

(11) Holiday lights and decorations.

(12) Any sign not legible or easily noticeable from public property or a public right-of-way and obviously not intended to attract the attention of the public.

(13) Any public notice or warning required by a valid and applicable federal, state or local law, regulation or ordinance.

(B) *Temporary signs requiring a permit.* Temporary signs permitted upon issuance of a valid zoning permit shall be limited as follows:

(1) Temporary banners in Commercial and Mixed Use Districts, provided:

(a) Only one banner per establishment shall be allowed at a time.

(b) All banners shall be attached in total to a building wall or permanent canopy extending from a building.



A Temporary Sign like the one above is only allowed for two weeks and must have a valid sign permit applied for before posting.

(c) No paper banners shall be allowed.

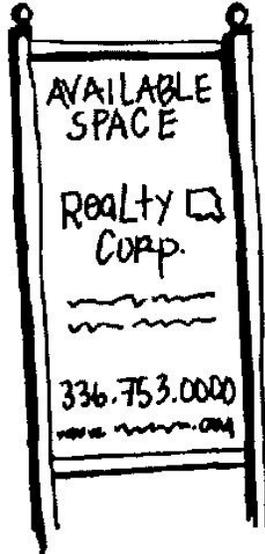
(d) Banners shall be erected for a period not to exceed two weeks.

(e) No more than six signs per establishment shall be erected within a calendar year.

(f) No banner shall extend above the second occupied floor level of a building.

(2) Temporary Planned Development Signs are permitted; provided that:

(a) Only one primary sign and two secondary signs shall be allowed per street front of development.



(b) The maximum sign face area of a primary sign shall not exceed 32 square feet; height of freestanding signs shall not exceed six feet.

(c) The maximum sign face area of secondary signs shall not exceed 12 square feet; height of freestanding signs shall not exceed six feet.

(d) Only one permit shall be required for all temporary planned development signs for each planned development. Permits shall be valid until a project is completed or two years, whichever comes first. Completion shall be evidenced by the issuance of all certificates of occupancy for a development by the Building Inspections Department. If a project is not completed in two years, a new permit must be obtained. However, in no instance shall more than three permits be issued for a development. All secondary signs shall be removed when the first permit issued expires.

(3) Temporary off-premise signs or banners for special community events, open to the general public and sponsored by non-commercial civic, charitable, community or similar organizations, provided:

(a) Temporary signs shall be located outside of the public right-of-way or at least 11 feet from the edge of any public street if the right-of-way cannot be determined.

(b) Every temporary off-premise sign or banner shall be separated by a distance of 400 feet from any other temporary off-premise sign on the same side of a street and by a distance of 200 feet from any other sign on the opposite side of a street.

(c) Nothing in this provision shall be construed to authorize the posting of the signs or banners upon trees, utility poles, traffic control signs, lights or devices in any place or manner prohibited

by the provisions herein, nor on private property without written consent of the owner.

(4) Any temporary sign not expressly permitted without a permit by this section. (2003 Code, § 8-3.6.11.12) (Updated 2009)

**§ 8-3.6.11.13 Window Signs.**

(A) Permit required: no.

(B) Zoning Districts allowed:

- (1) Open Space Residential;
- (2) General Residential;
- (3) Neighborhood Residential;
- (4) Neighborhood Center;
- (5) Town Center;
- (6) Highway Commercial;
- (7) Traditional Neighborhood Development;
- (8) Campus Institutional;
- (9) Campus Business;
- (10) Special Purpose; and
- (11) General Industrial.

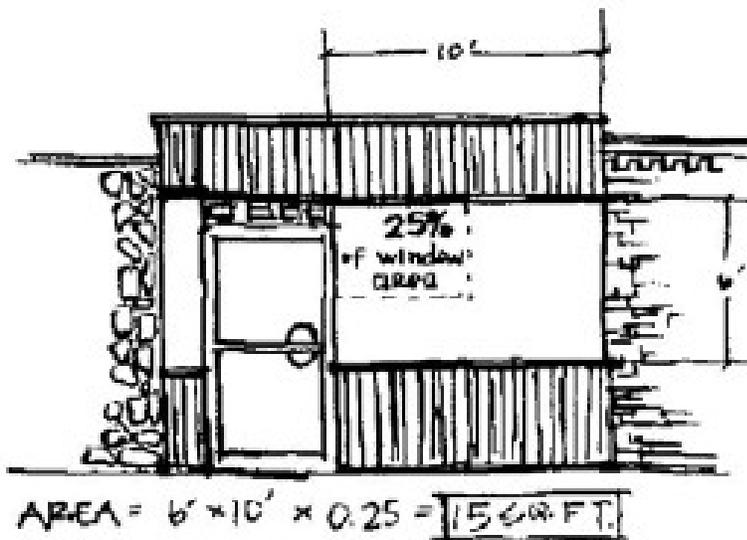
(C) Number of signs permitted: not applicable.

