

PART II. - CODE OF GENERAL ORDINANCES

TITLE 9 DEVELOPMENT ORDINANCE

**TITLE 9    DEVELOPMENT ORDINANCE**

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**Editor's note—** Printed herein is the development ordinance of the Town of Yadkinville, as adopted by the Town on October 1, 2018, as amended through February 7, 2022. Amendments to the ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of capitalization, citation to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

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#### ARTICLE 1. PURPOSE AND AUTHORITY

##### 1.1 TITLE

This Ordinance shall be known as the "Development Ordinance of the Town of Yadkinville, North Carolina," and may be referred to as "Yadkinville Development Ordinance". The associated zoning map is identified by the title "Official Zoning Map, Yadkinville, North Carolina," and may be known as the "Zoning Map."

##### 1.2 PURPOSE

The Town of Yadkinville adopts this Development Ordinance for the purpose of:

- Promoting the public health, safety, morals and general welfare;
- Promoting the orderly development of the community;
- Lessening congestion in the roads and streets;
- Securing safety from fire, panic, and other dangers;
- Providing adequate light and air, preventing the overcrowding of the land;
- Avoiding undue concentration of population; and
- Facilitating the adequate provision of transportation, public utilities, schools, parks and other public facilities and requirements, all in accordance with adopted plans and policies.

##### 1.3 AUTHORITY

- A. This Ordinance is adopted pursuant to the authority granted by North Carolina General Statutes (NCGS) 160D, Article 6.
- B. In accordance with the requirements of NCGS 160D-703 that zoning regulation be by districts, the Town, as shown on the Zoning Map accompanying this Ordinance, is hereby divided into districts which shall be governed by all of the uniform use and dimensional requirements of this Ordinance.
- C. Zoning divides the Town's territorial jurisdiction into districts, or zones, of any number, shape and area that may be deemed best suited to carry out the purposes of NCGS 160D-703. Within those districts, the municipality may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. All regulations must be uniform for each class or kind of building throughout each district, but the regulations in one (1) district may differ from those in other districts.
- D. Further, the regulations are to be made with reasonable consideration, among other things, to the character of the district and its unique suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town's jurisdiction.

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#### **1.4 ZONING MAP**

##### **1.4.1 Adoption by Reference**

The Zoning Map and all the notations, references and all amendments thereto, and other information shown thereon are hereby made a part of this Ordinance, the same as if such information set forth on the map were all fully described and set out herein. The Official Zoning Map properly attested is on file in the Town Hall and is available for inspection by the public.

##### **1.4.2 Zoning Map Maintenance**

The Official Zoning Map shall be retained in the office of the Administrator. The Administrator or designee shall be responsible for the maintenance and revision of the Official Zoning Map. Upon notification by the Town Board of Commissioners that a zoning change has been made, the Administrator shall make the necessary changes on the Official Zoning Map.

##### **1.4.3 Interpretation**

Where uncertainty exists as to the boundaries of any district shown on the Official Zoning Map, the Administrator shall employ the following rules of interpretation. Where the Administrator determines that physical features existing on the ground, or actual property lines or other man-made boundary lines used to depict zoning district boundaries, are different than those shown on the Official Zoning Map, the Board of Adjustment shall have the authority to interpret Zoning district boundaries.

###### **1.4.3.1 Centerline**

Where a boundary line lies within and follows a street or alley right-of-way, railroad right-of-way, or utility easement, the boundary shall be construed to be in the center of such street or alley right-of-way, railroad right-of-way, or utility easement forming the boundary between two (2) separate zoning districts. If such right-of-way is abandoned or removed from dedication, the district boundaries shall be construed as following the centerline of the abandoned or vacated street or utility easement.

###### **1.4.3.2 Edge Line**

Where a boundary line follows the edge of a street or alley right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be on the edge of such street or alley right-of-way, railroad right-of-way, or utility easement. If such a street or alley right-of-way, railroad right-of-way, or utility easement forming the boundary between two (2) separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the edge of the abandoned or vacated street or utility easement.

###### **1.4.3.3 Lot Line**

Boundaries indicated as approximately following lot lines shall be construed as following such lot lines. In the event that a district boundary line divides a lot or tract, each part of the lot or tract so divided shall be used in conformity with the regulations established by this Ordinance for the district in which said part is located.

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#### **1.4.3.4 Jurisdictional Boundaries**

Boundaries indicated as approximately following Town limits or extraterritorial boundary lines shall be construed as following the Town limits or extraterritorial boundary lines.

Pursuant to NC GS 160D-202(d), if the Town proposes to extend its extraterritorial jurisdiction, mailed first-class notice per county tax records must be provided to landowners at least 30 days prior to the date of public hearing and initial zoning amendment. The notice shall inform the landowners of the effect of the extension of extraterritorial jurisdiction, of the landowner's right to participate in a legislative hearing prior to adoption of any ordinance extending the area of extraterritorial jurisdiction, as provided in NC GS 160D-601. The person or persons mailing the notices shall certify to the Town Board of Commissioners that the notices were sent by first-class mail, and the certificate shall be deemed conclusive in the absence of fraud. (ZTA-2021-03 Amended May 3, 2021)

#### **1.4.3.5 Watercourses**

Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.

#### **1.4.3.6 Extensions**

Boundaries indicated as parallel to or extensions of street or alley rights-of-way, utility easements, lot lines, Town limits, county lines, or extraterritorial boundaries shall be so construed.

#### **1.4.3.7 Scaling**

In a case where a district boundary does not coincide with any boundary lines as above and no distances are described by specific ordinance; the boundary shall be determined by the use of the scale appearing on the map.



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#### **1.5 APPLICABILITY**

##### **1.5.1 Jurisdiction**

For the purpose of this Ordinance, the zoning jurisdiction of the Town shall include the land within the corporate limits of the Town and pursuant to NC GS 160D-2, the Town may also exercise the powers granted to cities under NC GS 160D within the extraterritorial jurisdiction (ETJ).

##### **1.5.2 Ordinance Applicability and Exemptions**

No building, structure, or land shall be used, occupied, or altered; nor shall any building, structure, or part thereof be erected, constructed, reconstructed, moved, enlarged, or structurally altered; nor shall any change of use be established for any building, structure, or land, unless in conformity with the general provisions of this Ordinance and the specific provisions for the district in which it is located, except as otherwise provided below and as specified throughout this Ordinance:

- A. In accordance with NC GS 160D-903, bona fide farms located within the ETJ, as defined by this Ordinance and NC GS 160D-903, are exempt from the zoning regulations of this Ordinance. Swine farms are not permitted within the jurisdiction of these regulations. Activities incidental 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 structure sheltering or supporting the farm use and operation. 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 and meets the criteria set forth in NC GS 160D-903. However, NC GS 160D-903 does not limit zoning regulation with respect to the use of farm property for nonfarm purposes.
- B. In accordance with NCGS 160D-903(c), bona fide farms located within the ETJ, except swine farms as defined herein, are exempt from the zoning regulations of this Ordinance but any use of farm property for non-farm purposes is subject to these regulations. Swine farms are not permitted within the jurisdiction of these regulations.
- C. Properties with an existing Conditional Zoning District shall retain their existing zoning with all conditions as approved unless the property owner requests a map amendment to one of the zoning designations as set forth in this Ordinance.

(ZTA-2021-03 Amended May 3, 2021)

##### **1.5.3 Minimum Regulations**

Regulations set forth by this Ordinance shall be minimum regulations. If the requirements set forth in this Ordinance conflict with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or higher standards shall govern.

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#### **1.6 ABROGATION AND SEPARABILITY**

- A. If any section, specific provision, or standard of these regulations, including any zoning district boundary that now exists or may exist in the future, is found by a court of competent jurisdiction to be invalid for any reason, the decision of the court shall not affect the validity of any other section, provision, standard, or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.
- B. It is not intended by this Ordinance to interfere with, abrogate, or annul easements, covenants, water supply watershed regulations, or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Ordinance shall govern.

#### **1.7 PLAN CONFORMITY AND RIGHT-OF-WAY DEDICATION**

- A. In accordance with the requirements of NCGS 160D-701, the regulations adopted pursuant to this Ordinance shall be consistent with the Town's Comprehensive Plan and any specific plans adopted by the Town Board of Commissioners. All new developments shall be designed in conformance with adopted plans including but not limited to adopted comprehensive plans, comprehensive transportation plans, small area plans, land use plans, parks and recreation plans and any other adopted plans.
- B. When a proposed development includes any part of a thoroughfare which has been designated as such upon the officially adopted Comprehensive Transportation Plan, such thoroughfare right-of-way(s) shall be dedicated and constructed by the developer(s) as shown on the plan. Where such right-of-way does not currently exist, the developer shall be required to dedicate the necessary right-of-way on the development side of the street.

(ZTA-2021-03 Amended May 3, 2021)

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#### 1.8 VESTED RIGHTS AND DEVELOPMENT AGREEMENTS

##### 1.8.1 Purpose and Authority

- A. Pursuant to NC GS 160D-102(33) and 160D-108 and notwithstanding any other provision of this Ordinance or amendment thereto, a vested right shall be deemed established with respect to any property upon the valid approval of a site-specific development plan or a phased development plan. Such vested right shall confer upon the landowner(s) the right to undertake and complete the development and use of said property under the terms and conditions of the site-specific development plan or the phase development plan including any amendments thereto. (ZTA-2021-03 Amended May 3, 2021)
- B. Upon application, the Town Board of Commissioners may approve extended zoning vested rights up to five (5) years for a site-specific development plan or a phased development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare. Such approval shall result in an extended vested right, although failure to abide by such terms and conditions will result in a forfeiture of vested rights. The Town Board of Commissioners shall not require a landowner to waive his vested rights as a condition of developmental approval. A site-specific development plan or a phase development plan shall be deemed approved upon the effective date of the Board's action.

##### 1.8.2 Duration of a Vested Right

- A. Pursuant to NC GS 160D-108 and 160D-403(c), unless a different period is specified by state statute 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 site-specific development plan or a phased development plan issued pursuant to this Ordinance shall expire one year after the date of issuance if the work authorized by the development approval has not been substantially commenced. Extended vested rights may be approved as set forth in Section 1.8.4. The lack of substantial commencement shall be evidenced by a valid building permit not having been issued and a footing inspection for a building on the site having not been passed, and the applicant having not requested an extension in accordance with this section. The vesting point shall precede the issuance of a zoning permit or a building permit.

(ZTA-2021-03 Amended May 3, 2021)

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#### **1.8.3 Application and Consideration of Vested Rights for Site-Specific Vesting Plans**

- A. For the purposes of this section a site-specific vesting plan means a plan submitted to the Town of Yadkinville describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. The plan may in the form of, but not be limited to, any of the following plans or approvals: a subdivision plat, a site plan, a preliminary or general development plan, a special use permit, a conditional zoning, or any other development approval as may be used by a local government. Unless otherwise expressly provided by the Town of Yadkinville, the plan shall meet the requirements of Section 2.2.3.4 or 2.2.4.5, of this Ordinance.
- B. An application for a zoning vested right shall be submitted to the Administrator. All information requested on the application form shall be accurately set forth and the date and time of receiving the application shall be noted on the application.
- C. A nonrefundable processing fee in the amount set forth in the schedule of fees as adopted by the Town Board of Commissioners, shall be due and payable upon submission of the application. The landowner shall attach to his or her application a site-specific vesting plan.
- D. A site-specific development plan meeting the requirements of Section 2.2.3.4 or 2.2.4.5 of this Ordinance, as applicable, shall be submitted. Each map, plat, site plan or other document evidencing a site-specific development plan shall contain the following notation: "Approval of this plan establishes a zoning vested right under NCGS 160D-102(dd) and 160D-108. Unless terminated at an earlier date, the zoning vested right shall be valid until \_\_\_\_\_."
- E. Before acting on the application for an extended vested right, the Town Board of Commissioners shall hold a public hearing. Notice of the public hearing shall be posted on the property and shall be published in a newspaper having general circulation in the area of Yadkinville at least 10 days but not more than 25 days before the date fixed for the hearing.

(ZTA-2021-03 Amended May 3, 2021)

#### **1.8.4 Approval and Consideration of Extended Vested Rights for Site-Specific Vesting Plans**

- A. Following a public hearing, an extended zoning vested right shall be deemed established upon approval by the Town Board of Commissioners of the site-specific vesting plan. The action taken by the Town Board of Commissioners to approve the plan shall be in the form of an order and the vested rights shall thereafter confer upon the landowner the right to undertake and complete the development and use of the property under the terms and conditions of the site specific vesting plan, including any amendments thereto; however, in approving the site specific development plan, the

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Town Board of Commissioners may attach such terms and conditions to its approval as may be reasonably necessary to protect the public health, safety and welfare and to ensure further compliance with building codes and other development standards. Any plan approved pursuant to this section shall be deemed to be approved subject to the further requirements set forth below:

1. Approval of a site-specific development plan upon the condition that a variance be obtained, shall not confer a zoning vested right unless and until the necessary variance is obtained from the Board of Adjustment.
2. The establishment of a zoning vested right shall not preclude the application of an overlay district that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land use regulations by the Town including but not limited to, building, fire, plumbing, electrical and mechanical codes. Otherwise, applicable new or amended regulations shall become effective with respect to property that is subject to a site-specific development plan upon the expiration or termination of the vested right in accordance with this Section.
3. A zoning vested right is not a personal right but shall attach to and run with the applicable property. After approval of a site-specific development plan, all successors in title to the original landowner shall be entitled to exercise such right during the applicable period.
4. The landowner shall submit a site-specific development plan for approval by the Town with respect to each phase or phases in order to obtain final approval to develop within the restrictions of the vested zoning classification or classifications.
5. Following approval or conditional approval of a site-specific development plan, nothing in this Section shall exempt such a plan from subsequent review and approvals to ensure compliance with the terms and conditions of the original approval provided that such reviews and approvals are not inconsistent with the original approval.
6. Nothing in this Section shall prohibit the renovation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or the Ordinance.
7. Duration – A vested right for an extended site-specific vesting plan that has been vested as provided in this Section shall remain vested for a period of two (2) years, where warranted in light of all the relevant circumstances, including, but not limited to, the size of the development, the level of the investment, the need for or desirability of the development, economic cycles and market conditions. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by the Town Board of Commissioners. The Town Board of Commissioners may provide that rights regarding a site-specific vesting plan shall be vested for a period exceeding two (2) years, but not exceeding five (5) years, if warranted by the size and phasing of

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development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations. This determination shall be in the discretion of the Town Board of Commissioners and shall be made following the process specified for the particular form of an extended site-specific vesting plan. These determinations shall be made in the discretion of the Town Board of Commissioners at the time the site-specific development plan is originally approved.

8. Vesting of Multi-phase Developments – In accordance with NC GS 160D-108(d)(4) a multi-phased development shall be vested for the entire development with the zoning regulations, subdivision regulations, and unified development ordinances in place at the time a site plan approval is granted for the initial phase of the multi-phased development. This right shall remain vested for a period of seven (7) years from the time a site plan approval is granted for the initial phase of the multi-phased development. For purposes of this subsection, “multi-phased development” means a development containing 100 acres or more that (i) is submitted for site plan approval for construction to occur in more than one phase and (ii) is subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval.
9. Upon issuance of a building permit the expiration provisions of NCGS 140A-418 and the renovation provisions of NCGS 160D-403(f) shall apply, except that a building permit shall not expire or be revoked because of the running time while a zoning vested right under this section exists. A vested right shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.
- B. The Town Board of Commissioners shall approve the plan with or without conditions, if the use anticipated is a permitted use, classification and if the plan substantially complies with all other land use regulations and development criteria in effect on the date of the approval. If the plan does not comply with applicable regulations but can be brought into compliance with minor changes, then the Town Board of Commissioners shall conditionally approve the plan. Any conditional approval shall note all required changes in the plan to bring it into compliance or otherwise assure compliance during the development process. The action taken by the Town Board of Commissioners to approve a plan shall clearly identify any additional conditions attached to such approval. Such conditions may require the landowner to obtain other necessary permits, both local, federal or state, require specific soil and erosion controls, traffic control plans, specific buffer or screening requirements, or other similar conditions designed to protect the value of adjacent property and to promote or improve the general health, safety and welfare of the public.
- C. The Town Board of Commissioners shall deny any approval of a site-specific development plan if the plan anticipates uses which are not permitted in the particular zoning classification or if the plan does not substantially comply with other applicable

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land use regulations and development requirements and cannot reasonably be brought into compliance by amendments to the plan or if the plan poses a danger to the public health, safety and welfare. The plan shall include necessary findings of facts and conclusions to support the denial.

- D. This Section shall not apply to development agreements approved in accordance with NCGS 160D-400.20-32, which may be approved by the Town Board of Commissioners.

(ZTA-2021-03 Amended May 3, 2021)

#### 1.8.5 Subsequent Changes and Termination

- A. A vested right, once established as provided in this chapter, precludes any zoning action by the Town which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site-specific development plan except to the extent permitted in this chapter and consistent with NCGS 160D-108.
- B. A zoning right that has been vested as provided in this chapter shall terminate:
1. At the end of one year or the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed and substantially commenced, as evidenced by a building permit not having been issued and a footing inspection for a building on the site having not been passed;
  2. With the written consent of the affected landowner;
  3. Upon findings by the Town Board of Commissioners, by ordinance or order after notice and public hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety and welfare, if the project were to proceed as contemplated in the site specific plan;
  4. Upon payment to the affected landowner of compensation for all costs, expenses or other losses incurred by the landowner, including but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal or other consultant fees incurred after approval by the Town, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action;
  5. Upon findings by the Town Board of Commissioners, by ordinance after notice and hearing, that the owner or his representative intentionally supplied inaccurate information or made material misrepresentations which make a difference in the approval by the Town Board of Commissioners of the site-specific development plan; or
  6. Upon enactment or promulgation of a state or federal law regulation that precludes development as contemplated in the site-specific development plan in which case the approval authority may modify the affected provisions, upon a finding that the change in law has a fundamental effect on the plan, by ordinance after notice and hearing.

(ZTA-2021-03 Amended May 3, 2021)

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#### **1.8.6 Voluntary Annexation**

A petition for annexation filed with the Town shall contain a signed statement declaring whether or not any zoning vested right with respect to the property subject to the petition has been established under NCGS 160D-102-108. A statement that declares that no zoning vested rights has been established under 160D-102-108 or the failure to sign a statement declaring whether or not a zoning vested right has been established shall be binding on the landowner and any zoning vested right shall be terminated.

(ZTA-2021-03 Amended May 3, 2021)

#### **1.8.7 Development Agreements**

Subject to NC GS 160D-1001(b) the Town of Yadkinville may enter into development agreements with developers, subject to the procedures of 160D Article 10. In entering into such agreements, a local government may not exercise any authority or make any commitment not authorized or make any commitment not authorized by general or local act and may not impose any tax or fee not authorized by otherwise applicable law. Development Agreements may be approved by the Town Board of Commissioners in accordance with NCGS 160D Article 10.

(ZTA-2021-03 Amended May 3, 2021)

#### **1.9 EFFECTIVE DATE**

These regulations became effective on October 2, 2018. Upon such date, these regulations superseded, repealed and replace Chapters 1, 3, 4, and 5 of Title 9 of the Town of Yadkinville's Code of Ordinances entitled "Planning and Regulation of Development". These regulations were amended on May 3, 2021.

(ZTA-2021-03 Amended May 3, 2021)



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## **ARTICLE 2. ADMINISTRATION, PROCEDURES AND ENFORCEMENT**

### **2.1 ADMINISTRATION**

The purpose of this Section is to set forth the powers and duties of the Development Ordinance Administrator, Technical Review Committee, Planning Board, Board of Adjustment, and Town Board of Commissioners as they relate to this Ordinance.

#### **2.1.1 Administrator**

- A. The position of Administrator is hereby authorized and shall be designated by the Town Manager to interpret, apply and enforce the provisions of this Ordinance in accordance with the terms hereof. The Administrator may provide written interpretations, and may issue such permits, orders and take such other enforcement actions as may be set forth in this Ordinance.
- B. The Administrator may be referred in this Ordinance as "Planning Director", "Zoning Administrator", "Subdivision Administrator", or "Development Ordinance Administrator".
- C. The Administrator shall maintain a record of all Zoning Permits, development approvals, Certificates of Compliance, and ordinance amendments on file in the Town Hall, and copies shall be made available on request to interested parties.

#### **2.1.2 Technical Review Committee (TRC)**

- A. The Technical Review Committee (TRC) is hereby established in order to assist the Administrator with the review of site development plans for zoning permits other than single-family and two-family residential development. The TRC shall consist of the following representatives or their designees, as applicable:
  - 1. Administrator.
  - 2. Town Engineer.
  - 3. Public Works Director.
  - 4. Fire Marshal.
  - 5. Yadkin County Emergency Management.
  - 6. Yadkin County Building Inspections.
  - 7. Yadkin County Health Department.
  - 8. North Carolina Department of Transportation.
  - 9. Other local, state, or federal agencies that have an interest in the proposed development.
- B. The TRC shall meet on an as needed basis as determined by the Administrator.

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#### **2.1.3 PLANNING BOARD**

##### **2.1.3.1 Establishment and Composition**

- A. A Planning Board for the Town is hereby created under the authority of NCGS 160D-301.
- B. The Town Planning Board shall consist of seven (7) members, including a proportional number of ETJ representatives as required by NCGS 160D-307, and may have up to two (2) alternate members to serve in the absence of regular members. At the discretion of the Town Board of Commissioners, the same members of the Planning Board may serve as the Board of Adjustment.
- C. Appointments are made by the Town Board of Commissioners and shall be residents of the Town. ETJ appointments shall be made by the Yadkin County Commissioners in accordance with NCGS 160D-307.
- D. Planning Board members shall be appointed for three (3) year terms. Terms shall be staggered so as to allow the appointment of new members each year. Upon expiration of a member's term of office, that member is expected to continue service until a replacement is appointed by the Town Board of Commissioners or Yadkin County Commissioners, as applicable.
- E. Vacancies occurring on the Planning Board shall be filled by the Town Board of Commissioners or County Commissioners for the remaining portion of an unexpired term.
- F. The Town Board of Commissioners may remove members for cause upon written charges after a public hearing.

(ZTA-2021-03 Amended May 3, 2021)

##### **2.1.3.2 Rules of Procedure**

- A. The Planning Board shall prescribe rules and regulations and by-laws for the conduct of its meetings and other proceedings.
- B. Regular meetings of the Planning Board shall be held at such times and places as the Planning Board shall determine, and special meetings of the Board shall be held upon call of the chairman at such time and place as he may designate, reasonable notice of such meeting being given to each member and to the public.
- C. Any member of the Planning Board who misses more than three (3) consecutive regular meetings or more than half of the regular meetings in a calendar year shall lose his or her status as a member of the Planning Board and shall be replaced or reappointed by the Town Board. Absences due to sickness, death other emergencies of like nature shall be recognized as approved absences and shall not affect the member's status on the Board; except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced.

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- D. The Planning Board shall select from its membership a chairman and vice chairman to serve for a period of one (1) year, or until their successors are elected. Elections shall take place each year at the first meeting held after July 1.
- E. All meetings of the Planning Board shall be open to the public. The Planning Board shall keep a full record of its proceedings and minutes of its meetings showing the business transacted at each meeting and shall submit copies thereof to the Town Clerk. Regular updates on the actions of the Planning Board shall be provided to the Town Board of Commissioners.

#### **2.1.3.3 Powers and Duties**

- A. The Planning Board shall serve in an advisory capacity to the Town Board of Commissioners, providing recommendations to the Town Board pertaining to zoning amendments. The Board shall also make determinations on alternate design proposals as set forth in Section 2.2.9.
- B. The Town Board of Commissioners may request the Planning Board to advise them on other matters as designated in NCGS 160D-301 including:
  - 1. To make studies of the Town and surrounding areas;
  - 2. To determine objectives to be sought in the development of the Town;
  - 3. To propose and recommend plans for achieving these objectives;
  - 4. To develop and recommend to the Town Board of Commissioners policies, ordinances, administrative procedures and other means for carrying out plans in a coordinated and efficient manner;
  - 5. To advise the Town Board of Commissioners concerning the use and amendment of means for carrying out plans; and
  - 6. To designate redevelopment areas.

(ZTA-2021-03 Amended May 3, 2021)

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**2.1.4 BOARD OF ADJUSTMENT**

**2.1.4.1 Establishment and Composition**

- A. A Board of Adjustment is hereby created as provided in NCGS 160D-302.
- B. The Board of Adjustment shall consist of seven (7) members, including a proportional number of ETJ representatives as required by NCGS 160D-307, and may have up to two (2) alternate members to serve in the absence of regular members. At the discretion of the Town Board of Commissioners, the same members of the Planning Board may serve as the Board of Adjustment.
- C. Appointments made by the Town Board of Commissioners and shall be residents of the Town. ETJ appointments shall be made by the Yadkin County Commissioners in accordance with NCGS 160D-307. At the time of their appointment, members shall hold no other official municipal government position except on the Planning Board or housing authority board.
- D. Board of Adjustment members shall be appointed for three (3) year terms. Terms shall be staggered so as to allow the appointment of new members each year. Upon expiration of a member's term of office, that member is expected to continue service until a replacement is appointed by the Board of Commissioners.
- E. Vacancies occurring on the Board of Adjustment shall be filled by the Town Board of Commissioners or County Commissioners for the remaining portion of an unexpired term.

(ZTA-2021-03 Amended May 3, 2021)

**2.1.4.2 Rules of Procedure**

- A. The Board of Adjustment shall prescribe rules and regulations and by-laws for the conduct of its meetings and other proceedings.
- B. Regular meetings of the Board of Adjustment shall be held at such times and places as the Board of Adjustment shall determine, and special meetings of the Board shall be held upon call of the chairman at such time and place as he may designate, reasonable notice of such meeting being given to each member and to the public.
- C. Any member of the Board of Adjustment who misses more than three (3) consecutive regular meetings or more than half of the regular meetings in a calendar year shall lose his or her status as a member of the Board of Adjustment and shall be replaced or reappointed by the Town Board. Absences due to sickness, death other emergencies of like nature shall be recognized as approved absences and shall not affect the member's status on the Board; except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced.
- D. The Board of Adjustment shall select from its membership a chairman and vice chairman to serve for a period of one (1) year, or until their successors are elected. Elections shall take place each year at the first meeting held after July 1.

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- E. All meetings of the Board of Adjustment shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, an indication of such fact. The final disposition of appeals, variances and conditional uses shall be made by recorded resolution indicating the reasons of the Board therefor and all pertinent findings of fact, all of which shall be a public record.
- F. No final action shall be taken on any matter unless a quorum is present. A quorum shall consist of a majority of the total members of the Board. Four-fifths ( $\frac{4}{5}$ ) 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 shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates to take the place of such members.
- G. Members of the Board of Adjustment may not participate in or vote on any matter on which they have a fixed opinion prior to the hearing, have undisclosed ex parte (without equal representation) communications or close family, business or associational ties with an affected person, or have a financial interest in the outcome of the case. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

#### 2.1.4.3 Powers and Duties

The Board of Adjustment shall have the following powers and duties pursuant to NCGS 160D-302:

- A. To hear and decide requests for Minor Special Use Permits, in accordance with Section 2.2.5;
- B. To authorize, in specific cases, Variances from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship, in accordance with Section 2.2.6;
- C. To hear and decide Appeals from any order, requirement, decision or determination made by an administrative official charged with the enforcement of this Ordinance, in accordance with Section 2.2.7;
- D. To hear and decide requests for Certificates of Nonconformity Adjustment as set forth in Section 2.2.8;
- E. To perform the powers and duties of the Watershed Review Board when a Variance is requested from the Watershed Protection Standards as set forth in Section 4.3.2, subject to the requirement of North Carolina General Statute 14, Article 21;
- F. To perform the powers and duties as set forth in the Flood Damage Prevention regulations as set forth in Section 4.3.3;

(ZTA-2021-03 Amended May 3, 2021)

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**2.1.5 TOWN BOARD OF COMMISSIONERS**

- A. The Town Board of Commissioners shall hold the following powers and duties related to this Ordinance:
1. To review, hold public hearings and make decisions for Text Amendments, Map Amendments and to hold evidentiary hearings for Major Special Use Permits;
  2. To make decisions on all issues related to the Development Ordinance, Zoning Map, Comprehensive Plan and other land use plans which may be adopted from time to time;
  3. To enter into development agreements per NCGS 160D Article 10.
- B. The duties of the Town Board of Commissioners in connection with this Ordinance shall not include the hearing and passing upon of disputed questions that may arise in connection with the enforcement thereof, but the procedure for determining such questions shall be as prescribed in this Ordinance.

(ZTA-2021-03 Amended May 3, 2021)

## PART II. - CODE OF GENERAL ORDINANCES

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## 2.2 PROCEDURES

### 2.2.1 Purpose

The purpose of this Section is to establish orderly processes to develop land within the Town of Yadkinville. It is also the intent of this Section to provide a clear and comprehensive development process that is fair and equitable to all interests including the applicants, affected neighbors, Town staff, related agencies, the Planning Board, Board of Adjustment, and the Town Board of Commissioners.

### 2.2.2 Applicability

- A. The development review process applies to all new development and alterations of existing development within the Town.
- B. The Administrator may waive the required development review for a change in principal use, where such change would not result in a change in lot coverage, parking, or other site characteristics. The development review may also be waived if the Administrator determines that the submission of a development plan in accordance with this Section would serve no useful purpose. The following chart indicates the appropriate approval process for each development type:

Table 2.1 Approval Processes

Approval Type	Section Reference	Administrator	Board of Adjustment	Planning Board	Town Board
Zoning Permit with Plot Plan (single-family & two-family residential)	2.2.3.2	√			
Zoning Permit for Sign	2.2.3.3	√			
Zoning Permit with Site Plan (multi-family residential & nonresidential)	2.2.3.4	√			
Certificate of Compliance	2.2.3.5	√			
Subdivision, Major and Minor	2.2.4	√			
Minor Special Use Permit	2.2.5		√		
Major Special Use Permit	2.2.5				√
Variance	2.2.6		√		
Appeal	2.2.7		√		
Certificate of Nonconformity Adjustment	2.2.8		√		
Alternative Design	2.2.9			√	
Map Amendment	2.2.10			Recommend	√
Text Amendment	2.2.11			Recommend	√

## PART II. - CODE OF GENERAL ORDINANCES

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#### 2.2.3 ZONING PERMITS

##### 2.2.3.1 General Provisions

- A. No building, sign or other structure shall be erected, moved, extended or enlarged, or structurally altered, nor shall the use of any building or property be changed, nor shall any nonresidential building in the CB District undergo exterior alterations and/or be painted, nor shall any grading, excavation, or filling of any lot be commenced until the Administrator has issued a development approval or Zoning Permit for such, stating that the building and/or the proposed use thereof complies with the provisions of this Ordinance. Notwithstanding any other provisions of this Ordinance, no Zoning Permit is necessary for the following uses:
1. Street construction or repair;
  2. Electric power, telephone, telegraph, cable television, gas, water and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way;
  3. Specific signs exempted in Article 6 of this Ordinance;
  4. Mailboxes, newspaper boxes, birdhouses, flag poles, pump covers and doghouses; and
  5. Interior alterations and renovations which do not alter the footprint, elevation, height, or use of an otherwise conforming use and/or structure;
- B. All applications for Zoning Permits must be complete before the Administrator is required to consider the application. An application is complete when it contains all the information necessary for the permit-issuing authority to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this Ordinance. A fee shall be paid, as provided in the schedule of fees adopted by the Town Board.
- C. Applications for a Zoning Permit will be accepted only from persons having the legal authority to take action in accordance with the permit. This means that applications should be made by the owners of property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this Ordinance, or the agents of such persons (who may make application in the name of such owners, lessees, or contract vendees). The Administrator may require an applicant to submit evidence of his/her authority to submit the application whenever there appears to be a reasonable basis for questioning this authority.
- D. The Administrator shall verify the location of the property in relation to any regulated Special Flood Hazard Area. Any property located within a Special Flood Hazard Area shall be subject to the Flood Damage Prevention Standards of Section 4.3.3, including the issuance of a Floodplain Development Permit.
- E. The issuance of a valid Zoning Permit shall confer with it the right to undertake and complete the development and/or use of property under the terms and conditions of



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such permit provided that such action is authorized by the permit is commenced within six (6) months of issuance and provided that all other permits are obtained. Otherwise the permit shall be void. After a Zoning Permit has expired, no building permit or Certificate of Occupancy may be issued for the proposed use, until application for such use is repeated and a new Zoning Permit issued under current provisions. No Building Permit shall be issued by Yadkin County and no building shall be occupied until a Zoning Permit is approved.

- F. If the Zoning Permit is denied, the applicant may appeal the action of the Administrator to the Board of Adjustment as provided for herein. Such appeal shall be made within 30 days of such permit denial, in accordance with Section 2.2.7 and NCGS 160D-405.
- G. A record of all Zoning Permits shall be kept on file in the office of the Administrator and copies shall be furnished, upon request.
- H. No building which has been erected, added to, relocated, or structurally altered shall be used or occupied until a Certificate of Occupancy has been issued by the Yadkin County Building Inspector stating that the building or structure or part thereof complies with the North Carolina State Building Code. No previously unoccupied structure shall be occupied until a Certificate of Occupancy is issued. No temporary utilities shall be connected until a Building Permit is issued. No permanent utilities shall be connected until a Certificate of Occupancy is issued.

(ZTA-2021-03 Amended May 3, 2021)

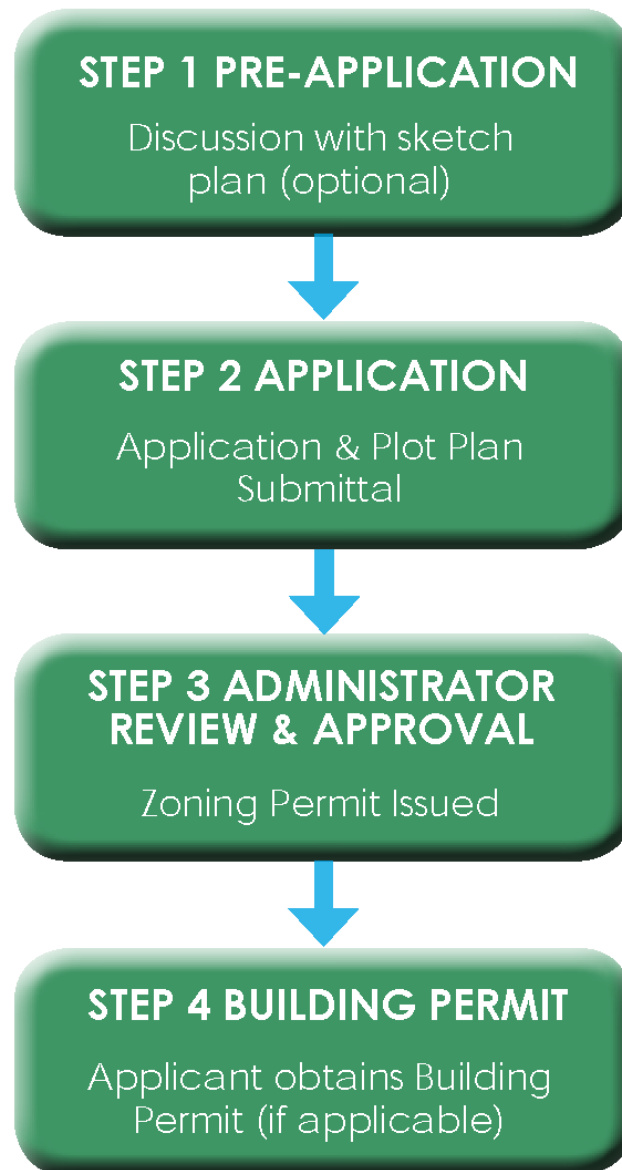
(ZTA-2022-01 Amended December 5, 2022)

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**2.2.3.2 Zoning Permit Procedures for Single-family Residential, Two-family Residential and Accessory Structures**

Zoning Permits for single-family residential, two-family residential, and accessory structures shall be approved administratively. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages:



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#### **Step 1. Pre-application Discussion with Sketch Plan (optional)**

- A. To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Administrator concerning the application of this Ordinance to the proposed development is recommended.
- B. Before submitting a Zoning Permit application and Plot Plan, the applicant may submit to the Administrator a Sketch Plan showing the proposed development. The Administrator shall advise the developer or his authorized agent of the regulations pertaining to the proposed development and the procedures to be followed.

#### **Step 2. Application and Plot Plan Submittal**

The applicant shall submit the application, fee, and Plot Plan to the Administrator with the following information:

- A. The shape and dimensions of the lot on which the proposed building or use is to be erected or conducted;
- B. The location of the said lot with respect to adjacent rights-of-way;
- C. The shape, dimensions, and location of all buildings, existing and proposed, on the said lot;
- D. The nature of the proposed use of the building or land, including the extent and location of the use, on the said lot;
- E. The location and dimensions of off-street parking and the means of ingress and egress to such space; and
- F. Any other information which the Administrator may deem necessary for consideration in enforcing the provisions of this Ordinance.

#### **Step 3. Administrator Review and Approval**

- A. The Administrator shall review the application and Plot Plan in accordance with the requirements of this Ordinance and any other applicable requirements.
- B. The Administrator may request other applicable agencies to provide comments regarding the proposed development.
- C. If the application and Plot Plan are found to meet all of the applicable regulations of this Ordinance, then the Administrator shall issue a Zoning Permit.
- D. If the Zoning Permit is denied, the applicant may appeal the action of the Administrator to the Board of Adjustment as provided for herein. Such appeal shall be made within 30 days of such permit denial.

#### **Step 4. Additional Approvals (if applicable)**

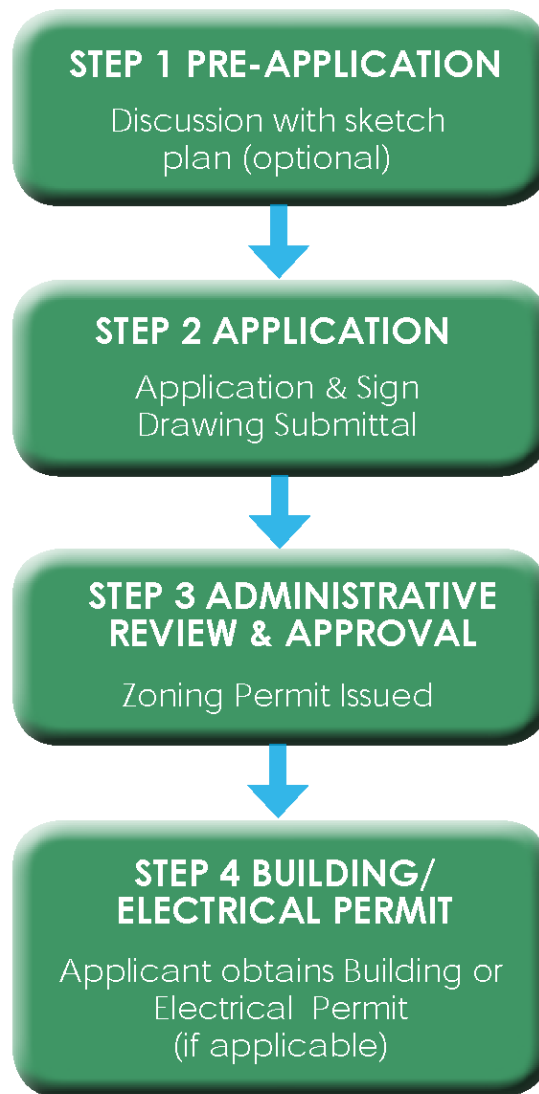
Following approval of the Zoning Permit, the applicant may obtain a Building Permit from Yadkin County Building Inspections, if applicable. Following satisfactory completion of work in accordance with North Carolina State Building Code, Yadkin County Building Inspections may issue a Certificate of Occupancy.

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#### 2.2.3.3 Zoning Permit Procedures for Signs

Zoning permits for signs shall be approved administratively. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



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#### **Step 1. Pre-application Discussion with Sketch Plan (optional)**

- A. To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Administrator or designee concerning the application of this Ordinance to the proposed signage is recommended.
- B. Before submitting a Zoning Permit application, the applicant may submit to the Administrator a sketch showing the proposed sign. The Administrator shall advise the sign owner or his authorized agent of the regulations pertaining to the proposed sign and the procedures to be followed.

#### **Step 2. Application and Sign Drawing Submittal**

The applicant shall submit the application, fee and a drawing of the sign and its location with the following information:

- A. The shape, dimensions, content, colors, and type of the sign;
- B. The location of the sign on the lot with respect to buildings, parking lots, property lines and adjacent rights-of-way;
- C. Whether the sign is internally or externally illuminated (electric permit may be required from Yadkin County Building Inspections);
- D. For wall signs, the building length and height; and
- E. Any other information which the Administrator may deem necessary for consideration in enforcing the provisions of this Ordinance.

#### **Step 3. Administrator Review and Approval**

- A. The Administrator shall review the application and drawing in accordance with the requirements of this Ordinance and any other applicable requirements.
- B. If the application and drawing are found to meet all of the applicable regulations of this Ordinance, then the Administrator shall issue a Zoning Permit for the sign.
- C. If the Zoning Permit is denied, the applicant may appeal the action of the Administrator to the Board of Adjustment, as provided for herein. Such appeal shall be made within 30 days of such permit denial.

#### **Step 4. Applicant Obtains Building or Electrical Permit (if applicable)**

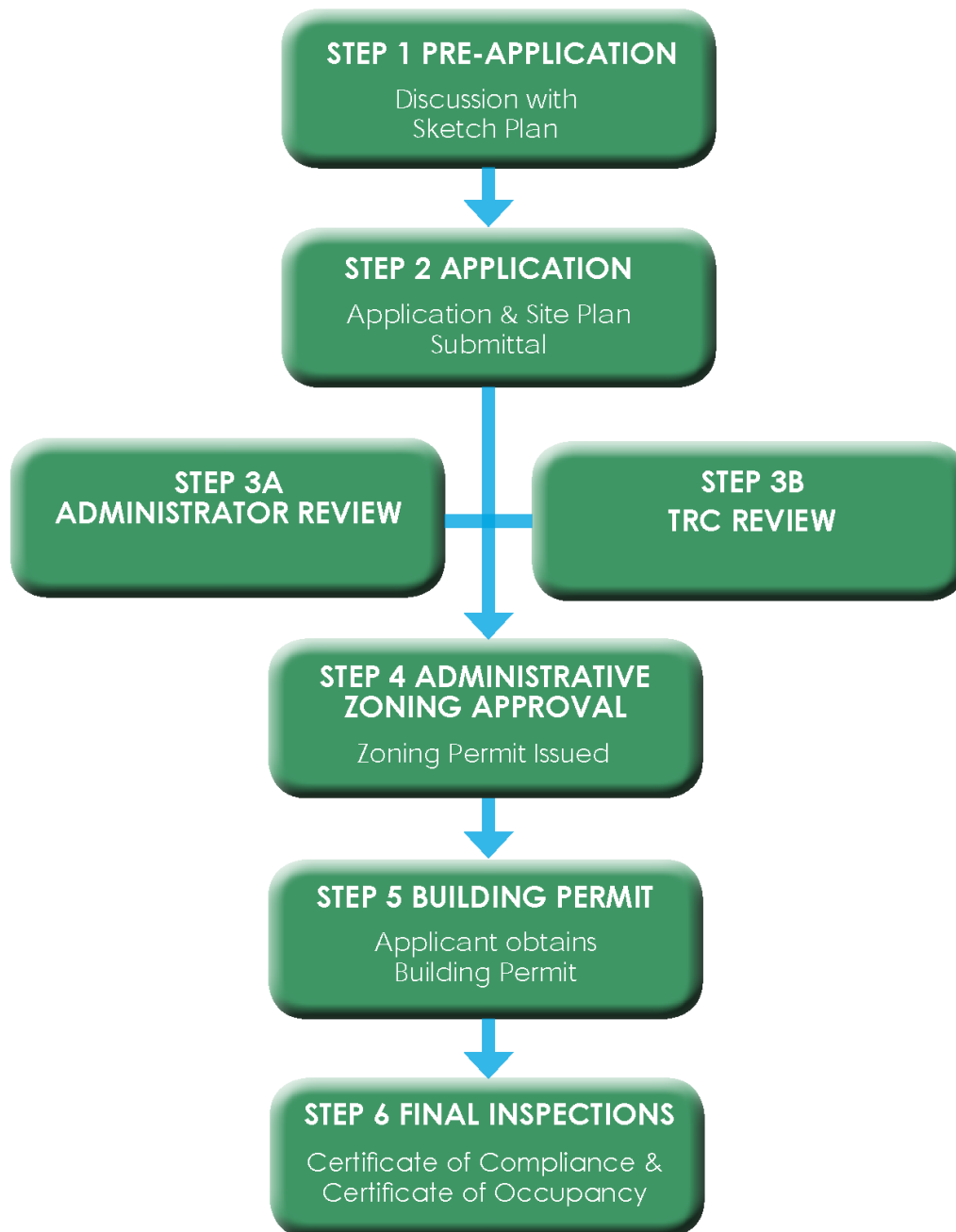
Following approval of the Zoning Permit for an illuminated sign, the applicant may obtain a Building Permit or Electrical Permit from Yadkin County Building Inspections, if required.

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#### **2.2.3.4 Zoning Permit Procedures for Multifamily Residential and Nonresidential Development.**

Zoning permits for multi-family residential and non-residential development shall be approved administratively. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



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#### Step 1. Pre-application Discussion with Sketch Plan

- A. To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the developer and the Administrator concerning the application of this Ordinance to the proposed development is required. It is the intent to provide a preliminary review of a property's development potential and staff direction for additional needed information, but not as a type of approval.
- B. Before submitting an application and Site Plan, the developer shall submit to the Administrator a Sketch Plan (either digital or hard copy) drawn at a scale no smaller than one (1) inch to 50 feet (1:50) with the following information.
  - 1. Property boundaries with total acreage and relationship to adjacent properties and vicinity.
  - 2. Proposed site layout including proposed structures, existing structures, and the intended use of structures, and parking.
  - 3. Proposed site access and designation as public or private.
  - 4. Topography in five (5) foot contour intervals and existing water courses.
  - 5. Location of nearest existing and proposed water and sewer line sizes and types and statements regarding how property will be served with water, sewer, and fire protection.
  - 6. Sketch of any proposed drainage facilities.
  - 7. Zoning of subject and adjacent properties.
- C. The Administrator shall review the Sketch Plan for general compliance with the requirements of this Ordinance and any other applicable requirements within 14 days of submittal. The Administrator shall advise the developer or his authorized agent of the regulations pertaining to the proposed development and the procedures to be followed. Any development is subject to other state and federal (and potentially private utility) requirements. For any requirements applying to a development, the Town of Yadkinville will require a letter from the regulating agency as proof of compliance. Proof of compliance will directly affect issuance of any Zoning Permit or Certificate of Compliance. These include, but are not limited to:
  - 1. Wetlands—US Army Corps of Engineers.
  - 2. Soil and Erosion Control (compliance with ALL size developments, including those under an acre)—NC Department of Environmental Quality (NCDEQ).
  - 3. Drive entrances—NC Department of Transportation and Town of Yadkinville.
  - 4. Other applicable agencies.
- D. One (1) copy of the Sketch Plan shall be retained on file and one (1) copy shall be returned to the developer or his authorized agent along with any comments made by the Administrator concerning the proposed development.

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#### Step 2. Applicant Submits Application and Site Plan

- A. The applicant shall submit the application, fee and the Site Plan that provides the following information:
1. *Title Block*: Development name, developer's name, north arrow, scale (denoted graphically and numerically), date of plan preparation and revision, location of development (township, county and state), name and seal of registered surveyor or engineer preparing plan.
  2. *Vicinity Map*: A sketch vicinity map showing the location of the development in relation to the surrounding area.
  3. *Site Data*: Acreage in total tract, acreage in right-of-way, existing and proposed impervious area, acreage in open space (if required), residential density in dwelling units per acre (if applicable).
  4. *Zoning and Town Limits*: Indicate both on and adjacent to the land to be developed, the location of Town limits, zoning of property and location of zoning lines if property is located in more than one (1) zone.
  5. *Tract Boundaries*: Exact boundaries of the tract or portion thereof to be developed, with all bearings and distances accurately shown.
  6. *Property Lines*: Property lines and owners' names of record of all adjoining properties and/or adjoining development of record which intersect with the perimeter of the tract being developed.
  7. *Topographic Lines*: Topographic contour lines at five (5) foot intervals.
  8. *Natural Features/Critical and Sensitive Areas*: Streams, creeks, ponds, reservoirs, location of the floodway and flood fringe boundaries if applicable, wetlands, farmland, rock outcrops, wooded areas, slopes greater than 25%, significant cultural features including cemeteries and National Register of Historic Places landmarks or districts.
  9. *Existing Physical Features*: Existing physical features including buildings, streets (include names, whether public or private, right-of-way, pavement type and width), railroads, power lines, drainage ways, culverts and drainpipes, sewer and water mains and any public utility easements on and adjacent to the tract being developed.
  10. *Proposed Site Layout*: All proposed building and parking locations with dimensions, easements, designation of any dedication or reservations to be made, building setback lines (if applicable) and proposed use of land.
  11. *Circulation Layout*: Proposed streets and alleys, showing pavement widths; rights-of-way; curbing if any; percent of finished grades, street names and street profiles.
  12. *Water and Sewer*: Provision of water and wastewater disposal shall be indicated by one (1) of the following methods:



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- *Utility Plan*: Plans showing water and sewer system layouts including location of lines, line sizes, location of manholes, pumps, hydrants, force mains or treatment facilities and the connection of the proposed system(s) with existing systems.
  - *Health Department Approval*: Location plans for individual water supply and septic system as approved by Yadkin County Health Department (if connection to Town systems not possible)
13. *Stormwater System*: Plans for proposed drainage facilities, including location and dimensions of open drainage ways, storm sewers, culverts, retaining ponds or areas where water is to be diverted through grading, including calculations and any other evidence necessary to ensure that the proposed method of drainage is adequate to safeguard property in the Town.
14. *Grading and Soil and Erosion Control Plan*: A Soil and Erosion Control Plan approved by NCDEQ.
15. *Driveway Permits*: Any driveway permits approved by NCDOT.
16. *Article 4 and Article 5 Standards*: Demonstration that all of the development standards of Article 4 and Article 5 have been met to potentially include:
- Landscaping Plan.
  - Lighting Plan.
  - Building Elevations: exterior wall materials, roof materials, dimensions, window area.
17. *Other Improvements*: Proposed location and description of any other improvements including, but not limited to, school sites, pedestrian or bike ways, reserved open space or recreational facilities (indicate whether public or private), commercial areas, or buffer strips.
- B. The following submittal requirements may be altered by the Administrator as applicable.
1. Four (4) full-size paper copies for initial review and two (2) copies for revisions.
  2. One (1) digital copy in PDF format.

#### **Step 3A and B. Administrator/Technical Review Committee Review**

- A. The Administrator and the Technical Review Committee shall review the Site Plan in accordance with the requirements of this Ordinance and any other applicable local, state, or federal requirements.
- B. The Technical Review Committee may provide comments to the Administrator regarding the proposed development. It shall be the responsibility of the Administrator to ensure that the comments are communicated to and addressed by the developer.

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#### **Step 4. Administrative Zoning Approval**

If a Site Plan is found to meet all of the applicable regulations of this Ordinance, then the Zoning Administrator shall issue a Zoning *Permit*.

#### **Step 5. Applicant Obtains Building Permit**

Following Zoning Permit approval by the Administrator, the applicant may then obtain a Building Permit from Yadkin County Building Inspections.

#### **Step 6. Final Inspections for Certificates of Compliance and Occupancy**

Following construction and prior the issuance of a Certificate of Occupancy by the Yadkin County Building Inspector, the Administrator shall coordinate a final site development inspection to ensure that the approved plan has been followed and all required improvements have been installed to Town development standards. Upon satisfactory completion of all required improvements a Certificate of Compliance shall be issued by the Administrator, and the Certificate of Occupancy may be issued by the Building Inspector.

#### **2.2.3.5 Certificate of Compliance**

- A. A Certificate of Compliance shall be issued by the Administrator following the completion of any work subject to the issuance of a Zoning Permit under Section 2.2.3, verifying that work was completed in accordance with the approved permit.
- B. A Certificate of Compliance is also required prior to the occupancy of any existing building for which there has been a change of use or occupant. The Administrator shall first verify that the proposed use is permitted, and that adequate parking is provided for the proposed use in accordance with the requirements of Section 4.5. A satisfactory inspection by the Fire Marshal shall also be obtained prior to occupancy. A record of said inspection shall be provided to the Administrator. Once the use, parking, and fire safety have been verified, the Administrator may issue a Certificate of Compliance to permit occupancy. Any interior upfit work done to the building may also require a Building Permit and associated Certificate of Occupancy from Yadkin County.

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#### 2.2.4 SUBDIVISIONS

##### 2.2.4.1 Subdivisions Defined

- A. All plats and proposed subdivisions shall be reviewed by the Administrator for initial determination as to whether the proposed subdivision is to be classified as a subdivision or is exempt from subdivision requirements.
- B. In accordance with NCGS 160D-802, "Subdivision" shall mean all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions 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; but the following shall not be included within this definition nor be subject to the regulations of this Section:
  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 this Ordinance;
  2. The division of land into parcels greater than 10 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;
  4. The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant Lots are equal to or exceed the standards of this Ordinance;
  5. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under NCGS 160D, Article 8.
- C. A subdivision plat may only be required for recordation for the division of a tract or parcel of land in single ownership if all of the following criteria are met:
  1. The tract or parcel to be divided is not exempted under subsection (B).
  2. No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division.
  3. The entire area of the tract or parcel to be divided is greater than five (5) acres.
  4. After division, no more than three (3) lots result from the division.
  5. After division, all resultant lots comply with all of the following:
    - Any lot dimension size requirements of the applicable land-use regulations, if any.
    - The use of the lots is in conformity with the applicable zoning requirements, if any.
    - A permanent means of ingress and egress is recorded for each lot.

(ZTA-2021-03 Amended May 3, 2021)

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#### 2.2.4.2 Subdivisions Exemption

If the Administrator determines that a division of land does not meet the definition of a subdivision as set forth by NCGS 160D-802, then the division shall be considered a subdivision exemption and shall not be subject to the subdivision review process. The Administrator shall ensure that resultant lots comply with the dimensional, frontage and access requirements of the zoning district in which the property is located. Where a public street is to be created, dedicated and platted as part of the division, the division shall not be exempt from the provisions of this Ordinance regardless of any other factors. If the Administrator determines that the proposed division is exempt from the subdivision provisions of this Ordinance, the plat shall be endorsed with the following certificate, signed and dated by all record property owner(s) with direct interest in the property and the Administrator:

##### Exempt Plat Certificate

I certify that this plat is exempt from subdivision regulations in accordance with NCGS 160D-802 and meets the minimum zoning standards of the Town of Yadkinville.

_____	_____
Ordinance Administrator	Date

(ZTA-2021-03 Amended May 3, 2021)

#### 2.2.4.3 Major Subdivision Defined

Major Subdivisions are those subdivisions which involve more than five (5) lots or more or which involve the dedication of new street right-of-way (excluding widening), utility extension of greater than 100 feet, Conservation Developments as permitted by Section 4.2.4, or dedication or reservation of land for open space, school sites and other public purposes.

#### 2.2.4.4 Minor Subdivision Defined

Minor Subdivisions include all other subdivisions that do not meet the definitions of exempt subdivision and major subdivision above.

#### 2.2.4.5 Minor Subdivision Exemption

Pursuant to NC GS 160D-802(c) only a minor subdivision plat for recordation will be required for the division of a tract or parcel of land in single ownership if all of the following criteria are met:

1. The tract or parcel to be divided is not exempted under NC GS 160D-802 and Section 2.2.4.2 of this Ordinance.

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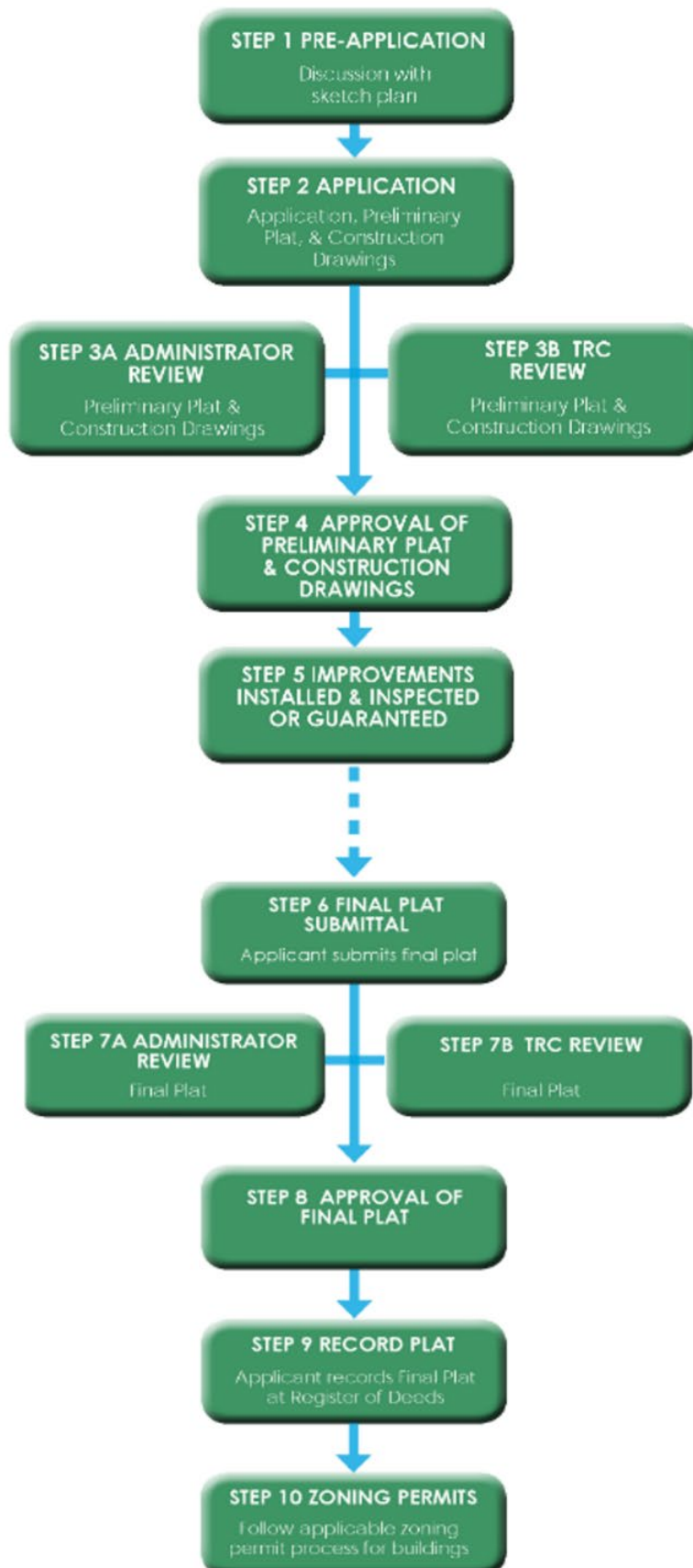
2. No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division.
3. The entire area of the tract or parcel to be divided is greater than five acres.
4. After division, no more than three lots result from the division.
5. After division, all resultant lots comply with all of the following:
  - a. Any lot dimension size requirements of the applicable land-use regulations, if any.
  - b. The use of the lots is in conformity with the applicable zoning requirements, if any.
  - c. A permanent means of ingress and egress is recorded for each lot.
  - d. (ZTA-2021-03 Amended May 3, 2021)

#### **2.2.4.6 Subdivision Procedures**

Subdivision preliminary plats, construction drawings, and final plats shall be approved administratively. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages. The abbreviated Minor Subdivision plat review process only includes steps 1 and 6-10.

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#### Step 1. Pre-application Discussion with Sketch Plan

- A. To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the developer and the Administrator concerning the application of this Ordinance to the proposed development is required. It is the intent to provide a preliminary review of a property's development potential and staff direction for additional needed information, but not as a type of approval.
- B. Before submitting an application and Preliminary Plat with associated construction drawings, the developer shall submit to the Administrator a Sketch Plan (either digital or hard copy) drawn at a scale no smaller than one (1) inch to 100 feet (1:100) with the following information.
  - 1. Property boundaries with total acreage and relationship to adjacent properties and vicinity.
  - 2. Proposed site layout including proposed lots, streets, and land uses.  
Proposed site access and designation as public or private.
  - 3. Topography in five (5) foot contour intervals and existing water courses.
  - 4. Location of nearest existing and proposed water and sewer line sizes and types and statements regarding how property will be served with water, sewer, and fire protection.
  - 5. Sketch of any proposed drainage facilities.
  - 6. Zoning of subject and adjacent properties.
- C. The Administrator shall review the Sketch Plan for general compliance with the requirements of this Ordinance and any other applicable requirements within 14 days of submittal. The Administrator shall advise the developer or his authorized agent of the regulations pertaining to the proposed development and the procedures to be followed. Any development is subject to other state and federal (and potentially private utility) requirements. For any requirements applying to a development, the Town of Yadkinville will require a letter from the regulating agency as proof of compliance. Proof of compliance will directly affect issuance of any Zoning Permit or Certificate of Compliance. These include, but are not limited to:
  - 1. Wetlands—US Army Corps of Engineers.
  - 2. Soil and Erosion Control (compliance with ALL size developments, including those under an acre)—NC Department of Environmental Quality (NCDEQ).
  - 3. Drive entrances—NC Department of Transportation and Town of Yadkinville.
  - 4. Other applicable agencies.
- D. One (1) hard copy and one (1) digital copy of the Sketch Plan shall be retained on file by the Administrator, and one (1) digital or hard copy shall be returned to the developer



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or his authorized agent along with any comments made by the Administrator concerning the proposed development.

#### **Step 2. Applicant submits application, preliminary plat, & associated construction drawings.**

- A. The applicant shall submit the application, fee, Preliminary Plat and associated construction drawings, prepared by a surveyor or professional engineer licensed and registered to practice in North Carolina, that provide the following information:
1. *Title Block*: Development name, developer's name, north arrow, scale (denoted graphically and numerically), date of plat preparation, location of development (township, county and state), name and seal of registered land surveyor preparing the plat.
  2. *Vicinity Map and North Arrow*: A sketch vicinity map showing the location of the development in relation to the surrounding area.
  3. *Site Data*: Acreage in total tract, smallest lot size, total number of lots, lineal feet of streets.
  4. *Zoning and Town Limits*: Indicate both on and adjacent to the land to be subdivided the location of Town limits, zoning of property and location of zoning lines if property is located in more than one (1) zone.
  5. *Tract Boundaries*: Exact boundaries of the tract or portion thereof to be subdivided, with all bearings and distances accurately shown.
  6. *Property Lines*: Property lines and owners' names of record of all adjoining properties and/or adjoining development of record which intersect with the perimeter of the tract being subdivided.
  7. *Topographic Lines*: Topographic contour lines at five (5) foot intervals.
  8. *Natural Features/Critical and Sensitive Areas*: streams, creeks, ponds, reservoirs, location of the floodway and flood fringe boundaries if applicable, wetlands, farmland, rock outcrops, wooded areas, slopes greater than 25%; significant cultural features including cemeteries and National Register of Historic Places landmarks or districts.
  9. *Existing Physical Features*: Existing physical features including buildings, streets (include names, whether public or private, right-of-way, pavement type and width), railroads, power lines, drainage ways, culverts and drainpipes, sewer and water mains and any public utility easements on and adjacent to the tract being subdivided.
  10. *Proposed Lot Layout*: All proposed lot and street right-of-way lines with approximate dimensions, lot and block numbers, all easements, designation of any dedication or reservations to be made, building setback lines (if applicable) and proposed use of land if other than single family residences.



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11. *Street Layout*: Proposed streets and alleys, showing pavement widths; rights-of-way; curbing if any; percent of finished grades, street names and a street profiles.
12. *Street Maintenance*: Statement whether streets are private or are to be turned over for maintenance to the Town of Yadkinville or NCDOT.
13. *Water and Sewer*: Provision of water and wastewater disposal shall be indicated by one (1) of the following methods:
  - *Utility Plan*: Plans showing water and sewer system layouts including location of lines, line sizes, location of manholes, pumps, hydrants, force mains or treatment facilities and the connection of the proposed system(s) with existing systems. A typical trench section shall be shown. Letters of approval for the plans for the proposed sanitary sewer and water distribution systems from the appropriate agencies.
  - *Health Department Approval*: Location plans for individual water supply and septic system as approved by Yadkin County Health Department (if connection to Town systems not possible)
14. *Stormwater System*: Plans for proposed drainage facilities, including location and dimensions of open drainage ways, storm sewers, culverts, retaining ponds or areas where water is to be diverted through grading, including calculations and any other evidence necessary to ensure that the proposed method of drainage is adequate to safeguard property in the Town.
15. *Grading and Soil and Erosion Control Plan*: A Soil and Erosion Control Plan approved by NCDEQ.
16. *Driveway Permits*: Any driveway permits approved by NCDOT.
17. *Article 4 Standards*: Demonstration that all of the development standards of Article 4 have been met to potentially include:
  - Landscaping Plan
  - Lighting Plan
18. *Other Improvements*: Proposed location and description of any other improvements including, but not limited to, school sites, pedestrian or bike ways, buffers, reserved open space or recreational facilities as required by Section 4.3.4 (indicate whether public or private), along with deed restrictions or covenants for the maintenance of such.
19. *Phasing*: All phase lines shall be shown on the Preliminary Plat. If a subdivision that is to be built in phases includes common area improvements that are designed to relate to, benefit, or be used by the entire subdivision (such as a swimming pool or tennis courts in a residential subdivision) then, as part of his/her application for subdivision approval, the developer shall submit a proposed schedule for completion of such common area improvements. The schedule shall relate completion of such common area improvements to completion of one (1) or more phases of the entire subdivision. Once a schedule of improvements has been

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approved, no land may be used or no buildings may be occupied, and no subdivision lots may be sold except in accordance with the schedule approved.

- B. The following submittal requirements may be altered by the Administrator as applicable.
  - 1. Four (4) full-size paper copies for initial review and two (2) copies for revisions.
  - 2. One (1) digital copy in PDF format.

#### **Step 3A and B. Administrator/technical Review Committee**

- A. The Administrator and the Technical Review Committee shall review the Preliminary Plat and associated construction drawings in accordance with the requirements of this Ordinance and any other applicable local, state, or federal requirements. The review shall be completed within 30 days and the developer shall be notified of any deficiencies to be corrected in order to approve.
- B. The Technical Review Committee may provide comments to the Administrator regarding the proposed development. It shall be the responsibility of the Administrator to ensure that the comments are communicated and addressed by the developer.

#### **Step 4. Approval of Preliminary Plat & Construction Drawings**

- A. If a Preliminary Plat and associated construction drawings are found to meet all of the applicable regulations of this Ordinance, then the Administrator shall approve the Plat.
- B. One (1) hard copy and one (1) digital copy of the approved Preliminary Plat and associated construction drawings shall be retained on file by the Administrator.

#### **Step 5. Improvements Installed and Inspected or Guaranteed**

- A. Following Preliminary Plat approval, the developer may proceed with the installation of improvements as shown on the approved construction drawings, and as set forth in Section 4.6 Infrastructure Standards.
- B. Approval of the Final Plat shall be subject to the developer having installed the required improvements or having guaranteed, to the satisfaction of the Town, the installation of said improvements. The Town Engineer shall inspect the improvements to ensure compliance with Town standards prior to approval of the Final Plat. Underground utilities shall be inspected by the Town Engineer and/or utility provider before they are covered.
- C. In lieu of requiring the completion, installation and dedication of all improvements prior to Final Plat approval, the Town may enter into an agreement with the developer whereby the developer shall agree to complete all required improvements as specified by the approved Preliminary Plat for that portion of the subdivision to be shown on the Final Plat within one (1) year of Final Plat approval. Once the security required herein is provided, the Final Plat may be approved by the Administrator, if all other requirements of this Ordinance are met. The Administrator shall require a certified cost

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estimate from a licensed contractor or engineer for the cost of completion of such improvements. The Administrator may direct the Finance Director to release a portion of any security posted as the improvements are completed. The developer shall provide one (1) of the following guarantees in lieu of installation, in accordance with NCGS 160D-804:

1. *Surety Performance Bond(s)*: The developer shall obtain a performance bond(s) from a surety bonding company authorized to do business in North Carolina. The bond(s) shall be payable to the Town of Yadkinville and shall be in the amount of 1.25 times the entire cost, as estimated by a licensed engineer. The duration of the bond(s) shall be until such time as the improvements are accepted by the Town or a default is declared.
2. *Cash or Equivalent Security*: The developer shall deposit cash, an irrevocable letter of credit, or other instrument readily convertible into cash at face value, either with the County or in a non-interest-bearing escrow account with a financial institution designated as an official depository by the Town. The amount of deposit shall be 1.25 times the cost, as estimated by a licensed engineer. If cash or other instrument is deposited in escrow with a financial institution as provided above, then the developer shall file with the Administrator an agreement between the financial institution and himself guaranteeing the following:
  - That said escrow account shall be held in trust until released by the Administrator and may not be used or pledged by the developer in any other matter during the term of the escrow; and
  - That in the case of a failure on the part of the developer to complete said improvements, the financial institution shall, upon notification by the Administrator and submission by the Administrator to the financial institution of an engineer's estimate of the amount needed to complete the improvements, immediately either pay to the Town of Yadkinville the funds estimated to complete the improvements, up to the full balance of the escrow account, or deliver to the county any other instruments endorsed or otherwise made payable to the Town.
  - Upon default, meaning failure on the part of the developer to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account shall, if requested by the Town, pay all or any portion of the bond or escrow fund to the Town of Yadkinville up to the amount needed to complete the improvements based on an engineering estimate. Upon payment, the Administrator, in his discretion, may expend such portion of said funds as it deems necessary to complete all or any portion of the required improvements. The Town shall return to the developer any funds not spent in completing the improvements.

(ZTA-2021-03 Amended May 3, 2021)

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#### Step 6. Final Plat Submittal

- A. Following completion or guarantee of improvements, the applicant shall submit the applicable application, fee and the Final Plat(s). The Final Plat(s) submitted shall constitute only that portion of the approved Preliminary Plat which the developer proposed to develop and record at the time of submission. Final Plats shall be prepared by a Registered Land Surveyor currently licensed and registered in the State of North Carolina by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. Final Plats shall conform to the provisions for plats, developments and mapping requirements set forth in NCGS 47-30 and the Manual of Practice for Land Surveying in North Carolina. Final Plats shall be of a size suitable for recording with the Yadkin County Register of Deeds and shall be at a scale of not less than one-inch equals 100 feet (1"=100'). Maps may be placed on more than one (1) sheet with appropriate match lines.
- B. Final Plats shall include the following information:
1. *Title Block*: Subdivision name, north arrow, scale denoted graphically and numerically, date of plat preparation and township, county and state in which the subdivision is located and the name(s) of the owner(s) and the registered surveyor responsible for the subdivision (including the seal and registration number of the registered surveyor).
  2. *Tract Boundaries*: The exact boundary lines of the tract to be subdivided fully dimensioned by lengths and bearings and the location of intersecting boundary lines and adjoining lands.
  3. *Adjoining Property Owners*: The names and deed references of owners of adjoining properties and adjoining developments of record (proposed or under review).
  4. *Zoning and Town Limits*: Indicate both on and adjacent to the land to be subdivided the location of Town limits, zoning of property and location of zoning lines if property is located in more than one (1) zone.
  5. *Setbacks and Building Envelopes*: Provide the minimum building setbacks in both table format and on the lot.
  6. *Location of Improvements*: All visible and apparent rights-of-way, watercourses, utilities, roadways and other such improvements shall be accurately located where crossing or forming any boundary line of the property shown.
  7. *Surveying Data*: Sufficient engineering data to determine readily and reproduce on the ground every straight or curved boundary line, street line, lot line, right-of-way line, easement line and setback line, including dimensions, bearings or deflection angles, radii, central angles and tangent distances for the centerline of curved streets and curved property lines that are not the boundary of curved streets.
  8. *Monuments*: The accurate locations and descriptions of all monument, markers and control points.

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9. *Lot and Block Numbers*: The blocks numbered consecutively throughout the entire subdivision and the lot numbered consecutively throughout each block.
10. *Setback Lines*: Minimum building setback lines, if applicable.
11. *Streets*: Street names, right-of-way lines and percent grade of all streets and the location and width of all adjacent streets and easements. Designation shall be made as to whether said streets are to be designated as public or private.
12. *Utility and Drainage easements*: Locations of water, sanitary sewer and storm drainage easements
13. *Right-of-Way*: The location and dimensions of all rights-of-way, utility or other easements, natural buffers, pedestrian or bicycle paths and areas to be dedicated to public use with the purpose of each stated.
14. *Flood Information*: The location of the floodway and flood fringe boundaries, if applicable.
15. *Open Space*: The location of dedicated open space with a note that the land shall not be developed for any purposes other than the designated open space type.
16. *Forms of Final Certifications*: The following certificates shall be shown on the original and all copies of the Final Plat:

**Certificate of Approval by the Administrator**

I hereby certify that this final plat meets the requirements of the Town of Yadkinville Development Ordinance and may be recorded.

_____	_____
Administrator	Date

**Certificate of Ownership and Dedication**

I (We) hereby certify that I am (we are) owner(s) of the property shown and described herein, that the property is within the jurisdiction of the Town of Yadkinville and that I (we) hereby adopt this plan of subdivision with my (our) free consent and hereby establish all lots and dedicate all streets, alleys, walks, parks and other open spaces to public or private use as noted.

\_\_\_\_\_  
Owner(s)

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**Certificate of Survey and Accuracy**

I, \_\_\_\_\_, PLS \_\_\_\_\_ certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in book \_\_\_\_ page \_\_\_\_ , etc.) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in book \_\_\_\_ page \_\_\_\_; that the ratio of precision as calculated is 1: \_\_\_\_ ; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number and seal this \_\_\_\_ day of \_\_\_\_\_ A.D., 20\_\_\_\_.

Seal

or

Stamp

\_\_\_\_\_

Surveyor

\_\_\_\_\_

Registration # (maximum allowable error: 1:10,000)

**Review Officer Certificate**

State of North Carolina, County of Yadkin I, \_\_\_\_\_, Review Officer of Yadkin County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

\_\_\_\_\_

Review Officer Date

**Register of Deeds Certificate**

State of North Carolina, County of Yadkin

This instrument was presented for registration and recorded in Map Book \_\_\_\_\_, Page \_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ (a.m./p.m.)

\_\_\_\_\_

Register of Deeds

**Certificate of Approval of Design and Installation of Streets, Utilities and Other Required Improvements (if applicable)**

I hereby certify that all streets, public utilities and other required improvements have been installed in an acceptable manner and according to N.C. Department of Transportation and/or Town of Yadkinville specifications and standards or as otherwise provided for in this Ordinance, or that guarantees for the installation of the required improvements in an amount and manner satisfactory to Yadkinville have been submitted.

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Professional Engineer    Registration Number    Date    Official Seal

or

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Public Works                      Director Date

**NCDOT Construction Standards Certification (if applicable)**

Department of Transportation, Division of Highways

Proposed Subdivision Road Construction Standards Certificate

Approved: District Engineer    Date: \_\_\_\_\_

**Onsite Water and/or Sewer Note (where appropriate)**

Note:(ALL the LOTS) or (LOTS# \_\_\_\_\_) as shown on this Plat are proposed to be served with on-site water and/or sewer systems. The lots as shown meet the minimum size prescribed by the Yadkin County Health Department for such system(s). However, the recording of this Plat does not guarantee that any such lots will meet the requirements for the approval by the Health Department for such on-site system(s). Health Department approval for such systems is required.

**Special Flood Hazard Area Note (Word to represent actual situation)**

Note: (Part of) this property (does/does not) lie in a Special Flood Hazard Area Reference: Floodway Panel # \_\_\_\_\_ Date: \_\_\_\_\_ (of Panel) (If part of the property is in a Special Flood Hazard Area it shall be shown graphically on the Plat and comply with the Flood Damage Prevention Regulations of Section 4.3.3)

- C. The following submittal requirements may be altered by the Administrator as applicable.
1. Four (4) full-size paper copies for initial review and two (2) for revisions.
  2. One (1) digital copy in PDF format.

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#### **Step 7A and B. Administrator/Technical Review Committee Review of Final Plat**

- A. The Administrator and the Technical Review Committee shall review the Final Plat in accordance with the approved Preliminary Plat, requirements of this Ordinance, and any other applicable local, state, or federal requirements. The review shall be completed within 30 days and the developer shall be notified of any deficiencies to be corrected in order to approve.
- B. The Technical Review Committee may provide comments to the Administrator regarding the proposed development. It shall be the responsibility of the Administrator to ensure that the comments are communicated to and addressed by the developer.

#### **Step 8. Approval of Final Plat**

If the Final Plat is found to meet all of the applicable regulations of this Ordinance, then the Administrator shall ensure that all applicable certificates are signed and approve the Plat for recordation at the Yadkin County Register of Deeds.

#### **Step 9. Record Plat**

Following approval, the applicant shall record the Plat at the Yadkin County Register of Deeds within 30 days of the date of approval. Otherwise, said plat shall be void and may subject to the entire review process.

#### **Step 10. Zoning Permits**

Following recordation of the Plat, the appropriate Zoning Permit process in Section 2.2.3 shall be followed for any construction or establishment of uses on individual lots.

#### **2.2.4.6 No Subdivision or Improvements Without Plat Approval**

- A. The Review Officer or Yadkin County Register of Deeds, pursuant to NCGS 47-30.2, shall not certify or record a plat of a subdivision of land lying within the jurisdiction of this Ordinance that has not been approved in accordance with the provisions contained herein; nor shall the Clerk of Superior Court order or direct the recording of a plat if the recording would be in conflict with the visions or intent of this Ordinance. Without the approval, the filing or recording of a subdivision plat shall be null and void.
- B. No person may subdivide land except in accordance with all of the provisions of this Ordinance. In particular, no person may subdivide land unless and until a Final Plat of the subdivision has been approved and recorded in the Yadkin County Register of Deeds.
- C. No grading or physical improvements to land to be subdivided may be commenced except in accordance with and pursuant to the approved Preliminary Plat.
- D. No Zoning Permit or Building Permit shall be issued by the Town of Yadkinville for the construction of any building on any lot within a proposed subdivision until a Final Plat of said subdivision has been approved in a manner as prescribed by this Ordinance and recorded at the Yadkin County Register of Deeds Office.
- E. A Final Plat must be recorded before final sale or lease of lots can occur. However, the developer, upon approval of a Preliminary Plat, may enter into contracts to sell or



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lease the lots shown on the approved Preliminary Plat, provided that the contract does all of the following:

1. Incorporates as an attachment a copy of the approved Preliminary Plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the approved and recorded Final Plat prior to closing and conveyance.
2. Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the Preliminary and Final Plats are possible, and that the contract or lease may be terminated without breach by the buyer or lessee if the final approved and recorded plat differs in any material respect from the approved Preliminary Plat.
3. Provides that if the approved and approved and recorded Final Plat does not differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 5 days after the delivery of a copy of the final approved and recorded plat.
4. Provides that if the approved and recorded Final Plat differs in any material respect from the approved Preliminary Plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 15 days after the delivery of the final approved and recorded plat, during which 15-day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.

#### **2.2.4.7 Phased Subdivisions**

- A. All phase lines shall be shown on the Preliminary Plat.
- B. If a subdivision that is to be built in phases includes common area improvements that are designed to relate to, benefit, or be used by the entire subdivision (such as a swimming pool or tennis courts in a residential subdivision) then, as part of his/her application for subdivision approval, the developer shall submit a proposed schedule for completion of such common area improvements. The schedule shall relate completion of such common area improvements to completion of one (1) or more phases of the entire subdivision. Once a schedule of improvements has been approved, no land may be used or no buildings may be occupied, and no subdivision lots may be sold except in accordance with the schedule approved.

#### **2.2.4.8 Preliminary Plat Validity**

- A. The approval of a Preliminary Plat shall be effective for two (2) years from the date of approval. By the end of that time period, a Final Plat shall have been approved and recorded Any plat or portion thereof not receiving final approval within the time period set forth herein shall be null and void except under the following conditions:
  1. The subdivision is built in sections or phases, and was approved as part of the Preliminary Plat; and

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2. The period between the approval date of the Preliminary Plat and the approval date of the Final Plat for the first phase does not exceed two (2) years; and
  3. The period between the approval date of the Final Plat of the first phase and the approval date(s) of the Final Plat(s) of any subsequent phase(s) does not exceed the time limits specified in the phasing schedule of the Preliminary Plat.
- B. The Administrator may, upon expiration of a Preliminary Plat, re-approve the expired Preliminary Plat or portions thereof, as long as the subdivision design and conditions of approval are in compliance with this Ordinance, and any other applicable Town ordinances and/or plans in effect at the time of application for re-approval, and changes to the original design or conditions of approval are considered minor.
- C. The applicant shall submit an amended application for review as an original application substantial amendments or modifications are proposed after Preliminary Plat Approval. This shall not apply to minor changes. A change may be considered a minor change if it does not involve any of the following:
1. Any substantive change in a condition of approval;
  2. An increase in the number of building lots proposed;
  3. Any substantial change in the location of, or any decrease in, the amount of open space, buffers, or areas reserved for recreational use;
  4. Any substantial change in pedestrian and/or vehicular access or circulation including road classification;
  5. Any change in the provision of services such as water supply and wastewater disposal; and
  6. Any substantial change in the location of utilities or other easements.

#### **2.2.4.9 Dedication and Maintenance of Improvements**

- A. Approval of a Plat does not constitute acceptance by the Town of the offer of dedication of any streets, sidewalks, parks, or other public facilities shown on a Plat.
- B. After a minimum of one (1) year of maintenance by the developer from the date that street installation was approved, the Town may accept any such offer of dedication by resolution of the Town Board of Commissioners following satisfactory inspection by the Town Engineer and/or Public Works Director for compliance with Town standards. For dedication of improvements within a street right-of-way in a residential subdivision, a minimum of 75% of the units shall be complete prior to acceptance of dedication and maintenance by the Town.
- C. All facilities and improvements with respect to which the owner makes an offer of dedication to public use shall be maintained by the owner until such offer of dedication is accepted by the appropriate public authority.

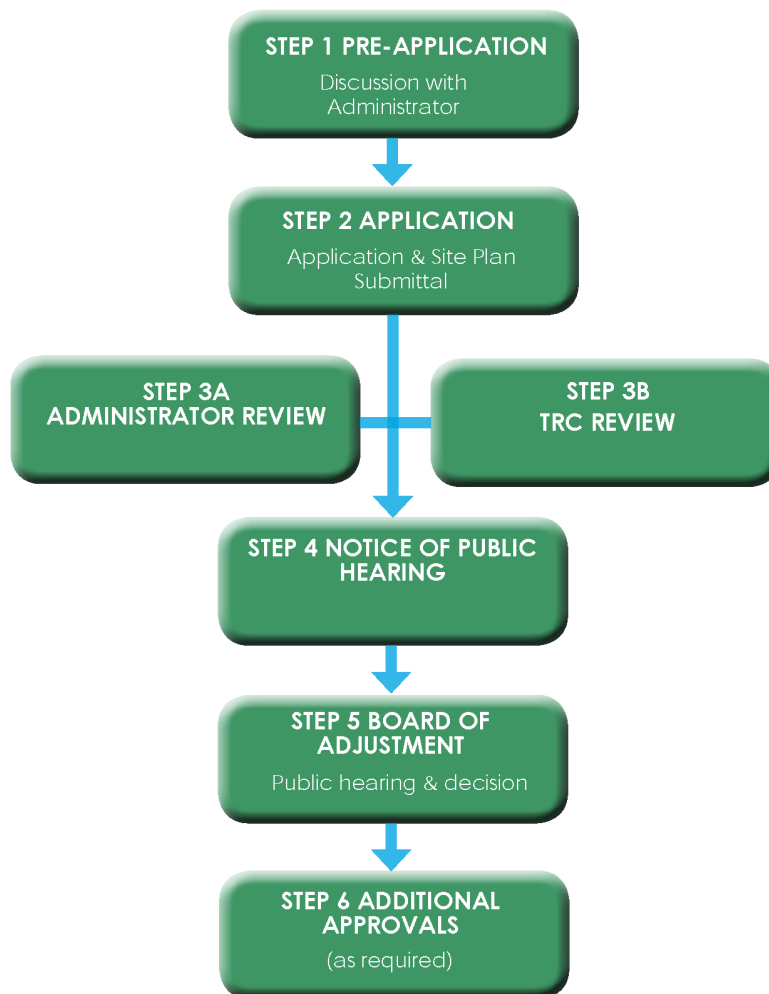
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#### 2.2.4.10 Re-platting Procedures

For any re-platting or re-subdivision of land, the same procedures, rules and regulations shall apply as prescribed herein for an original subdivision. Lot sizes may, however, be varied on an approved plan after recording, provided that:

- A. No lot or tract of land shall be created or sold that is smaller than the size shown on the approved plan;
- B. Drainage, easements or rights-of-way shall not be changed;
- C. Street alignment and block sizes shall not be changed;
- D. The property line between the back of the lots shall not be changed;
- E. The rear portion of lots shall not be subdivided from the front part;
- F. The character of the area shall be maintained; and
- G. Minor changes in routing of electric, natural gas, and telephone service do not require an additional review of the plat.



