following equation: number of proposed lots \times multiplier determined using the last step. In the example, the equation would look like this: $100 \text{ lots} \times 5\% = 5 \text{ additional lots}$ for a total of 105 lots.

(c) *Characteristics.* Except as otherwise required by the county at the time of preliminary subdivision approval, the neighborhood recreation/open space must meet the following criteria:

(1) *Land characteristics.* Neighborhood recreation/open space must be provided at a minimum proportion of 25 percent for primary open space and 75 percent for secondary open space.

- a. Primary open space is land ideal for building development. Primary open space also includes land with slopes less than 20 percent.
- b. Secondary open space includes floodplains, area of lakes, ponds, creeks, other water bodies, wetlands falling under the jurisdiction of State or Federal agencies, utility easements, steep slopes and other sensitive areas including woodland areas.

Sidewalk, whether voluntary or required under section 44-518, may be counted as part of the secondary open-space requirement, at a ratio of 1:2. For every square foot of sidewalk, two square feet of open space is credited toward the secondary open-space requirement.

(2) *Shape.* If a sufficient amount of land is dedicated to accommodate future recreational facilities and activities, such as fields, courts or playground equipment, the shape of the dedicated land shall be suitable for such facilities and activities as determined by the planning director. Linear open space must be a minimum of five feet in width to accommodate trails and greenways.

(d) *Neighborhood recreation/open space improvements.* Within the secondary open space area, an improved trail system composed of concrete, asphalt, composite materials, wood chips, grass or other appropriate trail materials must be installed. The trail system must comprise a minimum of 25 percent of the total secondary open-space requirement. The sidewalk requirement under section 44-518 may be counted as part of the improved secondary open-space requirement.

(e) *Neighborhood recreation/open space dedication and maintenance.* Neighborhood recreation/open space shall be dedicated in accordance with the following:

- (1) Subdivision occupants shall be ensured direct access to and use of the subdivision's neighborhood recreation/open space, through the conveyance of the open space to a homeowners' association or a public agency or nonprofit organization. Such organization must be capable and willing to accept responsibility for maintaining the neighborhood recreation/open space for its intended purpose.
- (2) Trails or open spaces which are a designated component of the parks master plan as being part of a linear trail system must be dedicated and deeded to the county. Trail maintenance will be performed by the county as part of the park's division.
- (3) Each dedicated open space parcel and improvements shall be shown on the final plat recorded in the register of deeds, with a notation of its area.

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- (4) The owner(s) of the neighborhood recreation/open space, whether it be the homeowners' association, public agency or nonprofit organization, is responsible for maintaining the open space so that it continues to effectively function for its intended use.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-544. Open-space requirements for cluster subdivisions.

Purpose: A cluster subdivision design is an option to a conventional subdivision design. Cluster subdivisions provide for a subdivision design that is more efficient and better suited to the natural features of the land and blends into the character of a rural area. The purpose of a cluster subdivision is to allow lots to be smaller and concentrated on those parts of the subdivision site best suited to accommodate development with the least adverse impact. Clustering of lots:

- ◆ *Provides recreational opportunities for the subdivision's residents;*
 - ◆ *Conserves and protects significant natural areas and environmentally sensitive areas;*
 - ◆ *Protects important historic resources;*
 - ◆ *Allows smaller and less costly networks of roads and utilities;*
 - ◆ *Encourages closer-knit and potentially safer neighborhoods;*
 - ◆ *Preserves sensitive farmland, woodlands, scenic views and open space; and*
 - ◆ *Reduces the amount of impervious surface and resulting stormwater runoff.*
- (a) *Minimum cluster subdivision site size.* The minimum land area required for a cluster subdivision must be at least five contiguous acres.
- (b) *Maximum number of lots in cluster subdivision.* The maximum number of lots allowed within a cluster subdivision shall be determined by dividing the total gross acreage in the tract, not including external state road rights-of-way, by the density (maximum dwelling units per acre) as noted in table 44-404-1 for the applicable zoning district.
- (c) *Lot design and dimensional requirements for a cluster subdivision.* Lot width and setback requirements as shown on table 44-404-1 for the applicable zoning district may be reduced as follows:
- (1) The minimum lot area may be reduced by up to 75 percent of the lot area required in the underlying zoning district, but cannot be smaller than 7,000 square feet. For example:
- A 40,000-square-foot-minimum lot may be reduced by seven percent, providing for a 30,000-square-foot reduction ($40,000 \times 0.75 = 30,000$ -square-foot lot reduction). With this reduction, the final minimum allowable lot is 10,000 square feet. ($40,000 - 30,000 = 10,000$ -square-foot minimum lot).
 - A 30,000-square-foot minimum lot may be reduced by 75 percent, providing for a 22,500-square-foot reduction ($30,000 \times 0.75 = 22,500$ -square-foot reduction). With this reduction, the final minimum allowable lot is 7,500 square feet ($30,000 - 22,500 = 7,500$ square feet).
 - A 20,000-square-foot-minimum lot may be reduced by 75 percent, providing for a 15,000-square-foot reduction ($20,000 \times 0.75 = 15,000$ -square-foot reduction). However,

lots may only be reduced to a minimum of 7,000 square feet. So although calculations show that each lot could be 5,000 square feet ($20,000 - 15,000 = 5,000$ square feet), a 7,000-square-foot lot minimum is required).

- (2) Cluster subdivisions located within protected watershed areas must comply with the watershed requirements as stipulated in section 44-434, and its subsequent subsections.
 - (3) The minimum lot width requirement may be reduced by 50 percent, but cannot be less than 45 feet.
 - (4) The minimum front setback requirement may be reduced by 33 percent, but cannot be less than 20 feet. Front setbacks cannot be reduced on streets located along the RP-O corridor, R-40 zoning district or along the subdivision perimeter boundary. Setbacks must comply with the requirements of subsection (d) below.
 - (5) The minimum side and rear setback requirements may be reduced by 33 percent, but cannot be less than five feet. Side and rear setbacks cannot be reduced on streets located along the RP-O corridor, R-40 zoning district or along the subdivision perimeter boundary. Setbacks must comply with the requirements of subsection (d) below.
- (d) *Perimeter-boundary setbacks.* Setbacks abutting the perimeter boundaries of the entire cluster subdivision site must be 50 feet. Lands in this setback area may be dedicated and counted as open space. In lieu of this requirement, a permanent wooded buffer of 30 feet in width may be maintained around the perimeter of the subdivision. The wooded buffer must be connected to the open space within the subdivision.
- (e) *Required open space.* The total area dedicated as permanent open space must make up at least 25 percent of the net acreage of the subdivision, resulting from excluding the internal road rights-of-way. As an incentive to provide additional open space, a cluster subdivision can receive a density bonus for providing additional open space beyond the requirement in this section. For every one percent open space above the minimum open-space requirement an increase in the number of lots is allowed at a direct proportion ranging from a minimum one percent to a maximum of ten percent of the total lots allowed, as shown in subsection (b) above.
- (f) *Open space use, location and design.*
- (1) Open space must be dedicated or reserved for one or more of the following purposes:
 - a. Conservation of and avoidance of development in any identifiable natural hazard areas, including areas that potentially pose a significant hazard to people or property:
 1. Designated floodways and floodway fringes identified in Federal Emergency Management Agency flood insurance studies;
 2. Regulatory wetlands; or
 3. Steep slopes, greater than 20 percent, and lands whose soils make them particularly susceptible to erosion when disturbed by development activities.
 - b. Conservation and protection of any identified significant natural areas as identified in the county's natural heritage inventory;
 - c. Protection, maintenance and dedication as open space of any identified historic resources or any public or private cemeteries that are part of the subdivision

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- development. An exception would be areas retained by its original owners, such as a family or church owned and maintained cemetery;
- d. Provision of active and/or passive outdoor recreation opportunities such as, ball fields, playgrounds, tennis courts, swimming pools, basketball courts, golf courses, bikeways, walking trails, nature trails, and picnic areas;
 - e. Retention of productive farmland or forestland for continued agricultural or forestry use;
 - f. Land for pedestrian access, such as sidewalks or trails.
- (2) The highest priority for the location, design, and use of open space must be given to conserving and avoiding development in any natural hazard areas on the subdivision site.
 - (3) Open space may contain only such buildings, structures, accessways, and parking facilities as are necessary for its intended use as open space.
 - (4) The location, size, character, and shape of required open space shall be appropriate to its intended use. Open space proposed to be used for recreation, particularly active recreation, shall be located and designed so as to be conveniently and safely reached and used by those persons it is intended to serve. Open space proposed to be used for ball fields, playing fields, or other extensive active recreational facilities should be located on land that is relatively flat and dry.
- (g) *Open space dedication.* Open space shall be dedicated in accordance with the following:
- (1) Subdivision occupants shall be ensured direct access to and use of the subdivision's open space, through the conveyance of the open space to a homeowners' association or to a public agency or nonprofit organization. Such organization must be capable and willing to accept responsibility for managing the open space for its intended purpose.
 - (2) Each dedicated open space parcel shall be shown on the final plat recorded in the register of deeds, with a notation of its area.
- (h) *Open space maintenance.* The owner(s) of the open space is responsible for maintaining the open space so that it continues to effectively function for its intended use.
- (i) *Design procedure.* Design procedures are as follows:
- (1) *Existing features/site analysis.* An existing features/site analysis must be included on the sketch plan. The sketch plan must indicate all features that exist on the subject site as described in subsection (f) above.
 - (2) *Identification of open space/conservation areas.* Guidance as to which parts to classify as open space/conservation areas shall be based upon three factors:
 - a. On-site visits by the planning director, the subdivider and the site designer.
 - b. The open space standards described in subsection (f) above.
 - c. The evaluation criteria as shown in subsection (j) below.
 - (3) *Principal structure setback from open spaces.* Principal structures must be set back a minimum of 50 feet from all open space lots lines.

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- (4) *Street, trail and sidewalk locations and alignments.* All streets, sidewalks and trails must be sited in locations having the least environmental impact. Trails must connect the housing clusters to the designated open space.
 - (j) *Evaluation criteria.* In evaluating the layout of a site, the following criteria will be utilized in determining the site's features which allow for site design flexibility:
 - (1) The open space must be reasonably contiguous and must abut existing open space on adjacent sites.
 - (2) All wetlands, flood hazard areas and 20 percent slopes cannot be cleared, filled or graded. Water features cannot constitute more than 50 percent of the open space area.
 - (3) The impacts on larger woodlands over five acres must be minimized as much as practical.
 - (4) Where farmland preservation is the goal of a site design, dwellings must be located away from active farming areas, as is practical.
 - (5) Where preserving scenic views is the goal of a site design, such scenic views should remain unblocked and uninterrupted. In wooded areas, where enclosure (i.e., a tree canopy) is a feature to be maintained, a no-cut and no-build buffer shall be considered along the public roadway.
 - (6) Where historic or archeological preservation is the goal of a site design, new streets, driveways, fences and/or utilities cannot interfere with the historic site.
 - (7) Where power line rights-of-way are proposed to be included as part of the open space, the right-of-way shall not exceed 30% of the required open space as stated in subsection (e) above.
 - (8) Area used for the installation of individual and community wells and septic systems cannot exceed 30 percent of the open space.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-545. Ownership and maintenance.

- (a) *Homeowners' association.* All neighborhood recreation and open space shall be maintained by a homeowners' association, in accordance with section 44-360.
- (b) *Condominiums.* The neighborhood recreation/open space and associated facilities may be controlled through the use of a plat or plan that conforms to the North Carolina Condominium Act (G.S. chapter 47C). All neighborhood recreation and open space land shall be held as a common element as defined in the North Carolina Condominium Act. A proposed operations budget and plan for longterm capital repair and replacement shall be submitted with the application for development approval.
- (c) *Dedication of easements.* The county may, but is not required to, accept easements for public use of any portion or portions of undivided parks and/or open space land, title of which is to remain in ownership by condominium or homeowners' association, provided:
 - (1) Such land is accessible to county residents;
 - (2) There is no cost of acquisition other than any costs incidental to the transfer of ownership, such as title insurance; and

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- (3) A satisfactory maintenance agreement is reached between the developer, condominium or homeowners' association, and the county.
 - (d) *Transfer of easements to a private conservation organization.* An owner may transfer perpetual easements to a private, nonprofit organization, among whose purposes it is to conserve parks and/or open space and/or natural resources (such as a land conservancy), provided that:
 - (1) The organization is a bona fide conservation organization with perpetual existence;
 - (2) The organization is financially capable of maintaining such parks and/or open space;
 - (3) The conveyance contains legally enforceable provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-546. Connectivity.

An interconnected system of parks, trails, greenways, and bikeways provides a greater public benefit than isolated parks with access exclusively by automobiles. Such areas may provide form to neighborhoods, a common public gathering space, and an opportunity to protect natural areas. The county encourages developers to link linear parks and open space systems with other linear parks and open space areas.

(Ord. No. 2021-05, 6-21-2021)

Secs. 44-547—44-550. Reserved.

DIVISION 7. SIGN REGULATIONS

Purpose: This division regulates the number, size, and location of signs in all zoning districts. It is designed to enhance the information displayed to the public; aid in orienting within the county; identify establishments, uses, and events; spur economic activity; stabilize and protect property values; maintain the visual attractiveness of the county; and promote the safety, health and general welfare of county citizens and the public.

Sec. 44-551. General provisions.

- (a) *Applicability.* No sign may be displayed, maintained, or operated except in accordance with this division and any other applicable laws and regulations.
- (b) *Permit required.* Except for signs exempted under section 44-552 from the requirement for a permit, prior to the display of any sign, a zoning authorization permit must be obtained for the sign in accordance with section 44-557 of this division.
- (c) *Substitution of non-commercial copy.* Notwithstanding any provision in this division to the contrary, non-commercial copy may be substituted in place of commercial copy on any sign that is otherwise permitted under this division.
- (d) *Exemption.* The provisions of this division shall not apply to "off premises outdoor advertising" as defined in G.S. 160D-912 when subject to the provisions of G.S. 139-131.1 and G.S. 136-131.2.

Sec. 44-552. Signs not requiring a permit.

To the extent that they comply with the applicable requirements of this division and with all other applicable laws and regulations, the following signs may be displayed without obtaining a zoning authorization permit:

- (1) A single on-site sign less than two square feet in area that has no commercial copy and that bears only the following for the property on which it is located: street names and/or numbers, post office box numbers, and/or the names of occupants of the premises.
- (2) Signs posted by authorized governmental entities on public property or within a public right-of-way.
- (3) Signs that have copy that only: (i) provides information to assist with direction or safety with respect to the premises on which they are located, such as signs that state "entrance," "exit," "one way," "telephone," "parking," "no parking," and similar instructions, or (ii) provides information pertinent to the immediate safety or legal responsibilities of passersby or the public, such as signs warning of high voltage and "no trespassing" signs. A sign permitted under this section 44-552(3) shall not exceed four square feet in area and shall not be placed in any sight triangle. If such a sign directs to an entrance or exit, it shall be located no farther than 15 feet from any entrance or exit to which it refers.
- (4) On-site signs located on a property owned or operated by a governmental entity or a nonprofit.
- (5) Banners displayed in conjunction with decorative light fixtures if located in a mixed use development, a village center, or a residential development.
- (6) The following temporary signs:
 - a. Signs on property for sale or lease.
 1. Temporary signs are permitted on properties that are being marketed for sale or lease. One such sign is allowed along each street or road on which the property fronts. Such a sign must be located outside of any street or road right-of-way. Such a sign must be removed immediately once the property on which it is located is no longer being marketed for sale or lease.
 2. For a property less than one acre in area, each such sign cannot exceed six square feet in area. For a larger property, each such sign may be up to 20 square feet in area.
 3. In addition to the on-premises signs authorized above, when a property is being marketed for sale or lease, the property's owner may erect no more than three off-premises signs within one mile of the property that is for sale or lease. One or more such signs may be erected for no longer than 72 hours at any one time and no more than once every month.
 - b. Construction signs. For a property where construction or development is occurring, one sign is permitted along each street or road that the property fronts. Each such sign cannot exceed 32 square feet in area and must be located outside of any street or road

right-of-way. Each such sign must be removed within ten days after the earliest of: (i) the issuance of a certificate of occupancy for the project, (ii) the expiration or revocation of any of the permit(s) required for the construction or development, or (iii) the cessation of the construction or development.

- c. A single temporary sign not exceeding 32 square feet in area may be displayed on a property with a business or other establishment to coincide with a temporary event happening on the property. Each such sign shall not exceed 32 square feet in area. Such signs may be displayed no earlier than 30 days before the temporary event begins and no later than 14 days after the event concludes. A particular property may display one or more such temporary signs, regardless of whether those signs coincide with the same event, for no more than 60 total days during any calendar year.
- d. Temporary signs may be displayed within any public street right-of-way or road right-of-way preceding any election in which any residents of the county can vote. Each such sign: (i) cannot exceed six square feet in area or 42 inches in height, (ii) must be at least three feet from the edge of the street or road pavement, (iii) may be displayed no earlier than 30 days before the first date on which any county residents can vote, whether in the election itself or in any primary leading up to the election (iv) may be displayed no later than 14 days after the election ends, which shall not be deemed to have occurred until any necessary runoff elections have ended, (v) may not obscure motorist or pedestrian visibility at any intersection nor impede vehicular or pedestrian traffic, and (vi) may not obscure any other sign. However, any signs qualifying under G.S. § 136-32(b) shall be governed by G.S. § 136-32 rather than by this subsection.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-553. Prohibited signs and sign locations.

The following are not permitted anywhere within the county:

- (1) Portable signs, roof signs, banners, balloons, or other air- or helium-filled signs and pennants made of lightweight fabric, plastic or similar materials, whether or not containing any copy, except that such signs may be used as signs for a temporary event held by a nonprofit in accordance with section 44-552(6)d.
- (2) Signs that contain pulsating, rotating or flashing lights.
- (3) Off-premises signs except as specifically permitted in this division.
- (4) Pavement markings for purposes other than traffic control.
- (5) Signs attached to or painted on utility poles, telephone poles, trees, parking meters, bridges or overpasses, rocks, other signs, benches, or refuse containers.
- (6) Signs placed within any sight triangle, except for traffic control signs displayed or approved by a governmental body with authority to do so.
- (7) Except where specifically allowed by this division and except for signs placed by or on behalf of a governmental body with authority to do so, signs on public property or in a public right-of-way.
- (8) Signs that contain language or pictures that are obscene as defined in G.S. 14-190.1.

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- (9) Signs that imitate traffic control devices or that might reasonably be confused for traffic control devices.
 - (10) Signs not maintained in accordance with section 44-557 of this division.
 - (11) Signs on vehicles that are parked so that they are visible to the public where the principal use of the vehicles is not for transportation.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-554. Freestanding signs.

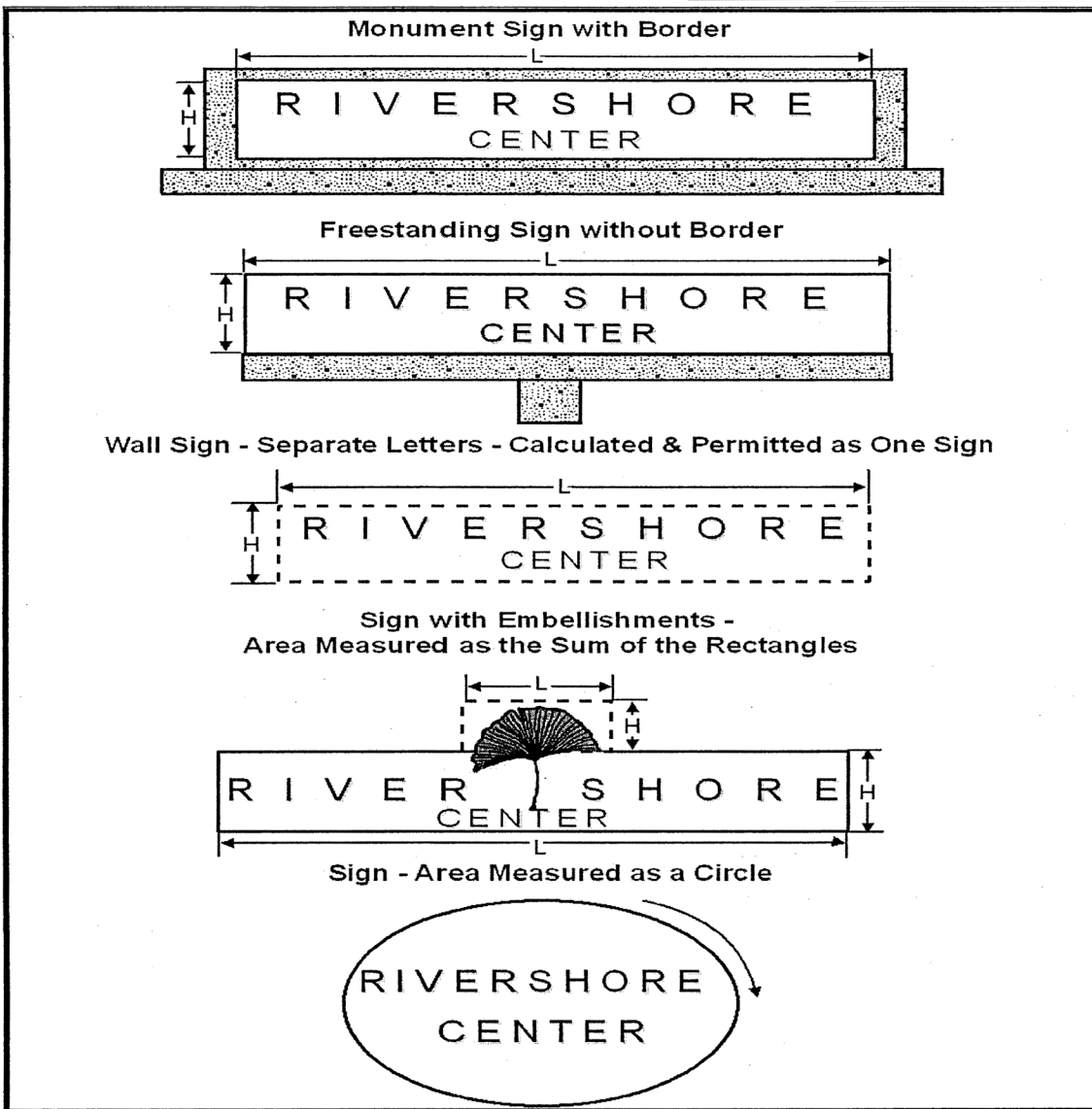
For the purpose of determining the number of freestanding signs on a property, a sign is a single display surface or display device containing elements organized, related, and composed to form a unit. A sign with back-to-back or angled message surface is considered to be one sign.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-555. Surface area computations.

- (a) 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 structural framing, display of identification licensing officially required by any government body, area dedicated to public service information, such as time and temperature, or structural elements outside the sign surface and bearing no advertising matter.
 - (1) For signs mounted back to back, the surface area of one side is calculated. The back surface can be used for an identical or additional message.
 - (2) For cylindrical signs, signs in the shape of cubes, "V-shape," or other signs which are substantially three-dimensional, the entire display surface or surfaces is included in computations of area.
 - (3) For signs with rotating panels or light emitting diodes (LED) technology which have changeable copy, the display surface area will be computed as if the sign had a single message area.
 - (4) For purposes of monument type signs, the surface area of the base will not be computed as part of the surface area of the sign.
 - (5) The area devoted for signage on the face of a canopy, or awning sign counts toward the percentage of wall signage allowed, with the exception of canopies regulated in section 44-567.
- (b) Any blank surface areas of the sign that could be utilized as display area will be included in the surface area computation.
- (c) Embellishments (display portions of signs extending outside the general display area), surface area extending outside the general display area must be computed separately as part of the total surface area of the sign.
- (d) The following diagrams in figure 44-555-1 indicate how the area of a sign is to be calculated.