(D) Sign area requirements: shall not exceed 25% of the window area.



Window Signs should be simple and maintain the general transparency of the window.

(E) Additional requirements: the text or sign copy of a window sign should be limited to the business name and brief messages identifying the product or service (e.g., “maternity wear” or “attorney”) or pertinent information (e.g., “reservations required”).



(2003 Code, § 8-3.6.11.13) (Updated 2009)

### § 8-3.6.12 Non-Conforming Signs.

(A) The lawful use of a permanent sign existing at the time of the adoption of this article may be continued in non-conformance with the requirements of this article, except that the non-conforming sign shall not be enlarged, altered, modified, improved or rebuilt. A non-conforming sign may be repaired to the extent necessary to maintain it in a safe condition and neat and orderly appearance. A change in the advertising message on the sign shall not constitute an alteration or modification of the sign.

(B) No structural repair or change in shape, size or design shall be permitted except to make a non-conforming sign comply with all requirements of this article or to render the sign structurally sound. Routine maintenance and changing of copy shall be permitted as long as the maintenance or changing of copy does not result in or change the shape, size or design of the sign.

(C) A non-conforming sign structure may not be replaced by another non-conforming sign structure, except where changed conditions beyond the control of the owner warrant the signs repair. (2003 Code, § 8-3.6.12) (Updated 2009)

### **§ 8-3.6.13 Exempt Signs.**

The following types of signs are exempt from the requirements of this article unless otherwise expressly prohibited under § 8-3.6.7. However, all of these signs shall abide by the requirements as specified in § 8-3.6.11:

(A) Signs for the sole purpose of displaying street numbers as may be required by other ordinances and other signs required by law;

(B) Signs erected by or on the order of, a public officer in the performance of his or her duty including, but not limited to, public notices, safety signs, danger signs, trespassing signs, traffic and street signs, memorial plaques and signs of historical interest;

(C) Signs on private property prohibiting trespassing in accordance with state law;

(D) Any sign not visible from public thoroughfares or any sign within a business, office, mall or totally enclosed area;

(E) One official sign per road frontage, as required by the State of North Carolina, identifying vehicle emissions inspection stations licensed by the State of North Carolina;

(F) Signage on courtesy benches, trash receptacles, newspaper boxes, automated teller kiosks and phone booths, not exceeding eight square feet of sign area and not located within the required front yard setback for the zoning district. Limited to one bench sign and one trash receptacle sign per lot; and

(G) Signage on coin-operated beverage dispensers, limited to three per lot and not located within the required front yard setback for the zoning district. (2003 Code, § 8-3.6.13) (Updated 2009)

### **§ 8-3.6.14 Weekend Signs.**

Weekend signs shall be allowed without the necessity of obtaining a permit, subject to the following requirements.

(A) The signs shall be allowed only on Fridays from 12:00 p.m. through Sundays until 6:00 p.m.

(B) No more than one weekend sign shall be allowed on any given lot.

(C) No sign shall be located on any public right-of-way and it must be on private property with the consent of the property owner.

(D) Signs shall not exceed a maximum area of six square feet each.

(E) For identification purposes the owner of the sign shall stamp or write legibly its name and contact information, on the backside or in a corner of the sign.

(F) In order to confirm legitimacy of sign placement, the owner of every weekend sign shall stamp or write legibly on the backside or corner of the sign the name of the property owner providing authorization for placement of the sign and a telephone number of that property owner.

(G) The signs shall not be illuminated.

(H) The minimum fine for placement of a weekend sign in contravention of this article shall be \$100.

(I) For purposes of prosecuting this chapter, it is hereby established that if the subject matter of a wrongfully placed weekend sign is a business, individual or entity subject to identification, then a rebuttable presumption exists that the business, individual or entity so identified caused the sign to be so placed and is subject to citation.