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#### 2.2.5 SPECIAL USE PERMITS

- A. Applicability – Uses identified as requiring a special use in Table 3.1, Permitted Uses Table shall be approved as a Minor Special Use Permit or a Major Use Permit in accordance with the procedures and standards of this section, prior to development. A special use is a use that may be appropriate in a zoning district, but because of its nature, extent, and external effects, requires special consideration of its location, design, and methods of operation before it can be deemed appropriate in the district and compatible with its surroundings.
- B. Special Use Procedures - Pursuant to NCGS 160D-302 and NCGS 160D-705, the Board of Adjustment may hear and decide requests for Minor Special Use Permits, and the Town Board of Commissioners may hear and decide request for Major Special Use Permits, for uses indicated in the Permitted Uses Table 3.1 in Section 3.3.3 and as otherwise set forth in this Ordinance. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.

##### Step 1. Pre-application Discussion with Administrator

To minimize costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Administrator concerning the application is required.

##### Step 2. Application and Site Plan Submittal

##### Step 2. Application and Plan Submittal

The property owner and applicant (when separate entity from the property owner) shall submit the Minor Special Use Permit or the Major Special Use application, fee, and associated site plan a minimum of 45 days prior to the Board of Adjustment or the Board of Commissioners evidentiary hearing at which the request is designated to be heard. Additional time may be needed for Technical Review Committee review in Step 3. Site plans shall include, at a minimum, the following information:

1. Survey of the property at a scale no smaller than one inch equals 50 feet (1"=50')
2. North arrow
3. Lot lines with bearings and distances
4. Zoning district and applicable overlay districts
5. Adjacent property owner names, parcel number and zoning
6. Total acreage
7. Proposed buildings and parking
8. Existing and proposed impervious area in square feet and as a percentage of the site
9. Proposed building setbacks (as they relate to the variance request)
10. Any other pertinent information to provide substantial, material, and competent evidence to support the findings-of-fact.

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- A. The following submittal requirements may be altered by the Administrator applicable:
  - 1. Nine (9) full-size paper copies of the Site Plan for the Board of Adjustment or the Board of Commissioners and staff.
  - 2. One (1) digital copy in PDF format or comparable format.
- C. When required, a traffic impact analysis shall be submitted for review with the submittal of an application for a Minor Special Use Permit or a Major Special Use Permit.

#### Step 3A and B. Administrator / Technical Review Committee Review

- A. The Administrator and the Technical Review Committee shall review the Site Plan in accordance with the requirements of this Ordinance and any other applicable local, state or federal requirements.
- B. The Technical Review Committee may provide comments to the Administrator regarding the proposed development. It shall be the responsibility of the Administrator to ensure that the comments are communicated to and addressed by the applicant.
- C. The Administrator shall prepare a staff report, and provide a recommendation in accordance with Section 2.2.5 Step 5.

#### Step 4. Notice of Evidentiary Hearing

The Administrator shall provide notice of the evidentiary hearing in the following manner as prescribed by NCGS 160D-406. Notice of Board of Adjustment or Board of Commissioners evidentiary hearings shall be mailed to the person or entity whose application is the subject of the hearing; to the owner of the property that is the subject of the hearing if separate entity from the applicant; and to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing, as well as those properties separated from the subject property by street, railroad, or other transportation corridor. In the absence of evidence to the contrary, the Town may rely on the Yadkin County tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period the Town 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.

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#### Step 5. Evidentiary Hearing and Decision

A. The Board of Adjustment shall conduct a quasi-judicial evidentiary hearing for a Minor Special Use Permit. Sworn testimony shall be provided by witnesses speaking before the Board on the matter to establish facts of the case. The Board must allow parties with standing to participate fully in the evidentiary hearing, as defined by NC GS 160D-1402(c), including presenting evidence, cross-examining witnesses, objecting to evidence, and making legal arguments; and may allow non-parties to present competent, material, and substantial evidence that is not repetitive. The Board of Adjustment shall grant a Minor Special Use Permit upon affirmative findings made for each of the following:

1. That the use will not materially endanger the public health or safety, if located where proposed according to the plan submitted and approved;
2. That the use complies with all required standards, conditions and specifications of this Ordinance;
3. That the use will not substantially injure the value of adjoining or abutting property, or that the special use is a public necessity; and
4. That the location and character of the special use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located; and
5. That the location and character of the special use, if developed according to The plan as submitted and approved, will be in general conformity with the Comprehensive Plan and other adopted plans and policy guidance.

B. The Town Board of Commissioners shall conduct a quasi-judicial evidentiary hearing for a Major Special Use Permit. Sworn testimony shall be provided by witnesses speaking before the Board on the matter to establish facts of the case. The Board must allow parties with standing to participate fully in the evidentiary hearing, as defined by NC GS 160D-1402(c), including presenting evidence, cross-examining witnesses, objecting to evidence, and making legal arguments; and may allow non-parties to present competent, material, and substantial evidence that is not repetitive. At its discretion the Board of Commissioners may refer the request to the Planning Board for an informal advisory review pursuant to NCGS 160D-301. The Board of Commissioners shall grant a Major Special Use Permit upon affirmative findings made for each of the following:

1. That the use will not materially endanger the public health or safety, if located where proposed according to the plan submitted and approved;
2. That the use complies with all required standards, conditions and specifications of this Ordinance;
3. That the use will not substantially injure the value of adjoining or abutting property, or that the special use is a public necessity; and

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4. That the location and character of the special use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located; and
  5. That the location and character of the special use, if developed according to The plan as submitted and approved, will be in general conformity with the Comprehensive Plan and other adopted plans and policy guidance.
- C. Conditions of Approval - In granting a Minor Special Use Permit or a Major Special Use Permit, the Board of Adjustment or the Town Board of Commissioners may impose such additional restrictions and requirements upon such Permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured, and substantial justice done. Any conditions of approval shall meet or exceed the minimum requirements of this Development Ordinance. If all requirements and conditions are accepted by the applicant/landowner by written consent, the Board of Adjustment or the Town Board of Commissioners shall authorize the issuance of the Minor or Major Special Use Permit, otherwise the Permit shall be denied. Any Minor or Major Special Use Permit so authorized shall be perpetually binding upon the property included in such permit unless subsequently changed or amended by the Board, as provided for in this Section. In addition to the conditions specifically imposed in this Ordinance and such further conditions as the Board of Adjustment or Board of Commissioners may deem reasonable and appropriate, Minor and Major Special Uses shall comply with all other regulations for the zoning district in which they are located.
- D. The concurring vote of a simple majority of the Board of Adjustment shall be necessary to grant a Minor Special Use Permit. The concurring vote of a simple majority of the Town Board of Commissioners shall be necessary to grant a Major Special Use Permit. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter 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.
- E. The Board of Adjustment or the Town Board of Commissioners shall determine contested facts and make its decision within a reasonable time. 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 and reflect the either Board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair or other duly authorized member of either 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 ordinance specifies. The decision of the Board of Adjustment or the Town Board of Commissioners shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes

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effective. The person required to provide notice shall certify that proper notice has been made.

- F. Every quasi-judicial decision shall be subject to review by the Superior Court by proceedings in the nature of certiorari pursuant to NCGS 160D-1405. A petition for review shall be filed with the Clerk of Superior Court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance this Section. When first-class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.
- G. The Chair of the Board of Adjustment 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 of Adjustment, willfully testifies falsely is guilty of a Class 1 misdemeanor.

The Mayor of the Town Board of Commissioners 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 Town Board of Commissioners, willfully testifies falsely is guilty of a Class 1 misdemeanor.

- H. If the Board of Adjustment denies the Minor Special Use Permit, or the Town Board of Commissioners denies the Major Special Use Permit, it shall enter the reason for its action in the minutes of the meeting at which the action is taken. Any appeal shall be taken from the action of the Board of Adjustment in granting or denying a Minor Special Use Permit, or from the Town Board of Commissioners in granting or denying a Major Special Use Permit through the Yadkin County Superior Court within thirty (30) days of the decision.
- I. Reapplication After Denial

When the Board of Adjustment has denied any application for a Minor Special Use Permit, it shall not, thereafter, accept any other application for the same request until the expiration of six (6) months from the date of such previous denial.

When the Town Board of Commissioners has denied any application for a Major Special Use Permit, it shall not, thereafter, accept any other application for the same request until the expiration of six (6) month from the date of such previous denial.

- J. Amendments

#### 1. Amendments to Minor Special Use Permits



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- a. The Board of Adjustment may approve an amendment to a Minor Special Use Permit requested by the applicant, upon receipt of a report from the Planning Director on the proposed amendment.
    - i. The Board of Adjustment may approve a minor change to a special use request without a public hearing. A minor change includes changes to conditions of a special use or associated site plan which will result in equal or better performance of the conditions and that do not alter the objectives and purposes of the special use.
    - ii. Requested changes to a special use request which are not minor in nature require a public hearing.
  - b. An amendment to a Minor Special Use Permit includes changes to conditions of a special use or associated site plan which will result in equal or better performance of the conditions and that do not alter the objectives and purposes of the Minor Special Use, and do not involve a change in uses permitted or the density of overall development permitted.
  - c. In granting an amendment to a Minor Special Use Permit, the Board of Adjustment may require such conditions as will address the objectives of the requirements or conditions changed.
2. Amendments to Major Special Use Permits
- a. The Town Board of Commissioners may change or amend any Major Special Use Permit, after an evidentiary hearing and subject to the same consideration as provided for in this Article for the original issuance of Major Special Use Permit. No proposal to amend or change any Major Special Use Permit shall be considered within three (3) months of the date of the original authorization of such Permit or within three (3) months of hearing of any previous proposal to amend or change any such Permit. If multiple parcels of land are subject to a Major Special Use Permit, the owners of individual parcels may apply for permit modifications so long as the modification would not result in other properties failing to meet the terms of the Major Special Use Permit or regulations.
  - b. An amendment to a Major Special Use Permit includes changes to conditions of a special use or associated site plan which will result in equal or better performance of the conditions and that do not alter the objectives and purposes of the Minor Special Use.
  - c. In granting an amendment to a Major Special Use Permit, the Board of Commissioners may require such conditions as will address the objectives of the requirements or conditions changed.

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#### K. Failure to Comply with Approved Plans

1. In the event of failure to comply with the plans approved by the Board of Adjustment, or with any other conditions imposed upon the Use Permit, no building permits for further construction or Certificates of Occupancy under this Minor Special Use Permit shall be issued, and all completed structures shall be regarded as nonconforming uses subject to the provisions of this Ordinance, until such time as the terms of the Minor Special Use Permit have been satisfied.
2. In the event of failure to comply with the plans approved by the Board of Commissioners, or with any other conditions imposed upon the Major Special Use Permit, no zoning permits for further construction or Certificates of Occupancy under this Major Special Use Permit shall be issued, and all completed structures shall be regarded as nonconforming uses subject to the provisions of this Ordinance, until such time as the terms of the Major Special Use Permit have been satisfied.

#### L. Effect

1. A Minor Special Use Permit and the associated site plan approval, and a Major Special Use Permit and the associated site plan approval are perpetually binding and run with the land, unless amended.
2. An action invalidating a special use condition of approval for any reason shall render the special use null and void.

#### Step 6. Additional Approvals (As Required)

Following the approval of a Minor Special Use Permit by the Board of Adjustment, or a Major Special Use Permit by the Board of Commissioners, the applicant may need to obtain additional approvals which may include subdivision, Zoning Permit, and/or Building Permit approval before work may begin. Special uses shall also meet all applicable federal and state requirements for location and operation. Failure to maintain compliance with those requirements may result in revocation of the special use.

#### Step 7. Expiration of Minor and Major Special Use Permits

##### A. General

1. Unless otherwise stated in the special use approval, a special use shall expire and become null and void one (1) year after the date of issuance if work has not been substantially commenced, as evidenced by a building permit not having been issued and a footing inspection for a building on the site having

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not been passed, or the applicant has not requested an extension in accordance with Step 7B below.

2. If development as a special use is discontinued for a period exceeding one (1) year, or if a special use is replaced by a use otherwise permitted by right in the zoning district, the special use approval is deemed abandoned and the special use approval is null and void.

#### B. Extension

1. An applicant may request an extension of a special use approval in writing to the Administrator at least 30 days prior to expiration.
2. Extension requests are considered as minor changes and shall be reviewed and approved by the original approval board (either the Board of Adjustment or the Town Board of Commissioners) in accordance with Section 2.2.5 Step 5 J.

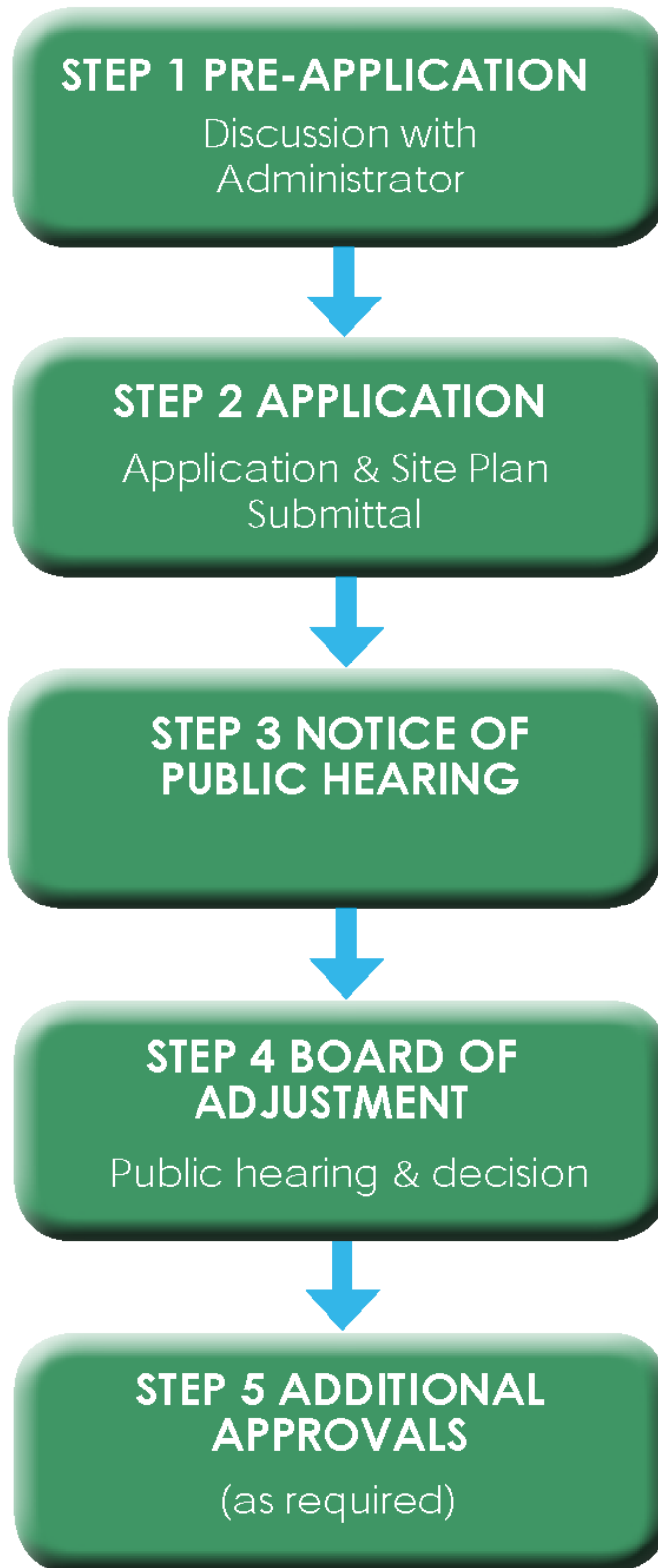
(ZTA-2021-03 Amended May 3, 2021)

#### **2.2.6 VARIANCES**

Pursuant to NCGS 160D-705(d), the Board of Adjustment may authorize Variances from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.

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#### **Step 1. Pre-application Discussion with Administrator**

To minimize costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Administrator concerning the application is required.

#### **Step 2. Applicant Submits Application and Site Plan Submittal**

- A. The applicant shall submit the Variance application, fee and the Site Plan that provides, at a minimum, the following information:
  - 1. Survey of the property at a scale no smaller than one-inch equals 50 feet (1"=50').
  - 2. North arrow.
  - 3. Lot lines with bearings and distances.
  - 4. Zoning district and applicable overlay districts.
  - 5. Adjacent property owner names, parcel numbers and zoning.
  - 6. Total acreage.
  - 7. Proposed buildings and parking.
  - 8. Existing and proposed impervious area in square feet and as a percentage of the site.
  - 9. Proposed building setbacks (as they relate to the variance request).
  - 10. Any other information pertinent to providing substantial, material, and competent evidence of a hardship preventing reasonable use of the property if the requirements of this Ordinance are followed.
- B. The following submittal requirements may be altered by the Administrator as applicable:
  - 1. Nine (9) full-size paper copies of the Site Plan for the Board of Adjustment and staff.
  - 2. One (1) digital copy in PDF format or comparable format.

#### **Step 3. Notice of Evidentiary Hearing**

The Administrator shall provide notice of the evidentiary hearing in the following manner as prescribed by NCGS 160D-406 Notice of Board of Adjustment hearings shall be mailed to the person or entity whose application 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; and to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing, as well as those properties separated from the subject property by street, railroad, or other transportation corridor. In the absence of evidence to the contrary, the Town may rely on the Yadkin County tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the Town

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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.

#### **Step 4. Board of Adjustment Evidentiary Hearing and Decision**

- A. The Board of Adjustment shall conduct a quasi-judicial evidentiary hearing. Sworn testimony shall be provided by witnesses speaking before the Board on the matter to establish facts of the case. 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 of Adjustment, willfully testifies falsely is guilty of a Class 1 misdemeanor.
- B. When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:
  - 1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
  - 2. 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.
  - 3. 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.
  - 4. 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.
- C. No change in permitted uses may be authorized by variance.
- D. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection.
- D. No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other development regulation that regulates land use or development may provide for variances from the provisions of those ordinances consistent with the provisions of this subsection.
- E. 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

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board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.

- F. The concurring vote of four-fifths (4/5) of the Board shall be necessary to grant a variance. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter under NC GS 160D-1-9(d) 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.
- G. The Board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record to establish facts of the case. The evidentiary hearing must have testimony under oath; must allow parties with standing to participate fully in the evidentiary hearing, as defined by NC GS 160D-1402(c), including presenting evidence, cross-examining witnesses, objecting to evidence, and making legal arguments; and may allow non-parties to present competent, material, and substantial evidence that is not repetitive. Each quasi-judicial decision shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards. The written decision shall be 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 ordinance specifies. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to 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 local government that proper notice has been made and the certificate shall be deemed conclusive in the absence of fraud.
- H. Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS 160D-1402. Appeals shall be filed with the times as specified in NC GS 160D-1405(d). When first-class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.

#### **Step 5: Additional Approvals (as required)**

Following the approval of a variance by the Board of Adjustment, the applicant may need to obtain additional approvals which may include subdivision, Zoning Permit, and/or Building Permit approval before work may begin.

(ZTA-2021-03 Amended May 3, 2021)

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#### 2.2.7 APPEALS

##### 2.2.7.1 General Provisions

- A. The Board of Adjustment shall hear and decide appeals of decisions of administrative officials charged with enforcement of the Development Ordinance and may hear appeals arising out of any other ordinance that regulates land use or development, pursuant to all of the following:
- B. Any person who has standing under NCGS 160D-1402, or the Town, may appeal a decision to the Board of Adjustment unless a different board is provided or authorized otherwise by statute or an ordinance adopted pursuant to Chapter NC GS 160D. If this function of the board of adjustment is assigned to any other board pursuant to NC GS 160D-302(b), that board shall comply with all of the procedures and processes applicable to the Board of Adjustment hearing appeals. Appeal of a decision made pursuant to an erosion and sedimentation control regulation, a stormwater control regulation, or a provision of the housing code shall not be made to the Board of Adjustment unless required by a local government ordinance or code provision.
- C. The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner.
- D. The written notice shall be delivered by personal delivery, electronic mail, or first-class mail.
- E. Pursuant to NC GS 160D-406 the owner or other party shall have 30 days from receipt of the written notice 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 decision within which to file an appeal.
- F. 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 official who made the decision 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 official 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 local government 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.



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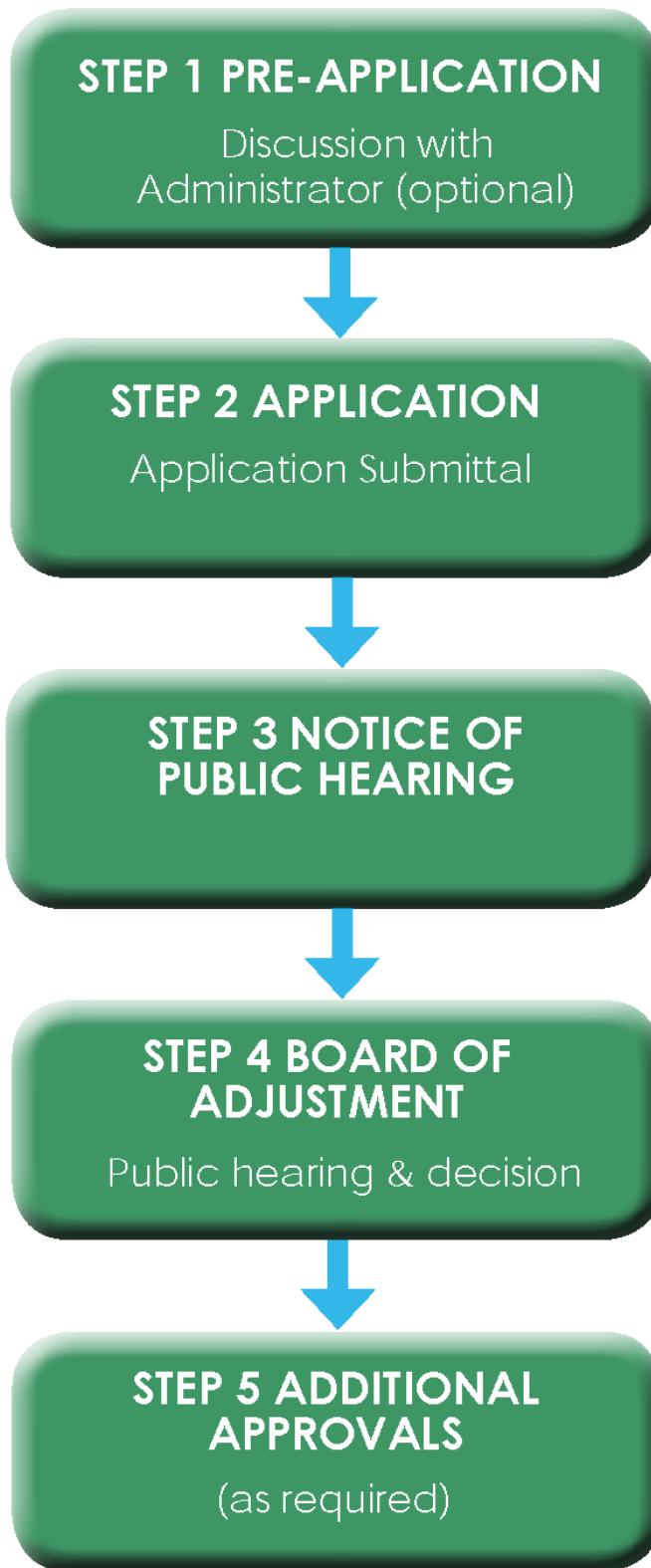
- G. Alternate Dispute Resolution – The parties to an appeal that has been made under this section may agree to mediation or other forms of alternative dispute resolution. The development regulation may set standards and procedures to facilitate and manage such voluntary alternative dispute resolution.

#### **2.2.7.2 Appeal Procedures**

Pursuant to NCGS 160D-403(c), the Board of Adjustment shall hear and decide Appeals from any order, requirement, decision or determination made by an administrative official charged with the enforcement of this Ordinance. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.

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#### **Step 1. Pre-application Discussion with Administrator (optional)**

- A. To minimize costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Administrator concerning the application is recommended. The Administrator shall review the request and discuss it with the applicant.
- B. The parties to an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution.

#### **Step 2. Application Submittal**

The applicant shall submit the application, fee and any other information pertinent to the appeal request.

#### **Step 3. Notice of Evidentiary Hearing**

The Administrator shall provide notice of the evidentiary hearing in the following manner as prescribed by NCGS 160D-406. Notice of hearing shall be mailed to the person or entity whose application 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), and to owners of property adjacent to the property for which the Appeal is requested, as well as those properties separated from the subject property by street, railroad, or other transportation corridor. The mailed notices shall be deposited in the mail at least 10 days, but no more than 25 days, prior to the date of the hearing. The Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing on an adjacent street or highway right-of-way. This notice shall be posted at least 10 days, but no more than 25 days, prior to the date of the hearing.

#### **Step 4. Board of Adjustment Public Hearing and Decision**

- A. The official who made the decision being appealed shall transmit to the Board all documents and exhibits constituting the record upon which the action appealed from is taken. The official 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.
- B. The Board of Adjustment shall conduct a quasi-judicial evidentiary hearing. Sworn testimony shall be provided by witnesses speaking before the Board on the matter to establish facts of the case. The evidentiary hearing must have testimony under oath; must allow parties with standing to participate fully in the evidentiary hearing, as defined by NC GS 160D-1402(c), including presenting evidence, cross-examining witnesses, objecting to evidence, and making legal arguments; and may allow non-parties to present competent, material, and substantial evidence that is not repetitive.
- C. The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the Town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board shall continue the hearing. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that

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ought to be made. The Board shall have all the powers of the official who made the decision.

- D. When hearing an appeal pursuant to NCGS 160D-705(c) according to the provisions of NCGS 160D-405 and NCGS D-406 or any other appeal in the nature of certiorari, the hearing shall be based on the record and the scope of review shall be as provided in NCGS 160D-405 and NCGS D-406.
- E. A simple majority of the members of the Board of Adjustment shall be required 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 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. The Board of Adjustment shall hear and decide the appeal within a reasonable time.
- F. The Board shall determine contested facts and make its decision within a reasonable time. 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 and reflect the Board's determination of contested facts and their application to the applicable standards. The written decision shall be 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 ordinance specifies. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to 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 that proper notice has been made.
- G. Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS 160D-1405. A petition for shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with subdivision (1) of this subsection. When first-class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.

#### **Step 5: Additional Approvals (as required)**

Following any reversal of a decision by the Board of Adjustment, the applicant may need to obtain additional approvals which may include Zoning Permit and Building Permit approval before any work may begin.

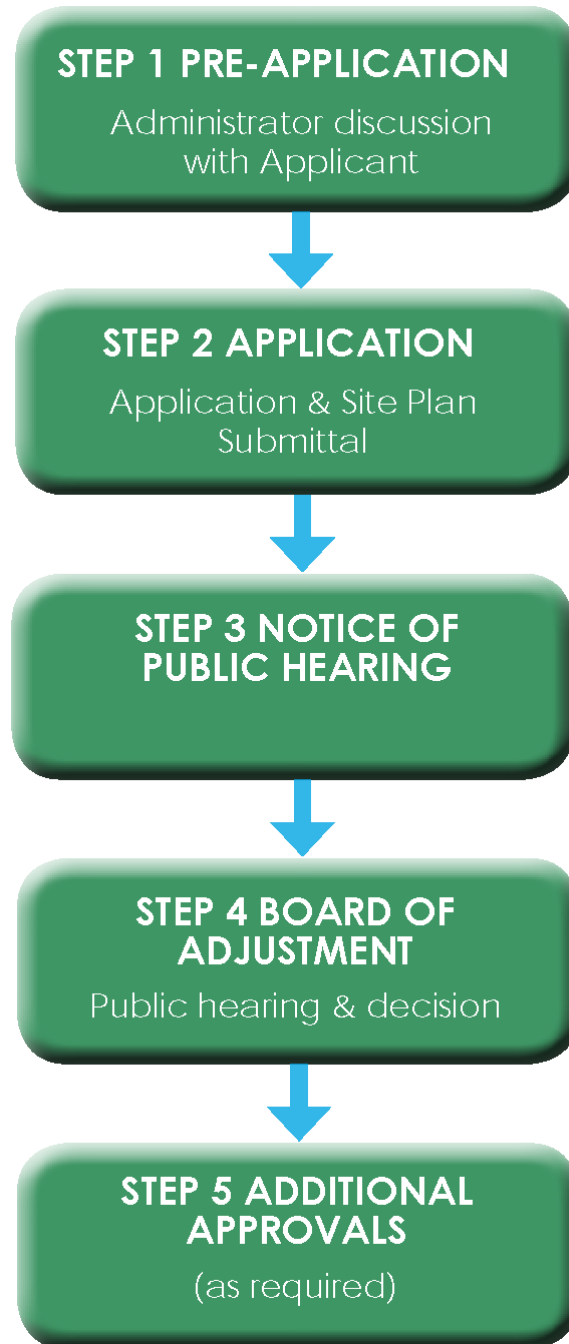
(ZTA-2021-03 Amended May 3, 2021)

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#### 2.2.8 CERTIFICATE OF NONCONFORMITY ADJUSTMENT

A Certificate of Nonconformity Adjustment may be granted by the Board of Adjustment to enlarge, expand, or otherwise alter a nonconforming use or structure as set forth in Article 7. Certificates shall be issued in accordance with quasi-judicial proceedings prescribed in NCGS 160D-403(c). The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



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#### Step 1. Pre-application Discussion

To minimize costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Administrator concerning the Certificate of Nonconformity Adjustment application is required. The Administrator shall review the request and discuss it with the applicant.

#### Step 2. Application and Site Plan (if applicable) Submittal

A. If the request for a Certificate of Nonconformity Adjustment involves new construction, addition, or the use of previously vacant land, then the applicant shall provide a Site Plan with the application and fee. The Site Plan shall provide, at a minimum, the following information:

1. Survey of the property at a scale no smaller than one-inch equals 50 feet (1"=50').
2. North arrow.
3. Lot lines with bearings and distances.
4. Zoning district and applicable overlay districts.
5. Adjacent property owner names, parcel numbers and zoning.
6. Total acreage.
7. Proposed buildings and parking.
8. Impervious area in total area and as a percentage of the site.
9. Proposed building setbacks.
10. Any other information pertinent to providing substantial, material, and competent evidence of a hardship preventing reasonable use of the property if the requirements of this Ordinance are followed.

B. The following submittal requirements may be altered by the Zoning Administrator as applicable.

1. Nine (9) full-size paper copies of the Site Plan for the Board of Adjustment and staff.
2. One (1) digital copy in PDF format or comparable format.

#### Step 3. Notice of Evidentiary Hearing

The Administrator shall provide notice of the evidentiary hearing in the following manner as prescribed by NCGS 160D-406. Notice of hearing shall be mailed to the person or entity whose application 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), and to owners of property adjacent to the property for which the Certificate of Nonconformity Adjustment is requestee, as well as those properties separated from the subject property by street, railroad, or other transportation corridor. The mailed

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notices shall be deposited in the mail at least 10 days, but no more than 25 days, prior to the date of the evidentiary hearing. The Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing on an adjacent street or highway right-of-way. This notice shall be posted at least 10 days, but no more than 25 days, prior to the date of the hearing.

#### **Step 4. Board of Adjustment Evidentiary Hearing and Decision**

- A. The Board of Adjustment shall conduct a quasi-judicial evidentiary hearing. Sworn testimony shall be provided by witnesses speaking before the Board on the matter to establish facts of the case. The evidentiary hearing must have testimony under oath; must allow parties with standing to participate fully in the evidentiary hearing, as defined by NC GS 160D-1402(c), including presenting evidence, cross-examining witnesses, objecting to evidence, and making legal arguments; and may allow non-parties to present competent, material, and substantial evidence that is not repetitive.
- B. The Board of Adjustment shall make the following findings-of-fact in granting a Certificate of Nonconformity Adjustment:
  - 1. The request will not increase the intensity of an existing nonconforming use by substantially increasing noise, traffic, or other measurable physical effects.
  - 2. The Certificate of Nonconformity Adjustment is necessary to continue the use of the property in the same manner that it has been used in the past.
  - 3. The nonconforming situation is being presented in a way that does not detract from the property values or aesthetics of the surrounding area.
  - 4. The requested Certificate of Nonconformity Adjustment is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured, and substantial justice is achieved.
- C. A simple majority of the members of the Board of Adjustment shall be required to grant a Certificate of Nonconformity Adjustment. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter 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.
- D. The Board shall determine contested facts and make its decision within a reasonable time. 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 and reflect the Board's determination of contested facts and their application to the applicable standards. The written decision shall be 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 ordinance specifies. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request

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for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

- E. Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS 160D-1405. A petition for shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with subdivision (1) of this subsection. When first-class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.

#### **Step 5: Additional Approvals (as required)**

Following the approval of a Certificate of Nonconformity Adjustment by the Board of Adjustment, the applicant may need to obtain additional approvals which may include Zoning Permit and Building Permit approval before work may begin.

(ZTA-2021-03 Amended May 3, 2021)

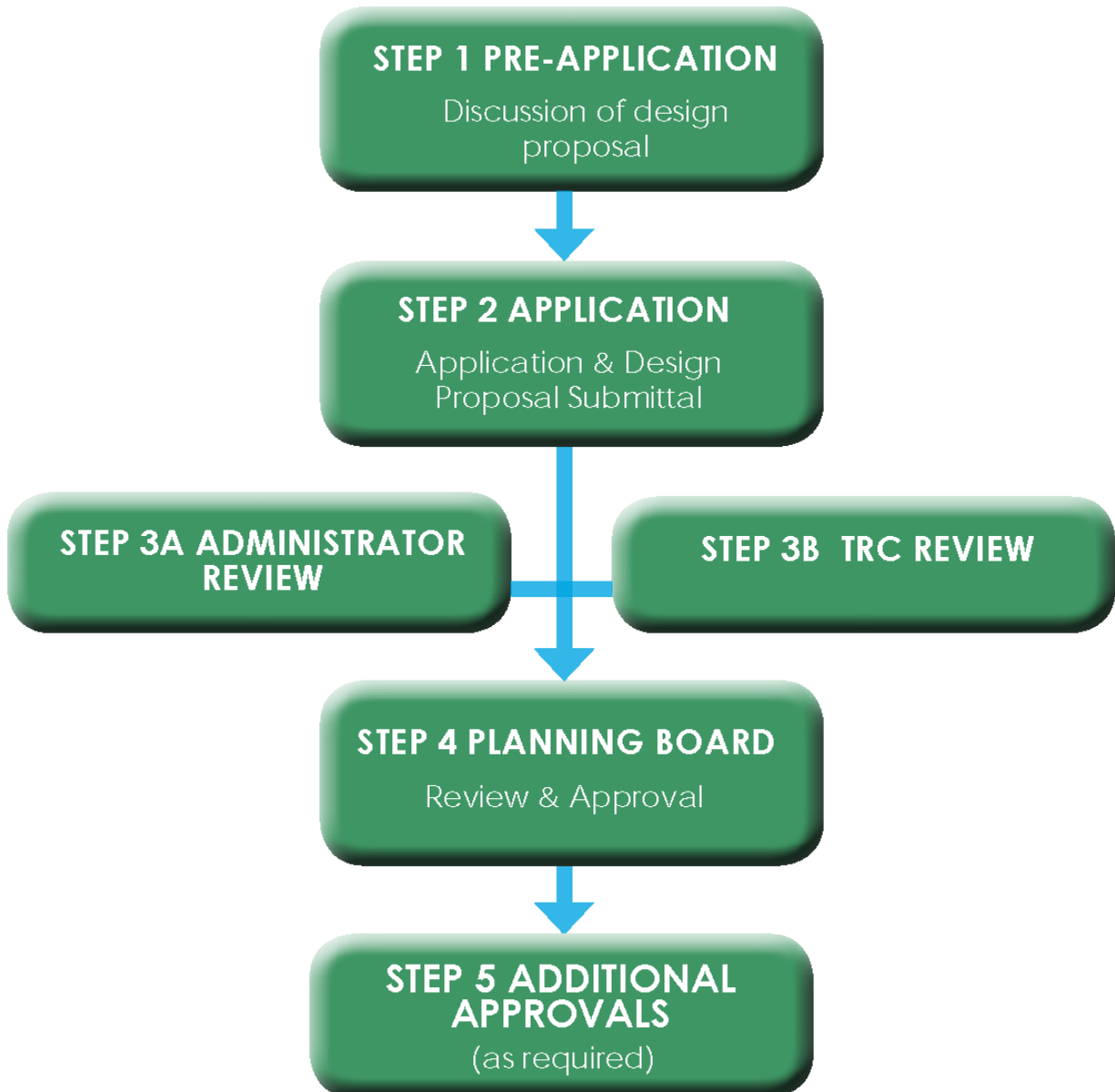


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#### 2.2.9 ALTERNATIVE DESIGN PROPOSAL

The Planning Board may approve alternative design proposals that differ from the requirements of Article 4 or 5 of this Ordinance in regards to landscaping, parking, infrastructure or building design due to unique site circumstances or creative design proposals, provided that the intent of this Ordinance is met. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



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#### **Step 1. Pre-application Discussion**

To minimize costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Administrator concerning the Alternative Design Proposal application is required. The Administrator shall review the request and discuss it with the applicant.

#### **Step 2. Application and Design Proposal Submittal**

The applicant shall submit the application, fee and any other information pertinent to the alternative design proposal including a Site Plan in accordance with Section 2.2.3.4 (Step 2) or Subdivision Preliminary Plat in accordance with Section 2.2.4.5 (Step 2), whichever is applicable.

#### **Step 3A and B. Administrator/Technical Review Committee Review**

- A. The Administrator and Technical Review Committee shall review the Alternative Design Proposal in accordance with the requirements of this Ordinance and any other applicable local, state, or federal requirements.
- B. The Technical Review Committee may provide comments to the Administrator regarding the proposed development. The Administrator shall include these comments in its report to the Planning Board.

#### **Step 4. Planning Board Review and Recommendation**

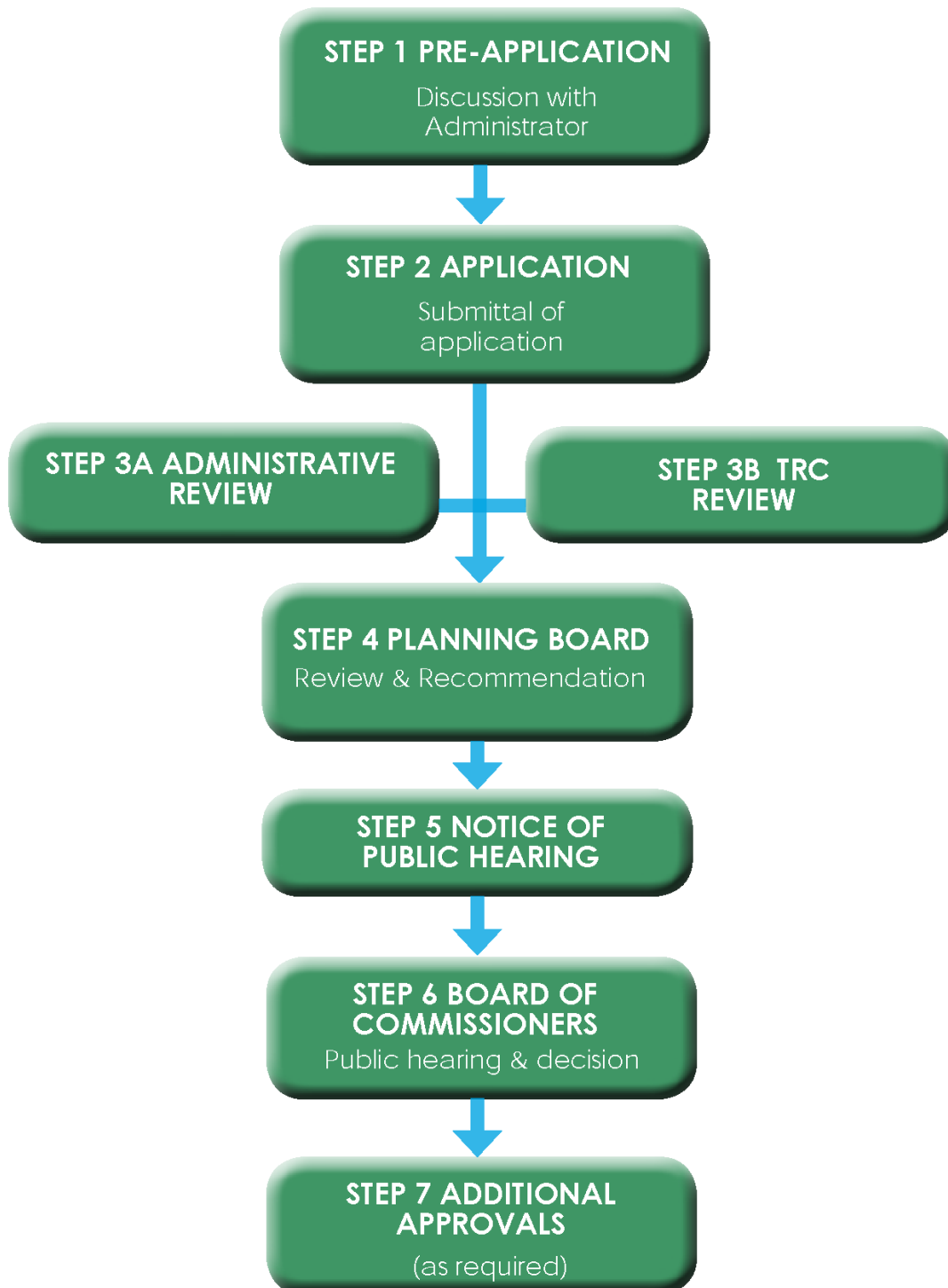
- A. The Administrator shall present any properly completed application for Alternative Design Proposals to the Planning Board.
- B. In considering the Alternative Design Proposal, the Planning Board shall take into account the following criteria:
  - 1. The proposed project represents a design in site and/or architecture which will result in a development that is equivalent to or superior to that achievable under the applicable regulations,
  - 2. The proposed project will be compatible with surrounding development in materials, scale, massing, and site layout.
  - 3. The proposed project is consistent with the intent of this Ordinance and substantially meets the requirements herein.
  - 4. The proposed project is consistent with adopted plans and policies of the Town.
- C. Based on the review criteria, the Planning Board shall approve, approve with conditions or deny of the proposal by simple majority vote of those present and voting.
- D. Approval of an Alternative Design Proposal shall require a simple majority of Planning Board members present.

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#### Step 5. Additional Approvals (as required)

Following the approval of an Alternative Design by the Planning Board, the applicant may need to obtain additional approvals which may include Zoning Permit and Building Permit approval before any work may begin.



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#### 2.2.10 MAP AMENDMENTS (REZONINGS)

The Town Board of Commissioners may amend the Zoning Map in accordance with this section and NCGS 160D-601. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.

##### Step 1. Pre-application Discussion with Administrator

- A. To minimize costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Administrator concerning the proposed map amendment is required. The Administrator shall review the request and discuss it with the applicant.
- B. For Conditional Zoning District requests, a sketch plan also be provided by the applicant for the discussion. At a minimum, the plan shall provide the information required for a sketch plan in accordance with Section 2.2.3.3 Site Plan (Step 1) or Section 2.2.4.5 Subdivision (Step 1), whichever is applicable.

##### Step 2. Application Submittal

- A. The applicant shall submit the application, fee and any other information pertinent to the proposed map amendment. All applications for map amendments shall contain a description of the proposed change and how the proposed change is consistent with the Town's Comprehensive Plan and how it is reasonable and in the public interest.
- B. Requests for Conditional Zoning Districts shall include a site-specific plan that, at a minimum, provides the information required for a sketch plan in accordance with Section 2.2.3.4 (Step 1) or Subdivision Preliminary Plat in accordance with Section 2.2.4.5 (Step 1), whichever is applicable.
- C. Applications to amend the Zoning Map may be initiated by the Town Board or the landowner. Third-party rezonings are prohibited. Conditional Zoning District requests may only be initiated by the property owner or agent of legal or equitable interest in the subject property. All owners of the property are to be included in the rezoning. Specific conditions addressing additional fees, design requirements and other development considerations may be proposed as part of the application by the petitioner, or the Town or its agencies, but only those conditions mutually approved may be incorporated into the zoning regulations. Conditions and site-specific standards proposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to Town ordinances, plans adopted pursuant to NC GS 160D-501, or the impacts reasonable expected to be generated by the development or use of the site.
- D. The Administrator shall ensure that the application contains all the required information as specified in this Section. Applications and submittals which are not complete, or otherwise do not comply with the provisions of this Section shall not be scheduled but shall be returned to the applicant with a notation of the deficiencies in the application.

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- E. Specific development proposals may not be considered by staff, the Planning Board, or the Town Board of Commissioners, unless the request is submitted as Conditional Zoning District.

#### **Step 3A and 3B. Administrator/Technical Review Committee Review**

- A. The Administrator and Technical Review Committee shall review the proposed map amendment and prepare a staff report with an assessment of how the rezoning relates to the Comprehensive Plan and surrounding zoning and land uses. Staff shall also include all Technical Review Committee comments in the report.
- B. The Technical Review Committee shall review the proposed map amendment and provide comments on how the rezoning will affect utilities, roads, and other infrastructure or services.

#### **Step 4. Planning Board Review and Recommendation**

- A. The Planning Board shall meet to review the proposed amendment and shall either recommend approval or denial of an amendment by simple majority vote of those present and voting.
- B. A notice of the Planning Board public meeting shall be sent by first class mail by the Administrator or designee to the affected property and to owners of all parcels of land abutting the affected property, including properties separated by a street, railroad, or other transportation corridor. The notice shall be mailed to the last addresses listed for property owners on the county tax abstracts. The notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the hearing. A mailed notice shall not be required if a rezoning (map amendment) directly affects more than 50 properties owned by a total of at least 50 different property owners. Instead, the Town may elect to use expanded published notice not less than one-half (1/2 of the newspaper page in size. However, property owners whose addresses are not within the general circulation area of the newspaper shall still receive a notice of public meeting by first class mail.
- C. The Town shall conspicuously post a notice of the public meeting at the site proposed for the zoning 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, at least 10 but not more than 25 days prior to the date of the hearing. When multiple parcels are included within a proposed map amendment, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons. The notice shall be removed only after the public meeting has been held.
- D. The Planning Board shall include with its recommendation a written statement regarding the consistency of the request with the Comprehensive Plan and other adopted Town plans and policies and the surrounding area.

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E. A tie vote by the Planning Board shall be considered to be a recommendation for denial for such amendment. If the Planning Board should fail to act on any proposal amendment within 30 days after it is presented to the Commission such failure to act shall be considered to be a favorable recommendation for the purposes of this procedure.

F. The Planning Board's recommendation shall be forwarded to the Town Board of Commissioners prior to the public hearing.

#### Step 5. Notice of Public Hearing

In accordance with NCGS 160D-601, the following notices shall be provided prior to the public hearing:

- A. A notice shall be published in a newspaper having general circulation in the Town once a week for two (2) consecutive weeks provided that the first notice is published not less than 10 days nor more than 25 days prior to the date scheduled for the public hearing.
- B. A notice of the public hearing shall also be sent by first class mail by the Administrator or designee to the affected property and to owners of all parcels of land abutting the affected property, including properties separated by a street, railroad, or other transportation corridor. The notice shall be mailed to the last addresses listed for property owners on the county tax abstracts. The notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the hearing. Pursuant to NC GS 160D-602(b), a mailed notice shall not be required if a rezoning (map amendment) directly affects more than 50 properties owned by a total of at least 50 different property owners. Instead, the Town may elect to use expanded published notice not less than one-half (1/2 of the newspaper page in size. However, property owners whose addresses are not within the general circulation area of the newspaper shall still receive a notice of public hearing by first class mail.

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- C. The Town shall conspicuously post a notice of public hearing at the site proposed for the zoning 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, at least 10 but not more than 25 days prior to the date of the hearing. When multiple parcels are included within a proposed map amendment, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons. The notice shall be removed only after the public hearing has been held.

**Step 6. Town Board of Commissioners Public Hearing and Decision**

- A. The Town Board of Commissioners shall take action on map amendments after a public hearing has been held.
- B. Prior to adopting or rejecting any zoning amendment, the Town Board shall adopt one of the following statements which shall not be subject to judicial review:
1. A statement approving the amendment and describing whether its action is consistent with an adopted comprehensive plan and explaining why the board considers the action taken to be is reasonable and in the public interest; or
  2. A statement rejecting the amendment and describing its inconsistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest; or
  3. A statement approving the zoning amendment and containing at least all of the following:
    - A declaration that the approval is also deemed an amendment to the Comprehensive Plan. The Town Board shall not require any additional request or application for amendment to the Comprehensive Plan.
    - An explanation of the change in conditions the Town Board took into account in amending the Zoning Map to meet the development needs of the community.
    - Why the action was reasonable and in the public interest.
- C. A statement analyzing the reasonableness shall also be prepared and included in the Town Board's action for any proposed Conditional Zoning District or small-scale rezoning.
- D. Specific conditions applicable to a Conditional Zoning District may be proposed by the applicant or the Town, but only those conditions mutually approved by the Town and the applicant may be incorporated into the approval. Conditions and site-specific standards imposed in a Conditional Zoning District shall be limited to those that address the conformance of the development and use of the site to the Development Ordinance and Comprehensive Plan and those that address the impacts reasonably expected to be generated by the development or use of the site.

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- E. Approval of a map amendment shall require a simple majority of the Town Board of Commissioners.
- F. No application for the same zoning district applicable to the same property or any part thereof shall be filed until the expiration of one (1) year from the date of final determination by the Town Board.
- G. Fees submitted for withdrawn cases shall not be refundable once the proposal has been advertised.

#### Step 7. Additional Approvals (as required)

- A. Following the approval of a map amendment by the Town Board, the applicant may need to obtain additional approvals which may include Zoning Permit and Building Permit approval before any work may begin.
- B. If no Zoning Permit has been issued or Preliminary Plat has been approved within one year of the date of approval, or a Zoning Permit or Building Permit has expired for an approved Conditional Zoning District, then the Town Board may vote to rescind the Conditional Zoning District after having held a public hearing. The zoning district shall revert to the district in place prior to the approval of the Conditional Zoning District.
- C. When requested by the landowner and applicant (where applicable), the Planning Director may administratively approve a Minor Modification to the conditions associated with an approved Conditional Zoning District. No proposal for a Minor Modification shall be considered within three (3) months of the date of the original approval or within three (3) months of hearing any previous proposal for a Minor Modification of the Conditional Zoning District. A Minor Modification includes modifications in conditional district standards or associated site plan that do not involve a change in uses permitted or the density of overall development permitted, which will result in equal or better performance and that do not alter the objectives and purposes of the Conditional Zoning District.
- D. When requested by the landowner and applicant (where applicable), the Town Board of Commissioners may grant a Major Modification to the conditions associated with an approved Conditional Zoning District, after a public hearing and subject to the same consideration as provided for in the original approval. No proposal for a Major Modification shall be considered within three (3) months of the date of the original approval or within three (3) months of hearing any previous proposal for a Major Modification of the Conditional Zoning District. A Major Modification is a modification including changes to conditional district standards or the associated site plan of a Conditional Zoning District that involve a change in uses permitted or the density of overall development permitted, which will result in equal or better performance of the conditions and that do not alter the objectives and purpose of the Conditional Zoning District. In granting a Major Modification, the Town Board may require such conditions as will address the objectives of the requirements or conditions changed.

(ZTA-2021-03 Amended May 3, 2021)



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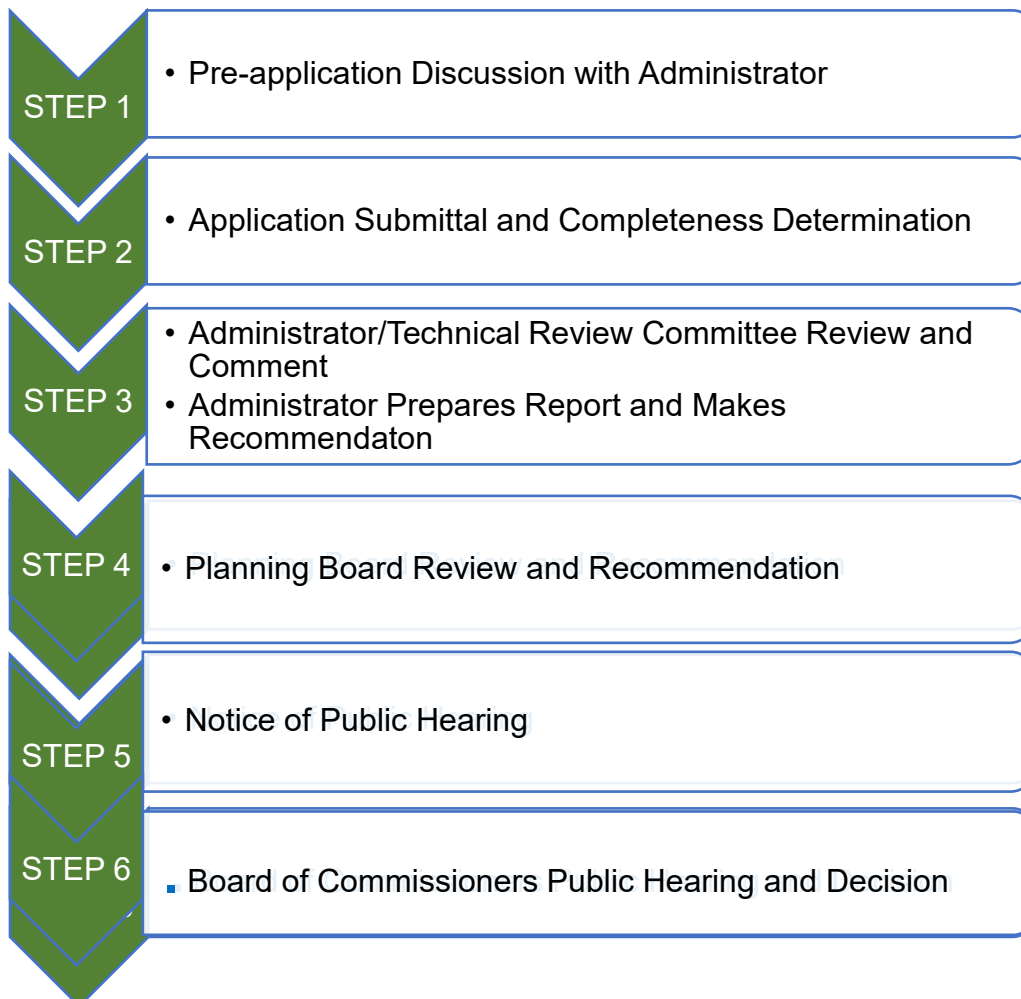
**2.2.11 FLOATING ZONING DISTRICTS**

The Town Board of Commissioners may amend the Zoning Map to create floating zoning districts in accordance with this section and NCGS 160D-601.

The steps in the flow chart which follows correspond with a detailed description of each step of the process provided in this section. This section provides a uniform means for reviewing and deciding amendments to the Official Zoning Map to establish a floating zoning district. This Ordinance establishes two basic types of floating zoning districts:

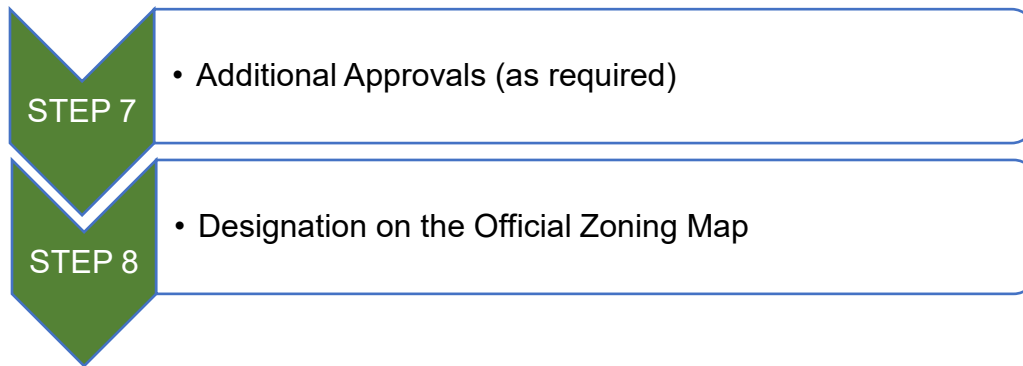
1. Planned unit development districts, of which there are two types:
  - a. Planned Development-Residential (PD-R) District; and
  - b. Planned Development-Mixed Use (PD-M) District
2. Tiny House Development (THD) District.

**Floating Zoning Districts Process**



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#### Step 1. Pre-application Discussion with Administrator

- A. The purpose of a pre-application conference is to provide an opportunity for the applicant to learn about the submittal requirements, procedures, and standards applicable to a floating zoning district development application. A pre-application conference is also an opportunity for town staff to become familiar with, and offer preliminary comments about, the scope, features, and impacts of the proposed development, as it relates to the standards in this Ordinance.
- B. As a follow-up to the initial pre-application conference, and at least two (2) weeks prior to submittal of the official application, a sketch Master Plan and draft Statement of Intent and Development Standards document based on the requirements of Section 3.3 shall be submitted for Administrator review and comment.

#### Step 2. Application Submittal and Acceptance

- A. Floating zoning district applications may only be initiated by the applicant as well as all landowner(s) of the land subject to the application.
- B. When required, a traffic impact analysis shall be submitted for review with the submittal of an application for a floating zoning district.
- C. The applicant shall submit the application, fee and any other information pertinent to the proposed floating zoning district map amendment. All applications for floating zoning district map amendments shall contain a master plan map and a statement of intent and development standards completed in accordance with Section 3.3.
- D. The Administrator shall ensure that the application contains all the required information as specified in this Section and Section 3.3. Applications and submittals which are not complete, or otherwise do not comply with the provisions of this Section shall not be scheduled but shall be returned to the applicant with a notation of the deficiencies in the application.

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- E. An applicant may change the standards associated with a floating zoning district application until 22 days prior to the initial review by the Planning Board. After that time, the applicant may only propose changes in accordance with the following:
1. Changes shall be made in writing to the Planning Director during or after the meeting conducted by the Planning Board when the changes are in response to comments or recommendations made by the Planning Board, but no closer than two (2) business days prior to final action by the Board of Commissioners on the floating zoning district application;
  2. Proposed changes shall be signed by all landowners or those authorized to submit the application, and the applicant; and
  3. Proposed changes shall be recommended by the Planning Board, or approved by the Board of Commissioners, depending upon the time the changes were submitted by the applicant.

#### Step 3. Administrator/Technical Review Committee (TRC) Review and Comment

- A. After the application has been received the Technical Review Committee (TRC) shall review the floating zoning district map amendment application and comment on how the request will affect utilities, roads, and other infrastructure or Town services.
- B. After the application has been received, and following review by the TRC, the Administrator shall review the floating zoning district map amendment application, prepare and prepare a staff report with an assessment of how the application relates to the Comprehensive Plan and surrounding zoning and land uses. Staff shall also include all TRC comments in the report. The Administrator shall provide a recommendation to the Planning Board and the Board of Commissioners.

#### Step 4. Planning Board Review and Recommendation

- A. The Planning Board shall review the proposed floating zoning district map amendment and shall either recommend approval or denial of an amendment by simple majority vote of those present and voting.
- B. The Planning Board shall include with its recommendation a written statement regarding the consistency of the request with the Comprehensive Plan and other adopted Town plans and policies, and the surrounding area.
- C. During its review of the application, the Planning Board may suggest revisions to the proposed development standards (including the master plan map). Only those revisions agreed to by the applicant shall be incorporated into the application.

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A tie vote by the Planning Board shall be considered to be a recommendation for denial for such amendment. If the Planning Board should fail to act on any proposed

- D. amendment within 35 days after it is presented to the Board such failure to act shall be considered to be a favorable recommendation for the purposes of the procedure.
- E. The Planning Board's recommendation shall be forwarded to the Town Board of Commissioners prior it's public hearing on the application.

#### Step 5. Notice of Public Hearing

In accordance with NCGS 160D-601, the following notices shall be provided prior to the public hearing.

- A. A notice shall be published in a newspaper have general circulation in the Town of Yadkinville once a week for two (2) consecutive weeks provided that the first notice is published not less than 10 days nor more than 24 days prior to the date scheduled for the public hearing.
- B. A notice of the public hearing shall also be sent by first class mail by the Administrator or designee to the affected property and to owners of all parcels of land abutting the affected property, including properties separated by a street, railroad, or other transportation corridor. The notice shall be mailed to the last addresses listed for property owners on the county tax abstracts. The notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the hearing. Pursuant to NC GS 160D-602(b), a mailed notice shall not be required if a rezoning (map amendment) directly affects more than 50 properties owned by a total of at least 50 different property owners. Instead, the Town may elect to use expanded published notice not less than one-half (1/2) of the newspaper page in size. However, property owners whose addresses are not within the general circulation area of the newspaper shall still receive a notice of public hearing by first class mail.
- C. The Town shall conspicuously post a notice of public hearing at the site proposed for the zoning 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 public hearing, at least 10 but not more than 25 days prior to the date of the hearing. When multiple parcels are included within a proposed map amendment, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons. The notice shall be removed only after the public hearing has been held.

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#### Step 6. Town Board of Commissioners Public Hearing and Decision

- A. The Town Board of Commissioners shall take action on floating zoning district map amendments after a public hearing has been held.
- B. Specific additional conditions applicable to the floating zoning district map amendment may be proposed by the applicant or the Town, but only those conditions mutually approved by the Town and the applicant may be incorporated into the approval.

Conditions and site-specific standards imposed shall be limited to those that address the conformance of the development and use of the site to the Development Ordinance and Comprehensive Plan and those that address the impacts reasonably expected to be generated by the development or use of the site.

- C. When adopting or rejecting any floating zoning district map amendment, the Town Board of Commissioners shall adopt one of the following statements which shall not be subject to judicial review:
  1. A statement approving the amendment and describing whether its action is consistent with the adopted comprehensive plan and explaining why the board considers the action taken to be reasonable and in the public interest; or
  2. A statement rejecting the amendment and describing its inconsistency with the adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest; or
  3. A statement approving the floating zoning district map amendment and containing at least all of the following:
    - A declaration that the approval is also deemed an amendment to the Comprehensive Plan. The Town Board shall not require any additional request or application for amendment to the Comprehensive Plan.
    - An explanation of the development conditions the Town Board of Commissioners took into account in amending the Zoning Map to meet the development needs of the community.
    - Whether and the extent to which the proposed floating zoning district is appropriate for its proposed location, and its consistent with the Town's adopted policy guidance.
    - Why a decision to approve the proposed floating zoning district would be reasonable and in the public interest.

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- Whether the proposed floating zoning district will result in a development that is compatible with the character of surrounding existing or proposed development and land uses. Where there are issues of compatibility, how the proposed floating zoning district provides for the appropriate transition areas that address incompatibility through increased buffering, landscaping, fencing, building height, mass and scale or other means designed to promote a complimentary character of development. Determination of complimentary character may be based on densities/intensities, use types, lot sizes and dimensions, building height, mass and scale, exterior lighting, siting of services areas, or other aspects that may be identified by the Town Board of Commissioners.
  - Whether the applicant's proposed floating zoning district, including master plan, development standards, and statement of intent will satisfactorily:
    - Minimize or effectively mitigate any identified adverse impact on adjacent and nearby land, such as that caused by traffic, parking, noise, lighting, trash, loading areas, etc.;
    - Minimize or effectively mitigate any identified adverse environmental impact on water and air resources, minimize land disturbance, preserve trees and protects habitat.;
    - Minimize or effectively mitigate any identified adverse impact on municipal facilities and services, such as streets, potable water and waste facilities, parks, police and fire.; and
    - Minimize or effectively mitigate any identified adverse effect on this use, enjoyment or value of adjacent lands.
  - Whether and the extent to which there have been changes in the type or nature of development in the area of the proposed floating zoning district that support the application.
  - Whether and the extent to which the proposed floating zoning district will result in development that promotes a logical, preferred, and orderly development pattern.
- D. Approval of a floating zoning district map amendment shall require a simple majority of the Town Board of Commissioners.
- E. No application for the same floating zoning district map amendment applicable to the same property or any part thereof shall be filed until the expiration of one (1) year from the date of final determination by the Town Board of Commissioners.

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- F. Fees submitted for withdrawn cases shall not be refunded once the proposal has been advertised.

#### Step 7. Additional Approvals (as required)

- A. Following the approval of a floating zoning district map amendment by the Town Board of Commissioners, the applicant may need to obtain additional approvals which may include but not be limited to a preliminary plat, group development plan, site plan, zoning permit approval and building permit approval (from Yadkin County) before any work may begin, and approvals from the State for driveways, grading, and/or stormwater, etc.
- B. If no zoning permit has been issued or development plan has been approved within one (1) year of the date of approval, or if a zoning permit or building permit has expired, then the Town Board of Commissioners may vote to rescind the floating zoning district after having held a public hearing, and the floating zoning district shall revert to the district in place prior to the approval of the floating zoning district.
- C. When requested by the landowner and applicant, the Administrator may administratively approve a Minor Modification to the conditions associated with an approved floating zoning district. No proposal for a Minor Modification shall be considered within three (3) months of the date of the original approval or within three (3) months of hearing any previous proposal for a Minor Modification of the floating zoning district. A Minor Modification includes modifications in floating district standards or associated master plan, statement of intention, or development standards that do not involve a change in uses permitted or the density of overall development permitted, which will result in equal or better performance, and that do not alter the objectives and purposes of the approved floating zoning district.
- D. When requested by the landowner and applicant, the Town Board of Commissioners may grant a Major Modification to the conditions associated with an approved floating zoning district, after a public hearing and subject to the same consideration as provided for in the original approval. No proposal for a Major Modification shall be considered within three (3) months of the date of the original approval or within three (3) months of hearing any previous proposal for a Major Modification of the floating zoning district. A Major Modification is a modification including changes to floating district standards or the associated master plan, statement of intention, or development standards of an approved floating zoning district that involve a change in uses permitted or the density of overall development permitted, which will result in equal or better performance of the conditions but do not alter the objectives and purpose of the floating zoning district. In granting a Major Modification, the Town Board of Commissioners may require such conditions as will address the objectives of the requirements or conditions changed.

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Step 8. Designation on the Official Zoning Map

- A. The Planning Director shall have the floating zoning district classification placed on the Official Zoning Map promptly after approval by the Board of Commissioners.

(ZTA-2021-04, Ordinance 2021-07 Amended February 7, 2022)

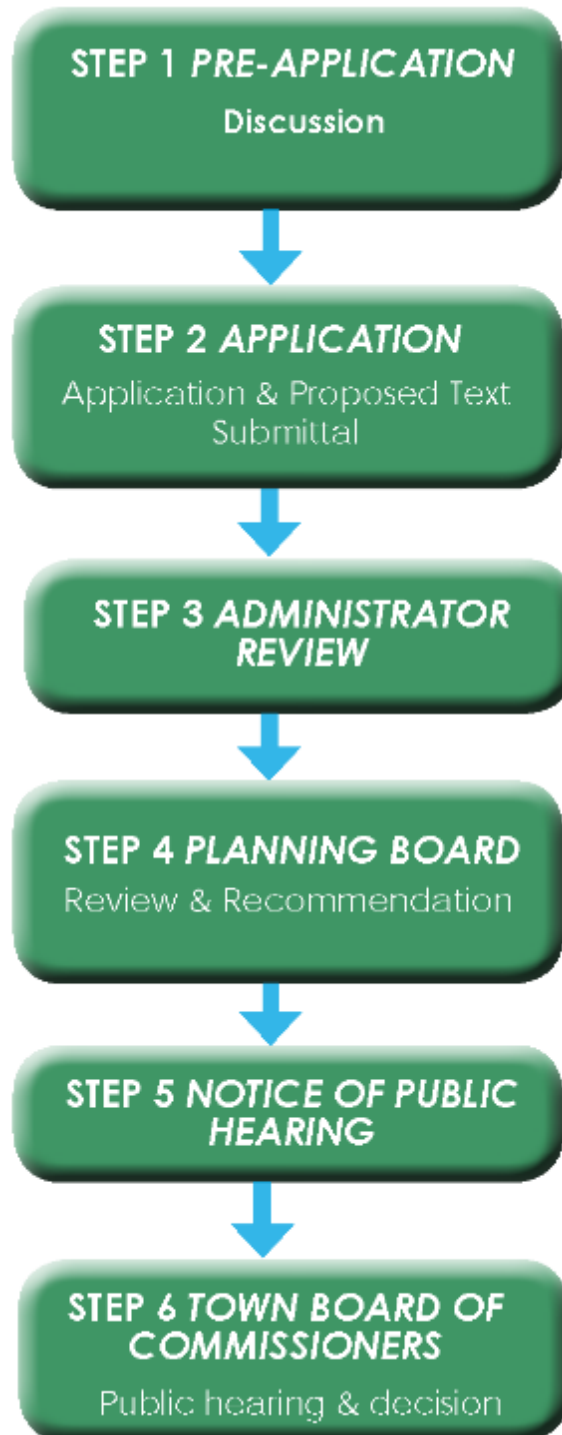


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**2.2.12 TEXT AMENDMENTS**

The Town Board of Commissioners may amend the text of this Development Ordinance in accordance with this section and NCGS 160D-601. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



## PART II. - CODE OF GENERAL ORDINANCES

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#### Step 1. Pre-application Discussion

To minimize costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Administrator concerning the proposed text amendment is required. The Administrator shall review the request and discuss it with the applicant.

#### Step 2. Application and Proposed Text Submittal

- A. The applicant shall submit the application, fee and any other information pertinent to the proposed map amendment. All applications for map amendments shall contain a description of the proposed change and how the proposed change is consistent with the Town's Comprehensive Plan and how it is reasonable and in the public interest.
- B. Applications to amend the text of the Development Ordinance may be initiated by the Town Board of Commissioners, Planning Board, Town Staff, or anyone who owns property or resides in the area of jurisdiction of this Ordinance or the agent of such person.
- C. The Administrator shall ensure that the application contains all the required information as specified in this Section. Applications and submittals which are not complete, or otherwise do not comply with the provisions of this Section shall not be scheduled but shall be returned to the applicant with a notation of the deficiencies in the application.
- D. Completed applications shall be received a minimum of 30 days prior to the Planning Board meeting at which the proposed amendment is scheduled to be considered.
- E. Specific development proposals may not be considered by staff, the Planning Board, or Town Board. These entities may only consider the impacts of the proposed text amendment on all affected zoning districts or potential development projects.

#### Step 3. Administrator Review

The Administrator shall review the proposed text amendment and prepare a staff report with an assessment of how the rezoning relates to the Comprehensive Plan and surrounding zoning and land uses.

#### Step 4. Planning Board Review and Recommendation

- A. The Planning Board shall review on the proposed amendment and shall either recommend approval or denial of an amendment by simple majority vote of those present and voting.
- B. The Planning Board shall include with its recommendation a written statement regarding the consistency of the request with the Comprehensive Plan and other adopted Town plans and policies and the surrounding area.
- C. A tie vote by the Planning Board shall be considered to be a recommendation for denial for such amendment. If the Planning Board should fail to act on any proposal amendment within 30 days after it is presented to the Board, such failure to act shall be considered to be a favorable recommendation for the purposes of this procedure.

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- D. The Planning Board's recommendation shall be forwarded to the Town Board of Commissioners prior to the public hearing.

#### **Step 5. Notice of Public Hearing**

A notice shall be published in a newspaper having general circulation in the Town once a week for two (2) consecutive weeks provided that the first notice is published not less than 10 days nor more than 25 days prior to the date established for the public hearing.

#### **Step 6. Town Board Public Hearing and Decision**

- A. The Town Board of Commissioners shall take action on text amendments after a public hearing has been held.
- B. Prior to adopting or rejecting any zoning amendment, the Town Board shall adopt one of the following statements which shall not be subject to judicial review:
1. A statement approving the amendment and describing whether its action is consistent with an adopted comprehensive plan and explaining why the board considers the action taken to be is reasonable and in the public interest; or
  2. A statement rejecting the amendment and describing its inconsistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest; or
  3. A statement approving the zoning amendment and containing at least all of the following:
    - A declaration that the approval is also deemed an amendment to the Comprehensive Plan. The Town Board shall not require any additional request or application for amendment to the Comprehensive Plan.
    - An explanation of the change in conditions the Town Board took into account in amending the Development Ordinance to meet the development needs of the community.
    - Why the action was reasonable and in the public interest.

(ZTA-2021-03 Amended May 3, 2021)

## PART II. - CODE OF GENERAL ORDINANCES

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## 2.3 ENFORCEMENT

### 2.3.1 Violations

Any of the following shall be a violation of this Ordinance and shall be subject to the enforcement remedies and penalties provided by this Section and by State law, specifically NCGS 160A-175, and 160D-404:

#### 2.3.1.1 Development or Use Without Permit

To engage in any development, use, construction, remodeling, or other activity of any nature upon land or improvements thereon subject to the jurisdiction of this Ordinance without all required permits, certificates, or other forms of authorization as set forth in this Ordinance.

#### 2.3.1.2 Development or Use Inconsistent with Permit

To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form or authorization granted for such activity.

#### 2.3.1.3 Violation by Act or Omission

To violate, by act or omission, any term, variance, modification, condition, or qualification placed by the Town Board of Commissioners or its agent Boards upon any required permit, certificate, or other form of authorization for the use, development, or other activity upon land or improvements thereon.

#### 2.3.1.4 Use or Structure in Violation

To erect, construct, reconstruct, alter, repair, convert, maintain, or use any building, structure, or sign or to use any land in violation or contravention of this Ordinance or any other regulation made under the authority conferred thereby.

#### 2.3.1.5 Continuing a Violation

Each day's continuance of any of the above violations is a separate and distinct offense.

### 2.3.2 Enforcement Procedures

- A. If the Administrator finds that any of the provisions of this Ordinance are being violated, then he or she shall notify the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. The Administrator or designee shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or additions; alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violations of its provisions.
- B. Violators include any person who owns, leases, occupies, manages, designs or builds any structure or land development activity in violation of this chapter and any person who owns, leases, or occupies a use in violation of this chapter. A violation may be charged against more than one violator.

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#### 2.3.2.1 Inspection and Investigation

- A. When a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written or verbal complaint. Such complaint shall state fully the cause and basis thereof and shall be filed with the Administrator or designee. An investigation shall be made within 10 days. Actions as provided in these regulations shall be taken.
- B. The Administrator or designee shall have the right upon presentation of proper credentials, or inspection warrant if necessary, to enter on any premises within the jurisdiction at any reasonable hour for the purposes of inspection, determination of plan compliance, or other enforcement action.
- C. The Administrator shall have the power to conduct such investigations, as he may reasonably deem necessary to carry out his duties as prescribed in this Ordinance and, for the purpose of investigating and inspecting the sites of any complaints or alleged violations of this Ordinance.
- D. The Administrator shall have the power to require written statements; certificates, certifications, or the filing of reports with respect to pertinent questions relating to complains or alleged violations of this Ordinance.

#### 2.3.2.2 Notice of Violation

- A. If the owner of the land, building, structure, sign or use in violation fails to take prompt corrective action, the Administrator or designee shall give the owner or occupant written notice (by certified or registered mail to his last known address, by personal service, or by posting notice conspicuously on the property) of the following:
  - 1. That the land, building, structure, sign, or use is in violation of this Ordinance;
  - 2. The nature of the violation and citation of the Section(s) of the Ordinance being violated;
  - 3. The general measures necessary to remedy the violation;
  - 4. Notice of right to appeal; and
  - 5. The time period in which the violation needs to be corrected before civil penalties are incurred, in accordance with Section 2.3.4. If the violation is in the nature of an infraction for which an order of abatement would be appropriate in a civil proceeding, a reasonable period of time must be stated in which the violation must be abated.

#### 2.3.2.3 Appeal

Any owner or occupant who has received a Notice of Violation may appeal in writing the decision of the Administrator to the Board of Adjustment within 30 days following the date of the Notice of Violation. The Board of Adjustment shall hear an appeal subject to the provisions set forth in NCGS 160D-405 and Section 2.2.6 of this Ordinance. The Board of Adjustment may affirm, modify or revoke the Notice of Violation. In the absence of an appeal, the decision of the Administrator shall be final. Citations that follow the original Notice of Violation may not be appealed.

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#### **2.3.2.4 Failure to Comply with Notice**

If the owner or occupant of a property fails to comply with a Notice of Violation from which no appeal has been taken, or a final decision by the Board of Adjustment following an appeal, the owner or occupant shall be subject to the remedies and penalties as set forth in Section 2.3.3 and 2.3.4 or to such remedies and penalties as may be provided by the State law.

(ZTA-2021-03 Amended May 3, 2021)

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#### **2.3.3 REMEDIES**

Any or all of the following procedures may be used to enforce the provisions of this Ordinance:

##### **2.3.3.1 Injunction**

Any violation of this Ordinance or of any condition, order, requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to State law.

##### **2.3.3.2 Civil Penalties**

Any person who violates any provision of this Ordinance shall be subject to the assessment of a civil penalty under the procedures provided in Section 2.3.4.

##### **2.3.3.3 Denial of Permit or Certificate**

The Administrator shall withhold or deny any permit, certificate, or other authorization on any land, building, structure, sign, or use for which there is an uncorrected violation, or of a condition or qualification of a permit, certificate, or other authorization previously granted.

##### **2.3.3.4 Conditional Permit or Temporary Certificate**

The Administrator may condition the authorization of any permit or certificate upon the correction of the deficiency, payment of civil penalties within a specified time, or the posting of a compliance security approved by appropriate governmental authority.

##### **2.3.3.5 Stop Work Orders**

Whenever a building, structure, sign, or part thereof is being constructed, reconstructed, altered or repaired in violation of this Ordinance, the Administrator may order the work to be immediately stopped. The stop work order shall be in writing and directed to the owner, occupant or person doing the work. The stop work order shall state the specific work to be stopped, the specific reasons for the stoppage and the conditions under which the work may be resumed. Such action shall be in accordance with NCGS 160D-404(b) or the NC Building Code.

##### **2.3.3.6 Revocation of Permits or Certificates**

The Administrator may revoke and require the return of a permit or certificate by notifying the permit holder in writing, stating the reason for the revocation. Permits or certificates shall be revoked for any substantial departure from the approved application, plans, or specifications; refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit or certificate. Any permit or certificate mistakenly issued in violation of an applicable State or local law may also be revoked.

(ZTA-2021-03 Amended May 3, 2021)

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#### 2.3.4 PENALTIES

A. Violations of this Ordinance shall constitute one of the following penalties:

1. A misdemeanor with a fine not exceeding 50 dollars or imprisonment not exceeding 30 days; or
2. A civil penalty upon the issuance of a citation for said violations as hereinafter provided. The civil penalty, if not paid to the Town within 15 days of the issuance of a citation, may be recovered by the Town in a civil action in the nature of debt. Said civil penalties shall be in the amounts shown below for each violation and each day any single violation continues shall be a separate violation. Civil citations are set forth in Table 2.2 below:

Table 2.2 Civil Penalties

Citation	Civil Penalty
Notice of Violation—Warning	Correct Violation within 10 days
First Citation	\$50.00
Second Citation	\$100.00
Third and Subsequent Citations	\$200.00

- B. In addition to the civil penalties set out above, any provision of this Ordinance may be enforced by an appropriate equitable remedy issued from any court of competent jurisdiction. In such case, the general court of justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the Town for equitable relief that there is an adequate remedy at law.
- C. Any provision of this Ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement by General Court of Justice. When a violation of such a provision occurs, the Town may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and/or of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.
- D. An order of abatement may direct that buildings or other structures on the property be closed, demolished or removed; that fixtures, furniture or other movable property be removed from buildings on the property; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this Ordinance. If the defendant fails or refused to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the Town may execute the order of abatement. The Town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and material man's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for



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compliance with the order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

- E. Where the Administrator determines that the period of time stated in the original warning citation is not sufficient for abatement based upon the work required or Consent Agreement, the Administrator may amend the warning citation to provide additional time. The warning citation shall specify that a second citation shall incur civil penalty, together with costs and attorney fees.
- F. Upon failure of the violator to obey the Notice of Violation/Warning Citation, a civil citation shall be issued by the Administrator or designee and either served directly on the violator, his duly designated agent, or registered agent if a corporation, either in person or posted in the United States Postal Service by certified or registered mail to violator's last known address, by personal service, or by posting notice conspicuously on the property. The violator shall be deemed to have been served upon the mailing, serving, or posting of said citation. The citation shall direct the violator to pay the civil assessment within 15 days of the date of citation, or alternatively to pay the citation by mail. The violation for which the citation is issued must have been corrected by the time the citation is paid; otherwise, further citations shall be issued. Citations may be issued for each day the offense continues until the prohibited activity is ceased or abated.
- G. If the violator fails to respond to a citation within 10 days of its issuance or pay the penalty prescribed therein within 15 days, the Town may institute a civil action in the nature of debt in the appropriate division of the North Carolina General Court of Justice for the collection of penalty, costs, attorney fees and such other relief as permitted by law.
- H. The Environmental Management Commission may take any appropriate preventive or remedial enforcement action authorized under NCGS 143-214.5 against any person who violates any minimum statewide water supply watershed management requirement.

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## ARTICLE 3. ZONING DISTRICTS AND USES

### 3.1 BASE ZONING DISTRICTS

Base zoning districts are created to provide comprehensive land use regulations throughout Yadkinville. There are 10 base zoning districts that provide for a variety of uses that are appropriate to the character of the areas in which they are located. For the purpose of this Ordinance, Yadkinville's jurisdiction is hereby divided into the following base zoning districts. These districts shall comply with all of the general and specific requirements of this Ordinance.

#### 3.1.1 Residential Rural District (RR)

The Residential Rural District is established as a low-density district in which the principal use of land is for agricultural activities and for single-family residences. Dimensional requirements in this district are designed to ensure that a residential development not having access to public water supplies and dependent upon septic tanks for sewage disposal will occur at a sufficiently low density to provide for a healthful environment.

#### 3.1.2 Residential Medium Density (RM)

The Residential Medium Density District is established for medium density neighborhoods in which the principal use of land is for single-family residences. The regulations of this district are intended to provide areas of the community for a variety of residences. Developments within this district will have both public water and sewerage available.

#### 3.1.3 Residential High Density (RH)

The Residential High-Density District is established as a high-density district in which the principal use of land is for single family, two-family, townhomes, and multifamily residences. The regulations of this district are intended to provide areas of the community for those persons desiring small residences and multifamily structures in relatively high-density, walkable neighborhoods. Structures within this district will have both public water and sewerage available.

#### 3.1.4 Residential Manufactured Housing (RMH)

The Residential Manufactured Housing District is established for dwelling units, either conventional types or manufactured homes, in areas that already contain significant manufactured housing development, that need new housing stimulation, and/or have a predominance of old/deteriorating residential units.

#### 3.1.5 Office and Institutional (OI)

The Office and Institutional district is intended to accommodate professional offices, institutional uses, schools, government buildings, and related uses. This district is also intended for the conversion of existing residential structures located on thoroughfares into office or institutional uses, where such are appropriate, and as a buffer between business and residential uses.

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#### **3.1.6 Central Business (CB)**

The Central Business District is the central shopping area of the Town. It is established for those uses that normally require a central location and which provide merchandise and services to be used by the entire Town and its environs. It is intended that this district shall develop and be maintained as a tightly knit core of commercial activity.

#### **3.1.7 Neighborhood Business (NB)**

The Neighborhood Business District is intended for the use of those businesses that are properly and necessarily located near residential areas and which cater to the everyday needs of a limited residential area. This district may also accommodate mixed use developments. Properties within this zoning designation should be located on a major thoroughfare, minor thoroughfare, or collector street.

#### **3.1.8 Highway Business (HB)**

The Highway Business District is intended for higher intensity, primarily commercial, uses that are located adjacent to major highways and provide goods and services for the traveling public.

#### **3.1.9 Light Industrial (LI)**

The Light Industrial District is established for manufacturing, assembly, distribution, and warehousing operations which can be operated in a relatively clean and quiet manner, which will not be noxious to adjacent uses.

#### **3.1.10 Heavy Industrial (HI)**

The Heavy Industrial District is established to accommodate industries that primarily involve the production of goods from raw materials. However, it is expected that industries will minimize emission of smoke, dust, fumes, glare, noise, and vibrations.

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#### 3.2 CONDITIONAL ZONING DISTRICTS

##### 3.2.1 Purpose and Applicability

The purpose of Conditional Zoning (CZ) Districts is to provide a voluntary alternative procedure for the rezoning of a property for a specific use. A broad range of uses are permitted in the base district. However, there are instances where a base zoning district designation is clearly inappropriate for a property, but a specific use or uses permitted under this district and subject to development requirements would be consistent with the spirit and intent of this Ordinance. Conditional Zoning (CZ) Districts, herein established, are intended to accommodate such situations, and allow specific uses to be established in accordance with prescribed conditions pertaining to an individual project. This voluntary procedure is intended for firm development proposals and is neither intended nor suited for securing early zoning for tentative uses which may not be undertaken for a long period of time.

##### 3.2.2 Conditional Zoning Districts Established

Conditional Zoning (CZ) Districts are established as equivalent to the base districts. Conditional Zoning (CZ) districts are created to correspond to each of the base zoning districts created in Section 3.1. Just as there are 10 base zoning districts, there are 10 corresponding Conditional Zoning Districts.

• CZ RR	Residential Rural Conditional Zoning District
• CZ RM	Residential Medium Density Conditional Zoning District.
• CZ RH	Residential High Density Conditional Zoning District.
• CZ RMH	Residential Manufactured Housing Conditional Zoning District.
• CZ OI	Office and Institutional Conditional Zoning District.
• CZ CB	Central Business Conditional Zoning District.
• CZ NB	Neighborhood Business Conditional Zoning District.
• CZ HB	Highway Business Conditional Zoning District.
• CZ LI	Light Industrial Conditional Zoning District.
• CZ HI	Heavy Industrial Conditional Zoning District.