Figure 44-554-1. Surface Area of Signs



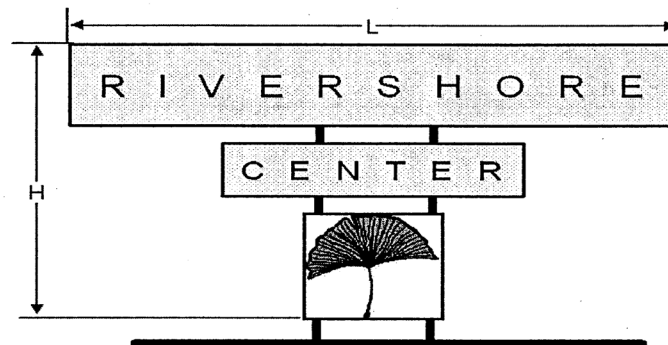
One Sign - Area Measured as a Triangle

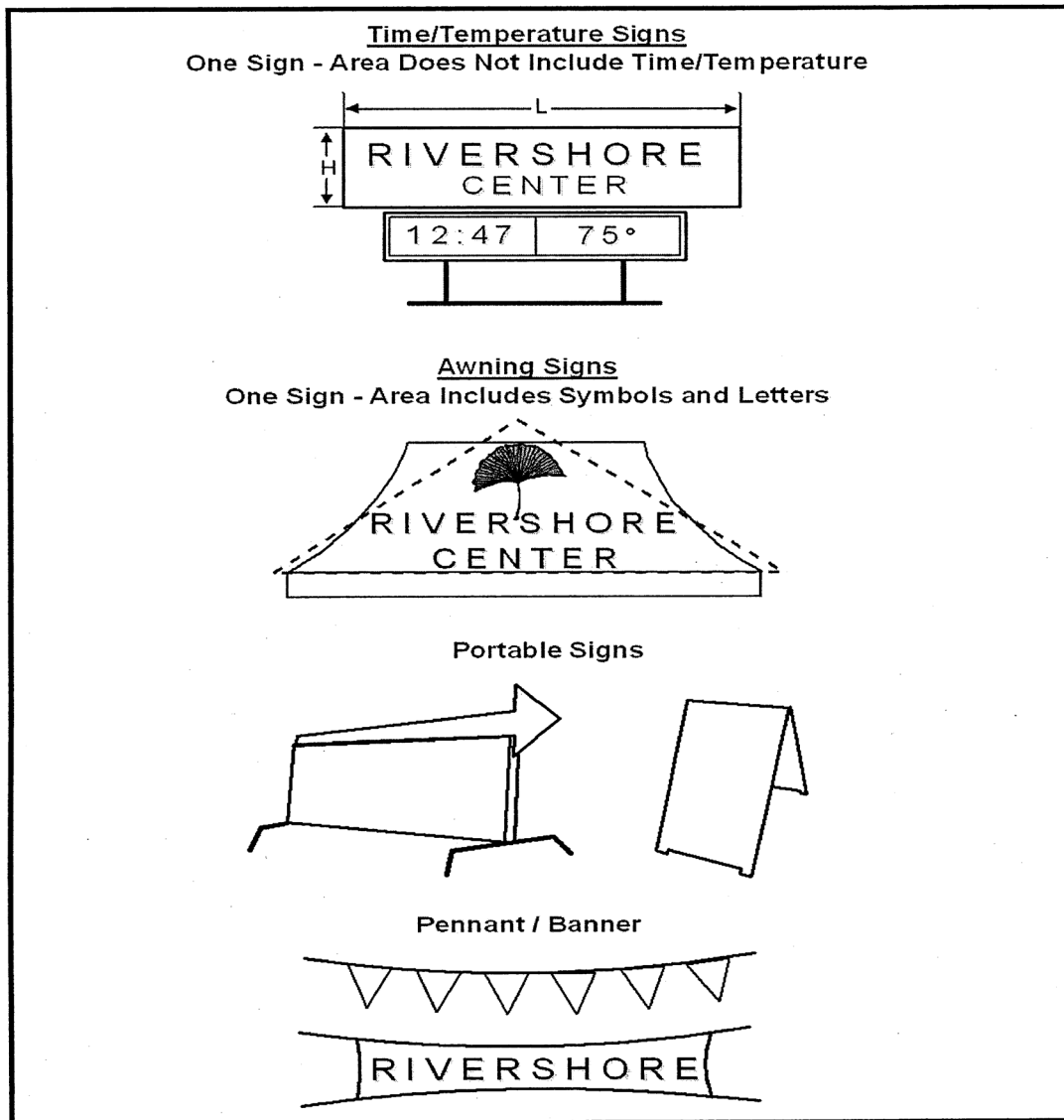


One Sign - Area Measured as a Rectangle



One Sign - Units All Related/Not Random Display





(Ord. No. 2021-05, 6-21-2021)

Sec. 44-556. Direct illumination.

No source of illumination on a sign, such as floodlights, spotlights, or unshielded bulbs, may shine directly into any public right-of-way or any adjacent residential property. LED-lit signs must not be of an intensity that glares or creates a safety hazard to travelers along any public right-of-way.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-557. Permits; standards generally; maintenance.

The following applies to signs regulated by this division:

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- (1) *Zoning authorization permit required.* Before any sign is displayed or structurally altered, an application, along with a detailed site plan, diagrams or other pertinent information as specified in the procedures manual, must be submitted to obtain a zoning authorization permit. This requirement applies to all signs except for those specifically exempted in subsection 44-552. Once a permit is granted, if work for the permitted sign is not completed within six months from the date of the permit's issuance, the permit automatically becomes null and void.
 - (2) *Construction standards.* All signs must be constructed and installed in accordance with the applicable provisions of this division, of the state building code, and of any other applicable laws, county codes, or other regulations.
 - (3) *Electrical standards.* All illuminated signs must be energized and illuminated in accordance with the applicable provisions of this division, the state building code, and any other applicable laws, county codes, or other regulations.
 - (4) *Maintenance.* All signs and sign structures must be maintained in good structural and aesthetic condition. They shall be kept safe and in good repair, free of deterioration or missing parts (examples of which would include, not for purposes of limitation, chipped paint, broken plastic, missing letters, disfigured surfaces, and incomplete illumination), and at all times they shall comply with all applicable provisions of this division, the state building code, and any other applicable laws, county codes, or other regulations.
 - (5) *Removal of copy.* If all or part of a sign's copy is removed, the person owning or having control over the sign shall, within 60 days of the removal of the copy, either replace the copy or remove the remaining components of the sign. If the sign is removed, the zoning permit for the sign will be deemed to have become null and void.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-558. Nonconforming signs.

- (a) An on-premises sign not in conformity with this article must be brought into compliance or removed within 180 days of the sign becoming nonconforming.
- (b) A nonconforming off-premises sign need not be removed, but the cost of all improvements made to the sign, in the aggregate from the time that the sign became nonconforming, may not exceed 50 percent of the value of the sign at the time it became nonconforming. A certified appraisal stating the value of the sign when it became nonconforming, along with the total cost of all improvements made to the sign since that time and the estimated cost of the proposed improvements, must be submitted with any application for a zoning authorization permit to make proposed improvements to such a nonconforming sign. Costs to convert the display of a nonconforming off-premises sign to an LED display are not subject to this section, but such a conversion must comply with the following:

Light-emitting diodes (LED), tri-vision, electronic messages and other similar technologies are allowed in all nonresidential districts, with the exception of the village district. LED and other similar technologies are allowed in residential districts only for the following uses: schools, places of worship, public use facilities, community recreation and other nonprofits. In all situations, this technology can be utilized only if the following requirements are met:

- (1) Pulsating or flashing sign structures or messages are prohibited.

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- (2) LED signs must hold a static message a minimum of eight seconds.
 - (c) Signs owned by nonprofits are exempt from subsections (a) and (b) above.
- (Ord. No. 2021-05, 6-21-2021)

Sec. 44-559. Violations.

Any person violating any section of this division is subject to all applicable enforcement, appeal, variance provisions of this chapter.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-560. Penalty.

Any person violating any section of this division for which no other penalty is set forth shall be subject to the penalty contained within section 44-369.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-561. On-premises freestanding signs.

On-premises freestanding signs are allowed as follows:

- (1) No more than one freestanding on-premises sign is allowed per lot, subject to the exceptions provided elsewhere in this section.
- (2) A single consolidated sign, of unified design and construction, is required when more than one use is located on a single lot.
- (3) All on-premises freestanding signs must observe the maximum permitted sign area requirements of table 44-561-1, except for signs on properties with home occupations, which are regulated in subsection (7) below.
- (4) For a lot that fronts on multiple streets or roads, one on-premises sign is permitted along each street or road that the lot fronts, provided that each sign is separated from any other by at least 150 feet and each sign is located a minimum of 100 feet from any residential district.
- (5) All parts of the sign and sign structure must be located outside of all street and road rights-of-way. The applicant is responsible for identifying the boundaries of all such rights-of-way and for providing that information in the sign permit application.
- (6) Light-emitting diodes (LED), tri-vision, electronic messages and other similar technologies are allowed in all nonresidential districts, with the exception of the village district. LED and other similar technologies are allowed in residential districts only for the following uses: schools, places of worship, public use facilities, community recreation and other nonprofits. In all situations, this technology can be utilized only if the following requirements are met:
 - a. Pulsating or flashing sign structures or messages are prohibited.
 - b. LED signs must hold a static message a minimum of eight seconds.
- (7) Unless specifically regulated under article VI, approved home occupations, cottage businesses, and supplemental or special uses may have one nonilluminated sign with a

maximum area of four square feet and a maximum height of four feet, including the height of any pedestal attached to the sign.

- (8) Replacement of nonconforming on-premises signs must meet the sign requirements as shown in table 44-561-1.
- (9) Multiuse sign. One multiuse sign structure having no more than two sign surface areas may be erected on a property with a planned development along each street frontage from which there is a major entrance to a development. The maximum area and height permitted for each planned development on-premises sign is allowed at a factor of $1.5 \times$ the maximum sign area and height limitation of a single-use sign as noted in table 44-561-1.
- (10) Additional multiuse sign. One additional multiuse on-premises sign, with a maximum area of 12 square feet and a maximum height of six feet, is permitted for each individual building within a planned development.
- (11) Lakefront properties with nonresidential uses. One additional on-premises freestanding sign, with a maximum sign surface area of 32 square feet and a maximum height of seven feet, is permitted for each commercially zoned property. In no case shall the maximum height exceed the adjacent road grade. Additionally, these requirements must be met:
 - a. Neon or LED signs are not permitted.
 - b. Only internal sign illumination and full cut-off downcast lighting is allowed in order to limit light spillage onto neighboring properties.

Table 44-561-1. On-Premises Single Development Sign Regulations

Sign Requirements—Based on Size and Speed of Adjoining Street				
Lanes	Maximum Speed Permitted	Surface Area Maximum (in square feet)	Height Maximum (in feet—including pedestal)	Illuminated Allowed
2	15—25	10	5	Yes
2	30—40	20	6	Yes
2	45—55	50	16	Yes
4	15—25	15	6	Yes
4	30—40	35	11	Yes
4	45—55	80	18	Yes
6	15—25	20	14	Yes
6	30—40	40	16	Yes
6	45—55	100	20	Yes

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-562. On-premises wall signs.

- (a) Wall signage is permitted on each wall of a nonresidential building and must not extend above its lower roofline.

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- (b) Total wall signage for the front building wall is limited to two square feet of area per linear foot of the building wall; not to exceed 300 square feet. Side and rear wall signage is limited to one square foot of area per linear foot of the building wall; not to exceed 150 square feet.
 - (c) Light-emitting diodes (LED), tri-vision, electronic messages and other similar technologies are allowed in all nonresidential districts, with the exception of the village district. This technology can be utilized subject to the following:
 - (1) Pulsating or flashing sign structures or messages are prohibited.
 - (2) LED signs must hold a static message a minimum of eight seconds.
 - (d) Approved home occupations, cottage businesses or special uses may have one non-illuminated wall sign in lieu of an on-premises sign meeting the size requirements.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-563. Off-premises signs—Billboards.

- (a) Off-premises signs are limited to one per lot. For signs mounted back-to-back or V-shaped, the surface area of one side is calculated. Double-stacked sign units are prohibited.
- (b) The maximum permitted area shall be 380 square feet per face for signs abutting I-40 and 250 square feet per face for all other signs.
- (c) The maximum sign height for signs fronting along limited-access highways is 50 feet or 50 feet as measured from the road surface adjacent to the sign, whichever is higher. For all other roads, the maximum sign height is 35 feet or 35 feet as measured from the road surface adjacent to the sign, whichever is higher.
- (d) Off-premises signs must meet the setback requirements of the district within which they are located with the exception of the front setback. All parts of the sign and sign structure must be located out of the right-of-way. However, if sign structures on adjacent lots are set back from the front lot line more than the required front-setback dimension, the signs must meet the greater front-setback requirement.
- (e) Off-premises signs must be separated from other structures on the same lot by a minimum of 50 feet.
- (f) Off-premises signs are permitted in highway commercial (HC) and industrial (LI and GI) districts only.
- (g) Off-premises signs are prohibited in the Highway 321 corridor on land zoned 321-ED (MX) and (I). In addition, off-premises signs are prohibited along NC Hwy. 150, NC Hwy. 127, NC Hwy. 10, NC Hwy. 16, and Hwy. 70 within the jurisdiction of the county.
- (h) Off-premises signs must be located a minimum of 400 feet from any residentially zoned property, park, school or hospital. This distance shall be measured from the nearest point of the sign to the nearest point of the property line that is residentially zoned or has one of the uses identified above. The right-of-way shall be included as part of the 400-foot requirement.
- (i) The minimum required distance between off-premises signs for federal aid primary highways (I-40) is 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-premises signs in all other circumstances must be 1,000 feet measured radially from the sign.

- (j) As part of the application for a zoning permit for an off-premises sign, a notarized letter from the property owner where the sign will be located must be submitted stating that a lease agreement has been executed with the applicant. Also, 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 authorization permit.
- (k) The poster material of the off-premises 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.
- (l) 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-premises sign. Flashing or strobe lights are prohibited.
- (m) 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-premises sign unless preapproved by the governmental authority having jurisdiction over the vegetation, such as NCDOT.
- (n) The back of the sign and the structural pole shall be painted in an earth-tone color, which includes shades of gray and brown.
- (o) All new sign structures must be supported by a steel monopole.
- (p) Off-premises roof signs are considered billboards and are subject to these regulations.
- (q) Off-premises wall signs are considered billboards and are subject to these regulations.
- (r) Off-premises signs must comply with the visibility regulations in section 44-407.
- (s) Tri-vision is allowed on off-premises signs.
- (t) An off-premises sign may be upgraded or constructed, where permitted, utilizing LED technology. In addition, an off-premises sign with LED technology must be separated from another off-premises sign with LED technology by 1,200 feet. A LED off-premises sign must hold a static message a minimum of eight seconds.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-564. Off-premises directional signs.

- (a) Up to three off-premises directional signs are permitted under the following standards:
 - (1) The principal use to which the sign directs is not located on a collector or arterial street and:
 - a. The use is located in an office-institutional, commercial, or industrial district;
 - b. The use is an approved special use; or
 - c. The use is a legal nonconforming use.
 - (2) A notarized letter, stating that permission has been obtained from the owner of the land where the sign is to be placed, shall accompany any application for a zoning authorization permit.

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- (3) The sign cannot exceed 16 square feet for a single use or 48 square feet for more than one use.
 - (4) The sign must be of unified design when more than one use utilizes a single sign.
 - (5) The height of an off-premises directional sign cannot exceed six feet.
 - (6) Such signs are not allowed for properties with home occupations.
 - (b) Nonprofits may have up to two off-premises directional signs, regardless of location, unless extenuating circumstances exist to allow a total of three signs.
 - (c) All parts of the sign and sign structure must be located outside all rights-of-way. The applicant is responsible for obtaining right-of-way information for any sign permit.
 - (d) Off-premises directional signs cannot be illuminated.
- (Ord. No. 2021-05, 6-21-2021)

Sec. 44-565. Development entrance signs.

The following apply to signs at a residential development entrance or within a median for a development entrance:

- (1) The applicant or assigned HOA must maintain the sign and the area around the sign. The signs shall be removed, if not properly maintained, at no expense to the public. For purposes of this subsection, "properly maintained" means maintained in a manner that does not cause the sign to become a public nuisance or endanger public safety. The "area around the sign" means any area that includes supports, landscaping, or other features relating to the sign.
 - (2) A maximum of two signs are permitted at each entrance.
 - (3) If the sign is to be located within the right-of-way of any state system road, the applicant is responsible for obtaining the approval of the NCDOT.
 - (4) The sign cannot exceed 32 square feet in area, as calculated under section 44-555 and figure 44-555-1.
 - (5) Illumination of the sign is permitted.
- (Ord. No. 2021-05, 6-21-2021)

Sec. 44-566. Limited access user's signs.

For properties located within 500 feet of the beginning of the limited access portions of I-40, Highway 321 and the intersection of an arterial street, a single sign is permitted as follows:

- (1) Maximum height is limited to 50 feet and a maximum area of 100 square feet.
- (2) The planning director may allow a greater height, up to a maximum of 130 feet or 130 feet above the closest road surface elevation adjacent to the sign, whichever is higher. The additional height would be considered 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. A report must be submitted by a professional engineer to validate this allowance.

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- (3) If the planning director allows additional height, the maximum sign size may be increased five square feet for each foot of allowed height above 50 feet, up to a maximum of 650 square feet.
 - (4) Signs must meet the setback 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.
 - (5) Where a limited access highway user's sign is installed on a developed lot, there may be one additional on-premise sign installed, if it is separated from the limited access highway user's sign by more than 500 feet.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-567. On-premises canopy signs for fuel-pump islands.

For any use where fuel-pump islands are permitted, in addition to one freestanding sign, one static fascia canopy sign is permitted on all sides of a fuel-pump island canopy that are visible from the public right-of-way. Each canopy sign may have a maximum area equal to 25 percent of the canopy fascia surface, up to a maximum height of two feet.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-568. 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. Any object made of lightweight fabric or similar material that is mounted to a pole or a building at one or more edges.

Billboard A permanently affixed off-premise sign, other than an off-premise directional sign.

LED sign. A sign with light-emitting diodes technology designed to project a static display at eight-second intervals with the copy message transition taking no more than two seconds controlled by high speed modem and computer.

Limited access user sign. A sign displayed by a use located within 500 feet of an entrance to a limited-access highway if the sign is designed to be seen from the limited-access highway, but where the entrance to the use does not front along the limited access highway.

Monument sign. A sign that is permanently affixed to a base on the ground, without any airspace between the base and the bottom edge of the sign.

Nonprofit. An entity governed by the laws of G.S. ch. 55A or an entity that is exempt from taxation under section 501(a) of the Internal Revenue Code.

Off-premises (or off-site) directional sign. An off-premises sign, the copy of which only identifies a property or use that is not located on a collector or arterial street and provides direction to that property or use.

Off-premises (or off-site) sign. A sign identifying/advertising and/or directing the public to a business, or merchandise, or service, or institution, or residential area, or entertainment which is

located, sold, rented, leased, produced, manufactured and/or furnished at a place other than the real property on which said sign is located.

On-premises (or on-site) sign. A sign or display that identifies or communicates a message related to the activity conducted, the service offered, or the commodity sold on the premises where the sign is located.

Pennant. 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.

Pole sign. A sign that is permanently affixed to the ground through use of a pedestal(s), with airspace between the ground and the bottom edge of the sign.

Portable sign. Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported.

Sight triangle. A triangular-shaped portion of land established at street intersections and driveways in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection, as set forth in applicable legal requirements.

Sign. Any display surface or display device containing or intending to contain elements organized, related, and composed to form a unit designed to inform or attract attention.

Tri-vision. Rotating multipanel technology, typically used on off-premises signs.

Wall sign A sign affixed on and parallel to the exterior wall of any building and projecting not more than 12 inches from the wall. Signs mounted on porticoes shall be considered as wall signs.

(Ord. No. 2021-05, 6-21-2021)

Secs. 44-569—44-571. Reserved.

DIVISION 8. FLEXIBLE DEVELOPMENT STANDARDS

Purpose: This section is to provide the planning director with the authority to allow deviations from the development standards for quantifiable standards of this ordinance including but not necessarily limited to setbacks, lot area and dimension, landscaping, and height as set forth in this chapter. Deviations are allowed if certain conditions exist and are not in conflict with state or federal regulations. The intent of this section is to promote the orderly and efficient development of property.

Sec. 44-572. Development standards—Deviation.

- (a) *Approving authority of flexible development standards.* Regardless of the minimum development standards otherwise required in this Code, the planning director shall have the authority to administer the flexible development standards listed in (b) below for the purpose of facilitating the orderly development and redevelopment of property within the county.
 - (1) The planning director may place conditions on an approved deviation to assure any resulting impacts to adjacent properties are mitigated.
 - (2) Decisions by the planning director shall be in writing and may be appealed to the board of adjustment by the procedures provided in section 44-331 of this chapter.

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- (b) *Maximum flexible development standards.* The planning director may approve requests that deviate from required setbacks up to 24 inches and other standards up to ten percent upon determination that any one of the following conditions exists:
- (1) There are site or structural conditions that preclude strict adherence to the setback requirements, such as, but not limited to: the lot does not meet the dimensional standards established for the zoning district in which it is located; or the lot has topographic limitations that require placement of the structure or additions into the required setback area.
 - (2) The part of the proposed structure that encroaches into the minimum setback area is necessitated by a life-safety code, Americans with Disabilities Act standard, or other public safety code requirements.
 - (3) Because of the nature of the abutting property or intervening topographical or geographical features, the application of the ordinance requirement would not serve a useful purpose.
 - (4) The applicant has agreed to conditions that would lessen impact of the deviation from adjacent properties.
 - (5) A reduced lot area and/or lot dimensions will not inhibit the reasonable use of the lot.

(Ord. No. 2021-05, 6-21-2021)

Secs. 44-573—44-599. Reserved.

ARTICLE VI. SPECIAL PURPOSE REGULATIONS

This article establishes additional regulations for particular uses, which are either permitted by right or as a special use, within the zoning districts established in article IV. These criteria are designed to ensure that the listed uses are compatible with the other permitted uses in the zoning district and to implement the policies of all adopted plans.

DIVISION 1. GENERALLY

Sec. 44-600. General provisions.

- (a) *Applicability.* The provisions of division 2, supplemental uses, and division 3, special uses, in this article are supplemental to the general provisions of the other articles of this chapter. All uses and structures must comply with all other applicable provisions of this chapter.
- (b) *Relationship to use table.* Uses listed as permitted, special use or having a reference to supplemental regulations in table 44-403-1 must satisfy these additional criteria before development will be approved.
- (c) *Site plans.* A detailed site plan, complying with any applicable standards in section 44-317 and the supplemental use or special use standards listed in this article, must be submitted.
- (d) *Application approval.* The planning director has the authority to approve, approve with modifications, or deny applications for supplemental use authorizations in division 2. The board of adjustment has the authority to approve, approve with modifications or deny applications for special use authorizations in division 3.

(Ord. No. 2021-05, 6-21-2021)

Secs. 44-601—44-605. Reserved.

DIVISION 2. SUPPLEMENTAL USES

Sec. 44-606. Standards for individual supplemental uses.

The following sections contain standards relevant for each individual supplemental use and are in addition to the applicable regulations in article V.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-607. Accessory structure.

An accessory structure cannot be permitted unless a principal structure exists on the same zoning lot or a building permit for a principal structure has been issued at the same time the accessory structure permit is issued.

(1) *Residential single-use accessory structure.*

- a. Accessory structures must not exceed the maximum permitted height for the zoning district in which the property is located.
- b. Accessory structures must not be erected in any required front setbacks with the exception to corner and multi-frontage lots. Accessory structures may be allowed no closer than 20 feet from the side street right-of-way. A side street is determined based upon the following criteria:
 1. Road classification;
 2. Length of road segment;
 3. Orientation of dwelling unit on lot;
 4. Existing development pattern; and
 5. A minor collector/thoroughfare of higher classified road cannot be considered a side street for purposes of this section.
- c. Accessory structure must be separated from the principal structure by at least five feet of open space.
- d. Accessory structures may not be located any closer than ten feet from any side lot line and five feet from any rear lot line with exception of accessory structures on Lakes Hickory, Lookout and Norman or the Catawba River main stem where the rear setback must be a minimum 30 feet, or more when required by the state's Catawba River Basin Riparian Buffer Rules (15A NCAC 2B.0243), as enforced by the NCDENR.
- e. Manufactured homes or truck trailers, either with current tags or untagged, may not be used for accessory structures and cannot be converted for storage or other purposes.

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- f. Fences and walls are regulated only to the extent that they cannot exceed six feet in height when located in the front setback. A zoning authorization permit is not required for fences and walls.
 - g. Within residential districts, ground-mounted solar panels are prohibited in the front yard and may not exceed 12 feet in height.
- (2) *Residential multiuse, multistory, or habitable space accessory structure.*
- a. Accessory structures must meet the requirements of subsections (1)a, b, and c above.
 - b. Accessory structures must meet the required setbacks for a principal structure in the underlying zoning district.
- (3) *Nonresidential accessory structure.*
- a. Must meet the requirements of subsections (1)a, b, and c above.
 - b. Accessory structures must meet the required setbacks for a principal structure in the underlying zoning district.
 - c. Storage/shipping containers must also comply with section 44-623.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-608. Animal hospital and veterinary clinic.

- (a) All activities of animal hospitals and veterinary clinics, with the exception of animal exercise yards, must be conducted within an enclosed building.
- (b) Buildings housing animal hospitals or veterinary clinics must be located a minimum of 100 feet from any adjacent residential property.
- (c) Exercise and confinement yards must be a minimum of 200 feet from any dwelling unit on any adjacent residential property.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-609. Assembly/theater facility—Outdoor or drive-in.

- (a) No part of any assembly area, projection screen, projection booth, or other building may be located closer than 300 feet from any adjacent residential property or closer than 50 feet from any lot line.
- (b) The image on the projection screen may not be visible from any arterial or collector street or from any adjacent residential property.
- (c) Audio amplification systems must be set in such a way to minimize impact to adjacent properties.
- (d) Lighting must be directed away from adjacent properties and public rights-of-way.
- (e) Queuing space within the zoning lot must be provided for patrons awaiting admission in an amount equal to 30 percent of the vehicular capacity of the assembly or theater facility.