(2003 Code, § 8-3.6.14) (Updated 2009)

### **§ 8-3.6.15 Removal of Discontinued Signs.**

It is the intent of this section to establish reasonable time periods for the removal of discontinued signs. For purposes of this section, all signs pertaining to a business, service, institution, industry or other activity that ceases operations shall be deemed to be discontinued signs. For purposes of this section, "ceases operations" shall be interpreted literally and to include cases where there is substantial evidence that a business or activity has vacated the building or grounds; provided, further, that, this section shall not apply to any case where a business or activity is temporarily suspended and there is evidence that the business or activity will resume operations within a specifically designated period. It shall be the responsibility of the property owner, the operator of a business or activity discontinuing a lease if any and the leasehold manager if any, for ensuring compliance with the provisions of this Section and each owner, operator or manager shall be considered individually responsible for compliance with this section.

(A) All discontinued signs, with the exception of pole signs and monument signs, shall be removed within ten days from the date of discontinuance. The town may permit an extension of this removal period only in cases where special equipment is needed to remove the sign and removal of the structure cannot reasonably be arranged by the sign owner within the ten-day time period.

(B) All discontinued signs that meet the definition of a pole sign shall be removed within 60 days from the date of discontinuance. The town may permit one 30-day extension of this removal period only in cases where special equipment is needed to remove the sign or sign structures and removal of the structure cannot reasonably be arranged by the sign owner within the 60-day time period.

(C) This Section shall not apply to the structure of a monument sign; provided that, it might reasonably be used by a future tenant or property owner, complies with the provisions of this article and is maintained in good condition; provided further, that the following shall be met:

(1) If a discontinued monument sign contains an message panel that is removable from the monument structure without disassembling the monument, then within 30 days of the date of discontinuance, the panel shall be removed and the portion of the monument structure that previously held the message panel shall be covered with durable cloth or canvas to avoid the appearance of blight, until the time as a new sign permit is applied for and granted and an approved sign panel is installed in the monument.

(2) If a discontinued monument sign contains a sign copy area that is not removable without disassembling the monument, then the sign copy area shall be modified (e.g., painted over) or covered with durable cloth or canvas so that the sign copy pertaining to the business or activity discontinued is no longer visible, until the time as a new sign permit is applied for and granted and approved sign copy is affixed on the sign copy area of the monument.  
(2003 Code, § 8-3.6.15) (Updated 2009)

#### **§ 8-3.6.16 Removal of Signs Not Maintained.**

All signs shall be maintained by the property owner in good condition so as to present a neat and orderly appearance. The town may remove or cause to be removed, after notice any sign which shows gross neglect, becomes dilapidated or in the opinion of the Code Enforcement Officer poses a threat to public safety. The town or his or her designee will give the owner 45 days' written notice to correct the deficiencies or to remove the sign or signs, except signs which pose a threat to public safety which shall be removed. If the owner refuses to correct the deficiencies or remove the sign, town or his or her designee will have the sign removed at the expense of the owner.  
(2003 Code, § 8-3.6.16) (Updated 2009)

#### **§ 8-3.6.17 Enforcement.**

This article shall be administered and enforced by the town or his or her designee. In case any sign is proposed to be erected, constructed, altered, converted or used in violation of any provision of this article, the town may, in addition to other remedies and after notice to the appropriate person, issue a citation for violation of the town ordinance thereby requiring the presence of the violator in magistrate court; institute the filing of a petition for an injunction or other appropriate action or proceeding to prevent the unlawful erection, construction, alteration, conversion or use to correct or abate the violation. Additionally, the town may have the sign removed at the expense of the owner and may issue a citation for violation of the town ordinance to the agent that placed the sign, as well as those parties responsible for directing the agent, including the person or business owner whose name, message and/or address and/or telephone number appears on the sign. Any sign located within a public street right-of-way may be removed immediately by the town without warning or notice to the sign owner.  
(2003 Code, § 8-3.6.12) (Updated 2009)

**§ 8-3.7 GENERAL REGULATIONS.****§ 8-3.7.1 Conformity Required.**

No person may use, occupy or sell any land, structure or building or authorize or allow the use, occupancy or sale of any land, structure or building under his or her control except in accordance with all of the applicable provisions of this article. For the purpose of this section, the use or occupancy of structures and buildings shall relate to anything and everything that is done to, on or in the land, structures or buildings.