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#### 3.2.3 GENERAL PROVISIONS

- A. Property may be placed in a Conditional Zoning district only in response to a petition by the owners of all the property to be included.
- B. Specific conditions applicable to these districts may be proposed by the petitioner or the Town or its agencies, but only those conditions mutually approved by the Town and the petitioner may be incorporated into the requirements of the district. Conditions and site-specific standards imposed in a Conditional Zoning District shall be limited to those that address the conformance of the development and use of the site to the Town's ordinances and to any officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site.
- C. CZ Districts allow specific standards for a particular use after review and comment from the public. A petition to rezone a property to a Conditional Zoning District shall be accompanied by a site-specific plan.
- D. Within a CZ district, only those uses authorized as either permitted or conditional uses in the base zoning district with which the CZ district corresponds shall be permitted, and all other requirements of the corresponding district shall be met as minimum standards.
- E. In approving a CZ district, the Town Board of Commissioners may impose such additional reasonable and appropriate safeguards upon such permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured, and substantial justice done.
- F. If for any reason any condition imposed pursuant to these regulations is found to be illegal or invalid or if the applicant should fail to accept any condition, it is the intent of this Ordinance that the authorization of such CZ district shall be null and void and of no effect, and that proceedings shall be instituted to rezone the property to its previous zoning classification.
- G. CZ districts shall be approved in accordance with the process outlined in Section 2.2.10.

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#### 3.3 FLOATING ZONING DISTRICTS

In order that the purposes of the Development Ordinance may be accomplished, there are hereby established within the Town's corporate limits the following planned development and tiny house development floating zoning districts. Floating zoning districts are established by application only, for which a master plan, statement of intent and delineated development standards are required. Floating zoning districts are a use-based regulatory revision, and the master plan, together with everything shown on it and all amendments, development standards, and the approved statement of intent shall become the regulations for the site.

##### 3.3.1 Planned Development (PD) Districts

###### 3.3.1.1 General Purpose and Intent

Planned Development (PD) Districts are established to allow development under unified control to occur utilizing more flexible standards and procedures than would otherwise result from a strict application of general district and development standards. A Planned Unit Development is intended to encourage innovative land planning and site design concepts that will produce a high quality, unified project that will provide common area benefits and will not negatively impact adjacent land. More specifically, the purpose and intent of the PD district is to:

- Promote quality design and reduce or diminish the inflexibility of design that sometimes results from strict application of zoning and development standards designed primarily for individual lots;
- Provide options in selecting the means of providing common passive and active open space and/or recreational area(s) such as a picnic area, community garden, walking trail, tennis court, etc., and hardscape design amenities;
- Allow greater options in providing a mix of housing types, lot sizes, and densities (in residential PD districts); and a well-integrated mix of residential and non-residential uses in the same development (in mixed use PD districts);
- Provide for the efficient use of land resulting in smaller networks of utilities and streets and thereby lowering development and housing costs;
- Promote environmentally sensitive development that respects surrounding established land use character and respects and takes advantage of a site's natural and man-made features, such as trees, wetlands, slopes in excess of 25 percent, special flood hazard areas, etc.

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#### **3.1.2 Specific Purpose and Intent of Planned Development- Residential (PD-R) and Planned Development-Mixed (PD-M) Use Districts**

- A. The PD-R District is established to facilitate development of areas designated for residential use by permitting greater flexibility and, consequently, more creative and imaginative designs for development of such residential areas than generally is possible under conventional zoning or subdivision regulations. These regulations are further intended to promote more efficient flexible use of the land while providing a harmonious variety of housing choices and densities, an appropriate level of amenities, an optional compatible religious institutional use, and common area for open spaces, recreation and other activities typically related to residential uses.
- B. The PD-M District is established to provide a flexible means of accommodating higher density mixed-use development with a more urban character in areas designated for higher intensity development. The district encourages a well-balanced mix of higher intensity residential and lower intensity nonresidential uses such as office, service uses, and neighborhood business configured in a manner that supports pedestrian orientation. It promotes attractive streetscapes and high-quality design. These types of projects may be developed as approved subdivisions, as group development projects, or in combinations of subdivisions and group developments.

#### **3.3.1.3 General Provisions**

- A. Classification of Planned Development Districts – Land shall be classified as a planned development flexible zoning district in accordance with the procedures and requirements set forth in Article 2 Administration, Procedures and Enforcement Section 2.2.11, and this Section 3.3.1.
- B. Organization of Planned Development District Regulations – Section 3.3.1.4 sets out standards applicable to all planned development districts with Subsections A and B setting out the requirements for the Master Plan and Statement of Intent and Development Standards document applicable to a PD district. Development standards for a PD district are provided in Subsection C. Between the general standards in Section 3.3.1.4 and the standards in a planned development district, the more restrictive requirements shall control.

#### **3.3.1.4 Standards Applied to Planned Development Districts**

Before approving a planned development district, the Board of Commissioners shall determine that the application, as well as the master plan map, the statement of intent and development standards document, and the signage plan comply with the following standards, unless expressly stated otherwise:

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- A. Planned Development Master Plan Map – A master plan map shall be included with the application and shall be a part of the planned development district application and approval. It shall:
1. Identify the general location and acreage of individual development areas by land use(s) and/or development density or intensity;
  2. Identify the general sequence or phases in which development of the district is proposed to occur;
  3. Provide information about lower density residential development standards, multifamily and townhome development standards; and any nonresidential development standards;
  4. Identify the general location of the on-site transportation network, driveways and/or street intersections, parking, loading areas is applicable, and how they will connect with existing and planned (if any) transportation network(s);
  5. Identify landscaping buffers, building landscaping, other screening such as fencing, screening for on-site dumpsters, and provide information about minimum planting standards;
  6. Identify the general location, amount, and type (active or passive) of open space or common area;
  7. Identify the general location of on-site pedestrian facilities (sidewalks, trails, greenways, etc.)
  8. Identify the general location of on-site potable water, sanitary sewer, and stormwater management facilities and how they will connect to Town systems;
  9. Provide information about fire protection standards including the location of hydrants, the size of water mains, proposed fire systems, the fire flow information required by the Yadkin County Fire Marshal, and any other relevant information requested by the Fire Marshal or by the Town Planning Director.
  10. Identify the general location of solid waste management, and any other on-site private or public solid waste facilities serving the development;
  11. Identify and provide information about development signage;
  12. Provide information about the location of exterior lighting and lighting standards;
  13. Provide information about topography, grading and stormwater runoff.



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14. Provide information about any environmental features such as steep slopes, streams, FEMA flood zones, and any required stormwater devices, etc.;

**B. Planned Development Statement of Intent and Development Standards Document**

– The statement of intent and development standards document shall incorporate by reference or include, but not be limited to:

1. A written statement of intent for the development, including a description of planning objectives and overall vision for the development at build-out;
2. A listing of all permitted and accessory uses;
3. Residential and non-residential dimensional standards which includes at a minimum, lot area, lot width, setbacks, building height, and setbacks from adjoining development or zoning districts;
4. Identify the proposed parking standards for all permitted and accessory uses, and loading areas if applicable;
5. For the entire planned development district and each development area and/or phase, the acreage, types, and mix of land uses (including common area or open space), number of residential units (by use type), non-residential acreage (by use type), residential development density, and non-residential intensity standards.
6. Identification of all areas where a modification from the otherwise required development standards is proposed, description of the proposed modification, and explanation of why it is needed;
7. Specific development standards related to the planned development district's approval, including any standards and conditions offered related to the form and design of the development shown on the master plan map;
8. Provisions addressing how transportation, potable water, sanitary sewer, stormwater management and other infrastructure will be provided to accommodate the proposed development;
9. Provisions related to environmental protection and monitoring, as applicable;
10. A phasing narrative, including how residential and non-residential development will be timed, how infrastructure, transportation improvements, and common area or open space will be timed, and how the development will be coordinated with any planned Town capital improvements;
11. An overview of the Owners Association and its responsibilities, and

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12. Any other provisions the Board of Commissioners determines are relevant and necessary to the development of the planned development district in accordance with applicable standards and regulations.

#### C. Development Standards Applied to All Planned Development (PD) Districts

1. Location Within Town Limits – PD Districts shall be located within the Town limits. This requirement shall not be modified.
2. Public Street Access - The planned development district shall have internal access to public streets and shall provide ingress and egress from the subdivision to an existing NCDOT public street system complying with the current standards being required by the infrastructure regulations in Article 4. The development shall have at least 50 feet of frontage along the existing NCDOT public street system. These requirements shall not be modified.
3. Development Size – a PD District shall be a minimum of five (5) acres and may be developed as one phase or have multiple phases or sections. This development size requirement shall be subject to modification of no more than 10 percent less as part of unless modified by the approved Statement of Intent and Standards document.
4. Density and Dimensional Standards – Density and dimensional standards in a PD District shall comply with the requirements of Section 4.2 of the Development Ordinance, unless modified by the approved Statement of Intent and Standards document.
5. Environmental and Open Space – All development within a PD District shall comply with the standards in Section 4.3.3, Environmental and Open Space Standards and Section 4.3.4, Open Space Standards, which shall not be modified as part of the approval of a PD District.
6. Landscaping, Buffers, Fences and Walls – Landscaping, buffers, fences and walls within a PD District shall comply with the standards in Section 4.4. Landscaping and Screening Standards, and shall not be modified.
7. Permitted Principal Uses – Every PD District shall establish permitted uses by use category and use types as appropriate from those listed in the Development Ordinance, Table 3.1 Permitted Uses Table.
  - a. Unless exempted by the Board of Commissioners, a PD-R District shall include at least two (2) of the following principal use types from the following use classifications if the development is between five (5) acres and ten (10) acres;

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and at least three (3) of the following principal use types from the following use classifications if the development is greater than ten (10) acres:

- i. Single family residential;
    - ii. Two-family residential;
    - iii. Townhomes;
    - iv. Multifamily residential; and
    - v. One religious institution
  - b. Unless exempted by the Board of Commissioners, a PD-M District shall include at least two (2) of the following principal use types from the following use classifications if the development is between five (5) acres and ten (10) acres; and at least three (3) of the following principal use types from the following use classifications if the development is greater than ten (10) acres:
    - i. Multifamily and/or townhome residential;
    - ii. Institutional uses that are permitted in the OI District;
    - iii. Office uses that are permitted in the OI District; and
    - iv. Commercial uses that are permitted in the NB Districts.
  - c. Proposed uses shall be consistent with the purpose of the particular type of PD district, and are subject to any additional requirements for the particular type of PD district.
  - d. Uses are subject to all applicable use standards for the use type in Section 3.4 Special Requirements for Certain Uses, unless modified by the approved Statement of Intent and Standards document.
8. Permitted Accessory Uses and Structures – Accessory Uses and Structures shall be permitted in accordance with the Development Ordinance, unless modified by the approved Statement of Intent and Standards document.
9. Subdivision Standards – A PD District shall comply with, and not modify the subdivision standards in Section 2.2.4 of the Development Ordinance.
10. Infrastructure Standards – A PD District shall comply with the infrastructure standards of Section 4.6 of the Development Ordinance, which shall not be modified as part of the approval of a PD District.
11. Parking – Parking in a PD District shall meet the requirements of Section 4.4 of the Development Ordinance, unless modified by the approved Statement of Intent and Standards document.

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12. Signage - All development signage in a PD District shall meet the requirements of Article 6 Sign Standards of the Development Ordinance, unless modified by the approved Statement of Intent and Standards document.
13. Building Design Standards – Buildings within a PD District shall comply with the building design standards of Article 5 of the Development Ordinance, unless modified by the approved Statement of Intent and Standards document.
14. Homeowner's Association – A PD District shall have a homeowner's association that maintains control of all common elements and is responsible for the maintenance of such elements within the development. Common areas shall be indicated on the Master Plan, and on a preliminary and/or final subdivision plat. Association documents shall be reviewed by the Town prior to approval of the development and recorded with the development, and be in accordance with Section 4.3.4.7 of the Development Ordinance.

### 3.3.2 Tiny House Development (THD) District

#### 3.3.2.1 Purpose and Intent

The Tiny House Development District is proposed to establish standards to facilitate the voluntary development of a group of very small single-family detached dwellings built in close proximity to one another on individual minimally sized lots and including common open space. The regulations of this district are intended to provide areas of the community for those persons desiring tiny houses with habitable space on a foundation meeting the Special Requirements of Section 3.3.2.

#### 3.3.2.2 General Provisions

- A. Classification of Tiny House Development Districts – Land shall be classified as a tiny house development flexible zoning district in accordance with the procedures and requirements set forth in Article 2 Administration, Procedures and Enforcement Section 2.2.11, and this Section 3.3.2.
- B. Organization of Tiny House Development District Regulations – Section 3.3.2.3 sets out standards applicable to all tiny house development districts with Subsections A and B setting out the requirements for the Master Plan and Statement of Intent and Development Standards document applicable to a tiny house development district. Development standards for a tiny house development are provided in Subsection C. Between the general standards in Section 3.3.2.3 and the standards in a tiny house development, the more restrictive requirements shall control.

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#### 3.3.2.3 Standards Applied to All Tiny House Development Districts

Before approving a tiny house development district, the Board of Commissioners shall determine that the application, as well as the master plan map, the statement of intent and development standards document, and a common signage plan if included as part of the application, comply with the following standards, unless expressly stated otherwise:

- A. Tiny House Development Master Plan Map – A master plan map shall be included with the application and shall be a part of the tiny house development district application and approval. It shall:
1. Identify the general location, configuration, and acreage of individual development area(s) by land use(s) and development density or intensity, and the general sequence or phases in which the development of the THD district is proposed to occur;
  2. Provide information in note form about the definition of a tiny house;
  3. Provide information about tiny house development standards;
  4. Identify landscaping buffers and other planting areas or screening devices such as fencing, screening for on-site dumpsters, and provide information about minimum planting standards;
  5. Identify the general location, amount, and type (active or passive) of open space or common area;
  6. Identify and provide information about development signage;
  7. Identify the general location of on-site pedestrian facilities (sidewalks, trails, greenways, etc.)
  8. Identify the general location of the on-site transportation network, driveways and/or street intersections, parking, and how they will connect with existing and planned (if any) transportation network(s);
  9. Provide information about the site's environmental features such as topography, grading, impervious surfaces and stormwater runoff and management facilities.
  10. Identify the location of on-site public potable water, public sanitary sewer, hydrants, and how they will connect to Town systems;
  11. Provide information about topography, grading and stormwater runoff;

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12. Provide information about any environmental features such as steep slopes, streams, FEMA flood zones, required stormwater devices, etc.;
13. Provide information about the location of on-site solid waste container(s), and any other on-site private or public solid waste facilities serving the development;
14. Provide information about the location of exterior lighting and lighting standards;
15. Provide information about fire protection standards including the location of hydrants, the size of water mains, proposed fire systems, the fire flow information required by the Yadkin County Fire Marshal, and any other relevant information requested by the Fire Marshal or by the Town Planning Director.

**B. Tiny House Development Statement of Intent and Development Standards Document –**

The statement of intent and development standards document shall incorporate by reference or include, but not be limited to:

1. A written statement of intent for the development, including a description of planning objectives and overall vision for the development at build-out;
2. A listing of all permitted and accessory uses;
3. Tiny house residential and accessory use dimensional standards which includes at a minimum, lot area, lot width, setbacks, building height, and setbacks from adjoining residential development or residential zoning districts;
4. Identify the proposed parking standards for all permitted and accessory uses;
5. For the entire tiny house development and each development area and/or phase, the acreage, types and mix of land uses (for example, tiny houses, common area or open space), number of tiny house residential units, and residential development density.
6. Identification of all areas where a modification from the otherwise required development standards is proposed, description of the proposed modification, and explanation of why it is needed;
7. Specific development standards related to the tiny house development district's approval, including any standards and conditions offered related to the form and design of the development shown on the master plan map;
8. A phasing narrative, including how development will be timed, how infrastructure, transportation improvements and common area or open space will be provided

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and timed to accommodate the proposed development, and how the development will be coordinated with any planned Town capital improvements;

9. Provisions related to environmental protection and monitoring, as applicable.
10. An overview of the Homeowners Association and its responsibilities; and
11. Any other provisions the Board of Commissioners determines are relevant and necessary to the development of the tiny house development in accordance with applicable standards and regulations.

#### C. Development Standards Applied to All Tiny Houses Development (THD) Districts

1. Location Within Town Limits –THD Districts shall be located within the Town limits.
2. Development Size - A tiny house development shall be a minimum of two (2) acres and shall be a maximum of five (5) acres and may be developed as one phase or have multiple phases or sections. This development size requirement is subject to modification of no more than 10 percent more, but not less, than the maximum as part of unless modified by the approved Statement of Intent and Standards document.
3. Maximum Allowable Density – Tiny house dwelling units with a THD District may be concentrated or evenly distributed throughout the development, provided the maximum density of 5 units per acre for the development as a whole is not exceeded. This density restriction is subject to modification only if modified by the approved Statement of Intent and Standards document.
4. Dimensional Standards - The minimum dimensional standards for an approved tiny house development district are as follows:

Minimum Lot Size (square feet)	Maximum Lot Size (square feet)	Minimum Lot Width (feet)	Front & Corner Setback (feet)	Side Setback (feet)	Rear Setback (feet)	Maximum Structure Height (feet)
3,000	4,000	50	15	10	10	20

5. Permitted Principal Use - Single family dwellings within a tiny house development shall be restricted to tiny houses as defined in Appendix A.6 DEFINITIONS, and as regulated by Section 3.3.2 of the Development Ordinance.
6. Prohibited Uses - Tiny houses within an approved THD district may not be used as tourist homes for rent or otherwise provide overnight lodging facilities to the general public for compensation.

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7. Permitted Accessory Uses and Structures – The following incidental and subordinate accessory uses are permitted in a Tiny Home District:

- Accessory structures in accordance with Section 3.4.2.2 of the Development Ordinance, except that no residential lot shall have more than one (1) accessory structure other than a deck and excluding swimming pools, which shall be restricted to no more than eighty (80) square feet, shall be located in the rear yard only. Decks shall also be in accordance with Section 3.4.2.2 of the Development Ordinance, may be located in the side and rear yards, but may not be located within required setback areas, and the deck flooring may not be located more than one (1) foot off the ground.
- Home occupations as regulated by Section 3.5.2.7 of the Development Ordinance, are further restricted to home offices within the primary dwelling unit with no other persons other than those residing in the dwelling, and no signage.
- A building for the purposes of common storage or recreation, and other common area functions and improvements for residents of the tiny home development is permitted in accordance with Section 3.3.2.3 C. 8. below.

5. Common Elements

- a. A tiny house development shall include the following common elements, which are not subject to modification:
- i. A development perimeter landscape and screening yard as described below in this subsection that incorporates landscaping materials, fencing, existing vegetation or other features to buffer the tiny house development from adjacent development, which shall be installed in its entirety with the initial phase of multi-phase developments, as set forth below.
- The tiny house development district shall be subject to the landscaping and screening requirements of Section 4.4 of the Development Ordinance and the more restrictive standards listed in this subsection.
  - Fences and walls shall comply with Section 4.4.9 and be the same as for residential districts.
  - Along any street or right-of-way, a setback of at least 50 feet from the edge of the street right-of-way shall be maintained and a Type 2 50-foot buffer shall be in place, in accordance with Section 4.4.3 Table 4.5.



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- Adjacent to all non-street or non-right-of-way property lines, a setback of at least 30 feet shall be maintained and a Type 1 50-foot buffer shall be in place, as well as a six-foot fence or wall screening in accordance with Sections 4.4.3, Table 4.4, 4.4.9.1, 4.4.9.2, 4.4.9.3., 4.4.9.10, 4.4.9.11, and 4.4.9.12.
  - Common landscaped buffer areas and utility easements, where both are required along roadways, shall be in a shared easement area. The landscaping buffers materials shall be adapted with regard to size and type so as to not conflict with the proposed utility.
  - The common landscaped buffer areas shall not be included within individual lot areas of residential use.
- ii. Environmental and open space land pursuant to the standards of Section 4.3 of the Development Ordinance, but may include all common elements listed in this Subsection 3.3.2.3 C. 8, and shall not be modified as part of the approval of a Tiny House District.
  - iii. Improved pedestrian walkways or sidewalks that access each dwelling which may be installed incrementally with multi-phase developments.
  - iv. A shared parking area for guest parking, which shall be installed in its entirety with the initial phase of multi-phase developments.
  - v. A community building with related common parking shall be provided to provide amenities such as laundry facilities, rentable storage areas, a community bulletin board, a group meeting room, a group events space with a kitchen, rest rooms, and shall not contain or be used as a dwelling unit. The common building shall be at least 1,500 square feet and shall be of sufficient square footage to serve the number of tiny houses approved for the development.
  - vi. Solid waste collection for a tiny house development shall be provided by at least one (1) dumpster for every twelve (12) dwellings, and is subject to the Rounding of Fractions rules of Appendix 4 of the Development ordinance. The dumpsters shall be:
    - Located so as to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties, or public rights-of-way;
    - Shall be located in common area(s);

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- Screened in accordance with Section 4.4.7 of the Development Ordinance; and
  - Indicated on each Master Plan and following plan(s) for development approval.
- vii. All development signage in a Tiny House District shall meet the requirements of Article 6 Sign Standards, except as otherwise provided by this subsection, and unless modified by the approved Statement of Intent and Standards document.
- Permanent signage standards for a Tiny House District, such as development entrance signage, and common area signage shall be no less strictive than those in Section 6.4 of the Development, for residential districts;
  - Directional signs pointing the way to specific named sections of a tiny house development may be permitted along interior streets, provided: 1) signs shall be not more than 12 square feet in area and 6 feet in height; 2) the number of signs and their location shall be shown and approved with the master plan; and 3) sign illumination shall be by indirect methods only and shall be concealed from view and oriented away from adjacent properties and roadways.
  - Exterior lighting for a tiny house development shall comply with the standards in Section 4.6.5 of the Development Ordinance.
- b. A tiny house development may also include the following common elements:
- i. A dog park;
  - ii. picnic area;
  - iii. A community garden area; or
  - iv. Other common amenity as approved by the Board of Commissioners.
8. Homeowner's Association – A tiny house development shall have a homeowner's association that maintains control of all common area elements and is responsible for the maintenance of such elements within the development. Common areas shall be indicated on the Master Plan, and on a preliminary and/or final subdivision plat. Association documents shall be reviewed by the Town prior to approval of the development and recorded with the development, and be in accordance with Section 4.3.4.7 of the Development Ordinance.
9. Infrastructure Standards – The Tiny House District shall comply with the infrastructure standards in Section 4.6 of the Development Ordinance except as

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otherwise provided by this subsection, which shall not be modified as part of the approval of a Tiny House District.

10. Public Street Access - The tiny house development shall have internal access to public streets and shall provide ingress and egress from the subdivision to an existing NCDOT public street system complying with the current standards being required by the infrastructure regulations in Article 4. The development shall have at least 50 feet of frontage along the existing NCDOT public street system.
11. Dwelling Orientation – A tiny house dwelling unit shall face a street or interior common area. No dwelling shall face a perimeter landscape or buffer yard.
12. Compliance with NC State Residential Code - The tiny house unit and foundation must both comply with the North Carolina State Residential Code, 2018 Edition – Section 101.3.2.10 NC Administrative Code.
13. Modular Construction Option - If the tiny home is constructed through the NC Modular Construction Program, the unit must also meet the roof pitch, eave projection, exterior wall, siding and roofing materials, and foundations minimum construction and design standards for modular homes – NC General Statute GS Section 143-139.1.
14. Utility Metering - Each tiny house unit shall be individually metered for all utilities.
15. Parking Standards – All on-site parking shall not be in a common area in a Tiny House development and shall meet the requirements of Section 4.5 of the Development Ordinance.

(ZTA-2021-04, Ordinance 2021-07 Amended February 7, 2022)

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#### 3.4 PERMITTED USES

##### 3.4.1 Purpose and Use Groups

The Permitted Uses Table contains a listing of uses which may be permitted in one (1) or more of the various zoning districts. Uses are listed in alphabetical order within eight (8) use groups as follows:

- Agricultural.
- Residential.
- Civic, Government, and Institutional.
- Office and Service.
- Retail and Wholesale.
- Recreation and Entertainment.
- Industrial, Transportation and Utility.
- Other.

##### 3.4.2 Classifying and Determining Uses

- A. The listings of permitted uses in the various districts in this Ordinance are considered to be specific in regard to the types of uses intended for each of the various districts. In determining proposed uses, the Administrator shall classify the form and function of the use. When a proposed use is not specifically listed in the Permitted Uses Table, the Administrator shall determine if the use is the same as, or manifestly similar to, a listed use in form and function. If the Administrator finds that the proposed use is the same as, or manifestly similar to, a listed use, he shall classify the proposed use as the listed use. If the Administrator finds that a proposed use is not the same as, or is not manifestly similar to, a listed use, he shall classify the proposed use as not permitted. In order to assist the Administrator in interpretation of the Use Matrix, the North American Industrial Classification System (NAICS) shall be used to determine if a use is similarly material to a use in the Permitted Uses Table.
- B. Two (2) or more nonresidential principal uses may occupy the same land or building as long as each use is a permitted use.
- C. In determining what is a principal use, the principal use shall be considered as the primary purpose or function that a lot or structure services or is proposed to serve. An accessory use shall be considered a structure or use that:
  - Is clearly incidental to and customarily found in connection with a principal building or use;
  - Is subordinate to and serves a principal building or a principal use;
  - Is subordinate in area, extent, or purpose to the principal building or principal use served;

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- Contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal building or principal use served; and
- Is located on the same lot and zoned the same as the principal building or use serves.

(ZTA-2019-06 Amended December 2, 2019)

#### 3.4.3 Permitted Uses Table

The following is a list of the meanings of table entries:

- A. "P" indicates that the use is permitted by right in the zoning district.
- B. "s" indicates that the use is permitted with a Minor Special Use Permit in the zoning district.
- C. "S" indicates that the use is permitted with a Major Special Use Permit in the zoning district.
- D. A blank space under a zoning district column indicates that a use is not permitted in that district.
- E. A section number listed in the "SR" column indicates that the use has special conditions for the zoning district(s) in which it is permitted. The section number refers to the regulations in Section 3.4.

(ZTA-2021-03 Amended May 3, 2021)

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**Table 3.1 Permitted Uses**

<b>Agricultural Uses</b>	<b>RR</b>	<b>RM</b>	<b>RH</b>	<b>RMH</b>	<b>OI</b>	<b>CB</b>	<b>NB</b>	<b>HB</b>	<b>LI</b>	<b>HI</b>	<b>SR</b>
Bona fide farms (excluding swine production, see Section 1.5.2 for ETJ exemption)	P										
Equestrian uses	P										3.5.1.1
Livestock keeping, accessory to residential use	P										3.5.1.1
Fowl keeping, accessory to residential use	P	P									3.5.1.1
Livestock sales										P	
Greenhouse or horticultural nursery (no retail sales)	P										
Produce Stands (permanent)	P										3.5.1.2
<b>Residential Uses</b>	<b>RR</b>	<b>RM</b>	<b>RH</b>	<b>RMH</b>	<b>OI</b>	<b>CB</b>	<b>NB</b>	<b>HB</b>	<b>LI</b>	<b>HI</b>	<b>SR</b>
Accessory dwellings	P	s	s	s	s		s				3.5.2.1
Accessory structures (residential)	P	P	P	P	P		P				3.5.2.2
Accessory, temporary family health care structures	P	P	P	P	P		P				3.5.2.3
Caretaker's residence- <b>removed 9.9.24</b>											
Dormitory					S	S	S	S	S	S	
Dwellings, single-family	P	P	P	P	P		P				
Dwellings, multifamily and Developments, multifamily			S				S				3.5.2.4
Dwellings, two-family		s	P	P	P		P				3.5.2.5
Dwellings, townhome			P				P				
Dwellings, upper floor (in mixed use building)						P	P				
Family Care Homes	P	P	P	P	P		P				3.5.2.6
Home Occupations	P	P	P	P	P		P				3.5.2.7
Manufactured Homes (on individual lots)				P							3.5.2.8
Tourist homes	s	s	P		P	P	P	P			3.5.2.9

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<b>Civic, Government &amp; Institutional Uses</b>	<b>RR</b>	<b>RM</b>	<b>RH</b>	<b>RMH</b>	<b>OI</b>	<b>CB</b>	<b>NB</b>	<b>HB</b>	<b>LI</b>	<b>HI</b>	<b>SR</b>
Cemeteries, principal use	s				P						3.5.3.1
Cemeteries, accessory use	P	s	s	s	P						3.5.3.1
Colleges, universities, and associated facilities	C				P	P		P	P		
Community centers			P		P	P	P				
Correctional facilities/jails						S				S	
Daycare centers	s	s	s		P	P	P	P			
Emergency Services (fire, police, EMS, and similar uses)	P	s	s	s	P	P	P	P	P	P	
Government Office Buildings	P				P	P	P	P	P	P	
Group care facility A								P			
Group care facility B								S			
Hospitals (public and private)					P			P			
Libraries, museums, art galleries and similar uses					P	P	P	P			
Nursing, assisted living facilities			S		P		P	P			
Post offices					P	P	P	P	P		
Public works facilities					S			S	P	P	
Religious institutions and related uses	P	S	S	S	P	P	P	P	P		
Research facilities					P			P	P		
Schools, instructional (music, dance, martial arts, etc.)					P	P	P	P	P		
Schools, elementary and secondary (public and private)	P	S	S	S	P		P				
Schools, trade and vocational	S				P	P			P		
Social, fraternal, and philanthropic clubs and lodges, and similar uses operated on a non-profit basis	S				P	P	P	P	P		

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Office and Service Uses	RR	RM	RH	RMH	OI	CB	NB	HB	LI	HI	SR
Animal services, no outdoor kennels					P	P	P	P	P		3.5.4.1
Animal services, with outdoor kennels								S	S		3.5.4.2
Artists, craftsmen	s	s			P	P	P	P	P		
Automotive services (includes gas stations and car washes, excludes boat and RV services)						S	S	P	P		
Banks and financial services					P	P	P	P			
Bed and breakfast inn	s	s	s		P	P	P				3.5.4.3
Boat and RV services								P	P		
Body art establishments (tattoos, body piercing)								S			
Catering services					P	P	P	P	P		
Construction, plumbing, electrical contractors (with storage yards, excludes office uses)								S	P	P	
Crematories, principal use					s			s	P		3.5.4.4
Dry cleaning and laundry services, non-industrial						P	P	P	P		
Funeral homes and mortuaries (including accessory crematories)					P			P			
Hotels and motels							S	P			
Motion picture production						P		P	P		
Medical, dental, chiropractic, optical offices (excluding hospitals)					P	P	P	P			
Personal service uses (hair, nails, facial, massage therapy)					P	P	P	P			
Professional offices					P	P	P	P	P		
Printing and reproduction services						P	s	P	P		
Services, other					s	s	s	s	P		



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<b>Retail &amp; Wholesale Uses</b>	<b>RR</b>	<b>RM</b>	<b>RH</b>	<b>RMH</b>	<b>OI</b>	<b>CB</b>	<b>NB</b>	<b>HB</b>	<b>LI</b>	<b>HI</b>	<b>SR</b>
Alcoholic Beverage Control (ABC) Stores								S			
Auction houses								S	P		
Automotive sales or rental (excludes boat and RV sales)								P	P		3.5.5.1
Farmers markets					P	P	P	P	P		
Flea markets, antique malls, booth retail, indoor						P		P	P		
Flea markets, antique malls, booth retail, outdoor									S		
Manufactured home, modular home, RV, and boat sales									P		3.5.5.1
Microbreweries, microwineries, microdistilleries (excluding wineries, beverage manufacturing)						P	S	P	P		3.5.5.2
Pawn shops								S			
Pharmacies, optical shops, and medical-related retail, less than 10,000 square feet					P	P	P	P			
Restaurants, no drive-through						P	P	P			
Restaurants, with drive-through							s	P			3.5.8.3
Retail uses, accessory to industrial (less than 10,000 sq. ft.)									P	P	
Retail uses, less than 10,000 sq. ft.						P	P	P			
Retail uses, 10,000-60,000 sq. ft.						S	S	P			
Retail uses, greater than 60,000 sq. ft.								S			
Retail uses, outside fully enclosed building (excluding automotive, boat, RV, manufactured or modular homes)								S	P		3.5.5.3
Tasting room (wine, beer, distilled spirits)	s				P	P	P	P	P		3.5.5.2
Wholesale, inside fully enclosed building								P	P		
Wholesale, outside fully enclosed building									P		

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Recreation & Entertainment Uses	RR	RM	RH	RMH	OI	CB	NB	HB	LI	HI	SR
Adult businesses										S	3.5.6.1
Auditoriums, assembly halls					P	P	P	P	P		
Banquet, events facilities	s				P	P	P	P	P		
Billiards, pool rooms						P		P			
Campgrounds	S								S		3.5.6.2
Electronic gaming operations, other than those involving gambling								s			
Fairgrounds, carnivals, tent event grounds									S	P	
Parks, playgrounds (public)	P	P	P	P	P	P	P	P	P		
Private clubs (excludes night clubs, bars, and adult businesses)								s	s		
Motorsports competition and testing facilities, indoors									S	P	3.5.6.3
Motorsports competition and testing facilities, outdoors										S	3.5.6.3
Night clubs, bars						S		S			
Recreation facilities, private indoor						P	s	P	P		
Recreation facilities, private outdoor	s							s	s	s	3.5.6.4
Recreation facilities, public indoor	s	s	s		P	P	P	P	P	P	
Recreation facilities, public outdoor (excluding parks and playgrounds)	s							s	s	s	
Recreation facilities, associated with residential development	P	P	P	P	P	P	P				
Shooting ranges, indoor									P	P	
Theater, indoor						P	s	P			
Theater, outdoor					S	S	S	S	S		3.5.6.5

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Industrial, Transportation & Utility Uses	RR	RM	RH	RMH	OI	CB	NB	HB	LI	HI	SR
Airports and heliports	S									S	3.5.7.1
Animal processing										S	
Automobile parking lots or garages (principal use)					P	P	P	P	P	P	
Asphalt, concrete, and paving materials manufacturing										S	3.5.7.2
Bus stations						S		P	P	P	
Data centers								s	P	P	
Distribution centers								S	P		
Electric transmission lines and appurtenances	P	P	P	P	P	P	P	P	P	P	
Flex office/warehouse units								s	P	P	
Junkyards, salvage yards, recycling operations and similar uses										S	3.5.7.2
Landfill, construction, demolition, land clearing, and inert debris landfill, sanitary or hazardous waste										S	3.5.7.2
Lumberyards (excluding sawmills)									P	P	
Machine and welding shops									P	P	
Manufacturing, food (excluding meat/poultry/fish processing)									P	P	
Manufacturing, textile									C	P	
Manufacturing, type A								s	P	P	
Manufacturing, type B									P	P	
Manufacturing, type C										S	3.5.7.2
Mining and quarrying operations										S	3.5.7.2
Natural gas distribution lines and related appurtenances	P	P	P	P	P	P	P	P	P	P	
Power generation facilities (excluding wind and solar)										S	

# PART II. - CODE OF GENERAL ORDINANCES

## TITLE 9 DEVELOPMENT ORDINANCE

<b>Industrial, Transportation, &amp; Utility Uses (Continued)</b>	<b>RR</b>	<b>RM</b>	<b>RH</b>	<b>RMH</b>	<b>OI</b>	<b>CB</b>	<b>NB</b>	<b>HB</b>	<b>LI</b>	<b>HI</b>	<b>SR</b>
Power generation, solar individual	P	P	P	P	P	P	P	P	P	P	3.5.7.3
Power generation, solar farm									S	S	3.5.7.3
Power generation, wind individual	P								P	P	3.5.7.4
Power generation, wind farm									S	S	
Recycling centers (excluding recycling operations)					s			P	P	P	
Sawmills										S	3.5.7.2
Sewage collection lines, pump stations, and appurtenances	P	P	P	P	P	P	P	P	P	P	
Sewage/wastewater treatment plants, public									P	P	
Sewage/wastewater treatment plants, private										S	
Taxicab services								s	P		
Telecommunication lines and related appurtenances	P	P	P	P	P	P	P	P	P	P	
Telecommunications towers	S							S	S	S	3.5.7.5
Transit stops	P	P	P	P	P	P	P	P	P	P	
Truck stops									S	S	
Truck, bus terminals, repair storage										P	
Warehousing (excludes self-storage)									P	P	
Warehousing, self-storage								s	P		
Water distribution lines, pumps, storage, tanks and appurtenances	P	P	P	P	P	P	P	P	P	P	
Wineries	s					P			P		3.5.7.6

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Other Uses	RR	RM	RH	RMH	OI	CB	NB	HB	LI	HI	SR
Accessory structures, non-residential (associated with permitted uses)					P	P	P	P	P	P	3.5.8.1
Business kiosks (ATMs, movies, ice vending, etc.)							s	P			3.5.8.2
Drive-through/drive-in uses (associated with permitted uses)					s	s	s	P			3.5.8.3
Outdoor storage (associated with permitted uses, excludes outdoor sales display)					s		s	s	s	s	3.5.8.4
Temporary Uses	P	P	P	P	P	P	P	P	P	P	3.5.8.5

(ZTA-2021-03 Amended May 3, 2021)

(ZTA-2021-04, Ordinance 2021-07 Amended February 7, 2022)

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#### 3.5 SPECIAL REQUIREMENTS FOR CERTAIN USES

The requirements set forth in this section apply to the uses with a Section number in the “SR” column of Table 3.1: Permitted Uses in Section 3.3. These requirements are intended to mitigate any potential adverse impacts that certain uses may have on surrounding property or the community at-large. If a Minor or Major Special\_Use Permit is also required for a use within a specified zoning district, these requirements are to be followed in addition to any conditions placed on the approval of the Minor or Major\_Use Permit by the Board of Adjustment or Town Board of Commissioners, or Conditional Zoning District by the Town Board of Commissioners.

##### 3.5.1 Agricultural Uses

###### 3.5.1.1 Keeping of Animals, Livestock, Fowl, and Equestrian Uses

- A. Bona fide farms located in the extraterritorial jurisdiction are exempt from these standards subject to Section 1.5.2.
- B. There shall be one and one-half (1.5) acres of cleared land for each head of cattle, goat, horse or other livestock kept. Such animals shall be fully contained by a fence.
- C. Livestock and fowl keeping within the Town limits shall be regulated by Title 8, Chapter 2 of the Code of Ordinances.
- D. Common barns and stables and manure storage areas shall be located a minimum of 75 feet from any lot line and 100 feet from any other building.
- E. All unpaved areas shall be maintained in a manner to prevent dust from adversely impacting adjacent properties.
- F. Outdoor lighting structures shall be located, angled, shielded, or limited in intensity so as to cast no direct light on adjacent property and to avoid the creation of a visual safety hazard to any adjacent right-of-way.
- G. The keeping of livestock and fowl as an accessory to a residential use shall not include commercial production.
- H. In accordance with NCGS 106-645, up to five (5) beehives are permitted on a single parcel provided that hives are placed at ground level or securely attached to an anchor or stand. If the hive is securely attached to an anchor or stand and is setback a minimum of 10 feet from the including setbacks from the property line and from other hives. The Town of Yadkinville may require the removal of any hive that is no longer maintained or is a threat to the health, safety, and welfare of the public.

###### 3.5.1.2 Produce Stands, Permanent

- A. A permanent produce stand shall be allowed as an accessory use to a bona fide farm operation only. All produce sold shall be grown on a lot under the same ownership as the lot upon which the produce stand is located. Permanent produce stands shall only be located on streets classified as collectors, minor thoroughfares, and major

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thoroughfares. All other produce stands shall be considered temporary uses and shall follow the special requirements for temporary uses in Section 3.4.8.5.

- B. A produce stand shall not be located in a street right-of-way.
- C. A produce stand shall not be located closer than 10 feet to any side lot line unless a greater setback is required for the zoning district in which it is located.
- D. Signs for a produce stand shall not be illuminated, nor shall they exceed four (4) square feet in area. Off-premises signs are not permitted.
- E. During the times of the year in which the produce stand is not in operation, the stand shall be properly secured and maintained.

### 3.5.2 Residential Uses

#### 3.5.2.1 Accessory Dwellings

- A. Accessory dwellings shall be limited to one (1) unit per principal dwelling.
- B. Accessory dwellings shall be built to North Carolina Building Standards and shall each have at least one (1) external entrance, kitchen and bath.
- C. Detached accessory dwellings shall be located in the rear yard of the principal dwelling and shall meet the principal structure setbacks for the district in which they are located. Detached accessory dwellings shall be located no closer to the principal building than 20 feet.
- D. The accessory dwelling shall not exceed one-half ( $\frac{1}{2}$ ) of the total area of the principal dwelling or 1,200 square feet, whichever is greater, but in no case shall exceed that of the principal dwelling.

#### 3.5.2.2 Accessory Structures

- A. Permitted Accessory Structures - Permitted accessory structures include those included in this section and those that are determined to meet the following criteria:
  - 1. Are clearly incidental to an allowed principal use or structure;
  - 2. Are subordinate to and serving an allowed principal use or structure;
  - 3. Are subordinate in area, extent and purpose to the principal use or structure;
  - 4. Contribute to the comfort, convenience or needs of occupants of the principal use or structure.
- B. Location on Same Lot as a Principal Use - There shall be a principal structure on any lot for which there is an accessory structure. No accessory structure shall be approved established or constructed before the principal structure is approved in accordance with the Ordinance.
- C. Setbacks and Spacing from other Structures - Accessory structures shall be set back a minimum of five (5) feet from the side and rear property lines. Accessory structures on corner lots shall meet the principal structure front setback on the side street for the district in which it is located. For through or reverse frontage lots, all

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accessory structure shall be setback 10 feet from the rear lot line abutting the street. Accessory structures shall be at least five (5) feet from any other buildings on the same lot and at least 20 feet from any buildings used for human habitation on adjoining lots. See Section 3.4.2.2, F. for additional setbacks for greater total area of accessory structures.

- D. Location on Lot - On any residential lot, accessory buildings shall not be located in any front yard, unless located on a lot that is greater than two (2) acres and set back a minimum of 150 feet from the fronting street. Accessory structures may not be located in an easement unless the easement or easement holder expressly states the allowance in writing.
- E. Number of Accessory Structures Allowed - No residential lot shall have more than three (3) accessory structures (excluding swimming pools).
- F. Size and Area Limitations and Criteria - Accessory structures shall not cover more than 30% of any required rear yard and:
1. The total area of residential accessory structures on a lot less than two (2) acres shall not exceed 50 percent of the gross floor area of the principal dwelling or 600 square feet, whichever is greater.
  2. For lots that are two (2) acres or more, the maximum total area of all accessory structures shall not exceed 200 percent of the gross floor area of the principal structure or 2500 square feet, whichever is less, provided that when accessory structures total more than 600 square feet accessory structures shall be set back a minimum of 20 feet from the property line.
- G. Maximum Height - The maximum height for accessory structures shall be the height of the principal structure, except that the maximum height for accessory agricultural structures on lots of greater than two (2) acres in the Rural Residential (RR) District shall be the maximum district height.
- H. Exceptions
1. Mailboxes, newspaper boxes, birdhouses, flagpoles, satellite dishes of less than two (2) feet in diameter and pump covers may be placed in any yard, and no zoning permit is needed for these structures.
  2. A double garage may be shared between two (2) lots in any residential district, one-half (1/2) of which would be located on each of the two (2) lots. A written request signed by both parties is submitted with the zoning permit application and that the requirements of this section shall be met.



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3. A portable storage container may only be used as a temporary accessory structure for up to 30 days in duration, except when the container is used in association with construction on the same site, in which case the container may remain for the duration of the construction project and shall be removed upon completion. No more than two (2) portable storage containers may be located on a lot with a single-family or duplex dwelling. The gross square footage of a portable storage container on a lot with a single-family or duplex dwelling shall not exceed 150 square feet. A portable storage container is not subject to the location and setback requirements of Section 3.4.2.2; however, it must be located on the lot and outside any street right-of-way.

#### J. Prohibitions

1. No accessory structure shall be permitted that involves or requires any external features which are not primarily residential in nature or character.
2. Under no circumstances may a vehicle, tractor trailer, manufactured home, recreational vehicle, or container be used as an accessory structure, except that a portable storage container may be used as a temporary accessory structure in accordance with Section 3.5.2.2. H.3..

(ZTA-2021-04, Ordinance 2021-07, Amended February 7, 2022)

- K. Swimming Pools - Swimming pools shall meet the requirements of Appendix G of the North Carolina Residential Building Code.

#### **3.5.2.3. Accessory Temporary Health Care Structures**

- A. Temporary health care structures as defined by NCGS 160D-915 are permitted as residential accessory structures provided that the following conditions are met:
- B. The structure is primarily assembled at a location other than its site of installation.
- C. There is no more than one (1) occupant who shall be the mentally or physically impaired person.  
The structure has no more than 300 gross square feet.
- D. The structure complies with applicable provisions of the State Building Code and NCGS 143-139.1(b). A permanent foundation shall not be required or permitted.
- E. The permit for such structure shall be renewed annually upon demonstrating continued compliance with this Section.
- F. The structure shall be connected to water, sewer, and electric utilities to comply with State law.
- G. No signage is permitted.
- H. The structure shall be removed within 60 days of a mentally or physically impaired person no longer receiving assistance from the structure.

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(ZTA-2021-03 Amended May 3, 2021)

#### **3.5.2.4 Dwellings, Multifamily and Developments, Multifamily**

In addition to the building design standards in Article 4, multi-family dwellings and developments shall meet the following requirements:

- A. Multi-family residential developments shall have frontage on or access from a state-maintained major or minor thoroughfare as designated in the Yadkinville Comprehensive Transportation Plan.
- B. All streets or access ways providing ingress and egress from the development to an existing public street system shall comply with the current standards being required by the infrastructure regulations Article 4.
- C. Developments that are proposed to be developed under the North Carolina Unit Ownership Act shall meet the requirements of that Act by recording the declaration and plan with the Register of Deeds. Where land is to be conveyed in accordance with such declaration and plan, the developer shall comply with the development requirements of this Ordinance.
- D. No multi-family dwellings or series of attached dwellings, multi-family building or other such arrangements shall exceed a length of 150 feet when measured along the longest axis of the building or series of attached units. In no case shall any building be closer than 20 feet to any other building in the development. Furthermore, buildings shall not be arranged in straight rows oriented in such a way as to resemble rows of barracks.
- E. All main utility lines, meters, taps and other appurtenances, up to and including the meter for each individual unit, (but not including the service lines and other facilities extending service to each individual unit) shall be built to the same standard as required for developments. All such facilities, together with an easement of sufficient width, shall be conveyed to and/or dedicated to the Town for public use and maintenance. All utilities shall be placed underground.
- F. Each unit shall be individually metered for all utilities. Responsibility for the maintenance of common utility lines and/or facilities, which have not been conveyed to the Town and/or dedicated for public use shall be the responsibility of the project owner, or in the case of unit ownership clearly established in the declaration, protective covenants and other bylaws.
- G. Stationary sanitary containers shall be located so as not to interfere with sight distance or the free movement of vehicles on streets or service drives and so as to allow collector trucks adequate maneuvering space to empty the containers and to leave the property without excessive backing. Such containers shall be screened in accordance with Section 4.4.7.

(ZTA-2021-03 Amended May 3, 2021)

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#### 3.5.2.5 Dwellings, Two-family

Two-family dwellings shall meet the following special requirements in the RM District:

- A. The Minimum Lot Size (square feet) shall be 20,000 square feet;
- B. The Minimum Lot Width (feet) shall be 100 feet;
- C. The Front Setback (feet) shall be 40 feet;
- D. The Side Setback (feet) shall be 20 feet;
- E. The Rear Setback (feet) shall be 40 feet;
- F. The Side Setback (feet) for a corner lot shall be 40 feet; and
- G. The Maximum Height (feet) shall be 35 feet.

#### 3.5.2.6 Family Care Homes

In accordance with NC General Statute Chapters 122C, 131D and 168, these uses are deemed residential uses and are permitted in all residential districts subject to the following conditions:

- A. No more than six (6) residents other than the operator and operator's immediate family are permitted to live in a Family Care Home.
- B. A Family Care Home must be licensed with the NC Department of Health and Human Services Division of Facility Services before operating.
- C. No Family Care Home may be located within a one-half (½) mile radius of any other family care home.
- D. No exterior signage is permitted.
- E. No lockdown, violent, or dangerous residents.
- F. Only incidental and occasional medical care may be provided.

#### 3.5.2.7 Home Occupations

- A. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25% of the floor area of the dwelling unit shall be used in the conduct of the home occupation. Accessory structures equaling no more than 25% of the size of the dwelling unit may be used as part of a home occupation.
- B. Home occupations shall be limited to the following and similar uses:
  - Animal services, no outdoor kennels.
  - Artists, craftsmen.
  - Catering.
  - Childcare.
  - Financial services.

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- Personal service uses.
  - Professional offices.
- C. Home occupations shall not include any automotive services, body art establishments, outdoor storage, or any use which uses equipment or processes that creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any telecommunications receivers off the premises or which causes fluctuations in line voltage off the premises.
- D. A family day care home with five (5) or fewer pre-school aged children and/or three (3) or fewer school aged children may be operated as a home occupation, provided that any outdoor play areas shall be screened from adjacent residentially-used property by a Type 1 buffer in accordance with Section 4.4.3 or an opaque fence that meets the requirements of Section 4.4.9.
- E. Only one (1) person other than those residing in the home shall be engaged in the occupation.
- F. Sufficient off-street parking shall be provided to ensure that all vehicles will be parked off of the public right-of-way within a driveway or other on-site designated parking area.
- G. Traffic generated by a home occupation shall not exceed volumes normally expected in a residential neighborhood.
- H. Clients shall only visit the home occupation between the hours of 7:00 a.m. and 9:00 p.m.
- I. There shall be no changes in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation except one (1) on-premises non-illuminated sign not exceeding four (4) square feet.

#### **3.5.2.8 Manufactured Homes on Individual Lots**

- A. The minimum size lot on which an individual manufactured home is located shall have an area no less than that required for a single-family residential use for the district in which the manufactured home is located.
- B. The minimum lot width on which an individual manufactured home is located shall have a width no less than that required for a single-family residential use for the district in which the manufactured home is located.
- C. The setbacks for a manufactured home on an individual lot shall be that as required for a single-family for the district in which the manufactured home is located.
- D. The manufactured home shall meet or exceed the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction.

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- E. The manufactured home shall have a length not exceeding four (4) times its width.
- F. Manufactured homes on individual lots shall be multi-sectional. Single-wide manufactured homes shall not be permitted on individual lots.
- G. The pitch of the home's roof shall have a minimum vertical rise of one (1) foot for each five (5) feet of horizontal run, and the roof shall be finished with a type of shingle or other building material that is commonly used in standard residential construction.
- H. The exterior siding shall consist of wood, hardboard, aluminum, or vinyl comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction.
- I. The tongue, axles, transporting lights, and removable towing apparatus shall be removed after placement on the lot and before a Certificate of Occupancy is issued.
- J. All manufactured homes permitted under this section shall be placed on a foundation with piers and masonry curtain walls with anchorage.
- K. A permanent front porch of at least 32 square feet in area shall be constructed within 12 inches of the floor elevation and all secondary entrances and exits to the Manufactured Home shall also have concrete steps or similar approved steps.
- L. The front of the manufactured home shall be parallel to the front property line, except on corner lots.

(ZTA-2021-03 Amended May 3, 2021)

#### 3.5.2.9 Tourist Homes

- A. All tourist homes shall have obtained a Zoning Permit and shall be registered with the Town of Yadkinville. The Zoning Permit shall be renewed annually upon determining compliance with the requirements of this section.
- A. All properties shall have conspicuously posted two (2) local contact persons who will be responsible for handling any problems that arise with the property. These contact persons shall also be listed on the registry with the Town of Yadkinville.
- B. A minimum of one (1) parking space for every bedroom shall be provided.
- C. There shall be no sound amplification devices located outside. More than three (3) visits by the Yadkinville Police Department or Yadkin County Sheriff's Department for noise or disturbances within one (1) year may result in revocation of the Zoning Permit.
- D. Garbage and recycling receptacles shall be provided and emptied at a minimum of once a week. Garbage and recycling receptacles shall be stored in a screened area to the side or rear of the house except on collection day. No garbage or refuse shall be located outside of the garbage receptacle.
- E. In the RR, RM, and RH districts, tourist homes shall be located a minimum of 500 feet from any other tourist home.
- F. Tourist homes shall not be occupied at a rate of not more than two (2) persons per bedroom.

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- G. Tourist homes shall be inspected by the Fire Marshal prior to initial use and a minimum of once a year. Proof of compliance shall be provided to the Town of Yadkinville.
- H. Tourist homes shall not be rented to more than five (5) different occupants within a 30-day period. Rental records shall be provided annually to the Town of Yadkinville to ensure compliance.
- I. Tourist homes shall be subject to the same occupancy tax as applicable to any other overnight accommodations in the Town of Yadkinville.

#### **3.5.3 Civic, Government and Institutional Uses**

##### **3.5.3.1 Cemeteries**

- A. All graves, columbariums, and mausoleums shall be set back at least 20 feet from any property line.

#### **3.5.4 Office and Service Uses**

##### **3.5.4.1 Animal Services, No Outdoor Kennels**

- A. Indoor kennels shall be located not less than 50 feet from any adjacent property line.
- B. Indoor kennels shall be designed to effectively buffer noise audible to surrounding properties.
- C. Outdoor areas used as a place for animals to relieve themselves shall be enclosed by fence at least 6 feet in height, located at least 25 feet from any adjacent property line, and buffered along the exterior of the side facing the adjacent property line with a continuous row of large evergreen shrubs reaching a height of at least 3 ft. at the time of planting and 8 ft. at maturity. Said outdoor areas shall not be used as outdoor kennels.

##### **3.5.4.2 Animal Services, with Outdoor Kennels**

- A. No outdoor containment of animals shall be located less than 250 feet from any residentially zoned or used property and 50 feet from any other adjacent or front or corner lot street side property line.
- B. Kennel areas must be surrounded by an opaque fence of not less than six (6) feet in height and enclosed to prevent escape.
- C. Outdoor kennels shall be structurally designed to effectively buffer noise audible to surrounding properties. Additionally, outdoor kennels shall be buffered along the exterior of the side facing the adjacent property line with a continuous row of large evergreen shrubs reaching a height of at least 3 ft. at the time of planting and 8 ft. at maturity.

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#### **3.5.4.3 Bed and Breakfast Inns**

- A. The maximum number of guest rooms or houses shall be 10. Guest rooms shall not be equipped with kitchen or cooking facilities. There shall be no less than one (1) bathroom, consisting of a bath or shower, water closet, and lavatory for every two (2) guest rooms.
- B. Parking shall not be allowed in any front yard unless facility utilizes guest houses. There must be one (1) off-street parking space for every room to be rented plus residential requirements. Parking areas, solid waste receptacles, and outdoor storage must be screened from adjacent properties with a screening yard as set forth in Section 4.4.7.
- C. Outdoor lighting shall be designed so as to minimize or prevent light from directly hitting adjacent property or any right-of-way.
- D. No more than two (2) persons who are not residents on the property shall be employed at the facility, and the operator shall reside on the premises.
- E. Banquet and event facilities may be permitted with bed and breakfast facilities in districts where such use is not otherwise permitted with the issuance of a Minor Special Use Permit by the Board of Adjustment.

#### **3.5.4.4 Crematories**

- A. No crematory use may be established within 100 feet of any residential structure.
- B. A crematory must comply and remain in compliance with all applicable public health and environmental laws and rules and must contain the equipment and meet all of the standards established by the North Carolina Crematory Act, as amended or superseded, and any additional rules and regulations issued by the North Carolina Board of Funeral Services.

(ZTA-2021-03 Amended May 3, 2021)

#### **3.5.5 Retail and Wholesale Uses**

##### **3.5.5.1 Automotive, Boat, Recreational Vehicle, Manufactured Home, and Modular Home Sales or Rental**

- A. An office with restroom facilities in a structure built in accordance with NC Building Code and the design standards of Article 5 shall be located on the premises.
- B. The lot shall front on a major or minor thoroughfare.
- C. No outdoor sound system shall be permitted which can be heard beyond the boundaries of the property.
- D. No automobile, vehicle, boat, manufactured home, modular home shall be stored or displayed within the right-of-way of any public street.



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- E. For automotive sales, a North Carolina Department of Motor Vehicles car dealer license shall be obtained prior to occupancy and shall be prominently displayed at the place of business.

#### **3.5.5.2 Micro-breweries, Micro-wineries, Micro-distilleries, Tasting Rooms**

- A. Tasting rooms shall be operated in association with an existing vineyard or winery, micro-winery, microbrewery, or micro-distillery and located on the same property, or on adjoining properties in same ownership or partnership.
- B. Such facilities must be located in such a manner that visual impact to adjoining properties used or zoned for residential or agricultural purposes is minimal.
- C. Outdoor lighting shall be so designed so as to minimize light from directly hitting adjacent property or any public right-of-way.
- D. In zoning districts where such uses are otherwise not permitted, associated small-scale catering facilities (i.e. gift shop, cheese making, restaurant), which may enhance the overall property in relation to tourism, may be permitted through the issuance of a Major Special Use Permit by the Board of Commissioners.
- E. Festivals and events to be held in conjunction with such facilities shall comply with the conditions and requirements for outdoor recreation as provided in this Ordinance, so that an appropriate festival plan shall be included in the required site plan for the facility. Food trucks and vendors may be located on-site during events. No vendor vehicles may be parked in a front yard outside of operating hours.
- F. Production shall not exceed the thresholds set forth in Appendix A Definitions, otherwise such facilities shall be classified as beverage manufacturing and permitted accordingly.

#### **3.5.5.3 Retail Sales (outside fully enclosed building)**

- A. An office with restroom facilities in a structure built in accordance with NC Building Code and the design standards of Article 5 shall be located on the premises.
- B. Items for sale shall not be displayed within any right-of-way.
- C. No outdoor sound system shall be permitted which can be heard beyond the boundaries of the property.

#### **3.5.6 Recreation and Entertainment Uses**

##### **3.5.6.1 Adult Businesses**

- A. No adult use shall be located within 1,000 feet of another adult use, which shall be measured from the exterior walls of the building(s) containing such regulated use. No adult use shall be located within 1,500 feet of any area zoned for residential use or from the property line of residential unit(s), religious institutions, nursery schools, day care centers (child/adult), public or private schools, or public parks in all zoning districts, which will be measured from the property line(s) containing such regulated use.



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- B. A Type 2 buffer, in accordance with Section 4.4.3 is required around the entire perimeter of any adult use, regardless of adjacent zoning district or existing land uses.
- C. Signage shall be limited to one freestanding sign no greater than eight (8) feet in height and no larger than 16 square feet in area; and one (1) sign affixed to the principal structure, no larger than 16 square feet in area. Sign content shall not depict or suggest subject matter that is lewd, offensive, sexual or anatomical in nature.
- D. If applicable, all viewing booths shall be open and be visible to manager(s) of the establishment, and there shall be a minimum separation of six (6) feet between patrons and performers. Masseuses and servers of food and beverage shall at all times wear a shirt and pants. No nude or semi-nude service or entertainment of any kind shall be allowed outside the principal structure.
- E. In addition to the site plan requirements of this Ordinance, the additional following information shall be provided:
  - 1. Location of existing structures on property within (one thousand) (1,000) feet of exterior wall(s) of the regulated use.
  - 2. Zoning of properties within 750 feet of each property line of the regulated use.
  - 3. Other information that may be necessary to judge the probable effect of the proposed activity on neighboring properties, and to carry out the intent of this Section.

#### 3.5.6.2 Campgrounds

- A. Properties used for campgrounds shall be a minimum of two (2) acres. The density shall not exceed 10 camping spaces per acre of gross area.
- B. Along any public street or public right-of-way, a setback of at least 50 feet from the edge of the public right-of-way shall be maintained and a Type 2 buffer shall be in place, in accordance with Section 4.4.3.
- C. A distance of at least 10 feet shall be maintained between any part of the trailers, structures, or tent pads.
- D. A recreational area of not less than 10% of the gross site area or 2,500 square feet, whichever is greater, shall be maintained in a central and convenient location to all camping spaces.
- E. Adequate off-street parking and maneuvering space shall be provided on site. The use of any public street, sidewalk or right-of-way or any other private grounds for the parking or maneuvering of vehicles is prohibited.
- F. All internal roadways shall be stabilized and of adequate width to accommodate the volume and type of anticipated traffic, and in any event, shall comply with the following minimum requirements:
  - 1. Internal one-way roadway and roadways on which parking is prohibited shall not extend for more than 500 feet in total length; service less than 25 trailer spaces; and be at least 11 feet in width.

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2. Internal one-way roadway and roadways on which parking is permitted on one (1) side and two-way roadways, which do not allow parking, shall be at least 24 feet in width.
  3. Internal two-way roadways, which permit parking on one (1) side only, shall be at least 27 feet in width.
  4. Internal two-way roadways, which permit parking on both sides, shall be at least 34 feet in width.
- G. Each camping space for travel trailers shall be connected to an approved water supply system, which provides an accessible, adequate, safe and potable supply of water.
- H. An adequate and safe sewer system shall be provided in all camping areas. Such system shall either be a municipal system, or a system approved by the appropriate County or State agency vested with the authority to approve sewage disposal systems.
- I. A screening device at least six (6) feet high and 90% opaque shall be provided where the use adjoins residentially zoned property.
- J. A central service building containing all necessary toilets, bathhouses and other plumbing fixtures specified in the most current edition of the North Carolina State Plumbing Code, as amended, shall be provided in all camping areas. Service building shall be conveniently located within a radius of 300 feet to camping spaces, which it serves.
- K. The storage, collection and disposal of trash and refuse in the travel trailer-parking area shall comply with all applicable regulations.
- L. Neither any person nor any mobile unit shall occupy a camping space or the travel trailer parking area for a period in excess of 30 days. A register of all occupants, the space occupied, and the time of arrival and departure shall be maintained.

#### **3.5.6.3 Motorsports Competition and Testing Facilities**

- A. Minimum lot size for all such developments shall be five (5) acres.
- B. No such facility or improvements shall be located within 100 feet of any property line.
- C. Buildings in which competitions or testing are taking place shall be adequately sound insulated so that noise outside of buildings shall not exceed the ambient noise levels at adjacent property lines.
- D. No outdoor equipment, machinery, or mechanical device of any kind may be operated within 2,500 feet of any residentially zoned or residentially used property line.

#### **3.5.6.4 Recreation Facilities, Private Outdoor**

- A. Minimum lot size for all such developments shall be one (1) acre.
- B. No such facility or improvements shall be located within 50 feet of any property line.

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- C. No amusement equipment, machinery, or mechanical device of any kind may be operated within 250 feet of any residentially zoned or used property.
- D. No outdoor sound system shall be permitted which can be heard beyond the boundaries of the property.
- E. Outdoor lighting shall be designed so as to minimize or prevent light from directly hitting adjacent property or any right-of-way and shall comply with the provisions of Section 4.6.5.

#### 3.5.6.5 Theaters, Outdoor

- A. No part of any theater screen, projection booth, stage, or other building shall be located closer than 500 feet to any residential district or closer than 50 feet to any property line or public right-of-way; and no parking space shall be located closer than 100 feet to any residential district.
- B. For drive-in theaters, the theater screen shall not face a freeway or major thoroughfare and off-street stacking space shall be provided for patrons awaiting admission in an amount of not less than 30% of the vehicular capacity of the theater.
- C. No outdoor sound system shall be permitted which can be heard beyond the boundaries of the property after 11:00 pm or before 7:00am.
- D. Outdoor lighting shall be designed so as to minimize or prevent light from directly hitting adjacent property or any right-of-way and shall comply with the provisions of Section 4.6.5.

#### 3.5.7 Industrial, Transportation, and Utility Uses

##### 3.5.7.1 Airports and Heliports

- A. A configuration diagram depicting the layout of runways, taxiways, approach zones and overrun areas shall be submitted with the application. These diagrams shall also be depicted on aerial photographs that also show the area within five (5) miles of the proposed site.
- B. A plan indicating isotonic contours that show the effects of aircraft operations upon land within one (1) mile of the boundary of the proposed site shall be submitted with the application.
- C. The number and type of aircraft proposed to be stored including the storage area for aircraft, fuel and motor vehicles and service areas for the aircraft shall be documented in the application and on the submitted site plan.
- D. A statement as to how on-site fire and rescue services will be provided, and a letter from the appropriate agency stating services are available and adequate to protect the proposed facility, shall be submitted with the application.
- E. A list of land uses within the final approach zones of the airport/heliport shall be submitted with the application.

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- F. A certification that all Federal Aviation Administration (FAA) and State standards and requirements have been or will be met shall be submitted with the Zoning Permit application.
- G. A minimum of 50 acres is required for Basic Utility Stage 1 airports with a 2,000-foot runway. Additional area is required for larger airports.
- H. Airport and heliport size and layout shall conform to FAA Advisory Circular 150/5300-4B.
- I. There shall be a minimum 300-foot distance between the airport/heliport facility and the nearest residence.
- J. Security fencing shall be provided that is sufficient to control access to runways and taxiways. The fencing shall be a minimum of six (6) feet in height.
- K. The land required for the provision of approach zones and overrun areas shall be owned or controlled by the applicant.
- L. Adequate land area shall be provided for all of the proposed uses, buildings and storage areas.
- M. Screening of buildings, storage and maintenance areas shall be provided from adjacent residentially zoned or used property.
- N. A finding shall be made that compatible land uses are located in the final approach areas of the airport.

#### **3.5.7.2 Asphalt, Concrete, and Paving Materials Manufacturing; Junkyards and Recycling Operations; Demolition Landfills, Manufacturing (outside a fully enclosed building); Mining and Quarrying; Sawmills**

- A. Any manufacturing that takes place outside of fully enclosed building, demolition landfill, mining, quarrying, recycling operation or sawmill shall be set back a minimum of 250 feet from any adjacent street right-of-way, non-industrial zoning district, or residentially used property and shall not emit any smoke, dust, odor, noise, or vibration perceptible to regular senses at the property line or pose a hazard off-site. However, the Board of Adjustment shall be authorized to increase this setback if the situation warrants, based on the specific substances that are to be manufactured or stored and in what specific quantities.
- B. All buildings and storage yards shall be a minimum of 100 feet from any street right-of-way or residentially zoned or used property. However, the Board of Adjustment shall be authorized to increase this setback if the situation warrants, based on the specific substances that are to be manufactured or stored and in what specific quantities.
- C. Structures with hazardous materials must meet all requirements for hazardous occupancy under the N.C. Building Code.
- D. Outdoor lighting shall be designed to minimize or prevent light from directly hitting adjacent property or any public right-of-way.

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- E. The use shall be totally enclosed by a security fence or wall at least eight (8) feet high.
- F. Access roads shall be located no closer than 15 feet to any property line other than a railroad right-of-way. Access roads leading to any part of the operation shall be constructed with a gravel or paved surface and maintained in a dust-free manner. All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.
- G. The County Fire Marshal and local fire department shall be kept notified of the types of materials used, manufactured, or stored on site.
- H. Within one (1) year after the cessation of production, all equipment and stockpiles incidental to such operation shall be dismantled and removed by and at the expense of the owner.
- I. The site shall be drained to prevent the accumulation of standing water, and channelization of the drainage shall be designed and controlled so as not to cause erosion of silting neighborhood properties or public drainage ways, nor to appreciably increase the turbidity of any natural water course, or to occlude any existing drainage course.
- J. Truck routes to and from the site shall be followed to minimize impacts on residential areas, schools, or other uses negatively affected by truck traffic.

#### **3.5.7.3 Power Generation, Solar (individual and farm)**

- A. A maximum of 50% of a parcel may be used for a solar farm.
- B. Systems, equipment and structures that are part of a solar farm shall not exceed 15 feet in height when ground mounted.

Except in the LI and HI zoning districts, roof mounted systems shall not exceed the maximum height for the applicable zoning district and shall not project more than one (1) foot above the surface of the roof on pitched roofs and shall not project above the parapet wall on flat roofs.

- C. Ground-mounted solar energy systems as part of a solar farm shall meet the minimum zoning setback for the zoning district in which it is located.
- D. To the extent practical, all new distribution lines to any building, structure or utility connection shall be located below ground.
- E. It is the responsibility of the system owner or property owner to remove all obsolete or unused systems within 12 months of cessation of operations. Solar farm Major Special Use Permit applications shall be accompanied by a decommissioning plan.

#### **3.5.7.4 Power Generation, Wind (individual)**

- A. An individual use wind power generation facility shall be a single system designed to supplement other electricity sources as an accessory use to existing buildings or facilities, wherein the power generated is used primarily for on-site consumption. A small wind energy conversion system consists of a single wind turbine, a tower, and

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associated control or conversion electronics, which has a total rated capacity of 10 kW or less. There shall be a maximum of three turbines for individual uses.

- B. Wind turbines for individual uses shall be setback two (2) times the height of the turbine from occupied buildings, property lines and public roads. Maximum height of an individual use wind turbine is 50 feet.
- C. The wind turbine owner shall have six (6) months to complete decommissioning of the turbine if no electricity is generated for a continuous period of 12 months. Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, roads, and any other associated facilities.
- D. The visual appearance of wind turbines shall at a minimum:
  - Be a non-obtrusive color such as white, off-white, gray, black, bronze, or dark green;
  - Not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety; and,
  - Not display advertising (including flags, streamers or decorative items), except for identification of the turbine manufacturer, facility owner and operator.

#### 3.5.7.5 Telecommunications Towers

- A. According to FCC regulations, the following work is not subject to the issuance or modification of a Major Special Use Permit and may be approved administratively:
  - Co-location or upgrade of equipment on existing towers, which do not result in an increase of footprint or height.
  - A modification request adding not more than 10% to the height, 20 feet in width, or 2,500 square feet to the existing ground equipment compound to the originally approved plan.
- B. Applicant shall demonstrate clearly the public need for the proposed new tower, and that such need cannot be met by use of existing or less intrusive facilities. All new towers shall be designed to support at least one additional user.
- C. Height limitation shall be 300 feet, and be contingent upon approval by the Federal Aviation Administration (FAA).
- D. Setback requirements shall be height of the tower plus 25% from any property line or occupied structure.
- E. Ground equipment, related structures, and containment areas shall be enclosed by a minimum eight (8) foot tall security fence and screened with a Type 1 Buffer, in accordance with Section 4.4.3.
- F. Lighting may be required to meet FAA or FCC regulations, but lighting may not glare on adjacent properties. There may be flashing lights only as required by FAA or FCC regulations.

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- G. The tower and grounds must be maintained and will be the responsibility of the property owner. A decommissioning plan shall be provided to the Board of Commissioners with the Major Special Use Permit application. Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned and shall be removed. If such antenna or tower is not removed within 60 days of receipt of written notice from the Town, the Town may remove such tower and/or antenna and place a lien upon the property for the cost of removal.
- H. Monopoles shall be the preferred construction over the lattice type. All towers shall either maintain a galvanized steel finish, or, subject to any other applicable standards of the FAA, FCC or other federal or state regulatory authority, be painted a neutral color so as to minimize any adverse visual impact. No commercial or advertising signs shall be permitted.

#### 3.5.7.6 Wineries

- A. Facilities must be located in such a manner that visual impact to adjoining properties used or zoned for residential or agricultural purposes is minimal. All structures, buildings, storage areas, etc. (except fences or walls) associated with the winery must be twice the setback for the applicable zoning district from all property lines or street rights-of-way.
- B. A facility serving as an established cooperative winery or as an independent commercial winery may be permitted without the presence of an on-site vineyard, if the facility will serve the vineyards of the surrounding areas.
- C. Outdoor lighting shall be so designed so as to minimize light from directly hitting adjacent property or any public right-of-way.
- D. All parking and storage areas, as well as the tasting room itself, shall have a Type 1 buffer, in accordance with Section 4.4.3, adjacent to properties used or zoned for residential purposes. If existing topography and natural vegetation does not provide an existing visual barrier, selective screening may be required.
- E. In zoning districts where such uses are otherwise not permitted, associated small-scale catering facilities (i.e., gift shop, cheese making, restaurant), which may enhance the overall property in relation to tourism, may be permitted through the issuance of a Minor Special\_Use Permit by the Board of Adjustment.
- F. Festivals and events to be held in conjunction with such facilities shall comply with the conditions and requirements for outdoor recreation as provided in this Ordinance, so that an appropriate festival plan shall be included in the required site plan for the facility. Food trucks and vendors may be located on-site during events. No vendor vehicles may be parked in a front yard outside of operating hours.



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#### 3.5.8 Other Uses

##### 3.5.8.1 Nonresidential Accessory Structures

- A. Permitted Accessory Structures - Permitted accessory structures include those included in this section and those that are determined to meet the following criteria:
  - 1. Are clearly incidental to an allowed principal use or structure;
  - 2. Are subordinate to and serving an allowed principal use or structure;
  - 3. Are subordinate in area, extent and/or purpose to the principal use or structure;
  - 4. Contribute to the comfort, convenience or needs of occupants, businesses or industry associated with the principal use or structure.
- B. Exemptions - Non-residential accessory structures within the LI and HI zoning districts are exempt from the requirements of this section.
- C. Location on Same Lot as a Principal Use - There shall be a principal structure on any lot for which there is an accessory structure. No accessory structure shall be approved, established, or constructed before the principal structure is approved in accordance with the Ordinance.
- D. Location on Lot - No accessory structure shall be erected in any front yard, as defined by this Ordinance, Accessory structures may not be located in an easement unless the easement or easement holder expressly states the allowance in writing.
- E. Setbacks and Spacing from other Structures - Nonresidential Accessory structures shall meet the applicable zoning district setback standards, except as provided in this section and in Section 4.2.3 Exceptions to Dimensional Standards. Accessory structures on corner lots shall meet the principal structure front setback on the side street for the district in which it is located. For through or reverse frontage lots, all accessory structures shall be setback at least 10 feet from the rear lot line abutting the street. Accessory structures shall be at least ten (10) feet from any other buildings on the same lot.
- F. Maximum Height - The maximum height for accessory structures shall be the height of the principal structure. Gas station canopies may exceed the height of the principal structure to the maximum height necessary to achieve vehicle clearance for the tallest vehicle served.
- G. Prohibitions/Exceptions
  - 1. Vehicles, trailers, or containers shall not be used as accessory structures, except in the LI and HI zoning districts, and except for portable storage containers set forth in Section 3.4.8.1.B.2 below. This type of storage may only be used in the LI and HI zoning districts if located in the rear yard and screened from view from adjacent properties and any public right-of-way.



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(ZTA-2021-04, Ordinance 2021-07, Amended February 7, 2022)

2. In zoning districts other than LI and HI, a portable storage container may only be used as a temporary accessory structure for up to 30 days in duration, except when the container is used in association with construction on the same site, in which case the container may remain for the duration of the construction project and shall be removed upon completion. No more than two (2) portable storage containers may be located on a lot. A portable storage container is not subject to the location and setback requirements of Section 3.4.2.2; however, it must be located on the lot and outside any street right-of-way.

H. Drive-up Accessory Structures – Drive-up accessory structures, such as automated teller machines, ice vending, coffee stands, and similar accessory structures that provide drive-up or walk-up service and which are located within a surface parking area shall meet the following standards:

1. The accessory structure shall not be placed in any required parking spaces.
2. The location shall be designed so that any access or stacking lanes do not extend into a primary drive aisle.
3. The surface parking area shall be configured and restriped to maintain access and circulation to the principal uses(s).

H. Fencing and Walls – See Section 4.4.9 Fencing and Walls for the applicable standards.

I. Exterior Lighting – See Section 4.6.5 Lighting Standards for the applicable standards.

#### **3.5.8.2 Business Kiosks, Freestanding (ATM, ice vending, etc.)**

- A. Stand-alone business kiosks are permitted as accessory uses within the parking area for any shopping center provided that the following conditions are met. For purposes of these conditions, a business kiosk is defined as a freestanding structure of no greater than 200 square feet located within the parking lots of established shopping centers.
- B. A business kiosk may only be occupied for a retail use permitted in the NB or HB zoning districts and may only take its access from a major or minor thoroughfare.
- C. The erection or installation of a kiosk on the property of a shopping center shall not eliminate or reduce the number of parking spaces required for the businesses within the particular shopping center.
- D. A business kiosk shall maintain the same setbacks as required for all other non-residential accessory structures located within the particular zoning district.

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- E. Freestanding signs identifying the kiosk and/or its services shall not be allowed, however a panel on an existing multi-tenant sign is permitted. Wall signage only shall be permitted provided the wall signs comply with Article 6 of this Ordinance.
- F. Space for stacking at least four (4) vehicles for each service window shall be provided; however, such space shall not eliminate or reduce the minimum number of parking spaces required for the shopping center nor require the stacking of vehicles in such a manner that travel within the driving lanes and internal passageways are impeded.
- G. All utility connections shall be underground.
- H. Any landscaping or landscaping islands or areas eliminated or reduced in order to accommodate a business kiosk shall be replaced elsewhere within the shopping center parking lot at a location approved by the Administrator.
- I. The location of the kiosk and travel lanes for vehicles to and from the kiosk shall not obstruct or interfere with existing traffic flow patterns within the shopping center. Any alteration of existing traffic flow patterns shall require the approval of the Administrator.
- J. Kiosks shall meet the design standards for accessory structures for the district in which they are located in accordance with Section 5.4.13.

#### **3.5.8.3 Drive-through, Drive-in Uses**

- A. Drive-through lanes shall not be located on the front façade or facing the primary street.
- B. Vehicle storage for drive-throughs shall be located outside of and physically separated from the right-of-way of any street. This area shall not interfere with the efficient internal circulation of traffic on the site, adjacent property, or adjacent street right-of-way. There shall be adequate vehicular stacking area so that vehicles waiting for the drive-through do not back up into the street.

#### **3.5.8.4 Outdoor Storage (associated with a permitted use, excluding outdoor sales display)**

- A. All outdoor storage shall be located in the rear yard only.
- B. No outdoor storage shall be located within 50 feet of the street right-of-way, adjacent residentially-zoned or used property, or adjacent CB zoning district.
- C. All outdoor storage shall be screened from view of the street and adjacent properties in accordance with Section 4.4.7. No items shall project above the screening device within 100 feet of the property line or shall exceed at total height of 20 feet.

#### **3.5.8.5 Temporary Uses**

Temporary structures and uses, when in compliance with all applicable provisions of this Ordinance and all other ordinances of the Town of Yadkinville, shall be permitted. No portion of the temporary use may be located within the public street right-of-way. Temporary uses shall present proof of property owner approval prior to the issuance of a permit. The site shall have adequate parking for the temporary use in addition to parking

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for any permanent use located on the property. The following temporary structures and uses shall be permitted subject to the issuance of a Zoning Permit for a temporary use. Temporary use permits shall expire six (6) months from the date of issuance, or the specific term listed in this section, whichever is less.

(ZTA-2021-03 Amended May 3, 2021)

#### **3.5.8.5.1 Construction Trailers**

- A. Construction trailers shall be permitted in conjunction with construction projects. Such construction trailers may be located at a building site where there is a valid building permit for the construction project, or, in the case of a residential development, a valid building permit for at least one (1) of the residential units being constructed.
- B. All construction trailers shall be located at least 10 feet off any street right-of-way and not be placed in any required rear or side yard setback.
- C. In addition to construction trailers, security guard houses may be installed. Use of such structures may include overnight stay provided adequate sanitary facilities are provided and the same conditions for construction trailers are met.

#### **3.5.8.5.2 Residential sales offices.**

- A. Structures, whether temporary or permanent, located in a development containing 20 or more lots and used as sales offices for the development are permitted.
- B. Any temporary structure used as a sales office shall be located on a lot which is in compliance with the regulations of this Ordinance and shall meet all yard requirements for the applicable zoning district.
- C. At least four (4) off-street parking spaces shall be provided on the lot to accommodate persons using the sales office.
- D. If a permanent residential structure is used as the sales office, future use of said structure shall be for residential purposes.
- E. A trailer may be used as a temporary sales office, provided that the following conditions are met:
  - 1. The trailer shall be provided with underpinning, from the bottom of the walls to the ground, made of masonry, vinyl, pre-painted aluminum material, or other similar material.
  - 2. Landscaping shall be provided around the base of the trailer.

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3. At the completion of the sales in a tract, or two (2) years from the date the temporary sales office began operation, whichever is sooner, said sales office shall cease operation unless the Administrator determines that substantial progress is being made in the selling and/or marketing of the lots and/or homes in the development. In such case, one (1) or more extensions (each not to exceed one (1) year in duration) may be so authorized by the Administrator. If a temporary structure is used as the sales office, it shall be removed after its use as a sales office is terminated. Immediately after the structure is removed, the lot shall be returned to a natural state. Any paved or graveled driveway and/or parking area associated with the sales office shall also be removed. All bare soil areas on the lot shall be returned to a natural vegetative state (reseeded or sodded) immediately after removal of the sales office and driveway/parking area.

#### **3.5.8.5.3 School manufactured units**

- A. Public or private elementary or secondary schools may install temporary manufactured classroom units with the issuance of a zoning permit for two (2)-year renewable periods up to a maximum of eight (8) years.
- B. If manufactured classroom units have not been used for classroom or auxiliary instruction within a 12-month period, then they shall be removed.

#### **3.5.8.5.4 TEMPORARY RETAIL SALES (INCLUDING TEMPORARY PRODUCE STANDS, CHRISTMAS TREES SALES, PUMPKIN SALES, FOOD VENDORS (INCLUDING FOOD TRUCKS), AND SIMILAR USES, AND SPECIAL EVENTS**

##### **A. General Regulations**

1. Permit Required - In addition to these standards and the issuance of a Temporary Use Permit a minimum of ten (10) days before the temporary use event, registration is required in accordance with the Peddling and Solicitation standards in Title 6, Article B of the Town of Yadkinville Code of Ordinances.
2. Application - Application for a Temporary Use Permit shall be filed with the Planning Director or his/her designee on a form provided by the Town. The application shall include a site plan showing all information necessary to demonstrate that the proposed temporary retail sales use will comply with all applicable Town codes, ordinances and regulations. The application shall furnish the Town and other relevant agencies with any additional information that may be considered necessary to adequately review and make a decision, including estimated attendance for the event, peak times an estimated number of employees, vendors or staff on-site at peak times, noise levels, lighting, primary access routes to the property and available parking for the crowds anticipated, and other conditions that may impact surrounding properties or the town in general.

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3. Signs and Banners - Signs and banners for temporary retail sales and special events are required subject to Section 6.3.
4. Separate permits or approvals may be required by County or State agencies for any food or drink provided at such temporary events. Contact the applicable agencies well in advance of the event to ensure adequate time for processing any applications.
5. Truck trailers and flat beds shall not be parked on site as part of the temporary use except for short-term delivery services.
6. Application Review - Upon receipt of a complete application, the Planning Director or his/her designee will route copies to other Town departments for review and comments. Such comments will be returned within a specified timeframe.
7. Application Approval - After review of all required information and comments, the Planning Director or his/her designee shall approve, conditionally approve, or deny the application. Approval shall be given when in the judgment of the Director such approval is in compliance with all applicable Town ordinances and regulations.
8. Revocation - Temporary Use Permits granted in accordance with the provisions of this Ordinance may be revoked if any of the conditions or terms of the permit are violated or if any law or ordinance is violated in connection therewith.
9. Exceptions – The following temporary uses and activities shall be considered exempt from the requirements for a Temporary Use Permit where such uses are conducted entirely on private property. Uses listed as exempt are required to be in compliance with all applicable Town code, ordinances and regulations at all time, including those pertaining to noise, signs and off-premise activities.
  - Weddings, funerals and similar religious ceremonies conducted at churches, cemeteries, private facilities or residences.
  - Activities and events, including craft and art shows meetings, exhibitions and similar community events, conducted by and for residents of planned developments within their community centers. Events that include any temporary structure outdoor musical or performance activities or are sponsored or managed by organizations or businesses from outside the community are required to obtain a Temporary Use Permit.
  - One-time annual events at approved locations conducted by individuals, schools, churches, non-profit groups, and other non-commercial groups entirely for benefit fundraising.
  - Temporary sales events conducted by and for churches and schools entirely at the church or school location. Benefit sales events that include

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outdoor activities with live or amplified music or any temporary structures, or other types of unrelated activities are required to obtain a Temporary Use Permit.

- B. Temporary retail sales on private property, except for Christmas tree and pumpkin sales lots, shall be permitted in the CB, NB and HB zoning districts subject to the following additional restrictions:
1. Such temporary retail sales events are permitted only on developed sites with a permanent permitted nonresidential use, and only on improved areas of the site.
  2. All activities, including product display, parking and loading operations, must occur entirely on private property and may not occur in the public right-of-way.
  3. Vendors shall not obstruct access doors to buildings, drive aisles required for access, or parking spaces required for other businesses on the property. A site layout plan must be submitted with the application, indicating access doors to buildings, drive aisles required for access, available parking onsite, parking reserved for other businesses on the property, and parking available on adjacent property subject to written permission from those adjacent property owners.
  4. Temporary retail sales events are not intended to continue for such a length of time that it in effect constitutes a permanent use and shall not be more than three (3) consecutive days within any 7-day period, except for food truck vendors.
  5. This use shall not include flea markets or yard sales, which are regulated separately.
  6. Upon cessation, expiration, or revocation of the permit, the premises will promptly be cleaned up and restored to substantially the same condition as existed prior to commencement of such use as permitted.
- C. Christmas Tree and Pumpkin Sales Lots on private property shall be permitted in the CB, NB and HB zoning districts, and in other zoning districts on properties with an established church or school, subject to the following restrictions:
1. Christmas tree sales lots shall be allowed from the period between Thanksgiving and New Year's Day. Pumpkin sales lots shall be allowed only during the month of September, October and November.
  2. All activities, including product display, parking and loading operations, must occur entirely on private property and may not occur in the public right-of-way.
  3. A site map must be submitted with the application for a seasonal Christmas tree sales lot showing the layout for tree display areas, pedestrian circulation aisles, sales, transaction area, temporary structures, temporary fencing and customer

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parking area with adequate parking capacity provided in a safe, convenient location.