(Ord. No. 2021-05, 6-21-2021)

**Sec. 44-610. Automatic teller machine (ATM), portable concession stands, ice machines—
Freestanding.**

- (a) Freestanding facilities and associated queuing lanes must not interfere with traffic access areas.
- (b) Freestanding facilities and associated queuing lanes must not occupy principal use required parking spaces.
- (c) Facilities must be located outside required setbacks and with the exception of ATMs, must be located at the side or rear of the principal use.
- (d) Low-growing landscaping or portable planters must surround three sides of the facility.
- (e) The facility must be underskirted with a material designed for that purpose.
- (f) Mechanical equipment must be screened from public view.
- (g) Concession stands must meet all applicable state and local regulations.
- (h) Only one wall sign is allowed, which has a maximum area of ten percent of the wall surface, up to a maximum total of 32 square feet in area.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-611. Boarding house, rooming house and bed and breakfast.

- (a) All required off-street parking must be located outside of required setbacks.
- (b) No more than six bedrooms may be devoted to guest accommodations.
- (c) The operators must be full-time residents of the premises.

(Ord. No. 2021-05, 6-21-2021)

**Sec. 44-612. Campground (in commercial district)—Group or primitive camping and
recreational vehicle parks.**

- (a) Group-camp facilities are operated on a profit or nonprofit basis. Standards for group-camp facilities are as follows:
 - (1) The minimum size for a group-camp facility is five acres.
 - (2) Each group camp must provide a minimum of one-fourth acre per each person camping.
 - (3) All buildings and areas for organized recreational use must be set back a minimum distance of 100 feet from any exterior property line.
 - (4) Cabins must be at least 75 feet, but no more than 150 feet, from toilet facilities.
 - (5) Interior roads must be paved.
- (b) Campgrounds or recreational-vehicle parks provide sites for tents and recreational vehicles. Standards for campgrounds or recreational-vehicle parks are as follows:
 - (1) The minimum size for a campground or recreational vehicle park is five acres.

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- (2) A minimum of 1,500 square feet of area must be provided for each tent, cabin or vehicle space.
 - (3) All buildings, tent spaces, and vehicle spaces must be set back a minimum distance of 100 feet from any exterior property line.
 - (4) A sanitary source of drinking water must be at least 200 feet, but no more than 400 feet, from toilet facilities. A bathhouse may not be more than 1,500 feet from any tent or vehicle space. This does not apply where public water and sewer connections are provided to vehicles having self-contained kitchens and bathroom facilities.
 - (5) A minimum of 1,500 square feet of area per tent, cabin or vehicle space must be provided for active or passive recreation.
 - (6) Interior roads must be paved.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-613. Construction trailer as a temporary office.

- (a) A North Carolina-licensed contractor working on a project, with a valid building permit, may temporarily use a construction trailer for office facilities.
- (b) The construction trailer must be placed on the property where the building permit authorizes construction.
- (c) The construction trailer must be removed within 30 days following completion of the work for which the permit was issued.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-614. Dwelling, two-family—Duplex.

- (a) A duplex must be designed to resemble a single-family home having:
 - (1) Building facades containing setback relief utilizing a variety of roof designs and shapes;
 - (2) Metal, when used, incorporated as part of an architecturally designed scheme; and
 - (3) Garage fronts de-emphasized and not be the most prominent architectural feature of the house.
- (b) Driveways serving front-loaded garages should be shared to reduce driveway cuts. Other driveways servicing garages must have side or rear access.
- (c) If garages are not provided, two parking spaces per unit are required. Parking areas must be paved but are not required to be lined. The parking area perimeter does not have to be buffered or landscaped.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-615. Home occupation.

Purpose: A home occupation, by its very nature, is a "low" intensive use occupying a minority area of the principal structure and in general centers around a home office environment. It also recognizes the trend of telecommuting and entrepreneurial opportunities. Such businesses may be located in any residential district, recognizing that certain residential and nonresidential uses can coexist in the same structure. Adequate standards should be in place to mitigate adverse impacts to adjacent residential uses. The services provided by the home occupation may be on or off site. When the business grows beyond the point of meeting the regulations below, the business will have to upgrade to a cottage business or move to a more appropriate commercial or industrial location.

The NAICS document (current edition) is made a part of the UDO and will be utilized in helping staff make interpretations of permitted home occupations when not specifically listed under this section. If the planning director determines that the use may be incompatible with the spirit and intent of this section, the director may refer to the BOA for an interpretation. Compliance must be in accordance with the standards listed in this section.

- (1) Home occupations are permitted in all residential districts, provided that they meet the requirements of subsection (2) below. Certain categories may be allowed including but not limited to:
 - a. Computer programming;
 - b. Catering, cooking and baking;
 - c. Direct marketing enterprises;
 - d. Dressmaking, sewing and tailoring;
 - e. Electronic equipment repair and maintenance;
 - f. Employment services;
 - g. Hair salons—May include nail salon and tanning bed(s) only as accessory uses;
 - h. Home crafts, such as weaving, jewelry making, or pottery;
 - i. Housekeeping and janitorial services;
 - j. Lawn care services;
 - k. Management of companies and enterprises;
 - l. Painting and sculpting;
 - m. Printing and related support activities;
 - n. Professional services, technical services, and health care professional services;
 - o. Real estate, rental or leasing;
 - p. Specialty trade—Contractor offices, where services are provided off-site (including but not limited to plumbing, electrical, and general contracting);
 - q. Taxidermy;
 - r. Telephone answering service;
 - s. Travel agency;

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- t. Tutoring or instruction of no more than 4 students at a time; and
 - u. Woodcarving.
- (2) No home occupation shall be permitted that:
- a. Changes the outside appearance of the dwelling unit or is visible from a street.
 - b. Creates a hazard to persons or property or is a nuisance. (Hazard or nuisance is defined as anything harmful or offensive to the community or a member of it and for which a legal remedy exists. A hazard or nuisance including excessive noise, odor, and dust shall be determined by the applicable agency.)
 - c. Generates more than two customer vehicles at any given time.
- (3) The following standards shall apply:
- a. A maximum of 25 percent of the aggregate total of the usable floor area of the principal dwelling unit may be devoted to the home occupation. Accessory structures may not be used for business purposes.
 - b. No outside storage and/or display of product or services is allowed.
 - c. The following single-motor vehicles, excluding trailers, associated with a home occupation are permitted to be parked or stored outside, on the site of the home occupation:
 - Dump truck;
 - Box truck;
 - Bucket truck;
 - Pump truck; and
 - Tow trucks.
 - d. Only one commercial vehicle per employee up to a maximum of three associated with the home occupation, are allowed to be parked or stored on the site of the home occupation. No more than two commercial vehicles associated with the business use are allowed to be parked or stored in the front or side yard.
 - e. One nonilluminated sign is permitted, with a surface area not to exceed four square feet. The height, including the supporting structure shall not exceed four feet.
 - f. Only one person shall work on the site of the home occupation, other than those residing on the property.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-616. Junkyard.

- (a) The site must have frontage on a major collector road or higher classification as shown on the county thoroughfare plan or a major thoroughfare as shown on the urban area transportation plan.

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- (b) All junkyards must provide a perimeter buffer, including road frontage. The buffer must consist of a double row of evergreens staggered at a maximum of six feet apart, and having a minimum height of six feet to block visual access to all adjoining properties.
 - (c) No material may be stored closer than 100 feet from any property lines.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-617. Landfill—Beneficial fill.

Beneficial-fill landfills are subject to the following:

- (1) The land is used for the disposal of inert debris strictly limited to concrete, brick, concrete block, used asphalt pavement, uncontaminated soil, rock or gravel.
- (2) Construction and demolition debris or land-clearing debris are not beneficial fill material and cannot be placed in a beneficial fill landfill.
- (3) The applicant must submit a surveyed map of the property prepared by a registered land surveyor. The survey map shall be either eight and one-half inches by 11 inches or eight and one-half 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 office.

- (4) Adequate soil cover must be applied monthly, as inspected by utilities and engineering department. The final cover must be a minimum of two feet of compacted earth, properly graded with establishment of suitable vegetative cover.
- (5) No excavation is allowed. The landfill site can only be used for the purpose of improving land use potential.
- (6) The applicant must agree to make the facility available for unannounced periodic inspections by county or state officials.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-618. Marina and dry-storage facility.

- (a) All operations must be located to prevent hazards to navigation.
- (b) Open storage of equipment, materials, and/or supplies associated with business operations is prohibited.
- (c) Ground-level storage of boats, trailers and other watercraft is allowed, but must not be visible from any adjacent property with a less intensive use of land or any public right-of-way.

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- (d) Dry-storage facilities that store boats or marinas that moor boats for living purposes which have marine sanitation devices (MSD) must provide a pumpout facility.
 - (e) Marinas or dry-storage facilities that provide a boat launch site must install low-impact-development stormwater-management devices. See section 44-428.
 - (f) Marinas that provide a boat launch site must construct the launch site a minimum of 50 feet from any residential zoned side property line.
 - (g) The height of a dry-storage facility cannot exceed the height limitations of the underlying zoning district and must be setback 50 feet from any residential zoned side property line.
 - (h) Assembling of seawalls, docks and piers except for the express use of the marina facility is strictly prohibited.
 - (i) A minimum of seven acres is required when a campground is planned as part of a marina.
 - (j) Dry-storage facilities should be sited with the open storage bays shielded from adjoining properties, to the extent feasible. The dominant exterior building color of the dry-storage facility should be chosen to blend in with the natural surroundings.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-619. Mini-warehouse.

- (a) All mini-warehouse compartment doors must open on an internal access driveway having a minimum paved width of 20 feet.
- (b) Facilities can only be used for dead storage of materials or articles and must not be used for assembly, fabrication, processing or repair.
- (c) The storage of hazardous, toxic, explosive substances, or any other substance requiring a "704 placard" is prohibited.
- (d) Outdoor lighting must be directed away from adjacent properties and public rights-of-way.
- (e) Mini-warehouse units must be constructed with the compartment doors facing internally, not facing a public street. An exception is allowed for mini-warehouses located on corner lots provided that shrubbery or low-growing evergreens are planted every five feet along the frontage of the secondary road.
- (f) Any side of a building facing a public street must be constructed with a facade of brick, stone, wood, or split-faced block. An exception is allowed for mini-warehouses located on corner lots provided that shrubbery or low-growing evergreens are planted every five feet along the frontage of the secondary road. Building facades which do not face a public street are not required to meet overlay or special district architectural regulations concerning metal treatment.
- (g) If the mini-warehouse facility has a locked and keyed entrance, two staging spaces must be located outside of the public right-of-way.
- (h) Open storage is prohibited.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-620. Public use facility.

- (a) The facility must have frontage on a public street.
- (b) Front, rear, and side setbacks must be a minimum of 35 feet.
- (c) The parcel perimeter buffer standards of subsection 44-523(f) must be met.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-621. Sales—Outdoor seasonal.

Outdoor seasonal sales are subject to the following standards:

- (1) Prior to conducting business, the operator of a seasonal-sales business must obtain a permit which describes the type of sales involved and the duration of the sales operation.
- (2) The applicant, if different from the property owner, must furnish written approval from the owner of the property before a permit will be issued.
- (3) Under no circumstance may the business operate more than a cumulative total of 45 days during any calendar year. The owner of the business must maintain an account of the days of sales operations and make such records available to the planning department.
- (4) The business must not involve the construction of a permanent building.
- (5) 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 must not operate as an accessory to a principal residential use on a lot.
- (6) Five off-street parking spaces must be provided for the use. Seasonal sales located on commercial properties must not utilize more than 20 percent of the required parking spaces provided on the site.
- (7) All parking, sales, and displays must be located outside of public rights-of-way and sight triangles.
- (8) One nonilluminated sign with a maximum area of 16 square feet is permitted if the sales area is located in a residential district. The sign regulations in article V, division 7 shall be met.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-622. Sales office or model dwelling units for residential development.

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

- (1) The use of the office must be for the initial sale of properties and buildings within the developing subdivision;
- (2) The sales office or model dwelling unit must meet all district requirements for lot and setback dimensions;
- (3) One nonilluminated sign with a maximum area of 16 square feet is permitted;

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- (4) 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, is provided. The off-street parking surface must be gravel or asphalt;
 - (5) The model dwelling unit must not be used for any business activity past 9:00 p.m.;
 - (6) The building used for the sales office must either be constructed for ultimate residential use or be a temporary modular office unit. If a temporary modular office unit is used, the following additional conditions must be met:
 - a. The modular office unit must be placed on a proper foundation, as recommended by the manufacturer;
 - b. The skirting must consist of any weatherproof material providing a visual barrier between the ground and the underside of the modular office unit; and
 - c. The modular office unit must comply with all building code requirements; and
 - (7) The residential development sales office or model dwelling unit must be discontinued when the specific residential project is sold out and shall thereafter comply with regulations generally applicable within the district.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-623. Shipping/storage container.

- (a) Containers, shipping containers or other portable storage containers are temporarily allowed for a dwelling in a residential district for a seven-day period during moving and are not subject to the standards listed in subsection (b) below. The time period can be extended in cases deemed as a hardship as defined by the planning director.
- (b) Containers are allowed on bona fide farms, but must be totally screened from view of all roads, public places and adjoining properties, through the use of features such as berms, fences, building walls, false facades or dense landscaping.
- (c) Containers, shipping containers or other portable storage containers are allowed in office, commercial and industrial districts, subject to the following:
 - (1) *Screening.* Containers must be screened from view of all streets, public places and adjoining properties, through the use of features such as berms, fences, building walls, false facades, or dense landscaping (with exception for access to the unit).
 - (2) *Location.* Containers should be located behind the principal building, or at the side if the physical nature of the site renders rear placement impossible, as determined by the planning director.
 - (3) *Setbacks.* Containers must comply with the principal setbacks for the district.
 - (4) *Building code compliance.* Containers must meet building code requirements if electrical or plumbing is installed.
 - (5) *Placard.* A "704 placard" must be displayed when storing hazardous, toxic or explosive substances.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-624. Swimming pool, private—In ground and above ground.

- (a) Swimming pools must not be erected in any required front setbacks.
- (b) Swimming pools must be separated from the principal structure by at least five feet. For the purpose of this regulation, a deck will not be counted as part of the principal structure, making it acceptable for the dwelling and the pool to be connected by a five-foot or larger deck.
- (c) Swimming pools may not be located any closer than ten feet from any side lot line and ten feet from any rear lot line.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-625. Temporary use/special event.

- (a) The applicant must submit a statement with a description of the proposed use, hours of operation, the proposed number of people expected to attend the temporary use/special event, location of parking, driveways, and any other pertinent information.
- (b) The following standards must be met when issuing a temporary use/special event permit:
 - (1) If not on the applicant's privately owned property, the applicant must provide written approval of the temporary use from the property owner.
 - (2) The location of the temporary use/special event must minimize adverse effects on surrounding properties, including traffic generation and impacts. The site should contain sufficient land area to accommodate all proposed activities. The owner or event organizer shall notify surrounding property owners of the times of the event, activities planned, and measures to be taken to ensure that traffic congestion is mitigated. Temporary uses/special events are prohibited between the hours of 11:00 p.m. and 7:00 a.m.;
 - (3) Adequate off-street parking must be provided. The use must 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;
 - (4) Display areas and/or temporary structures must comply with the required setbacks and must not interfere with the sight triangle of any intersection of roads or streets;
 - (5) Only one temporary use/special event can be permitted for a single parcel of land at any given time;
 - (6) Any applicable permits must be obtained from the NCDOT;
 - (7) Signage meeting the requirements of section 44-561 is permitted 14 days before the event and must be removed at the close of the event;
 - (8) Each event must not exceed 14 days and not to exceed two times during any 12-month period; and
 - (9) The temporary use must comply with the county division of environmental health regulations regarding sewage disposal.
- (c) If a particular use is not listed in the definition of temporary use/special event, the planning director has the authority to grant a temporary use/special event permit for a similar and compatible use.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-626. Vehicle minor maintenance/repair in residential districts.

- (a) Minor maintenance may be performed including changing and replenishment of fluid levels, such as hydraulic fluid, windshield-washer fluid, and lubricating oil; replacement of sparkplugs and ignition points; rotation of tires and checking of adequate pressure; and replacement of drive belts and hydraulic lines.
- (b) Any other repairs on a motor vehicle are restricted to enclosed spaces and only on privately registered vehicles to the occupant of the residence.
- (c) Under no circumstance may any individual perform any type of maintenance on a vehicle and receive compensation for the work performed.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-627. Vehicles parking—Domestic, recreational and commercial.

- (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 may the vehicle be occupied or used for living, sleeping, or housekeeping purposes except as allowed in accordance with subsection (c) below.
 - (2) At no time may the vehicle be connected to any utility service except as allowed in accordance with subsection (c) below.
- (b) *Commercial vehicles.*
 - (1) The parking of a tractor in any residential district is permitted, but the parking of trailers or tractor-trailer combinations in any residential district 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 area for a period less than 24 hours. The parking of commercial truck-trailers in residential districts for use as permanent storage is prohibited.
 - (2) The parking of other commercial vehicles used as the primary means of transportation to and from the work site and/or the off-site business location is allowed in a residential district.
 - (3) If a commercial vehicle is parked and stored outside of an enclosed garage, it must be parked or stored 20 feet or more from any street line, and five feet or more from any interior lot line.
- (c) *Recreational vehicle temporary use permit.* A temporary permit for the placement of a recreational vehicle is allowed in all residential zoning districts in accordance with the following standards:
 - (1) The principal occupied structure was destroyed by an act of God, including, but not limited to, a fire, tornado, hurricane, and a temporary permit for a recreational vehicle is necessary to allow the owner to live on 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 uninhabitable prior to the issuance of a temporary recreational vehicle permit.

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- (3) Electrical connections must be made in accordance with the building code.
 - (4) Permits are valid for one year. Under extenuating circumstances, the planning director has the authority to grant an extension.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-628. Wood waste grinding operation in industrial districts.

- (a) The minimum lot size must be two acres.
- (b) All grinding operations must have an approved driveway permit from the NCDOT.
- (c) All traffic areas, including entrances and exits, within the area of operation must 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.
- (d) 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 detailed site plan must include a footprint demonstrating where the equipment will be located in relation to dwellings located on adjoining properties.
- (e) 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 be setback from any right-of-way or property lines in accordance with the setback required for a principal structure (see table 44-404-1).
- (f) Retention of existing vegetation must 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.
- (g) 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, must be submitted to the county.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-629. Yard/garage sale.

Garage, yard, tag, patio, estate and apartment sales are permitted as an accessory use in all residential districts. A maximum of four sales are permitted during each 12-month period. Each sale cannot last more than three days.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-630. Temporary manufactured home during site-built home construction.

- (a) A class B (singlewide) manufactured home meeting appearance criteria can be temporarily located on a parcel, if it is located within the DWMH-O, for a period of two years, in association with an active building permit and construction of a stick built principal dwelling.

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- (b) The manufactured home must meet the principal structure setbacks as required in table 44-404-1.
 - (c) A temporary certificate of occupancy may be issued, for a period of 60 days, during the transition of moving out of the singlewide and into the permanent dwelling unit; however, a final certificate of occupancy will not be issued until the singlewide is removed from the site.
 - (d) At the time permanent power is connected to the new stick-built dwelling, power must be disconnected to the singlewide.
 - (e) Doublewide manufactured homes would not be allowed due to their more permanent nature as compared to singlewide manufactured homes.
- (Ord. No. 2021-05, 6-21-2021)

Sec. 44-631. Accessory dwelling unit/guesthouse.

- (a) The following are allowed to be used as an accessory dwelling unit/guesthouse:
 - (1) Stick-built home meeting all applicable sections of building code;
 - (2) Modular home meeting all applicable sections of building code; or
 - (3) Class A or B (double-wide/multisection or single-wide) manufactured home subject to:
 - a. A lineal family member or sibling use; and
 - b. Parcel must be located within the DWMH-O district.
- (b) The use must comply with all requirements of the county division of environmental health, for on-site sewage and well regulations.
- (c) A detached accessory dwelling unit shall be permitted as an accessory to any detached primary single-family dwelling unit. A manufactured home may be considered a primary residence only if it is categorized as real estate by the Catawba County Tax Office, as opposed to personal property. The accessory dwelling unit must be clearly subordinate to the principal structure.
- (d) No more than one accessory dwelling unit shall be permitted on a single deeded lot in conjunction with the principal dwelling unit.
- (e) The accessory dwelling unit and the principal dwelling must be owned by the same person. The owner must reside in one of the dwellings or on an adjacent parcel.
- (f) Accessory dwelling units must adhere to the maximum permitted height requirement for the zoning district.
- (g) Unless the accessory dwelling unit is accessed from a different road or street than the principal structure, the accessory dwelling unit must share a driveway with the principal structure.
- (h) Where a stick-built or modular unit is the principal dwelling, the accessory dwelling unit must not exceed 650 square feet or 50 percent of the gross heated floor area of the principal dwelling, whichever is greater.
- (i) Where a manufactured home is the principal dwelling, the accessory dwelling unit must occupy less than the square footage of the principal dwelling.
- (j) The accessory dwelling unit may be combined with a garage, workshop, etc.
- (k) An accessory dwelling unit must adhere to the principal setbacks for the district.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-632. Winery or brewery.

- (a) Applies to R-80 and R-40 zoning districts only.
- (b) All buildings must meet the minimum principal setbacks for the district.
- (c) The parcel must be a minimum of ten acres.
- (d) The winery cannot be located in a major subdivision.
- (e) The winery building(s) is allowed as a principal structure.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-633. Solar farm (utility-scale solar application).

- (a) All structures and security fencing must meet a 100-foot front setback measured from the edge of the rights-of-way and 50-foot side and rear setbacks.
- (b) A landscape buffer/screen along all exterior sides of the security fence must consist of:
 - (1) On-site mature vegetation exists at a minimum height of ten feet and depth of 75 feet between the security fence and adjacent property including rights-of-way; or
 - (2) A single row of evergreens in combination with mature vegetation, installed at a height of five feet achieving opaqueness and a minimum height of ten feet in five years; or
 - (3) A double row of off-set evergreens absent mature vegetation, installed at a height of five feet achieving opaqueness and a minimum height of ten feet in five years; or
 - (4) A berm combined with evergreen vegetation installed at a height of five feet achieving opaqueness and a minimum height of ten feet in five years.
- (c) Where visibility of the solar farm is increased due to topography, the landscape buffer/screen must be planted on-site in an area that lessens the view of the solar farm. Where visibility of the solar farm is decreased due to topography, the landscape buffer/screen may be reduced. Both shall be determined by the planning director.
- (d) All solar panels must be constructed to minimize glare or reflection onto adjacent properties and adjacent roadways and must not interfere with traffic or create a safety hazard.
- (e) The applicant must secure all necessary approvals and/or permits from NCDOT for the access points for project entrances prior to issuance of a zoning authorization permit.
- (f) All construction parking must be located outside of the rights-of-way.
- (g) Erosion control measures must be installed at construction entrances in order to minimize off-site soil damage. Existing grass must be maintained in perpetuity sufficient to prevent erosion.
- (h) The applicant must provide written authorization from the local utility company acknowledging and approving connection to the utility company's grid.
- (i) A warning sign concerning voltage must be placed at the main gate to include the name of the solar farm operator and a local phone number for the solar farm operator in case of an emergency.

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- (j) Power transmission lines must be located underground to the extent practical.
 - (k) A security fence equipped with a gate and a locking mechanism must be installed at a minimum height of eight feet along all exterior sides of the solar farm. Landscape buffer/screens, ground cover, security fences, gates, and warning signs must be maintained in good condition until the solar farm is dismantled and removed from the site.
 - (l) The zoning authorization permit is subject to revocation if the planning department is not notified when the solar farm company holding the permit sells or otherwise transfers its interest to another entity or individual.
 - (m) Removal of solar farm equipment and site restoration:
 - (1) The application must include decommissioning plans that describe the anticipated life of the solar farm, the estimated decommissioning costs in current dollars, the method for ensuring that funds will be available for decommissioning and restoration, and the anticipated manner in which the solar farm project will be decommissioned and the site restored.
 - (2) Following a continuous six-month period in which no electricity is generated, the permit holder will have six months to complete decommissioning of the solar farm. Decommissioning includes removal of solar panels, buildings, cabling, electrical components, and any other associated facilities below grade as described in the approved decommissioning plan.
 - (3) Prior to the issuance of a zoning compliance certificate, the applicant must provide the county with a performance guarantee as provided in subsection (5) below. For the first ten years of the solar facility's life, the amount of the guarantee shall be 1.25 times the estimated decommissioning cost minus 50 percent the salvageable value, or \$75,000.00, whichever is greater. Estimates for decommissioning the site and salvage value shall be determined by a North Carolina licensed engineer or a licensed contractor. It is the responsibility of the applicant to provide the county with the certified cost estimate.
 - (4) An updated decommissioning plan providing decommissioning costs and salvageable values is required at the ten-year mark and every five years thereafter. A new performance guarantee in the amount of 1.25 times the updated decommissioning cost minus 50 percent of the salvageable value, or \$75,000.00, whichever is greater is required.
 - (5) The following types of performance guarantees are permitted:
 - a. A surety or performance bond that renews automatically, includes a minimum 60-day notice to the county prior to cancellation, is approved by the planning director, and is from a company on the U.S. Department of Treasury's listing of certified companies. A bond certificate must be submitted to the planning department each year verifying the bond has been properly renewed.
 - b. A certified check deposited with the county finance director, as escrow agent, who will deposit the check in an interest-bearing account of the county, with all interest accruing to the applicant. Funds deposited with the county finance director will be returned when the solar farm is decommissioned and any necessary site restoration is completed.
 - c. A no-contest irrevocable bank letter of credit from a banking corporation licensed to do business in the state. The terms of the letter must include the absolute right of the county finance director to withdraw funds from the bank upon certification by the county manager that the terms and conditions of the performance guarantee have been

breached. The letter of credit must be valid up to 12 months from the date the performance guarantee was approved.