(2003 Code, § 8-3.7.1) (Updated 2009)

**§ 8-3.7.2 Street Frontage Required.**

Any lot on which a building (or buildings) is to be erected or use is to be established shall abut a public street with the following exceptions:

(A) Any lot for which a residential use has been legally established prior to the effective date of this article in accordance with provisions permitting establishment of use on a lot served by a private and exclusive recorded easement of at least 15 feet in width connecting the lot to a public street, may be used as if it abutted a street; provided that, it is served by a driveway located on the easement;

(B) Any lot for which a non-residential use has been legally established prior to the effective date of this article in accordance with provisions permitting establishment of use on a lot served by a private, exclusive recorded easement of at least 15 feet in width connecting the lot to a public street, may be construed in the same manner as a lot abutting a street; provided that, it is served with a driveway built to appropriate standards located on the permanent, recorded easement;

(C) A site specific development plan may be considered for approval in the TC, NC, NR, OSR and TND-O Districts where residential and/or non-residential structures front upon a private courtyard, carriageway or pedestrian way, where adequate access by emergency vehicles is maintained by way of a rear alley and where the off-street placement of uses does not diminish the orientation of building fronts on the public street;

(D) A site specific development plan may be considered for approval in the Campus Districts to permit interior lot access by private drives so long as business and emergency access is furnished to all interior building sites and proposed buildings at the perimeter of the campus front upon public street(s). See the Campus Districts;

(E) A development site consisting of one or more legal lots of record which is developed under a coordinated, approved site specific plan and which is accessed solely by driveways shall only be required to abut a public street along some portion of the development site the minimum distance of which shall be determined by the town to be adequate for public and emergency vehicle access but which shall not be less than 35 feet; and

(F) A multi-family, townhouse, condominium or industrial development site consisting of one or more legal lots of record which is developed under a coordinated, approved site specific plan may be permitted, on a case by case basis, to be served by a private street network and shall only be required to

abut a public street along some portion of the development site the minimum distance of which shall be determined by the town to be adequate for public and emergency vehicle access, but which shall not be less than 35 feet.

(2003 Code, § 8-3.7.2) (Updated 2009)

### **§ 8-3.7.3 One Principal Building per Lot; Exceptions.**

Only one principal building and its customary accessory building(s) may be erected on any lot, except that multiple buildings may be erected on a single lot as permitted by use and District regulations.

(2003 Code, § 8-3.7.3) (Updated 2009)

### **§ 8-3.7.4 Lot Size.**

No building lot (development site), even though it may consist of one or more adjacent lots of record, shall be reduced in size such that the requirements for building and lot type cannot be met or the performance standards for spacing of structures, building mass and scale and street frontage relationships cannot be respected. This prohibition shall not be construed to prevent the purchase, dedication or condemnation of narrow strips of land for public utilities or street or sidewalk right-of-way purposes.

(2003 Code, § 8-3.7.4) (Updated 2009)

### **§ 8-3.7.5 Yard Designation.**

(A) On lots which abut more than one street, the front of the lot shall be parallel to the more prominent street. Exceptions may be made to this rule by the Zoning Administrator based upon the arrangement of existing and proposed streets and drives and the orientation of buildings on adjoining lots. Where neither street is more prominent than the other, the Zoning Administrator shall decide which street shall be the front based upon these same criteria.

(B) Where multiple buildings are permitted on a single lot of record, each building shall generally front upon a pedestrian oriented street, either external or internal to the development; side and rear yard designations shall be determined on the basis of building orientation.

(C) On irregularly shaped lots, the location of required front, side and rear yards will be determined by the Zoning Administrator. The determination will be based on the spirit and intent of this article to achieve an appropriate spacing of buildings and orientation to the street(s).

(2003 Code, § 8-3.7.5) (Updated 2009)

### **§ 8-3.7.6 Through Lots.**

If both the front and rear yards of a lot abut public streets, then the rear building line shall respect the alignment of buildings on the back street while the front building line shall respect the alignment of buildings on the fronting street.