4. A site map must be submitted with the application for a seasonal pumpkin sales lot showing the product display areas, sales transaction area, temporary structures, temporary fencing and customer parking area with adequate capacity provided in a safe, convenient location.
  5. Provide detailed information regarding the location, size and type of any temporary trailers proposed for the site.
- D. Special Events - A private or public event held on private property with an anticipated attendance of 200 or more and which includes any of the following must complete a pre-application conference with the Planning Director to determine if the event will require a Temporary Special Event Permit for Private Property:
- Activities involving entertainment, amplified sound, food, beverages, merchandise sales, festivals, carnivals, circuses, sporting events, trade shows, craft shows, car shows, public dances, concerts, or performances.
  - The increase or disruption of the normal flow of traffic on any street or highway caused by the event.
  - The use of nearby Town facilities, including Town-owned parking lots and Town-owned restrooms.
  - The use of Town services that would not be necessary in the absence of such an event.
  - Mobile food trucks and other food vendors as part of the event.
1. Duration – Such events be held no more than four (4) times during a calendar year on a property and shall not be more than three (3) consecutive days within any 30-day period, with a maximum of 12 days per calendar year.
  2. Noise Regulations – Music and/or noise must be kept as a reasonable volume. All music, noise, or other sounds during the event must not begin before 8:00 a.m. or continue after 10:00 p.m. on any day of the week. The Town reserves the right to shut down the source of the disturbance and/or the event, and if necessary, remove the power sources to the event if regulations are not followed.
  3. Parking Plan Required - Event organizers must include a detailed parking plan on the Temporary Special Event Application that will accommodate the number of guests expected. These areas should be indicated on the site map. All parking plans should not impact parking for retail and restaurant establishments. For larger events, volunteers may be required to direct traffic to the designated parking areas and/or shuttle service must be provided.

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4. Upon cessation, expiration, or revocation of the permit, the premises will promptly be cleaned up and restored to substantially the same condition as existed prior to commencement of such use as permitted.

#### **3.5.8.5.5 Promotional Activities for Businesses**

- A. Permanent businesses established on a site may hold temporary outdoor promotional activities for the business for up to 7 days up to six (6) times per year.
- B. Promotional activities or sales taking place on a sidewalk shall leave a minimum sidewalk clearance of four (4) feet. Any promotional activities taking place on a public sidewalk shall also obtain an encroachment permit.

#### **3.5.8.5.6 Yard Sales**

- A. A yard sale may be conducted without a Temporary Use Permit by civic or religious organization, an individual occupant of a residence on-site, or in cooperation with neighbors of a residential community for the purpose of selling surplus household items for profit or for charitable purposes.
- B. Yard sales shall not be conducted at the same location or by the same organizer(s) more than two (2) days, up to six (6) times in one (1) calendar year for a total of 12 days per calendar year. Otherwise, the sale is considered a commercial operation.



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#### ARTICLE 4. DEVELOPMENT STANDARDS

##### 4.1 General Development Standards

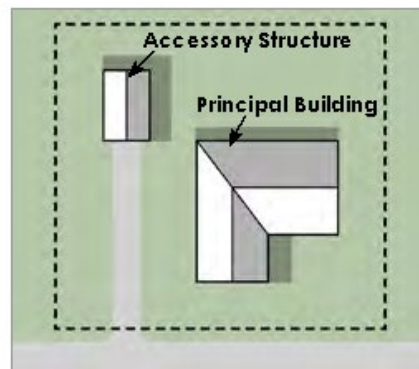
###### 4.1.1 Suitability of Land

- A. Land which, on the basis of engineering or surveys, has been determined to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed shall not be developed for that purpose, until such measures are taken to correct said conditions and to eliminate said dangers.
- B. Areas that have been used for disposal of solid waste shall not be developed unless tests by the Health Department, a structural engineer, and a soils expert determine that the land is suitable for the purpose proposed.
- C. All development proposals shall be consistent with the need to minimize flood damage in accordance with regulations of the Flood Damage Prevention regulations in Section 4.3.3.

###### 4.1.2 Lot Use

- A. No building or land shall hereafter be used, and no building or part thereof shall be erected, moved or altered except in conformity with the regulations herein specified for the district in which it is located, except as hereinafter provided in this Ordinance.
- B. Only one (1) principal building and its customary accessory structure(s) may hereafter be erected on any single-family or two-family residential lot.

**Figure 4.1 Principal and Accessory Structures**



###### 4.1.3 Lot Access

- A. No building, structure or use of land, for other than agricultural purposes, shall be established on a lot nor shall any lot be created that does not abut upon a public street or private street built to Town or State standards to which it has legal access.
- B. The minimum frontage upon a public or private right-of-way shall be 25 feet for each lot of record. This access requirement shall not apply to lawfully existing lots of record with a minimum of 25 feet of frontage on a dedicated access easement.

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- C. The Town of Yadkinville discourages and restricts the creation of flag lots. A flag lot may be permitted only if necessary, to allow a property owner reasonable use and benefit of a parcel of land or to alleviate a situation that would otherwise cause extreme hardship for the owner. The following shall apply to any new flag lot:
1. Flag lots may be allowed only in minor subdivisions, and no more than one (1) flag lot may be allowed per subdivision;
  2. No flag lot shall be located closer than 500 feet from another flag lot, existing or proposed;
  3. No flag lot shall be allowed if it increases the number of access points onto a major thoroughfare;
  4. No flag lot shall be allowed for the sole purpose of increasing the number of salable lots in a subdivision.
  5. Lots in existing major subdivisions shall not be re-subdivided to create flag lots.
  6. In any case where a flag lot is allowed under provisions (1) through (5) above, the following shall apply:
    - The access portion of the flag lot shall not be included in computation of the lot size for zoning compliance.
    - The frontage of the flag lot shall have a minimum width of 25 feet and the front setback shall be measured from where the minimum lot width is first met.
    - The length of the access portion of the flag lot shall not be more than 300 feet.

#### 4.1.4 Lot of Record

- A. No yard or lot existing at the time of passage of this Ordinance shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall be at least the minimum requirements established by this Ordinance.
- B. Where the owner of a lawfully existing lot of official record in any residential district or the owner's successor in title thereto does not own sufficient contiguous land to enable the owner to conform to the minimum lot size requirements of this Ordinance, such lot may be used as a residential building site, where permitted, provided that the other requirements of the district are complied with or a variance is obtained from the Board of Adjustment. Such lot must have access in accordance with Section 4.1.3(B).
- C. Notwithstanding the foregoing, whenever two (2) or more adjoining vacant lots of record are in a single ownership at any time after the adoption of this Ordinance and such lots individually have less area or width than the minimum requirements of the district in which such lots are located, such lots shall be combined or recombined to meet the minimum lot standards prior to the development of any such lot.

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#### 4.1.5 Flexibility in Administration

- A. In the event that the unusual topography, location of existing buildings, or location or size of the parcel to be developed would make strict adherence to the requirements of this Article serve no meaningful purpose or would make it physically impossible to install and maintain the required improvements, the Administrator may alter the requirements of this Section up to 10% less than the minimum requirement or 10% more than the maximum requirement, provided the spirit and intent of the Section are maintained. This flexibility shall not apply to minimum building setbacks as set forth in Section 4.2.2. Such an alteration may occur only at the request of the developer, who shall submit a plan to the Administrator showing existing site features or alternative improvements that would achieve the intent of the requirements of this Article. The vacancy or non-use of an adjoining parcel shall not constitute grounds for providing relief to the requirements contained in this Article. Neither shall the desire of an owner to make a more intensive use or greater economic use of the property be grounds for reducing the requirements.
- B. Any deviation from minimum setbacks shall require the issuance of a Variance by the Board of Adjustment as set forth in Section 2.2.6. Any deviation from any other requirement of this Article by greater than 10% shall require review and approval by the Planning Board as an Alternative Design subject to the procedures set forth in Section 2.2.9.

## PART II. - CODE OF GENERAL ORDINANCES

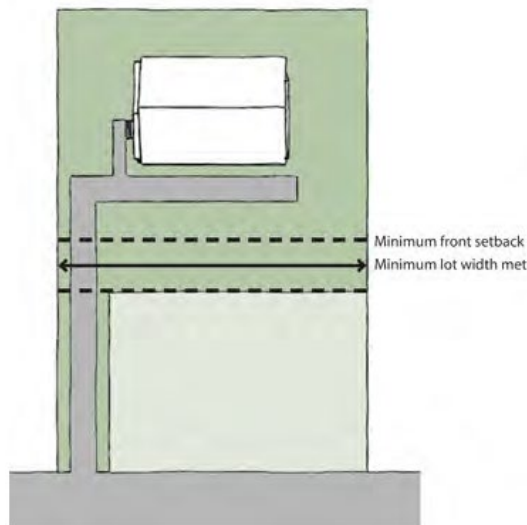
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#### 4.2 DENSITY AND DIMENSIONAL STANDARDS

##### 4.2.1 General Provisions

- A. The lot sizes required for the various districts in this Ordinance were established upon the assumption that adequate water supply and sewage disposal systems are available to each and every lot. The lack of adequate systems for one (1) or both facilities may require larger lot areas or, in some instances, because of Health Department Standards, may not permit development as intended.
- B. In all zoning districts, double frontage or through lots shall provide the minimum yard requirements for front yards along both street fronts.
- C. Where a property abuts a street right-of-way or access easement, the setback shall be measured from the right-of-way or easement line.
- D. The front setbacks of lots shall be established where the lot width is met.

Figure 4.2 Flag Lot Front Setback



- E. On a corner lot in any zoning district other than the Central Business (CB) district, no planting, structure, fence, wall, or other obstruction to vision that is more than two (2) feet tall as measured at street level shall be placed in the sight triangle. The sight triangle is the area formed by a diagonal line connecting two (2) points located on intersecting property lines (or a property line and the curb or a driveway). The following are the distances used to establish a sight triangle as measured from the edge-of-pavement of intersecting streets:

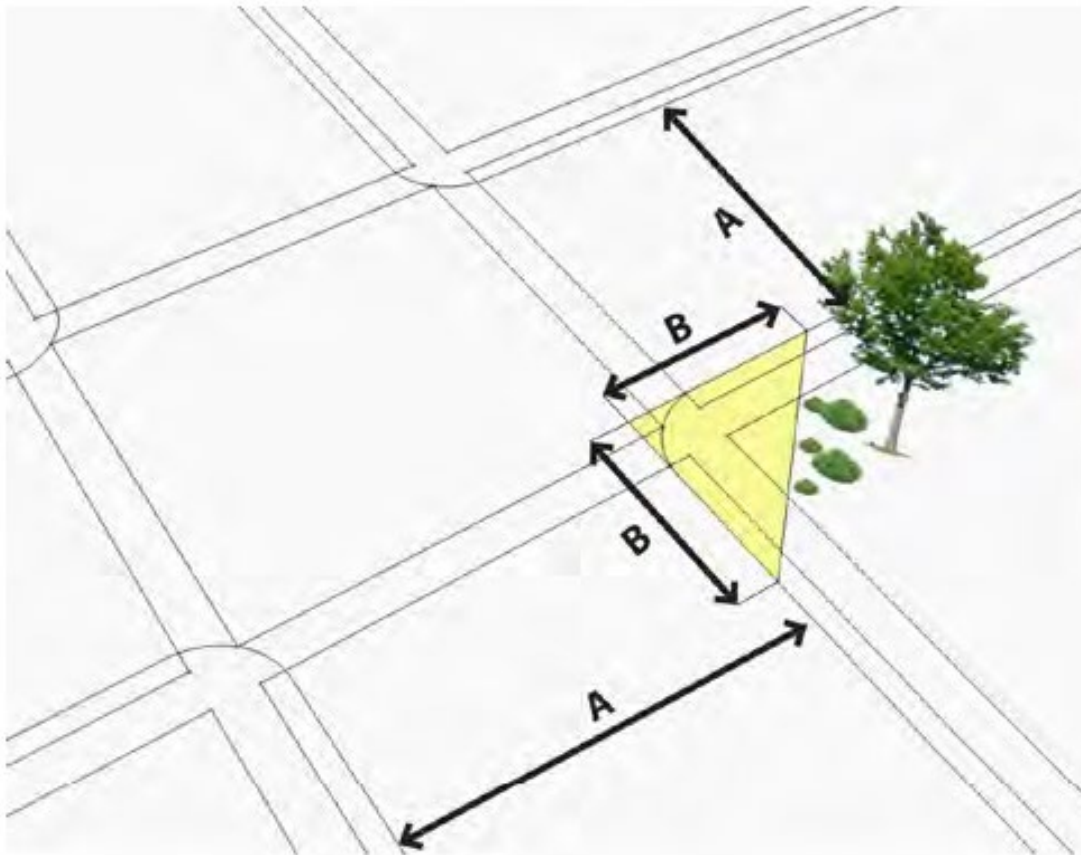
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Table 4.1 Sight Distance

Right-of-Way Width (feet) (A)	Distance (feet) (B)
Driveway	10
Less than 50	20
50—59	25
60—69	30
70—79	35
80—89	40
90—99	45
100 or greater	50

Figure 4.3 Sight Triangle (Shaded Area)

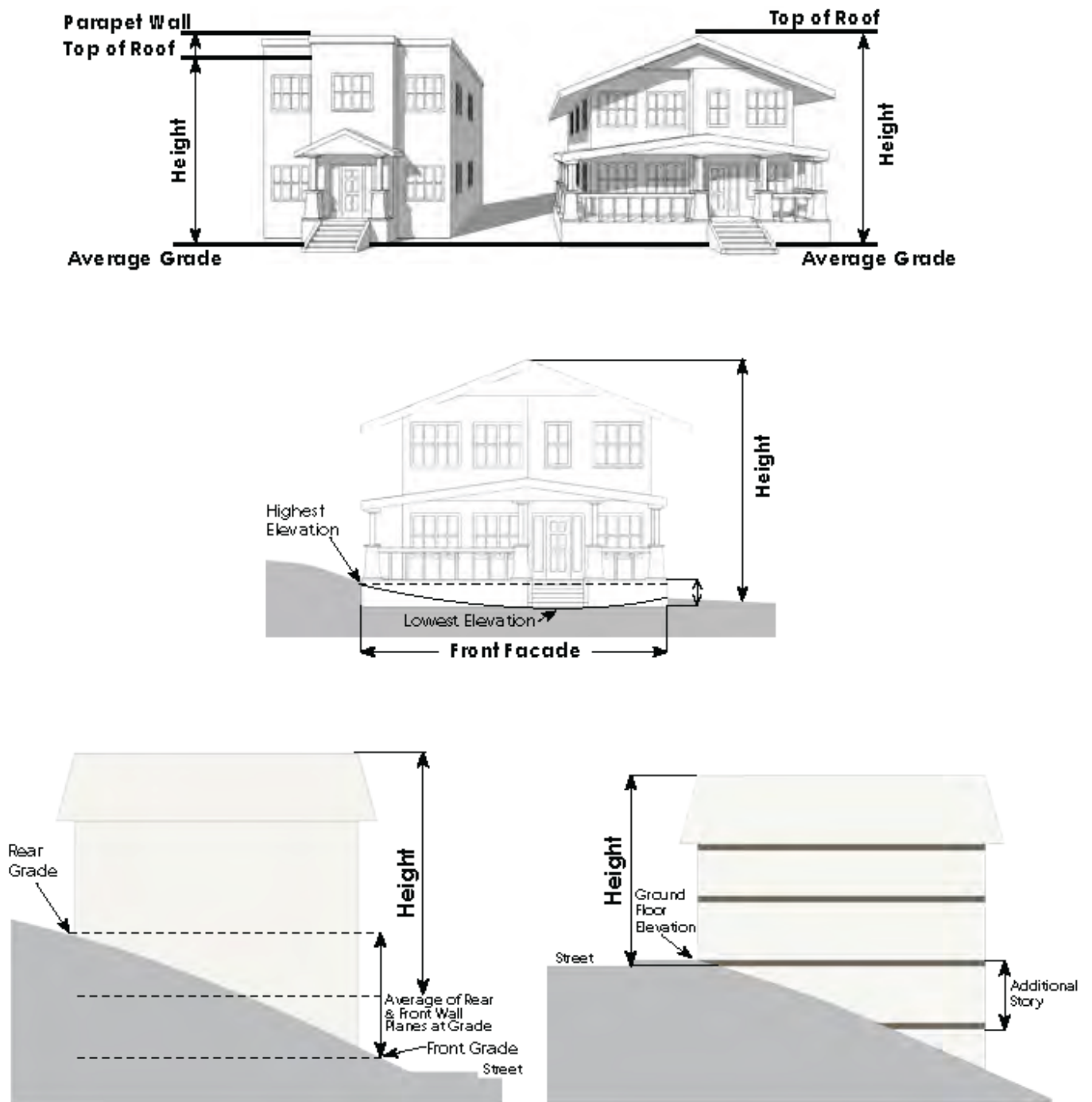


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F. All structure heights shall be measured as shown in Figure 4.4.

Figure 4.4 Height Measurement

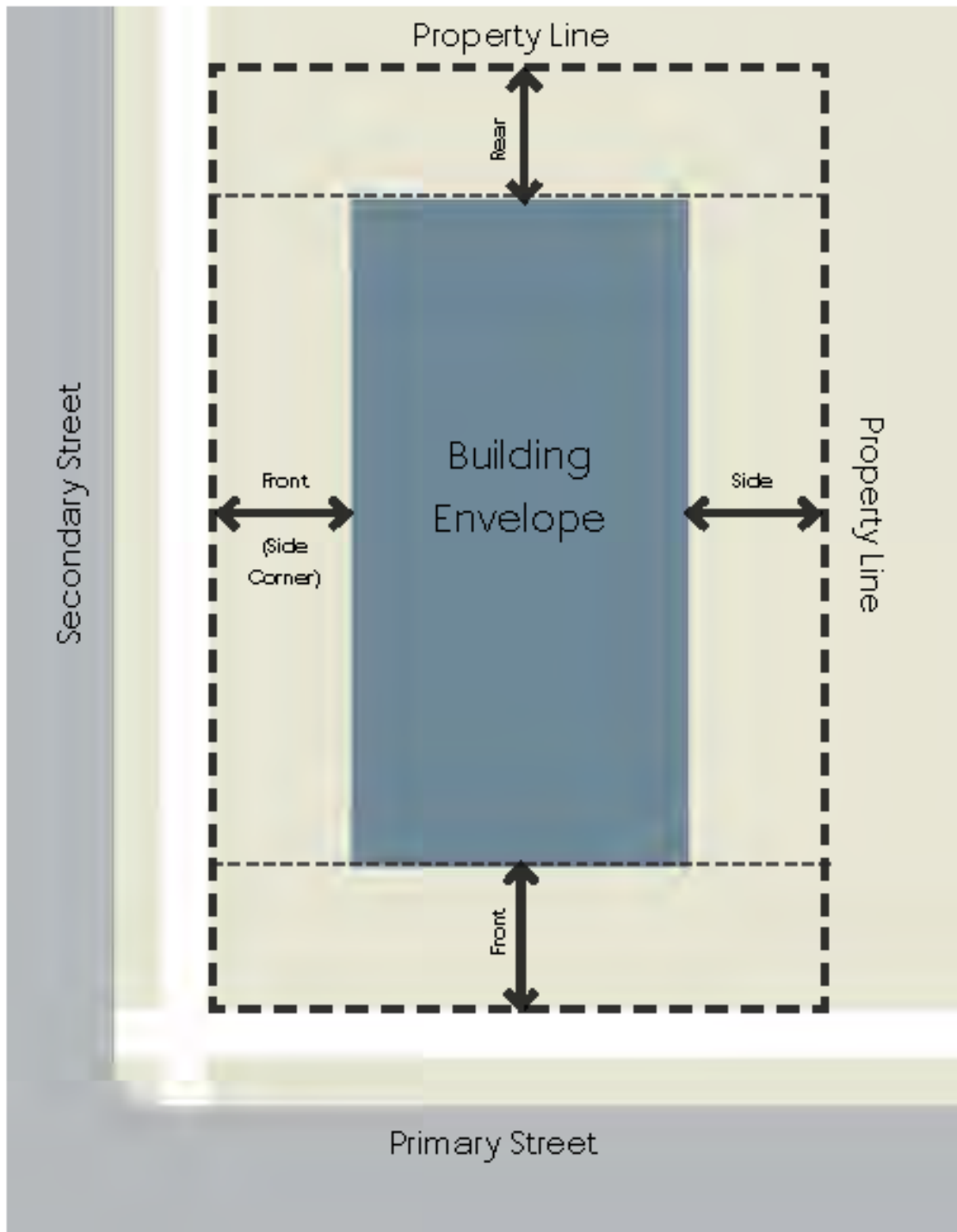


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- G. All setbacks shall be measured from the property line to the nearest point of the structure as shown in Figure 4.5 below.

Figure 4.5 Yard Designations



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#### 4.2.2 Density and Dimensional Table

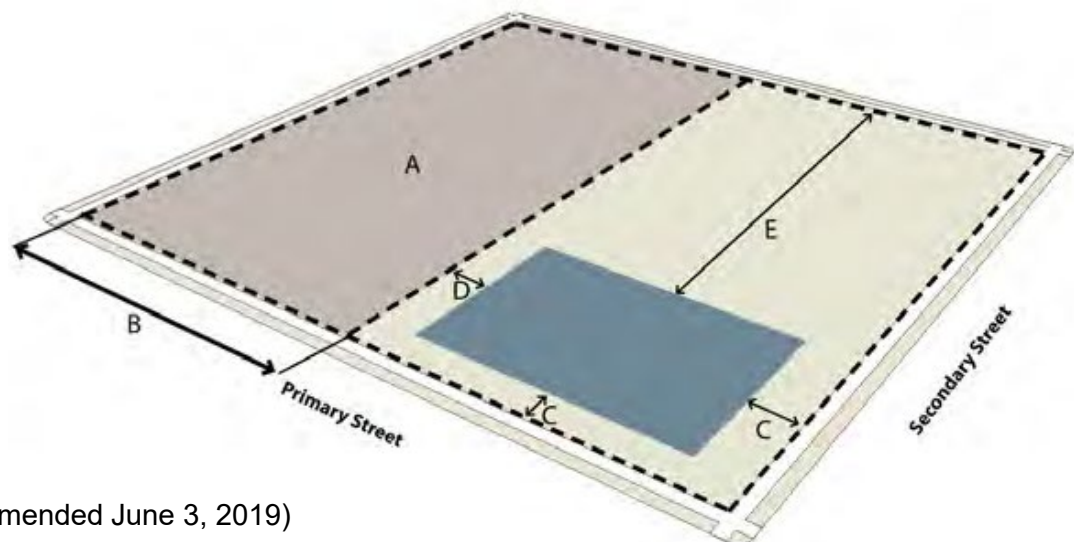
The following table provides the density and dimensional standards for each zoning district.

Table 4.2 Density and Dimensional Standards

District	A1 Maximum Residential Density (DUA)	A2 Minimum Lot Size1 (square feet)	B Minimum Lot Width (feet)	C Front Setback (feet)	D Side Setback (feet)	E Rear Setback (feet)	F Max. Height (feet)
RR	2	20,000	100	40	15	40	35
RM	4	10,000	75	30	10	30	35
RH	8	5,000	50	20	5	20	50
RMH	8	5,000	50	20	5	20	35
OI	8	5,000	50	20	5	20	50
NB	16	N/A	N/A	10	N/A	N/A	50
HB	N/A	N/A	N/A	10	N/A	N/A	50
CB	N/A	N/A	N/A	0 min. 10 max.	N/A	N/A	50
LI	N/A	N/A	N/A	10 interior 30 exterior	10 interior 30 exterior	10 interior 30 exterior	50
HI	N/A	N/A	N/A	10 interior 50 exterior	10 interior 50 exterior	10 interior 50 exterior	50

N/A = NOT APPLICABLE

Figure 4.6 Dimensions



(ZTA-2019-02 Amended June 3, 2019)



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#### 4.2.3 Exceptions to Dimensional Standards

- A. Minimum lot size (A2), lot width (B), and side setbacks (D) shall not apply to townhomes, where permitted.
- B. Lot size (A2) and lot width (B) for duplexes, permitted in the RH, RMH, OI, and NB District, shall be 1.5 times the minimum shown in the table. Lot sizes in the RM District, where permitted subject to the issuance of a Minor Special Use Permit, shall be subject to the density and dimensional standards of Section 3.4.2.5.
- C. Minimum lot size (A2), lot width (B), and setbacks (C-E) shall not apply in conservation developments, as permitted subject to Section 4.2.4, as long as maximum density (A1) for the district is not exceeded.
- D. The front setback for each district shall apply to the side yard of corner lots abutting a public street and to double frontage lots.
- E. The front setback requirements (C) shall not apply to any lot where the front yard coverage on developed lots, located wholly or in part within 100 feet on each side of such lot and within the same block and zoning district and fronting on the same street as such lot, is less than the minimum required front yard. In such cases, the front yard on such lot may be less than the required front yard but not less than the average of the existing front yards on the developed lots; provided, that the front yard on such lot shall not be less than one-half (1/2) of the required front yard.
- F. The 10 foot maximum setback in the CB District shall not apply to civic, government and institutional uses that are not located in an existing storefront building where the setback area is being utilized for the purpose of creating a public node and gathering place.
- G. The maximum height (F) shall only apply to habitable structures and portions of structures and shall not apply to elevator shafts, stairwells, tanks, mechanical equipment, water towers, observation towers, fire training towers, power and communication transmission towers, flag poles, steeples, spires, cupolas, and similar structures provided such structures meet the required North Carolina Building Code. Such projections may be subject to the screening requirements of Section 4.4.7. Height limitations shall apply to wireless telecommunications towers as regulated in Section 3.4.7.5.
- H. Allowable Encroachments into Setbacks
  - 1. Cornices, eaves and overhangs, gutters, chimneys, awnings – May extend up to 3 feet into any required setback, but in no case shall be closer than 3 feet to any lot line.
  - 2. Bay windows – May extend up to 3 feet into any required setback, if no more than 9 feet wide, but in no case shall be closer than 3 feet to any lot line.
  - 3. Sills or entablatures – May extend up to 12 inches into any required setback.

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4. Flagpoles, mailboxes, lamp and address posts, exterior light poles – May be located in any required setback.
5. Open balconies, fire escapes, or exterior open stairways – May extend up to 3 feet into any required setback, but in no case shall be closer than 3 feet to any lot line.
6. Uncovered porches, stoops, decks, patios, terraces, walkways, or driveways – May extend into or be located in any required setback, if less than 12 inches high.
7. Canopies, awnings, and marquees attached to a building in the CB District – May extend into the Town's street right-of-way if no portion is closer than 4 feet to the face of the curb; no portion is less than 9 feet above grade; and no portion requiring vertical support from the sidewalk is located above a sidewalk of less than 8 feet in width.
8. Handicapped ramps – May be located within any required setback.
9. HVAC condensers, heat pumps, or other outdoor mechanical equipment – May be located within any required setback.
10. Sign, wall, projecting or freestanding in the CB District – May extend into any required Town setback, subject to Section 6.4.1 Building Signs.
11. Utility cabinets and well houses – May be located in any required setback.
12. Pick up or bus shelters and gatehouses – May be located in any required setback.
- I. The dimensional provisions of this section do not apply to residential accessory structures, which are regulated in Section 3.4.3.2.
- J. Utility uses as defined by this Ordinance are not subject to the minimum lot sizes set forth for each zoning district.
- K. Where any buffer width as required by Section 4.4.3 exceeds the minimum setback, the required buffer width shall also be the minimum setback.
- L. Fences shall not be subject to minimum setbacks, subject to the fence requirements set forth in Section 4.4.9. Necessary retaining walls and fences less than eight (8) feet high when located in the rear yard, shall be exempt from the setback requirements of this Section; except that on a corner lot no fence more than three (3) feet in height shall be located within any yard or building setback required along the side street line by any other provision of this chapter. The height of any fence located within a yard abutting on a street line shall be measured from the sidewalk; and if there is no sidewalk, from the top of the curb; and if there is no sidewalk or curb, from the centerline of the street. All other fence heights shall be measured from natural grade.

(ZTA-2021-03 Amended May 3, 2021)

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#### 4.2.4 Conservation Development

##### 4.2.4.1 Purpose and Applicability

- A. The purpose of Conservation Development design is an optional residential development design tool intended to preserve agricultural and forestry lands, natural and cultural features and environmentally sensitive areas that would be likely lost through conventional development approaches.
- B. The conservation development design option may be utilized for any residential development of greater than 10 units within the RR and RM zoning districts.

##### 4.2.4.2 Development Density and Dimensions

- A. The development density shall not exceed the overall density permitted in the zoning district in which the development is located (except as set forth in Section 4.2.4.3. Areas with slopes of greater than 25% and floodway areas shall not be included in the overall allowable density calculation.
- B. Lot widths and setbacks in residential districts may be reduced subject to the requirements set forth in this section. The district setbacks set forth in Section 4.2.2 (Table 4.2) shall apply along the boundaries of the development. Setbacks within the development shall be set forth as part of the design process as outlined in Section 4.2.4.4, but in no case shall be reduced to less than a minimum 10-foot separation between buildings.

##### 4.2.4.3 Required Open Space and Density Bonus

- A. A minimum of 40% of the total area of the development shall be set aside in Common Open Space and shall meet the requirements of Section 4.3.4.
- B. Any development exceeding the minimum open space of 40% may increase the number of residential units by 1% for every 1% increase in open space up to a maximum of 120% of the density yield for the base zoning district.

##### 4.2.4.4 Conservation Development Approval Process

Approval of conservation development shall follow the major subdivision approval process as set forth in Section 2.2.4, except that the following steps shall be added to the sketch plan phase:

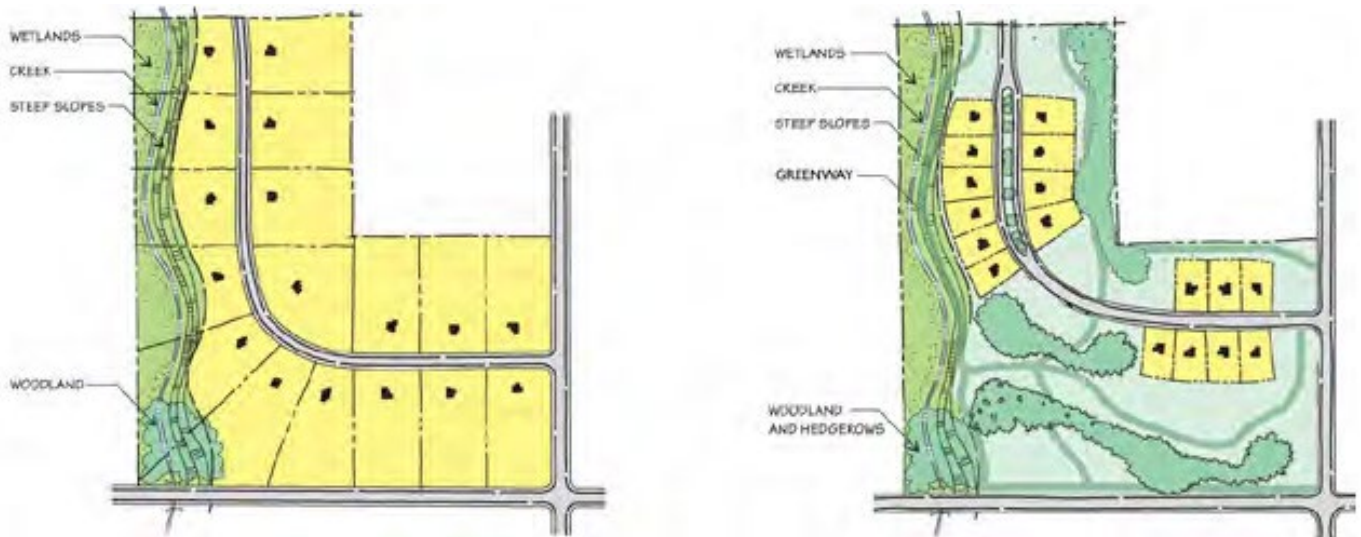
- A. During the first step, the total yield for the property is calculated based on the total property area and the density for zoning district, minus the minimum required open space for a conventional development, as set forth in Section 4.2.2.
- B. Next, all potential Conservation Areas (primary, secondary, and tertiary), as defined in shall be identified as described in Section 4.3.4.3.
- C. During the third step, potential building sites (up to the maximum identified in Step 1) are tentatively located. House sites should generally be located not closer than 50 feet to Primary Conservation Areas.

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- D. The fourth step consists of aligning proposed streets to provide vehicular access to each house in the most reasonable and economical way. When lots and access streets are laid out, they shall be located in a way that avoids, or at least minimizes, adverse impacts on the Conservation Areas. Wetland crossings should be avoided. Street connections shall be provided to minimize the number of cul-de-sacs and to facilitate easy access to and from homes in different parts of the property (and on adjoining parcels).
- E. The fifth step is simply to draw the lot lines where applicable. Lot sizes and setbacks may be no less than one-half ( $\frac{1}{2}$ ) of the minimum size for the district as set forth in Section 4.2.2.

Figure 4.7 Conventional Development vs. Conservation Development



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#### 4.3 ENVIRONMENTAL AND OPEN SPACE STANDARDS

##### 4.3.1 Purpose

The purpose of this section is to establish provisions for the protection of the environment as required by state and federal law and to provide for adequate open space, green space, and recreation within Yadkinville's jurisdiction.

##### 4.3.2 Watershed Protection Standards

All amendments to this section shall be filed with the N.C. Division of Water Quality, N.C. Division of Environmental Health, and the N.C. Division of Community Assistance.

##### 4.3.2.1 Designated Watershed Area

A small area located in the southwestern portion of the extraterritorial jurisdiction (ETJ) of the Town lies within the Deep Creek Water Supply Watershed, mapped and classified as WS-III-BW (Balance of Watershed) by the N.C. Department of Environment Quality, Division of Water Quality. Lands within this watershed shall be regulated by the standards of this Section. All development within the regulated watershed area shall comply with the watershed protection rules adopted by the N.C. Environmental Management Commission.

##### 4.3.2.2 Maximum Density and Built-upon Area

- A. In addition to compliance with all requirements of the zoning district, to maintain a low to moderate land use intensity, single family detached uses shall develop at a maximum of two (2) dwelling units per acre. All other residential and non-residential development shall be allowed at a maximum of 24% built-upon area.
- B. In addition, new development and expansions to existing development may occupy 10% of the balance of the watershed area with up to 70% (built-upon area when approved as a special intensity allocation (SIA)). The Administrator is authorized to approve SIAs consistent with the following provisions. Each project within the WSPO overlay district shall, to the maximum extent practicable:
  - 1. Minimize built-upon surface area.
  - 2. Direct stormwater away from surface waters.
  - 3. Incorporate Best Management Practices to minimize water quality impacts.
- C. The Administrator may require certification by a licensed engineer, surveyor and/or architect to ensure compliance with these provisions.

##### 4.3.3 Floodplain Damage Prevention Standards

##### 4.3.3.1 Statutory Authorization

The Legislature of the State of North Carolina has in NCGS Ch. 143, Art. 21, Part 6; G.S. Ch. 160A, Art. 19, Part 3, 5 and 8; G.S. Ch. 160A, Art. 8, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry including the regulations set out in this article.

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Therefore, the Board of Commissioners of Yadkinville, North Carolina, does ordain as follows in this Section.

#### 4.3.3.2 Findings of Fact

- A. The flood prone areas within the jurisdiction of Yadkinville are subject to periodic inundation which results in loss of life, 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.
- B. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood prone areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

#### 4.3.3.3 Statement of Purpose

It is the purpose of this chapter to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

- A. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion, flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- D. Control filling, grading, dredging, and all other development which may increase erosion or flood damage; and
- E. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

#### 4.3.3.4 Objectives

The objectives of this chapter are;

- A. To protect human life and health;
- B. To minimize expenditure of public money for costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business losses and interruptions;
- E. To minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;

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- F. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and
- G. To ensure that potential homebuyers are notified that property is in a Special Flood Hazard Area.

#### **4.3.3.5 Lands to Which this Chapter Applies**

This chapter shall apply to all Special Flood Hazard Areas within the jurisdiction, including the extra-territorial jurisdictions (ETJ) of Yadkinville.

#### **4.3.3.6 Basis for Establishing the Special Flood Hazard Areas**

The Special Flood Hazard Areas are those identified by the Federal Emergency Management Agency (FEMA) or produced under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Hazard Boundary Map (FHBM) or Flood Insurance Study (FIS) and its accompanying flood maps such as the most recent Flood Insurance Rate Map(s) (FIRM), which with accompanying supporting data, and any revision thereto, including Letters of Map Amendment or Revision, are adopted by reference and declared to be a part of this chapter. The Special Flood Hazard Areas also include those defined through standard engineering analysis for private developments or by governmental agencies, but which have not yet been incorporated in the FIRM. This includes, but is not limited to, detailed flood data:

- A. Generated as a requirement of section 4.3.3.15(K) and (L) of this chapter;
- B. Preliminary FIRMs where more stringent than the effective FIRM; or
- C. Post-disaster flood recovery maps.

#### **4.3.3.7 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 section 4.3.3.6.

#### **4.3.3.8 Compliance**

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this chapter and other applicable regulations.

#### **4.3.3.9 Abrogation and Greater Restrictions**

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

#### **4.3.3.10 Interpretation**

In the interpretation and application of this chapter, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and



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C. Deemed neither to limit nor repeal any other powers granted under state statutes.

#### **4.3.3.11 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 on rare occasions. Actual flood heights may be increased by man-made 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 Yadkinville 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.

#### **4.3.3.12 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, upon conviction thereof, be fined not more than fifty dollars (\$50.00) or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Yadkinville from taking such other lawful action as is necessary to prevent or remedy any violation.

#### **4.3.3.13 Designation of Floodplain Administrator**

The Administrator or designee is hereby appointed to administer and implement the provisions of this Section.

#### **4.3.3.14 Floodplain Development Permit and Certification Requirements**

##### **A. Plans and Application Requirements**

Application for a floodplain development permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities proposed to be located within flood prone areas. The following items/information shall be presented to the Floodplain Administrator 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, the location of utility systems, proposed grading/pavement areas, fill materials, storage areas, drainage facilities, and other proposed development;
  - b. The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 4.3.3.6 or a statement that the entire lot is within the Special Flood Hazard Area;



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- c. Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in section 4.3.3.6;
  - d. The boundary of the floodway(s) or non-encroachment area(s) as determined in section 4.3.3.6;
  - e. The Base Flood Elevation (BFE) where provided as set forth in section 4.3.3.6; section 4.3.3.15(K) and (L) ; sections 4.3.3.20, 4.3.3.21 and section 4.3.3.19(E);
  - 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 will be flood-proofed;
  - 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 and back-up plans from a registered professional engineer or architect certifying that the non-residential flood-proofed development will meet the flood-proofing criteria in section 4.3.3.19(B) and section 4.3.3.20(B).
4. A foundation plan drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this Section are met. These details include but are not limited to:
  - a. Proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/piers);
  - b. Should solid foundation perimeter walls be used in floodplains, details of sufficient openings to facilitate the unimpeded movements of floodwaters in accordance with section 4.3.3.19 (D);
5. Usage details of any enclosed space below the regulatory flood protection elevation.
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. Copy of all other local, state and federal permits required prior to floodplain development permit issuance (i.e. wetlands, erosion and sedimentation control, riparian buffers, mining, etc.)

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8. If a floodplain development permit is issued for placement of recreational vehicles and/or temporary structures, documentation to ensure section 4.3.3.19(F) and (G) of this code are met.
9. If a watercourse is proposed to be altered and/or relocated, a description of the extent of watercourse alteration or relocation; 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.

#### **B. Floodplain Development Permit Data Requirements.**

The following information shall be provided at a minimum on the floodplain development permit to ensure compliance with this code.

1. A description of the development to be permitted under the floodplain development permit issuance.
2. The Special Flood Hazard Area determination for the proposed development per available data specified in section 4.3.3.6.
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. State that no fill material shall encroach into the floodway or non-encroachment area of any watercourse, if applicable.

#### **C. Certification Requirements**

1. An elevation certificate (FEMA Form 81-31) or Floodproofing Certificate (FEMA Form 81-65) is required after the reference level is completed. Within twenty-one (21) calendar days of establishment of the reference level elevation, or floodproofing, by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, or flood proofed elevation, whichever is applicable in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work done within the twenty-one (21) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed.

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Failure to submit the certification or failure to make said corrections required shall be cause to issue a stop-work order for the project.

2. A final as-built elevation certificate (FEMA Form 81-31) or floodproofing certificate (FEMA Form 81-65) is required after construction is completed and prior to certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation or floodproofed elevation of the reference level and all attendant utilities. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall 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 said corrections required shall be cause to withhold the issuance of a certificate of compliance/occupancy.
3. If a manufactured home is placed within an A, AO, AE, or AI—30 zone and the elevation of the chassis is above thirty-six (36) inches in height, an engineered foundation certification is required per section 4.3.3.19(C).
4. If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; 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 showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.
5. Certification exemptions. The following structures, if located within A, AO, AE or AI—30 zones, are exempt from the elevation/floodproofing certification requirements specified in items (1) and (2) above:
  - a. Recreational vehicles meeting requirements of section 4.3.3.19(F 1);
  - b. Temporary structures meeting requirements of section 4.3.3.19(G); and
  - c. Accessory structures less than one hundred fifty (150) square feet meeting requirements of section 4.3.3.19(H).

#### **4.3.3.15 Duties and Responsibilities of the Floodplain Administrator**

Duties of the Floodplain Administrator shall include, but not be limited to:

- A. Review all floodplain development applications and issue permits for all proposed development within flood prone areas to assure that the requirements of this chapter have been satisfied.

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- B. Advise permittee that additional federal or state permits (i.e., wetlands, erosion and sedimentation control, riparian buffers, mining, etc.) may be required, and if specific federal or state permits are known, require that copies of such permits be provided and maintained on file with the floodplain development permit.
- C. Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency.
- D. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- E. Prevent encroachments within floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of section 4.3.3.22 are met.
- F. Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) of all attendant utilities of all new or substantially improved structures, in accordance with section 4.3.3.14(C).
- G. Obtain the 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 section 4.3.3.14(C).
- H. Obtain actual elevation (in relation to mean sea level) of all public utilities, in accordance with section 4.3.3.14(C).
- I. When flood proofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with section 4.3.3.14(C) and section 4.3.3.19(B).
- J. Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard 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 shall be given a reasonable opportunity to appeal the interpretation as provided in this Section.
- K. When Base Flood Elevation (BFE) data has not been provided in accordance with section 4.3.3.14, obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data and/or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to section 4.3.3.20(D), in order to administer the provisions of this Section.
- L. When Base Flood Elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with section 4.3.3.6, obtain, review, and reasonably utilize any floodway data, and/or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this chapter.
- M. When the exact location of boundaries of the Special Flood Hazard Areas conflict with the current, natural topography information at the site, the property owner may apply

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and be approved for a Letter of Map Amendment (LOMA) by FEMA. A copy of the Letter of Map Amendment issued from FEMA will be maintained by the Floodplain Administrator in the floodplain development permit file.

- N. Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection.
- O. Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator 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 ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator 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.
- P. Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this chapter, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
- Q. Revocation of floodplain development permits as required. The Floodplain Administrator 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, or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable state or local law may also be revoked.
- R. Make periodic inspections throughout all special flood hazard areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- S. Follow through with corrective procedures of section 4.3.3.16

#### 4.3.3.16 Corrective Procedures

- A. Violations to be corrected. When the Floodplain Administrator finds violations of applicable state and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law pertaining to their property.
- B. Actions in event of failure to take corrective action. If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the

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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 Flood Damage Prevention Ordinance;
  2. That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
  3. That following the hearing, the Floodplain Administrator may issue such order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.
- C. Order to take corrective action. If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall make an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she 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 the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- E. Failure to comply with order. 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 governing body following an appeal, he or she shall be guilty of a misdemeanor and shall be punished in the discretion of the court.

#### 4.3.3.17 Variance Procedures

- A. The Board of Adjustment serving as the Watershed Review Board as established by Yadkinville, hereinafter referred to as the "Appeal Board", shall hear and decide requests for variances from the requirements of this chapter.
- B. Any person aggrieved by the decision of the Appeal Board may appeal such decision to the Court, as provided in NCGS Ch. 7A.
- C. Variances may be issued for the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- D. In passing upon variances, the Appeal Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Section and:
  1. The danger that materials may be swept onto other lands to the injury of others;

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2. The danger to life and property due to flooding or erosion damage;
  3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  4. The importance of the services provided by the proposed facility to the community;
  5. The necessity to the facility of a waterfront location, where applicable;
  6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  7. The compatibility of the proposed use with existing and anticipated development; the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  8. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  9. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
  10. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- E. A written report addressing each of the above factors shall be submitted with the application for a variance.
- F. Upon consideration of the factors listed above and the purposes of this Section, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Section.
- G. Variances shall not be issued within any designated floodway or non-encroachment area if any increase in flood levels during the base flood discharge would result.
- H. Conditions for variances:
1. Variances may not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
  2. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  3. Variances shall only be issued upon:
    - a. A showing of good and sufficient cause;
    - b. A determination that failure to grant the variance would result in exceptional hardship; and
    - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

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4. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced reference level elevation. Such notification shall be maintained with a record of all variance actions.
5. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

#### 4.3.3.18 General Standards

In all Special Flood Hazard Areas the following provisions are required;

- A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- B. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- C. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages.
- D. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. These include but are not limited to HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric meter panels/boxes, utility/cable boxes, appliances (i.e., washers, dryers, refrigerator, etc.), hot water heaters, electric outlets/switches.
- E. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- F. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- G. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- H. Any alteration, repair, reconstruction, or improvements to a structure which is in compliance with the provisions of this chapter, shall meet the requirements of "new construction" as contained in this Section.
- I. Non-conforming structures or other development may not be enlarged, replaced, or rebuilt unless such enlargement or reconstruction is accomplished in conformance with the provisions of this chapter. Provided, however, nothing in this Section shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this chapter 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-



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encroachment area, or stream setback is not increased and provided that such repair, reconstruction, or replacement meets all of the other requirements of this Section.

- J. New solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted in Special Flood Hazard Areas. 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 according to section 4.3.3.14(C) of this Ordinance.

#### **4.3.3.19 Specific Standards**

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in section 4.3.3.6 or section 4.3.3.15(K), the following provisions are required:

##### **A. Residential Construction**

New construction or 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.

##### **B. Non-residential Construction**

New construction or substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation. Structures located in A, AO, AE and AI—30 Zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure 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. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in section 4.3.3.14(C).

##### **C. Manufactured Homes**

1. New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation.
2. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement in accordance with the State of North Carolina Regulations for Manufactured/Mobile Homes, 1995 Edition, and any revision thereto adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15 or a certified engineered foundation. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or other foundation elements of at least equivalent strength. When

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the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.

3. All foundation enclosures or skirting shall be in accordance with section 4.3.3.19(D).
4. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management coordinator.

#### **D. Elevated Buildings**

New construction or substantial improvements of elevated buildings that include fully enclosed areas that are below the regulatory flood protection elevation shall not be designed to be used for human habitation, but shall be designed to be used only for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises, be constructed entirely of flood resistant materials below the regulatory flood protection level in A, AO, AE, and AI—30 zones and meet the following design criteria:

1. Measures for complying with this requirement shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. To meet this requirement, the foundation must either be certified by a professional engineer or architect or meet the following minimum design criteria:
  - a. Provide a minimum of two (2) openings on different sides of each enclosed area subject to flooding;
  - b. The total net area of all openings must be at least one (1) square inch for each square foot of each enclosed area subject to flooding;
  - c. If a building has more than one enclosed area, each area must have openings on exterior walls to allow floodwater to directly enter;
  - d. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade; and
  - e. Openings may be equipped with screens, louvers, or other opening coverings or devices provided they permit the automatic flow of floodwaters in both directions.
  - f. Foundation enclosures:
    1. Vinyl or sheet metal skirting is not considered an enclosure for regulatory and flood insurance rating purposes. Therefore, such skirting does not require hydrostatic openings as outlined above.

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2. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires hydrostatic openings as outlined above to comply with this Section.
3. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas.

#### E. Additions / Improvements

1. Additions and/or improvements to pre-FIRM structures whereas the addition and/or improvements in combination with any interior modifications to the existing structure:
  - a. Are not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
  - b. Are a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
2. Additions to post-FIRM structures with no modifications to the existing structure shall require only the addition to comply with the standards for new construction.
3. Additions and/or improvements to post-FIRM structures whereas the addition and/or improvements in combination with any interior modifications to the existing structure:
  - a. Are not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
  - b. Are a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
4. Where a fire wall or independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.

#### F. Recreational Vehicles

Recreation vehicles placed on sites within a Special Flood Hazard Area shall either:

1. Be on site for fewer than one hundred eighty (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
2. Meet all the requirements for new construction, including anchoring and elevation requirements of section 4.3.3.14 and sections 4.3.3.18 and 4.3.3.19(C).

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#### G. Temporary Structures

Prior to the issuance of a floodplain development permit for a temporary structure, the following requirements must be met:

1. Applicants must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane or flash flood warning notification. The plan must include the following information:
  - a. A specified time period for which the temporary use will be permitted;
  - b. The name, address, and phone number of the individual responsible for the removal of the temporary structure;
  - c. The time frame prior to the event at which a structure will be removed (i.e. minimum of seventy-two (72) hours before landfall of a hurricane or immediately upon flood warning notification);
  - d. A copy of the contract or other suitable instrument with a trucking company to ensure the availability of removal equipment when needed; and
  - e. Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area to which the temporary structure will be moved.
2. The above information shall be submitted in writing to the Floodplain Administrator for review and written approval.

#### H. Accessory Structure

When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

1. Accessory structures shall not be used for human habitation (including work, sleeping, living, cooking or restroom areas);
2. Accessory structures shall be designed to have low flood damage potential;
3. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
4. Accessory structures shall be firmly anchored in accordance with section 4.3.3.18(A);
5. All service facilities such as electrical and heating equipment shall be installed in accordance with section 4.3.3.18(D); and
6. Openings to relieve hydrostatic pressure during a flood shall be provided below regulatory flood protection elevation in conformance with section 4.3.3.19(D (1)).

An accessory structure with a footprint less than 150 square feet does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with section 4.3.3.14(C).

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#### **4.3.3.20 Subdivisions, Manufactured Home Parks and Major Developments**

- A. All subdivision, manufactured home park and major development proposals located within Special Flood Hazard Areas shall:
1. Be consistent with the need to minimize flood damage;
  2. Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
  3. Have adequate drainage provided to reduce exposure to flood hazards; and
  4. Have Base Flood Elevation (BFE) data provided if development is greater than the lesser of five (5) acres or 50 lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference per section 4.3.3.6 to be utilized in implementing this code.

#### **4.3.3.21 Standards for Floodplains Without Established Base Flood Elevations**

Within the Special Flood Hazard Areas established in section 4.3.3.6, where no Base Flood Elevation (BFE) data has been provided, the following provisions shall apply:

- A. No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of 20 feet each side from top of 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 shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- B. If section 4.3.3.20(A) is satisfied and Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this chapter and shall be elevated or floodproofed in accordance with elevations established in accordance with section 4.3.3.15(K) and (L). When Base Flood Elevation (BFE) data is not available from a federal, state, or other source, the reference level, including basement, shall be elevated at least two (2) feet above the highest adjacent grade.

#### **4.3.3.22 Standards for Floodplains with BFE but without Established Floodways or Non-encroachment Areas**

Along rivers and streams where Base Flood Elevation (BFE) data is provided but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS, 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 (1) foot at any point within the community.

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#### **4.3.3.23 Floodways and Non-encroachment Areas**

Located within the Special Flood Hazard Areas established in section 4.3.3.6 are areas designated as floodways or non-encroachment areas. 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 shall apply to all development within such areas:

- A. No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood. Such certification and technical data shall be presented to the Floodplain Administrator prior to issuance of floodplain development permit.
- B. If section 4.3.3.23(A) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this chapter.
- C. No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision provided the following provisions are met:
  - 1. The anchoring and the elevation standards of section 4.3.3.19(C); and
  - 2. The no encroachment standards of section 4.3.3.23(A) are met.

#### **4.3.3.24 Effect Upon Outstanding Building Permits**

Nothing herein contained shall require any change in the plans, construction, size or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this Section; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to passage of this Section or any revision thereto, construction or use shall be in conformity with the provisions of this Section.

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#### 4.3.4 OPEN SPACE STANDARDS

##### 4.3.4.1 Applicability

The provisions of this section shall apply to all new residential development of more than five (5) dwelling units and a density of more than one (1) dwelling unit per two (2) acres (0.5 DUA).

##### 4.3.4.2 Open Space Allocation

Open space shall be dedicated at a rate of 0.02 acres per dwelling unit, except that Conservation Developments, as set forth in Section 4.2.4, shall be a minimum of 40% open space for the total project area.

Example:
100 dwelling units X 0.02 = 2 acres minimum

##### 4.3.4.3 Identification of Primary, Secondary, and Tertiary Conservation Areas

As part of the sketch plan phase for residential development the conservation areas outlined in this section shall be identified in order to establish the optimum locations of open space.

###### 4.3.4.3.1 Primary Conservation Areas

The following areas shall be considered primary conservation areas and shall be preserved first in designating areas for required open space:

- Land within riparian buffers on perennial and intermittent streams as required NCDEQ.
- Wetlands and buffers of 50 feet from edge of wetland.
- Areas within a 100-year floodplain (special flood hazard areas).
- Non-regulated isolated wetlands and depressions that accommodate ephemeral pools.
- Natural Heritage Areas (NHNA) as defined by the National Heritage Program.
- Areas within a Natural Heritage Element Occurrence (NHEO) as defined by the National Heritage Program.
- Areas identified by the Biodiversity and Wildlife Habitat Assessment (BWHA) by the National Heritage Program.

###### 4.3.4.3.2 Secondary Conservation Areas

The following areas shall be considered secondary conservation areas and shall be preserved after all primary conservation areas have been used towards meeting minimum open space requirements.



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- Buffers within 100 feet of a designated wetland or perennial stream.
- Areas within a 500-year floodplain.
- Areas adjacent to existing preserved or managed open space areas.
- Mature forest of at least one contiguous acre.
- Unfragmented forest areas that comprise any portion of a 50 acre or more forest block.
- Wildlife corridors of a minimum of 150 feet in width that connect to NHNAs, NHEOs, BWA areas, wetlands, or floodplains.
- Greenways as shown on adopted Town and County plans.
- Slopes of greater than 10%.
- Rock outcroppings and a 200-foot protection area.
- Farmland within a present use value program and a 200 foot buffer area.
- Areas with sensitive soils including Armenia loam (Ar), Altavista sandy loam (AaB), Chewalca sandy loam (Ch), Iredell loam (IdA), Sedgefield sandy loam (SfB) and Wednadkee (We).

#### 4.3.4.4.3 Tertiary Conservation Areas

The following areas shall be considered tertiary conservation areas and shall be preserved after all primary and secondary conservation areas have been used towards meeting minimum open space requirements:

- Land with cultural or historic significance.
- Viewsheds (contributes to rural view from public roadway).
- Heritage trees (existing healthy individual trees greater than 12 inches DBH).
- Undeveloped land and tree save areas.
- Farmland of statewide importance.
- Agricultural uses and pollinator gardens.

#### 4.3.4.4.4 Other Open Space Areas

The following areas that are not primary, secondary, or tertiary conservation areas may be used to meet remaining minimum opens space requirements:

- Passive recreational areas including squares, greens, or parks.
- Active recreational areas including playgrounds and recreation amenity centers.

#### 4.3.4.4.5 Configuration of Open Space

The minimum standards for open space configuration are outlined below:



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- A. The minimum width for any open space is 25 feet. Access from a public or private street shall be provided to all designated open space with a minimum 15-foot-wide access to the open space area.
- B. At least 60% of open space shall be contiguous. For the purposes of this section, contiguous includes any open space bisected by a local street, provided that:
  - 1. A pedestrian crosswalk provides access to the open space on both sides of the street; and
  - 2. The right-of-way area is not included in the calculation of minimum open space required.
- C. Where feasible, the open space should adjoin any neighboring areas of open space, other protected areas, and non-protected natural areas.
- D. Open space should be directly accessible to the largest practicable number of dwelling units within the development.
- E. No lot shall be more than one quarter ( $\frac{1}{4}$ ) mile from open space, as measured in a straight line from the lot line to the nearest point of open space.
- F. Area within a floodway shall not be counted towards meeting the minimum open space requirements. A maximum of 75% of the required open space shall be located within a primary conservation area or a slope of greater than 25%.

#### 4.3.4.5 Open Space Types

All open space used to meet the minimum requirements of this section shall be classified as one (1) or more of the following categories and be classified as private common area open space or public open space. The sketch plan should be used as a guide by the developer and Administrator to determine the most appropriate open space type and location, based upon the primary, secondary, and tertiary conservation areas outlined in Section 4.3.4.3. In addition to the Town's Comprehensive Plan, other trail, parks and recreation, and open space plans shall be considered when evaluating the most appropriate open space type.

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#### 4.3.4.5.1 Nature Preserve

The nature preserve open space type shall be used for the conservation of primary and secondary conservation areas. Areas designated as nature preserves shall be left largely undisturbed except for the optional clearing of underbrush for the provision of a walking trail. Nature preserves are also the encouraged open space type for tertiary conservation areas that consist of tree conservation areas and scenic viewsheds such as ridge lines, field borders, meadows, fields, stream views, and natural woodlands that can be seen from roadways.



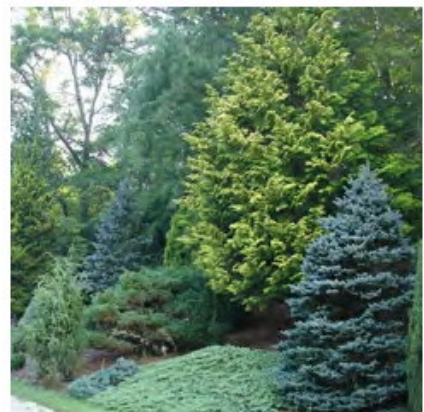
#### 4.3.4.5.2 Greenway

Greenways are large, irregular open spaces designed to incorporate natural settings such as creeks and significant stands of trees within and between neighborhoods. Greenways connect points of interest in a community such as schools, parks, civic uses, and, in some cases, primary and secondary conservation areas. Greenways shall be used for, at a minimum, trails for walking, jogging, and biking. If land proposed for development within an area designated for a greenway on adopted Town and County plans, then a greenway right-of-way or easement shall be set aside, and a greenway constructed by the developer in accordance with the requirements of Section 4.6.4.



#### 4.3.4.5.3 Greenbelt

Greenbelts typically run along the perimeter of a neighborhood and serve to buffer a neighborhood from surrounding non-compatible uses such as a highway corridor or industrial district, or a developed area from agricultural areas or adjacent communities. Greenbelts can also provide a valuable wildlife corridor between primary and secondary conservation areas. Greenbelts are wider and provide more existing natural vegetation than any buffer yard required as part of Section 4.4.3. Greenbelts differ from greenways in that they are left natural and are not intended for recreational use. A greenbelt shall have an average width of not less than 40 feet in order to count towards the minimum open space requirement.



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#### 4.3.4.5.4 Agricultural Preserve

Open spaces designated as agricultural preserves shall be used for active farming in the form of crop cultivation, the keeping of livestock, or equestrian facilities as secondary and tertiary conservation areas. Agricultural preserves are encouraged to protect areas of agricultural and rural heritage and promote compatible active agricultural operations. If farming operations cease, an agricultural preserve may be used as a nature preserve or greenbelt.



#### 4.3.4.5.5 Recreational Amenity Center

Recreational amenity centers are intended for active recreational use and may include swimming pools, splash pads, tennis courts, and similar uses. Recreational amenity centers shall be centrally located to the residences that they serve.



#### 4.3.4.5.6 Square or Green

Squares or greens are primary intended for passive recreational use and may have monuments, pavilions, sitting areas. Squares or greens shall be bounded by streets on a minimum of 50% of their perimeter. Squares or greens are encouraged to be entirely bounded by streets, lanes, or buildings. Squares and greens shall be planted parallel to all streets and shall contain canopy trees along street frontages.



#### 4.3.4.5.7 Park

Parks may be designed for passive and/or active recreational use. Parks shall be bounded by streets on a minimum of 10% of their perimeter. Large parks should create a central open space which services an entire neighborhood or group of neighborhoods; or incorporates physical features which are an asset to the community (i.e. lake or river frontage, high ground, significant stands of trees). Undergrowth should be limited and landscaping shall be installed in a manner that promotes attractiveness and safety. Parks may be combined with greenways and greenbelts and may include golf courses and community gardens.



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#### 4.3.4.5.8 Playground

Playgrounds are for active recreational use and provide sunny and shaded play equipment and play areas for children as well as open shelter with benches. Playgrounds may be part of other types of open space, such as parks or recreational amenity centers, or may stand alone.



#### 4.3.4.6 Use of Open Space

##### 4.3.4.6.1 Allowed Uses of Open Space

Unless otherwise stated, open space intended to achieve the performance standard may be used for the following:

- Conservation areas for natural, archaeological or historic resources;
- Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
- Pedestrian or multi-purpose trails;
- Passive recreation areas;
- Active recreation areas, provided that impervious area is limited to no more than 25% of the total open space for the development;
- Golf courses (excluding clubhouse areas and maintenance facilities), provided that the area does not exceed 50% of the total open space for the development and that impervious area is no more than 25% of the total open space for the development;
- Water bodies, such as lakes, pond and floodways, provided that the total surface area does not exceed 50% of the total open space for the development;
- Crop production, community garden;
- Stormwater control measures, provided that area does not exceed 25% of the total open space for the development and the stormwater control measure is designed as a pond amenity of greater than one-half ( $\frac{1}{2}$ ) acre or greater, is surrounded by open space, and is accessible to all residents; and
- Easements for drainage, access and underground utilities.



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#### 4.3.4.6.2 Prohibited Uses of Open Space

Open space intended to achieve the performance standard shall not be used for the following:

- Individual conventional wastewater disposal systems (excluding innovative systems);
- Overhead electric transmission lines or high voltage electric transmission lines; and
- Streets and impervious parking areas.

#### 4.3.4.7 Open Space Dedication, Ownership, and Maintenance

- A. Any areas reserved as open space shall be indicated on a preliminary and/or final subdivision plat. A phasing plan shall be submitted as a part of the application for preliminary plat approval. An Open Space Maintenance Plan shall be submitted prior to the approval of the first final plat. All open space shall be dedicated prior to or simultaneously with the first final plat approval. Any active open space shall be completed prior to the issuance of a zoning permit for the fifth dwelling unit and prior to approval of a second phase final plat.
- B. Open space may be owned or administered by one (1) or a combination of the following methods:
  - Fee simple ownership by a unit of government or private non-profit land conservancy;
  - Common ownership by Homeowners Association;
  - Split deeded ownership by individual property owners within the development;
  - By individual private ownership such as a farmer, developer or other private entity that maintains the open space in accordance with the purposes of this Section. (i.e. farming, equestrian facility); or
  - Deed restricted open space easements on individual private properties.
- C. The Town Board of Commissioners shall have the authority to accept or reject land dedications made as a requirement of this Section.
- D. The owner of dedicated open space shall be responsible for the continuing upkeep and proper maintenance of the same.
- E. In the case of common ownership by a Homeowners Association, the restrictive covenants shall provide that, in the event the Homeowners Association fails to maintain the open space according to the standards of this Ordinance, the Town may, following reasonable notice, demand that deficiency of maintenance be corrected or enter the open space to maintain it. The cost of such maintenance shall be charged to the Homeowners Association.

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- F. The developer shall place in a conspicuous manner upon the Final Plat of the subdivision a notation concerning control of open space.
- G. The developer will provide proof of registration of the Articles of Incorporation with the appropriate state agency for the formation of the Homeowners Association to the Administrator. Such document shall include, but not be limited to, the following:
  - 1. Provision for the establishment of the association or similar entity is required before any lot in the development is sold or any building occupied and membership shall be mandatory for each homeowner and any successive buyer.
  - 2. The association or similar legal entity has clear legal authority to maintain and exercise control over such common open space areas.
  - 3. The association or similar legal entity has the power to compel contributions from residents of the development to cover their proportionate shares of the costs associated with the maintenance and upkeep of such common areas. Further, assessments levied can become a lien on the property if allowed in the master deed establishing the homeowners association or similar legal entity.
  - 4. The open space restrictions must be permanent, not just for a period of years.
  - 5. The association or similar legal entity must be responsible for liability insurance, applicable taxes and the maintenance of open space and other facilities under their control.
  - 6. The association or similar legal entity must be able to adjust the assessment to meet changing needs.
  - 7. The association shall be responsible for maintaining all public storm water drainage systems and easements within the development not being maintained by the Town, County, State or other approved entity.
  - 8. It shall be expressly stated within the restrictive covenants/Homeowners Association documents that it will be the responsibility of the developer or successors or assigns to enforce such covenants or restrictions until such time as control has been transferred to the Homeowners Association Board of Directors. It shall be the sole responsibility of the developer, successor or assigns to correct any deficiencies prior to transfer of control over to the Homeowners Association Board of Directors.

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#### 4.3.4.8 Alternatives to Dedication

- A. As an alternative to providing required open space on a development site, the developer has the option of:
  - 1. Requesting that the Town permit the purchase of land lying within a planned public park or open space system within or immediately adjacent to the Town's zoning jurisdiction and its dedication to the appropriate public authority; or
  - 2. Requesting that the Town accept fees in lieu of land dedication for the purpose of providing public open space.
- B. Any request for alternative open space locations shall be accompanied by the following information:
  - 1. The exact location (either a tax identification number or a metes and bounds description), size, and current assessed and appraised value of land proposed for purchase and public dedication.
  - 2. The intended recipient of the dedication of land and evidence that the recipient (if other than the Town) approves of the dedication.
  - 3. The proposed timing of the purchase and dedication.
- C. If fees in lieu are proposed, the amount of fees offered shall be commensurate with the cost of land used for the development and the amount of open space required. For example, if one acre of open space is required per this ordinance and the cost of usable land within the development site is \$50,000 per acre, then the minimum fee in lieu of open space would be equal to \$50,000. All fees in lieu of open space dedication shall be placed in a fund separate from the General Fund to be used exclusively for the purchase of open space or park land or for the improvement of open space or park land already owned by the Town.

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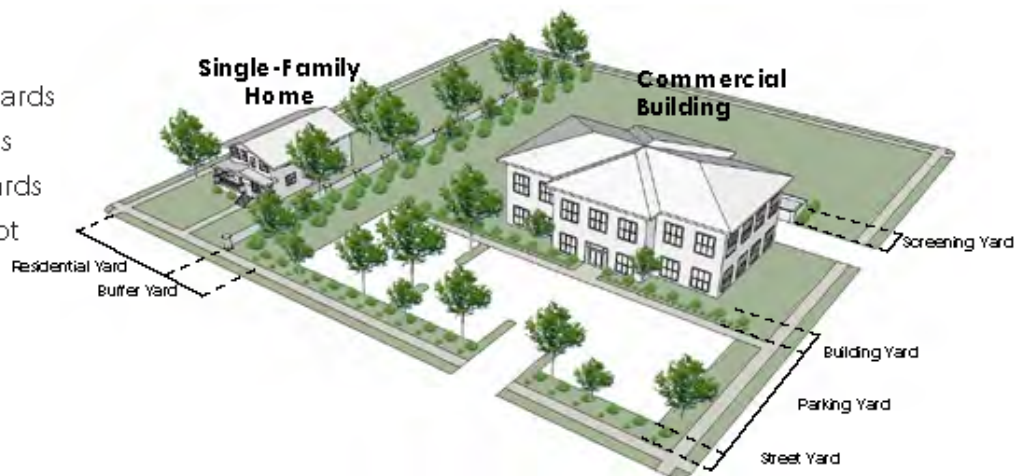
#### 4.4 Landscaping and Screening Standards

##### 4.4.1 Purpose and Applicability

- A. The purpose of this Section is to regulate the installation, protection, and long-term management of trees and shrubs and to minimize potential nuisances, such as visual impacts, noise, dust, odor, litter, heat, and glare of lights, from adjacent properties and the community. The appropriate use of existing and supplemental landscaping enhances the appearance of the built environment, blends new development with the natural landscape, and reduces the environmental impact of development. Existing vegetation should be protected and retained where possible to ensure a natural established landscape.
- B. The requirements of this section do not apply to single-family or two-family residential development on existing lots of record. The requirement for installation of landscaping shall be initiated by any one (1) or more of the following activities on a property:
- New construction or the initial use of the property
  - A substantial change of use or change in zoning classification
  - Any building or parking expansion of greater than 20%
  - Residential lots within new major subdivisions
- C. The provisions of this Section are designed to specifically address the application of landscape resources to varying styles of development and the impact of such applications on the appearance, health and financial well-being of the community. The provisions are broken into six (6) landscaping and screening categories:

Figure 4.8 Landscaping Yards

- Buffer Yards
- Street Yards
- Parking Lot Yards
- Building Yards
- Screening Yards
- Residential Lot Yards





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#### 4.4.2 General Standards for All Landscaping

- A. The preservation of existing vegetation and natural features is encouraged. Significant trees, forest stands, natural vegetation, specimen trees, severe natural topography, drainage features and water courses are encouraged to be preserved to the extent that is reasonable and practical while otherwise not reasonably prohibiting development.
- B. In cases where an existing, landscaped or vegetated area is located on the same property as the proposed development, further plantings and or improvements shall not be required so long as existing vegetation is of sufficient width and contains adequate materials to meet the requirements of this Ordinance. If the landscaped or vegetated area is deficient, the developer shall make needed improvements and/or additions to satisfy the landscaping requirements and intent of this Ordinance.
- C. No structure other than a wall, fence, sidewalk, mailbox, sign, light fixture, or driveway shall be permitted within a required landscaping area. No off-street parking may take place in any required landscaping area. Where plant materials are required, the required amount of plant materials shall be installed on the side of any wall or fence opposite the new development.
- D. Within 30 feet of overhead utility lines, two (2) small trees shall be used in lieu of each large tree required. Such small trees shall not reach a mature height of greater than 15 feet.
- E. At least 75% of the required shrubs shall be evergreen species locally adapted to the area.
- F. No landscaping feature shall impede sight lines of traffic within the sight triangle as defined in Section 4.2.1 (E).
- G. All diagrams in this Section are for illustrative purposes only.

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#### 4.4.3 Buffer Yards

- A. Buffer yards area intended to separate higher intensity and lower intensity. Buffers shall be measured from the subject property line into the site to be developed. All required buffer yards shall abut the subject property line. Required buffer yard width shall not decrease the required building setback for each zoning district as set forth in Section 4.2.
- B. Buffer yards shall function as opaque visual screens with a minimum height of six (6) feet.
- C. Generally, the responsibility for screening is that of the more intense land use. However, new developments with a less intense use being constructed next to an existing more intense use shall provide the required landscaping on the new development's property.
- D. Fences located within a buffer yard shall be located on the side closest to the neighboring property line while allowing adequate room to maintain both sides of the fence.
- E. In addition to the requirements of this Section, street yard landscaping shall meet the general standards set forth in Section 4.4.4.
- F. There are three (3) types of buffer yards. The requirements and depictions of these buffer yards are shown on the following pages.
  - 1. *Type 1 Buffer:* Non-residential or Multi-family Residential development adjacent to any type of residential development (not including development within an LI or HI District)
  - 2. *Type 2 Buffer:* All development in a Heavy Industrial (HI) adjacent to all other zoning districts. This shall not apply to the front property line along a street right-of-way unless the adjacent district is RR, RM, RH, or RMH.
  - 3. *Type 3 Buffer:* All development in a Light Industrial (LI) adjacent to all other zoning districts. This shall not apply to the front property line along a street right-of-way unless the adjacent district is RR, RM, RH, or RMH.

Table 4.4 Type 1 Buffer Yard

Criteria	Standard
Width	20 feet (Type 1) 50 feet (Type 2) / 30 feet (Type 3)
Large Trees	1 per 100 linear feet
Small Trees	2 per 100 linear feet
Large Shrubs	15 per 100 linear feet
Medium or Small Shrubs	10 per 100 linear feet
Fence, Wall, or Berm *	Optional *
Groundcover	Pine needles, mulch, or landscaping rock

(ZTA-2019-02 Amended June 3, 2019)

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\*Use of a fence, wall, or berm allows the reduction in shrubs and buffer width by 25% in a Type 2 Buffer Yard and by 20% in a Type 3 Buffer Yard. Any fence, wall, or berm used to meet the requirements of this section shall meet the requirements of Section 4.4.9 or 4.4.10 and be a minimum of 6 feet tall and 90% opaque.

Figure 4.9 Type 1 Buffer

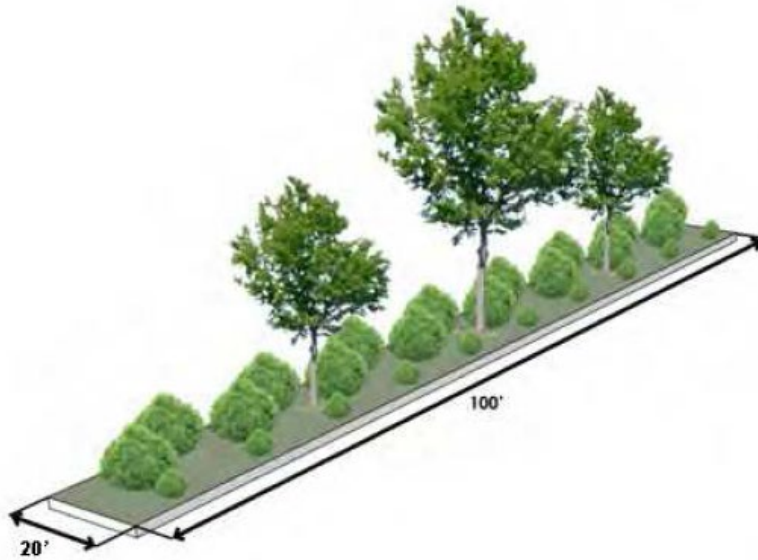
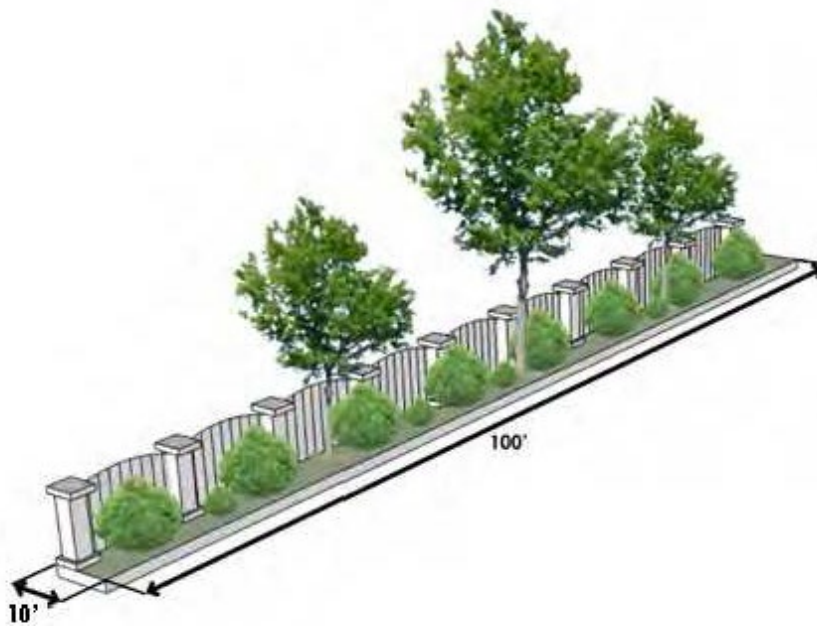


Figure 4.10 Type 1 Buffer with Fence



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Table 4.5 Type 2 Buffer Yard

Criteria	Standard
Width	50 feet
Large Trees	4 per 100 linear feet
Small Trees	5 per 100 linear feet
Large Shrubs	30 per 100 linear feet
Medium or Small Shrubs	35 per 100 linear feet
Fence, Wall, or Berm *	Optional *
Groundcover	Pine needles, mulch, or landscaping rock

\* Use of a fence, wall, or berm allows the reduction in shrubs and buffer width by 25%. Any fence, wall, or berm used to meet the requirements of this section shall meet the requirements of Section 4.4.9 or 4.4.10 and be a minimum of 6 feet tall and 90% opaque.

Figure 4.11 Type 2 Buffer

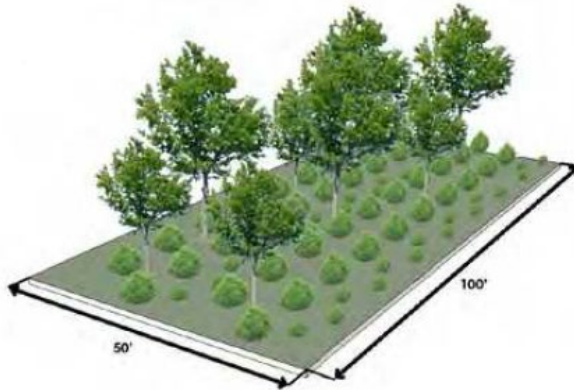
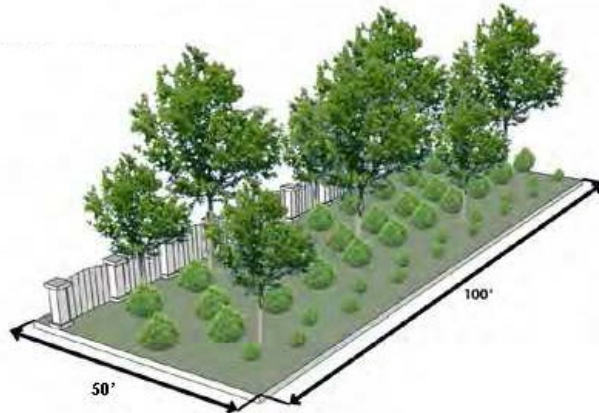


Figure 4.12 Type 2 Buffer with Fence



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#### 4.4.4 Street Yards

- A. Street yards are intended to provide transition between roads and developed sites and to create a continuous vegetated aesthetic along the street rights-of-way.
- B. Street yards shall be measured from the right-of-way line (front property line) into the subject property.
- C. Street yard requirements shall not apply to development within the CB zoning district.
- D. In addition to the requirements of this Section, street yard landscaping shall meet the general standards set forth in Section 4.4.2.
- E. Developments along streets with existing street trees may use such trees to satisfy the tree requirements of the street yard as long as the minimum number of trees are present. Required street yard shrubs shall be installed around existing street trees in a manner that does not damage the existing trees.
- F. In the presence of overhead utility lines, two (2) small trees shall replace one (1) large tree.

Table 4.6 Street Yard

Criteria	Standard
Width	10 feet
Large Trees	2 per 100 linear feet
Small Trees	2 per 100 linear feet
Large Shrubs	5 per 100 linear feet
Medium or Small Shrubs	10 per 100 linear feet
Wall or Berm *	Optional *
Groundcover	Pine needles, mulch, or landscaping rock
* Use of a fence wall or berm allows the reduction in shrubs by 25%. Any fence, wall, or berm used to meet the requirements of this section shall meet the requirements of Section 4.4.9 or 4.4.10 and be a minimum of 6 feet tall and 90% opaque.	

Figure 4.13 Street Yard



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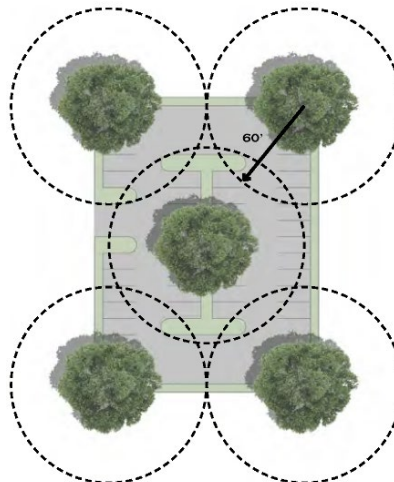
#### 4.4.5 Parking Lot Yards

- A. Parking lot landscaping is required within all non-residential parking lots of greater than 10 spaces except automobile or boat sales display areas. Instead, perimeter landscaping around motor vehicle or boat sales display areas shall be utilized at the same rate as required in Table 4.7, as applicable.
- B. The parking lot yard requirement may be met by the street yard requirement, buffer yard requirement, or building yard requirement for parking that is immediately adjacent to a street yard, buffer yard, or building yard.
- C. Trees shall be planted in a manner that provides shade for parking area at maturity within 10 feet of the pavement edge. Each planting area shall be a minimum of 50 square feet, with a minimum dimension of seven (7) feet. Planting areas shall be protected with concrete curbing or wheel stops.
- D. Required shrubs may be located around the parking lot perimeter (within 10 feet of the pavement edge) or within planting islands.
- E. In addition to the requirements of this Section, parking lot yard landscaping shall meet the general standards set forth in Section 4.4.2.
- F. In the presence of overhead utility lines, two (2) small trees shall replace one (1) large tree.

Table 4.7 Parking Lot Yard

Criteria	Standard
Landscaping area	50 square feet
Large Trees	1 within 60 feet of every parking space
Small Trees	Optional
Large Shrubs	Optional
Medium or Small Shrubs	Optional
Groundcover	Pine needles, mulch, or landscaping rock

Figure 4.14 Parking Lot Yard





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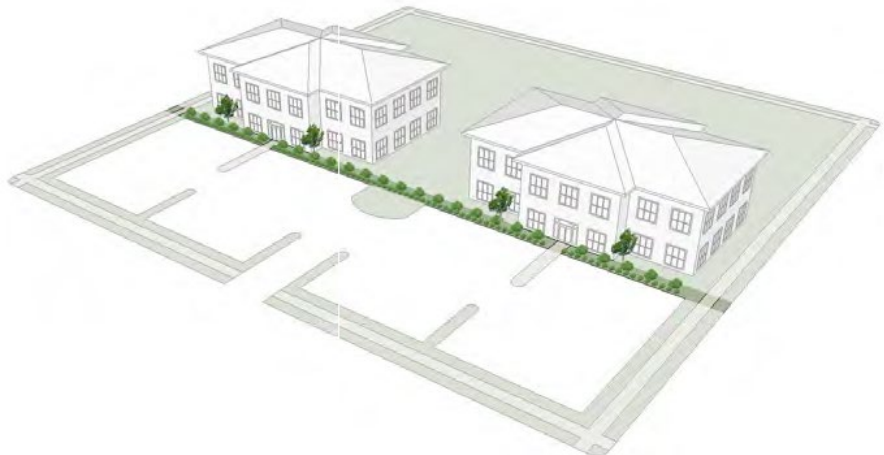
#### 4.4.6 Building Yards

- A. The intent of building yards is to create a buffer between buildings and parking areas for pedestrians entering and exiting buildings and to improve the appearance of building entrances.
- B. Building yard width shall be based on the total area of the building. Widths shall be measured from the applicable building wall. Building yards shall be located on any side of a building where parking area is adjacent to the building. This shall not apply to the CB, LI, or HI districts, or single-family or two-family dwellings.
- C. The building yard requirement may be met by the street yard requirement or parking lot yard requirement for buildings immediately adjacent to a street yard or parking lot.
- D. Building yards may be crossed by walkways to general access doorways, however a maximum of 25% of the building yard may be composed of walkways.
- E. In addition to the requirements of this Section, parking lot yard landscaping shall meet the general standards set forth in Section 4.4.2.

Table 4.8 Building Yard

Criteria	Building Area		
	Less than 10,000 square feet	10,000—60,000 square feet	Greater than 60,000 square feet
Width	5 feet	8 feet	10 feet
Small Trees	N/A	N/A	1 per 50 linear feet of building yard
Shrubs	3 per 10 linear feet of building yard	5 per 10 linear feet of building yard	7 per 10 linear feet of building yard
Groundcover	Pine needles, mulch, or landscaping rock	Pine needles, mulch, or landscaping rock	Pine needles, mulch, or landscaping rock

Figure 4.15 Building Yard



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#### 4.4.7 Screening Yard

The screening requirements of this Section shall apply to garbage containers, mechanical equipment, and outdoor storage for all new and expanding non-residential and multi-family residential development:

- A. Any permitted outdoor storage, utility equipment, or solid waste receptacles (including dumpsters) shall be screened in the form of a wall or fence and shrubs as to provide an opaque screen. The screen shall exceed the height of the storage, equipment, or receptacle by a minimum of six (6) inches and shall not exceed the height limitations set forth in Section 4.4.9 for fences and walls and shall not interfere with the operation of utility equipment.
- B. Dumpsters and other waste collection containers shall not be located in the front yard of any structure or within any required buffer yard.
- C. Ground-mounted mechanical equipment shall be located in the rear or side yard and screened from view of the street.
- D. Any fencing used to fulfill the requirements of this Section shall be supplemented with landscaping. Chain link fence with slats shall not be used to meet the requirement of this Section.
- E. All screens shall utilize building materials and design which are compatible with those used for the exterior of the principal building.