- (6) The full amount of the bond, certified check, or letter of credit must remain in full force and effect until the solar farm is decommissioned and any necessary site restoration is completed.
- (7) The land owner or tenant must notify the county when the site is abandoned.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-634. Other supplemental regulations.

Sec. 44-634.1. Back yard business.

Purpose: A back yard business, by its very nature, is a "low" intensive use occupying an accessory structure(s) and in general includes skilled hand labor, such as independent artisans, craftsmen, and small-scale repair shops. It is intended to operate in a rural environment and may be located in any residential district, recognizing that certain residential and nonresidential uses can coexist on the same parcel. Adequate standards should be in place to mitigate adverse impacts to adjacent residential uses. The services or products provided by the back yard business may be on or off site. The back yard business, like the home occupation, is intended to be a small noninvasive business. If the business grows beyond the point of complying with the regulations below, the use may be better suited as a cottage business or within a commercial location.

The NAICS document (current edition), supplemental to the UDO, will be utilized in helping staff make interpretations of permitted uses allowed within a back yard business when not specifically listed under this section. Compliance must be in accordance with the standards listed in this section.

- (1) Back yard businesses are permitted in all residential districts, provided that they meet the requirements of subsection (2) below. Certain categories may be allowed including but not limited to:
 - a. All uses allowed as a home occupation;
 - b. Cabinet and woodworking shops;
 - c. Furniture upholstery; and
 - d. Household repair and maintenance (white goods and small appliances).
- (2) The following specific standards shall apply:
 - a. One nonilluminated sign is permitted, with a surface area not to exceed four square feet. The height, including the supporting structure, shall not exceed four feet.
 - b. Only one person is permitted to work on the site of the back yard business, other than those residing on the property.
 - c. Back yard businesses established:
 - 1. After effective date of this regulation (November 16, 2009):
 - i. Shall be located in accessory structures which conform to the principal setbacks for the zoning district.

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- ii. May occupy an aggregate area equivalent to no more than 50 percent of the primary residence.
 - 2. Prior to the effective date of this regulation (November 16, 2009):
 - i. May be located in accessory structures which conform to the accessory setback for the zoning district.
 - ii. Not subject to subsection (2)c.1 above, however any additional square footage associated with the business cannot exceed an aggregate area of more than 50 percent of the primary residence.
 - iii. Not subject to subsection (2)a above.
 - d. Back yard businesses are not permitted in approved major subdivisions.
 - e. All equipment, raw materials, machinery, equipment or future job units waiting for assembly or repair shall be stored within the back yard business structure.
 - f. A manufactured home cannot be used as a detached back yard business.
 - g. Businesses that utilize power tools, air compressors, and other machinery must be conducted entirely within an enclosed structure.
 - h. No outside display of product(s) is allowed.
 - i. All back yard businesses shall have adequate land area to accommodate customer parking outside of public and private rights-of-way.
 - j. The following single-motor vehicles, excluding trailers, associated with a back yard business are permitted to be parked or stored outside, on the site of the back yard business:
 - Dump truck;
 - Box truck;
 - Bucket truck;
 - Pump truck; and
 - Tow trucks.
 - k. Only one commercial vehicle per employee up to a maximum of three associated with the back yard business, are allowed to be parked or stored on the site of the back yard business. No more than two commercial vehicles associated with the business use are allowed to be parked or stored in the front or side yard.

(Ord. No. 2021-05, 6-21-2021)

DIVISION 3. SPECIAL USES

Sec. 44-635. Intent.

- (a) The intent of the board of commissioners is 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.

- (b) In addition to the listing of such uses, the board of commissioners intends that the general standards, established in section 44-328, and the more-specific requirements established in this article shall be used by the board of adjustment when considering applications for the approval of special uses.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-636. Contents of application.

The application for approval of a special use must meet the requirements of section 44-328.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-637. Standards for individual special uses.

All special uses must meet the landscaping buffers, screening, signage and parking regulations in article V or the specific standards for the individual special use, if noted. Access to and from the special use site must comply with NCDOT standards for a driveway connection permit. The following sections contain standards applicable to each individual special use.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-638. Reserved.

Sec. 44-639. Adult use.

- (a) All windows, doors, and entries for all adult uses must be located, covered, screened, or otherwise treated so that any view of the interior of the establishment are not possible from any public or semipublic area, street, or way.
- (b) 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.
- (c) No adult use shall be located within 500 feet of any adjacent residential property.
- (d) 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.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-640. Airport/airstrip/runway/taxiway.

- (a) No airstrip/runway/taxiway shall be located on a parcel of land less than ten acres.
- (b) Proof in writing of compliance with all FAA and NCDOT regulations.

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- (c) The minimum length for the landing strip, approach zones and other land and air space criteria must comply with FAA and NCDOT regulations.
 - (d) No structure can be located within the area identified in subsection (c) above.
 - (e) One nonilluminated sign with a maximum area of 16 square feet is permitted.
- (Ord. No. 2021-05, 6-21-2021)

Sec. 44-641. Animal facility—Kennel.

- (a) The kennel facility must have a minimum lot size of ten acres.
 - (b) All activities, with the exception of animal exercise areas, must be conducted within an enclosed building.
 - (c) A 300-foot separation must be maintained between the kennel, which includes any exercise area, and any property line.
 - (d) The disposal methods for wastes generated must be reviewed and approved by the county division of environmental health.
 - (e) One nonilluminated sign with a maximum area of 16 square feet is permitted.
- (Ord. No. 2021-05, 6-21-2021)

Sec. 44-642. Animal facility—Stable—Public.

- (a) Front, rear, and side setbacks for the stable structure must be a minimum of 50 feet.
 - (b) Parking must be provided at a ratio of one parking space for every five stalls.
 - (c) The operator of the stable must be responsible for using good management practices to discourage undesirable odors and insects.
 - (d) One nonilluminated sign with a maximum area of 16 square feet is permitted.
- (Ord. No. 2021-05, 6-21-2021)

Sec. 44-643. Art gallery.

- (a) The site must have frontage on a major collector road or higher classification as shown on the county thoroughfare plan or a major thoroughfare as shown on the urban area transportation plan.
 - (b) A minimum lot size of 40,000 square feet shall be provided.
 - (c) No external evidence of retail sales shall be permitted.
 - (d) The light source of outdoor lighting fixtures shall not be directly visible from property outside the zoning lot on which the fixture is located.
 - (e) One nonilluminated sign with a maximum area of 16 square feet is permitted.
- (Ord. No. 2021-05, 6-21-2021)

Sec. 44-644. Boardinghouse, rooming house or bed-and-breakfast operation.

- (a) All required off-street parking must be located outside of required setbacks. Parking must be in accordance with article V, division 5, with the exception that the parking area does not have to be lined.
- (b) No more than four bedrooms may be devoted to guest accommodations.
- (c) The operators must be full-time residents of the premises.
- (d) One nonilluminated sign, no more than four square feet, is permitted.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-645. Campground (in residential districts)—Group or primitive camping and recreational vehicle parks.

- (a) Group camp facilities can be operated for a profit or nonprofit basis. Standards are as follows:
 - (1) The minimum size for a group camp facility is five acres.
 - (2) Each group camp must provide a minimum of one-fourth acre per person camping.
 - (3) All buildings and areas for organized recreational use must be set back a minimum distance of 100 feet from any exterior property line.
 - (4) Cabins must be at least 75 feet, but no more than 150 feet, from toilet facilities.
 - (5) Interior roads must be paved.
 - (6) One nonilluminated sign with a maximum area of 16 square feet is permitted.
- (b) Campgrounds or recreational vehicle parks providing sites for tents and recreational vehicles.
 - (1) The minimum size for a campground or recreational vehicle park is five acres.
 - (2) A minimum of 1,500 square feet of area must be provided for each tent, cabin or vehicle space.
 - (3) All buildings, tent spaces, and vehicle spaces must be set back a minimum distance of 100 feet from any exterior property line.
 - (4) A sanitary source of drinking water must be at least 200 feet, but no more than 400 feet, from toilet facilities. A bathhouse may not be more than 1,500 feet from any tent or vehicle space. This does not apply where public water and sewer connections are provided to vehicles having self-contained kitchens and bathroom facilities.
 - (5) A minimum of 1,500 square feet of area per tent, cabin or vehicle space must be provided for active or passive recreation.
 - (6) Interior roads must be paved.
 - (7) One nonilluminated sign with a maximum area of 16 square feet is permitted.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-646. Care facility—Child and adult care center.

- (a) A paved semicircular driveway, 20 feet in width with a minimum inside radius of 20 feet.
- (b) A fenced outdoor play area for children must be placed in the rear or side yard.
- (c) Uses designed to accommodate more than 30 patrons must have:
 - (1) Frontage on a minor collector road or higher classification as shown on the county thoroughfare plan or a minor thoroughfare or higher classification as shown on the urban transportation plan.
 - (2) A minimum lot size of 40,000 square feet shall be required.
 - (3) An improved impervious walkway connecting a child care facility to the street where buses may drop off school children.
- (d) The design, intensity, and scale of the child and adult care center must be compatible with surrounding land uses and zoning.
- (e) All state rules and requirements must be met.
- (f) One nonilluminated sign with a maximum area of 16 square feet is permitted.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-647. Care facility—Hospice/palliative or residential care facility.

- (a) The facility must have frontage on a major collector road or higher classification as shown on the county thoroughfare plan or a major thoroughfare as shown on the urban area transportation plan.
- (b) There must be a minimum lot size of 40,000 square feet with a minimum road frontage of 150 feet.
- (c) Front, rear, and side setbacks shall be a minimum of 50 feet.
- (d) One nonilluminated sign with a maximum area of 16 square feet and a maximum height of four feet from the ground.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-648. Cemetery—Human beings and pet.

- (a) *Cemetery, human beings, public.*
 - (1) All requirements of state law regarding the interment of human dead must be met.
 - (2) A minimum lot size of five acres shall be provided.
 - (3) There must be adequate space within the site for the parking and maneuvering of funeral corteges.
 - (4) Interments must be at least 30 feet from any property line.
 - (5) All structures must be set back a minimum of 25 feet from any property line and cannot be placed in any required setbacks.

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- (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.
 - (7) Church cemeteries are exempt from these special use requirements and are accessory to the use of the church.
 - (8) One nonilluminated sign with a maximum area of 16 square feet is permitted.
- (b) *Cemetery, pet.*
- (1) All applicable federal and state regulations governing animal cemeteries must be met.
 - (2) A minimum lot size of 40,000 square feet shall be provided.
 - (3) Interments must be at least 30 feet from any property line.
 - (4) All structures shall be set back a minimum of 25 feet from any property line and cannot be placed in any required setbacks.
 - (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.
 - (6) One nonilluminated sign with a maximum area of 16 square feet is permitted.
- (Ord. No. 2021-05, 6-21-2021)

Sec. 44-649. Conference/retreat/event center.

- (a) A minimum lot size of five acres.
 - (b) The facility may only be used by organized groups for educational or recreational purposes.
 - (c) All setbacks must be at least 100 feet.
 - (d) The facility must have frontage on a major collector road or higher classification as shown on the county thoroughfare plan or a major thoroughfare as shown on the urban area transportation plan.
 - (e) The light source of outdoor lighting fixtures must not be directly visible from property outside the zoning lot on which the fixture is located.
 - (f) The facility must meet county division of environmental health regulations.
 - (g) One non-illuminated sign with a maximum area of 16 square feet is permitted.
- (Ord. No. 2021-05, 6-21-2021)

Sec. 44-650. Dragstrip or racetrack.

- (a) A minimum lot size of 40 acres.
- (b) The facility must have frontage on a major collector road or higher classification as shown on the county thoroughfare plan or a major thoroughfare as shown on the urban area transportation plan.

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- (c) The light source of outdoor lighting fixtures must not be directly visible from property outside the zoning lot on which the fixture is located.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-651. Firing range—Outdoor.

- (a) The use must not be located within 2,640 feet of any residence.
- (b) All state and federal requirements must be met.
- (c) A projectile-proof backstop, consisting of concrete, steel, earth, or any combination, at least 15 feet high must be erected and maintained behind all target areas.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-652. Flea market—Outdoor.

- (a) There must be a minimum of at least five acres fronting along a major collector road or higher classification as shown on the county thoroughfare plan or a major thoroughfare as shown on the urban area transportation plan.
- (b) All area used for vendors and aisles must be paved.
- (c) Front, rear and side setbacks must be a minimum of 60 feet.
- (d) Evidence must be presented that the requirements and standards of the county division of environmental health have been met.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-653. Greenhouse—Commercial.

- (a) The use must provide for all required off-street parking and loading on private property.
- (b) The use must have frontage on a state road.
- (c) No sales or display activity can be located on public land or within state road right-of-way.
- (d) One nonilluminated sign with a maximum area of 16 square feet is permitted.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-654. Landfill—Land-clearing and inert debris (LCID).

- (a) Where the designated area of the landfill is less than two acres, a special use permit is required by the county with notification to the state. Where LCID landfills are two acres or larger, a special use permit is required by the county and a state permit is required. Only one LCID is permitted per parcel.
- (b) 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.

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- (c) The landfill must be located out of the 100-year floodplain and not in a wetland, as defined by section 404(b) of the Clean Water Act.
 - (d) The landfill must be 100 feet from any property line.
 - (e) The landfill must be 100 feet from any residential dwelling or commercial or public building.
 - (f) The landfill must be 100 feet from any well.
 - (g) The landfill must be 50 feet from all surface waters.
 - (h) The landfill must be placed above the seasonal high groundwater table.
 - (i) The applicant must furnish a certified soil analysis, prepared by a soil scientist, indicating that the proposed landfill will be located above the seasonal high water table and if located where proposed, will provide adequate separation from any source of groundwater to protect the groundwater from contamination.
 - (j) The facility must be adequately secured by means of gates, chains, berms, or fences.
 - (k) A sign, with minimum letter size of four inches, must be posted at the entrance stating "Authorized Persons Only" and "No Trespassing—Keep Out."
 - (l) A survey map of the property must be prepared by a registered land surveyor. The survey map must be either eight and one-half inches by 11 inches or eight and one-half inches by 14 inches. The map must show the following:
 - (1) Name of the owner, property lines, north arrow, scale, bearings and distances taken from the deed.
 - (2) Disposal area delineated which meets all setback noted above.
 - (3) Certification and seal of the registered land surveyor or registered engineer.
 - (4) 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 office.
 - (m) Adequate soil cover must be applied monthly, as inspected by the utilities and engineering department. The final cover must be a minimum of two feet of compacted earth properly graded with establishment of suitable vegetative cover.
 - (n) The permit shall be issued for not more than five years. After the five-year period, the landfill must be properly closed or another LCID application must be submitted and approved.
 - (o) A LCID landfill permit must be obtained from the county.
 - (p) The facility must meet be permitted and operated in accordance with the state solid waste management rules.
 - (q) The applicant must agree to make the facility available for unannounced periodic inspections by county or state officials.
 - (r) The facility or practices must no cause or contribute to the taking of any endangered or threatened species of plants, fish or wildlife.
 - (s) The facility or practices must not damage or destroy an archaeological or historical site.

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- (t) Open burning of solid waste is prohibited.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-655. Marina and/or dry-storage facility.

- (a) All operations must be located to prevent hazards to navigation.
- (b) Open storage of equipment, materials, and/or supplies associated with business operations is prohibited.
- (c) Dry storage of boats, trailers and other watercraft is allowed, but must not be visible from any adjacent less-intensive use of land or any public right-of-way.
- (d) Dry-storage facilities that store boats or marinas that moor boats for living purposes which have marine sanitation devices (MSD) must provide a pumpout facility.
- (e) Marinas that provide a boat launch site must set back the launch site 50 feet from the side property line.
- (f) Marinas or dry-storage facilities that provide a boat launch must install low impact development storm water management devices. See section 44-428, Catawba River Corridor overlay (CRC-O) district.
- (g) Watercraft sales are permitted.
- (h) The height of a dry-storage facility cannot exceed the height limitations of the underlying zoning district and must be setback 50 feet from any residential zoned side property line.
- (i) Assembling of seawalls, docks and piers except for the express use of the marina facility is strictly prohibited.
- (j) A minimum of seven acres is required when a campground is planned as part of a marina.
- (k) Dry-storage facilities should be sited with the open storage bays shielded from adjoining properties, to the extent feasible. The dominant exterior building color of the dry-storage facility should be chosen to blend in with the natural surroundings.
- (l) One nonilluminated sign with a maximum area of 16 square feet is permitted.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-656. Membership organization.

- (a) The facility must have frontage on a major collector road or higher classification as shown on the county thoroughfare plan or a major thoroughfare as shown on the urban area transportation plan.
- (b) The light source of outdoor lighting fixtures must not be directly visible from property outside the zoning lot on which the fixture is located.
- (c) All required setbacks must be 40 feet.
- (d) One nonilluminated sign with a maximum area of 16 square feet is permitted.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-657. Mining of earth products.

- (a) 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.
- (b) An operation plan, which must include the following:
 - (1) The date proposed to commence operations and their expected duration.
 - (2) Proposed hours and days of operations.
 - (3) Estimated type and volume of extraction.
 - (4) Description of method of operation, including the disposition of topsoil, overburden, and byproducts.
 - (5) Description of equipment to be used in the extraction process.
 - (6) Any phasing of the operation and the relationship among the various phases.
 - (7) Operating practices to comply with the performance standards applicable to the operation.
- (c) For mining activities, not including sand, soil and clay, the following specific standards must be used in deciding an application for approval of a special use permit:
 - (1) The permanent roads, defined as those to be used in excess of one year, within the excavation site shall be surfaced with a dust-free 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.
 - (2) Roads, other than permanent roads, must be treated with dust inhibitors, such as water wagons, to reduce the generation of dust.
 - (3) Where the proposed extraction takes 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 must be installed.
 - (4) An undisturbed buffer of a minimum of 100 feet must be maintained around the mining activity at all times, excluding entrance roads.
 - (5) No off-site refuse may be dumped on site unless a permit has been issued by the state division of solid waste management for such an activity.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-658. Museum.

- (a) The facility must have frontage on a major collector road or higher classification as shown on the county thoroughfare plan or a major thoroughfare as shown on the urban area transportation plan.
- (b) A minimum lot size of 40,000 square feet is required.
- (c) Retail sales are limited to five percent of the total usable floor area of the use.
- (d) No external evidence of retail sales is permitted.

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- (e) The light source of outdoor lighting fixtures must not be directly visible from property outside the zoning lot on which the fixture is located.
 - (f) One nonilluminated sign with a maximum area of 16 square feet is permitted.
 - (g) The board of adjustment may grant a special exception for the pavement of parking spaces if graveled spaces would better preserve the historic character of the property.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-659. Nursery/landscaping business.

- (a) The site must have at least 150 feet fronting along a state-maintained road.
- (b) The minimum lot size must be 40,000 square feet and a maximum of 120,000 square feet, or a detailed site plan showing a maximum square footage dedicated to the business. Areas dedicated to growing plant products or a house site are not included in this calculation.
- (c) All vehicles and/or equipment must be stored in an enclosed building.
- (d) Front, rear, and side setbacks must comply with the minimum required setbacks for the zoning district, but must at least be a minimum of 40 feet.
- (e) Maximum lot coverage for structures may not exceed 30 percent.
- (f) Mulch and gravel piles, etc., must be located out of the front, rear and side setbacks. If the mulch and gravel piles, etc. are stored in the front or side, they must not be visible from the state maintained road or adjacent properties.
- (g) The board of adjustment may grant a special exception for the pavement of parking spaces.
- (h) One nonilluminated sign with a maximum area of 16 square feet is permitted.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-660. Public service facility.

Facilities exceeding 200 square feet must meet:

- (1) The landscape buffer, screening and parking regulations in article V; and
- (2) Fifty-foot front, rear and side setbacks.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-661. Recreation—Community.

- (a) The facility must have frontage on a major collector road or higher classification as shown on the county thoroughfare plan or a major thoroughfare as shown on the urban area transportation plan.
- (b) All required setbacks are a minimum of 40 feet.
- (c) A minimum lot size of 20,000 square feet is required.

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- (d) The light source of outdoor lighting fixtures must not be directly visible from property outside the zoning lot on which it is located.
 - (e) No business activities may be conducted on the site.
 - (f) Waterfront public access sites must install low impact development storm water management devices. See section 44-428, Catawba River Corridor overlay (CRC-O).

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-662. Recreational fish lake or pond.

- (a) A minimum lot size of five acres must be provided.
- (b) All required setbacks are 100 feet.
- (c) The facility must have frontage on a major collector road or higher classification as shown on the county thoroughfare plan or a major thoroughfare as shown on the urban area transportation plan.
- (d) The board of adjustment may grant a special exception for the pavement of parking spaces.
- (e) The light source of outdoor lighting fixtures must not be directly visible from property outside the zoning lot on which it is located. All lighting must be shown on the detailed site plan with applicable typical diagrams.
- (f) No alcohol is permitted on the premises.
- (g) Electronic sound amplification is not permitted.
- (h) Proof of commercial insurance is required.
- (i) The requirements and standards of the county division of environmental health must be met for adequate sewage disposal facilities and water.
- (j) One nonilluminated sign with a maximum area of 16 square feet is permitted.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-663. Roadside stand—Commercial.

- (a) The use must provide for all required off-street parking and loading on private property.
- (b) The use must have frontage on a state road.
- (c) No sales or display activity can be located on public land or within state road right-of-way.
- (d) One nonilluminated sign with a maximum area of 16 square feet is permitted.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-664. Zoo.

- (a) Minimum lot size is ten acres.
- (b) The facility must have frontage on a major collector road or higher classification as shown on the county thoroughfare plan or a major thoroughfare as shown on the urban area transportation plan.
- (c) The light source of outdoor lighting fixtures must not be directly visible from property outside the zoning lot on which the fixture is located.
- (d) Paved parking spaces are required as follows:
 - (1) One space for each three persons able to use the facility at its maximum capacity.
 - (2) Plus ten waiting spaces.
 - (3) Plus one parking space for each two employees.
- (e) All required setbacks are 100 feet.
- (f) One nonilluminated sign with a maximum area of 16 square feet is permitted.
- (g) No more than 25 percent of any area under roof, exclusive of animal containment areas, may be dedicated to retail sales.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-665. Cottage business.

Purpose: The county promotes economic development and supports the entrepreneurial spirit and valuable role that small businesses play. A cottage business may be located in any residential district, recognizing that certain residential and nonresidential uses can coexist on the same site or adjacent to each other. It is further recognized that cottage businesses will not adversely impact adjacent residential uses, provided certain standards are in place. By its very nature, the cottage business is a "moderate" intensive use occupying the principal structure and/or an accessory structure or on an adjacent property. The services provided by the cottage business may be on or off site. The cottage business is intended to be a non-invasive business and should not compromise the health, safety, welfare, the quiet enjoyment of surrounding properties or contribute to diminishing property values. When the business grows beyond the point of meeting the regulations below, the business will have to move to a more appropriate commercial or industrial location.

The NAICS document (current edition) is made a part of the UDO and will be utilized in helping staff make interpretations of permitted cottage businesses used when not specifically listed under this section. If the planning director determines that the use may be incompatible with the spirit and intent of this chapter, the director may refer to the BOA for an interpretation. Compliance must be in accordance with the special use general and supplemental standards.