(2003 Code, § 8-3.7.6) (Updated 2009)

**§ 8-3.7.7 Height Limitation Exceptions.**

(A) The height limitations of this section shall not apply to steeples, flagpoles, chimneys, water tanks, public utility poles and lines, skylights, roof structures for elevators, stairways, tanks, heating, ventilation and air-conditioning equipment or similar equipment for the operation and maintenance of a building and any device used to screen the structures and equipment.

(B) Telecommunication towers, where permitted, may exceed the height limit for structures when erected in accordance with this article.

(C) When adjacent to a lot or lots located in a residential District, any part of a non-residential structure which extends above the height limit shall, at a minimum, be separated from adjacent residential lots by a distance equal to its height measured from the ground.

(2003 Code, § 8-3.7.7) (Updated 2009)

**§ 8-3.7.8 Structures and Uses Limited in Yards.**

(A) No principal building or structure shall be located within any required setback or yard.

(B) No principal building or structure shall be located within any required buffer or screen.

(C) Permitted fences and walls, security gates, paths, walkways, mailboxes, utility poles, lighting fixtures, patios at grade and similar features may be located in a required yard, so long as the sight triangle on corner lots is protected.

(D) Permitted signs may be located in an established front or side yard abutting a public street.

(E) Off-street parking areas, maneuvering areas for parking and loading areas are prohibited in required yards. This restriction shall not apply to:

(1) A driveway which crosses a required yard to provide access from a public street to a parking area;

(2) Driveways and parking areas for a detached or duplex residential dwelling;

(3) Plazas associated with civic buildings or campus quadrangles that have been designed and approved for occasional use as secondary parking areas;

(4) Yards included within specific streetscape plans adopted by the Town Board in which the plans include limited parking and access in adjacent yards; or

(5) Front yards in the Highway Commercial District which meet the requirements for front parking.

(F) Subordinate structures attached to single-family homes, such as decks, garages, porches, utility rooms and similar features may extend into the required rear yard up to 25% of its depth and may cover up to 20% of its area. The extensions may not exceed 50% of the width of the dwelling at the rear

building line.

(G) Above-ground sewer backflow prevention devices are expressly prohibited in the established front yards of buildings.

(2003 Code, § 8-3.7.8) (Updated 2009)

### **§ 8-3.7.9 Accessory Structures and Uses.**

(A) In no event shall “accessory use” or “accessory structure” be construed to authorize a use or structure not otherwise permitted in the District in which the principal use is located.

(B) No accessory structure shall be located within a required front or side yard, nor within five feet of a rear lot line. Where permitted, accessory dwellings may be located no closer than five feet to an abutting mid-block alley, nor closer than 15 feet to an abutting property line.

(C) Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot are permitted in all Districts.

(D) Fences and walls shall be permitted without a permit as follows.

(1) In a Residential, Mixed Use or Commercial District, a fence or wall in the established front yard of a building shall be a minimum of two feet in height and a maximum of five feet in height. Decorative caps or spires which extend above the highest horizontal member of the fence shall not be included in the measurement of height.

(2) In a Residential or Mixed Use District, a fence or wall in an established rear or side yard which abuts a street or alley may not exceed six feet in height unless placed more than five feet inside the property boundary.

(3) In a Commercial District, fences of chain link or similar material placed in an established yard which abuts a Residential or Mixed Use District shall provide a semi-opaque vegetative screen on the exterior side of the fence.

(E) Petroleum storage, accessory to a permitted principal use or building is permitted.