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#### 4.4.8 Residential Yards

- A. The intent of the Residential Yard is to replace some of the trees removed during the grading process and establish a residential tree canopy and to provide a building yard transition between the street and structure.
- B. Residential yards are required for all single-family and two-family residential lots in new major subdivisions.
- C. Trees and shrubs shall be planted outside of the public right-of-way. Maintenance of the trees and shrubs shall be the responsibility of the individual property owner. Vegetation shall be selected from the approved plant list in Section 4.4.11. The use of existing vegetation to satisfy the large tree standard is encouraged.

Table 4.9 Residential Yard

Criteria	Standard
Large Trees	1 per street frontage
Small Trees	Optional
Large Shrubs	Optional
Medium or Small Shrubs	2 per 20 linear feet of building width along front façade

Figure 4.16 Residential Yard



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#### 4.4.9 Fences and Walls

##### 4.4.9.1 General Requirements

- A. Fences and walls shall only be installed subject to the issuance of a Zoning Permit and the requirements of this Section.
- B. Unless otherwise specified within this Ordinance, fences and walls shall be exempt from setback and yard requirements. Fences may be located up to the property line but shall not be located in any right-of-way or sight-triangle. For streets without a right-of-way, fences shall be located a minimum of 10 feet from the edge of pavement. Fences may be located closer than 10 feet to the edge of pavement if there is an existing retaining structure, as long as the fence is no closer to the pavement than the existing retaining structure.
- C. Fences and walls not maintained in a safe manner or good order through neglect, lack of repair, manner of construction, method of placement, or otherwise deemed unsafe by the Town shall be repaired, replaced, or removed.
- D. Fences and walls shall not contain advertising, signs, logos or other lettering.
- E. Where a fence or wall is used as part of required screening, all required vegetation shall be planted on the exterior side of the fence or wall (exterior to the lot).
- F. Retaining walls built to State Building Code are exempt from the maximum height requirements.
- G. Nothing in this subsection shall preclude the installation of temporary fences around construction works, erected or maintained pursuant to the NC Building Code or Soil Erosion and Sedimentation Control Act requirements.

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#### 4.4.9.2 Height and Materials

All new fences and walls shall meet the height and material requirements in the table below. The requirement of this subsection shall not apply to bona fide farms.

Table 4.10 Fence Height and Materials

Criteria	Zoning District					
	RR, RM, RH, RMH		OI, NB, HB, CB		LI, HI	
	Front Yards	Side & Rear Yards	Front Yards	Side & Rear Yards	Front Yards	Side & Rear Yards
Max. Height	4 feet	6 feet	6 feet	8 feet	8 feet	8 feet
Permitted Materials	<ul style="list-style-type: none"> <li>• brick</li> <li>• stone</li> <li>• stucco or EIFS</li> <li>• vinyl</li> <li>• wood or composite wood</li> <li>• wrought iron or similar aluminum</li> </ul>	<ul style="list-style-type: none"> <li>• brick</li> <li>• chain link</li> <li>• stone</li> <li>• stucco or EIFS</li> <li>• vinyl</li> <li>• wood or composite wood</li> <li>• wrought iron or similar aluminum</li> </ul>	<ul style="list-style-type: none"> <li>• brick</li> <li>• stone</li> <li>• stucco or EIFS</li> <li>• vinyl</li> <li>• wood or composite wood</li> <li>• wrought iron or similar aluminum</li> </ul>	<ul style="list-style-type: none"> <li>• brick</li> <li>• chain link</li> <li>• stone</li> <li>• stucco or EIFS</li> <li>• vinyl</li> <li>• wood or composite wood</li> <li>• wrought iron or similar aluminum</li> </ul>	<ul style="list-style-type: none"> <li>• brick</li> <li>• chain link (vinyl coated)</li> <li>• stone</li> <li>• stucco or EIFS</li> <li>• vinyl</li> <li>• wood or composite wood</li> <li>• wrought iron or similar aluminum</li> </ul>	<ul style="list-style-type: none"> <li>• brick</li> <li>• chain link</li> <li>• standard or split-faced concrete block</li> <li>• stone</li> <li>• stucco or EIFS</li> <li>• vinyl</li> <li>• wood or composite wood</li> <li>• wrought iron or similar aluminum</li> </ul>

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#### 4.4.9.3 Design

- A. Materials may include a combination of the listed permitted materials for each fence type. Fences shall be constructed of materials manufactured and sold as fencing materials. Wood pallets, tires, pipes, and similar items shall not be used as fencing materials.
- B. Front yard fences shall not be opaque and shall be at least 50% transparent unless part of a required buffer or screen.
- C. The finished side of the fence shall be installed facing the street right-of-way and adjacent properties.
- D. The capital or finial of a fence post or column may extend up to one (1) feet above the maximum height.
- E. Chain link fences for non-residential and multi-family residential uses shall be supplemented with landscaping to the outside of the fence at a minimum rate of one (1) large shrub per five (5) linear feet. Chain link fence with slats shall not be used to meet screening requirements.
- F. Barbed or razor wire on top of chain link fences is permitted for rear yard fences not visible from a street in the LI and HI districts only.
- G. Fences and walls shall be compatible in design and material of the buildings on the property.
- H. No fence or wall which will block or materially impede the flow of stormwater runoff shall be constructed within a storm drainage easement.

#### 4.4.10 Berms

Any berm that is constructed as part of a landscaping yard shall meet the following standards:

- A. The berm shall have a minimum height of three (3) feet, a minimum crown width of two (2) feet, and a side slope with a width to height ratio of no greater than three to one (3:1) if less than four (4) feet in height and a width to height ratio of no greater than four to one (4:1) if more than four (4) feet in height.
- B. Berms shall have adequate groundcover or other plant material to prevent erosion and shall be substantially planted and covered with live vegetation. No berm shall consist entirely of turf grass, groundcover, mulch or similar material.
- C. Berms shall be designed to prevent standing water or the impeded flow of stormwater.
- D. Berms shall be free of structures or merchandise.

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#### 4.4.11 Plant Installation Standards

- A. Trees and shrubs to be planted shall be selected from the latest edition of the NC Cooperative Extension Publication AG 508-3 Drought Tolerant Plants for North Carolina as shown in Table 4.12. The Administrator may approve alternative large or small maturing trees excluding, but not limited to, Callory pears, Bradford pears, sweet gum (excludes fruitless varieties), catalpa, wild cherry, wild elm, princess, hackberry and tree-of-heaven.
- B. All plants shall be installed in accordance with the latest edition of the American Standards for Nursery Stock, published by the American Nurserymen's Association and the American National Standards Institute (ANSI).
- C. No trees identified as large trees shall be planted within 30 feet of overhead utility lines or within five (5) feet of a utility easement. This does not include low-voltage insulated or covered lines of 240 volts or less or telecommunication lines.
- D. All plant material installed shall be free from disease and scarring and shall be installed in a manner that ensures the availability of sufficient soil and water to sustain healthy growth, and which is not intrusive to utilities or pavement.
- E. Except as herein provided, on a corner lot in any district, no hedge, shrubbery, tree, natural growth, sign, fence, wall, or other obstruction shall be placed or maintained within a sight triangle as defined by this Ordinance.
- F. Required landscaping shall be installed with the minimum size specifications:

Table 4.11 Plant Installation Size Standards

Type	Min. Height at Maturity (ft)	Min. Height at Planting (ft)	Min. Caliper at Planting (in) *	Min. Spacing (ft on center)
Large Trees	40	8	2	20
Small Trees	15	6	1.5	10
Large Shrubs	8	4	N/A	4
Medium Shrubs	4	2	N/A	2
Small Shrubs	2	1	N/A	2

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Table 4.12 Approved Plant List

Botanical and Common Name	Water Use Zone	NC Hardiness Zone	Texture	Form	Height/Spread (FT)	Growth Rate	Group	Exposure
<b>Large Trees</b>								
Acer floridanum/Florida Maple or Southern Sugar Maple	1,2,3	6b to 8	Medium	Oval	40—50/20—25	Medium to Fast	Deciduous	Sun/Semi-Shade
Acer rubrum/Red Maple	1,2	6b to 8	Medium	Rounded	40—50/25—35	Medium	Deciduous	Sun/Semi-Shade
Acer saccharum/Sugar Maple	1,2	6b to 7a	Medium	Oval	60—80/25—40	Medium to Fast	Deciduous	Sun/Semi-Shade
Betula nigra/River Birch	1,2	6b to 8	Medium	Oval	40—70/40—60	Fast	Deciduous	Sun
Cedrus Libani/Cedar of Lebanon	1,2	5 to 7	Medium	Conical	80—100/80—100	Fast	Evergreen	Sun
Cryptomeria japonica/Japanese Cryptomeria	1,2,3	6 to 8	Fine	Conical	50—60/20—30	Slow to Medium	Evergreen	Sun
Fraxinus americana/White Ash	1,2,3	6 to 7	Medium	Oval	80/50	Fast	Deciduous	Sun
Fraxinus pennsylvanica/Green Ash	1,2,3	6b to 8	Medium	Upright, Spreading	50—60/20—30	Medium	Deciduous	Sun
Ginkgo biloba/Ginkgo or Maiden Hair Tree(male only)	1,2	6b to 8	Medium	Irregular	50—70/30—40	Very Slow	Deciduous	Sun
Gleditsia Triacanthos var. inermis/Thornless Honey Locust	1,2	6 to 8	Fine	Oval/ Rounded	50—75/35—50	Fast	Deciduous	Sun
Gymnocladus dioicus/Kentucky Coffee Tree	1,2	3 to 8	Medium to Coarse	Horizontal Branching	60—80/40—55	Slow to Medium	Deciduous	Sun

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Large Trees								
Botanical and Common Name	Water Use Zone	NC Hardiness Zone	Texture	Form	Height/Spread (FT)	Growth Rate	Group	Exposure
Magnolia grandiflora/Southern Magnolia	1,2	6b to 8	Course	Upright, Pyramidal	60—80/40—50	Slow to Medium	Evergreen	Sun
Metasequoia glyptostroboides/Dawn Redwood	1,2	6b to 8	Fine	Conical	40—50/20—25	Fast	Deciduous	Sun
Pinus strobus/White Pine	1,2	6b to 7a	Medium	Pyramidal	80—100/25—40	Medium	Evergreen	Sun
Pinus taeda/Loblolly Pine	1,2,3	6b to 7	Medium	Horizontal Branching	80—100/20—30	Fast	Evergreen	Sun
Platanus x acerifolia/London Planetree	1,2	4 to 8	Medium to Coarse	Pyramidal	75—100/60—75	Medium	Deciduous	Sun
Platanus occidentalis/Sycamore	1,2	6 to 8	Coarse	Oval/Rounded	75—100/75—100	Fast	Deciduous	Sun
Quercus acutissima/Sawtooth Oak	1,2,3	6b to 8	medium	Broad, Oval	35—45/35—45	Medium	Deciduous	Sun
Quercus falcate/Southern Red Oak	1,2	6b to 8	Coarse	Rounded	70—80/30—40	Medium	Deciduous	Sun
Quercus nigra/Water Oak	1,2,3	6b to 8	Medium	Rounded	80—90/40—50	Medium to Fast	Deciduous	Sun
Quercus palustris/Pin Oak	1,2	6b to 8a	Medium	Pyramidal	70—80/40—50	Medium	Deciduous	Sun
Quercus phellos/Willow Oak	1,2	6b to 8	Fine	Rounded	80—100/40—50	Medium	Deciduous	Sun

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Large Trees								
Botanical and Common Name	Water Use Zone	NC Hardiness Zone	Texture	Form	Height/Spread (FT)	Growth Rate	Group	Exposure
Quercus virginiana/Live Oak	1,2,3	7b to 8	Medium	Rounded	60—80/50—60	Medium	Evergreen	Sun
Taxodium distichum/Common Baldcypress	1,2,3	6b to 8	Fine	Conical	50—70/20—30	Medium	Deciduous	Sun
Tilia cordata/Littleleaf Linden	1,2	6 to 8	Medium	Oval	50—70/35—50	Medium	Deciduous	Sun/Semi-Shade
Tilia platyphyllos/Bigleaf Linden	1,2	2 to 6	Medium	Pyramidal	60—80/30—50	Medium	Deciduous	Sun/Semi-Shade
Ulmus parvifolia/True Chinese Elm (Lacebark Elm)	1,2,3	6b to 8	Medium	Rounded	40—50/30—40	Fast	Deciduous	Sun
Zelkova serrata/Japanese Zelkova	1,2,3	6b to 8a	Medium	Broad, Oval	50—80/50—60	Fast	Deciduous	Sun
Small trees								
Botanical and Common Name	Water Use Zone	NC Hardiness Zone	Texture	Form	Height/Spread (FT)	Growth Rate	Group	Exposure
Acer ginnala/Amur Maple		3 to 8	Medium	Rounded	15—20/15—28	Slow	Deciduous	Sun/Semi-Shade
Acer griseum/Paperbark Maple		4 to 8	Medium	Upright	20—30/15—25	Slow	Deciduous	Sun/Semi-Shade
Acer palmatum/Japanese Maple	1,2	5 to 8	Fine to Medium	Rounded	15—25/10—25	Slow to Medium	Deciduous	Shade



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Small Trees								
Botanical and Common Name	Water Use Zone	NC Hardiness Zone	Texture	Form	Height/Spread (FT)	Growth Rate	Group	Exposure
Catalpa bignonioides/Southern Catalpa		5 to 9	Coarse	Irregular	25—40/ 20—30	Fast	Deciduous	Sun/Semi-Shade
Cercis canadensis/Redbud or Judas Tree	1,2	6b to 8	Medium	Oval	25—30/ 20—28	Medium	Deciduous	Sun/Shade
Chionanthus virginicus/Fringe Tree or Grancy Gray-beard	1,2	6b to 8	Coarse	Irregular	10—20/ 15—20	Slow to Medium	Deciduous	Sun/Semi-Shade
Cornus florida/Flowering Dogwood	1,2	6 to 8	Medium	Conical	20—30/ 20—25	Slow to Medium	Deciduous	Sun/Semi-Shade
Cornus Kousa/Kousa Dogwood	1,2	6 to 7	Medium	Horizontal Branching	10—15/ 8—10	Medium	Deciduous	Sun/Semi-Shade
Cupressocyparis leylandii/Leyland Cypress	1,2,3	6b to 8	Fine	Upright	60—70	Fast	Evergreen	Sun/Semi-Shade
Halesia Carolina/Silverbell	1,2,3	6b to 8	Medium	Spreading	20—30/ 15—20	Medium	Deciduous	Sun/Semi-Shade
Ilex x attenuata/Savannah, Savannah Holly	1,2,3	6b to 8	Coarse	Pyramidal	25—30/ 10—15	Medium	Evergreen	Sun/Shade
Ilex decidua/Possumhaw	1,2,3	6b to 8	Medium	Loose, Rounded	20—30/ 15—20	Medium	Deciduous	Sun/Semi-Shade
Ilex latifolia/Lusterleaf Holly	1,2,3	6b to 8	Coarse	Pyramidal	20—25/ 15—20	Medium	Evergreen	Sun/Shade
Ilex x 'Nellie R. Stevens'/Nellie R. Stevens' Holly	1,2,3	6b to 8	Coarse	Pyramidal	15-25/ 10—15	Medium	Evergreen	Sun/Shade
Ilex opaca/American Holly	1,2	6b to 8	Medium to Coarse	Pyramidal	20-30/ 15—20	Medium	Evergreen	Sun/Shade
Ilex x attennata 'Fosteri'/Foster's Holly		6 to 9	Fine to Medium	Upright, Pyramidal	20-30/ 7—10	Fast	Evergreen	Sun/Semi-Shade

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Small Trees								
Botanical and Common Name	Water Use Zone	NC Hardiness Zone	Texture	Form	Height/Spread (FT)	Growth Rate	Group	Exposure
Juniperus virginiana/Eastern Red Cedar	2,3	2 to 9	Fine to Medium	Upright	30—40/10—20	Medium	Evergreen	Sun
Koelreuteria paniculata/Goldenrain tree	1,2,3	6b to 8	Fine	Rounded	20—30/10—15	Medium	Deciduous	Sun
Lagerstroemia indica/Crape Myrtle(appropriate varieties)	1,2,3	6b to 8	Fine	Upright	20—30/10-15	Fast	Deciduous	Sun
Magnolia grandiflora 'Little Gem'/Little Gem Magnolia	1,2	7 to 8	Coarse	Symmetrical	40—60/25—30	Medium to Fast	Evergreen	Sun/Semi-Shade
Magnolia stellata/Star Magnolia	1,2,3	6 to 8	Medium	Oval Upright	15—20/10—12	Slow	Deciduous	Sun/Semi-Shade
Magnolia virginiana/Sweetbay Magnolia	1,2	7 to 8	Medium	Wide, Spreading Irregular	8—12/6—10	Slow	Deciduous	Semi-Shade
Magnolia x loebneri/Sweetbay Magnolia		5 to 8	Medium	Rounded	20—30/20—30	Medium	Deciduous	Semi-Shade
Magnolia x soulangiana/Saucer Magnolia	1,2,3	6b to 8	Coarse	Rounded	20—30	Medium	Deciduous	Sun/Semi-Shade
Malus species/Flowering Crab	1,2	6b to 8	Medium	Rounded to Upright	15—30/15—30	Medium	Deciduous	Sun
Oxydendrum arboretum/Sourwood	1,2,3	6b, 7a	Medium to Coarse	Upright	30—40/15—20	Medium	Deciduous	Sun/Semi-Shade
Pinus thunbergiana/Japanese Black Pine		5 to 8	Medium	Irregular	50-70/25	Slow to Medium	Evergreen	Sun
Pinus virginiana/Virginia Pine	1,2,3	6b to 8a	Fine	Conical	15-30/10-30	Slow	Evergreen	Sun

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Small Trees								
Botanical and Common Name	Water Use Zone	NC Hardiness Zone	Texture	Form	Height/Spread (FT)	Growth Rate	Group	Exposure
Prunus caroliniana/Carolina Laurel, Cherry	1,2,3	7 to 8	Medium	Oval	20—30/15—20	Fast	Evergreen	Sun/Shade
Prunus serrulata/(many cultivars) Japanese Flowering Cherry	1,2	6b to 8a	Medium	Oval, Spreading, Weeping	20—30/20—30	Medium	Deciduous	Sun
Prunus x yedoensis/Yoshino Cherry	1,2	6b to 8a	Medium	Oval, Spreading	10—15/20—25	Medium	Deciduous	Sun
Vitex agnus-castus/Chastetree	1,2,3	6b to 8	Medium	Oval	15—20/10—15	Medium	Deciduous	Sun
Large Shrubs								
Botanical and Common Name	Water Use Zone	NC Hardiness Zone	Texture	Form	Height/Spread (FT)	Growth Rate	Group	Exposure
Buddleia davidii/Butterfly Bush	1,2,3	6b to 8	Medium	Upright, Oval	10—15 ft	Fast	Deciduous	Sun
Calycanthus floridus/Sweetshrub	1,2,3	6b to 8	Medium	Broad, Rounded	8—12 ft	Medium	Deciduous	Sun/Shade
Camellia japonica/Camellia	1,2	6b to 8	Medium to Coarse	Rounded to Oval	8—10 ft	Slow to Medium	Evergreen	Sun/Semi-Shade
Camellia sansanqua/Sansanqua Camellia	1,2	7 to 8	Medium	Irregular to Upright	8—10 ft	Slow to Medium	Evergreen	Sun/Semi-Shade
Chaenomeles speciosa/Flowering Quince	1,2,3	6b to 8	Medium	Rounded	8—10 ft	Medium	Deciduous	Sun/Semi-Shade
Elaeagnus x ebbingei/Elaeagnus	1,2,3	6b to 8	Medium	Irregular	8—10 ft	Fast	Evergreen	Sun/Semi-Shade
Euonymus alatus/Winged Euonymus	1,2,3	6b to 8	Medium	Mounded	15—20 ft	Slow	Deciduous	Sun/Shade

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Hamamelis vernalis/Vernal Witchhazel	1,2,3	6b to 8a	Medium	Dense, Rounded	8—12 ft	Medium	Deciduous	Sun/Semi- Shade
Large Shrubs								
Botanical and Common Name	Water Use Zone	NC Hardiness Zone	Texture	Form	Height/ Spread (FT)	Growth Rate	Group	Exposure
Hibiscus syriacus/Shrub Althea (Rose of Sharon)	1,2,3	6b to 8	Medium	Rounded	8—12 ft	Medium	Deciduous	Sun
Ilex x attenuate 'Fosteri' / Fos ter Holly	1,2	6b to 8	Medium	Upright	8—10 ft	Slow	Evergreen to Medium	Sun/Semi- Shade
Ilex cornuta 'Burfordii' / Burford Holly	1,2,3	6b to 7b	Coarse	Oval to Rounded	8—12 ft	Medium to Fast	Evergreen	Sun/Semi- Shade
Ilex verticillata/Winterberr y	3	3 to 9	Medium	Oval Rounded	6—15/6— 10	Slow to Medium	Deciduous	Sun/Semi- Shade
Ilex x 'Emily Bruner' / Emily Bruner Holly		7 to 9	Medium	Pyramidal	15—20/8	Medium	Evergreen	Sun/Semi- Shade
Ilex x 'Nellie R. Stevens' / Nellie Stevens Holly	1,2,3	6 to 9	Medium	Upright Pyramidal	30— 40/10— 15	Fast	Evergreen	Sun/Semi- Shade
Juniperus Chinesis 'Hetzi' / Hetz Juniper	2,3	6b to 8	Fine	Upright	15 ft	Fast	Conifer	Sun
Juniperus chinensis 'Pfitzeriana' / Pfitzer Juniper	2,3	6b to 8	Fine	Broad, Upright	8—10 ft	Fast	Conifer	Sun
Leucothoe populifolia/Fetterbru sh	1,2	7a to 8	Medium	Upright, Arching	8—12 ft	Medium	Evergreen	Semi- Shade/Sh ade
Ligustrum japonicum/Japanese Privet	1,2,3	7b to 8	Coarse	Dense/Ro unded	8—12 ft	Medium	Evergreen	Sun/Shad e
Ligustrum lucidum/Waxleaf Privet	1,2,3	7b to 8	Medium to Coarse	Rounded	10—20 ft	Medium to Fast	Evergreen	Sun/Semi- Shade
Ligustrum sinense/Chinese Privet	1,2,3	7a to 8	Medium	Dense, Rounded	10—15 ft	Medium	Evergreen	Sun/Shad e

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Ligustrum x vicaryi/Vicary Golden Privet	1,2,3	6b to 8	Medium	Rounded	10—12 ft	Medium	Evergreen	Sun/Semi-Shade
Magnolia stellate/Star Magnolia	1,2,3	6b to 8a	Coarse	Rounded	10—15 ft	Medium	Deciduous	Sun/Semi-Shade
<b>Large Shrubs</b>								
<b>Botanical and Common Name</b>	<b>Water Use Zone</b>	<b>NC Hardiness Zone</b>	<b>Texture</b>	<b>Form</b>	<b>Height/Spread (FT)</b>	<b>Growth Rate</b>	<b>Group</b>	<b>Exposure</b>
<i>Osmanthus fortune/Fortunes Osmanthus</i>	1,2,3	6b to 8	Medium	Rounded	8—10 ft	Slow to Medium	Evergreen	Semi-Shade
Pittosporum tobira/Japanese Pittosporum	1,2	7b to 8b	Medium	Rounded	8—10 ft	Fast	Evergreen	Sun/Semi-Shade
Podocarpus macrophyllus var maki/Southern Yew	1,2	7a to 8b	Medium	Upright	8—12 ft	Medium	Evergreen	Sun/Semi-Shade
Pyracantha species/Firethorn	1,2	6b to 8	Medium	Irregular	10—12 ft	Fast	Evergreen	Sun
Rhododendron austrinum/Florida Azalea (Red flower)	1,2	6b to 7	Medium	Rounded	8—12 ft	Medium	Deciduous	Semi-Shade/Shade
Rhododendron calendulaceum/Flame Azalea (Yellow-pink flower)	1,2	6b to 7	Medium	Rounded	10—15 ft	Medium	Deciduous	Semi-Shade/Shade
Rhododendron canescens/Piedmont Azalea (Rosy Purple Flower)	1,2	6b to 7	Medium	Rounded	10-15 ft	Medium	Deciduous	Semi-Shade/Shade
Rhus typhina/Staghorn Sumac	1,2,3	6b to 8	Fine	Open, Spreading	15—25 ft	Fast	Deciduous	Sun/Semi-Shade
Ternstroemia gymnanthera/Cleyera	1,2	6b to 8	Medium	Upright	8—10 ft	Slow to Medium	Evergreen	Sun/Semi-Shade
Thuja occidentalis 'Emerald'/Emerald Arborvitae	1,2,3	4 to 8	Fine	Pyramidal	15/3—4	Medium	Evergreen	Sun
Viburnum lantana/Wayfaringtree, Viburnum	1,2,3	6b to 8a	Coarse	Round, Spreading	10—15 ft	Medium	Deciduous	Sun/Semi-Shade

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Large Shrubs								
Botanical and Common Name	Water Use Zone	NC Hardiness Zone	Texture	Form	Height/Spread (FT)	Growth Rate	Group	Exposure
Viburnum opulus/European, Cranberrybush, Viburnum	1,2,3	6b to 8a	Coarse	Upright, Spreading	8—12 ft	Medium	Deciduous	Sun/Semi-Shade
Viburnum plicatum var. tomentosum/Doublefile Viburnum	1,2,3	6b to 8a	Coarse	Round, Spreading	8—10 ft	Medium	Deciduous	Sun/Semi-Shade
Viburnum x pragense/Prague Viburnum	1,2,3	6b to 8a	Medium	Oval	10—12 ft	Medium	Deciduous	Sun/Semi-Shade
Medium Shrubs								
Botanical and Common Name	Water Use Zone	NC Hardiness Zone	Texture	Form	Height/Spread (FT)	Growth Rate	Group	Exposure
Abelia x grandiflora/Abelia	1,2,3	6b to 8	Fine	Irregular	3—4 ft	Slow to Medium	Evergreen	Sun/Semi-Shade
Aucubajaponica/Japanese Aucuba	1,2	6b to 8	Coarse	Upright	6—8 ft	Medium	Evergreen	Semi-Shade/Shade
Berberis julianae/Wintergreen Barberry	1,2,3	6b to 8	Medium	Oval	5—6 ft	Slow to Medium	Evergreen	Sun
Buxus sempervirens/Common Boxwood	1,2,3	6b to 7a	Fine to Medium	Rounded	5—8 ft	Slow to Medium	Evergreen	Semi-Shade
Camelia japonica/Japanese Camelia	1,2	7 to 8	Medium	Upright Columnar	8—15/6—7	Fast	Evergreen	Semi-Shade
Callicarpa dictoma/Purple Beautyberry	1,2	5 to 8	Medium	Slender, Arching Branches	3—4/4—5	Medium to Fast	Deciduous	Sun/Semi-Shade
Clethra alnifolia/Summersweet Clethra	1,2	3 to 9	Medium	Oval, Upright	4—10/4—6	Slow	Deciduous	Sun/Semi-Shade

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Chamae cyparis pisifera (cultivars)/Japanese False Cypress	1,2	4 to 8	Medium	Pyramidal	50— 70/10— 20	Medium	Evergreen	Sun
Cytissus scoparius/Scotch Broom	1,2,3	6b to 8a	Fine	Upright Open	5—6 ft	Medium	Evergreen	Sun
<b>Medium Shrubs</b>								
<b>Botanical and Common Name</b>	<b>Water Use Zone</b>	<b>NC Hardiness Zone</b>	<b>Texture</b>	<b>Form</b>	<b>Height/ Spread (FT)</b>	<b>Growth Rate</b>	<b>Group</b>	<b>Exposure</b>
Forsythia intermedia Hybrids/Border Forsythia	1,2	6b to 8	Medium	Irregular	5—7 ft	Fast	Deciduous	Sun
Hydrangea macrophylla/Bigleaf Hydrangea	1,2	6b to 8	Course	Rounded	5-8 ft	Fast	Evergreen	Semi-Sun
Hydrangea quercifolia/Oakleaf Hydrangea	1,2,3	6b to 8	Coarse	Upright	6—8 ft	Medium	Deciduous	Sun
Ilex cornuta 'Burfordii Nana', Dwarf Burford Holly	1,2,3	6b to 8	Medium to Coarse	Rounded	5—6 ft	Slow	Evergreen	Sun/Semi- Shade
Ilex glabra, Inkerry Holly	1,2,3	6b to 8	Medium	Rounded	6—8 ft	Medium	Evergreen	Sun
Illicium floridanum/Anisetree	1,2,3	7 to 9	Medium	Rounded	6—10/4— 8	Fast	Evergreen	Sun/Semi- Shade
Itea virginica/Virginia Sweetspire	1,2,3	5 to 9	Medium	Rounded	3—6/4—6	Medium to Fast	Evergreen	Sun/Semi- Shade
Juniperus virginiana 'Grey Owl'/Grey Owl Juniper		2 to 9	Fine	Horizontal Branching	2—3/4—6	Fast	Evergreen	Sun
Kalmia latifolia/Mountain Laurel	1,2	6b to 7	Medium	Upright	5—8 ft	Slow to Medium	Evergreen	Semi- Shade
Prunus laurocerasus 'Schipkaensis'/Schipka Laurel		6 to 8	Fine to Medium	Upright Spreading	3-4/3-4	Medium	Evergreen	Sun, Shade
Prunus laurocerasus 'Otto Luyken'/Otto Luyken Laurel		6 to 8	Fine to Medium	Upright Spreading	3—4/3—4	Medium	Evergreen	Sun, Shade

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Medium Shrubs								
Botanical and Common Name	Water Use Zone	NC Hardiness Zone	Texture	Form	Height/Spread (FT)	Growth Rate	Group	Exposure
Spiraea prunifolia 'Plena'/Bridalwreath Spirea	1,2,3	6b to 8	Fine to Medium	Rounded	5—7 ft	Medium to Fast	Deciduous	Sun
Spiraea vanhouttei/Vanhoutte Spirea	1,2,3	6b to 7b	Medium	Rounded	5—7 ft	Medium to Fast	Deciduous	Sun
Small Shrubs								
Botanical and Common Name	Water Use Zone	NC Hardiness Zone	Texture	Form	Height/Spread (FT)	Growth Rate	Group	Exposure
Aucubajaponica/Dwarf f Aucuba	1,2,3	6b to 8	Coarse	Oval	3—4 ft	Slow	Evergreen	Shade/Semi-Shade
Azaleas, Hybrids	1, 2	6b to 8	Fine	Upright	3-5 ft	Slow to Medium	Evergreen	Semi-Shade
Berberis thunbergii/Japanese Barberry	1,2,3	6b to 8a	Medium	Oval	3—5 ft	Medium	Evergreen	Sun/Semi-Shade
Buxus microphylla var. japonica/Japanese Boxwood	1,2,3	7a to 8	Fine	Rounded	3—4 ft	Slow	Evergreen	Sun/Semi-Shade
Deutzia gracilis/Slender deutzia	1,2,3	6b to 8a	Fine	Mounded	2—4 ft	Medium	Semi-Evergreen	Sun/Semi-Shade
Euonymus alatus 'Rudy Haag'/Winged Euonymus		6 to 8	Medium	Upright, Horizontal	8-10/8—10	Medium	Deciduous	Sun/Semi-Shade
Hydrangea arborescens/'Annabelle' Smooth Hydrangea	1, 2	6b to 8	Coarse	Rounded	3—5 ft	Fast	Semi-Evergreen	Sun
Ilex cornuta/'Carissa' Carissa Holly	1,2,3	6b to 8	Medium	Rounded	3—4 ft	Slow	Evergreen	Sun/Semi-Shade
Ilex cornuta/'Rotunda' Dwarf Chinese Holly	1,2,3	6b to 8	Coarse	Rounded	3—4 ft	Slow	Evergreen	Sun/Semi-Shade
Ilex crenata/'Compacta' Compact Holly	1,2	6b to 7	Fine to Medium	Rounded	3—4 ft	Medium	Evergreen	Sun/Semi-Shade
Ilex crenata/'Green Lustre'	1,2,3	6b to 8a	Fine to Medium	Rounded	3—5 ft	Medium	Evergreen	Sun/Semi-Shade



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Small Shrubs								
Botanical and Common Name	Water Use Zone	NC Hardiness Zone	Texture	Form	Height/Spread (FT)	Growth Rate	Group	Exposure
Ilex crenata/'Helleri' (Heller) Japanese Holly	1,2	6b to 7	Fine	Spreading	2—3 ft	Slow	Evergreen	Semi-Shade
Ilex cranata/'Hetzi' Hetz Holly	1,2	6b to 7	Fine to Medium	Rounded	4—5 ft	Medium	Evergreen	Sun/Semi-Shade
Itea virginica/Virginia Sweetspire	1,2,3	6b to 8b	Medium Branching	Upright	3—5 ft	Medium	Deciduous	Sun/Shade
Jasminum nudiflorum/Winter Jasmine	1,2,3	6b to 8	Fine	Mounded Spreading	3—4 ft	Fast	Evergreen	Sun/Shade
Juniperus chinensis 'Parsonii'/Parsons Juniper	2,3	6 to 8	Fine	Spreading	2—3/4—7	Slow	Evergreen	Sun/Semi-Shade
Kerria japonica/Japanese Kerria	1,2,3	6b to 8	Medium	Upright Arching	3—5 ft	Medium	Evergreen	Sun
Pyracantha koidzumii/'Santa Cruz'	1,2,3	7b to 8	Medium	Prostrate Spreading	2—3 ft	Medium	Evergreen	Sun
Spirea x bumalda/Bumald Spirea	1,2,3	6b to 8a	Fine	Mounded	2—3 ft	Fast	Deciduous	Sun/Semi-Shade
Spirea nipponica/'Snowmound'	1,2,3	6b to 8a	Fine	Mounded	3—5 ft	Fast	Deciduous	Sun/Semi-Shade
Spirea thunbergii/Thunberg Spirea	1,2,3	6b to 8	Fine	Irregular	3—4 ft	Medium	Deciduous	Sun

Source: NC Cooperative Extension Publication AG 508-3 Drought Tolerant Plants for North Carolina

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#### 4.4.12 Landscaping Maintenance

- A. Required landscaping shall be maintained to mature growth habit, and trees shall not be topped.
- B. The owner of the property where landscaping is required shall be responsible for the maintenance of all landscaping materials. Such maintenance shall include all actions necessary to keep the landscaped area free of litter and debris; to keep plantings healthy; to keep plant growth from interfering with safe vehicular and pedestrian travel, or use of parking areas, or from creating nuisances to adjoining properties; and to keep walls, fences and berms in good repair and neat appearance.
- C. Any vegetation that is part of a required landscaping area shall be replaced within 60 days in the event that it dies. All landscaping materials shall be protected from damage by erosion, motor vehicles, or pedestrians which could reduce the effectiveness of the required landscaping.
- D. See the American National Standards for Tree Care Operations: Tree, Shrub, and Other Woody Plant Maintenance-Standard Practices (Pruning) published by the American National Standards Institute (ANSI A300) for pruning tips.

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#### 4.5 PARKING STANDARDS

##### 4.5.1 Purpose and Applicability

- A. The purpose of this Section is to ensure that adequate and well-designed parking and site access is provided for developments in the Town of Yadkinville.
- B. Unless otherwise specified, the requirements of this Section shall be initiated by any one (1) or more of the following activities on a property:
- C. New construction or the initial use of the property.
- D. A substantial change of use or change in zoning classification.
- E. Any building or parking expansion of greater than 20%.
- F. The requirements of this section do not apply to single-family or two-family residential development on existing lots of record.

##### 4.5.2 General Provisions

- A. All off-street parking areas shall be landscaped in accordance with the regulations in Section 4.4.5.
- B. No off-street parking area shall be located over an on-site wastewater drain field.
- C. Off-street parking areas shall be properly maintained in all respects. In particular, off-street parking area surfaces shall be kept in good condition (free from potholes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.

##### 4.5.3 Parking Lot Design

- A. Off-street parking areas shall be designed so that parked vehicles do not encroach upon, extend onto, or cause vehicles to back into public rights-of-way, sidewalks or strike against or damage any wall, vegetation, utility, or other structure. Curbs or bumpers are required and shall be a minimum of six (6) inches high.
- B. Off-street parking areas shall be designed to facilitate adequate movement and access by sanitation, emergency and other public service vehicles.
- C. No surface parking or circulation driveway is permitted within any required or established buffer area, except that driveways providing access to the parking area may be installed across these areas.
- D. No parking aisle serving the general public that contains more than 10 parking spaces shall dead end, except



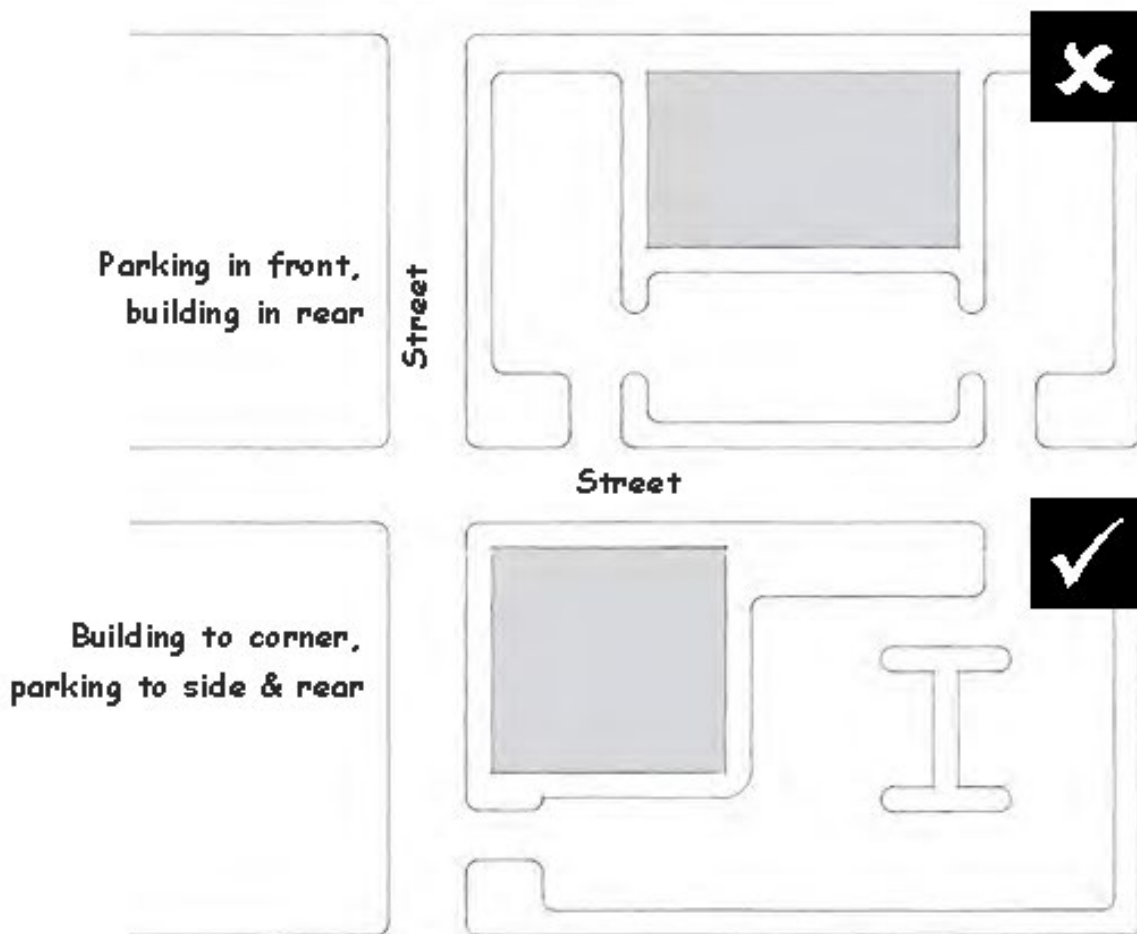
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that the Administrator may approve dead-end aisles for up to 20 spaces on small lots where expected traffic is minimal. Any parking aisle that dead-ends shall be provided a suitable turnaround.

- E. Parking lots shall not be located closer than 10 feet from a public right-of-way, except in the CB zoning district.
- F. In the CB zoning district, parking lots shall not be located closer than five (5) feet from the public right-of-way. No new off-street parking area in the CB districts shall extend toward a public street right-of-way beyond the front wall of the closest adjacent building. See Figure 4.17. All new or expanding off-street parking areas in the CB zoning district that abut a public street right-of-way shall be screened with a hedgerow, masonry wall, or fence of at least three (3) feet in height that meets the fence and wall requirements of Section 4.4.9. These features shall not impede sight lines within sight triangles as defined in Section 4.2.1(E).

Figure 4.17 Parking Location in CB District

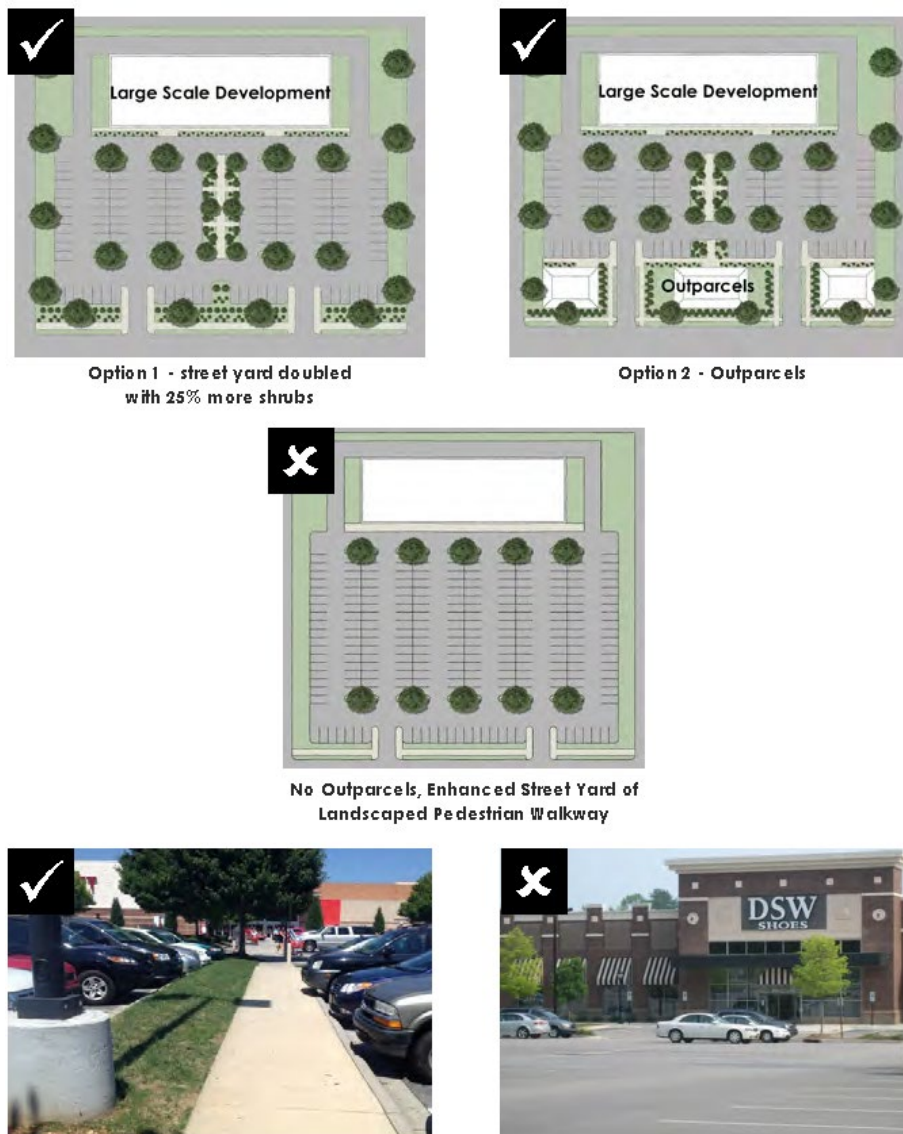


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- G. No more than three (3) parking aisles (defined as a travel lane and the parking located on each side) shall abut. Otherwise, parking aisles shall be separated from each other by planted medians which may include pedestrian walkways. Large parking lots shall be designed to allow pedestrians to safely move from their vehicles to the building(s).
- H. For non-residential uses with more than two (2) rows of parking located in the front yard of the principal building, parking shall have additional screening using one (1) of the following methods:
1. The minimum street yard width required by Section 4.4.4 shall be doubled and the number of shrubs shall be increased by 25%; or
  2. Parking may be shared and screened with outparcel buildings as shown Figure 4.18.

Figure 4.18 Example of Parking Area for Large Scale Development



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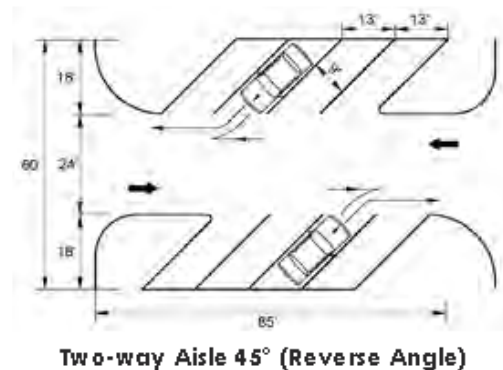
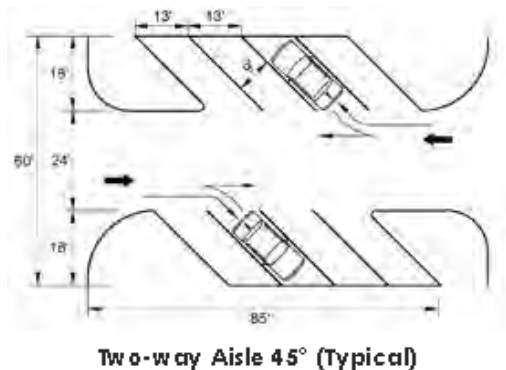
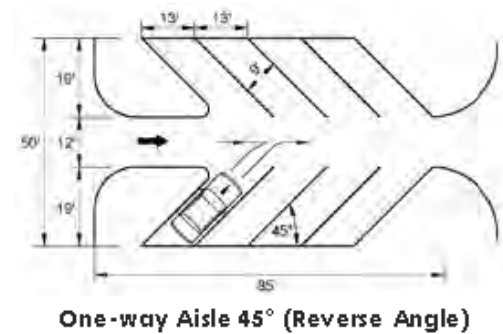
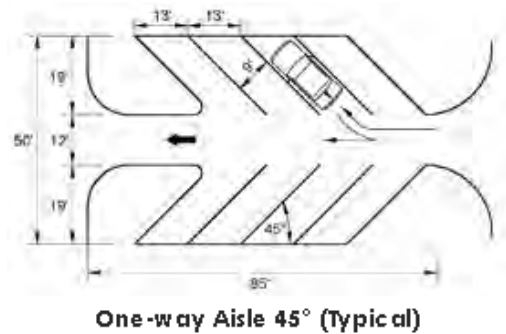
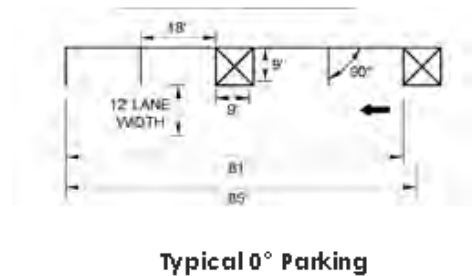
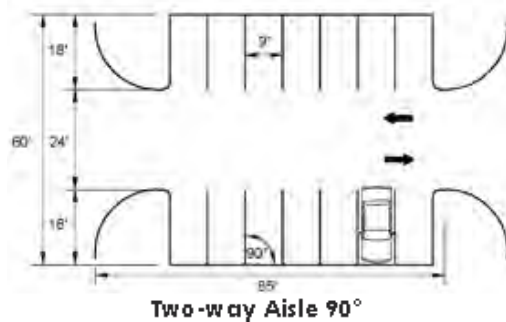
#### 4.5.4 Parking Dimensions

All new parking spaces shall meet the following dimensional requirements:

Table 4.13 Parking Dimensions

Angle (degrees)	Stall Width (feet)	Stall Depth (feet)	Aisle Width		Parking Bay Width		Bumper Overhang (front)
			One-way aisle (feet)	Two-way aisle (feet)	One-way aisle (feet)	Two-way aisle (feet)	
0	9	26	12	20	30	38	N/A
45	9	18	12	24	44	56	2
60	9	18	18	24	46	58	2
90	9	18	N/A	24	N/A	60	2

▼ FIGURE 4.19 PARKING DIMENSIONS

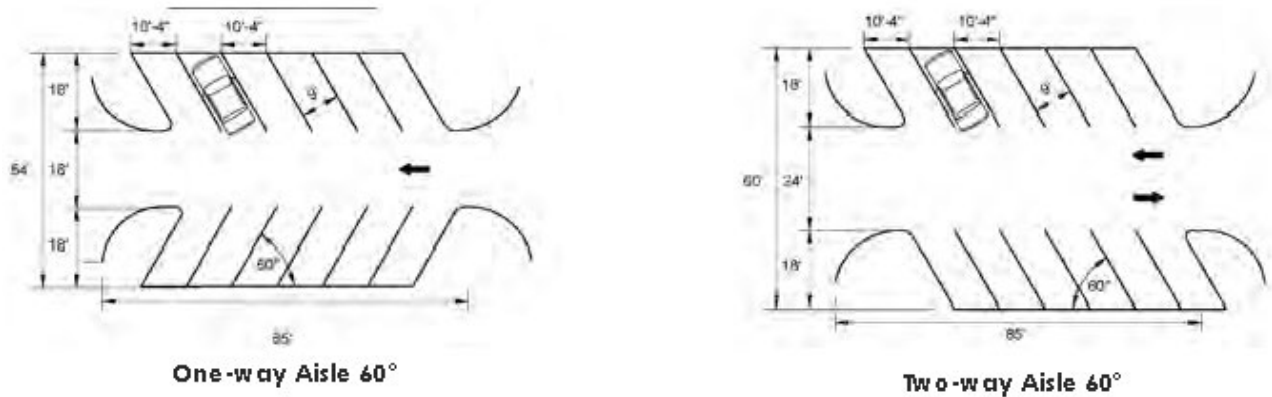




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Figure 4.19 Parking Dimensions (Continued)



#### 4.5.5 Parking Surface

- A. The following areas shall be paved with asphalt, concrete, pavers or similar paving material and shall be landscaped in accordance with the requirements of Section 4.4.5. This shall not apply to single-family and two-family residential uses.
- The minimum number of spaces for each use (as set forth in Section 4.5.6).
  - All front and side yard parking areas.
  - Driveways.
  - ADA parking spaces.
- B. Any additional parking areas located in rear yards may be gravel.
- C. All parking areas of greater than 20 spaces shall be constructed with standard or valley curb and gutter or an alternative Low Impact Development method as shown in the pictures below.



Standard curb and gutter



Standard curb and gutter directed into landscaped areas



Recessed curb with sheet flow drainage to landscaped area

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#### 4.5.6 Number of Parking Spaces

- A. All new developments in all zoning districts shall provide a sufficient number of off-street parking spaces to accommodate the number of vehicles that ordinarily are to be attracted to the development in question. Proof of sufficient parking shall be provided upon application for a Zoning Permit. No portion of any street right-of-way shall be considered as fulfilling or partially fulfilling the minimum number of off-street parking required by this Section. Properties within the CB zoning district shall be exempt from the minimum number of parking spaces.
- B. The Town recognizes that the Parking Requirements Table set forth in this Section cannot and does not cover every possible situation that may arise. Therefore, in cases not specifically covered, the Administrator is authorized to determine the parking requirements using the Table as a guide.
- C. See the Parking Requirements Table on the following pages for minimum parking space requirements. The Administrator may reduce the minimum number of parking spaces required or increase the maximum number allowed by up to 10% if the applicant can demonstrate that the number of required parking spaces is excessive or inadequate due to use or property constraints.
- D. Except for single-family residential uses, two-family residential uses, and uses providing 20 or fewer on-site parking spaces, the maximum number of parking spaces provided shall be 125% of the required minimum shown in the Parking Requirements Table on the following pages. Any number of parking spaces above the maximum shall utilize permeable pavers or Low Impact Development design.
- E. The minimum number of ADA accessible spaces shall be installed in accordance with the NC Building Code. ADA spaces may be included in the total required minimum number of parking spaces.



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Table 4.14 Minimum Number of Parking Spaces

Use	Minimum Number of Spaces
<b>Agricultural</b>	
Agricultural uses (unless otherwise specified)	N/A
Equestrian uses (horseback riding, stables)	1 per horse stall
Greenhouse or horticultural nursery	1 per 800 square feet of gross sales floor area
Produce stand (permanent)	1 per 300 square feet of gross floor area
<b>Residential</b>	
Residential uses (unless otherwise specified)	2 per dwelling
Accessory dwellings	1 per dwelling
Bed & breakfast inns	2 +1 per guest room
Home occupations (includes daycare homes)	Residential use requirement + 1 space
<b>Civic, Government, and Institutional Uses</b>	
Civic, Government, and Institutional uses (unless otherwise specified)	1 per 300 square feet of gross floor area
Colleges, Universities, & associated facilities	1 per 4 students enrolled
Correctional facility	1 per 2 employees on peak shift
Emergency Services (fire, police, EMS, & similar)	1 per employee + 1 per 3 volunteer personnel on peak shift + 1 per 200 square feet of office space
Group Care Homes	1 space per 2 beds
Hospitals, public and private	1 per 400 square feet of gross floor area of administrative area + 1 per bed
Religious institutions & related uses	1 per 4 seats
Research facilities	1 per 2 employees on peak shift
Residential care facilities	1 space per 2 beds
Schools and associated facilities, elementary and middle (public and private)	1.5 per classroom
Schools and associated facilities, high (public and private)	10 per classroom
Schools (trade & vocational)	1 per 4 students enrolled

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Office and Service	
Office and Service uses (unless otherwise specified)	1 per 300 square feet of gross floor area
Artists, craftsmen	1 per employee
Crematories	1 per employee at peak shift
Funeral homes and mortuaries	1 per 4 people of allowable occupancy
Hotels and motels	1 per room + 2 spaces per 3 employees at peak shift
Motion picture production	1 per employee at peak shift
Retail and Wholesale	
Retail uses (unless otherwise specified)	1 per 300 square feet of gross floor area
Farmer's markets	1 per every 4 persons of max. capacity
Microbreweries, microwineries, and microdistilleries	1 per 300 square feet of gross floor area or 1 per every 3 seats (if seating is provided)
Motor vehicle or boat sales or rental	3 spaces + 1 space per every 400 square feet of building gross floor area
Restaurants	5 spaces plus 1 per every 3 seats
Wholesale	1 per 400 square feet of gross office & sales floor area + 2 per each 3 employees at peak shift
Recreation and Entertainment	
Recreation and Entertainment Uses (unless otherwise specified)	1 per 150 square feet of gross floor area or 1 per every 4 persons of max. capacity (as applicable)
Campgrounds	1.25 per campsite at campground (1 at each campsite)
Industrial, Warehousing, Transportation, and Utility	
Industrial, Warehousing, Transportation, and Utility uses (unless otherwise specified)	Permitted use
Junkyards, salvage yards, recycling operations and similar uses	1 per employee on peak shift + 1 per 5,000 square feet devoted to material storage + 1 per company vehicle
Warehouse, mini	1 per 4,000 square feet of gross floor area
Wireless telecommunications towers	1 space
Other	
Drive-throughs (associated with permitted use)	Stacking for 5 vehicles at each bay (on-site)
Temporary Uses	Adequate for use

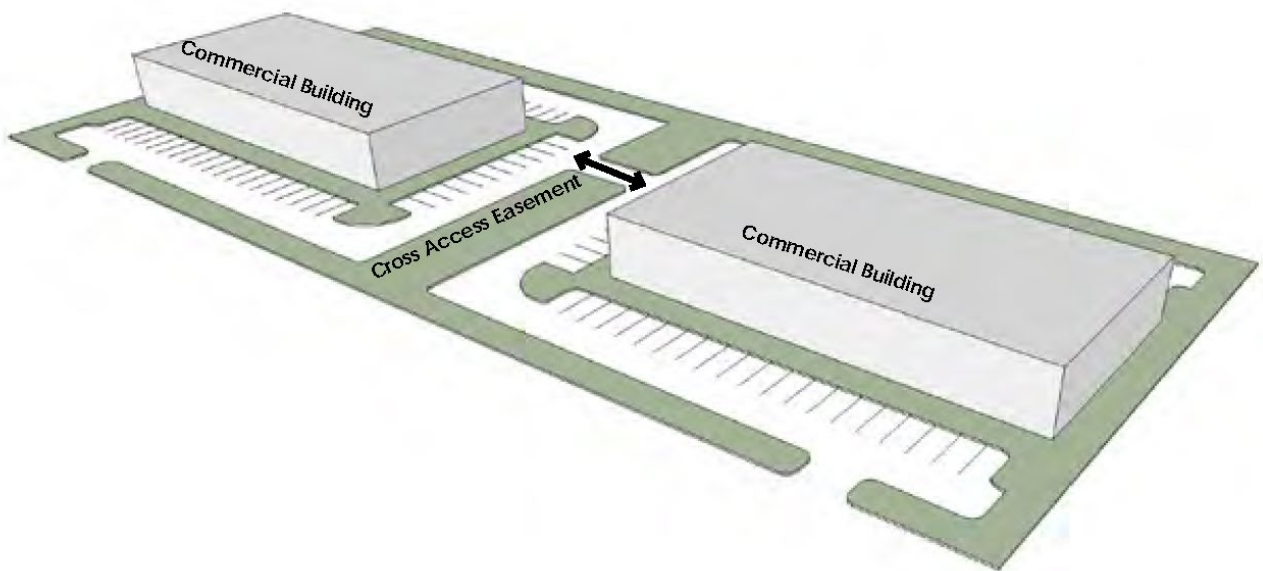
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#### 4.5.7 Parking Location, Sharing, and Connectivity

- A. On all off-street parking lots, the required spaces shall be provided on the same lot of record with the use or on a lot separated therefrom by not more than 400 feet, except for residential uses, which must be provided on the same lot of record.
- B. The joint use of shared off-street parking between two (2) uses may be made by contract by two (2) or more adjacent property owners. A copy of the contract or agreement shall be provided to the Town prior to the issuance of a Zoning Permit for the use. Developments that operate at different times may jointly use or share the same parking spaces with a maximum of one-half ( $\frac{1}{2}$ ) of the parking spaces credited to both uses.
- C. All newly constructed parking lots shall be designed to accommodate interconnection between the sites unless natural features prevent connection.

Figure 4.20 Parking Connectivity



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#### 4.5.8 Loading Area Requirements

- A. Whenever the normal operation of any development requires that goods, merchandise, or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading and unloading area must be provided in accordance with this Section to accommodate the delivery or shipment operations in a safe and convenient manner.
- B. Loading and unloading areas shall be so located and designed so that the vehicles intended to use them can:
- maneuver safely and conveniently to and from a public right-of-way; and
  - complete the loading and unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot aisle.
- C. No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking.
- D. The following table shows the minimum number of loading spaces based on gross floor area of any nonresidential building. A loading space shall be a minimum of 12 feet by 55 feet with an overhead clearance of 14 feet.

Table 4.15 Loading Spaces

Gross Floor Area of Building (square feet)	Number of Spaces
1,000—10,000	1
10,000—60,000	2
60,000—120,000	3
120,000 +	add one space for each additional 60,000 sq. ft.

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#### 4.5.9 Parking of Commercial and Recreational Vehicles

- A. On any residentially-zoned lot of less than one (1) acre in size, commercial vehicles which may be parked on an overnight basis shall be limited to vans and trucks of no greater than three (3) axles. This requirement shall not be interpreted to prohibit vehicles from loading and unloading household goods in any residential zoning district for a period of up to 24 hours.
- B. No residentially-developed lot may be used as the base of operation for any freight hauling truck.
- C. For purposes of this Ordinance, a recreational vehicle shall not be deemed a dwelling unit and the usage of a recreational vehicle for living, sleeping or housekeeping purposes and the connection of such vehicle to utility services (other than for periodic maintenance and/or repair purposes) shall be prohibited unless the vehicle is located in a camping and recreational vehicle park so designed to accommodate recreation vehicles.
- D. In case of extreme emergency, not for convenience purposes, recreational vehicles may be utilized for temporary living quarters for a period of no longer than 60 days.

#### 4.5.10 Driveways

- A. Driveways that connect to state-maintained streets shall comply with NCDOT standards.
- B. Driveways that connect to Town-maintained streets shall comply with the following standards:
  - 1. Driveways onto Town-maintained streets shall be located a minimum of 60 feet from an intersection with another town-maintained street and 100 feet from an intersection with a state-maintained street.
  - 2. Driveways shall be not less than 10 feet in width for one-way traffic and 18 feet in width for two-way traffic. Driveway width onto a Town-maintained street shall not exceed 36 feet.
  - 3. Ten (10)-foot wide driveways are permissible for two-way traffic when:
    - The driveway is not longer than 50 feet; and
    - The driveway provides access to not more than five (5) parking spaces; and
    - Sufficient turning space and stacking area is provided so that vehicles need not back into a public street.
- C. Driveways shall be as nearly perpendicular to the street right-of-way as possible and shall not exceed 10% grade, dependent upon approval of the Fire Code Official in consultation with the Fire Chief based on fire apparatus size.
- D. Driveways shall line up with other driveways across the street and be shared between adjacent uses wherever possible.

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- E. The maximum number of access points shall be one (1) per 300 feet of frontage. Only one (1) combined entrance and exit connection will be permitted where the frontage is less than 300 feet. Any lot of record in existence on the effective date of this section shall be allowed one (1) access point to the roadway notwithstanding the provisions of this Section that may prohibit such access; provided, however, that two (2) or more lots under common ownership shall be considered one (1) lot and shall comply with the requirements of this Section.

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#### 4.6 INFRASTRUCTURE STANDARDS

##### 4.6.1 Purpose and Applicability

- A. The purpose of this Section is to ensure that new developments provide adequate infrastructure that is compatible with adopted plans and Town standards.
- B. Unless otherwise specified, the requirements of this Section shall be initiated by any one (1) or more of the following activities on a property:
  - 1. New construction or the initial use of the property;
  - 2. A substantial change of use or change in zoning classification;  
Any building or parking expansion of greater than 20%; or
  - 3. New major subdivisions.

##### 4.6.2 Conformance with Comprehensive Transportation Plan (CTP)

- A. The location and design of streets shall be in conformance with the Yadkinville Comprehensive Transportation Plan (CTP). Pursuant to NCGS 136-66.2, for new developments with frontage along a state-maintained street, half of the minimum width of the cross section designated in the CTP shall be reserved along the frontage as "future right-of-way", and no structures or parking shall be constructed within this area.
- B. In any case where any part of a development lies within the corridor of a thoroughfare shown on a roadway corridor map adopted pursuant to NCGS Chapter 136, Article 2E, no development approval shall be granted with respect to the property in the roadway corridor. Provided, however, no development plan approval shall be delayed by the provision of the roadway corridor map procedure for more than three (3) years from the date of its original submittal.

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#### 4.6.3 Streets

##### 4.6.3.1 Minimum Construction Standards

- A. The Town has adopted North Carolina Department of Transportation (NCDOT) construction standards. Unless otherwise specified in this Ordinance, all street design criteria shall meet the standards in the latest published editions of NCDOT's Subdivision Roads Minimum Construction Standards and Standard Specifications for Roads and Structures unless otherwise specified in this Ordinance. Street cross sections shall follow those set forth in the NCDOT Complete Streets guidelines and shall meet the minimum standards of the International Fire Code. The diagrams below show the typical cross sections for local streets with and without on-street parking.

Figure 4.21 Typical Street with On-Street Parking

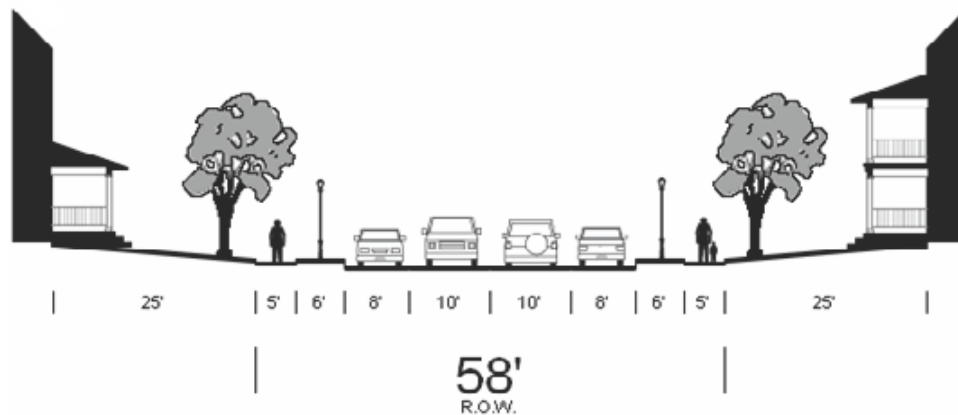
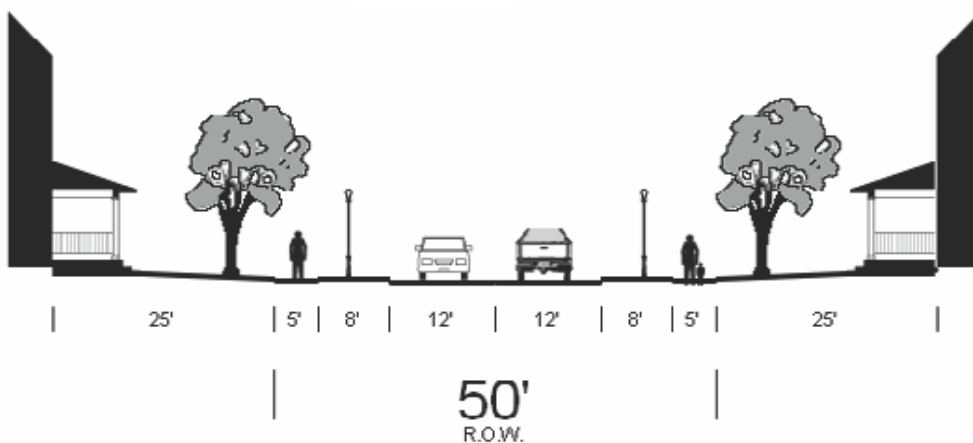


Figure 4.22 Typical Street without On-Street Parking



\*Use of this minimum cross section requires a minimum of three (3) off-street parking spaces per lot for residential uses.



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- B. All proposed streets shall be graded to the full width of the right-of-way and improved with a pavement width and standard curb and gutter. Pavement, curb and gutter shall meet the minimum NCDOT construction standards. In addition, street paving, curb and gutter shall be installed in the following situations:
1. Any existing street segment that has not been accepted for maintenance by either the Town or NCDOT, and that is to serve as the required frontage for one (1) or more lots created pursuant to these regulations, shall be improved and dedicated to the public, as provided for above, in such a way that the street segment meets the standards of these regulations for the particular classification of street, including right-of-way width. Such street segment shall be directly connected to the existing public street system by way of at least one (1) public street accepted for maintenance by either the Town or the NCDOT. No development shall be permitted on any street that is not connected directly to the public street system.
  2. Where a development fronts on any existing street segment maintained by either the Town or NCDOT and the street does not meet the minimum standards of these regulations for the classification of street, the developer shall improve the portion of street adjoining the development to meet the minimum standards including construction and width. When the development adjoins only one (1) side of an existing street, one-half ( $\frac{1}{2}$ ) of the minimum right-of-way shall be provided, measured from the centerline of the street.
  3. The Technical Review Committee (TRC) may require pavement and widening or pavement and widening and curb and gutter and storm drainage for turning lanes along any street that forms a significant entrance to a proposed development where in the opinion of the TRC such improvements are necessary in order to provide for safe vehicular movement into and out of the proposed development.
  4. Where a street is stubbed into adjoining property for future extension and such street serves as the frontage for one (1) or more lots, which are not corner lots, the Technical Review Committee may require the pavement of a temporary turnaround in a form similar to a cul-de-sac on such street where such turnaround is necessary for the public convenience, safety and service.

#### 4.6.3.2 Connection to State Streets

An approved NCDOT permit is required to connect to any existing state system street.

#### 4.6.3.3 Connection to Adjoining Property

Proposed streets shall be extended to the boundary of the development for connection to existing streets on the boundary of adjoining property or for future connection. Cul-de-sacs shall not be used to avoid connection with an existing street to avoid the extension of a thoroughfare or collector street, or to avoid connection to adjoining property. In general, cul-de-sacs shall not be used to provide access to development on the boundary of the development. Cul-de-sacs shall not exceed 800 feet in length unless necessitated by topography or property accessibility and specifically approved by the Board of Commissioners. Measurement shall be from the point where the centerline of the dead-

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end street intersects with the centerline of a general circulation street to the center of the turnaround of the cul-de-sac. Where one cul-de-sac extends from another cul-de-sac, the end of each cul-de-sac shall be no more than 800 feet from a general circulation street as measured by the centerline of the streets.

#### **4.6.3.4 Restriction of Access**

Where a development abuts or contains an existing or proposed thoroughfare, the Technical Review Committee (TRC) or NCDOT may require marginal access streets, reverse frontage or such other treatment, as may be necessary for adequate separation of through and local traffic.

#### **4.6.3.5 Reserve Strip and Half Streets**

Reserve strips and non-access easements adjoining street rights-of-way for the purpose of preventing access to or from adjacent property (except those required by the Town Board or NCDOT to prevent access to thoroughfares) and half-streets shall not be permitted under any condition.

#### **4.6.3.6 Private Streets**

Private streets are not permitted.

#### **4.6.3.7 Fire access and Secondary Access**

- A. For developments of greater than 30 lots, a minimum 30-foot secondary access easement is required for Fire Department access. The easement shall be cleared so that a fire truck may pass but does not have to be improved to public road standards.
- B. At least two (2) entry points, constructed to NCDOT road standards, shall be provided in developments that contain 100 or more dwelling units and to all lots within the development. Alternatives may be allowed by the Technical Review Committee (TRC) if the curb cuts for the two (2) accesses cannot meet the minimum distance allowed according to NCDOT or Town regulations at any location.

#### **4.6.3.8 Street Alignment and Separation**

Streets shall be designed so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at an angle of less than 60 degrees. Streets crossing natural areas or streams shall cross at or near to right angles as possible within limits of topographic conditions. Offset intersections shall be avoided. A minimum intersection offset of 200 feet shall be maintained on local streets.

#### **4.6.3.9 Blocks**

- A. The lengths, widths, and shapes of blocks shall be determined with due regard to the provision of adequate building sites suitable to the special needs of the type of use contemplated; zoning requirements as to lot sizes and dimensions; needs for vehicular and pedestrian circulation, control and safety of street traffic; limitations and opportunities of topography; and convenient access to water areas.
- B. Blocks shall not be less than 400 feet nor more than 1,200 feet in length.

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- C. Blocks shall have sufficient width to allow two (2) tiers of lots of minimum depth except where single-tier lots are required to separate residential development from through vehicular traffic or another type of use, or when special limitations are created due to natural features and topography.

#### **4.6.3.10 Street Connectivity**

- A. The proposed street layout within a development shall be coordinated with the existing street system of the surrounding area and where possible, existing principal streets shall be extended.
- B. Where, in the opinion of the Technical Review Committee it is necessary to provide for street access to an adjoining property, proposed streets shall be extended.

#### **4.6.3.11 Cul-De-Sacs**

- A. Dead-end roads in excess of 150 feet shall be provided with a cul-de-sac or turnaround meeting North Carolina Fire Code.
- B. Permanent dead-end streets shall not exceed 1,000 feet in length unless necessitated by topography or property accessibility.

#### **4.6.3.12 Street Names**

Proposed streets which are obviously in alignment with existing streets shall be given the same name. In assigning new names, duplication of existing names shall be avoided and in no case shall the proposed name be phonetically similar to existing names irrespective to the use of a suffix such as street, road, drive, place, court, etc. Street names shall be subject to the approval of the Yadkin County E-911 Addressing Coordinator.

#### **4.6.3.13 Cluster Mailbox Units**

Residential subdivision shall incorporate centralized cluster mailbox in accordance United States Postal Service standards and North Carolina Department of Transportation policy on the placement of mail cluster box units (CBU).

(ZTA-2021-03 Amended May 3, 2021)

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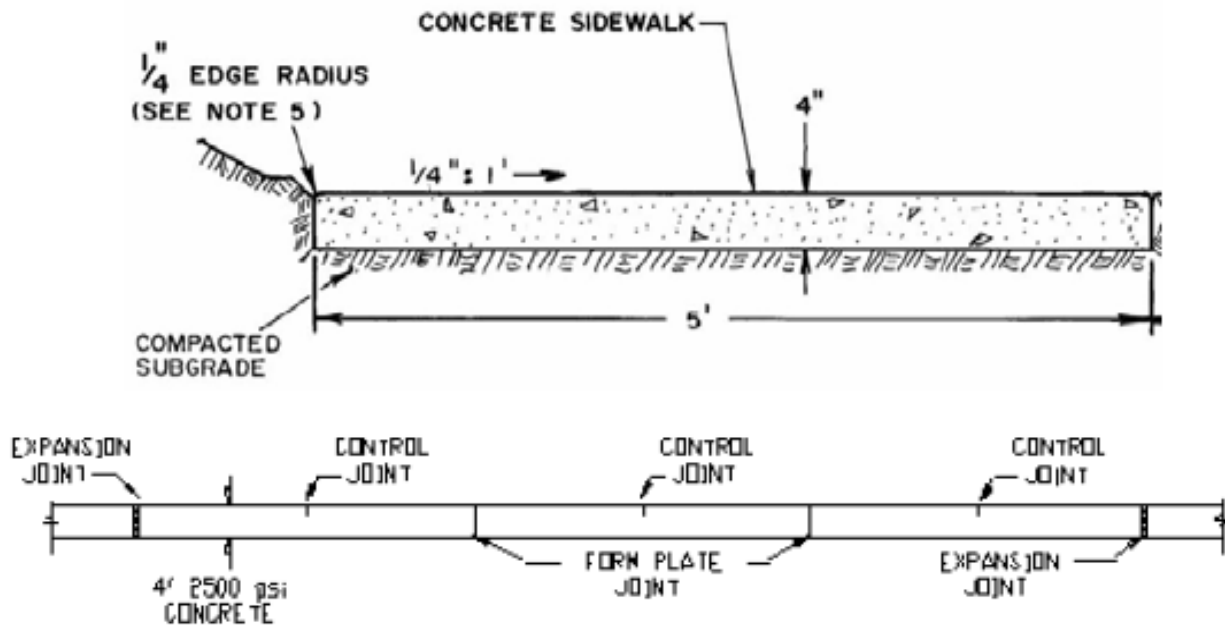
#### 4.6.4 Sidewalks, Multi-use Paths, and Greenways

- A. Sidewalks or multi-use paths shall be provided in the following locations:
1. Along any street front shown in the Town's adopted Comprehensive Transportation Plan or Pedestrian Master Plan to have a sidewalk or multi-use path for all new non-residential and multi-family residential development; and
  2. At least on one (1) side of new streets for within major subdivisions. Sidewalks are not required in major subdivisions within the ETJ where the road length is 1500 feet or less and contain a cul-de-sac or permanent dead end.
- B. Sidewalks shall be at least five (5) feet wide and shall be separated from the street by a minimum four (4) foot buffer. The minimum thickness of the concrete shall be four (4) inches. At vehicular traffic areas such as driveways the minimum thickness shall be six (6) inches. Also poured in place dummy joints shall be installed to match the width and expansion joints every 20 feet.
- C. Where required or provided, greenways and multi-use paths shall be a minimum of 8-feet wide with a preferred width of 10 feet. Multi-use paths adjacent to roadways shall be paved with two-inches of asphalt. Greenway paths may be two-inches of asphalt or crushed stone.
- D. In development, there may be challenges with topography, lack of connectivity to other sidewalks or multi-use paths, which would require the relocation of multiple public utility facilities or structures, and/or other unique site constraints that hinder the ability to install sidewalks or multi-use paths where a fee in lieu option may be permitted per the following regulations:
1. The TRC shall review the submitted site plan and provide comments that conclude the fee in lieu option is the best alternative given the warranted site constraints to the developer; and
  2. Payment of fees shall be in an amount equal to 100 percent of the actual installation and construction cost of completing the infrastructure improvements, as estimated by a professional engineer licensed by the State of North Carolina; and
  3. If a fee in lieu of constructing a sidewalk or multi-use path is approved, the developer must provide a recorded easement if necessary for the future development of the sidewalk or multi-use path. All fees shall be paid prior to the issuance of the zoning permit and shall not be transferred to future projects on the same property. The developer wherever practical shall grade for the future development of a sidewalk; and
  4. The funds paid to the Town in lieu will be put into a sidewalk capital project fund and will be used, at the Town's discretion, for construction or rehabilitation of sidewalks or other pedestrian improvement projects in Town.

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Figure 4.23 Sidewalk Details



#### 4.6.5 Lighting Standards

##### 4.6.5.1 Applicability

- A. This standards off this section shall apply to all new lighting all lighting for new nonresidential and multi-family residential development.
- B. The following types of lighting shall be exempt from the standards of this Section:
  1. Underwater lighting used for the illumination of swimming pools and fountains;
  2. The lighting of governmental flags;
  3. Lighting used for nighttime street and utility construction and repair shall not be subject to these lighting standards, but shall comply with the street lighting policy of the Town;
  4. Lighting used for agricultural purposes or in conjunction with a bona fide farm operation, except that such lighting shall be designed and sited to prevent light trespass onto public streets or adjacent occupied lots;
  5. Emergency lighting, used by police, firefighting, or medical personnel, or at their direction for as long as the emergency exists; and
  6. Lighting attached to or associated with single-family or two-family residential structures customarily used for security and safety, provided that light does not cause light trespass or glare onto adjacent properties.

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#### 4.6.5.2 General Requirements

- A. All light fixtures shall be located, aimed or shielded so as to minimize stray light trespassing across property boundaries and be directed in a way so as not to jeopardize traffic safety.
- B. To demonstrate compliance with the regulations of this section, a photometric lighting plan for shall be submitted for review by the Administrator.

#### 4.6.5.3 Prohibited Lighting. The following types of lighting shall be prohibited:

- A. Flashing or colored lighting;
- B. Tube or strand lighting except between November 15 and January 15;
- C. Flood or spot lamps aimed higher than 45 degrees above straight down (half-way between straight down and straight to the side);
- D. Non-shielded wall packs;
- E. The use of laser source light or any similar high intensity light for outdoor advertising or entertainment, when projected above the horizontal; and
- F. The operation of searchlights for advertising purposes.

#### 4.6.5.4 Design Standards

- A. Lighting design shall be coordinated throughout a development site.
- B. Pedestrian scale lighting shall have a character compatible with the nature of the area and complementary to the building architecture. Pedestrian-scale lighting shall be provided at pedestrian intersections, public spaces and along paths to parking lots and other destinations.
- C. Lighting shall not be mounted on wood poles, and all light poles and fixtures shall be black.

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#### 4.6.5.5 Light Levels

All site lighting shall be designed so that the initial level of illumination as measured in foot-candles (fc) meets the standards in the table below with minimum and maximum levels measured on the pavement within the lighted area.

Table 4.16 Light Level Standards

Type of Lighting	Minimum Light Level (footcandles)	Maximum Light Level (footcandles)	Other Requirements
Architectural	0.0	5.0	Shall be extinguished between 11:00 p.m. (or when the business closes, whichever is later) and sunrise.
Canopy area	2.0	24.0	Fixtures, including lenses shall be recessed into the canopy.
Landscape or Decorative	0.2	5.0	Shall be extinguished between 11:00 p.m. (or when the business closes, whichever is later) and sunrise.
Multifamily residential parking lot	0.5	8.0	
Non-residential parking lot	0.5	10.0	
Non-residential & multi-family building entrances	1.0	15.0	
Sidewalks	0.5	15.0	
Sports facility	IES guidelines RP-6 for sports lighting level of play-lighting level to be maintained instead of initial		Shall be extinguished after 11:00 p.m. or following a scheduled event that was unable to conclude before this time due to unusual circumstances.
Storage area, security lighting	0.5	10.0	
Vehicle sales & display	0.5	24.0	Shall be turned off at 11:00 p.m. or within thirty minutes after closing of the business, whichever is later.
Property line adjacent to residential zoning	0.0	0.5	
Property line adjacent to non-residential zoning	0.0	5.0	
Property line adjacent to street	0.0	5.0	

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#### 4.6.5.6 Light Height

- A. No freestanding light poles shall exceed a maximum of 25 feet mounting height except that sports facility lighting shall not be limited but shall be the minimum necessary to provide proper illumination of the active play area and surrounding spectator areas.
- B. Pedestrian-scale lighting shall be 15 feet or less in height.
- C. All attached light fixtures shall be placed at the minimum height necessary to achieve their purpose.

#### 4.6.5.7 Maintenance

- A. All light fixtures that are required to be shielded shall be installed and maintained in such a manner that the shielding is effective as required.
- B. Anything other than routine servicing and same-type lamp replacement of any exterior lighting shall require town approval prior to installation.
- C. Lighting shall be maintained in good condition. No poles shall remain in a damaged state or have excessive peeling or chipped paint. All bulbs shall be in working order.

#### 4.6.5.8 Street Lighting

Street lighting within new major subdivisions shall be installed along new streets in accordance with Town standards at the developer's expense. The Town will accept street lighting for maintenance at the same time streets are accepted for maintenance in accordance with the Town's street acceptance policy. For major subdivisions in the ETJ, this section shall not apply as they will not be dedicating the streetlights to the Town.

#### 4.6.5.9 Sign Lighting

Sign lighting shall meet the requirements set forth in Section 6.2.5.

#### 4.6.6 Utility Standards

All utilities shall be installed in accordance with Title 5 Municipal Utilities of the Code of Ordinances and the provisions of this Section.

##### 4.6.6.1 Water and Sanitary Sewer Systems

- A. All developments shall be designed to provide Town water and sewer or meet Health Department requirements for on-site systems where Town services are not available. Water and sewer system shall be designed in accordance with Town standards. The developer shall be responsible for obtaining all necessary permits and approvals.
- B. Where the system is to be connected to the system owned and operated by the Town, or any other municipality associated sanitary district, or any sanitary facility of Yadkin County, but not constructed by the municipalities or county, the preliminary subdivision plat shall be accompanied by a complete set of construction plans for the proposed system, prepared by a registered engineer, and approved by the engineer of the public sewer system or public water system, and the appropriate state agency.
- C. Water and sewer lines must have been in use for a period of one (1) year before the line will be accepted by the Town.



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- D. No sewer mains shall be less than eight (8) inches in diameter.
- E. The owner of the subdivision shall pay the cost of all materials necessary to connect to the town's water and sewer system. This cost shall include but shall not be limited to tapping sleeves, tees, valves, valve boxes, encasement, and pipes.
- F. The developer shall install at his or her expense the water and sewer taps as the system is constructed. The tap shall include all materials except the water meter. The developer has the option of furnishing and installing the meter, per Town specifications, or the water meter shall be furnished and installed by the Town.
- G. All materials installed by the developer shall be approved by the Town and inspected prior to installation. All construction shall be inspected prior to being covered.
- H. Where the proposed system does not contemplate the use of facilities owned and operated by any of the above and the developer intends to construct a separate system to service one (1) or more developments, the proposed facilities shall be approved by the appropriate agency.
- I. Where public and private water supply and/or sewerage systems are not available or to be provided, a written statement from the Yadkin County Health Department shall be submitted with the preliminary plat indicating that each lot has adequate land area and soil conditions suitable to accommodate the proposed methods of water supply and sewage disposal. The statement from the Health Department shall be based upon a field investigation. The field investigation for sewage disposal shall include a sufficient number of percolation tests (in accordance with state standards) to determine the absorption capacity of the soil and test holes at least six (6) feet deep (as needed) to determine the depth to the ground water table, and the presence of rock formations or other impervious strata.
- J. The Town may, in order to serve future development, require the developer to install certain oversized water and sewer improvements and/or to increase such improvements to a size and/or extend beyond that necessary for the needs created by a nonresidential development. In such cases, the Town shall enter into an agreement to reimburse the developer for the oversizing and/or extension based upon rates as agreed to by the Town.
- K. All waterline extensions must be constructed according to the latest edition of Title 15A.18C "Rules Governing Public Water Systems." All sewer extensions must be constructed according to the latest edition of Title 15A.2T "Minimum Design Criteria for the Permitting of Gravity Sewers". All pump stations and force mains must be constructed in accordance with Title 15A.2T "Minimum Design Criteria for Permitting of Pump Stations and Force Mains".
- L. All proposed water and sewer facilities are subject to the review and approval of the Town's consulting engineer prior to the application for a permit from the correct permitting authority.
- M. If substandard water and sewer services are within the immediate vicinity of the project and would require extending or accessing these facilities for the purpose of the

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development, then the developer is responsible for upgrading the facilities at no additional expense to the Town to meet the minimum design standards.