- (1) Cottage businesses are permitted in all residential districts, provided that they meet the requirements of subsection (2) below. Certain categories may be allowed including but not limited to:
 - a. All uses allowed as a home occupation or back yard business;
 - b. Commercial machinery repair and maintenance;

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- c. Contractors—Specialty trades, such as:
 - Drywall contractors;
 - Electrical contractors;
 - Masonry contractors;
 - Painting contractors;
 - Plumbing contractors;
 - Residential, commercial and industrial building construction contractors;
 - Roofing contractors.
 - d. Upholstery (full-service).
- (2) The following specific standards shall be used in deciding an application for approval of a cottage business:
- a. The cottage business must not alter the residential character of the parcel/neighborhood.
 - b. The use shall not generate more than 50 average daily trips (ADT) per day as determined by the current Institute of Transportation Engineers (ITE) Trip Generation Manual.
 - c. The business must be operated by the landowner living on the site or on an adjacent parcel.
 - d. Such use may be carried out in an accessory building(s) on the same lot or on a lot adjacent to the principal dwelling owned and occupied by the same person. A manufactured home may be considered a principal dwelling only if it is categorized as real estate by the county tax office, as opposed to personal property.
 - e. A manufactured home cannot be used as a detached cottage business.
 - f. The parcel occupied by the cottage business must be a minimum lot size of one acre.
 - g. Only one cottage business is permitted per lot.
 - h. No more than two persons shall work on the site of the cottage business, other than those residing on the property.
 - i. New accessory structures constructed for a business use established after the adoption of this section (February 6, 2007) must meet front, rear, and side principal setbacks based on the zoning district in which the use is located. A previously established business use located within an existing structure must meet the setbacks for an accessory structure.
 - j. The site shall front along a dedicated 45-foot ROW and must meet the lot frontage requirements at the time the lot was created.
 - k. The area of the site, where the business use is conducted, must be screened from the view of adjacent residential properties in accordance with subsection 44-523(f). Screening and buffering requirements can be altered by the board of adjustment at the time the special use permit is issued. Also, additional screening and buffering may be required at a later date if the business intensifies, in order to protect the health, safety

and general welfare of the new residents of the surrounding area, subject to an amendment to the original special use permit.

- l. The detached business accessory structure shall be located in the side or rear yard if located on the same lot as the primary dwelling.
- m. The area devoted for the business use cannot occupy more than 75 percent of the square footage of the principal dwelling structure associated with the business, which is located on the business parcel or on the adjacent parcel.
- n. All equipment shall be stored in an enclosed building.
- o. Raw materials, machinery, equipment or future job units waiting for assembly or repair shall be stored within the structure.
- p. Outside storage is prohibited.
- q. One nonilluminated sign is permitted, with a surface area not to exceed four square feet. The height, including the supporting structure shall not exceed four feet.
- r. Off-street parking shall be provided for all employees, with an additional maximum of five spaces for clients. The surface must at a minimum consist of crushed stone, or grasscrete.
- s. Off-street parking for the business use in an accessory structure shall be located in the side or rear of the dwelling unit. Off street parking for the business use on an adjacent parcel may be located in the front, side or rear of the business structure.
- t. The perimeter of the parking area shall be landscaped in accordance with subsection 44-523(d). The board of adjustment may alter the parking area landscaping requirement based upon, but not limited to, location of the parking area, existing vegetation, and distances from adjacent properties, provided that the existing vegetation meets or exceeds the requirements of subsection 44-523(d).
- u. Only one commercial vehicle per employee up to a maximum of four associated with the cottage business, are allowed to be parked or stored on the site of the cottage business. No more than two commercial vehicles associated with the business use are allowed to be parked or stored in the front or side yard.
- v. The following single-motor vehicles, excluding trailers, associated with a cottage business are permitted to be parked or stored outside, on the site of the cottage business:
 - Dump truck;
 - Box truck;
 - Bucket truck;
 - Pump truck; and
 - Tow trucks
- w. No vehicle for the primary purpose of advertising may be displayed in the front or side yard of the business.

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- x. The use shall comply with all applicable federal, state and local regulations including applicable building codes.
 - y. Cottage businesses are not permitted in approved subdivisions of more than three lots.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-666. Animal hospitals/veterinary clinics.

The following standards shall be used in deciding applications for approval of an animal hospital/veterinary clinic:

- (1) A minimum lot size of five acres shall be required.
- (2) The maximum square footage of the animal hospital/clinic building shall be 8,000 square feet.
- (3) All activities, with the exception of the common animal exercise yards, shall be conducted within an enclosed building.
- (4) No individual outside runs shall be allowed.
- (5) Common exercise yards shall be no closer than 200 feet from an adjacent residential property line.
- (6) Buildings where animals are cared for or boarded shall be located no closer than 200 feet from an adjacent residential property line.
- (7) The veterinarian or caretaker of the business may occupy a residence on site as an accessory use.
- (8) A perimeter buffer, as defined in subsection 44-523(f), shall be provided.
- (9) The disposal methods for wastes generated shall be reviewed and approved by the environmental health section of the county health department.
- (10) Signage shall be limited to one nonilluminated sign with a maximum area of 16 square feet.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-667. Dredging, shoreline stabilization and off-site construction operations.

- (a) A minimum lot size of two acres is required.
- (b) Hours of operation, including the running of equipment, are limited to 7:00 am to 6:00 pm on weekdays.
- (c) Storage of spoil materials is limited to a maximum height of ten feet and must be screened to comply with section 44-527.
- (d) All landscaping requirements of section 44-523 must be met.
- (e) The board of adjustment may wave off-street parking requirements in section 44-534 based on the nature and size of the business or the topography of the site.
- (f) The use cannot be located in a major subdivision.
- (g) All state, federal and Duke Energy lake management permits must be obtained.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-668. Sanitary landfill.

In addition to compliance with the submission requirements and regulations associated with all special uses, the following is required:

- (1) Two copies of a completed landfill permit application form from the solid waste management section of the division of health services.
- (2) A reclamation plan must be submitted with the application.
- (3) The landfill will be considered a LI/GI (light industrial/general industrial) use intensity as shown in table 44-523-1 to meet parcel perimeter requirements of subsection 44-523(f). If existing vegetation is used to meet the buffer requirements, as allowed in subsection 44-523(f)(3)b., the vegetative buffer must be 50 feet in width.
- (4) In addition to the parcel perimeter screening requirements of subsection 44-523(f) at property lines, the use must be screened from any rights-of-way.
- (5) The landfill must be set back 100 feet from any right-of-way or adjoining property line.
- (6) All applicable state and federal regulations must be met.

(Ord. No. 2021-05, 6-21-2021)

Secs. 44-669—44-684. Reserved.

DIVISION 4. WIRELESS FACILITIES²

Purpose: The Telecommunications Act of 1996 affirmed the county's authority concerning the placement, construction and modification of wireless facilities and wireless support structures. The North Carolina General Assembly adopted additional regulations through G.S. 153A-349.50—153A-349.53, effective December 1, 2007, and further amended effective October 1, 2013. The county finds that wireless facilities and wireless support structures may pose a unique hazard to the health, safety, public welfare, character and environment of the county and its citizens. The county also recognizes that facilitating the development of wireless service technology can be an economic development asset to the county and of significant benefit to the county and its citizens. In order to ensure that the placement, construction, substantial modification or eligible facilities request of wireless facilities and wireless support structures is consistent with the county's land use policies, the county is adopting a single, comprehensive, wireless facilities and wireless support structures application and permit process which complies with the Telecommunications Act of 1996, and G.S. 153A-349.50—153A-349.53. The intent of this chapter is to minimize the negative impact of wireless facilities and wireless support structures, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of the citizens of the county. In order to ensure that the placement, construction, and modification of wireless facilities and wireless support structures protects the county's health, safety, public welfare, environmental features and the nature and character of the community and neighborhood and other aspects of the quality of life, which is consistent with the county's adopted comprehensive plan and development policies, the county hereby establishes an overall policy with respect to a zoning authorization permit for wireless facilities and wireless support structures for the express purpose of achieving the following goals:

- ◆ *Implementing an application process for person(s) seeking a zoning authorization permit for wireless facilities and wireless support structures.*
- ◆ *Establishing a policy for examining an application for and issuing a zoning authorization permit for wireless telecommunications facilities that is both fair and consistent.*
- ◆ *Promoting and encouraging, wherever possible, the sharing and/or collocation of wireless facilities and wireless support structures among service providers.*
- ◆ *Requiring, promoting and encouraging, wherever possible, the placement, height and quantity of wireless facilities and wireless support structures in such a manner as to minimize any adverse aesthetic impacts to the land, property, buildings, and other facilities adjacent to, surrounding, and in the same general area as the requested location of such wireless facilities and wireless support structures, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.*

²Cross reference(s)—Telecommunications, ch. 40.

Sec. 44-685. Applicability.

- (a) No person shall be permitted to site, place, build, construct, modify, collocate, substantially modify or prepare any site for the placement or use of wireless facilities and wireless support structures as of the effective date of this division (July 1, 2003) without having first obtained a zoning authorization permit for wireless facilities and wireless support structures. Notwithstanding anything to the contrary in this section, no zoning authorization permit under this division is required for those non-commercial exceptions noted in the definition of wireless facilities and wireless support structures.
- (b) The holder of a special use permit must notify the county of any intended changes that constitute an eligible facilities request or a substantial modification of a wireless telecommunication facility and apply to the county to modify, relocate or rebuild a wireless telecommunications facility. Nothing in this division shall be deemed to require an approval of a permit for maintenance of existing antennas or base station electronic equipment at a wireless transmission facility.
- (c) The collocation and/or shared use of antennas on existing wireless support structures or compatible use structures, such as utility poles, water towers, and other towers must comply with this division and are subject to administrative review by the county.
- (d) Construction of new wireless facilities and wireless support structures must comply with the requirements of this division.
- (e) All wireless facilities and wireless support structures existing on or before the date of adoption of this division (July 1, 2003) will be allowed to continue as they presently exist. If any modification to existing wireless facilities and wireless support structure is done, the entire wireless telecommunication facility must comply with section 44-685.16.
- (f) The maintenance of any components of a wireless facility, where the replacement is identical to the component being replaced, or that involve routine repair and maintenance of the facility is exempt from the review process. Maintenance, by definition cannot increase the height of the antennae or structure, increase the footprint of the facility, increase the weight load on the tower or structure or involve additional construction or site modification.
- (g) Facilities used exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar non-commercial telecommunications which are 90 feet or less in height are exempt from this division, except for meeting setback requirements shown in section 44-685.11.
- (h) State and federal applicants are exempt from the regulations in this division.
- (i) Facilities used exclusively for providing unlicensed spread spectrum technologies, such as IEEE 802.11a,b,g services (i.e. Wi-Fi and Bluetooth) where the facility does not require a new tower or increase the structure height to which it is being attached.
- (j) Facilities used for non-profit fire and/or rescue departments, in conjunction with county emergency 911 operations are exempt from this division, except for meeting setback requirements shown in section 44-685.11. The facility can be exempted from setback requirements if the following conditions are met:
 - (1) The adjacent landowner signs a written, notarized acknowledgment of their consent to the waiver of the setback;

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- (2) The waiver is recorded at the register of deeds in both the grantor's and grantee's names, and a copy of the recorded document is given to the planning department; and
 - (3) There is no dwelling located within the communication facility setback area.
- (k) The installation of battery backup systems to existing facilities, is exempt from this division, but must meet building inspection requirements.
 - (l) Any and all representations made by the applicant on the record during the application process, whether written or verbal, will be deemed a part of the application and may be relied upon in good faith.
 - (m) Micro wireless facilities and small wireless facilities located on utility poles and/or wireless support structures within NCDOT's right-of-way are exempt from this division.
- (Ord. No. 2021-05, 6-21-2021)

Sec. 44-685.01. Definitions of terms specific to this division.

ANSI. American National Standards Institute.

Abandoned towers. Towers which have no active telecommunications service providers on the tower, for a period of five or more years.

Accessory facility or structure. An accessory facility or structure serving or being used in conjunction with, and located on the same property or lot as the wireless facilities and wireless support structures, including but not limited to, utility or transmission equipment storage sheds or cabinets.

Alternative tower structure. 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.

Applicable codes. The North Carolina State Building Code and any other uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization together with state or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.

Applicant. Any person or entity submitting an application for a zoning authorization permit for wireless facilities and wireless support structures.

Application. A request that is submitted by an applicant to the county for a permit to collocate wireless facilities or to approve the installation, modification, or replacement of a utility pole outside of NCDOT's right-of-way, or wireless support structure.

American National Standards Institute (ANSI). The entity which sets the requirements by which existing towers are evaluated for ongoing safety.

Antenna. A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals. This includes, but is not limited to radio, television, cellular, paging, personal telecommunications services (PCS), microwave telecommunications and services not licensed by the FCC, but not expressly exempt from the county's siting, building and permitting authority.

Base station. A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies and other associated electronics.

BOA. Catawba County Board of Adjustment.

Board of commissioners (BOC). Catawba County Board of Commissioners.

Collocation. The placement, installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including utility poles outside of NCDOT's right-of-way, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. The term "collocation" does not include the installation of new utility poles, utility poles within NCDOT's right-of-way, or wireless support structures.

Commercial impracticability or commercially impracticable. The inability to perform an act on terms that are reasonable in commerce, the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project.

Completed application. An application that contains all information and/or data necessary to enable the county to evaluate the merits of the application, and to make an informed decision with respect to the effect and impact of wireless facilities and wireless support structures on the county in the context of the permitted land use for the particular location requested.

Communications facility. The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service.

Communications service. Cable service as defined in 47 U.S.C. § 522(6), information service as defined in 47 U.S.C. § 153(24), telecommunications service as defined in 47 U.S.C. § 153(53), or wireless services.

Communications service provider. A cable operator as defined in 47 U.S.C. § 522(5); a provider of information service, as defined in 47 U.S.C. § 153(24); a telecommunications carrier, as defined in 47 U.S.C. § 153(51); or a wireless provider.

DAS. Distributive access system.

Distributive access system (DAS). A technology using antenna combining technology allowing for multiple carriers or wireless service providers to use the same set of antennas, cabling or fiber optics.

Eligible facilities request. A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification. Replacing cable or antennas as upgrades to new technology is considered an eligible facilities request and is not considered routine maintenance.

EPA. State and/or Federal Environmental Protection Agency or its duly assigned successor agency.

Equipment compound. An area surrounding or near the base of a wireless support structure within which a wireless facility is located.

FAA. Federal Aviation Administration, or its duly designated and authorized successor agency.

Fall Zone. The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measure by engineering standards.

FCC. Federal Communications Commission, or its duly designated and authorized successor agency.

Free standing tower. A tower that is not supported by guy wires and ground anchors.

Geomorphologic study. A study that shows the structural relationship of the soils and the appropriateness of the soils for the foundation of a wireless telecommunication tower as designed.

Height. When referring to a tower or structure, the distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightening protection device.

Micro wireless facility. A small wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

Modification. The addition, removal or change of any of the physical and/or visually discernible components or aspects of a wireless facility or support structure. Modification includes both eligible facilities requests and substantial modifications.

Necessary. Technology that is required for the equipment to function, and that anything less will result in prohibiting or acting in a manner that prohibits the provision of service that is intended and described in the narrative of the application.

Person. Any individual, corporation, estate, trust, partnership, joint stock company, or association of two or more persons having a joint common interest.

Personal wireless facility. See definition for wireless facilities and wireless support structures.

Personal telecommunications service (PTS). Has the same meaning as defined and used in the 1996 Telecommunications Act.

Preexisting towers and antennas. Any tower or antenna on which a permit has been properly issued prior to the effective date of the ordinance (July 1, 2003) from which this definition is derived.

Radio or television transmitting facility and radio or television receiving facility. 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.

Routine maintenance. Includes activities associated with regular and general upkeep of transmission equipment including the replacement of existing wireless facilities with facilities of the same size.

Search ring. The area within which a wireless support facility or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

Small wireless facility. A wireless facility that meets both of the following qualifications:

- (1) Each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements, if enclosed, could fit within an enclosure of no more than six cubic feet.
- (2) All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet. For purposes of this sub-subdivision, the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.

Special use permit. The official document or permit by which an applicant is allowed to file for a building permit to construct and use wireless facilities and wireless support structures as granted. The permit is revocable for cause.

Stealth technology. To use techniques and/or technology intended to minimize adverse aesthetic and visual impacts on, and harmonize with, the land, property, buildings, and other facilities in generally the same area as the requested location of such wireless facilities and wireless support structures, by using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances. Stealth technology includes such technology as DAS, or its functional equivalent of camouflage, where the tower is disguised to make it less visually obtrusive and not recognizable to the average person as a WTF.

Substantial modification. The mounting of a proposed wireless facility on a wireless support structure, including a collocation, that substantially changes the physical dimensions of the support structure. The mounting is presumed to be a substantial modification if it meets any one or more of the criteria listed below.

- (1) Increasing the vertical height of the structure by the greater of:
 - a. More than ten percent; or
 - b. The height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
- (2) Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower by a cable, adding an appurtenance to the body of the wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of:
 - a. More than 20 feet, or;
 - b. More than the width of the wireless support structure at the level of the appurtenance.
- (3) Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

Telecommunications. The transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

Telecommunication site. See definition for wireless facilities and wireless support structures.

Temporary. Something that exists or is intended to exist for fewer than 90 days.

Tower. Any structure designed primarily to support an antenna for receiving and/or transmitting a wireless signal.

Tower structure, alternative. 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. Any tower or antenna on which a permit has been properly issued prior to December 16, 1996.

Utility pole. A structure that is designed for and used to carry lines, cables, wires, lighting facilities, or small wireless facilities for telephone, cable television, or electricity, lighting, or wireless services.

Water tower. A water storage tank, a standpipe, or an elevated tank situated on a support structure originally constructed for use as a reservoir or facility to store or deliver water.

Wireless facility. Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term shall not include any of the following:

- (1) The structure or improvements on, under, within, or adjacent to which the equipment is collocated.
- (2) Wireline backhaul facilities.
- (3) Coaxial or fiber-optic cable that is between wireless structures or utility poles or city utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

Wireless infrastructure provider. Any person with a certificate to provide telecommunications service in the state who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.

Wireless provider. A wireless infrastructure provider or a wireless services provider.

Wireless services. Any services, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using wireless facilities.

Wireless services provider. A person who provides wireless services.

Wireless support structure. A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole within NCDOT's right-of-way is not a wireless support structure.

WTF. Wireless Telecommunications Facility.

(Ord. No. 2021-05, 6-21-2021, Ord. No. 2023-04, 06-19-2023)

Sec. 44-685.02. Site visit.

A site visit is required, unless waived by the county. The purpose of the site visit is to address issues which will help to expedite the review and permitting process. The applicant will be provided a written or electronic copy of the instructions for completing an application before the site visit.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-685.03. Relief.

Any applicant or permittee (person party to the zoning authorization permit) desiring relief or exemption from any aspect or requirement of this division may request such from the county at a pre-application meeting, provided that the relief or exemption is contained in the original application for either a special use permit, or in the case of an existing or previously granted special use permit, a request for a substantial modification of its tower and/or facilities. Such relief may be temporary or permanent, partial or complete, at the sole discretion of the county. However, the burden of proving

the need for the requested relief or exemption is solely on the applicant to prove to the satisfaction of the county. The applicant must bear all costs of the county in considering the request and the relief is not transferable to a new or different holder of the permit or owner of the tower or facilities without prior written authorization from the county. Authorization will not be unreasonably withheld or delayed. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that, if granted, the relief or exemption will have no significant affect on the health, safety and welfare of the county, its residents or other service providers.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-685.04. Shared use of wireless facilities and wireless support structures and other structures.

- (a) Shared use of existing wireless facilities and wireless support structures is preferred by the county, as opposed to the construction of a new telecommunications support facility. Where such shared use is unavailable, location of antennas on other pre-existing structures is preferred. The applicant must submit a comprehensive report inventorying existing towers and other appropriate compatible structures within the search ring of any proposed new tower site, unless the applicant can show that some other distance is more reasonable, outlining opportunities for the shared use of existing facilities and the use of other pre-existing compatible structures as a preferred alternative to new construction.
- (b) An application must address collocation as an option. If such option is not proposed, the applicant must explain to the reasonable satisfaction of the county why collocation is commercially or otherwise impracticable including if the owner of the tower is unwilling to enter into a contract for such use at fair market value. The county will require information necessary to determine whether collocation on existing structures is reasonably feasible.
- (c) An applicant intending to locate on an existing telecommunications tower or other compatible structure is required to document the intent of the existing owner to permit its use by the applicant.
- (d) Such shared use must consist only of the minimum antenna array technologically required to provide service primarily and essentially within the county, to the extent practicable, unless good cause is shown.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-685.05. Location of wireless facilities and wireless support structures.

- (a) Applicants for wireless facilities and wireless support structures must locate, site and erect said wireless facilities and wireless support structures in accordance with the following priorities, one being the highest priority and four being the lowest priority.
 - (1) On existing wireless support structures or compatible use buildings or structures;
 - (2) On other industrial, commercial, or residential property, located outside a major subdivision;
 - (3) In a major subdivision; and
 - (4) In the mixed use overlay (MUC-O), on Bakers Mountain, on Anderson Mountain.

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- (b) If the proposed property site is not the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site.
 - (c) An applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected. An application must address collocation as an option. If such option is not proposed, the applicant must explain to the reasonable satisfaction of the county why collocation is commercially or otherwise impracticable including if the owner of the tower is unwilling to enter into a contract for such use at fair market value. The county will require information necessary to determine whether collocation on existing structures is reasonably feasible.
 - (d) An existing lease or lease option for a particular piece of property is not, in and of itself, grounds for locating a tower or wireless facility where the county deems it not to be in the best interest of the county and the public.
 - (e) Notwithstanding the above, the county may approve any site within an area in the above list of priorities, provided that the county finds that the proposed site is in the best interest of the health, safety and welfare of the county and its inhabitants and will not have a negative effect on the nature and character of the community and neighborhood so long as it is consistent with state law.
 - (f) The applicant must submit a written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected must be included with the application.
 - (g) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the county may disapprove an application for any of the following reasons:
 - (1) Conflict with safety and safety-related codes and requirements;
 - (2) Conflict with traffic laws or adverse impact upon traffic needs or definitive plans for changes in traffic flow;
 - (3) Adverse impact upon historic nature or character of a neighborhood or historical district provided an alternative location is available which serves the applicant's needs;
 - (4) The use or construction of wireless facilities and wireless support structures, which are contrary to an already stated purpose of a specific zoning or land use designation;
 - (5) The placement and location of wireless facilities and wireless support structures which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the county, or employees of the service provider or other service providers; or
 - (6) Conflicts with the provisions of this division, state or federal law.
 - (h) Notwithstanding anything to the contrary in this division, for good cause shown, such as the ability to utilize a shorter or less intrusive facility elsewhere and still accomplish the primary service objective stated on the application, the county may require the relocation of a proposed site. The existence of a lease that was entered into prior to the approval of an application does not constitute justification for the requested location.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-685.06. Height of wireless support structure.

- (a) The maximum permitted total height of a new tower is 120 feet above pre-construction ground level, unless it can be proven that additional height is necessary to provide service in the intended service area.
- (b) All new towers must be designed to structurally support a total of at least six wireless facilities similar in size, scope and weight to those of the initial carrier attaching to the tower.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-685.07. Type and appearance of wireless facilities and wireless support structures.

- (a) Wireless facilities and wireless support structures cannot be artificially lighted or marked, except as required by law.
- (b) Wireless facilities must be constructed as a freestanding lattice or monopole structures. New guyed towers will not be permitted after November 19, 2007.
- (c) Towers must be of a galvanized finish or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings, as approved by the board of adjustment, and must be maintained in accordance with the requirements of this division.
- (d) For any wireless facility for which lighting is required under the FAA's regulations, or any legal requirements has lights attached, the lighting must be a fast flashing strobe, and include technology that enables the light to be seen as intended from the air, but that prevents the ground scatter effect so that it is not able to be seen from the ground to a height of at least 12 degrees vertical for a distance of at least one mile in a level terrain situation. Such device must be compliant with FAA regulations. A physical shield may be used with the strobe, as long as the light is able to be seen from the air, as required by the FAA.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-685.08. Security of wireless facilities and wireless support structures.

All wireless facilities and wireless support structures and antennas must be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

- (1) All antennas, towers and other supporting structures, including guy wires, must be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or run into; and
- (2) Transmitters and telecommunications control points must be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-685.09. Signage.

Wireless facilities and wireless support structures must contain signs to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmission capabilities.

- (1) A sign on the equipment compound must contain the FCC registration site, the name(s) of the owner(s) of the facility as well as emergency phone number(s).
- (2) A sign must be on the equipment shelter or shed of each service provider and when possible, be located so as to be visible from the access point of the site and must identify the equipment shelter of the applicant. The sign must contain the name(s) of the owner(s) of the equipment as well as emergency phone number(s).
- (3) Signs cannot be larger than four square feet in area. Signs cannot be lit unless the lighting is required by applicable provisions of law. No other signage, including advertising, is permitted on any facilities, antennas, or antenna supporting structures, unless required by law.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-685.10. Utilities.

- (a) Prior to the issuance of a zoning authorization permit, the applicant may be required, as a condition to the special use permit, to submit an approval from the FCC based upon the National Environmental Policy Act (NEPA).
- (b) All utilities at a wireless facility must be installed underground and in compliance with all laws, ordinances, rules and regulations of the county, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate. The county may waive or vary the requirements of underground installation of utilities when, in the opinion of the county such variance or waiver shall not be detrimental to the health, safety, general welfare and environment, including the visual and scenic characteristics of the area.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-685.11. Setbacks.

All proposed wireless facilities and wireless support structures must be set back from abutting parcels, recorded rights-of-way and road and street lines by one of the following distances:

- (1) A distance equal to the height of the tower or wireless support structure plus ten percent of that height; or
- (2) A distance equal to the fall zone of the wireless support structure as established by a North Carolina licensed engineer plus ten percent of the fall zone.