- N. Any development, which has public water system lines available, shall be required to extend the public water system throughout the development to each lot located therein. All required water line extensions shall include appropriate valves, hydrants, taps and service to the property line of each lot as required by the standards of the Town. All required sewer line extensions shall include appropriate manholes, lift stations pumps, clean outs, taps and service to the property line of each lot as required by the standards of the Town.
- O. For developments within or partially within the Town, the term "available" shall mean that there is an existing water line of adequate size and water flow and/or pressure either crossing the development property or immediately available from an adjacent public right-of-way or the Town indicates its commitment to extend such a water line to the property line of the development at no cost to the developer.
- P. For developments located entirely outside the boundaries of the Town but within the jurisdiction of this Ordinance, the term "available" shall mean that there is an existing water line of adequate size and water flow and/or pressure within the distances shown on the Table below of the outside boundary line of the development or the Town indicates its commitment to extend such a water line within the distances shown on the Table below of the property line of the development at no cost to the developer and there are no legal or topographic problems which prevent the developer from connecting onto and extending the existing system to the development. In the event there are phases to the development or else the development is a part of a larger tract of land owned or under the control of the developer, then, and in that event, public water service shall be deemed to be available if an existing or proposed public water system line extends or will be extended within the distances shown in Table 4.17 to the larger tract of the land.
- Q. In the event the Town elects not to extend a water line of sufficient size, flow and/or pressure, to the development (if in the Town) or within the distance shown on the Table below of the development boundary (if outside the Town) because of topographic features, legal obstacles, or financial reasons, then, the developer shall not be required to extend water lines to each lot nor provide water service to the development.

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Table 4.17 Available Utilities

Lots	Distance
2—10	200 feet
11—20	300 feet
21—50	600 feet
51—100	1,000 feet
101+	1,500 feet

- R. In any case where a water or sewer system intended to serve more than two (2) lots is proposed to be installed in a development as part of the plan approval process, such system shall be considered to be a "Required Improvement" within the context of this Article regardless of whether such a system is an extension of the Town system or not and such system shall be required to be installed by the developer. This requirement includes both facilities within the development and off-site facilities, which are essential to providing the service to the property.
- S. Water or sewer is available if the development contains the number of lots listed in "Lots" column and public lines are within the distance shown in the "Distance" column of Table 4.17.

**4.6.6.2 Utility Location**

- A. Utilities shall be located within the right-of-way. All electrical and telephone lines in new developments shall be buried. Lines shall be buried to the depth required by Public Works or the utility provider.
- B. Utility pedestals shall be located minimum of two (2) feet behind the sidewalk and near property lines between buildings and shall be screened with a wall, fence, or evergreen landscaping.
- C. To provide for electric, telephone and gas service, community antenna television distribution systems, water and sewer lines and other such facilities within a subdivision, appropriate utility easements not less than 20 feet shall be provided on the final plat. The locations of such easements shall be based upon the approved construction plans. All subdivision plats shall have a note stating that all lot lines shall be subject to a 10-foot utility easement centered on the lot line. All utilities and wire services shall be placed underground. The developer shall be responsible for incorporating the design of all utilities and services into the easement and construction design.
- D. All utilities located outside of the public right-of-way shall require a 20-foot easement centered on the utility line. No structures or retaining wall shall be allowed within this easement. The Town may require a developer to reserve a 20-foot utility easement for the purpose of extending sewer to adjacent properties at a location specified by the Town's consulting engineer.

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#### **4.6.6.3 Electrical and Telecommunications Service**

- A. All electrical and telecommunications lines shall be installed underground unless the subdivision is merely an extension of electrical and telephone service involving only several new customers. Transformers and other apparatus may be installed above ground.
- B. Minimum design standards. Easements for underground or above-ground utilities shall be provided where necessary across lots or preferably centered on rear or side lot lines and shall be at least 20 feet in width.

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#### 4.6.7 Stormwater Management Standards

##### 4.6.7.1 Stormwater System Requirements

- A. The developer shall provide a street surface water drainage system constructed to the standards of the NCDOT, as reflected in the latest published edition of Guidelines for Drainage Studies and Hydraulic Design, subject to review by the Town's consulting engineer.
- B. Stormwater design shall follow the most recent edition of NCDEQ Division of Water Quality Stormwater Best Management Practices.
- C. For all developments of greater than one (1) acre, post-development run-off rate shall be the same as pre-development run-off rate. This may be achieved with on-site storm water detention, LID design (as described in the latest published edition of Low Impact Development: A Guidebook for North Carolina) or other methods approved the Town's consulting engineer. Detention facilities shall be designed to maintain the pre-development rate from the one-year, 10-year and 24-hour design storm events.
- D. The design of storm drainage systems and plans, including calculations, shall clearly indicate the easements and dedicated areas required for the construction and maintenance of the drainage system.
- E. It shall be the responsibility of the developer to provide a drainage system, which is designed to meet the following objectives:
  - 1. No surface water shall be channeled or directed into a sanitary sewer.
  - 2. Connect onto an existing storm drainage system, where feasible.
  - 3. Where an existing storm drainage system cannot feasibly be extended to the subdivision, a drainage system shall be designed to protect the proposed development and adjacent properties from water damage.
  - 4. Provide for adequate drainage from all roads, parking lots and other developed areas.
  - 5. Provide a suitable building area on each lot intended for building development, which is safe from inundation, erosion, or subsidence.
  - 6. Prevent both the unnecessary impoundment of natural drainage ways and the creation of areas of standing water.
  - 7. Ensure the existing drainage ways serving adjacent properties are maintained.
  - 8. Ensure that natural runoff levels are not substantially increased in order to prevent harmful flooding downstream and to maintain desirable groundwater levels.
  - 9. Protect all roads, driveways, utilities and other types of development from major damages caused by improper drainage control.
- F. Surface drainage courses shall have side slopes, where feasible, or at least two (2) feet of horizontal distance for each one (1) foot of vertical distance (2:1). Courses should be of sufficient size to accommodate the drainage area and be designed to

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comply with the standards and specifications for erosion control as required by the North Carolina Sedimentation Pollution Control Act, NCGS 143-34.12, Chapter 113k Article 4, and the North Carolina Administration Code Title 15, Chapter 4, and any locally adopted erosion and sedimentation control ordinance.

- G. The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one (1) foot in each 200 feet of horizontal distance.
- H. Stream banks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity in accordance with the North Carolina Sedimentation Pollution Control Act, NCGS 143.34.12, Chapter 113A, Article 4, and the North Carolina Administrative Code Title 15, Chapter 4, and any locally adopted erosion and sedimentation control ordinances.
- I. Any dam constructed within a subdivision which is greater than 15 feet in height (measured from the lowest point on downstream top of the dam to the highest point on the fill) and is also greater than 10 acre-feet in area (measured from the top of the dam) shall comply with the North Carolina Dam Safety Law of 1967 and the North Carolina Administrative Code Title 15, Subchapter 2K.

#### 4.6.7.2 Easements

- A. Where a development is traversed by a water course, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width or construction, or both as may be adequate for the purpose of drainage.
- B. No fences or structures shall be constructed across an open drainage channel that will reduce or restrict the flow of water. The Administrator may require any water course or stormwater management facility to be located within dedicated a drainage easement officially recorded at the Yadkin County Register of Deeds as a "public storm drainage easement" that provides sufficient width for maintenance.
- C. Where easements are required, they shall be noted on the Final Plat.

#### 4.6.7.3 Grading standards

The following standards shall be met in establishing the grading plan for any development:

- A. No grading shall take place in a stream buffer, within 50 feet of a perennial stream or 30 feet of an intermittent stream as identified by USGS.
- B. Developments shall be designed and constructed with a positive drainage flow away from buildings and towards approved storm water management facilities. Plans for drainage facilities shall be approved and sealed by a registered Professional Engineer.
- C. In the design of site grading plans, all impervious surfaces in the proposed development (including off-street parking) shall be considered.

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- D. Site grading and drainage facilities shall protect sinkholes, wetlands, ponds and lakes from increased sediment loading.
- E. All disturbed areas within the dedicated right-of-way and easements of any development street shall be restored with vegetation and the landscaping standards of Section 4.4 shall be met. No grading in the future right-of-way shall exceed one (1) vertical foot for two (2) horizontal feet.
- F. All grading shall meet North Carolina's Sedimentation and Erosion Control standards.

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#### 4.6.8 Fire Protection Standards

- A. All fire protection measures shall meet the standards of this Section and of the latest edition of the North Carolina Fire Prevention Code and appendices, adopted by the North Carolina Building Code Council. All amendments thereto shall be effective on the date prescribed by the North Carolina Building Code Council. The Fire Code Official is the officer or other designated authority, or his duly authorized representative, charged with administration and enforcement of the Fire Prevention Code. All persons empowered with the administration and enforcement of the Fire Prevention Code possess an appropriate valid certificate issued by the North Carolina Fire Code Officials Qualification Board.
- B. Water supply systems shall be approved by the Fire Code Official as to location of hydrants and size of mains. No water mains shall be less than six (6) inches in diameter, and they shall be laid out so as to create a complete circuit, with no dead-end lines in excess of three hundred (300) feet. A water hydrant shall be placed at the dead-end.
- C. The developer shall install fire hydrants as required by the Fire Code Official dependent on available fire flow.
- D. Multi-family residential developments and subdivisions shall require fire hydrants located such that each structure or portion thereof will be within 500 feet of a hydrant.
- E. Non-residential subdivisions shall require fire hydrants to be located such that each structure or portion thereof will be within 500 feet of a hydrant. This determination shall be made via vehicle access routes, (roadways, fire lanes, etc.) and by hose placement from the firefighting equipment in lieu of linear measurements. Fire hydrants shall be located at the right-of-way and the hydrant shall be located as not to exceed 500 feet between hydrants. When practical hydrants shall be located at street intersections, with intermediate hydrants between intersections, and at entrance drives to the property.
- F. For any structures that have a sprinkler system or a standpipe system, a fire hydrant shall be located no more than 100 feet from the fire department connection. This hydrant shall be dedicated to the fire department connection and shall be in addition to the hydrants required above. When possible, fire hydrants shall be located a minimum of 50 feet from any structure.
- G. In proposed subdivisions, where all structures have not been constructed, hydrant spacing shall be measured along the street right-of-way with spacing provided as shown above.
- H. The determination of distance shall be made via vehicle access routes (roadways, fire lanes, etc.) and by hose placement from the firefighting equipment located adjacent to the fire hydrant in lieu of direct measurements. The distances specified above are meant to reflect the actual length of fire hose which would be laid by the fire department to reach the structure in the event of a fire at or in that structure. Distances shall be measured beginning at the point of the structure farthest from the



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hydrant, thence along an unobstructed pathway to a point in the centerline of the street, thence along the centerline of the street to a point opposite the hydrant. Unobstructed Pathway means a route which may be taken by firemen in laying fire hose. The unobstructed pathway shall be, and remain, free of trees and shrubs, walls, fences, wells, structures, or other obstacles to the passage of firefighters, hose and equipment for a width of 20 feet and a minimum vertical distance of 13 feet and six (6) inches (13'-6") and shall not be through, under, or over any portion of any structure, ditch or waterway.

- I. The developer of any new subdivision, subdivision or project, or development, whether it be single or multiple, or whether residential or commercial, is responsible for funding and installing the required fire hydrant(s) and water main to comply with the above requirements.

#### 4.6.9 Garbage and Refuse Collection

- A. All industrial nonresidential, all other nonresidential greater than 2,500 square feet, and all multi-family residential development greater than four (4) units shall be required to provide one (1) or more dumpsters for solid waste collection that are:
  1. Located so as to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties, or public rights-of-way;
  2. Located in the side or rear yard; and
  3. Screened in accordance with Section 4.4.7.
- B. All nonresidential and multi-family development not required to have a dumpster in accordance with Section 4.6.9.A may have up to four (4) trash cans and shall locate their solid waste receptacle area in the side or rear yard; and be required to screen the solid waste receptacle area in accordance with Section 4.4.7.
- B. The method of garbage disposal shall be indicated on each Site Plan or Preliminary Plat that is submitted.

(ZTA-2019-05 Amended January 6, 2020)

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#### ARTICLE 5. BUILDING DESIGN STANDARDS

##### 5.1 PURPOSE AND APPLICABILITY

###### 5.1.1 Purpose

The purpose of this Section is to ensure architectural and design compatibility and the establishment and preservation of architectural character throughout Yadkinville. Enumerated in the sections below are general building design standards for nonresidential and multifamily buildings, as well as for buildings in the Central Business (CB) zoning district. (ZTA-2020-01 Amended November 2, 2020)

###### 5.1.2 Applicability

The standards of this section shall apply to all nonresidential and multi-family residential development that are subject to Site Plan review and/or the issuance of a Zoning Permit and meet the following additional criteria:

- A. The standards shall apply to all new non-residential and multi-family residential construction and expansions of greater than 20% of the gross floor area of the building.
- B. Nonresidential building design standards shall not apply to existing residential structures that are undergoing a change of use to a nonresidential use as permitted by this Ordinance.
- C. If a nonconforming nonresidential building is being expanded by greater than 20%, then the existing portion of the building shall comply with the following standards:
  - 1. A minimum of one (1) vertical articulation element listed in Section 5.4.4 shall be incorporated into the front façade.
  - 2. A minimum of one (1) horizontal articulation element listed in Section 5.4.5 shall be incorporated into the front façade.
  - 3. All unscreened mechanical, utility equipment, loading areas, and solid waste receptacles shall be screened per Section 4.4.7.
- D. If a nonresidential building in the Central Business (CB) District is undergoing exterior alterations and/or being painted it shall require the issuance of a Zoning Permit and comply with all of Article 5, Section 5.5 CB District Design Guidelines, including Subsection 5.5.7 Façade Color.

(ZTA-2020-01 Amended November 2, 2020)

(ZTA 2022-01 Amended December 5, 2022)

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Figure 5.1 Example of Building Expansion Design Compliance



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#### 5.2 GENERAL STANDARDS

- A. The primary entrance shall be architecturally and functionally designed on the front façade facing the primary public street, except that building's interior to a development may be arranged to front a common courtyard, parking area, driveway, or private street. Building entrances shall be emphasized using massing, architectural features, and/or changes in the roofline.
- B. The front façade of the principal structure shall be parallel to the front lot line and street. Any side of a building that faces an arterial or collector street that is not screened from view by a berm or landscaping shall be treated as a front façade.
- C. Manufactured housing shall not be used as permanent structures except in the RM-H district.
- D. Modular buildings and shipping containers shall not be used as permanent structures unless such meet NC Building Code, are placed on a permanent masonry foundation, and meet all of the other design standards for buildings in the district in which they are located.

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#### 5.3 MULTI-FAMILY AND TOWNHOME RESIDENTIAL DESIGN STANDARDS

##### 5.3.1 Wall Materials

- A. Exterior wall materials shall be wood, fiber cement board, brick, stone, vinyl, or similar materials.
- B. A minimum of two (2) materials shall be mixed on all façades, and a minimum of 50% of all façades shall be brick, stone, or a material similar in appearance and durability. Brick, stone or similar heavy materials shall be located below lighter materials such as wood or vinyl.



Brick with vinyl accents



All vinyl siding

##### 5.3.2 Roofs

- A. Roof materials shall be asphalt shingles, wood shakes, standing seam metal, slate, tile, or similar materials. Gutter and downspout color shall match either the trim color or primary building material color.
- B. Pitched roofs for one-story buildings shall have a slope of between 4:12 and 8:12. Pitched roofs for one-and-a-half (1½) or multiple story buildings shall have a slope of between 6:12 and 12:12. Flat roofs shall have a parapet wall with a decorative cap or cornice.
- C. Architectural elements such as height variations, gables, dormers, cupolas, towers, and other similar elements shall be incorporated into the roof design at a minimum of every 25 linear feet on all façades.
- D. Roofs shall be in scale with the building and shall have an overhang of six (6) inches or more to facilitate proper water run-off.

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#### 5.3.3 Garages

- A. Garages shall not be located on the primary/front façade.
- B. All garages shall be located on alleys or parking courtyards to the rear or interior of the building or building block.



Alley-loaded garages



Front-loaded garages

#### 5.3.4 Windows

- A. A minimum of 25% of the primary façade and 20% of all secondary/corner side façades shall be composed of window area.
- B. Windows shall follow a regular rhythm and be aligned on and between floors.



Adequate windows with regular rhythm and alignment



Few windows with no regular rhythm and alignment



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#### 5.3.5 Façade Articulation

- A. Façade articulation in the form of gables, projections, recesses, and/or porches or balconies of a minimum of three (3) feet in depth shall be located a minimum of every 25 feet along all the façades.
- B. Exterior stairs and open circulation corridors shall not be located on the front façade.



Facade articulation with recesses and projections



No facade articulation



Interior stairs and circulation corridors



Exterior stairs and circulation corridors

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#### 5.4 NONRESIDENTIAL DESIGN STANDARDS

##### 5.4.1 Architectural Compatibility and Cohesiveness

- A. Buildings shall be designed so that each side of the building is architecturally compatible with each other side of the building, unless otherwise exempted by a specific provision of this Section.
- B. Where more than one (1) building is being constructed as part of a larger common development plan, each building in that development, including pad sites and out parcels, buildings shall be designed with a cohesive architectural aesthetic throughout the development. Architectural compatibility within a development may include the use of the following methods:
  - 1. Similar building materials;
  - 2. Similarly, colored building materials;
  - 3. Proportional quantities of building materials on building façades;
  - 4. Similar roof forms; and/or
  - 5. Similar architectural detailing.
- C. Additions to existing buildings shall match the materials of the building. If the existing building is constructed of nonconforming materials and the addition is greater than 20% of the gross floor area, then the addition shall incorporate a permitted primary material into the design of the addition and the front façade.



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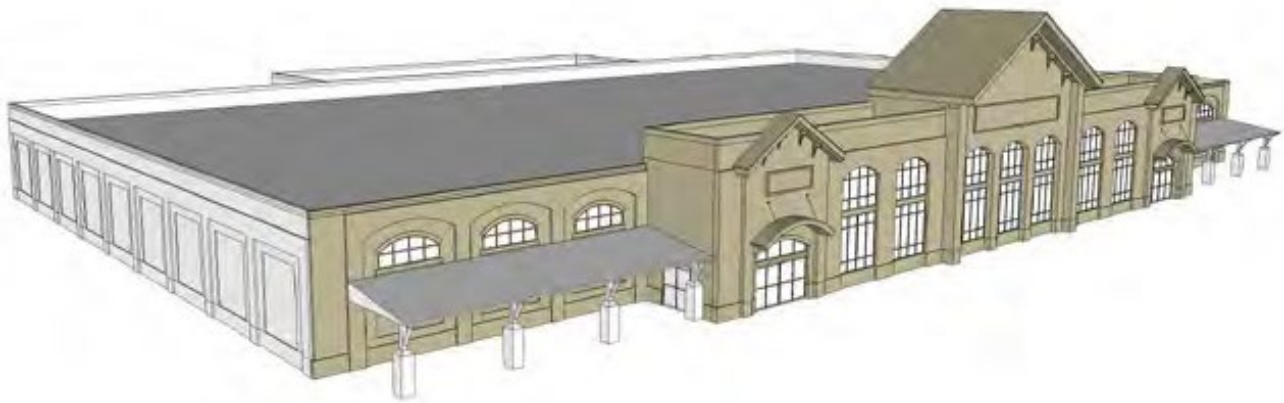
#### 5.4.2 Building Wall Types

Different design standards apply to different types of building walls. For the purposes of this Section, building walls shall be divided into the following categories:

##### 5.4.2.1 Primary Building Wall/Façade

A primary building wall/façade is any building wall plane which is oriented toward a public street or internal access drive, or which contains the primary building entrance (single tenant structures) or entrances (multi-tenant structures). Buildings on corners have more than one primary building wall. Primary building walls are always active building walls.

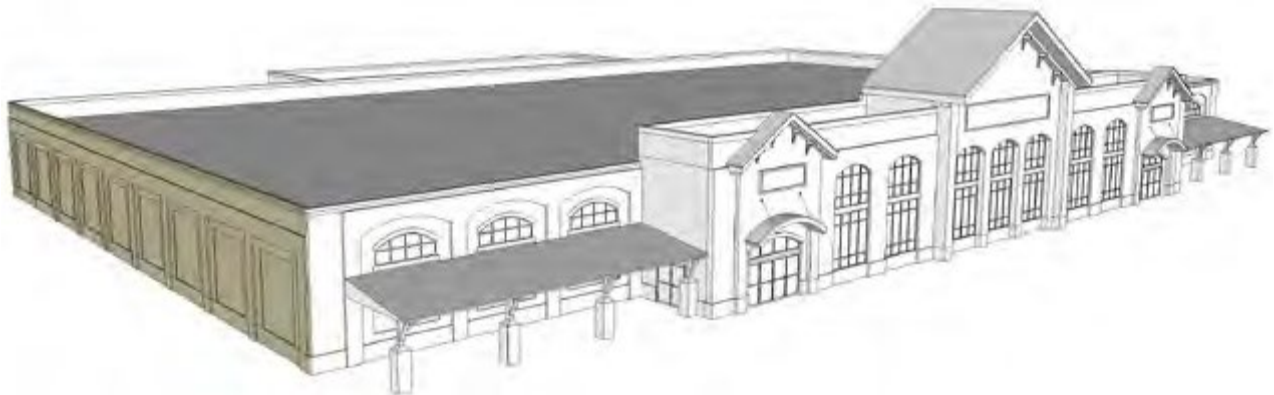
Figure 5.2 Primary Building Wall



##### 5.4.2.2 Secondary Building Wall

All building wall planes that are not defined as a Primary Building Wall or as a Utility/Service Building Wall are Secondary Building Walls. Secondary building walls may be active or inactive depending on location and access to the building.

Figure 5.3 Secondary Building Wall



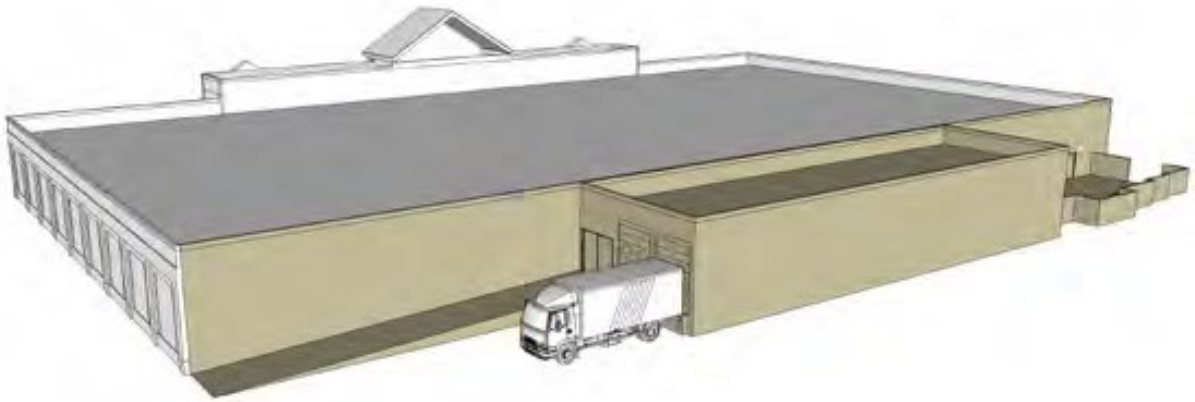
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#### 5.4.2.3 Utility / Service Building Walls

A utility/service building wall is the wall plane, or portion thereof, that contains utility and service areas. Utility/service building walls shall not front on the primary street. Any utility/service building walls visible from a major thoroughfare shall meet the requirements for a secondary building wall or be screened by a Type 1 buffer yard per Section 4.4.3.

Figure 5.4 Utility/Service Building Wall



#### 5.4.2.4 Industrial Building Walls

An Industrial Building Wall includes each wall plane of an industrial, warehousing, or similarly used building, located within the LI or HI zoning districts, which does not contain space used for offices, customer service, retail areas, product display areas or similar nonindustrial spaces. Any industrial building walls located within 250 feet of a major thoroughfare shall meet the requirements for a secondary building wall or be screened by a Type 1 buffer yard per Section 4.4.3.



Figure 5.5 Industrial Building Wall

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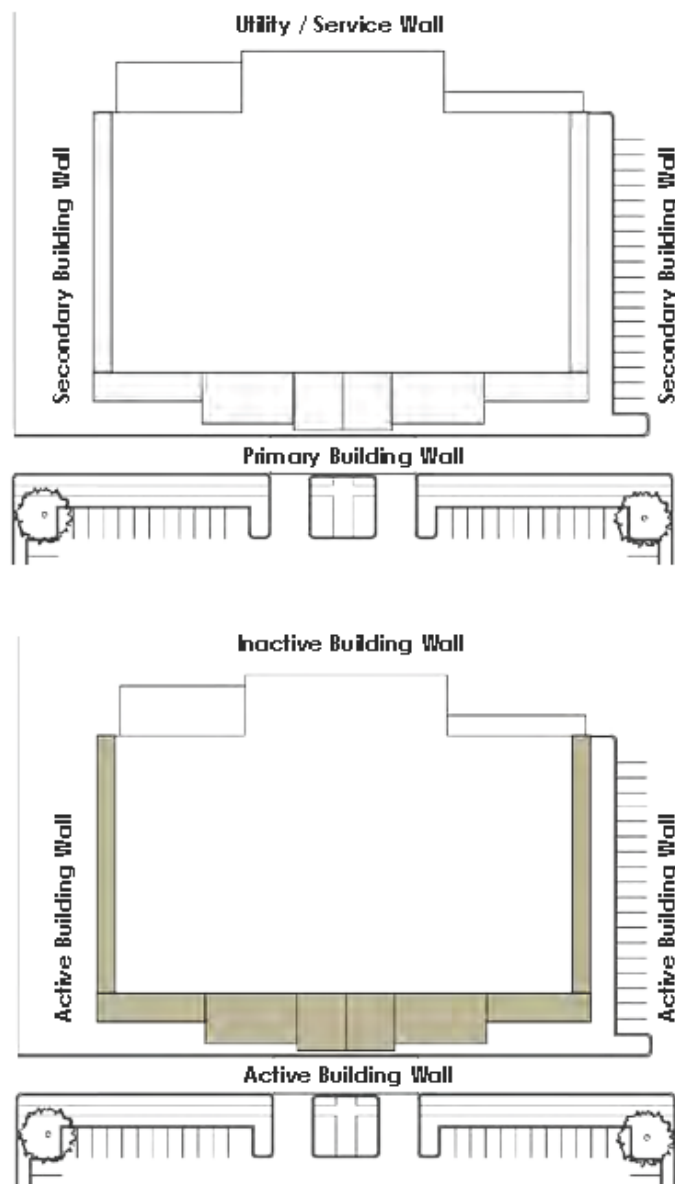
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#### 5.4.2.5 Active Building Wall

An active building wall is any building wall plane, or portion of a wall plane, whether along a primary or secondary building wall, which:

- Contains a customer entrance;
- Is oriented toward a public street or internal access drive;
- Is adjacent to a pedestrian walkway; or
- Is adjacent to a customer parking area.

Figure 5.6 Building Wall Types



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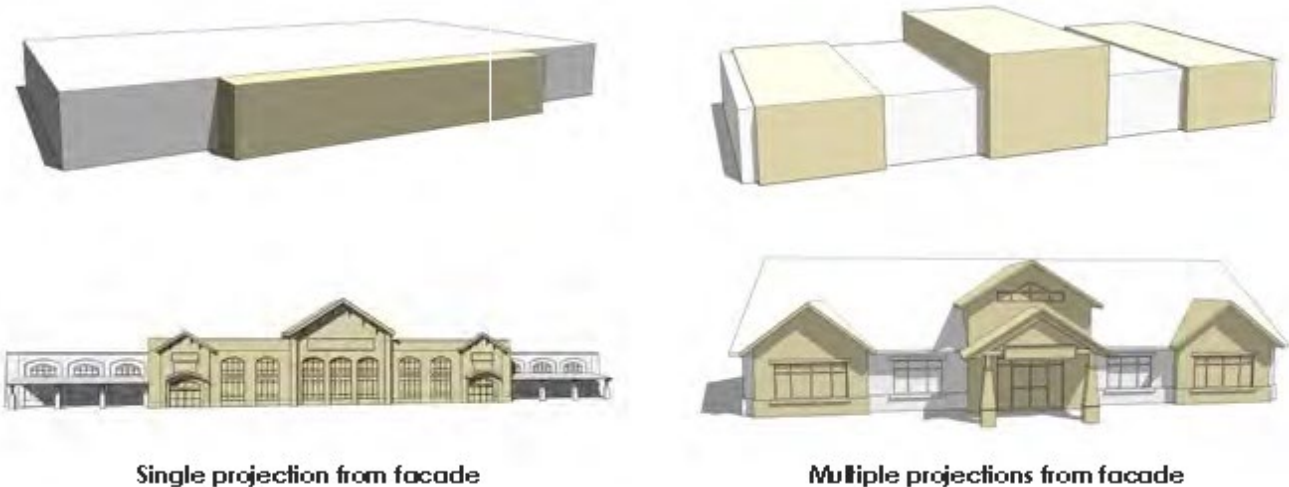
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#### 5.4.3 Building Modulation

A. Building modulation is the varying of the footprint of a building by projecting or recessing portions of the façade from the base plane of the building wall. The use of a modulated façade helps to define the most important portion(s) of a building (such as customer entrances), reduces monotony along building walls and helps to distinguish adjacent buildings from each other by encouraging distinctive designs. The following building modulation standards apply to all non-residential buildings of greater than 50 linear feet on the primary façade:

1. Primary building walls shall be modulated through the use of projections or recessions of the building wall from the base wall plane.
2. Projections or recessions used to meet this requirement shall project or recede from the base wall plane by a minimum of one (1) foot for buildings under 100 feet wide a minimum of three (3) feet for buildings over 100 feet wide.
3. The combined length of the modulating feature(s) shall be a minimum of 35% of the width of the base wall plane.

Figure 5.7 Building Modulation



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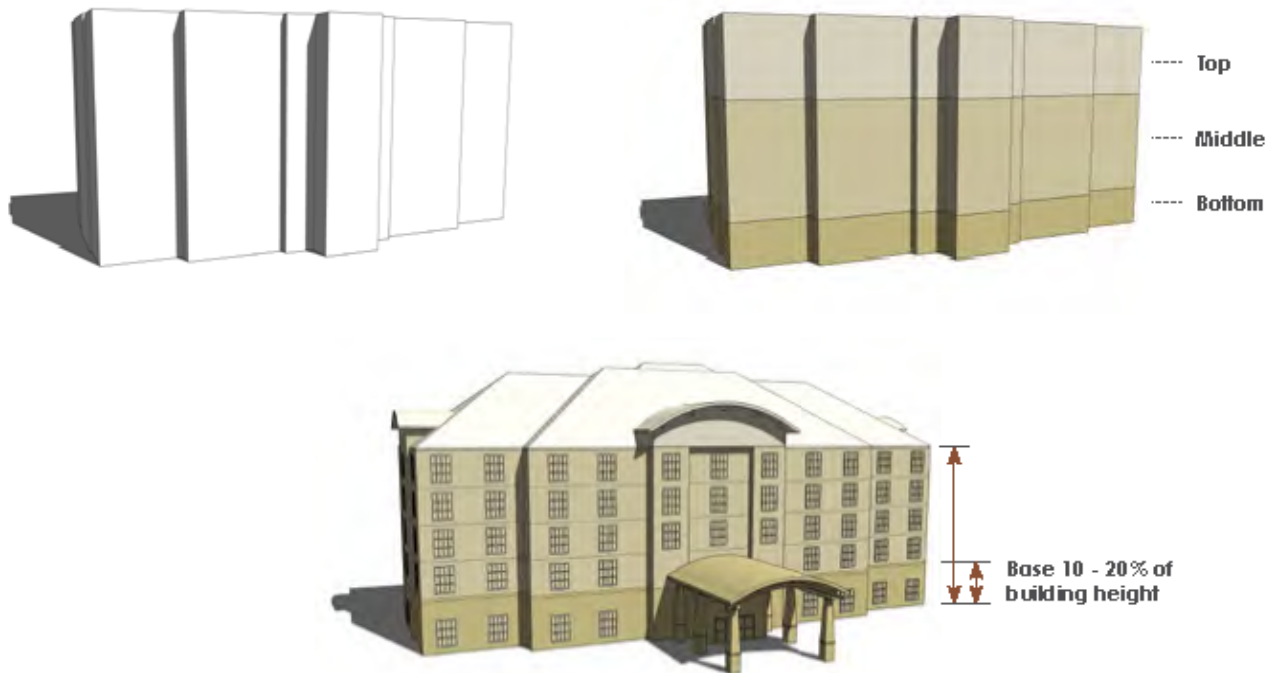
#### 5.4.4 Vertical Articulation

- A. Vertical articulation is used to give emphasis to the height of a building and to provide relief along the vertical wall plane. Appropriate vertical articulation techniques vary based on the size and height of a building, as well as its architectural style. Vertical articulation shall be provided on each vertical building wall plane as required below. Utility/Service and Industrial building wall types shall be exempt from these standards.
- B. Buildings that are three (3) or more stories or more than 35 feet above grade shall be designed with a visually distinct base. The base shall extend a minimum of 10% and maximum of 20% of the height of the vertical wall plane from grade.
- C. The primary and secondary building walls of non-residential Buildings shall be vertically articulated by using a minimum of two (2) of the techniques listed below:
- Using visually "heavy" building materials, such as stone, on lower surfaces when a "lighter" material is used on higher surfaces. Using larger or more coarsely faced building materials on lower surfaces and smaller or more finely textured materials on higher surfaces;
  - Using different colors of materials along the vertical wall plane, with darker colors used on lower surfaces and lighter colors used on higher surfaces;
  - Including gables or minor pitched roof forms that coordinate with building modulation;
  - Using stepped parapet walls;
  - Providing towers or similar features that extend vertically above the top of the building wall;
  - Varying the height of different portions of a building;
  - Using tall windows, particularly when coupled with an arched frame at the top;
  - Using distinct masonry patterns or inlays that extend vertically along the building wall; or
  - Using pilasters or engaged columns that extend vertically along the building wall.

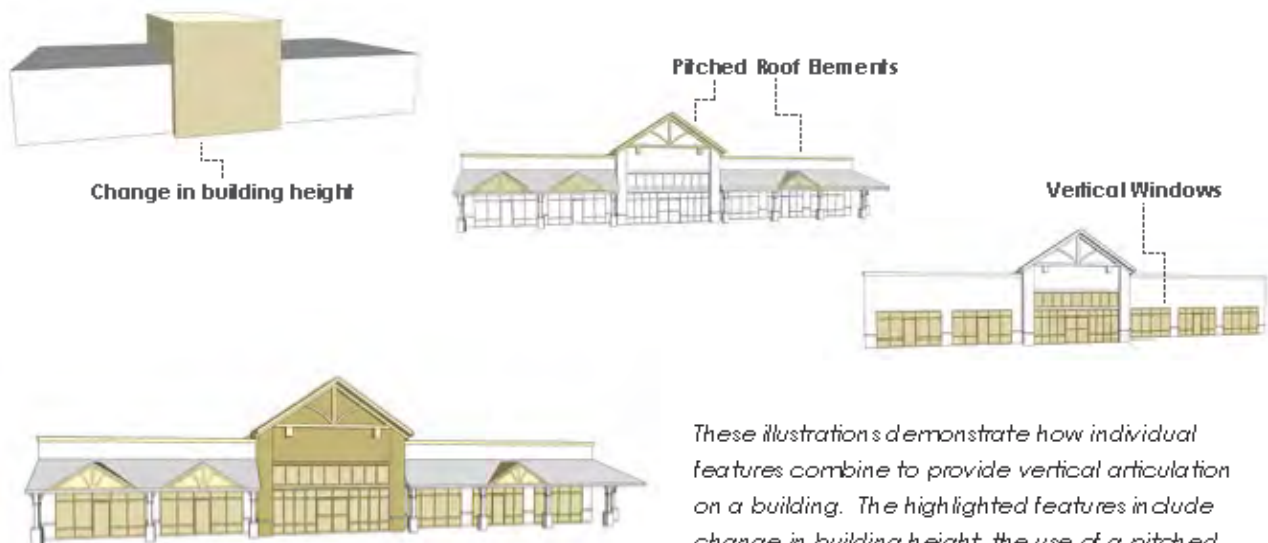
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Figure 5.8 Vertical Articulation



*The illustrations above demonstrate proper division of a multi-story building into vertically distinct portions of the vertical wall plane, including base, body, and top sections.*



*These illustrations demonstrate how individual features combine to provide vertical articulation on a building. The highlighted features include change in building height, the use of a pitched roof elements, and the use of vertical windows to achieve compliance with the vertical articulation standards.*



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#### 5.4.5 Horizontal Articulation

- A. Horizontal articulation is used to provide visual interest along the horizontal wall plane and to define the human scale of a building. Appropriate horizontal articulation techniques vary based on the architectural style of a building, as well as its intended use. Utility/Service and Industrial building wall types shall be exempt from these standards.
- B. Ground floor primary and secondary building walls shall be articulated in a manner that provides visual interest and emphasizes the human scale by using one (1) or more of the below referenced techniques, or by an equally effective method that achieves the stated goal:
- Trellises
  - Arcades
  - Recessed openings
  - Arbors/Pergolas
  - Porticos
  - Decorative masonry patterns or inlays
  - Decorative metalwork
  - Awnings
- C. A minimum of 75% of the width of the horizontal wall plane of the primary façade(s) shall contain articulating features (see Figure 5.9 below). More than one feature type may be used to meet this requirement. A minimum of 50% of the width of the horizontal wall plane of secondary building walls shall contain articulating features (see Figure 5.9 below). More than one feature type may be used to meet this requirement. Features used to satisfy these requirements shall not be separated by a gap wider than 10 feet between the outer edges of each individual feature.
- D. Features used to satisfy this requirement shall be appropriate to the context of the wall on which they are placed. An example of an inappropriate use of an architectural feature would be to place an awning in a location that does not cover a pedestrian walkway or window.

Figure 5.9 Horizontal Articulation



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Trellises



Recessed openings and decorative metalwork



Portico and pergola



Arcade and decorative masonry patterns



Awnings over windows



Awnings not over windows



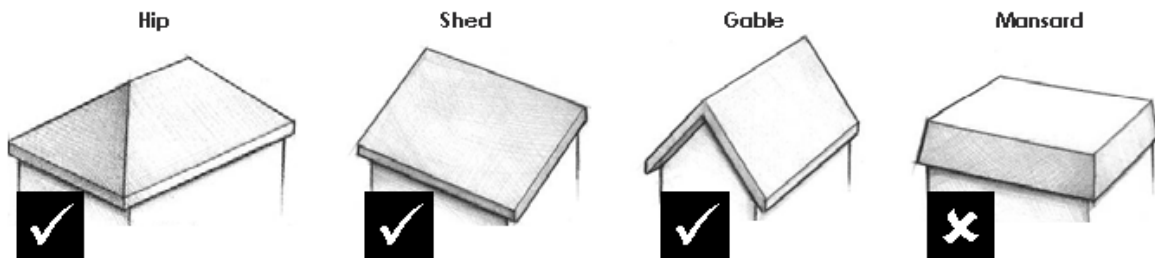
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#### 5.4.6 Roof Form and Materials

- A. A roof is an integral structural component of the building and should be varied to reinforce the rhythm and scale of the façades. The standards of this section shall apply to roofs of non-residential structures. Industrial building wall types shall be exempt from these standards, except that all roof-mounted mechanical equipment shall be screened in accordance with Section 5.4.12.
- B. Pitched roof materials shall consist of asphalt shingles or standing seam metal in muted, earth tone colors.
- C. Pitched roofs shall be simple hip, shed or gable forms. Mansard roofs are prohibited. Pitched roof forms shall utilize eaves which overhang the building wall a minimum of 12 inches. A pitched primary roof form shall have a minimum pitch of 6 inches of vertical rise to each 12 inches of horizontal run (6:12) and a maximum pitch of 12 inches of vertical rise to each 12 inches of horizontal run (12:12). Secondary roof forms shall have a minimum pitch of 4 inches of vertical rise to each 12 inches of horizontal run (4:12).
- D. Roof pitches of less than 2:12 and flat roofs shall incorporate a parapet wall along the primary and secondary building walls. An articulated cornice or cap shall be provided along those portions of a parapet wall that are located above a section of a building that projects from the base wall plane. Cornices or caps shall continue around all sides of a parapet wall on which they are required and may only terminate at an interior building corner or continue at least eight (8) feet around an exterior building corner.
- E. Parapet walls on primary façades shall contain at least one (1) change in height of at least one (1) foot a minimum of every 25 feet, through the use of a stepped wall or the inclusion of a minor pitched roof form. Height changes shall align with the modulation of the building wall. Parapet walls may not exceed 10 feet in height at any point along the wall.

**Figure 5.10 Pitched Roof Types**



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Figure 5.11 Roof Form



The illustrations above demonstrate proper use of a pitched roof on a modulated building wall. As the illustration shows, the pitched roof form is enhanced with minor pitched roof elements and changes in height that correspond to changes in the base wall plane.



The illustration above demonstrates the proper inclusion of minor pitched roof forms with a parapet wall.



Continuous parapet with height changes



Non-continuous parapet without height changes

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#### **5.4.7 Facade Materials and Color** (ZTA-2020-01 Amended November 2, 2020)

##### **5.4.7.1 Primary and Secondary Facades**

###### **A. New Construction Including Additions**

1. Brick, hard coat stucco, natural stone, architectural cast stone EIFS (Exterior Insulation Finishing System), glass or other comparable, durable materials that are consistent with the purpose and intent of the Building Design Standards and approved during the plan review process shall be used as cladding over a minimum of 50% of the surface area of each primary building façade and 25% of each secondary building façade. Windows and other glazed areas shall be excluded from the calculation of the surface area of a building wall for the purpose of the material proportion standards.
2. The following materials may be used as cladding on up to 50% of the surface area of any primary building façade and 75% of the surface area of any secondary building facades:
  - Wood clapboard or fiber cement board horizontal or vertical siding
  - Vinyl siding horizontal or vertical siding
  - Stucco or exterior insulation and finishing system (EIFS)
  - Ceramic tile/terracotta
  - Split-faced concrete block
  - Architectural grade metal (shall not exceed 10% of any primary or secondary façade)
3. All other materials not expressly permitted are prohibited.
4. All façade material application shall be in compliance with manufacturer specifications and the North Carolina Building Code.
5. Colors - Primary and secondary façade colors shall be low-reflective, subtle, neutral or earth tone colors. The use of high-intensity, fluorescent, or neon colors is not permitted. Building trim and accent areas may feature brighter colors, as approved during the plan review process. Traditional or standards franchise colors shall also comply with this section.

###### **B. Existing Buildings**

Where existing brick buildings have been painted, the primary surfaces of the buildings may only be repainted with low-reflective, subtle, neutral or earth tone colors, subtle, and neutral colors. The use of high-intensity, metallic, fluorescent, or neon colors is not permitted. Building trim and accent areas may feature brighter floors, as approved during the plan review process. Traditional or standard franchise colors shall also comply with this section.

(ZTA-2020-01 Amended November 2, 2020)

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Figure 5.12 Primary Materials



**Brick**



**Stone**

Figure 5.13 Secondary Materials



**Wood Siding**



**Vinyl Siding**



**Stucco or EIFS**



**Tile**



**Split-face Block**



**Architectural Metal**



**Brick Facade**



**Painted concrete block and metal facades**



**Muted neutral colors**



**High intensity colors**



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#### 5.4.7.2 Utility / Service Facades

In addition to the materials permitted on primary and secondary facades, the following materials may be used on utility/service facades that are not generally visible to the public, provided that the materials are either integrally colored or painted to match the color of the materials used to clad the greatest proportion of the surface area of the primary and secondary building facades:

- Stucco or Exterior Insulation and Finishing Systems (EIFS)
- Split-faced concrete block
- Architectural precast panels

(ZTA-2020-01 Amended November 2, 2020)

#### 5.4.7.3 Industrial Building Facades

In addition to the materials permitted on primary and secondary walls for nonresidential buildings, the following materials may be used on industrial building facades, provided that the materials are either integrally colored or painted to match the color of the materials used to clad the greatest proportion of the surface area of the primary and secondary building facades of office, customer service, and retail portions.

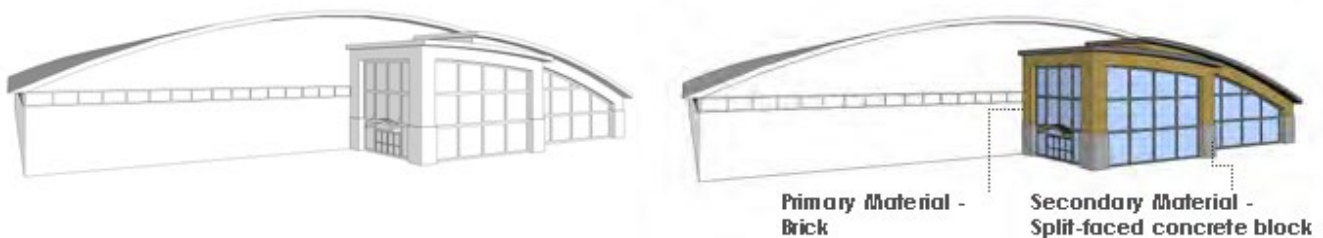
- Stucco or Exterior Insulation and Finishing Systems (EIFS)
- Split-faced concrete block
- Architectural grade metal

However, building facades located within 250 feet of a major thoroughfare shall meet the minimum material requirements for a secondary building façade, unless a Type 2 buffer in accordance with Section 4.4.3 Buffer Yards is installed along the thoroughfare frontage.

(ZTA-2020-01 Amended November 2, 2020)

Figure 5.14 Materials Examples

Office / Showroom Portion of Industrial Building



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Figure 5.15 Materials Examples (Cont.)

Office Building



Primary Material - Brick

Secondary Material - Stone

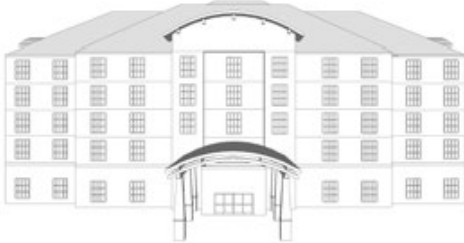
Multi-tenant Retail Building



Primary Material - Brick & Stone

Secondary Material - Wood

Hotel



Primary Material - Brick

Secondary Material - Stone

Fast food Restaurant



Primary Material - Brick & Stone

Secondary Material - BFS

*The illustrations above demonstrate the application of permitted primary and accent cladding materials to the exterior of different building types.*

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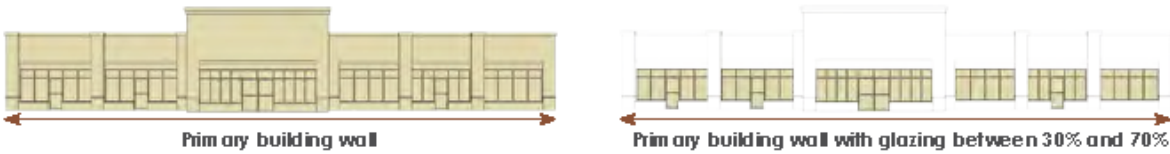
#### 5.4.8 Windows and Glazing

- A. The use of glazed (glass) surface areas on a building wall enhances the aesthetic character of the building by adding a transparent contrast to the other cladding materials used on the wall. Transparent surfaces also increase the "activity" of a building wall by making interior spaces visible to the outside, particularly in the vicinity of customer entrances and along building walls that are adjacent to pedestrian walkways. Methods of achieving transparency can include the use of glass doors, windows and curtain walls. Industrial and Utility/Service building walls and uses listed under the "Institutional and Civic" uses category in the Permitted Uses Table are exempt from the minimum glazing standards.
- B. At least 25% of the primary building wall shall contain glazed area. For buildings located on a corner, the secondary street façade shall be at least 10% windows. Glazing shall not comprise more than 75% of a primary secondary building wall.
- C. Each upper story building wall shall contain a roughly proportional amount of glazed area as each other story above the ground floor. Windows shall be aligned vertically and horizontally between floors follow the same window rhythm.
- D. Windows shall be inset from the surrounding wall cladding material by a minimum of two (2) inches with the bottom sill a minimum of 12 inches and maximum of 48 inches above grade.
- E. Glazed areas shall not be separated by a distance of greater than 20 feet on any portion of a building wall on which glazing is required.
- F. Glass that obscures interior visibility may not be used to satisfy the minimum glazing requirement, except false windows may only be used to satisfy the minimum glazing requirement if they mimic true windows, are lit during nighttime business hours, and are not covered with pictures, words or other advertising materials.
- G. Windows shall be proportioned so that they emphasize the vertical rather than horizontal dimension of the opening. This may be achieved by either proportioning the window opening so that its height is greater than its width, or, when a horizontal window opening is used, using internal framing that divides the window into vertically proportioned elements. Transom and accent windows, occupying no more than 5% of the building wall on which they are located, may be horizontally oriented.

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Figure 5.16 Windows and Glazing



The illustration above highlights those areas of the building that are counted toward the minimum glazing standards.



The illustration above highlights the effective use of vertically proportioned windows. The arched tops emphasize the height of the window and articulate the vertical dimension of the building wall.



The illustration above demonstrates the vertical alignment of upper and lower story windows on a multi-story building. This repetitive vertical alignment helps to articulate the vertical wall planes.



Adequate Window Area



Windows covered for interior display



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#### 5.4.9 Building Entrances

- A. The primary entrance(s) to each building or tenant space shall be oriented toward the adjacent public street, or, when located in the interior of a larger development, toward an internal access drive.
- B. Buildings with a gross floor area of more than 50,000 square feet shall provide a minimum of two (2) customer entrances on the primary façade which are separated by a minimum distance of 100 linear feet from their outer edges. Industrial building walls are exempt from this requirement.
- C. Primary customer entrances shall be clearly defined by distinct architectural features. Each primary entrance shall be defined by a minimum of two (2) of the following features:
  - Awnings or porticos
  - Recesses/projections of the building wall
  - Arcades
  - Raised corniced parapets over the entry
  - Pitched roof forms
  - Arched architectural features
  - Display windows
  - Columns or similar vertical features
  - The use of cladding materials around the entrance that are visually distinct from other materials on the building wall.
  - Masonry, tile, metal or glass inlays around the entrance.

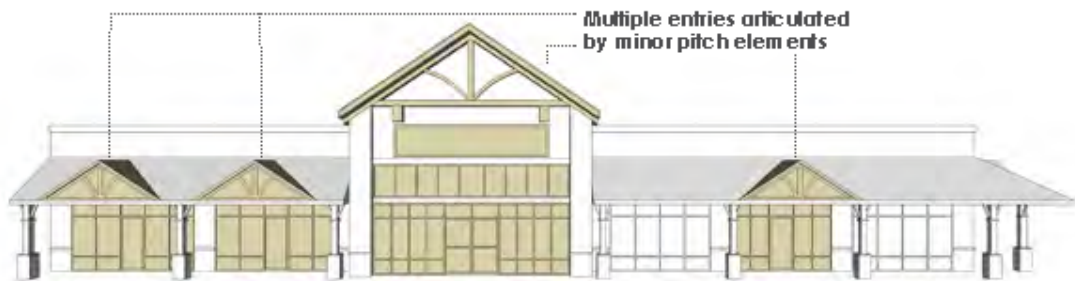
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Figure 5.17 Building Entrances



*The illustrations above highlight the elements that emphasize the primary entrance into the building. These elements include a portico, projection from the base wall plane, and projecting gable roof forms.*



*The illustrations above demonstrate the emphasis of building entrances for the following building types: multi-tenant retail building; large scale, single-tenant retail building; and restaurant.*

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#### 5.4.10 Awnings

- A. Awning material shall be canvas or architectural grade (non-corrugated) metal with a matte, non-reflective finish.
- B. Awnings shall not be backlit or outlined with neon, LED or other lighting.
- C. Awnings shall be placed at the top of window or doorway openings and shall not extend beyond such openings.
- D. No awning shall extend more than the width of the sidewalk or 10 feet, whichever is less and shall maintain a clear height of at least eight (8) feet above grade.
- E. Awnings shall be self-supporting from the wall. No supports shall rest on or interfere with the use of pedestrian walkways or streets. In no case, shall any awning extend beyond the street curb or interfere with street trees or public utilities.

Figure 5.18 Awnings



The illustrations above demonstrate the improper use (right) and proper use (left) of awnings. The awnings on the bottom illustration only cover the window and door openings.



Awnings over windows



Backlit awning spanning building length

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#### 5.4.11 Orientation of Certain Features

- A. Buildings shall be oriented in a manner that drive-through windows, menu/ordering areas and automobile service bay doors do not face the primary fronting street or major thoroughfare when viewed at a point in the street that is directly perpendicular to the center of the primary façade.
- B. Building walls that contain utility and service areas shall be oriented so that they are not visible from adjacent public streets or internal access drives (except dedicated service drives).



No drive-through or ordering station on primary facade



Drive-through ordering station on primary facade



Service bays on secondary building wall



Service bays on primary facade



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#### 5.4.12 Mechanical and Utility Equipment

- A. All building mounted mechanical and utility equipment shall be located on the utility/service façade.
- B. Ground level building mounted mechanical and utility equipment shall be screened by walls that are composed of the same cladding material that is used on the building wall adjacent to their mounting location.
- C. Mechanical and utility equipment which extends along the vertical wall plane above a height of six (6) feet from grade shall be painted to match the color of the primary material on that building wall.
- D. All rooftop mounted mechanical equipment shall be screened or located in a manner that it is not visible from any point along an active building wall.



Screened ground-level equipment



Unscreened ground-level equipment



Screened roof-top equipment



Unscreened roof-top equipment

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#### 5.4.13 Accessory Building Design

- A. The exterior materials of non-residential accessory buildings shall substantially match the primary and/or secondary materials of the principal structure and surrounding buildings.
- B. Accessory structures shall be located in the rear yard and shall not exceed 15 feet or the height of the principal structure, whichever is less.



Materials match principal structure



Materials do not match principal structure

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#### **5.5 CENTRAL BUSINESS (CB) DISTRICT DESIGN STANDARDS**

The standards of this Section apply to all buildings in the CB zoning district, that are subject to Site Plan review and/or the issuance of a Zoning Permit. The standards are intended to maintain downtown Yadkinville's character and ensure that infill development is compatible with the downtown's historic and small-town character and the artistic spirit created by Yadkin Cultural Arts Center, and to encourage compatible redevelopment and revitalization to create a vibrant and attractive downtown.

(ZTA-2020-01 Amended November 2, 2020)

##### **5.5.1 Façade Types**

Different design standards apply to different types of building walls. For the purposes of this Section, building walls shall be divided into the following categories:

###### **5.5.1.1 Primary / Front Façade**

Any building wall plane which is oriented toward a street right-of-way and contains the primary building entrance.

###### **5.5.1.2 Secondary / Corner Side Façade**

Building wall planes that do not contain the primary entrance to the building (but may contain a secondary entrance) and face a secondary street right-of-way on a corner lot.

###### **5.5.1.3 Side Interior Façade**

Building wall planes that do not face a street right-of-way and are generally perpendicular to the primary/front façade. In a Central Business district setting, these façades often directly about the side interior façade of an adjacent structure and do not contain windows or doorways.

###### **5.5.1.4 Rear Façade**

Building wall planes that face the rear yard and generally parallel to the primary/front façade. In a Central Business district setting, these façades often face rear alley ways.

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Figure 5.19 Façade Types



**Primary / Front Façade**



**Secondary / Corner Side Façade**



**Side Interior Façade**



**Rear Façade**



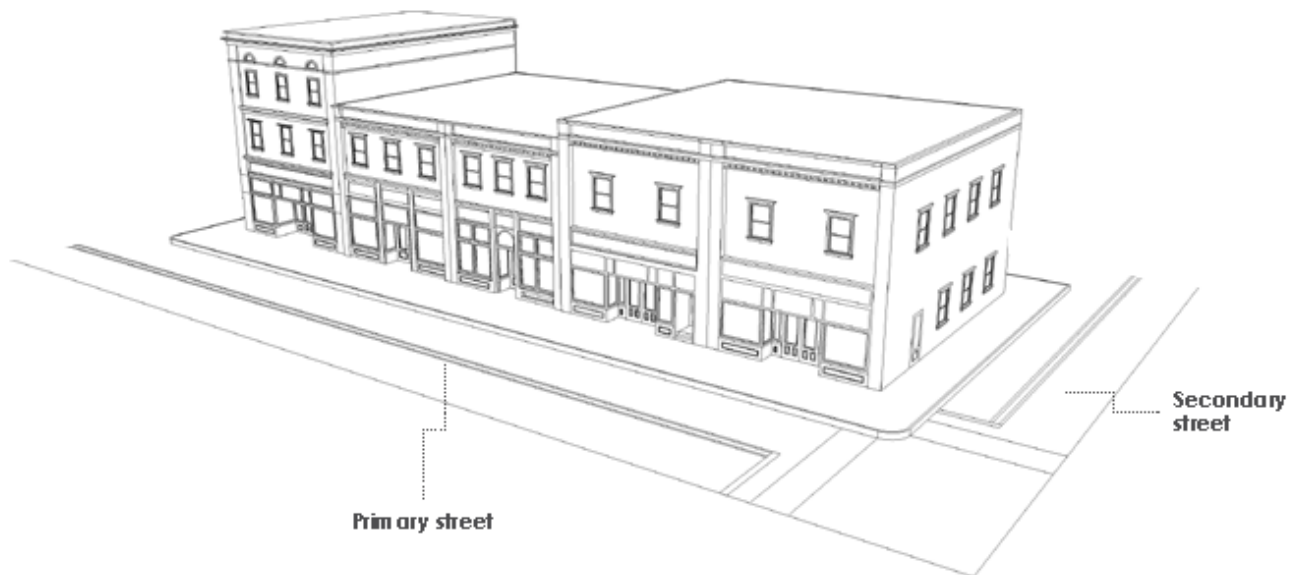
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#### 5.5.2 Building Orientation

- A. Building orientation refers to how the structure is placed on a property, with particular focus on the primary façade of the structure.
- B. Structures shall be oriented so that their primary façade faces, and is parallel with, the principal street on which they are located.
- C. On corner lots, both façades shall be oriented so that they face, and are parallel with, the adjoining streets.

Figure 5.20 Building Orientation



*The illustrations above demonstrate the proper orientation of buildings parallel to the primary and secondary streets.*

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#### 5.5.3 Building Massing and Scale

- A. A building's mass defines its relationship to other structures and the street, as well as contributes to an area's identity. Neighboring buildings of similar size and massing work together to create a pleasing streetscape and provide consistency between adjacent buildings with different designs. A building's scale refers to its perceived size in relation to a person (i.e., human scale) or neighboring structures (i.e., architectural scale). Adjacent buildings sharing human-scaled architectural elements (e.g., windows, doors, porches, vestibules, stoops, awnings at entrance level, other ground-level pedestrian amenities) help establish an inviting, pedestrian-oriented streetscape.
- B. New construction on lots that are significantly wider than adjacent existing lots shall utilize a design that divides and proportions the building to replicate the massing and scale of adjacent buildings.
- C. Where other buildings within 250 feet on the same side of the street and within the same block occupy the full width of the lot at the front build-to line, the new construction shall occupy the full width of the lot at the build-to line between the side lot lines unless sufficient width exists to provide driveway or pedestrian access to a rear parking area. Such pedestrian access shall be a minimum of six (6) feet wide.

Figure 5.22 Massing and Scale



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Figure 5.23 Example Infill



**Infill Lot**

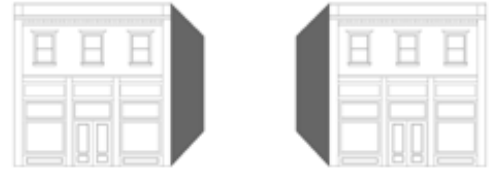


**Acceptable Infill**



**Unacceptable Infill**

*The illustrations above demonstrate acceptable and unacceptable architectural scaling in an infill situation.*



**Infill Lot**



**Acceptable Infill**



**Unacceptable Infill**

*The illustrations above demonstrate acceptable and unacceptable building width in an infill situation.*

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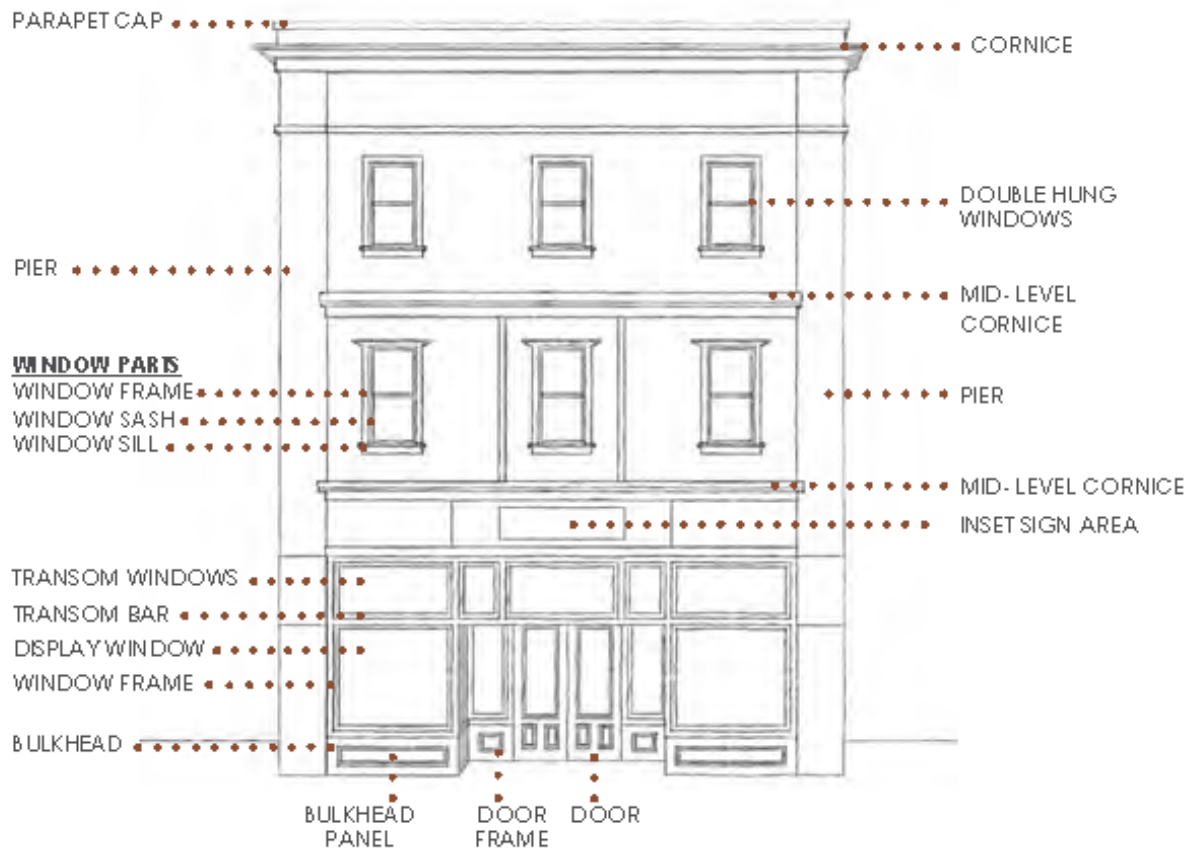
#### 5.5.4 Building Façade Articulation

- A. The use of architectural features and detailing on a building façade helps to define the scale and massing of a building. Elements should proportion a structure into a discernible base, middle and top, with an emphasis on accentuating the human scale along the façade of the ground story to create an inviting environment for pedestrians.
- B. Architectural features and ornamentation shall be required on all façades of a building facing a public street to provide articulation and define the scale of the building.
- C. No primary or secondary/side corner façade shall have a length of wall greater than 10 feet without doors, windows, or horizontal articulation feature (as described in Subsection D) are prohibited.
- D. Buildings shall be vertically articulated by using a minimum of two (2) of the techniques listed below and depicted in the following Figure:
  - Using different colors of materials along the vertical wall plane, with darker colors used on lower surfaces and lighter colors used on higher surfaces
  - Providing a mid-level cornice
  - Recessing upper stories on multi-story buildings
  - Using stepped parapet walls
  - Providing towers or similar features that extend vertically above the top of the building wall
  - Varying the height of different portions of a building
  - Using distinct masonry patterns or inlays that extend vertically along the building wall
  - Using piers or engaged columns that extend vertically along the building wall
- E. Building walls shall be horizontally articulated in a manner that provides visual interest and emphasizes the human scale by using two (2) or more of the below referenced techniques, or by an equally effective method that achieves the stated goal:
  - Awnings
  - Trellises
  - Arcades
  - Transom Windows
  - Decorative masonry patterns
  - Decorative metalwork
  - Decorative inlays of brick, masonry, wood, stone or tile

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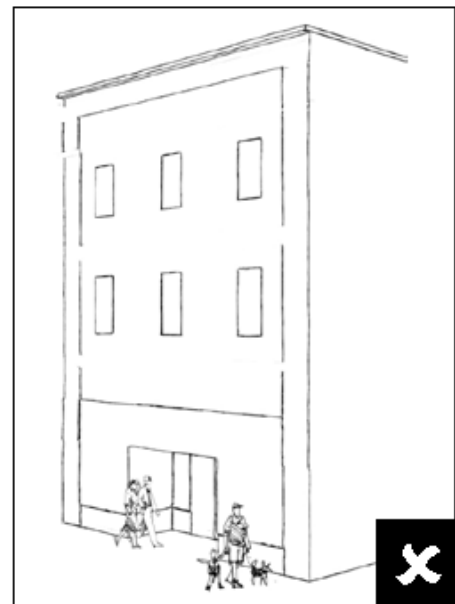
Figure 5.24 Façade Articulation



The diagram above illustrates the different features of a downtown building façade that may be incorporated in to new construction as appropriate.



Articulated facade



Unarticulated facade

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#### 5.5.5 Roof Form

- A. The predominant roof from of all other buildings within 250 feet on the same side of the street and within the same block shall be the roof form used for new construction. For flat roofs, parapets walls are required on any façade facing a public street.
- B. Parapets walls shall extend a minimum of two (2) feet above the top of the building wall but shall not extend more than five (5) feet above the main building wall.
- C. Parapet wall height for adjoining buildings with the same number of stories shall vary by a minimum of two (2) feet and a maximum of five (5) feet. Stepped or vertically articulated parapet walls may exceed these height limitations within the middle 30% of the building façade, but in no case shall the highest point of a stepped parapet exceed eight (8) feet in height above the main building wall.
- D. Exposed gutters and downspouts are prohibited on the primary façade of a building.
- E. Gutters, downspouts and scuppers shall be placed so that they are concealed from view from the primary façade or secondary façades that front on a public sidewalk.

Figure 5.25 Roof Form



*The diagrams above illustrate the maximum parapet height (left) and the relationship of adjoining parapet walls and how they come together to form a varied roof line along the block of buildings.*

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#### 5.5.6 Materials

- A. A minimum of 75% of primary and secondary façades shall be clad architectural quality, individually set, naturally colored brick, granite, limestone, marble or similar slab or block stone are allowed for use on the primary surfaces of exposed building façades. No more than two (2) styles of masonry may be utilized on a façade.
- B. Masonry shall be applied in a manner that emphasizes the storefront, window openings, projecting lentils, corbeling adjacent to and/or as a part of the cornice features, building piers, and other ornamental features.
- C. Masonry shall be applied in a manner that adds interest to the façade by utilizing techniques that vary the patterns of brick through the use of a variety of brick course patterns and designs.
- D. Special attention shall be given to corners to ensure the brick course work is wrapped in a continuous manner along all sides of the building.
- E. Where there are multiple exposed façades facing public streets, the same course patterns, brick styles and other characteristics shall be applied equally to each façade. Rear façades may be designed without any architectural detailing but shall use the primary building materials.
- F. Treated wood, stacked stone, exterior quality tile, stucco or EIFS, cast or preformed concrete and architectural grade metal may be utilized on building surfaces where the primary cladding materials are not applied, provided that such materials (excluding glazed areas) do not exceed 25% of the surface area of the façade.
- G. If exposed lintels are used in construction, they shall be made of stone or brick, and shall project a minimum of three (3) inches from the surface of the building.
- H. Upper story and mid-level cornices may be included on the primary building façade. Cornices may be constructed of brick, architectural grade metal or cast concrete.
- I. The primary building surface may include decorative inlays that do not total more than 10% of the primary façade surface area. Inlay materials may include tile, natural stone, decorative glass, or similar materials.



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Figure 5.26 Materials



*The illustrations above depict appropriate primary (left) and secondary (right) material locations on an example building.*



**Brick facade with concrete accents**



**Metal siding**



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#### 5.5.7 Façade Color

- A. For new construction including additions, brick and stone shall be unpainted and naturally colored.
- B. Where existing or new buildings utilizing historic brick, as characterized by the Secretary of Interior's Standards, have not been painted, they shall remain unpainted and naturally colored unless they can comply with the Secretary of Interior's standards for the treatment of historic brick. Where existing brick buildings have been painted, the primary surfaces of the buildings may only be repainted with low reflectance, earth tone, muted, subtle, and neutral colors. All painting of buildings in the CB District shall subject to the issuance of a Zoning Permit.
- C. For new construction or existing buildings, building trim and accent areas may feature or be painted brighter colors, excepted as provided in subsection D. below, and as approved during the plan and/or permit review process.
- D. The use of high-intensity, metallic, fluorescent, or neon colors is not permitted.
- E. Traditional or standard franchise colors shall also comply with this section.

(ZTA-2023-01 Amended September 11, 2023)

(ZTA-2020-01 Amended November 2, 2020)

(ZTA-2022-01 Amended December 5, 2022)

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Figure 5.27 Building Color



*The figure to the left shows the appropriate use of primary and accent colors on primary and secondary surfaces of the building façade.*



**Brick facade with concrete accents & painted trim**



**High intensity color**

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#### 5.5.8 Storefront Design

- A. The storefront is the public face of a building and the most prominent feature at the pedestrian scale. A storefront designed to be open and inviting will help to welcome patrons inside, while a storefront that is hardened presents the opposite message. Most storefronts have an abundance of glass, which is a contributing factor in good storefront design since the openness of the glass invites browsing and allows pedestrians to see interior activity. Good storefront design also allows for pedestrians to be able to view the interior of the building from the main portion of the sidewalk. Therefore, excessively recessed storefronts are discouraged since they require a passerby to leave the main sidewalk to see clearly into the storefront.
- B. Buildings shall be designed so that the majority (greater than 50%) of the width of the storefront wall is located immediately adjacent to the public sidewalk. Storefronts shall run the length of the first-floor façade between the exterior building piers.
- C. No more than 20% of the storefront wall may be recessed beyond eight (8) feet from the public sidewalk.
- D. Storefront design shall be proportional to that of other buildings within the same block on the same side of the street without being an exact replication of those buildings.
- E. Bulkheads should be neither too high, blocking the view of pedestrians, nor too low, so that a completely glass walled storefront is created. Bulkheads shall be constructed along all storefront areas, excluding customer entrances. Bulkheads shall be a minimum of 24 inches and maximum of 36 inches in height. Bulkheads may be constructed of brick, wood, or a combination of those two materials. Bulkheads shall include architectural detailing such as inlays, trim, changes in color or changes in material.
- F. A minimum of 70% and maximum of 90% of the surface area of the storefront shall consist of transparent glass between a height of two (2) feet and 10 feet above the grade of the adjacent sidewalk. Glass block does not count toward this requirement.
- G. Reflective or opaque glass is prohibited.
- H. Permanent bars, gates, shutters, fencing or other barrier materials are prohibited on the exterior of a primary façade. Security gates may be used after business hours.

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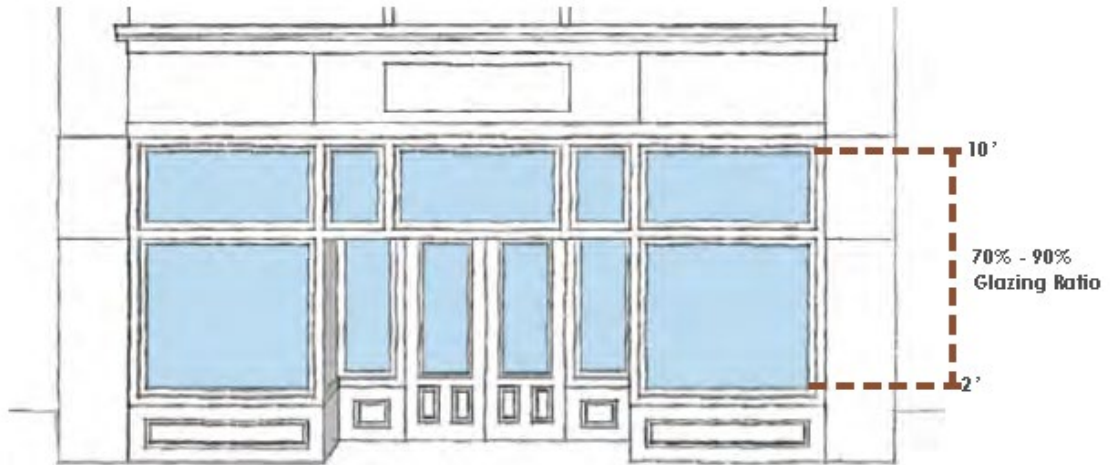
TITLE 9 DEVELOPMENT ORDINANCE

Figure 5.28 Storefront Design



Properly sized bulkhead

Improperly sized bulkhead



*The diagram above illustrates the proper glazing ratio for a storefront design.*



*These illustrations are examples of acceptable storefront designs that demonstrate diversity of design while still meeting the standards of this section.*

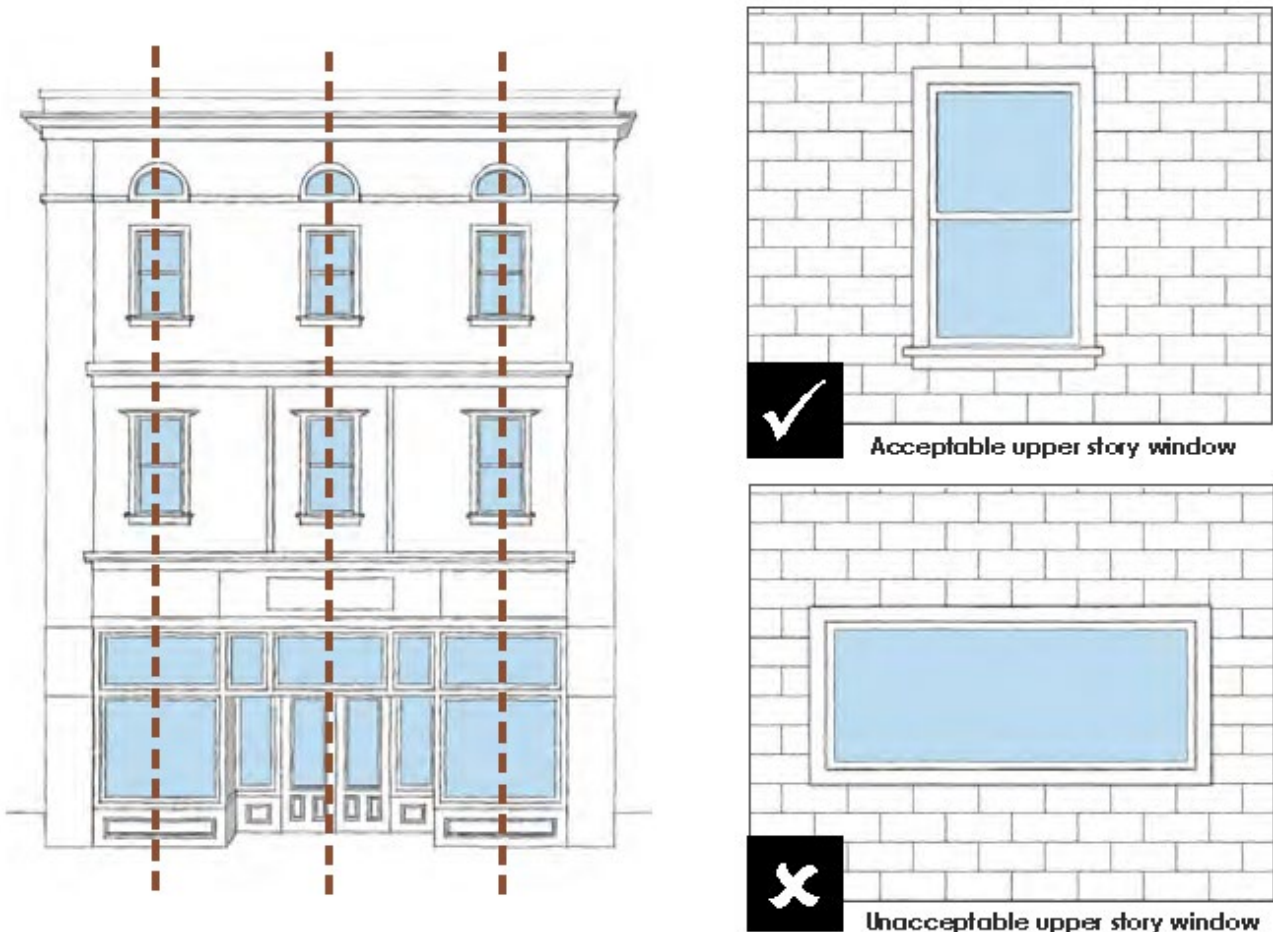
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#### 5.5.9 Upper-story Windows

- A. Upper-story windows shall have a minimum height to width ratio of two to one (2:1) and a maximum height to width ratio of three to one (3:1).
- B. Windows shall have the appearance of operable double hung windows.  
Upper-story windows should align horizontally with windows on the same story and be centered on windows below.
- C. Reflective or opaque glass is prohibited.
- D. A minimum of 30% of the linear width of each upper floor shall contain glazed area.

Figure 5.29 Upper-Story Windows



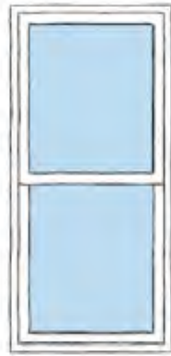
*The diagrams above illustrate proper alignment of upper-story windows with first floor windows (left) and a properly designed upper story window (right).*



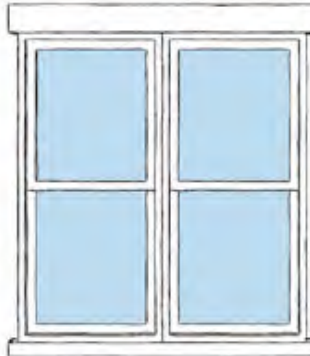
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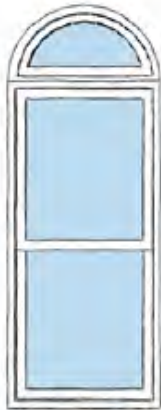
Figure 5.30 Upper-Story Windows (Cont.)



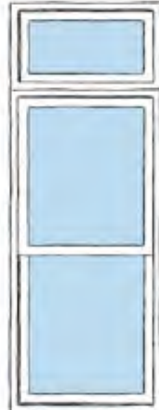
Double hung 1-over-1 window



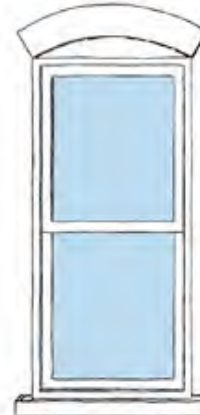
Two adjacent double hung 1-over-1 windows with lintel



Double hung 1-over-1 window with arched transom

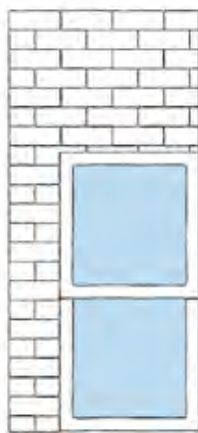


Double hung 1-over-1 window with transom

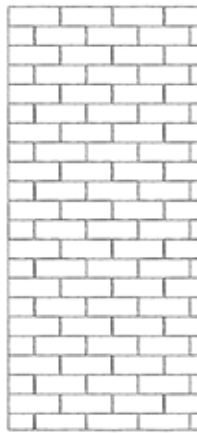


Double hung 1-over-1 window with arched transom

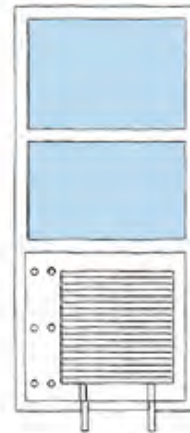
**Acceptable upper story windows**



Window frame partially filled with brick



Window frame bricked-in



Air conditioning unit

**Unacceptable upper story windows**

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#### 5.5.10 Entrances

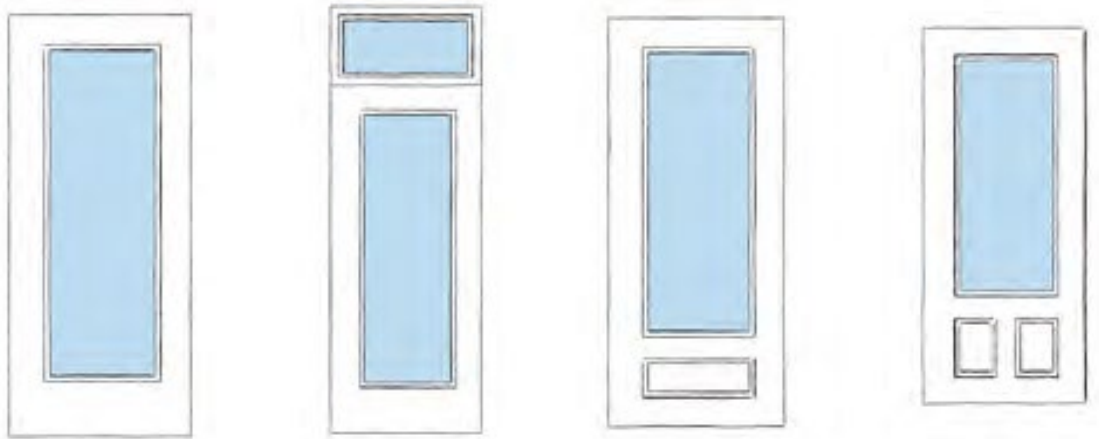
- A. From a pedestrian point of view, doors and entranceways are one of the most obvious and recognizable building features. The door and entranceway are a gateway to building interior. Therefore, it is important that the entrance be perceived as a cohesive element of the façade and not as a separate entity.
- B. Primary entrances of first floor uses shall face the primary street frontage, while secondary entrances may face parking areas or secondary street frontages. If the site is on a corner, a building may have its main entrance oriented to either street or at the corner.
- C. On primary and secondary street frontages, the surface area of primary and secondary entrance doors to first floor uses shall have a minimum glazed area of 70%.
- D. Reflective or opaque glass is prohibited.

(ZTA 2022-01 Amended December 5, 2022)

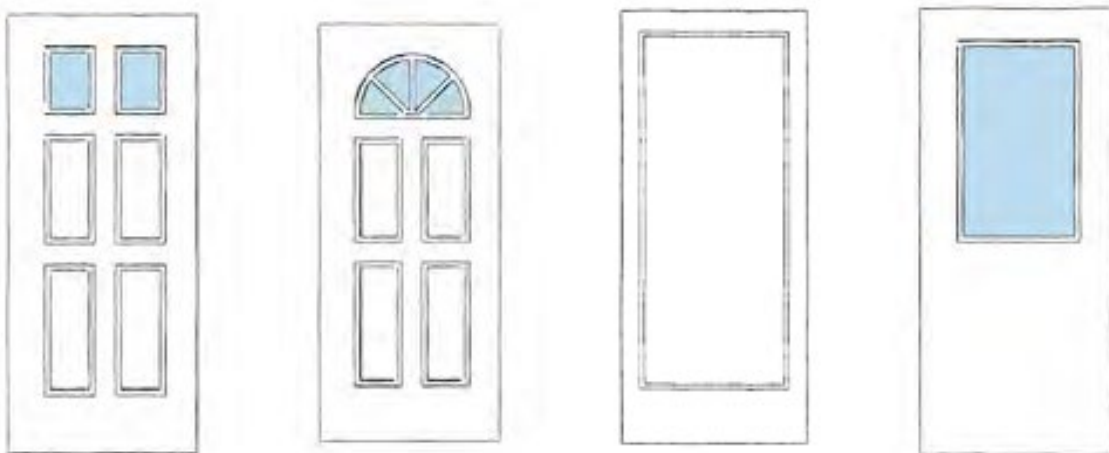
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Figure 5.31 Entrance Doors



**Acceptable entrance doors**



**Unacceptable entrance doors**

#### 5.5.11 Awnings and Canopies

- A. Awnings and canopies can serve many functions such as stimulating visual interest, protecting pedestrians from weather, and shielding items from sun damage in storefront displays.
- B. Awnings shall not extend past the storefront area into the building piers. Awning shape shall relate to the window or door opening. Barrel shaped awnings should be used to complement arched openings while rectangular awnings should be used on rectangular openings.



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- C. When there are multiple storefronts, awnings/canopies should correspond in size, color, and material. Buildings with multiple storefronts shall use separate awnings for each storefront. Awnings and canopies shall not block architectural features, including transom windows, and shall be attached to the vertical wall and lead to the public entrance.
- D. Awnings and canopies may extend up to 80% of the width of the sidewalk area in front of the building or nine (9) feet, whichever is less, subject to any encroachment permit which may be required by the North Carolina Department of Transportation, or the Town. In no case shall an awning or canopy extend beyond the curb line of the street, nor shall it interfere with the growth or maintenance of street trees, or maintenance of streetlights or street signs. Awnings and canopies shall be at least eight (8) feet above the grade of the sidewalk.
- E. Acceptable materials include woven cloth, canvas or architectural metal. The use of fluorescent or neon colors is not permitted. Backlighting of awnings is not permitted.



Rectangular awning

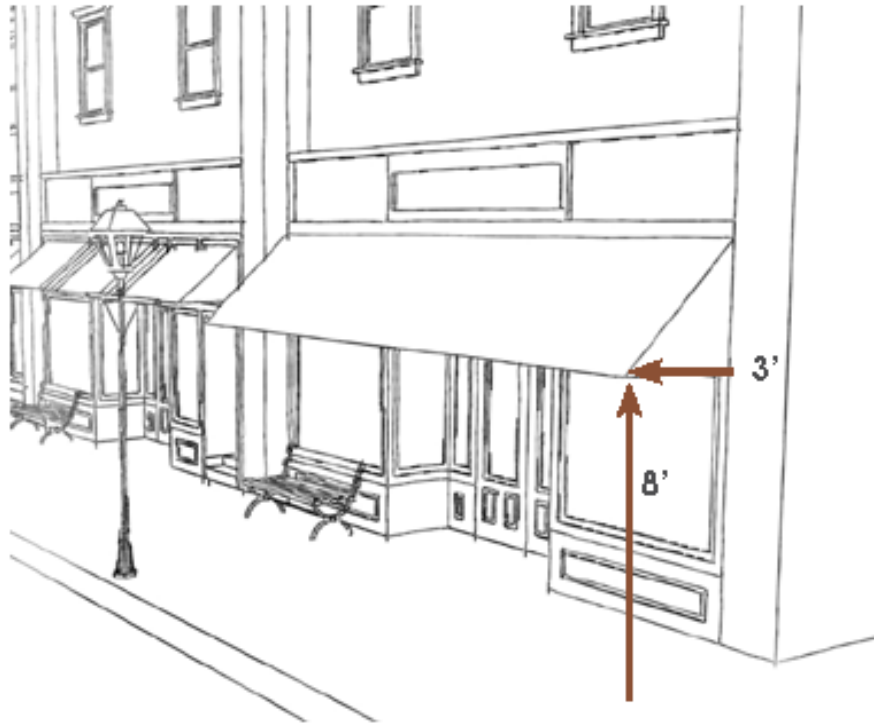


Barrel awning

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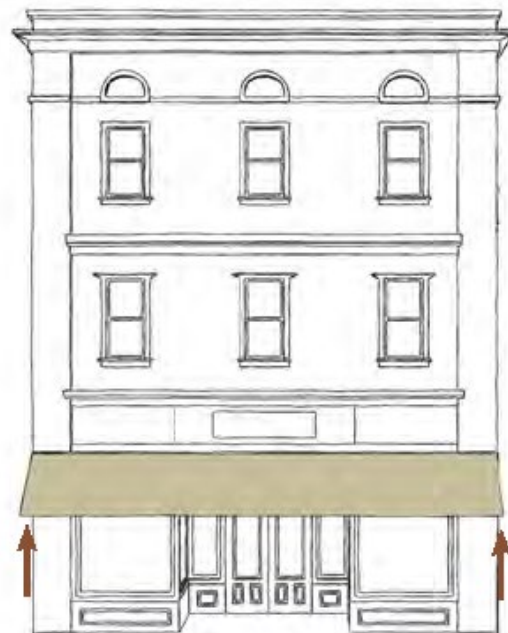
Figure 5.32 Awning Placement



*The diagram above illustrates the minimum awning depth and clearance.*



Acceptable awning placement



Unacceptable awning placement beyond storefront

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#### 5.5.12 Lighting

- A. Building-mounted lighting may be used to draw attention to window displays, signs, store information and a building's architectural details.
- B. Building-mounted lighting shall provide particular focus on the architectural integration of lighting into the overall design of the structure.
- C. Lighting shall be directed onto the display or building element not onto the street or adjacent properties.
- D. Lighting fixtures shall complement the architectural elements within the existing façade.
- E. Framing window displays or other architectural features of the building with neon or tube lighting is not permitted, except for theater uses.
- F. Lighting shall be in full compliance with all other outdoor lighting provisions, as set forth in Section 4.6.5.



**Neon-framed windows**

#### 5.5.13 Mechanical and Utility Equipment

Mechanical and utility equipment shall be screened in the same manner as required in Section 5.4.12.

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#### **5.5.14 Public Nodes and Gathering Places**

Where included in a site design, a public node and gathering place shall be designed as such and include the following components:

- Be easily accessible and open to the public.
- A strategic seating design which encourages interaction and socialization.
- An arrangement of landscaping that defines an entrance or that essentially creates an outdoor room as a gathering space for a group. Landscaping in planters may be included. Any trees included as part of the landscaping may include a healthy preserved on-site tree, and/or a tree that complies with the Street Tree Plan in the adopted Yadkinville Downtown Master Plan.
- Includes ample lighting for public safety and be in compliance with Section 4.6.5.
- The public node and gathering place shall include paved surface(s) of durable material(s) such as pavers, sidewalk(s), and poured concrete.

(ZTA-2022-01 Amended December 5, 2022)

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#### ARTICLE 6. SIGN STANDARDS

##### 6.1 PURPOSE AND APPLICABILITY

1. The purpose of this Article is to support and complement the various land uses allowed in Yadkinville's jurisdiction through the adoption of policies and regulations concerning the placement of signs. The outdoor placement of signs is a legitimate use of private property, but the erection of signs shall be controlled and regulated in order to promote the health, safety, welfare, convenience and enjoyment of travel on roadways, as well as protect the public investment in such roadways. The provisions of this Article are also intended to promote the reasonable, orderly and effective display of such signs, displays and devices. It is also the intent of this section to prevent signs from dominating the visual appearance of the area in which they are located and to enhance the aesthetic environment of the Yadkinville area.
2. Except as otherwise provided in this Ordinance, it shall be unlawful for any person to construct, place, enlarge, move, replace, or illuminate any sign or sign face, without first having obtained a Zoning Permit for such sign in accordance with Section 2.2.3.3. The following signs are exempt from the requirements of this Article:
  - a. Wall signs of less than one (1) square foot.
  - b. Temporary signs in accordance with Section 6.3, except that such signs may require registration as applicable.
  - c. Murals as defined in Appendix A.6
  - d. Repair, replacement or replicas of historic signs, that do not meet the requirements of this Chapter, within the CB zoning district are permitted. A photo, picture, drawing, or sketch of the original sign shall be provided to the Administrator that reasonably identifies a date of establishment of the original historic sign prior to 1968.
  - e. Incidental signs not legible from off-site or a public right-of-way. Examples include gas pump signs, drive-through menu boards, on-site directional signs, and signs within a sports stadium.
  - f. Driveway entrance signs not exceeding four (4) square feet and three (3) feet in height.
  - g. Government signs posted or authorized by various local, state and federal agencies in the performance of their duties including providing community information and facilitating economic development. Examples of such signs include regulatory signs, traffic signs, welcome signs, information signs, wayfinding signs, historic markers, bulletin board, and directory signs.
  - h. Address signs affixed to structures, mailboxes, decorative light posts, driveway entrances, etc., which serve to identify the address of the structure or occupant for the purposes of postal service and emergency E-911 location.
  - i. Flags attached to a permanent flagpole that is permanently affixed to the ground provided that there are no more than three (3) flag poles per lot of record and flags

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are located outside the public right-of-way, unless they are installed by a government entity. Flagpoles shall not be located less than 50 feet from a public or private street right-of-way. No flag shall exceed 40 square feet and no flagpole shall be greater than 25 feet in height. Other than a business logo, no flag shall have a commercial message.

- j. A sign affixed to a vehicle or trailer used on a regular basis for the normal transport of goods or persons.
  - k. A hand carried sign.
  - l. Lights and decorations with no commercial message that are temporarily displayed on civic, patriotic or religious holidays.
  - m. A sign affixed to the window of a vehicle which does not exceed the size of the window.
  - n. Off-premises directional signs for places of worship (churches and other structures used for religious worship), and civic buildings are allowed without a permit subject to the following:
    - The sign shall be located at the intersection of a major or minor arterial road;
    - Such an off-premises directional sign shall be located within the right-of-way subject to an encroachment agreement with the North Carolina Department of transportation (NCDOT) or Town of Yadkinville;
    - The sign shall be a non-illuminated, ground-mounted directional sign not exceeding four (4) square feet in area and six (6) feet in height.
    - No off-premises sign shall be located within or cause obstruction to the sight visibility for motorists at street intersections or driveways.
3. General Standards for Signs not Requiring a Permit: Signs that include lighting or are illuminated shall be subject to an approved building permit for electrical service.

(ZTA-2023-02 Amended January 8, 2024)

(ZTA-2022-03 Amended February 6, 2023)

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#### 6.2 GENERAL PROVISIONS

##### 6.2.1 Design Guidelines

- A. Materials, colors and shapes of proposed signs shall be compatible with the principal building on the property.
  - 1. The sign shall not be the dominant feature of its location.
  - 2. A uniform sign plan shall be required for all newly constructed office and retail complexes and multi-tenant buildings. All tenants shall comply with the approved uniform sign plan. The plan shall provide requirements about sign type, color, and placement of each sign within the development to demonstrate compliance with the provisions of this Article and uniformity among the signs within the development.

(ZTA-2022-03 Amended February 6, 2023)

##### 6.2.2 Sign Area

- A. The surface area of a sign is computed as including the entire area within a parallelogram, triangle, circle, semi-circle or other regular geometric figure, including all of the elements of the display, but not including blank masking (a plain strip, bearing no advertising matter around the edge of a sign), frames, display of identification or licensing officially required by any governmental body, or structural elements outside the sign surface and bearing no advertising matter. The surface area of the sign structure shall not exceed two (2) times the surface area of the sign face.

In the case of signs mounted back-to-back, only one (1) side of the sign shall be used to calculate the area. Otherwise, the surface area of each sign is to be separately computed.
- B. In the case of multi-sided signs, cylindrical signs, signs in the shape of cubes, or other signs which are substantially three-dimensional (3-D) with respect to their display surfaces, the area is equal to the sum of the areas of any two (2) adjacent sides.
- C. In the case of embellishments (display portions of signs extending outside the general display area), surface area extending outside the general display area and bearing advertising material is to be computed separately (according to the method described immediately above in this Section) as part of the total surface area of the sign.

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#### 6.2.3 Sign Height

- A. The height of a sign shall be measured from the highest point of a sign to the ground surface beneath it.
- B. For signs located below the grade of the adjacent street to which it has access, the height of a sign shall be measured from the highest point of the sign to the elevation of the fronting accessible street adjacent to the sign.
- C. Ornamentation such as caps, spires and finials shall not extend more than two (2) feet from the top of the sign.

Figure 6.1 Sign Area

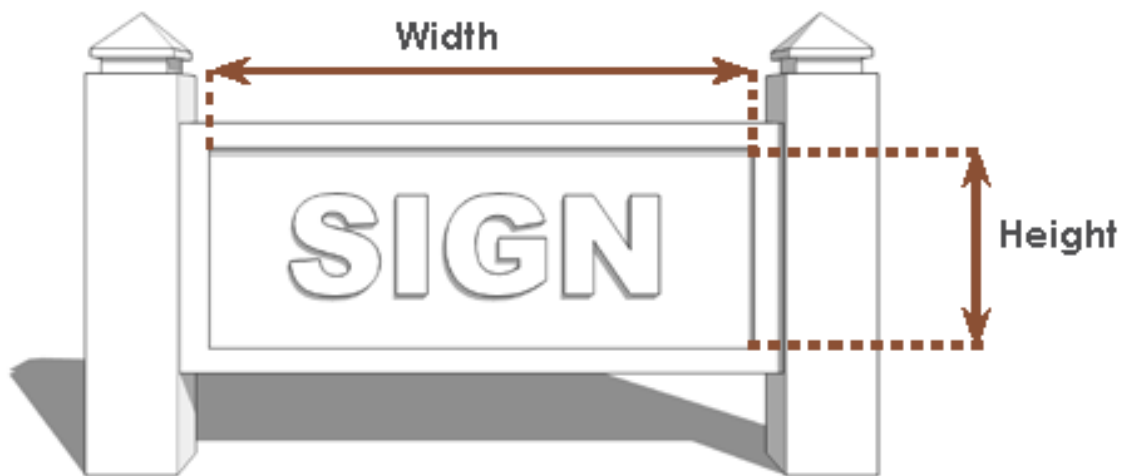


Figure 6.2 Sign Height





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#### 6.2.4 Sign Setbacks

- A. Every part of all signs shall be located outside of any street right-of-way. The following signs are exempt from this requirement:
- B. Projecting building signs within the CB zoning district that meet the requirements set forth in Section 6.4.1 may project into the right-of-way.
- C. Development entryway signs that meet the requirements of Section 6.4.2 may be located in the islands within Town-maintained street right-of-way upon the acceptance of an encroachment agreement by the Town.
- D. At intersections, no sign shall be in the sight triangle as defined by this Ordinance.
- E. No freestanding sign shall be located within 50 feet of any other freestanding sign unless the Administrator determines that practical difficulties exist for locating the sign.

#### 6.2.5 Sign Illumination.

Illuminated signs shall conform to the following:

- A. Illuminated signs shall have lighting directed in a manner as to illuminate only the sign face.
- B. External light sources shall not be visible from the right-of-way nor cause glare hazards to pedestrians, motorists, or adjacent properties.
- C. All lighting shall meet all applicable electrical codes.
- D. A new non-residential sign within 100 feet of an existing residential structure shall not be illuminated between the hours of 11:00 p.m. and 6:00 a.m.

#### 6.2.6 Removal of Signs in the Right-of-way or on Public Property

Except under an encroachment agreement with NC DOT or the Town of Yadkinville, the Administrator or designee may remove and destroy or otherwise dispose of any sign placed on public property or within any right-of-way of any public or private street. Penalties may be levied for each such sign as outlined in Section 2.3.4 of this Ordinance.

(ZTA-2022-03 Amended February 6, 2023)

#### 6.2.7 Removal of Discontinued Signs

- A. If a conforming sign advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted, a blank sign face shall be installed within 60 days after such discontinuation.
- B. If a nonconforming sign advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted that sign and sign structure including, but not limited to, the supporting braces, anchors or similar components shall be considered discontinued regardless of reason or intent and shall, within 180 days after such discontinuation, be removed by the owner of the property where the sign is located.

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#### **6.2.8 Signage for a Nonconforming Use**

New signage for a nonconforming use shall be permitted provided the signage complies with the standards in this Article.

(ZTA-2022-03 Amended February 6, 2023)

#### **6.2.9 Maintenance and Upkeep of Signs**

- A. Every sign and its support, braces, guys, anchors and electrical equipment shall be maintained in safe condition at all times. All signs shall be kept in a state of good repair and aesthetic condition, free from defective, rusting, or missing parts (i.e. broken sign facing, broken supports, loose appendages or struts, disfigured, cracked, ripped or peeling paint or poster paper) or missing letters or numbers and shall be able to withstand the wind pressure as prescribed in the NC Building Code. Illuminated signs shall not operate with partial illumination.
- B. Signs that are structurally unsafe and thereby endanger the public safety shall be removed unless they are repaired and made to comply with the requirements of the Building Code, as amended. If the Administrator or a Yadkin County Building Inspector find that any sign is dangerous or is menace to the public, he or she shall give written notice of such violations to the owner of the sign, or by leaving said notice with the manager or other person who is apparently in charge of the premises or by affixing a copy of the notice to the sign, sign structure or building for a period of five (5) days. The notice shall set forth the nature of the violation and order the violator to repair the sign in such a manner to be approved by the Administrator or Yadkin County Building Inspector in conformance with the provisions of this Section or remove the sign forthwith in the case of imminent instability or immediate danger of falling, and in any case within 10 days of receipt. If within 10 days the notice is not complied with, the Town shall have the authority to remove the sign at the recipient's expense and to destroy or otherwise dispose of same. In cases of emergency, the Town may cause the immediate removal of a dangerous or unsafe sign without notice.

#### **6.2.10 Sign Variances**

The sign height and location standards in this section may only be varied in accordance with standards and requirements of Section 2.2.6 Variances. The standards in this Article pertaining to sign number, size, illumination, or minimum spacing may not be varied.

(ZTA-2022-03 Amended February 6, 2023)

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#### 6.3 TEMPORARY SIGNS

The provisions of this section shall apply to the placement and display of temporary signage within the Town's jurisdiction. Any temporary sign that does not comply with the provisions of this Section is prohibited. Any sign which is permanently displayed shall comply with the provisions of Section 6.4, Permanent Signs.

##### 6.3.1 Common Standards

All temporary signs shall comply with the following common standards:

- A. Temporary signs shall not be illuminated or be provided with any electric service.
- B. Temporary signs shall not be placed within any public street right-of-way, including within medians, unless expressly permitted by this Ordinance or the North Carolina General Statutes and shall not be placed in a manner that obstructs clear sight distance (within the required sight triangle) for motorists at street intersections or driveways.
- C. Temporary signs attached to building walls (other than permitted window signs) shall not obstruct any window, door, fire department sprinkler connection, or street number sign.
- D. Temporary signs shall not be affixed to a permanent sign or its supporting structure, including both building mounted and freestanding permanent signs.
- E. Temporary signs, other than Type 4 Freestanding Temporary Signs, shall not be placed upon any sidewalk or other pedestrian walkway.
- F. Temporary signs shall not be placed on the roof of a building, or affixed to a motor vehicle, tree, utility pole or street sign.
- G. Temporary signs shall be constructed of durable weatherproof materials and shall not be made with unfinished plywood or paper.
- H. Where temporary signs are limited in the duration of their display and limited in the total number of displays per calendar year, any required period of separation between such displays shall carry through to the following calendar year, and shall be observed prior to initiating the first allowed display during the new calendar year.

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#### **6.3.2 Temporary Freestanding Signs**

##### **6.3.2.1 General Provisions**

The following standards shall apply to all Freestanding Temporary Signs:

- A. Signs shall not be affixed to poles, posts, stakes or other supporting structures that are permanently installed or anchored into the ground through the use of concrete foundations or similar anchoring techniques.
- B. Signs, other than Type 4 Freestanding Temporary signs, shall be set back from the edge of the right-of-way by a minimum of five (5) feet.
- C. No more than one (1) Freestanding Temporary Sign may be displayed on a parcel or group of adjacent parcels under common ownership or tenancy at any given time, unless otherwise expressly permitted. This does not apply to Type 4 temporary signs, which are permitted for each business or organization.

##### **6.3.2.2 Type 1 freestanding Temporary Signs**

Signs in this category consist of small, temporary yard signs that are typically associated with (but not limited to) the advertisement of real estate, political campaigns and meeting announcements. Such signs are also subject to NCGS 136-32(b).

##### **6.3.2.3 Type 2 Freestanding Temporary Signs**

Signs in this category are typically referred to as "banners" that are typically associated with (but not limited to) the announcement of community, sporting and similar special events.

##### **6.3.2.4 Type 3 Freestanding Temporary Signs**

Signs in this category are large temporary signs typically associated with (but not limited to) the advertisement of large tracts of land for sale, construction and development activity or the advertisement of commercial or industrial buildings for sale or lease.

##### **6.3.2.5 Type 4 Freestanding Temporary Signs**

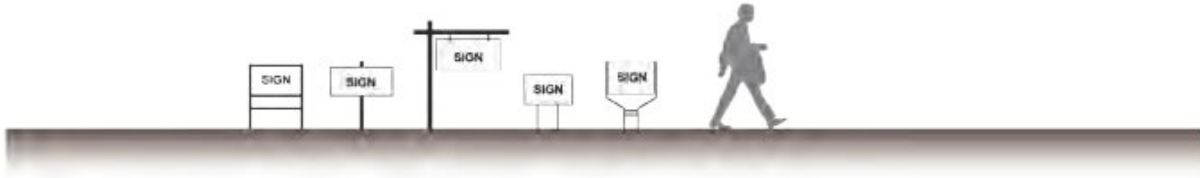
The category of signs defined as Type 4 Freestanding Temporary signs shall include only those signs which are constructed in a manner that is commonly referred to as an "A-frame" or "sandwich board" sign. The faces of the sign shall be connected at the top by hinges or similar mechanisms and the sign shall be self-supporting when placed in its display position.

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Figure 6.3 Temporary Freestanding Sign Types

TYPE 1 FREESTANDING TEMPORARY SIGNS



TYPE 2 FREESTANDING TEMPORARY SIGNS



TYPE 3 FREESTANDING TEMPORARY SIGNS



TYPE 4 FREESTANDING TEMPORARY SIGNS



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Table 6.1 Temporary Freestanding Sign Criteria

Criteria	Type 1	Type 2	Type 3	Type 4
Zoning District	Any district	Any District	Any District	Any District
Registration Required	No	Yes	Yes	No
Land Use (see Permitted Uses in Section 3.3 for use groups)	<ul style="list-style-type: none"> <li>Residential use group for lots or developments of 3 acres or less</li> <li>Vacant or undeveloped properties of 1 acre or less</li> </ul>	<ul style="list-style-type: none"> <li>Civic, Government, &amp; Institutional use group</li> <li>Recreation &amp; Entertainment use group</li> </ul>	<ul style="list-style-type: none"> <li>Residential use group for lots or developments of greater than 3 acres</li> <li>Vacant or undeveloped properties of greater than 1 acre and with a minimum of 200 feet of frontage on a public right-of-way</li> <li>Properties of greater than 1 acre for which there is a valid building permit</li> </ul>	Any use group
Max. Size (square feet)	6 sf	24 sf	24 sf	6 sf
Max. Height (feet)	4 ft	4 ft	6 ft	4 ft
Max. Number	1 per lot of record	1 per lot of record	1 per lot of record	1 per business or organization
Max. Duration	No limit	7 days up to 6 times per calendar year	2 years or full occupancy (whichever comes first)	During operating hours only
Mounting	Single post, arm post, or metal frame	2 or more metal or wood posts or stakes	2 or more wood or vinyl posts	Metal, plastic, or wood A-frame or H-frame
Material	Rigid corrugated plastic, wood, vinyl	Flexible vinyl or canvas	Rigid wood or vinyl	Rigid plastic, metal, wood, chalkboard, or dry erase board
Other	NCGS 136-32 applies within state rights-of-way	Shall be secured to avoid hazards in wind		<ul style="list-style-type: none"> <li>Shall be located within 10 feet of building entrance</li> <li>May be located on sidewalk with 3-foot minimum clearance</li> <li>Shall not be placed in a parking area or driveway</li> <li>Shall be secured to avoid hazards in wind</li> </ul>

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#### 6.3.3 Temporary Building Mounted Signs

##### 6.3.3.1 Wall Banners

Signs in this category are made of flexible canvas or vinyl material and attached to a building wall. Wall banners are typically associated with (but not limited to) the announcement or advertisement of special events, sales, or promotions or to announce employment opportunities.

##### 6.3.3.2 Window Signs

Signs in this category are temporarily attached to or painted on a window or door. Window signs are typically associated with (but not limited to) the announcement or advertisement of special events, sales, or promotions or to announce employment opportunities.

Table 6.2 Temporary Building Sign Criteria

Criteria	Wall Banners	Window Signs
Zoning District	Any district	Any District
Registration Required	Yes	No
Land Use (see Permitted Uses in Section 3.3 for use groups)	Any use group	Any use group
Max. Size (square feet)	<ul style="list-style-type: none"><li>• Agricultural and Residential use groups – 16 sf</li><li>• Civic, Government, &amp; Institutional; Office &amp; Service; and Recreation and Entertainment use groups and CB zoning district - 24 sf</li><li>• Retail &amp; Wholesale use groups - 32 sf</li><li>• Industrial, Transportation and Utility - 64 sf</li></ul>	25% of total window area
Max. Number	1 per business	2 per window
Max. Duration	30 days up to 6 times per year	No limit
Material	Flexible vinyl or canvas	Plastic, vinyl, paint (permitted outside window) Cardboard or paper (inside window only)
Other	Shall be attached to building wall and not attached to roof or existing sign	Permanent window signs shall be counted toward permitted building sign area in accordance with Section 6.4.1



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#### 6.4 PERMANENT SIGNS

The provisions of this section shall apply to the placement and display of permanent signage within the Town's jurisdiction. Permanent signage is installed with the intent that the sign will be constantly on display for a period of greater than 30 days, for the duration that a business, or organization, or other entity is operating at that location.

##### 6.4.1 Building Signs

A permanent sign that is affixed to a building wall, window (larger than one square foot), canopy or awning shall meet the standards of this Section and are subject to the issuance of a Zoning Permit. Building signs are allowed for permitted non-residential uses.

Figure 6.4 Building Sign Types



Flush Wall Sign



Projecting Sign



Canopy Sign



Awning Sign and Window Sign



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#### 6.4.1.1 District and Size Standards

Table 6.3 Building Sign District and Size Standards

District	Type Allowed	Illumination	Max. Area (1 square foot per linear foot of building wall up to)	Max. Number	Other
RR, RM, RH, RMH	Flush	External	16 sf	1	<ul style="list-style-type: none"> <li>• Building signs may be mounted on walls that front on a public or private street, internal drive, or contain a public entrance from a parking area.</li> <li>• Max. area may be split between number of signs allowed</li> <li>• *LED electronic and internally illuminated building signs shall only be permitted for theaters in the CB districts and may exceed the maximum area cap up to 1 square foot per linear foot of building wall</li> </ul>
OI	Flush, Awning, Canopy, Projecting	External, Internal	24 sf	2	
CB	Flush, Awning, Canopy, Projecting	External*	24 sf	2	
NB	Flush, Awning, Canopy, Projecting	External, Internal	32 sf	2	
HB	Flush, Awning, Canopy, Projecting	External, Internal	128 sf	4	
LI, HI	Flush, Awning, Canopy, Projecting	External, Internal	128 sf	4	

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#### 6.4.1.2 Design Standards

- A. Canopy signs shall not cover more than 50% of the canopy area. Canopies shall not be backlit.
- B. Permanent window signs shall not comprise more than 25% of the window area in addition to the maximum area requirements of Section 6.4.1.1 above.
- C. Wall signs shall not project more than 12 inches from the wall face, except for projecting signs which may project up to five (5) feet. Projecting signs shall provide a minimum eight (8) foot vertical clearance.
- D. Projecting signs shall be limited to 16 square feet per façade.
- E. Wall signs shall not extend above the parapet or eave of the building.
- F. Permanent window signs that cover more than 10% of the glazed area of a window shall be considered permanent wall signs and shall be permitted as such.
- G. Up to 50% of the allowable area of a wall sign may be manual changeable copy. No changeable copy feature is permitted to be included on a projecting, canopy, or awning sign.
- H. Wall signs on buildings within the CB shall be placed within the sign frieze, or distinct place within which a wall sign was intended to be located, if the building was designed for such. If a sign frieze is present, a wall sign placed within the frieze shall be permitted to exceed the maximum permitted sign area. No wall sign shall extend beyond such space. If there is no sign frieze, the wall sign shall be placed below the typical second floor window area. The design and coloration of such signs shall be compatible with the character of the building.
- I. Repair, replacement or replicas of historic signs, including internally illuminated, back-lighted, indirect, exposed bulb, or neon signs, are permitted in the CB zoning district. A photo, picture, drawing, or sketch of the original sign established prior to 1968 shall be provided to the Administrator.

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#### 6.4.2 Freestanding Signs

A freestanding sign located on-site that is permanently mounted to the ground shall meet the following requirements and are subject to the issuance of a Zoning Permit. Freestanding ground signs are permitted for any principal nonresidential use in any zoning district. They may also be established in association with multi-family residential developments and single family residential developments containing 20 or more dwelling units.

Figure 6.4 Freestanding Sign Types



Monument Sign



Encased Pole Sign



Arm Sign



Multi-tenant Pylon Sign

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#### 6.4.2.1 District and Size Standards

Table 6.4 Freestanding Sign District and Size Standards

District	Type Allowed	Illumination*	Max. Area (square feet)	Max. Height (feet)	Max. Number	Other
RR, RM, RH, RMH	Monument, Arm	External	16 sf	6 ft	1 per lot of record or development entrance	<ul style="list-style-type: none"> <li>• Max. area may be split on either side of a residential development entrance</li> <li>• Multi-tenant signs are required where multiple tenants are located on a single lot of record or within a shopping center or similar planned development.</li> <li>• Shall not be located within 50 feet of any other freestanding sign.</li> <li>• Shall not be located within any street right-of-way</li> <li>• See 6.4.2.2(B) for LED Electronic sign provisions</li> </ul>
Religious Institutions & related uses on 10 acres or more in RR, RM, RH, RMH	Monument, Arm	External	32 sf	10 ft.		
OI	Monument, Arm	External, Internal	24 sf + 4 sf per tenant up to 32 sf	10 ft	1 per lot of record	
CB	Monument, Arm	External	16 sf + 4 sf per tenant up to 24 sf	4 ft	1 per lot of record	
NB	Monument, Arm	External, Internal,	32 sf + 4 sf per tenant up to 24 sf	10 ft	1 per lot of record + an additional sign per each 300 feet of street frontage	
HB	Monument, Arm, Encased Pole, Pylon	External, Internal,	40 sf + 4 sf per tenant up to 100 sf [1]	20 ft [2]	1 per lot of record + an additional sign per each 300 feet of street frontage	
LI, HI	Monument, Arm, Encased Pole, Pylon	External, Internal	40 sf + 4 sf per tenant up to 100 sf	20 ft	1 per lot of record + an additional sign per each 300 feet of street frontage	

[1] The maximum area may be increased to 120 sq ft if the sign is within 400 feet of the US 421 Hwy. ROW

[2] Maximum sign height may be increased to 30 ft. if the sign is within 400 feet of the US 421 Hwy. ROW

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(ZTA-2020-03 Amended November 2, 2020)

(ZTA-2022-02 Amended January 9, 2023)

#### 6.4.2.2 Design Standards

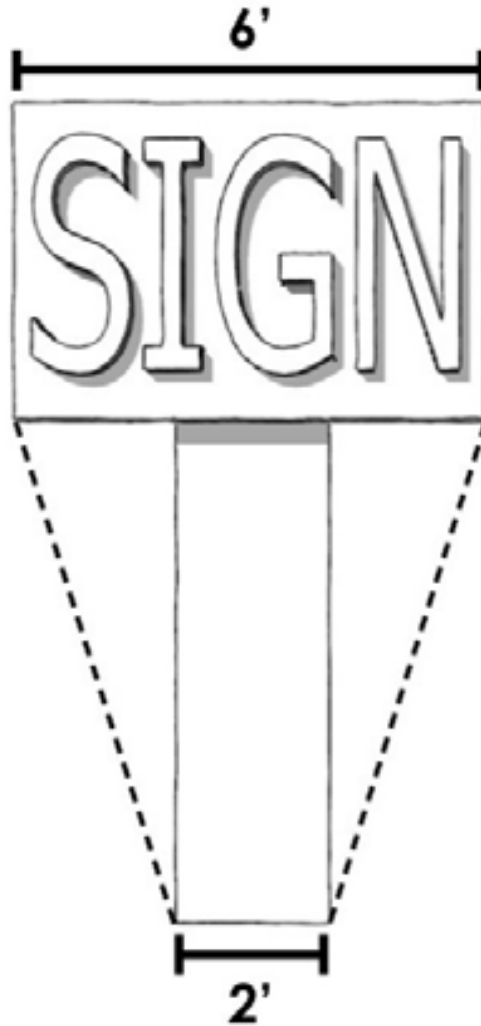
- A. Manual changeable copy area may be included on any freestanding sign. The area devoted to changeable copy shall be limited to 75% of the total area of the sign face for signs in the OI, NB, HB, LI, and HI zoning districts. In all other districts, the maximum changeable copy shall be limited to 50% of the total area of the sign face.
- B. LED electronic changeable copy area may be included on any conforming freestanding sign for any government-owned or leased property and any use in the Institutional, Government and Civic use group or in any district provided that the following criteria are met:
  - 1. Full color, single color and grayscale LED displays are permitted. One LED display is allowed within the sign. The area devoted to electronic changeable copy shall be limited to 75% of the total area of the sign face. The maximum height of the LED portion of the sign shall be eight (8) feet.
  - 2. Pulsating or flashing sign structures or messages are prohibited. Change of messages shall occur simultaneously on the entire sign face. Each message shall be displayed for a duration of no less than eight (8) seconds in time and any change of message must occur within two (2) seconds in time. All signs that include an electronic changeable copy feature shall meet the minimum North Carolina Department of Transportation requirements for lighting and message duration contained in NC Administrative Code 2E.0203 (3a-c & 4a (i—iii)).
  - 3. Each LED sign shall contain a default mechanism that freezes the image in one (1) position in the event of malfunction. The sign owner or operator shall respond to a malfunction within one (1) hour of Town notification of the malfunction.
  - 4. LED displays shall automatically adjust its intensity of illumination based on the natural light conditions occurring at the time of adjustment. Every sign must be equipped with a dimming mechanism that adjusts display brightness to accommodate varying ambient light conditions. The display may be illuminated at 100% in full sunlight but must be reduced proportionally to a maximum of 25% in total darkness.
  - 5. The maximum hours of operation of an LED sign shall be limited from 6:00 a.m. to 12:00 a.m. (midnight).
- C. LED electronic changeable copy is permitted for automotive service uses with gas sales up to 20% of the total sign area.
- D. All freestanding signs located within parking or vehicular use areas, and not in yard areas, shall stand in a bed of landscaping at least 30 square feet in area. This area shall contain low growing materials such as ground covers, perennials, and shrubs, and shall be bordered by acceptable curbing materials as specified in Section 4.5.5 of this Ordinance.

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- E. Pole signs shall be wrapped in an encasement a minimum of 18 inches wide and shall not have a top to base ratio of greater than 3:1.

Figure 6.5 Encased Pole Sign Proportions



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#### **6.5 PROHIBITED SIGNS**

The following signs are expressly prohibited within the Town of Yadkinville and its extraterritorial jurisdiction (ETJ):

##### **6.5.1 Signs that Obstruct Visibility**

Signs that substantially interfere with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public streets or private roads or driveways or that obstruct the motorist's view of approaching, merging or intersecting traffic including, but not limited to, signs in excess of three (3) feet in sight triangles.

##### **6.5.2 Signs Emitting Glare**

Signs with light sources or reflectivity of such brightness that result in glare, blinding or any other such adverse effect on motorist vision or into or upon any residential building not related to the signs; or which interfere with the effectiveness of, or obscures an official traffic sign, device or signal.

##### **6.5.3 Simulated Public Safety, Warning, or Traffic Signs**

Signs by their location, color, illumination, size, shape, nature, message or appearance tend to obstruct the view of or be confused with official traffic, safety or warning signs or lights or other devices erected by governmental agencies. This prohibition includes signs having no bona fide safety necessity, involving the terms "CAUTION", "DANGER", "SLOW", "STOP" OR "YIELD", or which utilize geometric figures, symbols, lights, location or message not unlike official traffic, safety or warning signs, signals or lights. Provided, however, this provision is not intended to prevent the placement on private property of signs with "stop", "yield" or other such wording or design where such is necessary for traffic control or other such legitimate notice to the public.

##### **6.5.4 Signs that Obstruct Ingress / Egress**

Any sign located outdoors which interferes with free passage from or obstructs any fire escape, downspout, window, door, stairway, ladder, or opening intended as a means of ingress or egress or providing light or air.

##### **6.5.5 Snipe Signs**

Signs placed upon or attached to any curb, utility pole, post, fence, hydrant, bridge, another sign or other surface, public bench, streetlight, or any tree, rock or other natural object located on, over or across any public street or public property. Provided, however, this provision shall not apply to the posting of public interest, security and warning signs nor to street signs placed upon poles by governmental units for designating the names of streets.

##### **6.5.6 Signs Below Minimum Clearance**

Signs, marquees, canopies and awnings with vertical clearance of less than eight (8) feet above sidewalks and pedestrian areas and less than one (1) feet above parking or vehicular passage areas.



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#### **6.5.7 Flashing Signs**

Signs or devices with flashing, pulsating, or animated images or messages. See Section 6.4.2.2(B) for LED sign standards for acceptable message display duration.

#### **6.5.8 Signs in Rights-of-way**

Signs erected in or over any public right-of-way except for major special event signs by special permit, governmental signs, and signs subject to NCGS 136-32 prior to elections.

#### **6.5.9 Obscene Signs**

Signs containing words or graphics that are obscene, as defined in North Carolina General Statute 14 190.1.

#### **6.5.10 Signs Placed without Permission**

Signs placed on property without permission of its owners or agent.

#### **6.5.11 Unspecified Temporary Signs**

Portable or temporary signs except as permitted by Section 6.3.

#### **6.5.12 Feather Flag or Shark Fin Signs**

Vertically displayed banner signs or flags mounted or attached to poles, where the height of the banner or flag exceeds 25% of the height of the pole when erected in its display position.

#### **6.5.13 Festooned Signage or Lighting**

Signs or devices containing or consisting of pennants, ribbons, streamers, or suspended light strands placed to attract attention.

#### **6.5.14 Motion Signs**

Signs that rotate have mechanical moving parts propelled by the wind or my motor. Spinners, whirligigs, and similar devices placed to attract attention are included in this prohibition.

#### **6.5.15 Facsimile Signs**

Three-dimensional (3D) objects or human figures which may or may not contain advertising matter and may or may not contain information about products sold on the premises and is located in such a manner as to attract attention.

#### **6.5.16 Roof Signs**

Signs erected in whole or in part on, upon or over the roof or parapet of a building or structure and which is wholly or partially dependent upon the roof of the building or structure for support.

#### **6.5.17 Un-encased Pole Signs**

Signs with a single support pole that is not wrapped in an encasement as set forth in Section 6.4.2.2(D).



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#### **6.5.18 Vehicle Signs**

Signs placed upon, painted on, attached to or displayed on parked vehicles or trailers, where the primary purpose of the vehicle or trailer is to advertise a product or business or to direct people to a business or activity.

#### **6.5.19 Inflatable Signs**

Signs inflated with air including balloons having a width, height, depth or circumference of greater than two (2) feet.

#### **6.5.20 Pavement Signs**

Signs painted on or adhered to a paving surface, other than for safety or directional control.

#### **6.5.21 Transportable Signs**

Any sign whose sign face was initially constructed and designed to be placed and/or transported on wheels, regardless if said sign face is removed from its base and placed on or in the ground so as to otherwise classify said sign as a "freestanding" sign as herein defined.

#### **6.5.22 Outdoor Advertising (billboard) Signs**

Signs that are leased for advertising or message space to entities not located on the same site as the sign.

#### **6.5.23 Other Signs Not Expressly Permitted**

Other signs not expressly permitted in this Ordinance are prohibited.

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#### ARTICLE 7. NONCONFORMITIES

##### 7.1. PURPOSE AND APPLICABILITY

- A. The purpose of this Ordinance is to avoid undue hardship by permitting the continued use of any building, structure, or property that was lawful at the time of the enactment of this Ordinance or any applicable amendment thereof even though such use, structure or property does not conform to the provisions of this Ordinance. However, this Article is also established to require that nonconforming situations be terminated under certain circumstances.
- B. Nonconforming situations that were otherwise lawful on the effective date of this Ordinance may be continued, subject to the restrictions and qualifications set forth in this Article.
- C. Many nonconformities may continue, but the provisions of this Article are designed to minimize substantial investment in nonconformities and to bring about eventual elimination and/or lessen their impact upon surrounding conforming properties in order to preserve the integrity of the area in which it is located and the intent of this Ordinance.
- D. Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. In no case, however, shall work costing more than 60% of the taxed value of the structure be done, singularly or cumulatively, within any five (5) year period.

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#### 7.2 NONCONFORMING LOTS

- A. Where the owners of a lot of record at the time of the adoption of this Ordinance or his successor in title thereto does not own sufficient land to enable him to conform to the area or lot width requirements of this Ordinance, such lot may be used as a building site provided all other dimensional requirements are met and provided that the use to be made of the property is not one to which larger than minimum lot area requirements are called for in the list of permitted uses table or additional requirements for certain uses.
- B. The construction of a single-family dwelling, and the issuance of a zoning permit for that purpose, shall be permitted on a nonconforming lot in a residential zoning district (RR, RM, RH, RM-H) even though the lot area and width requirements cannot be met; however, all other applicable zoning regulations shall be met.
- C. Whenever this Ordinance creates a nonconforming lot and the owner of the nonconforming lot also owns land adjacent to it, and a portion of this other land can be combined with the nonconforming lot (without thereby creating other nonconformities), the owner of the nonconforming lot, or his successor in interest, may not take advantage of the provisions of paragraph (B) of this subsection.

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#### 7.3 NONCONFORMING USES

##### 7.3.1 Open Uses of Land

This category of nonconformity consists of lots used for storage yards, motor vehicle sales, auto wrecking, junkyards and similar open spaces where the only buildings on the lot are incidental and accessory to the open use of the lot and where such use of the land is not permitted to be established hereafter, under this Ordinance, in the district in which it is located. A legally established non-conforming open use of land may be continued except as follows:

- A. When a nonconforming use of land has been changed to a conforming use, it shall not thereafter revert to any nonconforming use.
- B. A nonconforming open use of land shall be changed only to conforming uses.
- C. A nonconforming open use of land shall not be enlarged to cover more land than was occupied by that use when it became nonconforming.
- D. When any nonconforming open use of land is discontinued for a period in excess of 180 days, any future use of the land shall be limited to those uses permitted in the district in which the land is located. Vacancy and/or non-use of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

##### 7.3.2 Uses of Structures

This category of nonconformity consists of buildings or structures used at the time of enactment of this Ordinance, or any amendment thereto, for purposes of use not permitted in the district in which they are located. Such uses may be continued as follows:

- A. When a nonconforming use has been changed to a conforming use, it shall not thereafter revert to any nonconforming use.
- B. A nonconforming use shall not be changed to another nonconforming use unless a Certificate of Nonconformity Adjustment is issued by the Board of Adjustment. The Board shall issue such a permit if it finds that the proposed use will be no less compatible with the neighborhood than the use in operation at the time the permit is applied for, and that the proposed use is of a same or higher classification as the existing nonconforming use. If a nonconforming use is changed to any use other than a conforming use without obtaining a Certificate of Nonconformity Adjustment pursuant to this paragraph, that change shall constitute a discontinuance of the nonconforming use and shall be subject to penalties as set forth in Section 2.3. The order of classification of uses from highest to lowest for the purpose of this section shall be as follows:
  - 1. Agricultural uses
  - 2. Single-family dwellings
  - 3. Two-family dwellings
  - 4. Multifamily dwellings

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5. Civic, government and institutional use
  6. Office and service uses
  7. Retail and wholesale
  8. Recreation and entertainment uses
  9. Industrial, transportation, utility uses
- C. A nonconforming use may not be extended or enlarged, nor shall a structure containing a nonconforming use be altered except as follows:
1. Structural alterations as required by law or ordinance to secure the safety of the structure are permissible.
  2. Minor repairs to and routine maintenance of property where a nonconforming use exists is permitted and encouraged. Major renovation (i.e., work estimated to cost more than 10% but less than 60% of the taxed value of the structure to be renovated) may be done provided that the work will not result in a violation of any other paragraphs of this Subsection. In no case, however, shall work costing more than 60% of the taxed value of the structure be done, singularly or cumulatively, within any five (5) year period.
  3. Expansion of a nonconforming use within a building or structure into portions of the structure which, at the time the use became nonconforming, were already erected and arranged or designed for such nonconforming use is permissible.
- D. When any nonconforming use of a building or structure is discontinued for a period in excess of 180 days, the building or structure shall not thereafter be used except in conformance with the regulations of the district in which it is located. Vacancy and/or non-use of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.
- E. Nothing herein shall prevent the maintenance, repair and extension of a single-family dwelling that is nonconforming as to use, provided it is done in conformance with the dimensional requirements of the RM zoning district, nor prevent the maintenance, repair, extension, or construction of a residential accessory building or swimming pool, provided done in conformance with the requirements of this Ordinance.

#### **7.3.3 Discontinuance of Nonconforming Uses**

- A. When active operation or occupancy of a nonconforming use is discontinued regardless of the purpose or reason for a consecutive period of 180 days, the property involved may thereafter be used only for conforming uses.
- B. For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this Subsection, all of the buildings, activities and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one (1) apartment in a nonconforming apartment building or one (1) space in a nonconforming manufactured home park for 180 days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building or

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manufactured home park as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, cessation of operation or occupancy of the nonconforming use for the required period shall terminate the right to maintain it thereafter.

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#### 7.4 NONCONFORMING STRUCTURES

This category includes any structure not in conformance with the restrictions of this Ordinance after the effective date of adoption. Such nonconformities shall include, but not be limited to, height, bulk and setback.

##### 7.4.1 Continuation of Nonconforming Structures

Nonconforming structures shall be allowed to remain with the following conditions:

- A. A nonconforming structure may not be enlarged or altered in any dimension that increases the nonconformity except where maintenance and repair are necessary to keep the structure in sound condition.
- B. When any nonconforming structure is removed, it may not be replaced with another nonconforming structure.
- C. When any nonconforming structure is damaged, repair must follow the guidelines listed in Section 7.4.2.
- D. Structural alterations as required by law or ordinance to secure the safety of the structure are permissible.
- E. Conforming uses may be established or re-established in nonconforming buildings or structures provided that off street parking is provided as required by this Ordinance and provided no other provision of this Ordinance for the establishment of new uses is violated.

##### 7.4.2 Reconstruction of Damaged Structures

Any nonconforming structure, or any structure containing a nonconforming use, which has been damaged by fire, wind, flood or other causes, shall not be rebuilt, altered or repaired after damage exceeding 60% of its tax value immediately prior to damage with the exception of single family homes or manufactured homes used for residential purposes which may be rebuilt or replaced provided the provisions of the Flood Damage Prevention Ordinance, other Town of Yadkinville ordinances and the conditions below are met:

- A. Repairs are initiated within one (1) year and completed within two (2) years of such damage;
- B. The total amount of space devoted to a nonconforming use may not be increased;
- C. Reconstructed nonconforming structures may not be made more nonconforming by the repairs; and
- D. Where possible, any nonconforming structure shall be repaired or reconstructed in such a manner so as to minimize the nonconformance(s).
- E. The reconstructed structure may not be more nonconforming with respect to dimensional restrictions such as yard requirements, height limitations, or density requirements, and such dimensional nonconformities must be eliminated if that can

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reasonably be accomplished without unduly burdening that reconstruction process or limiting the right to continue the nonconforming use of such building.

- F. The reconstructed structure may not enclose areas that were previously unenclosed, even though those areas were used in connection with the nonconforming activity.
- G. Nothing herein shall prevent the reconstruction of a nonconforming single-family dwelling that was destroyed by fire or natural disaster, provided such reconstruction does not expand the footprint in a dimension that is more nonconforming.

#### **7.4.3 Replacement of Nonconforming Manufactured Homes on Individual Lots**

A nonconforming manufactured home on an individual conforming lot outside of a manufactured home park and outside of the Residential Manufactured Home (RMH) zoning district may not be replaced except by a conforming dwelling. A nonconforming manufactured home may not be enlarged or altered externally in any way.

#### **7.4.4 Replacement of Manufactured Homes in Existing Manufactured Home Parks and Maintenance of Existing Manufactured Home Parks**

Nonconforming mobile home parks were amortized in the previous Zoning Ordinance and became unlawful after August 6, 2009. The establishment of any new mobile home park within the jurisdiction of Yadkinville is prohibited. Upon the adoption of this Ordinance all existing manufactured home parks that were previously brought into conformity shall become nonconforming upon adoption of this Ordinance. No new manufactured home parks are permitted, and no existing park shall be expanded. Any new or replacement homes for existing spaces within an existing manufactured home park shall meet the following criteria:

- A. The new or replacement manufactured home shall be constructed after July 13, 1994 and shall meet or exceed the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction.
- B. The new or replacement manufactured home shall have a minimum of 550 square feet of enclosed and heated living area.
- C. The manufactured home shall set up in accordance with the standards established by the North Carolina Department of Insurance and an unpierced, continuous skirting material generally accepted in the manufactured home industry for the purpose of completely obscuring the area underneath the home shall be installed under the perimeter of the manufactured home.
- D. Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the house shall be installed or constructed in accordance with the standards established by the North Carolina Department of Insurance, attached firmly to the primary structure and anchored securely to the ground.
- E. The moving hitch, wheels and axles, and transporting lights shall be removed.



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- F. Each manufactured home in a manufactured home park shall occupy a designated space having at least four thousand (4,000) square feet, with a width of at least forty (40) feet, exclusive of common driveways.
- G. Each manufactured home space shall abut a street within the park. Continuous paved width of streets shall not be less than twenty-four (24) feet. Streets and access roads shall be maintained to support the imposed loads of fire apparatus, and other vehicles typically traveling over them and shall be surfaced so as to provide all weather driving capabilities.
- H. Each manufactured home shall be properly tied down in accordance with Federal Manufactured Home Construction and Safety Standards, administered by the Department of Housing and Urban Development.
- I. Two (2) off-driveway parking spaces with not less than four (4) inches of crushed stone or other suitable material on a well-compacted sub-base shall be provided for each manufactured home space. Required parking spaces may be included within the 4,000 square feet required for each manufactured home space.
- J. At least 200 square feet of recreation space for each manufactured home space shall be reserved within each manufactured home park as common recreation space for the residents of the park. Such areas shall, along with drive-ways and walkways, be adequately lighted for safety.
- K. No manufactured homes or other structures within a manufactured home park shall be closer to each other than twenty (20) feet, except that storage or other auxiliary structures for the exclusive use of the manufactured home may be closer to that manufactured home than twenty (20) feet.
- L. No manufactured home shall be located closer than thirty (30) feet to the exterior boundary of the park or a bounding street right-of-way. Buildings used for laundry or recreation purposes shall be located no closer than forty (40) feet to the exterior boundary or the right-of-way of a bounding street.
- M. A Type 1 buffer, meeting the requirements of Section 4.4.3, shall be maintained where manufactured home property abuts a residential district.
- N. Water supply and waste disposal facilities for the manufactured home park shall be approved in writing by the Yadkin County Health Department.

(ZTA-2021-03 Amended May 3, 2021)

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#### **7.5 NONCONFORMING DEVELOPMENT SITES**

##### **7.5.1 Nonconforming Landscaping and Screening**

Any substantial change of use or change in zoning classification or expansion of 20% or greater of an existing use, structure, or parking area shall not occur without the requirements of Section 4.4 having been met to the greatest extent possible as determined by the Administrator. All solid waste containers shall be screened from view meeting the requirements of Section 4.4.7.

##### **7.5.2 Nonconforming Parking and Access**

Any substantial change of use or change in zoning classification or expansion of 20% or greater of an existing use, structure, or parking area, which is deficient in the minimum number of parking spaces, parking lot paving, or curb and gutter as set forth in Section 4.5, shall not occur without the requirements of Section 4.5 having been met. The Administrator may approve a new use within an existing structure if the number of off-street parking spaces required for the new use (per Section 4.5 of this Ordinance) is within 10% or 10 spaces, whichever is less, of the number of off-street parking spaces actually provided. Such relief may be granted on a one-time only basis per lot or planned development. The requirements of Section 4.5 shall be met to the greatest extent possible as determined by the Administrator.

##### **7.5.3 Nonconforming Infrastructure**

Any substantial change of use or change in zoning classification or expansion of 20% or greater of an existing use, structure, or parking area shall not occur without the requirements of Section 4.6 having been met. Sidewalks shall be installed along all new and existing streets for any such change or development as set forth in Section 4.6.4. The requirements of Section 4.6 shall be met to the greatest extent possible as determined by the Administrator.

##### **7.5.4 Nonconforming Non-residential Building Design**

If a nonconforming non-residential building is being expanded by greater than 20%, then the standards of Section 5.1.2(C) shall be met and all unscreened mechanical or utility equipment shall be screened per Section 5.4.12.

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#### 7.6 NONCONFORMING SIGNS

Signs that were legally erected and were in place prior to the adoption of this Ordinance but which do not conform to the provisions of this Ordinance are declared nonconforming signs. Signs that were legally erected and that are in place and which conformed to the provisions of this Ordinance at the time erected, but which do not conform to an amendment of this Ordinance enacted subsequent to the erection of said signs also are declared nonconforming signs.

##### 7.6.1 Continuation of a Nonconforming Sign

Nonconforming signs may continue to be utilized in good repair in connection with any use or building permitted in this Ordinance only on the following special conditions, limitations, and restrictions. Except as provided herein, any sign face change, structural change, or change in sign height or area shall result in the sign being brought into conformity with the regulations of Article 6.

- A. A nonconforming sign may be continued but it shall not be:
  - 1. Changed or replaced with another nonconforming sign, except that copy may be changed.
  - 2. Expanded or modified in any way which increases the sign's nonconformity.
  - 3. Re-established once the sign structure has been removed.
  - 4. Re-established after damage or deterioration as defined in Section 7.6.1-(D).
- B. An individual panel on a nonconforming freestanding multi-tenant sign may be changed as tenant occupancy changes without bringing the sign into conformity.
- C. The sign area, the sign height, location, and illumination of a nonconforming sign shall not be changed without bringing the nonconforming sign into conformity.
- D. If damaged, destroyed or permitted to deteriorate to an extent of more than 60% of the appraised replacement cost, a nonconforming sign shall not be repaired or replaced, and shall be immediately removed.
- E. Additional signs shall not be allowed nor shall existing signs be enlarged or raised for any business which displays a nonconforming sign.
- F. A nonconforming sign shall not be re-established once the sign structure has been removed.
- G. A nonconforming sign shall not be re-established after the use has been discontinued regardless of reason or intent for 180 days or more.
- H. If a nonconforming sign is blank or advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be deemed abandoned and shall be removed or brought into compliance by the sign owner, property owner, or other party having control over such sign within 90 days after the use has ceased operation or the service or commodity has ceased being offered. Any nonconforming sign on a lot where the principal structure is vacant for a period of 90 days shall be removed or altered to conform to the regulations of this article.

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- I. Nonconforming portable and temporary signs shall be removed within 60 days of the effective date of this Ordinance.

(ZTA-2019-1 Amended May 6, 2019)

#### **7.6.2 Alteration of a Nonconforming Sign**

- A. The structural components of a nonconforming sign, including the supports and sign frame, shall not be altered without bringing the sign into conformity with the requirements of Article 6.
- B. Any alteration of a nonconforming sign shall make that sign conform to the regulations of this Article. The face or display of a nonconforming sign (except for billboards) shall not be altered without bringing the sign into conformity with the requirements of Article 6, unless the alteration falls within the provisions of Section 7.6.1-(A). An individual panel on a nonconforming freestanding multi-tenant sign may be changed as tenant occupancy changes without bringing the sign into conformity.

(ZTA-2019-1 Amended May 6, 2019)

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**7.7 CERTIFICATE OF NONCONFORMITY ADJUSTMENT**

A Certificate of Nonconformity Adjustment may be granted by the Board of Adjustment to enlarge, expand, or otherwise alter a nonconforming use or structure.

- A. Application for a Certificate of Nonconformity Adjustment shall be submitted to the Administrator in accordance with Section 2.2.8.
- B. The Board of Adjustment shall conduct a public hearing on the application in accordance with the requirements of Section 2.2.8. in the manner prescribed in NCGS 160D-406.

(ZTA-2021-03 Amended May 3, 2021)

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#### APPENDIX A. GENERAL RULES FOR INTERPRETATION AND DEFINITIONS

##### A.1 PURPOSE

For the purpose of interpreting this Ordinance, certain words, concepts and ideas are defined in the General Rules for Interpretation and Definitions Appendix A. When Appendix A provides a different meaning than the general dictionary, the definition provided by Appendix A and the specific Ordinance application of the term shall control. Except as defined herein, all other words used in this Ordinance shall have their everyday meaning as determined by their dictionary definition or based upon the definitions used in professionally accepted sources.

(ZTA-2021-03 Amended May 3, 2021)

##### A.2 INTERPRETATION

- A. Words used in the present tense include the future tense.
- B. Words used in the singular number include the plural, and words used in the plural number include the singular.
- C. Any word denoting gender includes the female and the male.
- D. The word "person" includes a firm, association, organization, partnership, corporation, trust and company as well as an individual.
- E. The word "lot" includes the word "plot" or "parcel" or "tract".
- F. The words "shall", "must", and "will" are mandatory, implying an obligation or duty to comply with the particular provision.
- G. The word "may" is permissive, except when the context of the particular use is negative, then it is mandatory (e.g., "may not").
- H. The word "should," whether used in the positive or the negative, is a suggested guideline.
- I. The word "structure" shall include the word "building."
- J. The term "street" shall include the word "road".
- K. The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended," "arranged" or "designed" to be used or occupied.
- L. The term "Zoning Map," shall mean the Official Zoning Map of Yadkinville, North Carolina.
- M. The term "Town Board" shall mean the Town Board of Commissioners of the Town of Yadkinville, North Carolina."
- N. The term "Planning Board" shall mean the Planning Board of the Town of Yadkinville, North Carolina.
- O. The term 'Board of Adjustment' shall mean the Board of Adjustment of the Town of Yadkinville North Carolina.

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- P. The term "Administrator" shall mean the Administrator, Subdivision Administrator, Floodplain Administrator, or Zoning Administrator of the Town of Yadkinville, North Carolina.
- Q. The term "manager" or "Town Manager" shall mean the Town of Yadkinville, North Carolina.
- R. The term "County" shall mean Yadkin County, North Carolina.
- S. The term "State" shall mean the State of North Carolina.
- T. Any reference to a section shall mean a section of the Yadkinville Development Ordinance, unless otherwise specified.
- U. The term "Ordinance" shall be synonymous and refer to the Yadkinville Development Ordinance.
- V. For purposes of interpreting this ordinance, certain words, concepts, and ideas are defined in Section A.4. Except as defined herein, all other words used in this ordinance shall follow the dictionary definition.

#### A.3 ACRONYMS AND ABBREVIATIONS

Below is a list of acronyms and abbreviations and their meanings found throughout the Code. Zoning district abbreviations can be found in Section 3.1.

- ADA: Americans with Disabilities Act.
- BFE: Base Flood Elevation.
- BOA: Board of Adjustment.
- BOC: Board of Commissioners
- CZ: Conditional Zoning
- CTP: Comprehensive Transportation
- DBH: Diameter at Breast Height
- DUA: Dwelling Units per Acre.
- ETJ: Extraterritorial Jurisdiction.
- FEMA: Federal Emergency Management Agency.
- FBFM: Flood Boundary and Floodway Map
- FIRM: Flood Insurance Rate Map.
- HOA: Homeowners Association.
- NAICS: North American Industrial Classification System.
- NC: North Carolina.
- NCDEQ: North Carolina Department of Environmental Quality.
- NCDOT or DOT: North Carolina Department of Transportation.

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- NCGS or GS: North Carolina General Statute.
- NFIP: National Flood Insurance Program
- PB: Planning Board
- ROW: Right-of-way.
- RPO: Rural Planning Organization.
- SF or Sq. Ft. Square Ft.
- SR: Secondary Road in the North Carolina Secondary Road System.
- TIA: Traffic Impact Analysis
- TRC: Technical Review Committee.
- US: United States of America.
- USGS: United States Geological Survey.

(ZTA-2021-03 Amended May 3, 2021)

#### **A.4 ROUNDING OF FRACTIONS**

- A. The following rules apply to fractional numbers unless otherwise expressly stated below:
1. Minimum Requirements – When a regulation is expressed in terms of a minimum requirement, any fractional result of 0.5 or more must be rounded up to the next consecutive whole number.
  2. Maximum Limits – When a regulation is expressed in terms of maximum limits, any fractional result will be rounded down to the next lower whole number.
- B. Parking Space Computation – Rounding when computation of the number of parking spaces results in a fraction, the fraction shall be rounded up to the next whole number.
- C. Density Computation – Rounding when computation of density results in a fraction, the fraction shall be rounded down to the next lowest whole number.

(ZTA-2021-03 Amended May 3, 2021)

#### **A.5 HEADINGS, TEXT AND ILLUSTRATIONS**

In the event of a conflict or inconsistency between the text of this Ordinance and any heading, caption, figure, illustration, table, or map, the text shall control. Graphics and other illustrations are provided for informational purposes only and should not be relied upon as a complete and accurate description of all applicable regulations or requirements.

(ZTA-2021-03 Amended May 3, 2021)



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#### A.6 DEFINITIONS

**ABANDONED.** A use shall be deemed to be abandoned when: a) the use is physically and objectively discontinued [other than in association with the settlement of an estate or for any use which is seasonal in nature]; or b) the premises are devoted to another use; or c) the characteristic equipment and furnishings of a nonconforming nonresidential use have been physically removed from the premises and have not been replaced by the same or similar equipment within thirty days. All of the above events are considered abandonment, regardless of the intent of the owner, lessee or occupant and regardless of any circumstances beyond the control of such parties that prevent continuation of the use.

**ABUTTING.** The condition of 2 parcels of land having a common property line or boundary, including cases where 2 or more parcels of land adjoin at a corner, but not including cases where parcels of land are separated by a street or alley.

**ACCESS.** The right or ability of pedestrians, vehicles, and boats to enter and leave property.

**ACCESS EASEMENT.** An easement which grants the right to cross land.

**ACCESSORY BUILDING.** A detached building, the use of which is customarily or typically subordinate to that of the principal building and which is located on the same lot as the principal building.

**ACCESSORY STRUCTURE.** A detached subordinate or incidental structure, the use of which is incidental to the principal structure and which is located on the same lot as the principal structure.

**ACCESSORY COMMUNICATION ANTENNAE.** An antennae configuration that is attached to a building water tower, or other existing structure where the communication facility is customarily incidental to the main or principal building or structure.

**ACCESSORY DWELLING UNIT.** A secondary dwelling unit established in conjunction with and clearly subordinate to a primary dwelling unit, whether a part of the same structure as the primary dwelling unit or a detached dwelling unit on the same lot.

**ACCESSORY STRUCTURE.** A detached subordinate or incidental structure, the use of which is incidental to the principal structure and which is located on the same lot as the principal structure.

**ACCESSORY USE.** A use that is customarily or typically subordinate to the principal use of land or buildings and is located on the same lot as the principal use or building.

**ADAPTIVE REUSE.** The rehabilitation, reconstruction or renovation of existing buildings or structures for any use other than its current use.

**ADDITION.** An extension or increase in floor area or height of a building or structure.

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**ADJACENT/ABUTTING PROPERTY.** This term shall mean anything that is contiguous or abutting with the assumption that railroads, roads, and other rights-of-way do not exist, unless the right-of-way is greater than 100 feet wide.

**ADMINISTRATIVE DECISION.** Decisions made in the implementation, administration, or enforcement of development regulations that involves the determination of facts and the application of objective standards set forth in NC GS 160D or the Town of Yadkinville development regulations.

**ADMINISTRATOR.** The person appointed by the Town Manager charged with interpreting, applying and enforcing the provisions of this Ordinance. The Administrator may be referred as "Zoning Administrator", "Subdivision Administrator", "Zoning Enforcement Officer", "Planning Director", "Planning Department", or "Planning Staff".

**ADULT BUSINESS.** Any principal or accessory structure or use of land which meets the definition of adult establishment as set forth in NCGS 14-202.10 et seq., but excluding massage therapy.

**AFFECTED PARTY.** Owners of land adjoining the land subject to an application and any other person who could suffer an adverse effect to a property interest from a proposed development.

**AGGRIEVED PARTY.** A person with a legally recognized interest (i.e., fee simple ownership) and standing to appeal, that is injuriously affected by a decision from any decision-making body of the Town, including any officer or agent of the Town.

**AGRICULTURAL USE.** NCGS 106-581.1, defines the terms "agriculture," "agricultural," and "farming" to include the following activities:

- The cultivation of soil for production and harvesting of crops, including fruits, vegetables, sod, flowers, and ornamental plants;
- The planting and production of timber;
- Dairying and the raising, management, care, and training of livestock, including horses, bees, poultry, deer, elk, and other animals for individual and public use, consumption, and marketing;
- Aquaculture;
- The operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation; and
- When performed on the farm, the marketing and selling of agricultural products; agritourism; the storage and use of materials for agricultural purposes; and packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on the farm.

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**AIRPORT AND HELIPORT.** Landing fields, parking and service facilities, passenger and baggage terminals, and related facilities for the operation, service, fueling, repair, storage, charter, sales, and rental of aircraft. The word aircraft shall include fixed-wing as well as rotary-wing craft.

**ANIMAL SERVICES.** Any facility used for the purpose of giving licensed medical treatment to animals or pets or other treatment of animals, such boarding, or selling of pet supplies. This use may include indoor or outdoor kennels as shown in the Permitted Uses Table.

**ALLEY.** A service roadway, typically located to the rear of a property, providing a secondary means of access to that property or adjacent properties.

**ALTERATION.** A change in the size, configuration, or location of a structure; or a change in the use of a structure or lot from a previously approved or legally existing use.

**ALTERNATIVE DESIGN PROPOSAL.** A request to deviate from the requirements of Article 4 or 5 of this Ordinance in regard to landscaping, parking, infrastructure or building design due to unique site circumstances or creative design proposals, provided that the intent of this Ordinance is met, subject to the procedures of Section 2.2.9.

**AMENDMENT (MAP OR TEXT).** Any change by the Town Board of Commissioners to the text of these regulations or the official zoning maps.

**AMORTIZATION.** A provision requiring a non-conformance to either become conforming or be removed within a set period of time, otherwise known as the amortization period.

**APPEAL.** A request for the review of an Administrator determination in relationship to the interpretation of this Ordinance subject to the statutory requirements set forth in Section 2.2.7 of this Ordinance.

**APPLICANT.** Any person seeking approval under these regulations for any form of development or use of land under the provisions of this Ordinance.

**APPLICATION.** The completed form or forms and all accompanying documents, exhibits, and fees required of an applicant by the appropriate Town department or board as part of the development review processes.

**ARCADE OR COLONNADE.** An architectural element that has columns or piers supporting a row of arches, often with a covered roof. Piers are rectangular vertical support structures. If the structure has columns or piers but does not have arches, it's called colonnade.

**ARCHITECT.** A person licensed to practice architecture in the State of North Carolina.

**ARENA.** A structure or facility designed and intended to be used primarily for athletic events and containing seating for spectators of those events, but not including a raceway or drag strip.

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**ARTICULATION, HORIZONTAL.** An architectural technique to give provide visual interest and human scale along the horizontal wall plate of a building.

**ARTICULATION, VERTICAL.** An architectural technique to give emphasis to the height of a building and provide visual interest along the vertical wall plane of a building.

**ARTIFICIAL OBSTRUCTION.** Any object or material which is not a natural obstruction, including any which, while not a significant obstruction in itself, is capable of accumulating debris and thereby reducing the flood-carrying capacity of a stream.

**ARTIST OR CRAFTSMAN STUDIO.** An establishment where objects or artwork are created one at a time, by hand. Such creation includes, but is not limited to, woodworking, tinsmithing, silversmithing, pottery throwing, glass blowing, painting, weaving, caning, metal working, and sculpting.

**ASPHALT PLANTS, MIXING PLANTS (CONCRETE AND ASPHALT).** A facility preparing asphalt and/or concrete mixtures for street and driveway paving, including contractors engaged in asphalt and/or cement work. This definition includes poured concrete foundation and structure contractors, and asphalt paving mixture and block manufacturing.

**AUCTION HOUSE.** Any establishment where items are sold at auction to the highest bidder.

**AUDITORIUM, ASSEMBLY HALL.** A room, hall, or building, that is a part of a church, theater, school, recreation building, or other building assigned to the gathering of people as an audience to attend lectures, theatrical, musical or other presentations.

**AUTHORIZED AGENT.** A person with express written consent to act upon another's behalf.

**AUTOMATIC TELLER MACHINE (ATM).** A type of banking and financial services facility with automated or self-service banking features with no staff or personnel provided.

**AUTOMOTIVE SALES OR RENTAL.** Any use where automobiles other motor vehicles (excluding boats and recreational vehicles) are displayed for the purpose of sale or lease.

**AUTOMOTIVE SERVICES.** An establishment engaged in providing mechanical, automotive, fuel, maintenance, and repair services. This definition includes gas stations, service stations, motor vehicle repair, and car washes. Outdoor storage associated with such uses may be permitted as indicated in the Permitted Uses Table. This does not include boat and recreational vehicle (RV) services.

**AWNING.** A structure made of canvas, metal, or other material supported by a frame and often foldable that is placed over a storefront, doorway, or window, but not a canopy.

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**BANKING AND FINANCIAL SERVICES.** A facility engaged in deposit banking or extending credit in the form of loans, excluding brokers, financial planners, credit counselors and similar uses that are located in professional offices.

**BANNER.** A temporary sign of lightweight fabric or similar material which is rigidly mounted to a pole or a building by a rigid frame at two or more opposite sides. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

**BASEMENT.** An area of a building with a floor located partially below ground level.

**BANQUET AND EVENTS FACILITIES.** A facility for lease for private parties. Such facilities may or may not provide catering, photography, or similar services associated with private parties, weddings, birthdays and similar occasions.

**BED AND BREAKFAST INN.** A residential building providing for temporary overnight lodging and breakfast for overnight guests. This use does not include banquet and events facilities.

**BERM.** An elongated earthen mound landscape feature designed and constructed on a site to provide visual interest, screen adjacent uses and/or views, and/or decrease noise.

**BEST MANAGEMENT PRACTICES (BMPs).** (Applies only to the watershed overlay district) A structural or non-structural management-based practice used singularly or in combination to reduce non-point source input to receiving waters in order to achieve water quality protection goals.

**BEST MANAGEMENT PRACTICES, NON-STRUCTURAL.** Non-structural BMPs are non-engineered methods used to control the amount of non-point source pollution. These may include land-use controls and vegetated buffers.

**BEST MANAGEMENT PRACTICES, STRUCTURAL.** Structural BMPs are engineered structures that are designed to reduce the delivery of pollutants from their source or to divert contaminants away from the water supply.

**BILLIARDS, POOL ROOMS.** Commercial indoor recreational establishments that provide more than two (2) pool tables for the playing of billiards, pool and similar games.

**BLOCK.** The land lying within an area bounded on all sides by streets.

**BOARD, PLANNING.** An appointed advisory board to the Town Board of Commissioners to be tasked with the duties set forth in NCGS 160D-301.

**BOARD OF ADJUSTMENT.** An appointed review board tasked with the duties set forth in NCGS 160D-302 and 705 to make quasi-judicial decisions upon appeals, variances and Minor Special Use Permits.

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**BOARD, TOWN (TOWN BOARD OF COMMISSIONERS).** The elected governing body of the Town of Yadkinville established by its charter to perform the legislative duties of the municipality as set forth in NCGS 160A.

**BOARDING OR ROOMING HOUSE.** A dwelling, or part thereof, in which lodging is provided to more than two (2) guests on a long-term basis and where the rooms rented neither individually nor collectively constitute separate dwelling units.

**BOAT AND RV SALES.** An establishment that boats and/or recreational vehicles for sale or lease.

**BOAT AND RV SERVICES.** An establishment that offers the repair, customization, refurbishment, or storage of boats and/or recreational vehicles.

**BODY ART ESTABLISHMENT.** A business that provides tattooing and/or body piercing services.

**BONA FIDE FARM.** A farm whose purposes include the production of, and activities set forth in NC GS 160D-903 relating or incidental to the production of, crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry and all other forms of agricultural products having a domestic or foreign market. Activities incidental 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 structure sheltering or supporting the farm use and operation. 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 and meets the criteria set forth in NC GS 160D-903. However, NC GS 160D-903 does not limit zoning regulation with respect to the use of farm property for nonfarm purposes. Any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

- A farm sales tax exemption certificate issued by the Department of Revenue.
  - A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to NCGS 105-277.3.
  - 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.
  - A forest management plan.
  - A Farm Identification Number issued by the United States Department of Agriculture Farm Service Agency.

**BROADCAST TOWERS.** A facility primarily engaged in providing radio and television broadcasting but excluding those uses classified as wireless telecommunications towers or utilities.

**BUFFER.** An area of natural or planted vegetation adjoining or surrounding a use and unoccupied in its entirety by any building, structure, paving or portion of such use, for the

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purposes of screening and softening the effects of the use, no part of which buffer is used for recreation or parking.

**BUFFER, PERIMETER LANDSCAPING.** Vegetative material and structures (i.e., wall, fences) that are used to separate uses from each other as required by this Ordinance.

**BUILD-TO LINE.** A line extending through a lot which is generally parallel to the front property line and marks the location from which the principal vertical plane of the front building elevation must be erected; intended to create an even building façade line on a street. The build-to line is established on the record plat (final plat).

**BUILDING.** A temporary or permanent structure having a roof and walls, and which can be used for the shelter, housing, or enclosure of persons, animals, or goods, provided that, however, the term "building" shall not mean nor be construed so as to include a container.

**BUILDING AREA.** The area of a zoning lot remaining after the minimum setback requirements of this ordinance have been satisfied.

**BUILDING ELEVATION.** A fully dimensioned drawing of the exterior front, side or rear of a building showing architectural features such as windows, doors and roof lines, and which may also contain information regarding exterior materials, colors, and fixtures.

**BUILDING FOOTPRINT.** The outline of the total area covered by a building's exterior walls at the ground level.

**BUILDING HEIGHT.** See "Height, Building."

**BUILDING LINES.** Lines that are tangent to the exterior surface of buildings or structures, or the surfaces of cantilevered projections therefrom, parallel to front, side, and rear lot lines, and referred to as front, side, and rear building lines, respectively.

**BUILDING MODULATION.** The varying of the footprint of a building by projecting or recessing portions of the façade from the base plane of the building wall.

**BUILDING OCCUPANCY.** The use(s) or tenant(s) located within a building.

**BUILDING PRESENTATION.** The direction of the architectural front façade of a building in relation to the street or public space.

**BUILDING, PRINCIPAL.** See "Principal Structure."

**BUILDING SITE.** (See also "Development.") An area of land or property where development is undertaken. A building site may consist of one (1) or more legal parcels of land and shall be defined to include any and all such parcels developed with uses operating under a coordinated management or use strategy regardless of when such parcels were developed.

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**BUILDING WALL.** The entire surface area, including windows and doors, of an exterior wall of a building.

**BUILT-UPON AREA.** Built-upon area shall include that portion of a development project and/or lots that are covered by impervious or partially impervious cover including buildings, pavement, gravel areas (e.g., roads, parking lots, paths), recreation facilities (e.g., tennis courts), etc. (NOTE: Wooden slatted decks and the water area of a swimming pool are considered pervious).

**BUSINESS KIOSK.** A walk-up or drive-through self-service unit that provides convenience-type services including but not limited ice vending, movie rental, and household propane tanks.

**BY RIGHT.** Land uses that are permitted in a zoning district without requiring a special use review.

**CALIPER.** Measurement for determining the size of trees at time of planting. Caliper is the quantity in inches of the diameter of trees measured at 6 inches above the ground.

**CAMPGROUND.** Any lot or parcel of land used or intended to be used for the accommodation of two (2) or more recreational vehicles or non-vehicle campers for transient dwelling purposes or recreational camping.

**CANOPY.** A permanent structure other than an awning, made of cloth, metal or other material attached or unattached to a building for the purpose of providing shelter to patrons or automobiles, or as a decorative feature on a building wall. A canopy is not a completely enclosed structure.

**CANOPY TREE.** A species of tree which normally grows to a mature height of thirty-five feet or more with a minimum mature crown width of thirty feet and meets the specifications of the American Standards for Nursery Stock published by the American Nurserymen Association.

**CARPORT.** An attached or detached roofed structure enclosed on not more than two (2) sides and used for the parking of motor vehicles.

**CAR WASH.** A motor vehicle services facility for the washing of motor vehicles.

**CEMETERY.** Land and facilities, including offices and chapels, used for the burial of the dead. Such a facility includes any burial ground, mausoleum, or columbarium operated by a cemetery company and meeting licensing requirements of the state.

**CERTIFICATE OF COMPLIANCE.** A certificate issued by the Administrator setting forth that a lot, building, structure, or use complies with this Ordinance and that the same may be used for the purposes stated therein.



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**CERTIFICATE OF NONCONFORMITY ADJUSTMENT.** An approval issued by the Board of Adjustment to enlarge, expand, or otherwise alter a nonconforming use or structure subject the standards of Section 2.2.8 and Article 7 of this Ordinance.

**CERTIFICATE OF OCCUPANCY.** A certificate issued by the County building inspector setting forth that a building, structure, or use complies with all North Carolina State Building Codes in effect within the Town's jurisdiction.

**CHANGE OF USE, MINOR.** A change in the use of a structure or land from one use to another use within the same category as listed in the Table of Uses. For example, a change from a "Retail Use" to a "Restaurant" within the Retail and Wholesale Uses category is a minor change of use.

**CHANGE OF USE, SUBSTANTIAL.** A change in the use of a structure or land from one use category to another use category. For example, a change from a "Professional Office" in the Office and Service Uses category to a "Retail Use" in the Retail and Wholesale Uses category is a significant change of use.

**CHURCH OR RELIGIOUS INSTITUTION.** A facility of a church, temple, synagogue, or other non-profit religious organization operated for worship, and which may include religious training or study.

**CHILD CARE CENTER.** Any day-time care arrangement for six (6) or more pre-school age children and/or four (4) or more school-aged children who receive care away from their primary residence by persons other than their parents, children, grandparents, aunts, uncles, brothers, sisters, first cousins, nieces, nephews, guardians, or full-time custodians, where care is provided on a regular basis at least once per week for more than four (4) but less than twenty-four hours per day.

**CHILD CARE HOME.** A type of customary home occupation that provides day-time care for five (5) or fewer pre-school age children and/or three (3) or fewer school-aged children who receive care away from their primary residence by persons other than their parents, children, grandparents, aunts, uncles, brothers, sisters, first cousins, nieces, nephews, guardians, or full-time custodians, where care is provided on a regular basis at least once per week for more than four (4) but less than twenty-four hours per day.

**CIVIC USE.** A land use related to government or community functions. Examples include government offices, libraries, and community centers.

**CLINIC.** An establishment where patients are admitted for examination and treatment on an outpatient basis by one or more physicians, dentists, psychologists, social workers, or other medical personnel and are not lodged overnight.

**CLUB, PRIVATE.** A for-profit establishment as defined in N.C.G.S. 18B-1000 (5) which holds an ABC permit from the State of North Carolina. Music, dancing and similar activities may also take place. This definition does not include those establishments that meet the definition of an adult business.

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**CLUB, SOCIAL, FRATERNAL, PHILANTHROPIC CLUBS AND LODGES.** An establishment that is organized and operated solely for a social, recreational, patriotic, or fraternal purpose and that is not open to the general public but is open only to the members of the organization and their bona fide guests. This provision does not, however, prohibit such an establishment from being open to the general public for raffles and bingo games as required by NCGS 14-309.11(a) and NCGS 14-309.13.

**COLLECTOR STREET.** See "Street Classifications."

**COLLEGE OR UNIVERSITY.** An institution of higher education offering undergraduate and/or graduate degrees.

**CO-LOCATION.** The siting of two (2) or more separate operator's wireless antennas on the same support structure.

**COMMERCIAL MESSAGE.** A sign working, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

**COMMUNITY OUTREACH OFFICE.** An auxiliary or supplemental office facility for non-profit organizations from which to provide general counseling and training services within a specific neighborhood area for individuals and families within close proximity of the facility. Services not allowed include operation of food or clothing pantry's, place of assembly, daycare, family care home or shelter as defined elsewhere in the ordinance.

**COMPREHENSIVE PLAN.** The comprehensive plan, land-use plan, small area plans, neighborhood plans, transportation plan, capital improvement plan, and any other plans regarding land use and development that have been officially adopted by the governing board.

**CONDITIONAL ZONING.** A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

**CONDOMINIUM.** A development containing individually owned dwelling units and jointly owned and shared areas and facilities that is subject to the North Carolina Unit Ownership Act (North Carolina General Statutes Section Ch. 47A) and/or the North Carolina Condominium Act (North Carolina General Statutes Section Ch. 47C).

**CONSERVATION DEVELOPMENT.** Residential subdivisions that are characterized by large areas of dedicated common open space and clustered compact lots. The purpose of a conservation development is to protect farmland, open space and/or natural resources while allowing for a maximum number of residences, consolidated infrastructure and reduced development costs.

**CONSTRUCTION.** The erection of any building or structure or any preparations (including land disturbing activities) for the same.

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**CONTAINER.** For the purposes of this Ordinance, container shall mean any portable storage container, or a standardized shipping container used for intermodal freight transport. A standardized shipping container is also known as a cargo or freight container, International Standards Organization (ISO) container, intermodal container, shipping container, or sea or ocean container which sometimes called a Conex container or box.

**CONTIGUOUS AREA.** Any area which abuts directly on a subject property or is separated from the subject property only by a street or the right-of-way of a railroad or other utility or public service corporation.

**CORNER LOT.** See "Lot, Corner."

**CORRECTIONAL FACILITY.** A jail or other institutional facility used to confine or provide treatment or rehabilitation to those accused of violations of criminal laws, including facilities for persons who are participating in supervised work-release programs, whether such facilities provide confinement for all of each twenty-four-hour period or only a portion thereof; but not including temporary holding facilities that are accessory to a police station or court facility.

**CREMATORY.** An establishment either part of or separate from a funeral home or veterinary services establishment that contains a furnace for the purpose of cremating the bodies of deceased persons or animals.

**CRITICAL ROOT ZONE.** The area under a tree, which includes all land within the drip-line of the tree. The drip-line is measured by a vertical line extending from the outermost portion of a tree's canopy to the ground.

**CROSS-ACCESS.** Vehicular access provided between the vehicular use areas of 2 or more development sites or parcels of land intended to allow travel between the sites without the use of a public or private street.

**CUL-DE-SAC STREET.** A short minor street having one end open to traffic and the other permanently terminated by a vehicular turnaround.

**CUPOLA.** A domelike or tower structure on a roof or dome, serving as a belfry, lantern or belvedere.

**CUT-OUT LETTER LIGHTING.** Lighting so arranged on a sign that only the outlines of letters, numerals, or symbols are illuminated from an internal lighting source while the remainder of the sign is covered with nontransparent materials that prevent illumination.

**DECIDUOUS.** A plant or tree with foliage that is shed annually.

**DECK.** A structure, without a roof, directly adjacent to a principal building which has an average elevation above finished grade.

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**DEED RESTRICTION.** A restriction on the use of a lot or parcel of land that is set forth in the deed and recorded with the county register of deeds. Also known as a restrictive covenant.

**DENSITY, RESIDENTIAL.** The number of residential dwelling units per acre of land, determined by dividing the number of dwelling units by the total number of acres in the parcel to be developed.

**DETENTION STRUCTURE.** A permanent structure designed for the temporary storage of stormwater runoff in order to reduce the peak rate of discharge from a site.

**DEVELOPER.** A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.

**DEVELOPMENT.** The carrying out of any building activity, the making of any material change in the use or appearance of any structure or land, or the subdividing of land into two (2) or more parcels. For the purposes of these regulations, the following activities or uses shall be considered "development":

- The construction, reconstruction, alteration of the size, or material change in the external appearance of a structure on land or water;
- The initiation of substantial change in the use of land or the intensity of use of land;
- The subdivision of land as defined in NC GS 160D-802;
- Alteration of the shore or bank of a pond, lake, river, or other waterway;
- Commencement of drilling (except to obtain soil samples), mining, or excavation on a parcel of land;
- Grading, filling, paving, excavation, or other land disturbing activity; or
- Deposit of refuse, solid or liquid waste, or fill on a parcel of land.

"Development" includes all other activity customarily associated with it. When appropriate to the context, "development" refers to the act of developing or to the result of development. Reference to any specific operation is not intended to mean that the operation or activity when part of other operations or activities is not development. Reference to particular operations is not intended to limit the generality of this definition. For the purposes of these regulations the following operations or uses shall not be considered "development"; some may, however, require a zoning permit:

- Work involving the maintenance, renewal, improvement, or alteration of any structure, if the work affects only the color or decoration of the exterior of the structure or interior alterations that do not change the use for which the structure was constructed;

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- Work involving the maintenance or replacement of existing landscaped areas and existing rights-of-way;
- A change in use of land or structure from a use within a specified category of use to another use in the same category;
- A change in the ownership or form of ownership of any parcel or structure;
- The creation or termination of rights of access, riparian rights, easements, covenants concerning development of land, or other rights in land unless otherwise specifically required by law;
- The clearing of survey cuts or other paths of less than four (4) feet in width; or
- Timbering or silviculture activity that does not involve land disturbing activity.

**DEVELOPMENT, MULTIFAMILY RESIDENTIAL.** A classification of housing on a common lot or development site where multiple separate housing units for residential inhabitants are contained within one building or several buildings within one complex. Units can be next to each other (side-by-side units) or stacked on top of each other (top and bottom units). Common forms of multifamily residential development include apartment buildings, townhomes, duplexes, and condominiums.

**DIAMETER AT BREAST HEIGHT (DBH).** The measurement of the diameter of an existing semi-mature or mature tree trunk measured at four and one-half feet above the existing ground, on the uphill side of the tree. Trees with multiple trunks should be treated as multiple trees and the DBH for each trunk added to aggregate diameter measurement.

**DISTURBED AREA.** An area subject to erosion due to the removal of vegetative cover and/or earthmoving activities.

**DITCH.** A manmade, open drainageway into which surface water or groundwater from land, stormwater runoff, or floodwaters flows either continuously or intermittently.

**DORMER.** A projecting structure built out from a sloping roof, usually housing a vertical window or ventilating louver.

**DORMITORY.** A building containing bathroom facilities available for common use by the residents of the building, which is occupied or intended to be occupied as the dwelling for more than six persons who are not related by blood, marriage, or adoption but who are enrolled in, affiliated with, or employed by the same educational, religious, or health institution and which is co-located with and subordinate to such institution. "Dormitory" shall not include a boarding house, motel, hotel, group home, or health institution.