(Ord. No. 2021-05, 6-21-2021, Ord. No. 2023-04, 06-19-2023)

Sec. 44-685.12. Fees.

County fees, which are set by the board of commissioners and subject to change as may be warranted and justified, will be charged for the following:

- (1) The application fee for construction of a new wireless facility and/or wireless support structure is due and payable to the county at the time the application is submitted prior to the site visit. The zoning authorization permit fee for construction of a new wireless facility and/or wireless support structure is due at the time of permit issuance.
- (2) The fee for modifying or collocating on an existing tower or structure is due and payable to the county at the time of the application submission.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-685.13. Retention of expert assistance

- (a) The county may hire a consultant and/or expert necessary to assist the county in reviewing and evaluating the application for a proposed tower, collocation, or modification. The county may also request expert assistance for other issues, in order to ensure the general health, safety and welfare of the public.
- (b) The cost of the expert assistance shall be consistent with state law and will be paid by the applicant. The cost is included in the zoning authorization permit fee.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-685.14. Extent and parameters of special use permits, zoning authorization permits and zoning compliance certificates for wireless facilities and wireless support structures.

The extent and parameters of a special use permit for wireless facilities and wireless support structures are as follows:

- (1) No public hearing is required for an application for an eligible facilities request or a substantial modification.
- (2) A special use permit runs with the land and is enforceable upon successive owners.
- (3) A permit may be revoked for a violation of the conditions and provisions of the permit.
- (4) A special use permit to allow for construction of a new wireless support structure, expires 24 months from the date of approval, unless tower construction is complete. After obtaining a special use permit from the board of adjustment, but prior to beginning construction, the applicant must submit a signed agreement with a service provider who will commence using the facility within 60 days after tower construction is completed.
- (5) After a zoning authorization permit is issued, the applicant must meet all requirements of the county building inspection department. After the final approval from the building inspection department, the applicant must contact the county planning department for the final approval, and submit a signed and stamped "as-built" certification from a PE certifying that 1) the project was built according to the submitted plan, and 2) the project is complete. The new

facility or collocation not previously on the structure is not permitted to have power, or provide service, until the zoning compliance certificate has been issued. Providers already on the tower will continue to have power; however, the county must be contacted prior to obtaining final zoning approval, and a PE certified "as-built" must be submitted, in order to determine compliance.

- (6) A bond or security must be submitted to the county within 30 days after tower construction is completed, as outlined in section 44-685.17.
- (7) Abandoned wireless facilities and support structures must be removed at the tower owner's expense.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-685.15. Submittal requirements—New wireless support structures and wireless facilities.

Complete applications and accompanying forms for a special use permit or a zoning authorization permit for wireless facilities and wireless support structures, must comply with the requirements of this division and provide all requested information. Any required certifications must be done by a qualified North Carolina licensed professional engineer. Application packets must include:

- (1) Documentation of the site visit.
- (2) The wireless facility owner, and when applicable, the provider's written authorization designating an agent on their behalf.
- (3) Site plans showing:
 - a. The zoning district or designation in which the property is situated;
 - b. A survey of the property showing all parcel lines, parcel line dimensions, existing structures and the proposed wireless facility and wireless support structure;
 - c. An elevation drawing showing the vertical rendition of the wireless support structure identifying all provider names and locations and attachments to the structure and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
 - d. A plan drawing showing names and locations of other providers in the equipment compound; location of ground equipment, and centerline height location of all proposed and existing antennae on the supporting structure;
 - e. The azimuth, size and centerline height location of all proposed and existing antennae on the supporting structure;
 - f. The type, locations and dimensions of all proposed and existing landscaping, and fencing.
- (4) A copy of the FCC license applicable for the intended use of the structure.
- (5) All structures must contain a demonstration that the structure be sited so as to be the least visually intrusive as reasonably possible and thereby have the least adverse visual effect on the environment and its character, on existing vegetation, and on the community in the area of the structure. The county reserves the right to require the use of stealth or camouflage

technology or technologies such as distributive antenna system technology (DAS) or its functional equivalent to achieve this goal, subject to approval by the board of adjustment. This may require the placement of two visually unobtrusive towers, as opposed to one tower which compromises the viewshed.

All antennas attached to a tower must be flush mounted or as near to flush mounted as is possible without prohibiting or having the effect of prohibiting the provision of service, or prove technically with hard data and a detailed narrative, that flush mounting cannot be used and would serve to prohibit or have the effect of prohibiting the provision of service.

- (6) A visual impact assessment must be furnished which must include:
- a. A computer generated "zone of visibility map," with a minimum of one-mile radius from the proposed structure illustrating locations from which the tower may be seen.
 - b. Pictorial representations (photo simulations) of "before and after" views from key viewpoints both inside and outside of the county, as may be appropriate, including state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided concerning the appropriate key sites at the pre-application meeting. The applicant must provide a map showing the locations of where the pictures were taken and the distance(s) of each location from the proposed structure.
 - c. The applicant must submit a drawing demonstrating how the base and all related structural facilities will be screened from vehicular rights-of-way or adjacent properties in accordance with section 44-523(f)(3).
 - d. A written certification that the structure will be effectively grounded, bonded and installed with appropriate surge protectors to protect persons and property.
- (7) The wireless support structure must maximize the use of building materials, colors and textures designed to harmonize with the natural surroundings. This includes the utilization of stealth or concealment technology as may be required by the board of adjustment.
- (8) If deemed appropriate by the planning director, an access road, turn-around space and parking may be required to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, must be made to the extent practicable. If the current access road or turn around space is deemed in disrepair or in need of remedial work to make it serviceable and safe, as determined at a site visit, the application must contain a commitment to remedy or restore the road or turn around space so that is serviceable, safe and in compliance with applicable regulations. Road construction must at all times minimize ground disturbance and vegetation cutting. Road grades must closely follow natural contours to assure minimal visual disturbance and reduce soil erosion. Road construction must comply with all applicable regulations.
- (9) The permit holder must construct, operate, maintain, repair, provide for removal of, modify or restore the permitted wireless facility and wireless support structure in strict compliance with all current applicable technical, construction, safety and safety-related codes adopted by the county, state, or United States, including but not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National

Association of Tower Erectors. (The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.)

- (10) A holder of a special use permit or other authorization granted under the provisions of this division, must obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the county or other governmental entity or agency having jurisdiction over the permit holder.
- (11) The wireless support structure must be structurally designed to accommodate at least six antenna arrays in regard to the load and stress created on the structure, with each array to be sited in such a manner as to provide for flush attachments to the greatest extent possible with the minimum separation necessary without causing interference. An intermodulation study must be submitted to justify design claims related to interference. A claim of interference because of a need to have greater than six feet of vertical clearance between facilities, measured from the vertical centerline of one array to the vertical centerline of another, must be proven by technical data showing that there is no technological alternative that would enable the service to be provided that would require less vertical space. This requirement may be waived, provided the applicant, in writing, demonstrates that the provisions of future shared usage of the wireless facility is not feasible or if collocation is technically or commercially impracticable.
- (12) The proposed wireless facility and wireless support structure must be maintained in a safe manner, and in compliance with all conditions of the zoning authorization permit, without exception, unless specifically granted relief by the board of adjustment in writing, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable county, state and federal laws, rules, and regulations;
- (13) Verification that the construction of the wireless facility and wireless support structure is legally permissible, including, but not limited to the fact that the applicant is authorized to do business in the state.
- (14) The application must be signed by an authorized individual on behalf of the applicant.
- (15) The applicant must disclose in writing any agreement in existence prior to submission of the application that would limit or preclude the ability of the applicant to share any new telecommunication tower that it constructs;
- (16) A written report demonstrating meaningful efforts to secure shared use of existing wireless support structures or the use of alternative buildings or other structures within the county that are at or above the surrounding tree height or the tallest obstruction and are within one mile of the proposed tower. Copies of written requests and responses for shared use must be provided along with any letters of rejection stating the reason for rejection.
- (17) Wireless support structures must be located in accordance with section 44-685.05.
- (18) As a condition to the special use permit, a structural report certified by a professional engineer licensed in the state, along with a structural analysis report, including calculations, that prove that the structure and its foundation as proposed to be utilized are designed to meet all local, state, and federal structural requirements for loads, including wind and ice

loads and have the ability for the support structure to accommodate a minimum total of six antenna arrays.

- (19) A map identifying any wireless support structures within the search ring which have been approved but not yet constructed.
- (20) The applicant for a new wireless support structure must submit a letter of intent committing the owner of the proposed new structure, and his/her successors in interest, to negotiate in good faith for the shared use of the proposed tower by other providers in the future. This letter is a condition of the permit. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the special use permit. The letter must commit the new owner and their successors in interest to:
 - a. Respond within 60 days to a request for information from a potential shared-use applicant;
 - b. Negotiate in good faith concerning future requests for shared use of the structure by other providers; and
 - c. Allow shared use of the new structure if another provider agrees in writing to pay reasonable charges.
 - d. Failure to abide by the conditions outlined above may be grounds for revocation of the special use permit.
- (21) The holder of a special use permit must notify the county of any intended modification of a wireless support structure and shall apply to the county to modify, relocate or rebuild a wireless facility or structure.
- (22) Lighting. The applicant must provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the telecommunications tower or existing structure intended to support wireless facilities requires lighting under Federal Aviation Regulation Part 77. If this analysis determines that the FAA must be contacted, then all filings with, and all responses from the FAA, along with any related correspondence must be provided before an application can be considered complete.
 - a. For any wireless facility for which lighting is required under the FAA's regulations, or for any reason has lights attached, all lighting must be a fast flashing strobe, acceptable to the FAA, affixed with technology that enables the light to be seen as intended from the air, but that prevents the ground scatter effect so that it is not able to be seen from the ground to a height of at least 12 degrees vertical for a distance of at least one mile in a level terrain situation. Such device must be compliant with or not in conflict with FAA regulations. A physical shield may be used with the strobe, as long as the light is able to be seen from the air, as intended by the FAA.
 - b. In the event a tower that is lighted is modified, at the time of the modification the county may require that the tower be retrofitted with the technology set forth in subsection (22)a above.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-685.16. Submittal requirements—Eligible facilities request (collocations or modifications) or substantial modifications on existing or approved towers and attachments to existing structures.

All applications must be submitted to the county planning department. The following information must be included:

- (1) The provider's written authorization designating an agent on their behalf.
- (2) The non-refundable zoning authorization permit fee, set by the board of commissioners.
- (3) Documentation must be provided proving that the applicant has the legal right to proceed as proposed on the site, including an executed copy of the lease with the owner of the facility proposed to be attached to, or a letter of agency, showing the right of the applicant to attach to the structure.
- (4) The applicant must include a written statement that the construction of the wireless facility is legally permissible, including, that the applicant is authorized to do business in the state.
- (5) For collocations, a copy of the FCC license applicable for the intended use of the wireless support structure.
- (6) If any change or modification of the tower or other structure to be attached to is needed, a detailed narrative explaining what changes are needed, to both the equipment compound and the support structure, and the number and type of the antenna(s) proposed;
- (7) To protect the nature and character of the area and create the least visually intrusive impact reasonably possible under the facts and circumstances, any attachment to a building or other structure with a facade, the antennas must be mounted on the facade, unless it can be proven that doing so will prohibit or have the effect of prohibiting the provision of service, and all the attachments and exposed cabling must use camouflage or stealth techniques to match as closely as possible the color and texture of the structure attached to.
- (8) If attaching to a water tank, mounting on the top of the tank or the use of a corral will only be permitted if the applicant can prove that flush mounting to the side of the tower will prohibit or have the effect of prohibiting the provision of service. The provisions of preceding subsection (7) of this section also apply to any attachment to a water tank.
- (9) The wireless support structure, and all accessory or associated facilities, must maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings. This must include the utilization of stealth or concealment technology as may be required by the county and as is practical under the facts and circumstances.
- (10) Any wireless support structure for which lighting is required under the FAA's regulations, or that for any reason has required lights attached, must meet the requirements of subsection 44-685.07(d).
- (11) Any additional utilities installed must be installed underground and in compliance with all laws, ordinances, rules and regulations of the county, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.

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- (12) If deemed necessary or appropriate, an access road, turn around space and parking must be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, must be made to the extent practicable. Road construction must at all times minimize ground disturbance and the cutting of vegetation. Road grades must closely follow natural contours to assure minimal visual disturbance and reduce soil erosion and must comply with any local or state regulations for the construction of roads and erosion control. If the current access road or turn around space is deemed in disrepair or in need of remedial work to make it serviceable and safe and in compliance with any applicable regulations as determined at a site visit, the application must contain a commitment to remedy or restore the road or turn around space so that it is serviceable and safe and in compliance with applicable regulations within a reasonable time period.
- (13) Requirements when applying for an eligible facilities request or substantial modification on an existing tower.
- a. An elevation drawing showing the vertical rendition of the wireless support structure identifying all provider names and locations and attachments to the structure and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
 - b. A plan drawing showing names and locations of other providers in the equipment compound; location of ground equipment, and centerline height location of all proposed and existing antennae on the supporting structure;
 - c. A structural report certified by a professional engineer licensed in North Carolina, proving the tower's capability, or need for structural improvement, to safely accommodate the facilities of the applicant without change or modification. To allow for the proposed project, the report must not show a total load exceeding 100 percent capacity.
 - d. A copy of the latest ANSI report done, pursuant to the latest edition of ANSI-EIA/TIA 222F - Annex E, and any subsequent amendments, for any self-supporting tower that is five years or older or for a guyed tower that is three years or older. If an ANSI report has not been done pursuant to the preceding schedule, an ANSI report must be done and submitted as part of the application. Deficiencies noted on the ANSI/TIA must be corrected prior to the issuance of a zoning authorization permit, unless those deficiencies are categorized as general maintenance. At the discretion of the planning director, deficiencies may be corrected simultaneously with the modifications contained in the application.
- (14) Requirements—When attaching to an existing structure except for a tower. A site plan showing the location of the wireless support structure on the property and the location of the wireless facility on the wireless support structure, and the structural analysis report.
- (15) A zoning authorization permit will be issued within 45 days of the county receiving a complete application. In the case of an incomplete application, the county will identify the deficiencies and notify the applicant on what is necessary to make the application complete. The application shall be deemed complete on resubmission of the additional required materials.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-685.17. Performance and removal security.

- (a) The applicant, and the owner of record of any new wireless support structure, must, jointly or separately, at its cost and expense, be required to place with the county a bond, or other form of security acceptable to the county in an amount of at least \$75,000.00 when constructing a wireless support structure.
- (b) The full amount of the bond or security must remain in full force and effect throughout the term of the special use permit or zoning authorization permit and/or until the removal of the wireless support structures, and any necessary site restoration is completed. The failure to pay any annual premium for the renewal of any such security shall be a violation of the provisions of the permit. If written proof of the bond or security is not provided to the county within 60 days of the notice, the county shall have the right to revoke the permit.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-685.18. Removal of wireless facilities and wireless support structures.

- (a) Under the following circumstances, the county may determine that the health, safety, and welfare interests of the county warrant and require the removal of the wireless facility and/or wireless support structures:
 - (1) Have been abandoned for a period of at least five years;
 - (2) Situations caused by acts of God, in which case, repair or removal must be completed within 90 days;
 - (3) Have fallen into such a state of disrepair that it creates a health, safety or welfare hazard;
 - (4) Have been located, constructed, or modified without first obtaining a permit, or in a manner not authorized.
- (b) If the county makes a determination of a health, safety or welfare issue under this division, then the county shall notify the holder of the permit within 48 hours that the structure must be removed.
- (c) The holder of the permit, or its successors or assigns, must dismantle and remove the wireless support structure and facilities, from the site and restore the site to as close to its original condition as is possible within 90 days of receipt of written notice from the county.
- (d) If the wireless support structure is not removed or substantial progress has not been made to remove the wireless facilities and wireless support structures within 90 days after the permit holder has been sent notice, then the county may order officials or representatives of the county to remove the wireless facilities and wireless support structures at the sole expense of the owner or permit holder.
- (e) If, the county removes, or causes a wireless support structure to be removed, the county may sell any part or component. Any expense associated with removal is the responsibility of the tower owner.
- (f) Notwithstanding anything in this division to the contrary, the county may approve a temporary use permit/agreement for the wireless telecommunications facility, for no more than 90 days, during which time a suitable plan for removal, conversion, or re-location of the affected wireless

telecommunications facility must be developed by the holder of the permit, subject to the approval of the county and an agreement to such plan must be executed by the holder of the permit and the county. If such a plan is not developed, approved and executed within the 90 day time period, then the county may take possession of and dispose of the affected wireless support structure in accordance with this division.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-685.19. Reservation of authority to inspect wireless facilities and wireless support structures.

In order to verify that the holder of a special use/zoning authorization permit and any lessees, renters, and/or licensees of a wireless facilities and wireless support structures, place and construct such structures and facilities, in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, ordinances and regulations and other applicable requirements, the county may perform inspections.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-685.20. Adherence to state and/or federal rules and regulations.

- (a) To the extent that the holder of a permit for wireless facilities and wireless support structures has not received relief, or is otherwise exempt, from appropriate state and/or federal agency rules or regulations, then the holder of the permit must adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any state or federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.
- (b) To the extent that applicable rules, regulations, standards, and provisions of any state or federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a permit issued pursuant to this division then the holder of the permit must comply with the amended requirements.

(Ord. No. 2021-05, 6-21-2021)

Secs. 44-686—44-699. Reserved.

ARTICLE VII. NONCONFORMITIES

Purpose: This article provides for the continuance of nonconformities along with regulations that protect the county's planning process, surrounding neighborhoods, and property rights. Specifically, this article:

- ◆ *Describes the different types of nonconforming situations, including nonconforming lots/land, nonconforming uses and nonconforming structures.*
- ◆ *Establishes conditions on the continuance of nonconforming situations.*

- ◆ *Limits the expansion or worsening of nonconforming situations.*
- ◆ *Allows expansion where the nonconforming situation is compatible with the neighborhood.*

Sec. 44-700. Applicability and classification.

- (a) This article applies to the following types of nonconformities:
 - (1) Lots/land;
 - (2) Uses;
 - (3) Structures;
 - (4) The expansion of a nonconforming use or structure;
 - (5) Reconstruction or reestablishment of a nonconforming use or structure after it is damaged or destroyed; and
 - (6) The abandonment of a nonconforming use or structure.
- (b) This article applies whether the nonconformity is created by private action, or a lawful public taking or action pursuant to a court order.
- (c) This article does not apply to signs, manufactured home parks and floodplain management nonconformities that are addressed separately in this chapter.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-701. Procedures.

The procedure for approving nonconformities under this article shall be those followed for special use permit and variance applications as described under sections 44-328 and 44-329, and follows a quasi-judicial process by the board of adjustment, unless as stated differently in this article.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-702. Nonconforming lots/land.

- (a) *Applicability.* This section applies only to undeveloped lots/land that are considered nonconforming or substandard with respect to their dimensional standards in relation to the current zoning district. A lot/land is considered undeveloped if it has no existing structures.
- (b) *Nonconformities as to lot size.*
 - (1) Subject to the requirements of this section, a nonconforming lot existing prior to the adoption of this chapter (February 5, 2007) may be used for any use permitted by right in the zoning district. However, no use that requires a greater lot size than the established minimum lot size in table 44-404-1, shall be permitted on a nonconforming lot.
 - (2) Structures on a nonconforming lot platted and recorded as of the date of adoption of this chapter (February 5, 2007) must conform to all setbacks as required in the zoning district. If

the proposed structure cannot comply with the building setbacks, the planning director may allow a front setback reduction when the average of the front setbacks of the adjoining properties is less than the minimum required front setback. In this case, the required front setback 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 setback specified for the zoning district. Any side setback reductions shall require a variance approved by the board of adjustment. Approval is subject to a written finding that such reduction is reasonably necessary for any use of the lot in its current zoning classification and will not have substantial adverse effects on adjacent property.

- (c) *Land area of nonconformity.* The land area for a nonconforming use cannot expand beyond the land area which existed at the date the nonconformity was created.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-703. Nonconforming uses.

- (a) *Applicability.* This section applies to any characteristics of uses that were lawful when established, but that are prohibited, regulated or restricted by this article or a subsequent amendment, or no longer conform to any development standards established in this division.
- (b) *Change of use.* Any nonconforming use of structures may be changed to a use of equal or less intensity, subject to the planning director's approval. Any change of use shall comply with article V except in situations where the planning director deems these improvements impractical due to necessary demolition of existing pavement or the configuration of existing structures. The director may waive compliance with article V for less intensive uses. In permitting a change of use the director may also require appropriate conditions and safeguards consistent with this article.
- (c) *Subdivisions with pre-existing or existing manufactured housing.*
- (1) Class A and B (doublewide/multi-section and singlewide) manufactured homes meeting appearance criteria are allowed on the following:
- a. Vacant lots never occupied within an existing manufactured home subdivision. An existing manufactured home subdivision must meet all of the following:
 1. Platted and recorded prior to the adoption of this chapter (February 6, 2007);
 2. Consist of three or more lots;
 3. Had at least one manufactured home as of the effective date of this chapter (February 6, 2007); and
 4. Be located in or outside of the doublewide manufactured home overlay (DWMH-O) district.
 - b. Lots which were previously occupied as of February 28, 2005 within an existing manufactured home subdivision. An existing manufactured home subdivision must meet all of the following:
 1. Consist of three or more lots; and
 2. Be located in or outside of the doublewide manufactured home overlay (DWMH-O) district.

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- (2) Class D and E (doublewide/multi-section and singlewide) manufactured homes not meeting the appearance criteria, which were located within the county as of March 18, 1996, are allowed on vacant lots within an existing manufactured home subdivision. An existing manufactured home subdivision must meet all of the following:
 - a. Approved on or before March 18, 1996;
 - b. Consist of three or more lots;
 - c. Had at least one manufactured home as of the date of this chapter (February 6, 2007); and
 - d. Be located within the doublewide manufactured home overlay (DWMH-O) district.
 - (3) Underskirting requirement.
 - a. Class A and D (doublewide/multi-section) manufactured homes must be underskirted with material manufactured for this purpose in accordance with subsection 44-432(6)a or b.
 - b. Class B and E (singlewide) manufactured homes must 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 include, but are not 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 must be installed in accordance with the manufacturers' specifications.
- (d) *Manufactured home parks.*
- (1) If the operating permit should be revoked, or if the nonconforming park should cease operation for a period of 90 days, the park cannot reopen until it complies with all the standards of section 44-447 and all other applicable state and local regulations.
 - (2) Parks operating as existing nonconforming uses are prohibited from expanding the land area of the park or the number of sites within the park.
 - (3) Class A and B (doublewide/multi-section and singlewide) manufactured homes meeting appearance criteria may be placed in a nonconforming manufactured home park.
 - (4) Class D and E (doublewide/multi-section and singlewide) manufactured homes not meeting appearance criteria which were located within the county as of March 18, 1996, may be relocated to a nonconforming manufactured home park approved on or before March 18, 1996, whether inside or outside the DWMH-O.
 - (5) Underskirting requirement.
 - a. Class B and E (singlewide) manufactured homes must be underskirted with material manufactured for this purpose in accordance with subsection 44-703(c)(3)b. above.
 - b. Class A and D (doublewide/multi-section) manufactured homes must be underskirted with material manufactured for this purpose in accordance with subsection 44-432(6)b.
- (e) *Replacement of nonconforming singlewide manufactured homes on individual lots.* A nonconforming singlewide manufactured home can be replaced with a class A or B

(doublewide/multi-section or singlewide) manufactured home meeting appearance criteria, a modular or stick-built home meeting building code. A singlewide manufactured home must be underskirted with material manufactured for this purpose in accordance with subsection 44-703(c)(3)b. above.

- (f) *Replacement of nonconforming doublewide/multi-section manufactured homes on individual lots.* A nonconforming doublewide/multi-section manufactured home can be replaced only with a class A (doublewide/multi-section) manufactured home meeting the appearance criteria as required in section 44-432, a modular or stick-built home meeting building code. A doublewide/multi-section manufactured home must be underskirted with material manufactured for this purpose in accordance with subsection 44-432(6)a or b.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-704. Expansion of a nonconforming use or structure.