**DOUBLE FRONTAGE LOT.** See "Lot, Double Frontage."

**DRAINAGEWAY.** A natural or manmade channel that carries surface runoff from precipitation.

**DRAINAGE EASEMENT.** An easement with grants the right to maintain, relocate, or utilize land within the easement for the improvement of drainage and stormwater flow.

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**DRIVE-THROUGH/DRIVE-IN USE.** A customer service facility located within the principal structure as an accessory to an office or retail establishment which is intended to enable the customer to transact business with a sales or service representative located within the principal structure without exiting the motor vehicle.

**DRIVEWAY.** An accessway providing access to parking areas, garages, dwellings, drive-up windows, or other similar features.

**DRY CLEANING AND LAUNDRY SERVICES.** A building, portion of a building, or premises used for the collection and distribution of dry cleaning or the cleaning of fabrics, textiles, wearing apparel, or articles of any sort without the immersion of such articles in volatile solvents including, but not limited to petroleum distillates, and/or chlorinated hydrocarbons and any process incidental thereto. It is intended that uses in this category shall not pose a significant threat to the health and safety of the public or adjacent uses and that such may legally discharge all liquid waste into a public sanitary sewer or private septic system.

**DWELLING.** 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, except that for purposed of Article 12 of NC GS 160D (Minimum Housing Codes) it does not include any manufactured home, mobile home or recreational vehicle if used solely for a seasonal vacation purpose, and shall not include any container.

**DWELLING, TWO-FAMILY.** A residential building that contains two (2) dwelling units for two (2) family units and which occupies one (1) lot. Also known as a duplex.

**DWELLING, MULTIFAMILY RESIDENTIAL.** A residential building which contains three (3) or more attached dwelling units located on the same lot of record.

**DWELLING, SINGLE-FAMILY.** A detached residential building which contains one (1) dwelling unit for one (1) family unit and which occupies its own lot of record. This term includes modular housing units built to North Carolina Building Standards but does not include manufactured housing.

**DWELLING, TOWNHOME.** A residential building for one (1) family unit, attached to one (1) or more residential buildings located on their own lots of record. Also known as a townhouse.

**EASEMENT.** A grant of one or more of the property rights for a specific purpose by the property owner to, or for the use by, the public, a corporation, another person, or other entity.

**EASEMENT, NEGATIVE ACCESS.** An easement, which allows no driveway or other vehicles, access to a lot from an adjacent public street.

**ELECTRONIC GAMING OPERATIONS.** Any business enterprise, whether as a principal or an accessory use, where persons utilize electronic machines, including, but not limited

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to computers and gaming terminals, to conduct games of chance or games of skill, including sweepstakes, and where cash, merchandise, or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds or skill. The term includes, but is not limited to internet sweepstakes, internet sweepstakes café, video sweepstakes, or cybercafés, which have a finite pool of winners. This does not include any lottery endorsed by the State of North Carolina, or any nonprofit operation that is otherwise lawful under state law, such as, for example, church or civic fundraisers.

**ELEVATION.** The front, side, or rear of a structure.

**EMERGENCY SERVICES.** Government or institutional organizations that respond to emergency situations. These organizations generally provide police, EMT/EMS, ambulance, and firefighting services.

**EMERGENCY SHELTER.** A facility providing temporary housing for one or more individuals who are temporarily or permanently homeless due to disaster, evacuation or other similar civil emergency.

**ENGINEER.** A Professional Engineer (PE) is a person licensed to practice engineering in the State of North Carolina.

**ENTERTAINMENT USE.** A land use primarily intended for entertainment, amusement, events, or recreation. Examples include theaters, banquet and events facilities, and indoor recreation facilities, such as bowling and skating, and outdoor recreation facilities such as batting cages and water parks.

**EQUESTRIAN USE.** An establishment where horses are boarded and cared for, where instruction in riding, jumping, and showing is offered, or where horses may be hired for riding.

**EVERGREEN.** A plant or tree with foliage that persists year-round.

**EXISTING DEVELOPMENT.** (Applies only to the Watershed Protected Area) Existing development means projects that are built or projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of the adoption of water supply watershed regulations based on at least one of the following criteria:

- Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project; or
- Having an outstanding valid building permit; or
- Having an approved site specific or phased development plan.

For projects that require a state permit, such as landfills, NPDES wastewater discharges, land application of residuals and road construction activities, existing

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development shall be defined as those projects that are built or those projects for which a state permit was issued prior to adoption of watershed protection regulations.

**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 the adoption of this ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.

**EXTERIOR FEATURES.** The architectural style, general design, and general arrangement of the exterior of a structure, including the kind, texture, and color of building materials, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures, and including the landscaping and natural features of the parcel containing the structure.

**EXTRATERRITORIAL JURISDICTION (ETJ).** The area up to one (1) mile outside of the Town limits in which the Town may exercise zoning and subdivision regulation authority subject to NCGS 160D-202.

**FAÇADE.** Any front, side, or rear exterior wall of a building extending from grade to the top of the parapet, wall, or eaves that is exposed to public view.

**FAMILY UNIT.** One or more persons related by blood, adoption, or marriage, and their foster parents, or children, or stepparents, or stepchildren, living together in a single dwelling unit; or no more than four (4) adult persons, eighteen (18) years or older, and their children or stepchildren under eighteen (18) years of age, living together in a single dwelling unit, though not all related by blood, adoption, or marriage; and such domestic servants as are employed on the same premises. A family may include five (5) or fewer foster children placed in a family foster home licensed by the State of North Carolina. The term family shall not be construed to include any group of persons living together as a fraternal, sororal, social, honorary, or professional organization. For the purposes of this definition, the following persons shall be considered related by blood: (A) any relative of the head of household or of the spouse (whether living or dead) of the head of household to the third degree of collateral kinship, or to any degree of lineal kinship, as defined in State law; and, (B) a parent or child by adoption, marriage, or legitimization of any person (including the head of household or spouse of the head of household) described in (A) above; and, (C) a dependent, as defined in State law, of any person described in (A) or (B) above.

**FAMILY CARE HOME.** A facility subject to NCGS 168-22 that is licensed by the State of North Carolina as a family care home with support and supervisory personnel that provide room and board, personal care, and habilitation services in a family environment in a single housekeeping unit for not more than six (6) resident persons, 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. "Dangerous to others" means that within the relevant past, the individual has inflicted or attempted to inflict or threatened to inflict serious bodily harm



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on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property; and that there is a reasonable probability that this conduct will be repeated. Previous episodes of dangerousness to others, when applicable, may be considered when determining reasonable probability of future dangerous conduct. Clear, cogent, and convincing evidence that an individual has committed a homicide in the relevant past is prima facie evidence of dangerousness to others.

**FARMERS' MARKET.** The seasonal selling or offering for sale at retail of vegetables or produce, occurring in a pre-designated area, where the vendors are generally individuals who have raised the vegetables.

**FACILITY.** The buildings or other man-made improvements associated with a land use.

**FENCE** A physical barrier or enclosure consisting of wood, stone, brick, block, wire, metal, or similar materials used as a boundary or means of protection or confinements, but not including a hedge or vegetation.

**FENESTRATION.** The design and positioning of windows and doors in a building or structure.

**FLAG.** A piece of durable fabric of distinctive design attached to a permanent pole, that is used as a symbol or decorative feature which represents a country, state, or other political subdivision.

**FLEA MARKET.** An occasional or periodic market held in an open area or structure where goods are offered for sale to the general public by individual sellers who rent or otherwise reserve booths or spaces from the market organizer or property owner.

**FLOATING ZONING DISTRICT.** A floating zone is a zoning district that delineates conditions which must be met before that zoning district can be approved for an existing piece of land. Rather than being placed on the zoning map as traditional zones are, the floating zone is written as an amendment in the zoning regulations. Thus, the zoning district “floats” until a development application is approved, when the zone is then added to the official zoning map. Floating zones can be used to plan for future land uses that are anticipated or desired in the community, but are not confirmed, such as planned residential or mixed-use developments, and affordable housing developments.

### **FLOOD DAMAGE PREVENTION DEFINITIONS**

*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.

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

*Appeal.* A request for a review of the Floodplain Administrator's interpretation of any provision of Flood Damage Prevention Regulations.

*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.* A flood having a one percent (1%) chance of being equaled or exceeded in any given year.

*Base Flood Elevation (BFE).* A determination as published in the Flood Insurance Study of the water surface elevations of the base flood.

*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 man-made 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.* Means, as defined as in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

*Elevated building.* A non-basement building, which has its reference level, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

*Encroachment.* The advance or infringement of uses, fill, excavation, buildings, permanent 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 to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is pre-FIRM.

*Flood or flooding.* A general and temporary condition of partial or complete inundation of normally dry land areas from:

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- The overflow of inland or tidal waters; and
- The unusual and rapid accumulation of 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 (FEMA), on which the Special Flood Hazard Areas and the floodways 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, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

*Flood insurance.* The insurance coverage provided under 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 FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

*Floodplain or flood prone area.* Any land area susceptible to being inundated by water from any source.

*Floodplain Development Permit.* Means any type of permit that is required in conformance with the provisions of this ordinance, 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 Administrator.* The individual appointed to administer and enforce the floodplain management regulations.

*Floodplain regulations.* This chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

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*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.

*Flood prone area.* See "Floodplain".

*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 (1) 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.* See "Lowest Floor".

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

*Freeboard.* Means 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 effect of urbanization of the watershed. The Base Flood Elevation (BFE) plus the freeboard establishes the "Regulatory Flood Protection Elevation."

*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 proposed walls of the structure.

*Historic structure.* Any structure that is:

- Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- Individually listed on a state inventory of historic places;

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- Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by an approved state program as determined by the Secretary of Interior or directly by the Secretary of Interior in states without approved programs.

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

*Lowest floor.* Means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or 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 ordinance.

*Manufactured home.* A structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

*Manufactured Home Park or Subdivision.* Means a parcel (or contiguous parcels) of land divided into (2) two or more manufactured home lots for rent or sale.

*Market value.* The building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (Actual Cash Value) or adjusted assessed values.

*Mean Sea Level.* For 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 used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) 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 original Flood Damage Prevention 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 the Flood Damage Prevention Regulations.

*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 (1) foot as designated in the Flood Insurance Study report.

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*Obstruction.* This term includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

*Post-FIRM.* Construction or other development which started on or after January 1, 1975 or on or after the effective date of the initial Flood Insurance Rate Map for the area, whichever is later.

*Pre-FIRM.* Construction or other development, which started before January 1, 1975 or before the effective date of the initial Flood Insurance Rate Map for the area, whichever is later.

*Principally above ground.* Means that at least fifty-one percent (51%) 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:

- Built on a single chassis;
- Four hundred (400) square feet or less when measured at the largest horizontal projection;
- Designed to be self-propelled or permanently towable by a light duty truck; and
- Designed primarily not 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 of such building. Within Special Flood Hazard Areas designated as zones A1—A30, AE, A, A99, AO, or AH, the reference level is the top of the lowest floor.

*Regulatory flood protection elevation.* The elevation to which all structures and other development located within the Special Flood Hazard Areas must be elevated or floodproofed, if non-residential. Within areas where Base Flood Elevations (BFE's) have been determined, this elevation shall be the BFE. In areas where no BFE has been established, all structures and other development must be elevated or floodproofed, if non-residential, to two (2) feet above the highest adjacent grade.

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**Remedy a violation.** To bring the structure or other development into compliance with state or 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 this chapter or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

**Retrofitting.** Measures, such as floodproofing, elevation, construction of small levees, and other modifications, taken on an existing building or its yard to protect it from flood damage.

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

**Salvage yard.** Property used for the storage, collection, and/or recycling of any type of equipment whatsoever, whether industrial or noncommercial, and including but not limited to vehicles, appliances and related machinery.

**Special Flood Hazard Area (SFHA).** The land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year as determined in section 9-5-7.

**Solid waste disposal facility.** Means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

**Solid waste disposal site.** Defined as in NCGS 130A-290(a)(36).

**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 the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or 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, a gas or liquid storage tank that is principally above ground.

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**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 fifty percent (50%) of the market value of the structure before the damage occurred. See 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 whereby the cost of which equals or exceeds fifty percent (50%) 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, however, include either:

- 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
- Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

**Variance (FDPO).** A grant of relief from the requirements of the Flood Damage Prevention Regulations.

**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 Articles D and E is presumed to be in violation until such time as that documentation is provided.

**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.

**Water Surface Elevation (WSE).** The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**FLOOD LIGHT.** A form of lighting fixture designed to direct the output of a contained lamp in a more-or-less specific direction, utilizing reflecting or refracting elements located external to the lamp.

**FLOOR.** The top surface of an enclosed area in a building (including the basement) such as the top of the slab in concrete slab construction or the top of the wood flooring in wood frame construction.

**FLOOR AREA.** The sum of the gross horizontal areas of each floor of the principal building, and any accessory buildings or structures, measured from the exterior walls or from the center line of party walls. The term does not include any area used exclusively



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for the surface parking of motor vehicles or for building or equipment access, such as stairs, elevator shafts, and maintenance crawl space.

**FLOOR AREA RATIO (FAR).** The total floor area of the building or buildings on a lot or parcel divided by the gross area of the lot or parcel.

**FOOTCANDLE.** One lumen per square foot. Unit of illuminance. It is the luminous flux per unit area in the imperial system. One foot-candle equals approximately ten (10.8) lux.

**FOWL.** For the purposes of this Ordinance, fowl included any type of bird kept domestically for food or any other purpose, which includes but is not limited to chickens, turkeys, ducks, geese, ostriches, peacocks, guineas, emus, and similar birds.

**FREEWAY OR EXPRESSWAY.** "See Street Classifications."

**FRONT LOT LINE.** See "Lot Line, Front."

**FRONT YARD.** See "Yard, Front."

**FRONTAGE, LOT.** The lot boundary which coincides with a public street or space.

**FRONTAGE, BUILDING.** The façade of a structure facing a public street right-of-way or internal development access drive.

**FRONTAGE BUILDOUT.** The portion of lot frontage which has a building or wall running parallel to it.

**FULL CUTOFF LIGHT FIXTURE.** A luminaire light distribution where no light is emitted above the horizontal, and where the intensity at eighty degrees from nadir is no greater than 100 candelas per 1000 lamp lumens.

**FULLY SHIELDED LIGHT FIXTURE.** A lighting fixture constructed in such a manner that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal as determined by photometric test or certified by the manufacturer. Any structural part of the light fixture providing this shielding must be permanently affixed.

**FUNERAL HOME.** An establishment engaged in undertaking services, such as preparing the human dead for burial and in arranging and managing funerals. This definition includes crematories and mortuaries as accessory uses.

**GLARE.** The sensation produced by a bright source within the visual field that is sufficiently brighter than the level to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance and visibility; blinding light. The magnitude of glare depends on such factors as the size, position, brightness of the source, and on the brightness level to which the eyes are adapted.

**GLAZING.** The portion of an exterior building surface occupied by glass or windows.

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**GOLF COURSE.** An area designed for golf, including a Par 3 golf course, having at least nine (9) holes, each with a tee, fairway, and green, and may have one or more hazards. A clubhouse, pool and other facilities associated with a country club built around a golf course are considered part of the golf course.

**GOLF DRIVING RANGE.** A type of outdoor recreation facility that open air golf practice facility.

**GOLF, TENNIS, SWIMMING CLUBS, AND RELATED USES.** An outdoor recreation facility that provides golf, tennis, and swimming amenities to its members. This definition includes any associated clubhouse, pro-shops, concession stands, locker rooms, restrooms, and similar facilities.

**GOVERNING BOARD.** The Board of Commissioners is the governing board for the Town of Yadkinville, but generally the term is interchangeable with the terms “city council”, “board of aldermen” and “board of county commissioners and shall mean any governing board without regard to the terminology employed in the NC General Statutes or local customary usage.

**GOVERNMENT OFFICE BUILDINGS.** The offices of the executive, legislative, judicial, administrative and regulatory branches of federal, state and local governments.

**GOVERNMENT USE.** A land use operated by a local, state, or federal government entity in the execution of that government body or agency's duties.

**GRADE.** The elevation of the land or land which is level at a specific point.

**GRADE, EXISTING.** The elevation along the ground surface of a site as recorded in topographic mapping at two foot or four-foot contour intervals, on file in the Office of the planning department, or as surveyed and mapped at a contour interval of not more than four feet, by a licensed surveyor.

**GRADE, FINISHED.** The elevation at the top of the ground, walk, or terrace where the ground, walk, or terrace intersects the exterior walls of a structure or the vertical supports of a sign.

**GREENHOUSE OR HORTICULTURAL NURSERY.** An establishment primarily engaged in the retail sale of trees, shrubs, other plants, seeds, bulbs, mulches, soil conditioners, fertilizers, pesticides, and other garden supplies to the general public.

**GREENWAY.** A linear open space along a natural or constructed corridor, which may be used for pedestrian or bicycle passage. Greenways often link areas of activity, such as parks, cultural features, or historic sites with each other and with populated areas.

**GROUND COVER.** Any plant material that reaches an average height of not more than twelve inches.

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**GROUP CARE FACILITY A.** Transitional housing facility for forty (40) or fewer residents, licensed by the State of North Carolina or operated by a nonprofit corporation chartered pursuant NCGS 55A, which provides room and board, personal care and rehabilitation services, not as an alternative to incarceration, while persons receive therapy and/or counseling for one (1) or more of the following purposes:

- Assistance in recuperation from the effects of or in refraining from the use of drugs or alcohol;
- Emergency and temporary shelter for persons in distress such as runaway children and battered individuals;
- Shelter and support for older adults and persons who are handicapped. Accessory uses may include such activities as schooling of residents, occupational training and production of goods and crafts to be sold off-premises.

**GROUP CARE FACILITY B.** Transitional housing facility for forty (40) or fewer residents, licensed by the state of North Carolina or operated by a nonprofit corporation chartered pursuant NCGS 55A, which provides room and board, personal care and rehabilitation services, as an alternative to incarceration. Accessory uses may include such activities as schooling of residents, occupational training.

**GROUP DEVELOPMENT.** A development in which, in-lieu of the division of a tract of land into separate lots for separate principal buildings, a tract of land is divided into 2 or more principal building sites for the purpose of building development (whether immediate or future) and occupancy by separate families, firms, businesses, or other enterprises.

**HANDICAPPED PERSON.** A person with a physical or mental impairment which substantially limits one or more of such person's life activities; a record of having such impairment; or being regarded as having such an impairment. This definition does not include current illegal use of or addiction to a controlled substance. This definition includes children but does not include persons who are dangerous to others as defined by NCGS 122C-3.11(b).

**HAZARDOUS MATERIAL.** Any substance listed as such in the Superfund Amendments and Reauthorization Act (SARA) Section 302, Extremely Hazardous Substances; the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), Hazardous Substances; Section 311 of the Clean Water Act (CWA) (oil and hazardous substances); or any solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may:

- Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
- Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

**HAZARDOUS MATERIALS TREATMENT FACILITY.** A building, structure or use of land devoted, or intended to be devoted, primarily to changing by any method, technique or

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process, including incineration or neutralization, the physical, chemical, or biological character of any hazardous material so as to neutralize such material or render it non-hazardous, safer for transport, amenable for recovery, amenable for storage or reduced in bulk. Such a use may also contain temporary storage facilities normally associated with these operations and of sufficient size to conduct a commercially feasible operation. However, under no circumstances is a hazardous materials treatment facility to be construed to be any of the following:

- A facility which manufactures hazardous materials from component non-hazardous materials;
- A facility or location for the long term or perpetual storage of hazardous materials; or
- A facility for the treatment of hazardous materials which is clearly subordinate, incidental and related to the principal structure, building or use of land and is located on the same lot as the principal structure, building or use.

**HAZARDOUS SUBSTANCE.** Any chemical defined as a physical hazard or a health hazard under standards of North Carolina Administrative Code 7C.0101(a)(105). Physical hazards include, but are not limited to, chemicals, which are combustible, explosive, flammable, and reactive. Health hazards include, but are not limited to, chemical, which are carcinogens, toxins, corrosives, or irritants.

**HAZARDOUS WASTE MANAGEMENT FACILITY.** Any commercial hazardous waste facility which accepts hazardous waste from the general public or from another person for a fee but does not include any facility owned or operated by a generator of hazardous waste solely for its own use. A hazardous waste facility means a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste. This definition includes hazardous materials treatment facilities as defined herein.

**HEIGHT, BUILDING.** The vertical distance measured from the average elevation of the finished grade of all sides of a building, measured at the midpoint of each side, to the topmost elevation of the roof or to the topmost projection of the building above any roof, including parapet walls. Enclosed penthouses or equipment rooms are considered a part of the building and included in the calculation of building height.

**HOME OCCUPATION.** A business, profession, occupation, or trade which is conducted within a residential dwelling for the economic gain or support of a resident of the dwelling, and which is incidental and secondary to the residential use of the building, and regulated by Section 3.4.2.6. of this Ordinance. This definition includes day care homes, This definition includes home occupations that provide the following services: "animal services (no outdoor kennels)", "artists, craftsmen", "personal service uses", "professional offices", and "services, other (no outdoor storage)" and does not include automotive service or "body art" (tattoo and piercing) operations.

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**HOSPITAL.** A facility providing medical, psychiatric, or surgical services for sick or injured persons, including emergency treatment, diagnostic services, training, research, and administration.

**HOTEL.** A building containing more than five (5) individual rooms for the purpose of providing overnight lodging facilities to the general public for compensation, with or without meals, and which has common facilities for reservations and cleaning services, combined utilities, and on-site management and reception services. Hotels may or may not provide onsite parking and access to hotel rooms is generally provided through interior hallways.

**ILLUMINATION, DIRECT.** Illumination from a light source that is contained within a sign, where the light source is internal to the sign.

**ILLUMINATION, INDIRECT.** Illumination from a light source that is not contained within the sign, where the light source is external and projected onto the sign.

**IMPERVIOUS SURFACE COVER.** Any structure or material which significantly reduces or prevents natural absorption of stormwater into the soil. Impervious surface cover includes any built upon area including, but not limited to, buildings or other structures with roofs, sidewalks, driveways, parking lots, streets, and any concrete, stone, brick, asphalt, or gravel surface. For purposes of calculating impervious surface coverage requirements pursuant to the zoning ordinance, wooden slatted decks and the water area of a swimming pool are considered pervious.

**IMPROVEMENT.** Any constructed feature not included under the definition of structure.

**INDUSTRIAL USE.** A land use where goods are produced either from raw materials or the assembly of goods manufactured from raw materials elsewhere. This use also includes the warehousing and distribution of manufactured goods and may include some wholesale of those goods. Retail sales may be conducted on a limited basis as an accessory to manufacturing (i.e. outlet store).

**INFILL DEVELOPMENT.** The construction of a building or buildings on a vacant parcel of than two (2) acres or less located in a predominately built-out area.

**INSTALLED.** The attachment, or assembly fixed in place, whether or not connected to a power source, of any outdoor light fixture.

**INSTITUTIONAL USE.** A land use which serves the community's social educational, health, and cultural needs, typically through a government entity or non-profit organization.

**JAIL.** A building, and all accessory uses and structures, used to confine, house, and supervise persons who are serving terms of imprisonment for violations of criminal laws or who are awaiting trial for alleged violations of criminal laws, but not including temporary holding facilities that are accessory to a police station and not including any housing or

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other facilities for persons who are participating in work-release programs or who have previously served and completed terms of imprisonment for violations of criminal laws.

**JUNKYARD, SALVAGE YARDS, AND RECYCLING OPERATIONS.** The use any lot for the storage, keeping, or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles, machinery or parts thereof regardless of whether such material is for sale or recycling.

**KENNEL, INDOOR.** A use within a fully-enclosed structure intended and used for the breeding or accommodation of small domestic animals for sale and/or for the training or overnight boarding of animals for persons other than the owner of the lot. This definition shall not include a veterinary clinic in which the overnight boarding of animals is necessary for or accessory to the testing and medical treatment of the physical disorders of animals.

**KENNEL, OUTDOOR.** A use outside of a fully-enclosed structure intended and used for the breeding or accommodation of small domestic animals for sale and/or for the training or overnight boarding of animals for persons other than the owner of the lot.

**LAND CLEARING AND INERT DEBRIS (LCID) LANDFILL.** A landfill limited to concrete, brick, concrete block, uncontaminated soil, rock, gravel, untreated wood, limbs, leaves and stumps. LCID does not include materials that have been painted or coated with sealants or finishes.

**LAND DISTURBING ACTIVITY.** Any movement of earth or substrate, manually or mechanically, including but not limited to any modification of existing grade by dredging, demolition, excavation or rill., grading, scraping, vegetation removal, landscaping, coring, well drilling, pile driving, undergrounding utility lines, trenching, bulldozing, sheeting, shoring and excavation for laying or removing foundations, pilings or other purposes.

**LANDFILL, CONSTRUCTION AND DEMOLITION.** A landfill which accepts construction or demolition debris or waste including solid waste from construction, remodeling, repair or demolition operations on pavement, buildings, or other structures.

**LAND CLEARING AND INERT DEBRIS (LCID) LANDFILL.** A landfill limited to concrete, brick, concrete block, uncontaminated soil, rock, gravel, untreated wood, limbs, leaves and stumps. LCID does not include materials that have been painted or coated with sealants or finishes.

**LAND DISTURBING ACTIVITY.** Any movement of earth or substrate, manually or mechanically, including but not limited to any modification of existing grade by dredging, demolition, excavation or rill., grading, scraping, vegetation removal, landscaping, coring, well drilling, pile driving, undergrounding utility lines, trenching, bulldozing, sheeting, shoring and excavation for laying or removing foundations, pilings or other purposes.

**LANDOWNER OR OWNER.** The holder of the title in fee simple. Absent evidence to the contrary, a local government may rely on the county tax records to determine who is a

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landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or representative for the purpose of making applications for development approval.

**LANDOWNER AS APPLIED TO THE STANDARDS RELATED TO VESTED RIGHT.**

An owner of a legal equitable interest in real property, including the heirs, devisees, successors, assigns, and personal representative of the owner.

**LANDFILL, SANITARY.** A facility for the disposal of all types of solid wastes, excluding hazardous wastes or toxic substances.

**LANDSCAPING.** The installation and maintenance of trees, shrubs, plant materials, and/or ground cover, including grass, mulch, decorative stone and similar materials, but excluding bare soil, uncultivated vegetation, impervious pavement materials, and gravel.

**LARGE TREE.** A tree whose height is greater than thirty-five feet at maturity and meets the specification of the American Standards for Nursery Stock published by the American Association of Nurserymen.

**LANDSCAPE ARCHITECT.** A person licensed to practice landscape architecture in the State of North Carolina.

**LEGISLATIVE DECISION.** The adoption, amendment, or repeal of a regulation under Chapter 160D of the NC General Statutes or an applicable local act. It also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Article 10 of NC GS 160D.

**LIBRARY, PUBLIC.** A publicly operated facility housing a collection of books, magazines, audio and video tapes, or other material for use by the general public.

**LIGHT TRESPASS.** Light falling where it is not wanted or needed, typically across property boundaries.

**LINEAR FRONTAGE.** The length of a property abutting a public right-of-way from one side lot line to another.

**LINTEL.** A beam supporting the weight above a door or window opening.

**LIVESTOCK.** Domesticated four-legged mammals including but not limited to cows, horses, sheep, goats, llamas, swine, rabbits and similar animals. Small livestock are 15 pounds or less. Large livestock are greater than 15 pounds.

**LIVESTOCK SALES AND AUCTIONS.** A commercial establishment where livestock are collected for sale or auction.

**LOGO.** A business trademark or symbol.

**LOT.** A parcel of land or any combination of several parcels of land occupied or intended to be occupied by a principal use or structure, together with any accessory structures or

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uses and such accessways, parking area, yards, and open spaces required in these regulations.

**LOT, ADJACENT.** See "Adjacent Property."

**LOT, CORNER.** A lot located at the intersection of two or more streets or abutting a curved street or streets in such a way that the front building line meets either side lot line at an interior angle of less than one hundred thirty-five degrees.

**LOT COVERAGE.** That portion of the lot area expressed as a percent that is covered by impervious surface cover.

#### **LOT TYPES**

*Lot, Corner.* A lot located at the intersection of two (2) or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lines to the lot meet at an interior angle of less than 135o.

*Lot, Double Frontage or Through.* A lot having frontage and access on two or more public streets. A corner lot shall not be considered as having double frontage unless it has frontage and access on three or more streets.

*Lot, Flag.* An irregularly shaped lot where the building portion of the lot is connected to its street frontage by an arm or pole of the lot. The pole portion does not meet the minimum lot width of the district, but the building portion of the lot does.

*Lot, Interior.* A lot other than a corner lot with frontage on only one (1) street.

**LOT LINE.** A line or series of connected line segments bounding a lot.

**LOT LINE, FRONT.** In the case of an interior lot, the lot line separating said lot from the street. In the case of a corner lot or through lot, the lot line separating said lot from the street that is designated as the fronting primary street in the request for a permit.

**LOT LINE, INTERIOR.** A side lot line, which separates one lot from another lot.

**LOT LINE, REAR.** That lot line which is opposite and most distant from the front lot line, except in the case of a triangular lot. For triangular lots, a line 10 feet in length, entirely within the lot, parallel to, and at the maximum distance from the front lot line, or a chord thereof if the front lot line is curved, shall be considered as the rear lot line for purposes of determining the required rear yard. In cases where neither of these conditions is applicable, the Administrator shall designate the rear lot line.

**LOT LINE, SIDE CORNER.** A lot line other than a front or rear lot line that abuts a secondary street right-of-way.

**LOT LINE, SIDE INTERIOR.** A lot line other than a front or rear lot line that does not abut a street right-of-way.



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**LOT OF RECORD.** A lot described by plat or by metes and bounds which has been recorded in the office of the Yadkin County Register of Deeds.

**LOT WIDTH.** The horizontal distance between the side lot lines at the building setback line as measured along a straight line parallel to the front lot line or parallel to the chord thereof.

**LOT, ZONING.** A parcel or contiguous parcels of land which is indicated by the owner at the time of application for a building or zoning permit as being that land which is proposed for development under a single development plan.

**MAJOR SPECIAL USE PERMIT.** An approval issued by the Board of Commissioners for a land use at a specific location subject to the requirements of NC GS 160D 705(c) and Section 2.2.5 of this Ordinance. Major Special Use Permit uses are those that are likely to have a greater size, impact, or relationship to the overall health, safety, and general welfare of the community than Minor Special Use Permit uses.

**MINOR SPECIAL USE PERMIT.** An approval issued by the Board of Adjustment for a land use at a specific location subject to the requirements of NC GS 160D-705(c), and Section 2.2.5 of this Ordinance. Minor Special Use Permit uses are those uses that are likely to have a more limited size, impact, or relationship to the overall health, safety, and general welfare of the community than Major Special Use Permit uses.

**MAINTAINED EASEMENT.** A recorded right-of-way made of crushed gravel, pavement, or graded and cleared of brush, so as to permit access by vehicles.

**MANUFACTURED HOME.** A dwelling unit that: a) is not constructed in accordance with the standards of the North Carolina State Building Code for one and two family dwellings; b) is composed of one (1) or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis; c) meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction.

**MANUFACTURED HOME PARK.** A lot of record containing two (2) or more spaces leased or intended for occupancy by manufactured homes used as residential dwellings regardless of whether such homes are provided as part of the lease and including all uses accessory to the residential use. This definition shall not include manufactured home sales lots on which unoccupied manufactured homes are parked for the purpose of inspection and sale.

**MANUFACTURED HOME SPACE.** The land in a manufactured home park allotted to or designated for the accommodation of one manufactured home.

**MANUFACTURING, TYPE A.** A manufacturing establishment primarily engaged in the fabrication or assembly of products from pre-structured materials or components. Because of the nature of its operations and products, Manufacturing(A) produces little or

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no noise, odor, vibration, glare, and/or air and water pollution, and, therefore, has minimal impact on surrounding properties. Examples include assembly of premanufactured components, furniture assembly, apparel manufacturing (from premanufactured textiles), and commercial printing.

**MANUFACTURING, TYPE B.** A manufacturing establishment whose operations, including storage of materials, processing, fabrication or assembly of products; and loading and unloading of new materials and finished products at loading docks for an enclosed building, and which does not produce or utilize in large quantities as an integral part of the manufacturing process toxic, hazardous, or explosive materials. Noise, odor, dust, or vibration from the manufacturing process may result in only minor impacts on adjacent properties. Examples include:

- Food manufacturing (NAICS codes beginning with 311);
- Beverage manufacturing (NAICS codes beginning with 3121);
- Textile manufacturing (NAICS codes beginning with 313 and 314);
- Fabricated metal product manufacturing (excluding forging) (NAICS codes beginning with 332);
- Machinery manufacturing (NAICS codes beginning with 333);
- Computer, medical equipment, instrument, and telecommunications component assembly (excluding those that involve hazardous materials) (NAICS codes beginning with 334);
- Electrical Equipment, Appliance, and Component Manufacturing (NAICS codes beginning with 335);
- Transportation equipment manufacturing (NAICS codes beginning with 336);
- Furniture and related product manufacturing (NAICS codes beginning with 337).
- Miscellaneous manufacturing (NAICS codes beginning with 339).

**MANUFACTURING, TYPE C.** A manufacturing establishment whose operations, including storage of materials, processing, fabrication or assembly of products; and loading and unloading of new materials and finished products may occur either inside an enclosed building or outside on the premises. Toxic, hazardous, or explosive materials may be produced or used in large quantities as an integral part of the manufacturing process. Noise, odor, dust, vibration, or visual impacts, as well as potential public health problems in the event of an accident, could impact adjacent properties. Examples include:

- Manufacturing from raw materials;
- Tobacco manufacturing (NAICS codes beginning with 3121);
- Leather and allied product manufacturing (NAICS codes beginning with 316);
- Wood product manufacturing (NAICS codes beginning with 321);
- Paper manufacturing (NAICS codes beginning with 322);

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- Petroleum and coal products manufacturing (324);
- Chemical or pharmaceutical manufacturing (NAICS codes beginning with 325);
- Plastics and rubber manufacturing (NAICS codes beginning with 326);
- Nonmetallic mineral product manufacturing (excluding artisans and craftsmen creating glass or clay products for sale) (NAICS codes beginning with 327);
- Primary metal manufacturing (NAICS codes beginning with 331).

**MASSAGE AND BODY WORK THERAPY.** Any massage or body work therapy as defined by the North Carolina Massage and Bodywork Therapy Practice Act, G.S. 90-621 et seq., provided by a person licensed as provided therein to perform such therapy.

**MASSING.** The shape and form a building or assemblage of buildings assumes through architectural design.

**MEAN SEA LEVEL.** The National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on the flood insurance rate maps for Yadkin County are referenced.

**MEDICAL OFFICES.** An establishment primarily engaged in furnishing medical and surgical services to individuals and licensed for such practice by the state. This definition includes physicians, dentists, chiropractors, opticians, ophthalmologists, psychiatrists, psychologists, and other health practitioners.

**MICRO-BREWERY/MICRO-DISTILLERY/MICRO-WINERY.** A facility in which beer, wine, or other alcoholic beverages are brewed, fermented, or distilled for distribution and consumption, and which possesses the appropriate license from the State of North Carolina Alcoholic Beverage Control Commission, meeting all of the standards of NCGS 18B, and associated tasting rooms, brewpubs, restaurants, and food trucks for the consumption of on-site produced beer, wine, or distilled products are permitted on the premises. Micro-breweries shall not exceed production of 25,000 barrels as defined by NCGS 81A-9. A micro-distillery produces less than 50,000 proof gallons of spirits per year according to the American Distilling Institute. Micro-wineries primarily source fruit from local farms but do not farm fruit on site and do not exceed the equivalent of 50,000 gallons. Any beverage production facility that exceeds the production thresholds established in this definition shall be classified as beverage manufacturing and fall under the definition of "Manufacturing B".

**MINING AND QUARRYING OPERATION.** An operation for the dredging, digging, extraction, mining, or quarrying of stone, sand, gravel, or minerals for commercial purposes.

**MIXED-USE BUILDING.** The combination of both commercial and residential uses within a single building of two (2) or more stories.

**MIXED-USE DEVELOPMENT.** A planned development where two (2) or more use categories (commercial, residential, industrial, institutional, etc.) are incorporated on a

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single development site. Such uses are functionally integrated and share vehicular use areas, ingress/egress, and pedestrian access.

**MOBILE HOME.** See "Manufactured Home."

**MOBILE HOME PARK.** See "Manufactured Home Park."

**MODULAR HOME.** A dwelling unit which is constructed in compliance with the North Carolina State Building Code and composed of components substantially assembled in an off-site manufacturing plant and transported to the building site for final assembly on a permanent foundation or other acceptable means established by the North Carolina State Building Code.

**MOTEL.** A building containing more than four individual rooms for the purpose of providing overnight lodging facilities to the general public for compensation, with or without meals, and which has common facilities for reservations and cleaning services, combined utilities, and on-site management and reception services. Motels provide on-site parking and access to most rooms is provided directly from a parking area.

**MOTOR VEHICLE.** Any vehicle which is self-propelled, and every vehicle designated to run upon the highways which is pulled by a self-propelled vehicle. For purposes of this definition, the term motor vehicle shall not include vehicles or implements used in farming or construction but shall include all forms of motorized watercraft.

**MOTOR VEHICLE STORAGE YARD.** An outdoor area for the storage of more than one (1) wrecked, damaged, or inoperative motor vehicle awaiting insurance adjustment, major body work, or other repair, or other disposition. This definition does not include motor vehicle parts (used), waste materials, recyclable material, merchant wholesalers, automotive parts and accessories stores, or tire dealers.

**MOTION PICTURE PRODUCTION.** A business or organization that primarily engages in the filming of motion pictures or movies.

**MULTIPLE LOT DEVELOPMENT.** A development containing 2 or more lots, and 2 or more businesses that is planned, organized, and managed to function as a single development or single zone lot for the purposes of development standards.

**MULTIFAMILY.** See "Dwelling, Multifamily."

**MURAL.** A mural is a hand-painted visual image on the exterior wall of a building that is a one-of-a-kind piece of original artwork, and that does not contain text, lettering, or trademarked symbols. A mural shall not be considered a sign for the purposes of this Ordinance.

**MUSEUM OR ART GALLERY.** A structure used for the display and preservation of paintings, sculpture, and other constructed or natural objects illustrating human or natural history.

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**NATURAL GAS DISTRIBUTION LINES AND RELATED APPURTENANCES.** Utility lines and related structures that direct natural gas to individual sites.

**NATURAL OBSTRUCTION.** Any rock, tree, gravel, or similar natural matter which is an obstruction and has been located within the floodway by a nonhuman cause.

**NET ACREAGE.** The remaining area after deleting all portions for proposed and existing streets within a development parcel or subdivision. For parcels including recreational facilities and outdoor display lots, the area devoted to the special use shall also be excluded from the net acreage.

**NONCONFORMING LOT.** A lot of record that was lawful at the date on which it was established, but does not conform to the current dimensional standards of the zoning district in which it is located.

**NONCONFORMING STRUCTURE.** A structure that was lawful at the date on which it was established, but does not conform to current dimensional standards, elevation, location, or other requirements of this Ordinance.

**NONCONFORMING USE.** A use which was lawful at the date on which it was established but is now not a permitted use of that parcel or structure under this Ordinance.

**NONCONFORMITY.** Any land use, development, structure, or site, including any lot of record, that was legally established, but that is not presently in full compliance with the provisions of this Ordinance.

**NONRESIDENTIAL DEVELOPMENT.** All development other than residential development, agriculture and silviculture.

**NURSING AND ASSISTED LIVING FACILITIES.** A licensed facility which provides housing, part-time medical care, shared food preparation and dining areas, and recreational facilities to meet the needs of elderly, handicapped, or ill persons. This use shall not serve primarily as an alternative to incarceration, shall not include individuals who are dangerous to others, as defined in North Carolina General Statute 122C-3(11)b, and shall not include persons living together as a fraternal, sororal, social, honorary, or professional organization, "Family Care Homes", or "Group Care Facilities" (A or B).

**OFF-STREET PARKING.** Parking which occurs on a lot and not on a street or other public right-of-way.

**OFFICE USE.** A land use in which business or professional services are conducted or rendered within an enclosed structure.

**OFFICIAL ZONING MAP.** The Official Zoning Map upon which the boundaries of various zoning districts are drawn, and which is an integral part of this Ordinance.

**OPEN SPACE.** Land used for recreation, natural resource protection, amenities, protection of important rural and Town vistas and/or buffer yards. Open space may

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include nature preserves, greenways, greenbelts, agricultural preserves, recreational uses, squares, greens, parks, and playgrounds in accordance with the requirements of Section 4.3.4.

**OPEN SPACE, COMMON.** Open space within a development not in individually owned lots, which is designated and intended for the common use or enjoyment of the residents of the development or the public at large.

**OUTDOOR DISPLAY.** An area for displaying large items on a regular basis that are for sale or rent outside of a fully enclosed building, typically in an area accessible by the public. Large items include storage buildings and equipment.

**OUTDOOR LIGHTING.** Any light source that is installed or mounted outside of an enclosed building, but not including streetlights installed or maintained along public or private streets.

**OUTDOOR STORAGE.** Any area which contains outdoor storage of bulk materials and/or parts, or areas regularly used for outdoor repair areas or service stations but excluding temporary construction and related activities and closed bay docks.

**OUTPARCEL.** A subdivided or leased parcel within a group development, multiple-lot development, or shopping center.

**OWNER.** Any full or part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety with legal title to the whole or to part of a structure or parcel of land.

**OWNERS' ASSOCIATION.** An organization of homeowners or property owners of lots or land in a particular subdivision, condominium, or planned development. The owners association is responsible for maintaining and enhancing the shared private infrastructure (e.g., stormwater, streets, and sidewalks) and common elements recreation.

**PACKAGE SEWER TREATMENT PLANT.** A pre-fabricated set of devices used in the storage, treatment and ultimate discharge or reclamation of sanitary sewer or industrial wastes of a liquid nature.

**PARAPET WALL.** A building wall which extends to or above a flat roofed platform or building roof.

**PARCEL.** See "Lot."

**PARK (PUBLIC).** Any land owned by the public and open for use by the general public for active or passive recreational purposes or as a refuge for wildlife.

**PARKING, LOT OR DECK.** A principal or accessory use of a zoning lot with or without a parking structure for use as a place for the temporary or long-term parking of motor vehicles.

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**PARKING, SHARED.** Off-street parking facilities shared by 2 or more uses that are in close proximity to one another and the parking area, and that have different operational characteristics such that use of the parking facilities by one use will not generally overlap with the use of the parking area by the other uses(s).

**PARKING SPACE, OFF-SITE.** An off-street parking area provided on a different parcel than the use it is intended to serve.

**PAWN SHOP.** An establishment at which a pawnbroker, as defined in NCGS § 91A-2, regularly conducts business.

**PEDESTRIAN-ORIENTED DEVELOPMENT.** Any development type which accommodates the needs of the pedestrian. Such development will have parking to the side or rear of a building, will mix uses and provide them in proximity to one another, will allow the pedestrian the option of accomplishing certain trips without automobile use, and will provide a variety of interesting and detailed streetscapes which equally balance the need of the pedestrian and car.

**PERSON.** Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, or public private institution, utility, cooperative, interstate body, or other legal entity.

**PERSONAL SERVICES.** An establishment primarily engaged in providing a service(s) to individuals such as a beauty and/or barber shop, massage therapy, aesthetician, nail salon, or similar uses, but shall not include any use which may be defined as adult entertainment.

**PERVIOUS SURFACE COVER.** A surface cover that presents an opportunity for precipitation to infiltrate into the ground.

**PLAN, PLOT.** A drawing submitted for review with a Zoning Permit application for the construction of a single-family or two-family dwelling.

**PLAN, SITE.** A drawing or set of drawings submitted for review for the development of multi-family residential or non-residential development.

**PLAN, SKETCH.** A preliminary drawing preceding a site plan to facilitate discussion between a developer and Development and Design Services Department staff.

**PLANNED DEVELOPMENT.** A shopping center, commercial subdivision, business park, mixed use development, or similar development that is developed in accordance with a site-specific development plan and contains unifying characteristics such as site design, building design, and/or sign design.

**PLANTING YARD.** Area where required plantings are located.

**PLAT.** A surveyed map or plan of a parcel of land which is to be or has been subdivided or otherwise recombined or reconfigured.

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**PLAT, FINAL.** A drawing depicting surveyed lots that is recorded at the Register of Deeds to subdivide a property.

**PLAT, PRELIMINARY.** A major subdivision plan that depicts the number of lots, open space, location of streets, and utilities for a proposed development. A preliminary plat is followed by one or more final plats once improvements (roads, utilities) have been installed or bonded.

**POST OFFICE.** A facility or structure used for the collection, sorting, and distribution of mail within several zip code areas, having retail services for the general public, such as stamps, postcards, or postal insurance.

**POSTAL KIOSK OR CLUSTER MAILBOX.** A facility that has distribution boxes (cluster boxes) and collection services for the general public; no mail carriers or retail services; and, is located in a neighborhood where most of the users are within walking distance of the facility, or live in the neighborhood.

**POWER GENERATION/PRODUCTION FACILITIES.** Facilities involved in the production and generation of electricity by, but not exclusive to, fossil fuels, wind, water or sun.

**POWER GENERATION/PRODUCTION, SOLAR (INDIVIDUAL USE).** Any means by which electricity is generated from the sun and the use of photovoltaic cells for use by an individual property and does not generate electricity for other users.

**POWER GENERATION/PRODUCTION, SOLAR (FARM).** Any means by which electricity is generated from the sun and the use of photovoltaic cells for sale to other users not located on the property.

**POWER GENERATION/PRODUCTION, WIND (INDIVIDUAL USE).** Any means by which electricity is generated by wind turbines for use by an individual property and does not generate electricity for other users.

**POWER GENERATION/PRODUCTION, WIND (FARM).** Any means by which power is generated and produced by wind turbines for sale to other users not located on the property.

**PREMISES.** See "Lot."

**PRINCIPAL BUILDING OR STRUCTURE.** A building or structure in which is conducted the principal(s) of the lot on which it is located or, in a group development, of the building site on which it is located. Any dwelling is considered a principal building unless it is an accessory dwelling.

**PRINCIPAL DWELLING.** Any principal building or structure which is used and designed for human habitation including living, sleeping, cooking, and eating activities, excluding dormitories, hotels, motels, shelters for the homeless, or other structures designed for transient residents.



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**PRINCIPAL USE.** The primary purpose or function that a lot or parcel serves.

**PRIVATE DRIVE.** A vehicular travelway that is not a public street or a private street that provides access to a parking lot(s) or a principal building(s).

**PRIVATE STREET.** A vehicular travelway not dedicated or offered for dedication as a public street but resembling a local street by carrying traffic from a series of driveways to the public street system.

**PRODUCE STAND (PERMANENT).** Seasonal sale of farm products raised on the premises where products are sold only as an accessory to an agricultural use. Stands are structures that do not meet North Carolina Building Standards.

**PRODUCE STAND (TEMPORARY).** A temporary open-air stand or place for the seasonal selling of agricultural produce. A temporary produce stand is portable and capable of being dismantled or removed from the sales site. Stands are structures that do not meet North Carolina Building Standards.

**PROFESSIONAL OFFICES.** An establishment primarily engaged in providing professional services. This definition includes, but is not limited to, newspaper, periodical, book, and database publishers; software publishers; securities and commodity contracts intermediation and brokerage; insurance carriers; agencies, brokerages, and other insurance related activities; real estate agents and brokers; legal services; accounting, tax preparation, bookkeeping, and payroll services; architectural, engineering and related services; computer system design and related services; management, scientific and technical consulting services; advertising and related services (except display advertising); management of companies and enterprises; and travel arrangement and reservation services.

**PROJECT AREA.** Any area of land and/or water, regardless of the number of individual parcels contained therein, on which development is proposed. See "Development."

**PROPERTY OWNER.** See "Landowner."

**PROPOSED RIGHT-OF-WAY LINE.** The margin of a thoroughfare's right-of-way at its ultimate intended width, determined by the adopted Comprehensive Transportation Plan.

**PUBLIC.** Under the control or responsibility of a governmental entity on behalf of the general population, rather than individual or private control.

**PUBLIC INFRASTRUCTURE.** Aspects of the public realm owned and maintained by the Town or the State that serve the public at large, including streets, highways, sidewalks, curb and gutter, potable water distribution systems, sanitary sewer systems, stormwater drainage retention and conveyance features, street lights, on-site street parking spaces, and similar aspects located within a public right-of-way or public easement.

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**PUBLIC STREET.** A dedicated and accepted public right-of-way for vehicular traffic and street rights-of-way offered for dedication, but not yet accepted, in which the roadway design and construction have been approved under public standards for vehicular traffic.

**PUBLIC WORKS FACILITY.** All production, storage, transmission, and recovery facilities for water, sewerage, telephone, and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the N.C. Utilities Commission. This definition does not include pump stations, lift stations, water towers, utility substations or similar appurtenances.

**QUALIFIED PROFESSIONAL.** A professional licensed and/or registered in the State of North Carolina performing services only in their areas of competence. This term shall include only registered land surveyors, registered engineers, registered architects, and registered landscape architects.

**QUASI-JUDICIAL DECISION.** A decision involving the finding of facts regarding a specific application of development regulation and that requires the exercise of discretion when applying the standards of the regulation. Quasi-judicial decisions include but are not limited to decisions involving variance, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the finding to be made by the decision-making board.

**REDEVELOPMENT.** The renovation and reuse or demolition and reconstruction of a building or a portion of a building.

**REAR LOT LINE.** See "Lot Line, Rear."

**REAR YARD.** See "Yard, Rear."

**RECREATIONAL FACILITY ASSOCIATED WITH A RESIDENTIAL DEVELOPMENT.** An area or facility designed to meet the demand for active recreation, including play fields, ball diamonds, parks with picnic and playground equipment, golf courses, tennis courts, swimming pools, tot lots and similar uses, available to the residents of the development in which it is located.

**RECREATION FACILITIES, INDOOR.** Establishments engaged in providing indoor recreation services. Such may include public or private health or exercise clubs, gymnasiums, spectator sports facilities, tennis or other racquet courts, swimming pools, YMCA's, YWCA's, bowling alleys, skating rinks, or similar uses which are enclosed in buildings and are operated on a fee or membership basis primarily for the use of persons who do not reside on the same lot as that on which the recreational use is located. Indoor recreation structures may include accessory uses, such as snack bars, pro shops, and

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locker rooms, which are designed and intended primarily for the use of patrons of the principal recreational use.

**RECREATION FACILITIES, OUTDOOR.** Establishments engaged in providing outdoor recreation services such as golf courses, driving ranges, miniature golf, skateboard parks, waterslides, batting cages, and outdoor spectator sports that are located outside of a public park which are not enclosed in buildings and are operated primarily for the use of persons who do not reside on the same lot as that on which the recreational use is located. Outdoor recreation shall include, but are not limited to, any accessory uses, such as snack bars, pro shops, and field houses which are designed and intended primarily for the use of patrons of the principal recreational use. (ZTA-2019-04 Amended Oct. 10, 2019)

**RECREATION USE.** A public or private, indoor or outdoor land use that provides leisure activities. This includes parks, campgrounds, pools, tennis courts, golf courses, gymnasium facilities, athletic facilities, sports facilities, volleyball courts and similar uses.

**RECREATIONAL VEHICLE (RV).** A vehicle that is built on a single chassis, designed to be self-propelled or permanently towable by a light duty vehicle (including a travel trailer), and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**RECYCLING CENTER.** A facility at which recovered resources, such as newspapers, glassware, and metal and aluminum cans, are collected, stored, flattened, crushed, or bundled within a completely enclosed building. This use does not include motor vehicle parts, used merchant wholesalers, NAICS group 423140, which is listed as a separate use.

**RELIGIOUS INSTITUTION.** A facility of a church, temple, synagogue, or other non-profit religious organization operated for worship and which may include religious training or study.

**RESEARCH FACILITY.** An establishment primarily engaged in commercial research and providing testing services such as calibration and certification of instruments, food testing services, forensic laboratories, medical laboratories, metallurgical testing, and industrial X-ray inspection services, etc.

**RESIDENCE, PERMANENT.** A domicile for which the address is used for the occupant's tax returns, passports, voter registration, driver's license, vehicle registrations, insurance policies, personal accounts, and billing. A permanent residence is occupied by the owner for the majority of the year or by a tenant with a lease of 90 days or greater. See North Carolina Administrative Code 17 NCAC 06B.3901.

**RESIDENCE, SECONDARY.** A residence that is occupied by the owner for less than the majority of a year, but is not used for tourist home or vacation rental purposes.

**RESIDENTIAL BUILDING.** A building which contains one (1) or more dwelling units.

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**RESIDENTIAL USE.** A land use which has dwelling units in which people reside outside of an institutional facility. This includes single-family, two-family (duplex), multi-family, and townhome residential units.

**RESTAURANT (WITH DRIVE-THROUGH SERVICE).** An establishment which delivers prepared food and/or beverages to customers in motor vehicles, regardless of whether or not it also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption either on or off the premises.

**RESTAURANT (WITHOUT DRIVE-THROUGH SERVICE).** An establishment, which serves prepared food and beverages primarily to customers seated at tables or counters located within the building or designated outdoor seating areas. This includes cafes, tea rooms, and outdoor cafes.

**RETAIL USE.** Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

**RETAIL, OUTSIDE FULLY ENCLOSED BUILDING.** An establishment that sells or rents large items which require outdoor display including manufactured homes, storage buildings, heavy equipment, and similar items.

**RIGHT-OF-WAY.** An area dedicated to public or private use for pedestrian and vehicular movement, which may also accommodate public utilities.

**ROOF LINE.** The highest point of a flat roof, and the lowest point of a pitched roof, excluding any minor projections or ornamentation.

**ROOF PITCH.** A comparison of the vertical rise to the horizontal run of a roof structure above a building.

**ROOT PROTECTION ZONE.** Generally, eighteen to twenty-four inches deep at a distance from the trunk equal to one-half of its height or to its drip line, whichever is greater.

**SATELLITE DISH.** A type of receive-only antenna, which is dish-shaped and is used to receive satellite signals, primarily television transmissions.

**SENSITIVE AREA.** An area not suitable for development which includes the occupancy of animal and plant habitats that are rare and valuable due to their special role in an ecosystem, which could be disturbed by human activities and development. These areas are known to include wetlands, floodplains, and geologically hazardous sites.

**SERVICE ROAD.** A local street or road that is parallel to a full or partial access-controlled facility and functions to provide access to adjacent land.

**SEWAGE COLLECTION LINES, PUMP STATIONS, AND APPURTENANCES.** Utilities that collect and direct sewage/wastewater to sewage treatment plants.

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**SEWAGE TREATMENT PLANTS.** Facilities involved in the process of removing contaminants from wastewater and household sewage.

**SCHOOL, ELEMENTARY AND SECONDARY.** A public or private school providing instruction to students in kindergarten through twelfth grade.

**SCHOOL, INSTRUCTIONAL.** Private institutions for instruction in activities including but not limited to dance, visual art, performing arts, music, martial arts, sports, sewing, and similar activities.

**SCHOOL, PRIVATE.** A structure used primarily by and for any two (2) or more age or grade levels not operated by the public-school system but registered with the North Carolina Department of Public Instruction. Any school for children age six or under not meeting these requirements shall be considered a day care facility for purposes of this ordinance.

**SCHOOL, PUBLIC.** A structure used primarily by and for any two (2) or more age or grade levels in grades kindergarten through twelve and operated by the public-school system or approved by the North Carolina Department of Public Instruction as meeting the requirements of state law. Any school for children age six or under not meeting these requirements shall be considered a day care facility for purposes of this ordinance.

**SCHOOL, TRADE AND VOCATIONAL.** A use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college or university, elementary school, secondary school, or instructional school.

**SCREENING.** A fence, wall, hedge, landscaping, buffer area or any combination of these provided to visually shield or obscure one abutting or nearby structure or use from another.

**SERVICES, OTHER.** An establishment primarily engaged in providing a service(s) to businesses and individuals that are not otherwise listed in the Permitted Uses Table. All equipment and goods are stored inside a fully-enclosed building, unless outdoor storage is permitted in the zoning district in which the use is located. This definition includes office support services, services to buildings and dwellings, machinery and equipment (except automotive) repair and maintenance, personal and household goods repair and maintenance, construction and construction related contractors, public utility and transportation construction contractors, all other special trade contractors.

**SERVICE USE.** A land use in which services are provided including, but not limited to, professional services, repair services, construction services, lodging services, and medical services.

**SETBACK.** The minimum required horizontal distance between a structure and the lot line or street centerline.

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**SETBACK, ESTABLISHED.** The setback established by existing structures along a block front.

**SETBACK, REQUIRED.** The minimum setback required by this ordinance.

**SHADE TREE.** Usually a deciduous tree, rarely an evergreen, planted primarily for its high crown of foliage or overhead canopy.

**SHOOTING RANGE, INDOOR.** The use of a completely enclosed structure for archery and/or the discharging of firearms for the purposes of target practice or temporary competitions.

**SHOOTING RANGE, OUTDOOR.** The use of land for archery and/or the discharging of firearms for the purposes of target practice or temporary competitions.

**SHOPPING CENTER.** A building or group of buildings with two (2) or more uses, either connected or freestanding, which is designed with common parking, pedestrian movement, ingress and egress, and used for the sale of merchandise or services to the public. Shopping centers shall be construed to include all out-parcels, whether or not developed, and shall permit any permitted within the zoning district in which it is located except for those uses that require outdoor storage.

**SHRUB.** A woody, branching plant of relatively low height.

**SIGHT DISTANCE TRIANGLE.** The triangular area formed by the point of intersection of two street right-of-way lines and a point located along each right-of-way line a distance away from the intersection that varies based on the width of the intersecting rights-of-way.

**SIGN.** An object, device, display, or structure, or part thereof, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including but not limited to words, letters, pennants, banners, emblems, trademarks, trade names, insignias, numerals, figures, design, symbols, fixtures, colors, illumination, or projected images or any other attention directing device.

**SIGN AREA.** The entire area of a sign within a parallelogram, triangle, circle, semi-circle or other regular geometric figure, including all of the elements of the display, but not including blank masking (a plain strip, bearing no advertising matter around the edge of a sign), frames, display of identification or licensing officially required by any governmental body, or structural elements outside the sign surface and bearing no advertising matter.

**SIGN FACE.** That part of the sign that is or can be used to identify, advertise, or communicate information or that is used to attract the attention of the public for any purpose. This definition includes any frame, structural member, or other part of the sign when such is designed or used, including the use of color or lighting, to attract the attention of the public.

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**SIGN HEIGHT.** The distance from the base of the sign at normal grade to the top of the highest attached component of the sign.

**SIGN STRUCTURE.** The frame supporting a freestanding sign, wall sign, projecting sign, suspended sign, portable sign, marquee sign, or roof sign and poles or supports used to elevate or support the frame.

**SIGN TYPES.** See Article 6 for descriptions of all sign types.

**SIGNIFICANT TREE.** Any tree other than a pine tree with a caliper of 18 inches or more.

**SITE PLAN.** A scaled drawing and supporting test showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include, but is not limited to, site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities, that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A site plan approval based solely upon application of objective standards is an administrative decision and a site plan approval based in whole or in part upon the application of standards involving judgment and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision.

**SMALL TREE.** A tree whose height is less than thirty-five feet at maturity and meets the specifications of American Standards for Nursery Stock published by the American Association of Nurserymen.

**SOCIAL, FRATERNAL, AND PHILANTHROPIC CLUB OR LODGES (NON-PROFIT) .** A building or land used for the activities of a non-profit private club or social organization and not adjacent to, operated as, or in connection with a public tavern, cafe, or other place open to the public.

**SOLID WASTE.** Any hazardous or non-hazardous garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, institutional, commercial, agricultural, and land clearing operations. This term does not include fowl and animal fecal waste; solid or dissolved material including domestic sewage, and sludge generated by the treatment thereof, in sanitary sewage disposal systems which have a design capacity of more than 3,000 gallons or which discharge effluents to the surface waters, irrigation return flows; or wastewater discharges, and the sludge incidental thereto and generated by the treatment thereof, which are point sources subject to permits granted under Section 402 of the Federal Water Pollution Control Act, as amended (33 U.S.C. Sec. 1251 et seq.) and permits granted under NCGS 143-215.1 by the Environmental Management Commission; oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the North Carolina General Statutes; any radioactive material as defined by the North Carolina Radiation Protection Act (NCGS 104E-1 through 104E-23); or mining refuse covered by

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the North Carolina Mining Act (NCGS 74-46 through 74-68), and regulated by the North Carolina Mining Commission (as defined under NCGS 143B-290).

**SPECIMEN TREE.** A specimen tree is a tree (or group of trees) that may be considered important community assets due to their unique or noteworthy characteristics or values. A tree may be considered a specimen tree based on its size, age, rarity or special historical or ecological significance and may also meet the following criteria:

- Large hardwoods (e.g., oaks, poplars, maples, etc.) and softwoods (e.g., pines sp.) in good or better condition with a DBH of twenty-four inches or greater.
- Smaller understory trees (e.g., dogwoods, redbuds, sourwoods, persimmons, etc.) in good or better condition with a DBH of 12 inches or greater
- Lesser-sized trees of rare species or special intrinsic value as approved by the Town.

**SPOTLIGHT.** A lighting assembly designed to direct the output of a contained lamp in a specific tightly focused direction (a beam) with a reflector located external to the lamp.

**STACKING LANE.** A portion of the vehicular use area on a site that is dedicated to the temporary storage or “standing” of vehicles engaged in drive-through use of the site or development. Parking or storage of vehicles is not permitted within the stacking/standing area.

**STEALTH TELECOMMUNICATIONS ANTENNAE.** Telecommunications antennae which are housed within a building or on a structure so that the antennae are disguised as some other permitted structure or use.

**STORAGE TANKS, ABOVE GROUND.** Storage tanks located above ground which are accessory to industries or businesses in their operations and are used to store chemicals, fuels, water, and other liquids and materials.

**STORAGE TANK, WATER.** A standpipe or elevated tank used to store a supply of water or to maintain equal pressure on a water system.

**STORY.** That part of a building or structure above ground level between a floor and the floor or roof next above. A mezzanine shall be considered a story if it exceeds one-third of the area of the floor immediately below. A penthouse shall be considered a story if it exceeds one-third of the area of the roof.

**STREAM.** A body of concentrated flowing water in a natural low area or natural channel on the land surface (NC Administrative Code: 15A NCAC 02B .0233(2)). There are three stream types: ephemeral, intermittent, and perennial.

**STREAM BUFFER.** 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 stream buffer is



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measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

**STREAM, EPHEMERAL.** Channels that only carry stormwater in direct response to precipitation. They may have a well-defined channel and they typically lack the biological, hydrological, and physical characteristics commonly associated with intermittent or continuous conveyances of water. These features are typically not regulated by NC DWR or the U.S. Army Corps of Engineers.

**STREAM, INTERMITTENT.** A well-defined channel that contains water for only part of the year (typically during winter and spring). The flow may be heavily supplemented by stormwater. When dry, they typically lack the biological and hydrological characteristics commonly associated with continuous conveyances of water. These features are regulated by NC DWR and typically regulated by the U.S. Army Corps of Engineers. They are identified on seven and one-half minute (7.5') United States Geological Survey Quadrangle Maps by dashed blue lines.

**STREAMS, PERENNIAL.** A well-defined channel that contains water year-round during a year with normal rainfall. Groundwater is the primary source of water, but they also carry stormwater. They exhibit the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water. These features are regulated by NC DWR and typically regulated by the U.S. Army Corps of Engineers. They are identified on seven and one-half minute (7.5') United States Geological Survey Quadrangle Maps by solid blue lines.

**STREET.** A right-of-way for vehicular travel.

**STREET CLASSIFICATIONS.** The following street classifications are intended to define the street types shown on the Yadkinville Comprehensive Transportation Plan (CTP):

*Collector.* A state or local road designed primarily to connect local streets with thoroughfare/arterial streets and/or to provide direct connection between two (2) or more arterial streets and which may be designed to carry significant volumes of vehicular traffic having neither origin nor destination on the street.

*Expressway.* A controlled access federal and/or state highway with mostly grade-separated intersections designed primarily for the high-speed movement of very large volumes of vehicular traffic from one area or region to another.

*Freeway.* A restricted access federal and/or state highway with grade-separated intersections designed primarily for the high-speed movement of very large volumes of vehicular traffic from one area or region to another.

*Local.* Those streets whose primary function is to provide direct access to individual properties.

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*Major Thoroughfare (Major Arterial).* A limited access federal and/or state highway designed primarily for the movement of large volumes of vehicular traffic from one area or region to another. Also referred to as a major thoroughfare.

*Minor Thoroughfare (Minor Arterial).* A state or local road designed for the movement of traffic from one area of the City to another. Also referred to as minor thoroughfare.

**STREET FRONTAGE.** The length of lot abutting a public right-of-way or private street.

**STREET, PARALLEL FRONTAGE ROAD.** A public or private street adjoining or parallel to an arterial street designed to provide access to abutting property in place of the arterial.

**STREET, PRIVATE.** An interior circulation road designed and constructed to carry vehicular traffic from public streets within or adjoining a site to parking and service areas; it is not maintained nor intended to be maintained by the public.

**STREET, PUBLIC.** A right-of-way or fee simple tract of land which has been set aside for public travel, dedicated to the public by the recording of a subdivision plat, built to public street standards, and eligible for maintenance by either the Town of Yadkinville or the State of North Carolina.

**STREET LINE.** The outer boundary of a street right-of-way.

**STREET ORIENTATION.** See "Building Presentation."

**STREET RIGHT-OF-WAY.** Street right-of-way shall mean any public right-of-way set aside for public travel which is accepted or eligible to be accepted for maintenance by the State of North Carolina or the Town of Yadkinville if so authorized; or has been dedicated for public travel by the recording of a plat or a subdivision which has been approved or is subsequently approved by the Town of Yadkinville; or has otherwise been established as a public street prior to the adoption of this Ordinance.

**STREET STUB.** A nonpermanent dead-end street intended to be extended in conjunction with development on adjacent lots or sites.

**STREET VISTA.** A view framed by buildings at the termination of the axis of a thoroughfare or large neighborhood street.

**STREETSCAPE.** An area within a street's right-of-way that may contain sidewalks, street furniture, landscaping or trees, and similar features.

**STRUCTURE.** Anything constructed, installed, or portable, the use of which requires a location on a parcel of land. This includes a fixed or movable building which can be used for residential, business, commercial, agricultural, or office purposes, either temporarily or permanently. "Structure" also includes, but is not limited to, swimming pools, tennis courts, signs, cisterns, sewage treatment plants, sheds, and similar accessory construction; however, it does not include landscape features such as ornamental pools, planting boxes, sculpture, birdbaths, open terraces, at-grade bridges and walkways, at-

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grade slab patios, driveways, small non-permanent shelters for pets, playhouses, open stairs, recreational equipment, flagpoles, underground fallout shelters, air-conditioning compressors, pump houses, wells, mailboxes, outdoor fireplaces, burial vaults, or cemetery marker monuments.

**SUBDIVIDER.** Any person, firm, corporation, or entity who subdivides or develops any land deemed to be a subdivision as herein defined.

**SUBDIVISION.** All divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions 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; provided, however, that the following shall not be included within this definition:

- 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 this Ordinance.
- The division of land into parcels greater than ten acres where no street right-of-way dedication is involved;
- The public acquisition by purchase of strips of land for the widening or opening of streets or the location of public utility rights-of-way;
- 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 this Ordinance;
- The division of land into plots or lots for use as a cemetery; and
- Subdivisions resulting from proceedings to partition interests in lots or parcels pursuant to Chapter 46 of the North Carolina General Statutes (or any successor statute) resulting in the division of a lot or parcel into two (2) or more lots or parcels except where the partition proceeding is brought to circumvent the provisions of this ordinance.

**SUBDIVISION, MINOR.** A subdivision of land meeting either of the following, that is reviewed and approved as a final plan with no preliminary plat approval required:

- a. Consisting of not more than four (4) lots, fronting on an existing street, not requiring any new street(s) for access to interior property, and not requiring extension of public water or sewer line, or
- b. The entire area of the tract or parcel to be divided is greater than five (5) acres, no more than three (3) lots result from the division, and no part of the tract or parcel to be divided has been subdivided in the ten (10) years prior to this division.

**SUBSTANTIAL IMPROVEMENT.** Any repair, reconstruction, expansion, or improvement of a structure, the cost of which exceeds 50% of the assessed value of a structure as determined either before the expansion or improvement begins or before the damage

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occurred giving rise to the repair or reconstruction. "Substantial improvement" shall not include, however, any repair or improvement required to bring the structure into compliance with existing state or Town code specifications necessary to ensure safe habitation of the structure.

**SURVEYOR.** A person licensed to practice surveying in the State of North Carolina.

**TAXICAB SERVICE.** A facility for the storage, maintenance, and dispatch of taxis, and associated customer ticketing and waiting areas.

**TECHNICAL REVIEW COMMITTEE (TRC).** A group of professionals tasked with reviewing proposed development plans for compliance with local, state, federal regulations and best management practices. This may include, but is not limited to, planning staff, town engineer, public works director, fire marshal, emergency management, NCDOT, and representatives from other applicable agencies.

**TELECOMMUNICATION LINES AND RELATED APPURTENANCES.** Any utility line, conductor, or other conduit by which audio, visual, or computer information is transmitted.

**TELECOMMUNICATION TOWER.** A structure either freestanding or attached to a building, principally intended to radiate or receive a source of non-ionizing electromagnetic radiation (NIER), and primary and accessory equipment related to broadcast services, cellular or digital telephone services, pagers, beepers, data, and common carriers (as regulated by the Federal Communications Commission), including FM, AM, two-way radio, fixed point microwave, commercial, satellite, cellular and PCS communication systems. The term telecommunication tower does not include electrical or telephone transmission lines or supporting structures, antennae of amateur radio (HAM) operators, amateur club services licensed by the Federal Communications Commission, satellite dishes, and antennae less than 60 feet in height with transmitting power of 250 watts or less.

**TEMPORARY HEALTH CARE STRUCTURE.** A transportable residential structure permitted under NCGS 160A-383.5, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one (1) occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and NCGS 143-139.1(b).

**TEMPORARY USE.** A use permitted on a lot for a specific purpose which is to be removed within a specified time period. Examples of temporary uses are mobile classrooms, construction trailers, and produce stands.

**TENANT.** The occupant or use of a building, portion of a building, or lot.

**TENANT BAY.** The exterior portion of a multi-tenant building devoted to a single tenant.

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**TERMINAL, BUS OR TAXI.** A facility for the storage, maintenance, and dispatch of buses or taxi, and associated customer ticketing and waiting areas.

**TERMINAL, FREIGHT.** Any facility for handling freight, with or without storage and maintenance facilities.

**THEATER, COMMUNITY.** An establishment owned and operated by a bona fide nonprofit organization that has installed permanent staging and seating areas and is engaged solely in the business of sponsoring or presenting amateur or professional theatrical events to the public.

**THEATER, DRIVE-IN.** An establishment for the outdoor viewing of motion pictures by patrons while in motor vehicles.

**THEATER, INDOOR.** An establishment for the indoor viewing of motion picture, musical or theatrical performances by patrons.

**THEATER, OPEN AIR.** An establishment for the outdoor viewing of motion picture, musical or theatrical performances by patrons. This does not include drive-in theaters.

**THOROUGHFARE.** See "Street, Arterial."

**TINY HOUSE.** A tiny house is a permanent single family dwelling with a maximum 500 square feet of floor area, excluding lofts, and meeting the minimum construction requirements of the North Carolina State Residential Code, 2018 Edition, Section 101.3.2.10 NC Administrative Code.

**TOURIST HOME.** According to North Carolina General Statute 42A, a tourist home or vacation rental is a residential property for vacation, leisure, or recreation purposes for fewer than 90 days by a person who has a place of permanent residence elsewhere, to which he or she intends to return.

**TOWER, MONOPOLE.** A slender, often telescoping, self-supporting tower used to support telecommunications equipment.

**TOWER, STEALTH.** Any tower which is designed to blend into the surrounding environment.

**TRAILER.** An open or enclosed, wheeled, non-motorized transport mechanism that may be attached to a motor vehicle for the transport of cargo.

**TRAFFIC IMPACT ANALYSIS.** A study conducted by a licensed professional engineer to evaluate the capacity and safety impacts on the transportation system from a proposed development and identify necessary improvements or management strategies to mitigate negative impacts.

**TRANSIT STOP.** Any structure or location that is primarily used, as part of a public transit system, for the purpose of loading, unloading, or transferring passengers or

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accommodating the movement of passengers from one mode of transportation to another.

**TRANSPORTATION USE.** A land use related to transportation services including, but not limited to, rail, public transit, taxi services, truck terminals, and bus services.

**TREE.** A large, woody plant having one or more self-supporting stems or trunks and numerous branches. May be classified as deciduous or evergreen.

**TREE STAND.** An aggregation of trees occupying a specific area and sufficiently uniform in composition, age, arrangement, and condition to make it distinguishable from the forest or adjoining areas.

**TRUCK STOP.** A facility which accommodates the trucking industry by providing fueling stations, weigh stations, restaurants, convenience foods, bathing facilities, and occasionally, overnight rooming accommodations. These facilities are typically located near state, federal or interstate highways.

**UNDERSTORY TREE.** A species of tree which normally grows to a mature height of fifteen to thirty-five feet in height and meets the specifications of the American Standards for Nursery Stock published by the American Association of Nurseryman.

**UNIVERSITY, COLLEGE AND JUNIOR COLLEGE.** A use, whether privately-owned or publicly-owned, providing academic education beyond the high school level.

**USE, PRINCIPAL.** The primary or predominant use of any lot or parcel.

**USE, TEMPORARY.** A use established for a limited duration with the intent to discontinue such use upon the expiration of the time period.

**UTILITIES, ABOVE GROUND.** Above ground facilities associated with the distribution and collection of water, sewer, electric, gas, cable TV, telephone, or internet service except that such shall not include any facility otherwise defined and regulated by this ordinance such as telecommunication towers or public works facilities.

**UTILITIES, BELOW GROUND.** Utility facilities located entirely below ground associated with the distribution and collection of water, sewer, electric, gas, cable TV, telephone, or internet service except that such shall not include any facility otherwise defined and regulated by this ordinance.

**UTILITY EASEMENT.** An easement which grants the right to install and maintain utilities including, but not limited to, waterlines, sewer lines, storm sewer lines, electrical power lines, telephone lines, natural gas lines, and community antenna.

**UTILITIES SERVICE AREA.** An area which contains any surface mounted heating, ventilation, or air conditioning equipment or freestanding above ground devices, such as utility boxes, booster boxes, switch gear, transformers, water towers, pump stations, lift

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stations, utility substations or similar appurtenances which are part of an underground utilities system:

- Private utility service area - an area, on private property, which contains privately owned utility structures for the exclusive service of the premises where they are installed; or,
- Public utility service area - an area, on either private or public property, which contains utility structure owned by a utility for the service of one or more premises but excluding utility substations.

**UTILITY USE.** Facilities of any agency which, under public franchise or ownership, provides the general public with electricity, gas, oil, water, sewage, or rail transportation. The term utility shall not be construed to include the following: corporate or general offices; storage or service buildings or yards; gas or oil processing, manufacturing or storage facilities; transmission towers; or postal facilities.

**VARIANCE.** Relief from the requirements of this ordinance granted by the Board of Adjustment.

**VEHICLE.** A motorized transport mechanism that transports passengers or cargo including, but not limited to, motorcycles, cars, trucks, buses, watercraft (boats).

**VESTED RIGHT (ZONING).** A right established pursuant to the provisions of this ordinance to undertake and complete the development and use of property.

**VETERINARY SERVICES.** See "Animal Services".

**WALL.** For purposes of signage, the vertical exterior surface of a building. The area of all parallel vertical surfaces along a single building elevation regardless of offsets shall be counted as one wall. The front of each unit of a multiple tenant commercial building shall be counted as a separate wall. The area of an angled wall surface shall be counted as part of whichever adjoining wall surface it is most parallel with. A 45 degree angled wall may be counted as part of the area of either adjoining wall, but not as part of both.

**WAREHOUSE USE.** Establishments primarily engaged in the warehousing and storage of general merchandise, refrigerated goods, and farm products. This definition does not include mini-warehouse storage.

**WAREHOUSE, MINI.** Establishments primarily engaged in the rental or leasing of mini-warehouses and self-storage units which individuals pay rent on spaces to store their belongings.

**WASTE INCINERATOR.** A site with one or more facilities that use thermal combustion processes to destroy or alter the character or composition of waste products, not including hazardous waste management facilities.

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**WASTE TRANSFER STATION.** A fixed facility where solid waste from collection vehicles is consolidated and temporarily stored for subsequent transport to a permanent disposal site.

**WATER DISTRIBUTION LINES, PUMPS, STORAGE TANKS, AND APPURTENANCES.** Utility lines and related structures that direct potable water to individual sites.

**WATER SUPPLY WATERSHED.** An area from which water drains to a point of impoundment, and the water is then used principally as a source for a public water supply.

**WATERSHED.** The entire land area contributing surface drainage into a specific stream, creek, lake or other body of water.

**WATERSHED BUFFER.** A natural or vegetated area 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.

**WATERSHED 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).

**WATERSHED PROTECTED AREA.** The area adjoining and upstream of the critical areas and encompassing the remainder of the watershed where risk of water quality degradation from pollution is less than in the critical area.

**WATER TREATMENT PLANT.** Any facility or facilities used or available for use in the collection, treatment, testing, storage, pumping, or distribution of water for a public water system.

**WETLANDS.** Those areas that are inundated or saturated by an accumulation of surface or ground water at a frequency and duration sufficient to support, and that under normal conditions do support, a prevalence of vegetation typically adopted for life in saturated soil conditions.

**WHOLESALE USE.** An establishment primarily engaged in selling durable and non-durable goods to retailers; to industrial, commercial, institutional, farm, construction contractors; or for professional business uses; or to other wholesalers. Merchandise is stored inside enclosed buildings unless outdoor storage is permitted in the zoning district in which it is located. Activities including physically assembling, sorting, and grading goods in large lots and breaking bulk lots for redistribution in smaller lots are conducted



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inside enclosed buildings in such a way as to have a minimal impact on surrounding properties. Operations with over 25% of sales to retail customers shall also be considered a retail use. This definition includes motor vehicle and motor vehicle parts and supplies, merchant wholesalers, furniture and home furnishing merchant wholesalers, lumber and other construction materials merchant wholesalers, professional and commercial equipment and supplies merchant wholesalers, electrical and electronic goods merchant wholesalers, hardware and plumbing and heating equipment and supplies merchant wholesalers, miscellaneous durable goods merchant wholesalers, paper and paper products merchant wholesalers, drugs and druggists' sundries merchant wholesalers apparel, piece goods, and notions merchant wholesalers, grocery and related product merchant wholesalers, beer, wine, and distilled alcoholic beverage merchant wholesalers, miscellaneous non-durable goods merchant wholesalers, motor vehicle and motor vehicle parts and supplies merchant wholesalers (except motor vehicle parts (used) merchant wholesalers), metal and mineral (excluding petroleum) merchant wholesalers, machinery, equipment and supplies merchant wholesalers, farm product raw material merchant wholesalers, chemical and allied products merchant wholesalers, farm supplies merchant wholesalers.

**WIRELESS TELECOMMUNICATIONS FACILITY.** The following definitions relate to wireless telecommunication activity:

- Abandonment – Cessation of use of a wireless support structure for wireless telecommunication activity.
- Accessory equipment – Equipment serving or being used in conjunction with a wireless facility or wireless support structure. The term includes utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.
- Antenna – Communications equipment that transmits and receives electromagnetic radio signals used in the provision of all types of wireless telecommunications services.
- Base station – A station at a specific site authorized to communicate with mobile stations, generally consisting of radio transceivers, antennae, coaxial cables, power supplies and other associated electronics.
- Collocation – The placement or installation of wireless facilities on existing structures, including electrical transmission towers, water towers, buildings and other structures including wireless support structures that are capable of supporting the attachment of such facilities in compliance with applicable codes and ordinances.
- Concealed wireless facility (stealth wireless facility) – A wireless facility that is integrated as an architectural feature of an existing structure or any new wireless support structure designed to camouflage or conceal the presence of

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antennae or towers, so the purpose of the facility or support structure is not readily apparent to a casual observer.

- Electrical transmission tower – An electrical transmission structure used to support high voltage overhead power lines. The term shall not include any utility pole.
- Equipment compound – An area surrounding or near the base of a wireless support structure within which are located wireless facilities.
- Existing structure – A wireless support structure, erected prior to the application for collocation or substantial modification under the wireless telecommunication facility provisions, that is capable of supporting the attachment of wireless facilities, including but not limited to electrical transmission towers, buildings and water towers. The term shall not include any utility pole.
- Fall zone – The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.
- Monopole – A single, freestanding pole type structure supporting one or more antennae. The term shall not include any utility pole.
- Ordinary maintenance – Ensuring that wireless facilities and wireless support structures are kept in good operating condition. Ordinary maintenance includes inspections, testing and modifications that maintain functional capacity and structural integrity. Examples are: strengthening a wireless support structure's foundation or the structure itself; replacing antennae of similar size, weight, shape and color; replacing equipment within an existing equipment compound; and relocating antennae to different height levels on an existing monopole or tower upon which it is currently located.
- Replacement pole – A pole of equal proportions and of equal height – or such other height that would not constitute a substantial modification to an existing structure – in order to support wireless facilities or to accommodate collocation. A replacement pole requires the removal of the wireless support structure it replaces.
- Substantial modification – The mounting of a proposed wireless facility or facilities on a wireless support structure which:
  - i. Increases the existing vertical height of the wireless support structure by the greater of: a) more than 10 percent; or b) the height of 1 additional antenna array with separation from the nearest existing antenna not to exceed 20 feet;
  - ii. Involves addition an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the support

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structure that protrudes horizontally from the edge of the support structure more than 20 feet, or more than the width of the support structure at the level of the appurtenance, whichever is greater (except where necessary to shelter the antenna from inclement weather or to connect the antenna to the support structure via cable), or

- iii. Increases the square footage of the existing equipment compound by more than 2,500 square feet, or
  - iv. Adds antennae that would increase the girth (width) of the support structure by more than 20 feet.
- Temporary wireless communications facility – A portable, self-contained wireless facility that can be moved to a location and set up to provide wireless services on a temporary or emergency basis. Also known as a “COW” or “cell-on-wheels”. A COW is normally vehicle mounted and contains a telescoping boom as the antenna support structure.
  - Tower – A general term used to describe wireless support structures other than for concealed wireless facilities. Includes lattice-type structures (guyed or freestanding) and monopoles that support one or more antenna.
  - Utility pole – A structure, usually a wooden or metal pole, owned and/or operated by a public utility, municipality, electric membership corporation or rural electric cooperative that is specifically for and used to carry lines, cables, or wires, primarily for local distribution, and/or to provide lighting.
  - Wireless facility – The set of equipment and network components, exclusive of the wireless support structure, necessary to provide wireless telecommunications services, including but not limited to: antennae, accessory equipment, transmitters, receivers, base stations, power supplies, and cabling.
  - Wireless support structure. A freestanding structure such as a monopole or lattice tower designed to support wireless facilities, or a building or other structure proposed for and capable of supporting such facilities.

**WORKING DAY.** Any day on which the offices of the Town of Yadkinville are officially open, not including Saturdays, Sundays, and other holidays designated by the Town Board of Commissioners.

**YARD.** Any area of land located between a lot line and a required setback line. The minimum depth of a yard shall be determined by horizontal measurement at a right angle from the applicable lot line.

**YARD, BUFFER.** A strip of land with natural or planted vegetation and/or fencing, located between a structure or use and a side or rear property line, intended to spatially separate

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and visually obstruct the view of two (2) adjacent land uses or properties from one another. A buffer area may include any required screening for the site.

**YARD, BUILDING.** The landscaping area between a building and paved parking area.

**YARD, PARKING LOT.** The landscaping located in and around a parking area.

**YARD, RESIDENTIAL LOT.** The landscaping located on single-family residential lot.

**YARD, SCREENING.** The landscaping or fencing located around outdoor storage, mechanical equipment, loading docks, waste collection, and similar facilities that effectively screens such facilities from view.

**YARD, STREET.** The area of land along the front property line parallel to a right-of-way reserved for tree planting and landscaping.

**YARD, FRONT.** The yard extending across the full width of the lot and lying between the front lot line and the front line of the principle structure as required in this ordinance.

**YARD, INTERIOR SIDE.** The yard extending along the length of the lot between the required front yard and the required rear yard, and between the side lot line and the side line, as required in this ordinance, provided that the side lot line is not adjacent to a public street right-of-way.

**YARD, REAR.** The yard extending across the full width of the lot and lying between the rear lot line and the rear line of the principle structure as required in this Ordinance.

**ZONING MAP AMENDMENT OR REZONING.** An official change in the zoning district of a property, allowing different land uses (residential, commercial, industrial, etc. and density (number of dwelling units or density and scale of buildings) requirements on a property.

**ZONING MAP, OFFICIAL.** See “Official Zoning Map”.

**ZONING PERMIT.** A permit to occupy or use a parcel of land or construct a building or other structure on a parcel of land subject to the requirements of this ordinance. This does not include building permits issued by the Yadkin County Building Inspector.

(ZTA-2021-03 Amended May 3, 2021)

(ZTA-2021-04, Ordinance 2021-07 Amended February 7, 2022)