(a) *Applicability.*

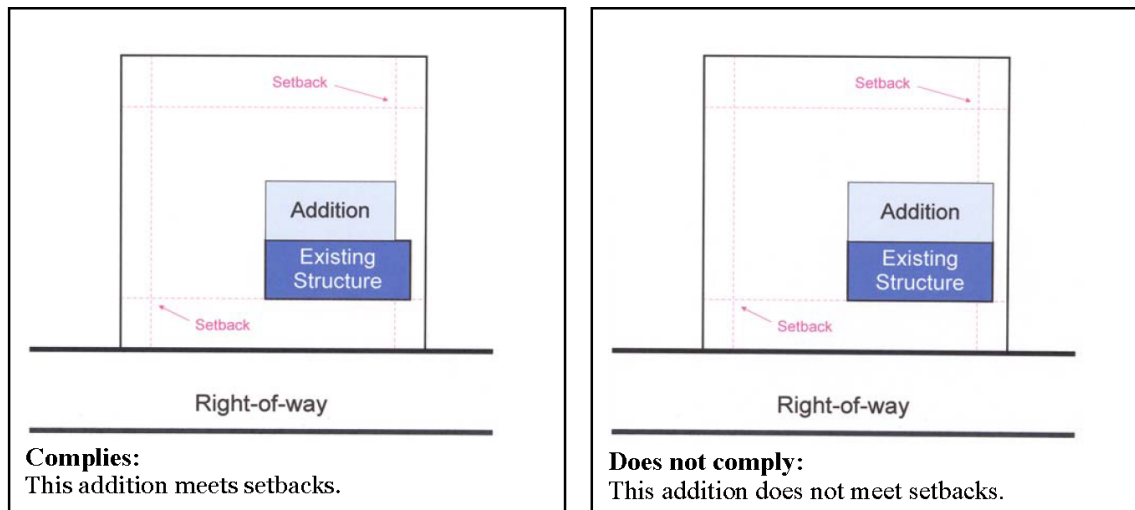
- (1) This section applies to any nonconforming structures or nonconforming uses of structures that lawfully existed as of the effective date of this chapter (February 5, 2007) or became nonconforming by the adoption of this chapter.
- (2) Structures or uses may expand on the land that existed when the structure became nonconforming if the board of adjustment approves an expansion of nonconforming use permit subject to the standards in subsection (b) below.
- (3) A nonconforming use may be extended throughout any portion of a vacant enclosed building that already houses or contains a portion of the nonconforming use. Open areas such as storage yards, loading docks, carports, and similar areas are not eligible for this expansion provision.
- (4) Any nonconforming residential or nonresidential structure which is voluntarily demolished the resulting rebuilding shall be in compliance with this chapter.

(b) *Nonresidential and multifamily structures.*

- (1) *Administrative approval.* Approval for the expansion of existing nonresidential structures or additional detached nonresidential structures may be granted administratively when the total square footage of the expansion/addition is ten percent or less of the total area of the principal structure as it existed as of the date of this chapter. A public hearing is not required. A detailed site plan reflecting the footprint of the existing and new building must be submitted.
- (2) *Board of adjustment approval.* Approval for the expansion of existing nonresidential structures or construction of additional freestanding nonresidential structures may be granted by the board of adjustment, when the total square footage of the expansion/addition is over ten percent of the total area of the primary building, as it existed as of the date of this chapter.
- (3) *Submittal requirements.* In addition to the requirements in article III, an application for the board of adjustment must include the additional number and percentage of employees that will be added due to the expansion of use.

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- (4) *Standards.* The board of adjustment shall only approve an expansion of a nonconforming use permit if it finds that all the following conditions exist, unless the applicant has agreed to completely mitigate those conditions as a condition of the special exception permit approval. The expansion must not:
- a. Adversely affect traffic;
 - b. Adversely affect the physical environment pertaining to water pollution, air pollution, and noise pollution;
 - c. Adversely affect the provision of services and utilities;
 - d. Create a health or safety hazard;
 - e. Adversely affect other property values; and
 - f. Impair the health, safety and general welfare of the surrounding neighborhood and substantial justice would be done in carrying out the request.
- (5) *Conditions.* The board of adjustment may require appropriate conditions and safeguards in accordance with this article. Such conditions and safeguards may include any of the following that are reasonably related to the impacts of the expansion:
- a. Improvements to streets or other infrastructure, with the approval of NCDOT;
 - b. Existing and expanded building areas or freestanding buildings must meet all landscaping standards set forth in article V, division 4. The board of adjustment may reduce the landscaping requirements in specific areas where added landscaping would require demolishing pavement or interfere with building configuration to the extent deemed impractical by the board of adjustment; or
 - c. Existing and expanded building areas or freestanding buildings shall meet all parking standards set forth in article V, division 5.
 - d. Existing and expanded building areas or freestanding buildings shall meet all signage standards set forth in article V, division 7.
- (c) *Single-family and two-family residential.* Any stick-built/modular residential structure may be enlarged if the enlargement:
- (1) Does not create new nonconformities; and
 - (2) Meets current district setbacks (see figure 44-704-1 below);
- (d) *Enlargement of existing manufactured homes.* Enlargement of existing manufactured homes (not replacement) may be allowed if the enlargement:
- (1) Meets current district setbacks (see figure 44-704-1 below);
 - (2) Meets building code; and
 - (3) Does not attach a manufactured home to the existing manufactured home.

Figure 44-704-1. Expansion of nonconforming structure.



- (e) *Routine repair, maintenance.* Routine repair and maintenance for residential and nonresidential structures does not require a zoning authorization permit.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-705. Rebuilding or re-establishment of a nonconforming use or structure after accidental damage or destruction by natural causes.

- (a) *Applicability.* This section applies only to all structures accidentally damaged or destroyed by natural causes or fire. Examples include, but are not limited to, wind or flooding. Time-related deterioration or damage caused by animal or insect infestation does not constitute accidental damage or destruction by natural causes.
- (b) *Single-family and two-family residences.* Nonconforming single-family residences or two-family residences which are partially or fully destroyed may be rebuilt or repaired by right. The footprint of the replacement structure can be enlarged but cannot increase the pre-existing nonconformity.
- (c) *Nonresidential and multifamily structures.*
- (1) Nonconforming non-residential and multifamily (three or more dwelling units) structures, which are partially or fully destroyed, may be rebuilt or repaired, provided that the board of adjustment makes the following findings of fact:
 - 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; and

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- f. The use will not impair the health, safety and general 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 Article.
 - (3) The footprint of the replacement structure can be enlarged but cannot increase the pre-existing nonconformity.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-706. Discontinuance of use.

If active operations, including marketing the property for sale, are discontinued for a continuous period of 180 days, with respect to a nonconforming use of land or structure:

- (1) The land or structure may only be used for a conforming use; and
- (2) All development standards of this chapter shall apply at the time that the use or structure is re-established or reconstructed.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-707. Monitoring of nonconforming uses.

The planning director may monitor, on an ongoing basis, uses of open land and uses of structures not meeting the requirements of this article.

(Ord. No. 2021-05, 6-21-2021)

Secs. 44-708—44-799. Reserved.

ARTICLE VIII. ABANDONED AND JUNKED VEHICLES

Purpose: This article shall be known as the "Abandoned and Junked Vehicle Chapter for Catawba County" and may be referred to as the "abandoned and junked vehicle chapter."

DIVISION 1. GENERALLY³

Sec. 44-800. Authority and purpose.

This article is enacted pursuant to the powers granted to the county by G.S. 153A-121, 153A-132 and 153A-132.2. The purpose of this article is to protect the health, safety and general welfare of the citizens of the county, natural scenic beauty, and property values, of the county from potential adverse effects caused by the proliferation and improper disposal of junked motor vehicles.

³State law reference(s)—Authority to prohibit the abandonment of motor vehicles on public ground and private property, G.S. 153A-132; authority to abate nuisances, G.S. 153A-140.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-801. Jurisdiction.

In accordance with G.S. 153A-122, this article applies to, and is enforceable in, unincorporated part of the county and areas within the city's extraterritorial jurisdiction (ETJ) jurisdiction. However, the governing board of any city within the county may by resolution permit this article to be enforced within the city. The board of commissioners may approve to accept a resolution by the city to set the date and terms of enforcement of this article within the city. The city may, by resolution, withdraw its permission to enforce this article within the city. The city must give the county at least 30 days advance, written notice of its intent to withdraw permission.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-802. Administration.

The planning director is responsible for the administration and enforcement of the provisions of this article.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-803. Definitions.

The following definitions apply unless the context clearly indicates or requires a different meaning.

Abandoned vehicle means any motor vehicle that is left:

- (1) Upon a public street or highway in violation of a law or chapter prohibiting parking;
- (2) On a public street or highway for longer than seven days;
- (3) On property owned or operated by the county for longer than 24 hours; or
- (4) On private property without the consent of the owner, occupant or lessee, for longer than two hours.

Enclosed building means a garage or building structure that provides a complete enclosure (all sides of building enclosed) so that the contents of the building cannot be seen from a street or from adjacent property.

Junked motor vehicle means any motor vehicle that does not display a current North Carolina license plate that:

- (1) Is partially dismantled or wrecked;
- (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move. This includes dismantled truck trailers or truck bed boxes which were originally attached to a motorized vehicle; or
- (3) Is more than five years old and appears to be worth less than \$100.00.

Magistrate means the magistrate for the county or in any other office designated to receive requests by the chief district court judge.

Motor vehicle or vehicle means all machines designed or intended to travel over land or water by self-propulsion or while attached to a self-propelled vehicle.

Nuisance vehicle means a vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:

- (1) A breeding ground, nest or harbor for mosquitoes, other insects, rats or other pests;
- (2) A point of heavy growth of weeds or other noxious vegetation over eight inches in height;
- (3) A point of collection of pools or ponds of water;
- (4) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials;
- (5) Having areas of confinement that cannot be opened or in the alternative, operated from the inside of the area of confinement, such as trunks, hoods, etc.;
- (6) So situated or located that there is a danger of the vehicle falling, dislodging or turning over;
- (7) A point of collection of refuse, trash, garbage, food waste, animal waste, or any other rotten or decaying matter of any kind;
- (8) Having parts which are jagged or contain sharp edges of metal, plastic or glass; or
- (9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the planning director.

Planning director means the planning director or designee, for the county.

Sheriff means the sheriff of the county.

Vector means any organism that carries disease-causing microorganisms from one host to another (i.e. rats, mosquitoes, etc.).

(Ord. No. 2021-05, 6-21-2021)

DIVISION 2. REGULATIONS

Sec. 44-804. Abandoned vehicle unlawful; removal authorized.

- (a) It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle or for the owner, lessee, or occupant of the real property upon which the vehicle is located to leave, or allow the vehicle to remain on the public property after it has been declared an abandoned vehicle.
- (b) If a motor vehicle is abandoned on public property, the board of commissioners may direct the sheriff, or designee to removal the vehicle to a designated storage area determined by the sheriff.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-805. Nuisance vehicle unlawful; removal authorized.

- (a) It shall be unlawful for the registered owner, or person entitled to possession of a motor vehicle, or for the owner, lessee, or occupant of the real property upon which the vehicle is located, to leave or allow the vehicle to remain on the property after it has been declared a nuisance vehicle.
- (b) Upon investigation, the planning director may determine and declare that a vehicle is a health or safety hazard and therefore a nuisance vehicle, and order the vehicle removed. Notice of the planning director's determination may be combined with any other notices required under this article. Notices shall be provided to the registered owner or person entitled to possession of the motor vehicle and/or the owner, lessee or occupant of the real property by first class mail except in situations where a name and address cannot be ascertained, notice may be given by affixation on the windshield or some other conspicuous place on the vehicle.
- (c) In cases where it is impractical or impossible to find and/or prosecute the responsible party the county may, at its discretion, have the vehicle towed in accordance with G.S. 153A-132.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-806. Right to enter premises.

The planning director shall have the right, upon presentation of proper credentials and identification, to enter any premises within the jurisdiction of this article during daylight hours to determine if any vehicle is in violation of this chapter.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-807. Junked motor vehicles regulated; removal authorized.

- (a) All junked vehicles must be kept in a garage or building structure that provides a complete enclosure so that vehicle(s) cannot be seen from a public street or from adjacent property. For purposes of this chapter, a garage or building structure means either a lawful, nonconforming use or a garage or building structure erected pursuant to the lawful issuance of a building permit and which has been constructed in accordance with all zoning and building code regulations. A carport shall not be treated as an acceptable garage or enclosure under this chapter.
- (b) It shall be unlawful for the registered owner, or person entitled to the possession of a junked motor vehicle, to place, store, leave or allow a vehicle to remain on any property in violation of this chapter or to allow a vehicle to remain on any property after the vehicle has been ordered removed from that property.
- (c) It shall be unlawful for the owner, lessee or occupant of the real property, upon which a junked motor vehicle is located, to leave, or allow the vehicle to remain on the property in violation of this chapter after the vehicle has been ordered removed.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-808. Enforcement provisions.

The planning director shall enforce this chapter. He may call upon other agencies as necessary to assist in the enforcement of this chapter.

- (1) Whenever the planning director receives a complaint alleging a violation of this chapter, he shall investigate the complaint and take whatever action is warranted.
- (2) The owner, tenant, or occupant of any building or land, and agent or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this chapter may be held responsible for the violation and be subject to all penalties and remedies.
- (3) Upon discovery of a violation, the following procedures apply:
 - a. The planning director shall send a written notice to the person responsible for such violation, indicating the nature of the violation, the action necessary to correct it, and the number of days within which the violation must be corrected.
 - b. In cases that pose an immediate danger to the public's health, safety, or general welfare, the planning director may seek enforcement without proper written notice by invoking any of the penalties or remedies authorized in this section.
- (4) The county may assess the following civil and criminal penalties:
 - a. A violation subjects the violator to a civil penalty in the amount of \$50.00. Each day's continuing violation is a separate and distinct offense.
 - b. A violation of this article shall be a criminal misdemeanor, punishable as provided in G.S. 14-3.
 - c. In addition to the foregoing enforcement provisions, this article may be enforced by any remedy provided in G.S. 153A-123. Each day's continuing violation is a separate and distinct offense.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-809. No liability.

The county, or any person acting on behalf of the county in the enforcement of this article, may not be held to answer in a civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, junked, lost or stolen vehicle for the enforcement of this chapter.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-810. Exceptions.

This article does not apply to any motor vehicle that is located:

- (1) In an enclosed building;
- (2) On the premises of a business enterprise being legally maintained and operated primarily for the purpose of making repairs to motor vehicles or wholesale or retail sales of items or parts

routinely used in motor vehicles, in a lawful place and manner if the vehicle is necessary to the operation of the business;

- (3) On the premises of a business enterprise being operated in a legally zoned place and manner if the vehicle is necessary in the operation of the enterprise or needed in the operation of a bona fide farm; or

- (4) In an appropriate storage place or depository maintained by the county.

(Ord. No. 2021-05, 6-21-2021)

Sec. 44-811. Changes in state law.

Should G.S. ch. 153A and G.S. 153A-132.2, or any other section of the general statutes incorporated herein by reference or otherwise referred to herein be changed or amended, or should such statutes require or mandate a different procedure or change or impose new, different or additional requirements, then, in that event, this chapter shall be deemed to have been amended without further action to have complied with such new, additional or amended requirements.

(Ord. No. 2021-05, 6-21-2021)

Secs. 44-812—44-899. Reserved.

APPENDIX DEFINITIONS

- (a) *Terms defined.* Words contained in this appendix are those having a special meaning relative to the purposes of this chapter. Words not listed in this section shall be defined by reference to:

- (1) Chapter 160D of the North Carolina General Statutes, or, if not there in
- (2) Chapter 2 of the North Carolina State Building Code or, if not there, in
- (3) Webster's Third New International Dictionary, unabridged.

Words and terms not defined in this appendix but defined elsewhere in the unified development ordinance (UDO) shall be given the meanings in the UDO. Particular uses not defined shall have the meaning assigned in the article IV, division 1, table 44-403-1, use matrix and the NAICS Manual.

- (b) *Words defined.*

Abandonment—The relinquishment of property, or cessation of the use of property, by the owner or lessee without any intention of transferring rights to the property to another owner or of resuming the use of the property.

Abut—Having property or district lines in common.

Abutting parcels—Parcels which are directly touching and have all or part common parcel boundaries. (Parcels across a public right-of-way shall not be considered abutting.)

Accessible—Having access to, but which first may require the removal of a panel, door or similar covering of the item described. See "accessible, readily."

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Accessible, readily—Having direct access without the need of removing any panel, door or similar covering of the item described, and without requiring the use of portable ladders, chairs, etc. See "accessible."

Addition—An extension or increase in floor area or height of a building or structure.

Adequate erosion control measure, structure, or device—See Catawba County Erosion Control Ordinance.

Adjacent property—All properties immediately contiguous to a development site, including those separated from the site only by a road or other right-of-way or easement.

Adjoining property—A parcel of land that shares all, part or point of a common lot line, with another parcel of land.

Administrative decision—Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this chapter or other county development regulations. These are sometimes referred to as ministerial decisions or administrative determinations.

Administrator—The planning director of Catawba County or his designee.

ADT—Average daily trips.

Adult care center—A provider furnishing a planned program that includes a variety of health, social and support services in a protective setting during daytime hours. This use is referred to as a "community-based service" and is designed to meet the individual needs of functionally and/or cognitively impaired adults.

Adult care home—An assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to two or more residents, either directly or, for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to persons with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision. Medication in an adult care home may be administered by designated, trained staff. As distinguished from a nursing home, an "adult care home" provides residential care for aged or disabled persons whose principal need is a home with personal care related to their age or disability requirements. Medical care in an adult care home is usually occasional or incidental, such as may be required in the home of any individual or family, but the administration of medication is supervised. Continuing planned medical and nursing care to meet the resident's needs may be provided under the direct supervision of a physician, nurse, or home health agency. Adult care homes are to be distinguished from nursing homes. Adult care homes and family care homes are subject to licensure by the division of facility services. Includes any "adult care home" as defined by G.S. 131D-2, G.S. 131D-20, G.S. 131E-76, G.S. 131E-101 (including any "combination home").

Adult uses—An establishment consisting of, including, or having the characteristics of any or all of the following:

- (1) *Adult bookstore*—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.

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- (2) *Adult cabaret*—An establishment which features 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*—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*—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*—An enclosed building, in whole or in part, 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*—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.

Affiliate—A person that directly, or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control of, another person.

Affordable housing—Units sold or rented to families earning less than the county median income, as determined by the U.S. Department of Housing and Urban Development.

Airport and related uses—Any public or private airport including terminal buildings, towers, runways, and other facilities directly pertaining to the operation of the airport.

Airstrip—A private airplane or helicopter landing facility and taxi areas, which may be grass or paved, with any accessory building associated with the facility such as hangars or maintenance buildings.

Alcoholic beverages—Beverages containing more than 0.5 percent alcohol by volume.

Alley—Any public space or thoroughfare 20 feet or less wide, which has been dedicated or deeded for public use.

Alter or alteration—Any change or modification in construction or occupancy.

Amendment—An amendment to the unified development ordinance or a new unified development ordinance.

Amusement arcade—A primarily indoor structure, open to the public that contains coin-operated games, rides, shows, and similar entertainment facilities and devices.

Amusement park—A primarily outdoor or open facility, that may include structures and buildings, where there are various devices for entertainment, including rides, booths for the conduct of games or sale of items, buildings for shows and entertainment, and restaurants and souvenir sales.

Animal clinic—Facility for the medical care and treatment of animals under the supervision of a licensed veterinarian with no outdoor accommodations for the temporary boarding of animals.

Animal hospital—See "animal clinic."

Animal husbandry—Keeping and raising of animals for non-commercial purposes, whether or not in association with a bona fide farm.

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Animals, household—Animals which are customarily kept for personal use or enjoyment within the home, not exhibited to the public, or 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, birds, guinea pigs, hamsters, mice, rats, gerbils, ferrets, rabbits, small reptiles, small amphibians, and aquarium fish.

Animal shelter—A facility which is used to house or contain animals and which is owned, operated, or maintained by an incorporated, humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection and humane treatment of animals.

Appeal—A request for a review of the planning department's interpretation of any provisions of this chapter or a request for a determination that there is error in a decision made by the department pursuant to this chapter.

Aquaculture—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.

Area, buildable—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.

Area, building—The area included within surrounding exterior walls, or exterior walls and firewalls, exclusive of courtyards. The area of a building or portion of a building without surrounding walls is the usable area under the horizontal projection of the roof or floor above.

Area, gross floor—The area within the inside perimeter of the exterior walls with no deduction for corridors, stairs, closets, thickness of walls, columns or other features, exclusive of areas open and unobstructed to the sky.

Area, net floor—The area actually occupied or intended to be occupied even though at any given time a portion of the floor area may be unoccupied, not including accessory unoccupied areas such as corridors, stairs, closets, thickness of walls, columns, toilet room, mechanical area or other features.

Art gallery—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.

Assembly place—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.

Assisted living residence—Any group housing and services program for two or more unrelated adults, by whatever name it is called, that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies. "Assisted living residence" includes any nursing service exceptions authorized by the North Carolina Department of Human Resources on a case-by-case basis. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. Assisted living residences are

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to be distinguished from nursing homes subject to provisions of G.S. 131E-102. There are three types of assisted living residences: adult care homes, group homes (for developmentally disabled adults), and multiunit assisted housing with services.

Auditorium—A room, hall, or building, that is part of a church, theater, school, recreation building, or other building assigned to the gathering of people as an audience to hear lectures, plays and other presentations. See also "places of public assembly."

Authorized agent—Any person with valid authority provided by the owner, as evidenced by a notarized document authorizing the agent to represent the owner, and acting on behalf of the owner of land seeking a development order or development permit approval.

Automobile repair, major—An establishment engaged in engine rebuilding or reconditioning of automobiles, the removal from any vehicle of a major portion such as the differential, transmission, head, engine block, or oil pan, worn or damaged motor vehicles or trailers, including body, frame or fender straightening or repair, and/or the painting of vehicles.

Automobile repair, minor—An establishment engaged in the sale of automotive fuels or oils, and the incidental repair and replacement of parts and motor services to automobiles, including oil change, tire sales, and alignment, but not including any operation specified under "Automobile repair, major."

Automobile sales establishment—An open area used for the display, sale or rental of new and/or used motor vehicles.

Average daily trips (ADT)—The number of trips a use generates on an average day.

Aviation easements—A document acknowledging airport proximity, limiting the height of structures and granting permission for the conditions arising from the over-flight of aircraft in connection with the operation of an airport.

Awning—An architectural projection that provides weather protection, identity and/or decoration and is wholly supported by the building to which it is attached. An awning is comprised of a lightweight, rigid or retractable skeleton structure over which an approved cover is attached.

Bakery—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, are considered manufacturing.

Balcony, assembly room—That portion of the seating space of an assembly room, the lowest part of which is raised four feet or more above the level of the main floor.

Balcony (exterior)—An exterior floor system projecting from a structure and supported by that structure, with no additional independent supports.

Bank—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.

Bar—Premises used primarily for the sale or dispensing of alcoholic beverages by the drink for on-site consumption and where food may be available for consumption as an accessory use.

Base course—The layer of material that lies immediately below the wearing surface of a street pavement.

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Basement—The lowest portion of a building having its floor subgrade (below ground level) on all sides.

Beacon—Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source, or any light with one or more beams that rotate or move.

Bed and breakfast inn—A business of not more than four guest rooms that offers bed and breakfast accommodations of less than two weeks, and that:

- (1) Does not serve food or drink to the general public for pay;
- (2) Serves only the breakfast meal, and that meal is served only to overnight guests of the business; and
- (3) Includes the price of breakfast in the room rate; and is the permanent residence of the owner or the manager of the business.

Berm—A mound of earth designed so that slope drainage is directed away from a paved area and sidewalks, which serves as a screen or buffer yard with landscaping.

Bicycle—A device propelled by human power upon which any person may ride, having two tandem wheels either of which is more than 16 inches in diameter or having three wheels in contact with the ground any of which is more than 16 inches in diameter.

Bicycle facilities—A general term denoting improvements and provisions made or approved by public agencies to accommodate or encourage bicycling, including parking facilities, mapping, and bikeways, and shared roadways not specifically designated for bicycle use.

Bicycle lane—A portion of a roadway, which has been designated by striping, signing and pavement markings for the preferential or exclusive use of bicyclists.

Bicycle path—A hard surfaced path for bicycles. This bikeway is physically separated from motorized vehicular traffic by an open space barrier and either within the highway right-of-way or within an independent right-of-way.

Block—A unit of land bounded by streets or a combination of streets and public land, railroad rights-of-way, waterways, or any other barrier to the continuity of development.

Board—Unless otherwise indicated in the text, board refers to the applicable reviewing board.

Board of adjustment—The Catawba County Board of Adjustment.

Boarding house or rooming house—A building containing a single dwelling unit and four or more rooms where lodging is provided, with or without meals, for compensation. "Compensation" may include money, services or other things of value.

Boarding kennel—A facility or establishment, which offers to the public the service of boarding dogs or cats or both for a fee. Such a facility or establishment may, in addition to providing shelter, food and water, offer grooming or other services for dogs and/or cats.

Body piercing—The intentional act of any person or persons of piercing any part of the body of another person or persons, other than the ears, for the purpose of allowing the insertion of earrings, jewelry, or similar objects into the body.

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Buffer yard—Open spaces, landscaped areas, fences, walls, berms, or any combination, used to physically separate or screen one use or property from another to visually shield or block noise, light, or other nuisances.

Buffer, external—A buffer yard along the exterior boundaries of a development which is maintained as open space in order to eliminate or minimize conflicts between development and adjacent land uses.

Buildable area—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—See "structure."

Building, accessory—See "structure, accessory."

Building code—The North Carolina State Building Code.

Building envelope—The three-dimensional space occupied by a building, including all eaves, covered porches, breezeways and other portions of the building, but excluding attached decorative walls which are less than or equal to three feet in height.

Building facade—The exterior side of a building which faces, and is most nearly parallel to, a public or private street. The facade includes the entire building walls, parapets, fascia, windows, doors, canopy and visible roof structures of one complete elevation.

Building height—A vertical distance from the highest point of a building to grade, measured in accordance with this chapter.

Building line—A line determined by meeting the respective front, side and rear yard setbacks.

Building, mixed use—A building that contains dwellings located above the ground floor of an institutional, civic, office, commercial or retail use. Mixed use buildings are a common feature of traditional town centers where shop owners lived above ground-floor businesses.

Building permit—An authorization to construct a structure as issued by the Catawba County Building Inspections Department.

Building, principal—See "structure, principal."

Built-upon area—The portion of a development that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads and parking areas, recreation facilities, etc. Water slated decks and the water area of a swimming pool are considered pervious.

Bulk—The size and shape of buildings, structures, and the physical relationship of their exterior walls to other buildings, structures, other walls or construction of the same building or structure, and all open spaces required in connection with a building or structure. Bulk regulations include regulations dealing with lot area, lot area per dwelling unit, lot frontage, lot width, building height, required yards, courts, usable open space, the ratio of aggregate gross floor area to the area of the lot, spacing between buildings on a single lot, and the length of buildings in a row.

Business services—An establishment offering services to the business community and to individuals. Such services include, but are limited to, advertising agencies, blueprinting and

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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—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. A campground also includes a summer camp or other camping facilities consistent with this definition.

Camping unit—Any tent, trailer, cabin, lean-to, recreational vehicle, or similar structure established or maintained and operated in a campground as temporary living quarters for recreation, education, or vacation purposes.

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

Canopy—A protective cover over a door, entrance, window, or outdoor service area attached to or cantilevered from a building. Permanent marquees and porticoes designed as a continuous or integral part of the structure are not considered canopies.

Capacity—The maximum demand that can be accommodated by a public facility without exceeding the adopted level of service.

Capital improvement—A public facility with a life expectancy of three or more years, to be owned and operated by or on behalf of the county's special district, or a private service provider.

Capital improvement, planned—A capital improvement designed for construction within a period not to exceed five years in a capital improvements program.

Capital improvements program—A plan setting forth by category of public facilities those capital improvements and that portion of their costs which are attributable to serving new development within, designated service areas for such public facilities over a period of specified years.

Car dealership—See "automobile sales establishment."

Carport—A roofed structure attached or unattached to the principal structure providing space for the storage of one or more motor vehicles.

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

Cemetery, human public—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 profit. This definition does not include human cemeteries established or operated by churches or governmental agencies.

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

Cemetery, private—Land used or intended to be used for the burial of the human dead and not operated for profit.

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Centerline offset of adjacent intersections—The gap between the centerline of streets adjoining a common road from opposite or same sides.

Certificate of occupancy—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.

Certify—A certification, by an agency, licensed professional or official, of the existence of some fact or circumstance whether made in oral or written form, which provides reasonable assurance of the accuracy of the certification.

Change of use—A change from one principal use of a building or land to another principal use of the building or land whether or not there is an increase in the size of the existing building.

Channel—A natural or artificial low-lying area with definite bed and banks, which confines and conducts continuous or periodic flows of water.

Child care center— A program or arrangement where more than six children who do not reside where the care is provided, receive care on a regular basis at least once a week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption. Child care center does not include the following:

- (1) Recreation programs operated for less than four consecutive months in a year;
- (2) Public schools;
- (3) Nonpublic schools described in G.S. ch. 115C, art. 39, pt. 2, that are accredited by the Southern Association of Colleges and Schools and that operate a child care facility for less than six and one-half hours per day either on or off the school site;
- (4) Bible schools conducted during school vacation periods;
- (5) Care provided by facilities licensed pursuant to G.S. ch. 122C, art. 2; or
- (6) Church facilities where the child care activities are located on the same campus or adjacent property.

College/university—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.

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

Conference/retreat/event center—A facility used for conferences, seminars, and events which may or may not offer accommodations for sleeping, food preparation and eating, recreation, entertainment, resource facilities, and meeting rooms.

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Construction or demolition debris—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 construction or demolition debris.

Contractor's office—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.

Container, shipping/storage—A steel box manufactured for the purpose of transporting or storing goods, having a corrugated profile, covered from all sides with a door at the rear end of the container. It is mounted on a chassis while being transported by road, on a rake while being transported by rail and can also be loaded by a ship. Dismantled truck trailers or truck bed boxes, which were originally attached to a motorized vehicle, are not considered a shipping container but are considered junked motor vehicles.

Convenience store, with or without gas pumps—An establishment where gasoline or fuel may be supplied and dispensed at retail and/or convenience goods may be sold. No servicing or repair of vehicles is permitted.

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

Cottage business—An accessory use, subordinate to the primary residential use of the property, operated by persons residing in the principal building on the same parcel of land upon which the cottage business is located. Additionally, such use may be carried out in an accessory building on the same lot or on a lot adjacent to the principal dwelling owned by the same person. The cottage business constitutes, either entirely or partly, the livelihood of the person living in the dwelling unit.

Crematorium—An establishment for the burning of human or animal remains.

Cul-de-sac—See "street, cul-de-sac."

Cultural facility—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.

DBH—Diameter at breast height.

Dedicated public ROW—A right-of-way that has been dedicated to the public, but does not necessarily refer to construction status.

Department of transportation—North Carolina Department of Transportation (NCDOT).

Design manual—An illustrative guide with graphics, photos, drawings, concepts and illustrations to serve as a tool aiding in the interpretation of the technical sections of the UDO. It is not an official component of the UDO and may be amended through administrative action, from time to time, by the planning director.

Development—As defined in G.S. 160D-102(12), any of the following: (a) the construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure; (b) the excavation, grading, filling, clearing, or alteration of land; (c) the subdivision of land as

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defined in G.S. 160D-802; or (d) the initiation or substantial change in the use of land or the intensity of use of land.

Division of environment and natural resources—North Carolina Division of Environment and Natural Resources (NCDENR).

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

Drinking establishment—An establishment where alcoholic beverages are served and 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—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—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 to eliminate the need for customers to exit their vehicles.

Dry cleaners—An establishment engaged in providing laundry, dry cleaning, and other related services.

Dwelling accessory unit/guesthouse—A detached dwelling unit permitted on the same parcel as the principal dwelling unit, but clearly subordinate to the principal dwelling unit.

Dwelling, multifamily—A structure containing three or more dwelling units, including units that are located one over the other, patio homes, apartments, condominiums or townhouses.

Dwelling, single-family—A structure containing a single dwelling unit.

Dwelling, two-family—A structure containing two dwelling units. Two-family dwellings are also referred to as a duplex.

Dwelling unit—As defined in G.S. 160D-102(15), any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

Electrical repair and electronic repair—An establishment engaged in the repair of electrically powered equipment or electronic equipment including, but not limited to, appliances, televisions, radios, noncommercial stereo equipment, computers, and similar equipment.

Erosion—The wearing away of land surfaces by the action of wind, water, gravity, or any combination. See Catawba County Soil Erosion and Sedimentation Control Ordinance.

Estate settlement—The conveyance of a lot or tract for the purpose of dividing lands among the tenants in common all of whom, by intestacy or by will, inherited the land from a common ancestor.

Family—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.

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Family care home—As defined in G.S. 160D-907(b), 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 child care home—A child care arrangement located in a residence where, at any one time, three to eight children receive care.

FEMA—Federal Emergency Management Agency.

Federal Emergency Management Agency (FEMA)—The United States Federal Emergency Management Agency.

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

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

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

Floodplain-related definitions—See article IV, division 3, section 44-429.

Floor area—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 below-grade floor area used for habitation, access and storage. Open roof terraces, patios, atriums, balconies and breezeways, and space devoted to service uses do not count towards the calculation of floor area.

Floor area ratio (FAR)—The ratio of permitted floor area to the gross land area of the lot. Calculation is as follows:

- A 1:3 gross floor area (FAR) means that one-third of the site is occupied with the building, and the other two-thirds of the site is open land. In other words, a one-acre lot (43,560 square feet) which allows for a FAR of 1:3 would permit a 14,520-square-foot building (43,560 divided by 3 = 14,520).

Fraternity or sorority house—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.

Frontage—The portion of the land that abuts a specified road and does not necessarily apply to the front yard or front setback.

Functionally dependent facility—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 long-term storage, manufacture, sales or service.

Funeral parlor—An establishment engaged in preparing human remains for burial and conducting funerals.

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Furniture refinishing and repair—An establishment engaged in the stripping, cleaning, painting, staining, sealing, varnishing, or other 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—A part of a building designed and used to contain vehicles in use in the principal structure.

Grade, highest adjacent—The highest natural elevation of the ground surface, prior to construction, next to the walls of the proposed structure.

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

G.S.—North Carolina General Statutes.

Habitable space, accessory—A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

Half street—A street that has partial dedication and construction that does not meet the minimum NCDOT street requirements.

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

Height—The average vertical distance between the lowest finished grade of the structure and the highest point of the structure.

Hobby farm—The use of land for nonprofit agricultural activities.

Home improvement center—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.

Home occupation—An accessory use of a dwelling unit which constitutes, either entirely or partly, the livelihood of the person living in the dwelling unit.

Home care agency—A private or public organization which provides home care services.

Home health agency—A home care agency which is certified to receive Medicare and Medicaid reimbursement for providing nursing care, therapy, medical social services, and home health aide services on a part-time basis.

Hospice/palliative care facility—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.

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Hospital—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—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—Any scrap, waste, reclaimable material, or debris, whether stored or not, for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, bailed, disposed, or other use or disposition.

Junkyard/salvage yard—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—Any lot or premises on which household animals are bred, boarded, trained or sold on a regular basis for commercial purposes.

Land based classification standards (LBCS)—The most current edition of classification standards prepared by the American Planning Association.

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

Landfill—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*—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*—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*—A facility used for the disposal of solid waste.

LBCS—Land based classification standards.

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

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

Loading, off-street—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.

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

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Lot—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 includes the word "plot," "parcel," or "tract."

Lot frontage—A line that connects the intersection points of the two side lot lines with the right-of-way.

Lot line—A line that marks the boundary of a lot.

Lot line, interior—Any lot line that is not a street lot line; a lot line separating a lot from another lot.

Lot line, street—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—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—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.

Lumberyard—An establishment engaged in the cutting, dressing, finishing and wholesale sale of lumber.

Manufactured home park related definitions—See article IV, division 4, section 44-447.01.

Manufactured home—A structure as defined in G.S. 143-145(7). Manufactured homes are classified into five categories as follows:

- (1) *Class A*—Doublewide or multi-sectioned manufactured housing units which meet U.S. Department of Housing and Urban Development manufactured home construction standards and also meet the county's appearance criteria as required in section 44-432.
- (2) *Class B*—Singlewide manufactured housing units which meet U.S. Department of Housing and Urban Development manufactured home construction standards and also meet the county's appearance criteria as required in section 44-432, with the exception of the length-width ratio and brick underskirting.
- (3) *Class C*—Manufactured housing units which does not meet either the U.S. Department of Housing and Urban Development manufactured home construction standards or county appearance criteria as required in section 44-432.
- (4) *Class D*—Doublewide or multisectioned manufactured housing units which meet U.S. Department of Housing and Urban Development manufactured home construction standards that are underskirted but do not meet the county's appearance criteria as required in section 44-432.
- (5) *Class E*—Singlewide manufactured housing units which meet U.S. Department of Housing and Urban Development manufactured home standards that are underskirted but do not meet

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the county's appearance criteria required in section 44-432, with the exception of the length-width depth ratio and brick underskirting.

Manufacturing, processing and assembling—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 not a fixed structure or other fixed improvement. Also included is the blending of materials such as lubricating oils, plastics, resins, or liquors.

Marina—A facility for storing, servicing, fueling and selling of convenience foods or articles, berthing and securing of boats. It also allows retail sales of boats and campgrounds as permitted accessory uses.

Medical and dental laboratory—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—A membership establishment operated by a corporation or association of persons for activities including, but not limited to, business, professional, social, literary, political, educational, fraternal, charitable, or labor activities, which are not operated for profit or to render a service which is customarily conducted as a business.

Mining of earth products—Removal of one acre or more of sand, soil, peat, muck, clay, stone, shell or other similar material, for disposal off site.

Mini-warehouse—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.

Modular home—A dwelling unit constructed and labeled in accordance with the standards set forth in the North Carolina State Building Code/IRC 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 is considered a single-family dwelling.

Motor vehicle repair, major—Any automotive repairs or servicing not listed under "motor vehicle repair, minor."

Motor vehicle repair, minor—Services are those that could typically be completed within one business day. May include sales of gasoline or convenience goods, such as beverages, packaged food or maps. Services may include the following:

- (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, light bulbs, fuses, floor mats, seat covers, windshield wipers and blades, grease retainers, wheel bearings, mirrors, and the like.
- (4) Radiator cleaning, flushing, and fluid replacement.

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- (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) Minor warranty maintenance and safety inspections.
- (14) Other minor servicing of a similar intensity to those listed above.

"Minor motor vehicle repair" does 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 minor vehicle repair establishments.

Museum—An establishment engaged in the procurement, care, study, and display of objects of historical, educational, or cultural value and interest.

NAICS—North American Industry Classification System.

NCDENR—North Carolina Department of Environment and Natural Resources.

NCDOT—North Carolina Department of Transportation.

New construction—Structures for which the start of construction commenced on or after the date of the adoption of amendments to this chapter (June 21, 2021).

Nonconforming manufactured home park—A park operating outside of a zoning district where manufactured home parks are permitted or has been operating before the adoption of the county's manufactured home park ordinance adopted on March 30, 1973.

Nonconformity—Includes the following:

- (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.

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- (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.

North Carolina General Statutes (G.S.)—The formalized rules and laws adopted by the North Carolina legislature.

Nursing, convalescent, and extended care facility—Any facility that provides nursing services as defined in the statutes of North Carolina. 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.

Nuisance—Any thing harmful or offensive to the community or a member of it and for which a legal remedy exists, such as excessive traffic, noise, odor, dust.

Off-premises—Not located on the zoning lot with the principal use or structure.

Opaque—Not allowing light to pass through or the inability to see through the structure or vegetative screen.

Open storage—Materials, supplies, equipment, motorized vehicles awaiting major vehicle repair, non-motorized commercial vehicles and like items that are stored outside a building or in a building not closed on all sides. The following exclusions to the definitions of open storage include items or products displayed for retail sale.

Out parcel—A smaller lot created from a larger tract and is typically accessory to the anchor or principal structure(s) associated with the larger tract.

Outdoor seasonal sales—Temporary sales including, but not limited to, Christmas tree sales, pumpkin sales, plant sales, and firework sales. Outdoor seasonal sales do not include the sale of manufactured items, such as furniture, bedding, automobile parts or household goods.

Palliative care facility—See "hospice/palliative care facility."

Parking, off-street—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 disabilities—As defined in G.S. 160D-907(b), a person with a temporary or permanent physical, emotional, or mental disability, including, but not limited to, mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, 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—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. The term "personal care services" does not mean the provision of medical, nursing, dental or mental health services.

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Personal services—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.

Plan, concept site—A site plan submitted to the planning board and board of commissioners, drawn to scale, prepared by a design professional, with enough detail to be considered for approval as part of a conditional zoning district or a special district, such as planned development and village rezoning.

Plan, detailed site—A specific site plan submitted for approval by the planning director. The detailed plan, prepared by a licensed professional, may evolve from a concept plan that has been approved through the:

- (1) Legislative process by the board as a result of a rezoning action;
- (2) Through the quasi-judicial process by the board of adjustment as a result of special use request; or
- (3) An administrative approved plan, not requiring any board action.

Plan, plot—An eight-and-one-half-inch by 11-inch or eight-and-one-half-inch by 14-inch drawing, prepared to scale, providing sufficient "as built" details of the footprints of existing buildings, structures and appurtenances, along with any additions proposed, in order to consider the requests associated with variances and other improvements associated with a zoning authorization permit.

Planned development—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. See article IV, division 4, section 44-443.

Planning board—The Catawba County Planning Board.

Plat, final subdivision—See article III, division 4, section 44-343.

Plat, preliminary subdivision—See article III, division 4, subsection 44-342(a)(2).

Plat, sketch subdivision—A map submitted to the subdivision review board, with enough detail to be considered for review and is a precursor to the preliminary subdivision plat. See article III, division 4, subsection 44-342(a)(1).

Porch—A roofed open area, which may be screened, usually attached to or part of and with direct access to or from a building. A porch becomes a room when the enclosed space is heated or air-conditioned and when the percentage of window area to wall area is less than 50 percent.

Practical or practicable—Can be done or is possible in practice. Does not include a financial hardship associated with the situation.

Procedures manual—A manual for residential and nonresidential development containing applications, plan requirements and plat certificates required for development review. This manual is intended as a reference guide and may be amended by the planning director, from time to time, as an administrative function.

Professional services—An establishment containing practitioners of a calling or vocation in which knowledge of some department of science or learning is used in its application to the affairs of others.

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Such activities include, but are not 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 practitioner's office."

Public service facility—A private for-profit entity utilizing land, buildings, or structures for a public purpose, such as a private package treatment plant, rail service, resource recovery facilities, and other similar public service structures.

Public use facility—The use of land, buildings, or structures by a municipal or other governmental agency to provide protective, administrative, and public services directly to the general public, including police and fire stations, municipal buildings, water treatment plants, sewage treatment plants, community centers, communication towers, collocation devices, 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—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.

Public water and sewer—Water or sewer provided by a municipal or county system. It does not include community water systems or package treatment facilities approved by the state.

Publishing and printing—An establishment primarily engaged in preparing, publishing and printing newspapers, periodicals, books, and pamphlets.

Radio and television studio—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.

Recreation services—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 uses, community—Parks and playgrounds, lakefront public access sites, community centers, recreation clubs such as Boys and Girls Clubs; golf clubs; swimming clubs; tennis clubs; country clubs; paddle, racquetball, handball courts. Community recreational uses associated with residential subdivisions are not included because they will be approved by the subdivision review board along with subdivision approval.

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

Recreational vehicle—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.

Rehabilitation center—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

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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—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—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; reupholster services; furniture refinishing and repair; small motor repairs; and watch, clock, and jewelry repairs. Construction activities are not included in repair services.

Research activity—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 care facility—

- (1) A care facility or home whether operated for profit or nonprofit, 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 services which include but are not limited to personal assistance with bathing, dressing, ambulation, supervision of self administered medication, transportation, emotional security, and other related services. 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.

Restaurant—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 also includes the following:

- (1) *Sit-down eating establishment*—Where food and/or beverages are served by waitresses or waiters to patrons seated at booths or tables.
- (2) *Walk-in/drive-in eating establishment*—Where the customers receive, but do not consume, the food and/or beverages at a counter, bar, or from a drive-in window.

Retail—The use of land, buildings, or structures for the sale of merchandise to the consumer of the merchandise including, but not limited to, convenience goods, shopper's goods, bicycles, gas, liquor, lumber and other building materials, mail order pickup facilities, manufactured homes, motor vehicles, and sales of used merchandise.

Retail sales, convenience goods—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

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products; meat and seafood markets; produce markets; food stores with less than 10,000 square feet in floor area, and eating establishments.

Retail sales, shopper's goods—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.

Road, existing external—The existing NCDOT-maintained road used by the traveling public, which is not part of the internal road network of the subdivision at its initial approval. These roads may, but are not limited to, a NCDOT classification of major, minor, collector or arterial road.

Road, internal subdivision—The internal network of subdivision roads developed at the initial approval of a subdivision.

Road, private—A constructed road that is not dedicated to the public and will be maintained by an entity other than NCDOT.

Road, state—A constructed road with a designated "SR" number which is being maintained by NCDOT.

Roadside stand, commercial—The sale of any form of agricultural or horticultural products at a retail stand where the products were grown off-site.

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

Road—See "street."

ROW—Right-of-way.

School—A facility which is in compliance with North Carolina state compulsory school attendance laws and provides a curriculum of elementary or secondary academic instruction.

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

Setback—The distance from the lot line to the point where a structure (either principal or accessory) may be constructed.

Sign definitions—See article V, division 7, section 44-552.

Skilled trade—A profession requiring special training.

Slaughterhouse—An establishment where animals are killed, butchered or prepared for further processing.

Solid waste—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,

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dissolved or suspended solids in industrial wastewater effluents, dissolved materials in irrigation return flows, or other common water pollutants.

Solid waste landfill affiliated enterprise—Any enterprise which by virtue of its existence or operation will, pursuant to a contractual agreement with the county, do any of the following: assist the 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 byproduct 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. The 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 this chapter the above-described are, 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 the county, or the closing of the Blackburn Solid Waste Landfill, does not then make the enterprise a nonconforming use.

Special use—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—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, excavation for a basement, footings, piers, foundations, or the erection of temporary building forms.

State—State of North Carolina.

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

Street, arterial minor—A rural roadway joining cities and larger towns and providing intrastate and intercounty service at relatively high overall travel speeds with minimum interference to through movement.

Street, arterial principal—A rural link in a highway system serving travel, and having characteristics indicative of substantial statewide or interstate travel and existing solely to serve traffic. This network would consist of interstate routes and tri-state routes, and other routes designated as principal arterials.

Street, collector major—A road which serves major intracounty travel corridors and travel generators and provides access to the arterial system.

Street, collector minor—A road which provides service to small local communities and traffic generators and provides access to the major collector system.

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

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Street, dedicated public right-of-way—A right-of-way that has been dedicated to public use, but does not necessarily refer to construction status.

Street jog—An intersection where one-half of the cross street is offset from the other half of the cross street so that the two halves do not lay in a straight line.

Street, local—A road which serves primarily to provide access to adjacent land, over relatively short distances.

Street, public—See "street, state" or "street, dedicated right-of-way."

Street, thoroughfare major—Streets consisting of intrastate or other freeway, expressway, or parkway roads and major streets that provide for the expeditious movement of volumes of traffic within and through urban areas.

Street, thoroughfare minor—Minor thoroughfares perform the function of collecting traffic from local access streets and carrying it to the major thoroughfare system.

Structural alteration—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—Anything constructed or erected which requires location on or within 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. Containers/shipping containers are not structures.

Structure, accessory—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—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 the structure is located.

Subdivision—Includes all divisions of a tract or parcel into two or more lots, building sites, or other divisions for the purposes of sale or building development, whether immediate or future, and includes all divisions of land involving the dedication of a new street or a change in existing streets.

Subdivision classifications—See article III, division 4, table 44-341-1.

Subdivision, cluster—A subdivision design that allows lots to be smaller, based on density averaging, in a concentrated area in exchange for the preservation of natural features, environmentally sensitive areas and active or passive recreational open space.

Subdivision, conventional—A subdivision which meets the minimum lot size requirements.

Substantial improvement—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 occurs 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 include any improvement of a structure to comply with existing state and local health, sanitary, or safety code specifications which are 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.

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Substantial progress or expenditures—Work toward completing required improvements for a development associated with a special use permit, preliminary subdivision, conditional zoning or special districts. This may include consulting fees from development specialists for the survey of the property, soil evaluation, erosion control plan, engineering design for roadway, waterlines, sewer lines, permit fees or fees associated with land preparation such as clearing, rough grading or fine grading.

Technical school—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.

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

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

Use, accessory—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—The primary use and chief purpose of a lot or structure.

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

USGS—United States Geological Survey.

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

Vicinity map—A drawing showing the general location of a parcel.

Warehouse—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.

Watershed-related definitions—See article IV, division 3, section 44-434.03.

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

Winery/brewery—The use of land for activities involved with the processing/packaging of wine and beer and may include a tasting and retail sales area.

Wireless communications-related definitions—See article VI, division 4, section 44-685.03

Wood waste grinding operation, industrial—A facility located in the L-I and G-I districts 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 yard waste, and untreated and unpainted pallets or construction wood waste into mulch or fuel.

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Wood waste grinding operation, temporary on-site—A facility where organic wastes are 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 yard waste. The operation will 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, front—That portion of the lot located along the front projected line of the principal structure, extending from one side lot line to the other side lot line. The front yard contains the front setback area of the property.

Yard, rear—That portion of the lot located along the rear projected line of the principal structure, extending from one side lot line to the other side lot line. The rear yard contains the rear setback area of the property.

Yard, side—That portion of the lot located on both sides along the side projected line of the principal structure, extending from the front projected line of the principal structure to the rear projected line of the principal structure. The side yard includes a portion of the side setback area of the property.

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 authorization permit—A permit issued for residential and nonresidential uses, prior to any land or structural improvements, stipulating conditions for compliance with this chapter as to design, use, activity, height, setbacks, density, site planning, special use and/or special district development.

Zoning compliance certificate—A document issued by the county after construction of nonresidential uses and residential uses, with the exception of single family dwellings, stating that the approved detailed site plan was complied with and the property can be occupied and used for the purpose stated on the zoning authorization permit.

Zoning districts—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—A lot shown on the application for a zoning authorization permit.

Zoo—A collection of living animals usually for public display.

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