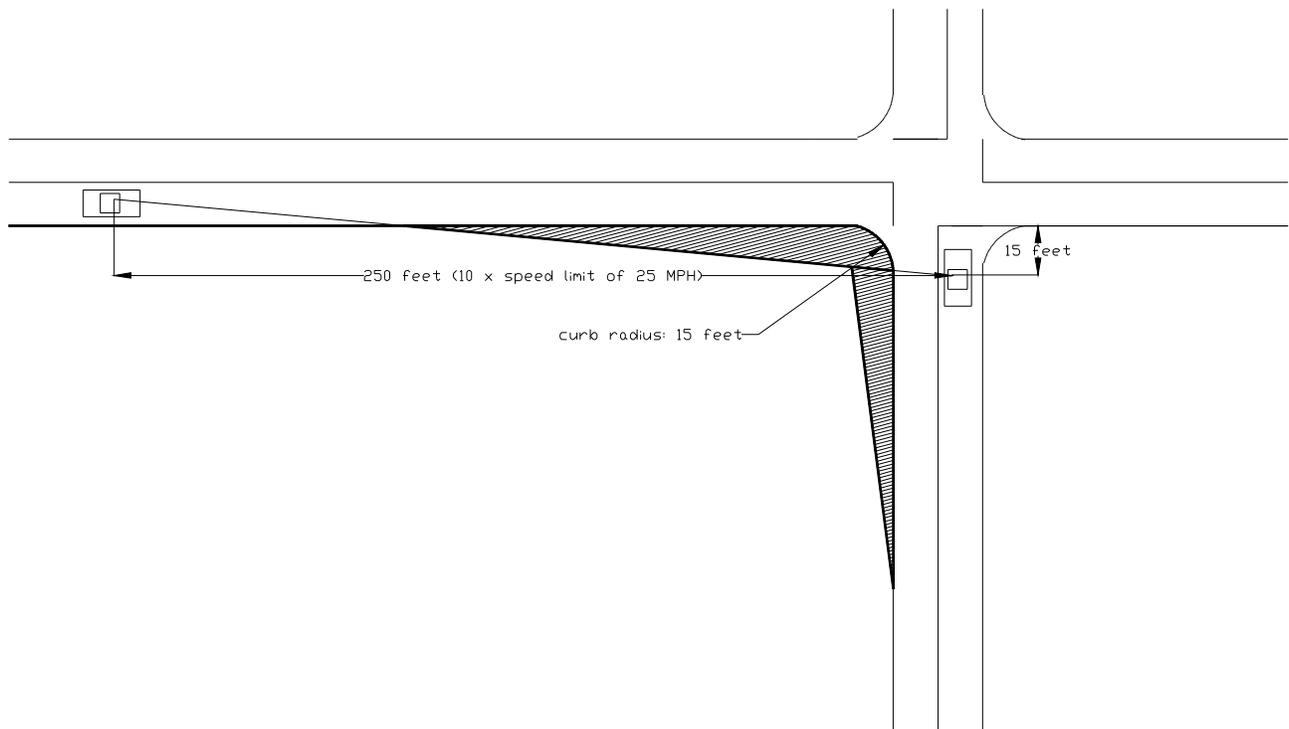
(F) Temporary buildings and storage of materials are permitted; provided that, the use is in conjunction with the construction of a building on the same lot or on an adjacent lot; the temporary uses shall be terminated upon completion of construction.

(2003 Code, § 8-3.7.9) (Updated 2009)

### **§ 8-3.7.10 Clear Sight Triangle at Street Intersections.**

## Mocksville - Land Use

(A) A clear view at each corner of an intersection shall be maintained by establishing an unobstructed “sight triangle”. The extent of the required sight triangle varies according to the speed limit of streets forming the intersection. For streets signed 35 mph or greater, the area to be clear of view obstructions at unsignalized intersections is generally to be the triangular area formed by the point of intersection of street right-of-way lines and a point located along each right-of-way line at a distance of 35 feet from the point of intersection. For intersecting streets signed for less than 35 mph, the shaded area in the figure below illustrates the area which must, in most instances, be clear of obstructions to driver visibility at unsignalized intersections. As indicated, the clear sight triangle will vary according to speed limit for traffic on the approaching street.



(B) No planting, structure, sign, fence, wall, human-made berm or other obstruction to vision shall be installed, constructed, set out or maintained so as to obstruct cross-visibility in the sight triangle between 30 inches and 72 inches above the level of the center of the street intersection.

(C) The limitations of this section may be modified by the Zoning Administrator in the instances noted below, so long as adequate visibility is maintained relative to intended speed limit:

- (1) Existing natural grades;
- (2) Trees trimmed such that no limbs or foliage extend into the area between 30 and 72 inches above the level of the adjacent intersection;
- (3) Fire hydrants, public utility poles, street markers, government signs, electrical junction boxes and traffic control devices;

(4) Buildings located in the Town Center District, the Neighborhood Center District or the commercial centers of TND Districts; and

(5) The approved and intentional use of traffic calming techniques to reduce speed; these include, but are not limited to: a series of hill crests, neckdowns, intersection diverters and curb bulbs. (2003 Code, § 8-3.7.10) (Updated 2009)

**§ 8-3.7.11 Building Separation.**

All detached principle structures in all Districts shall preserve a minimum building separation of ten feet. The requirement of the District or the existing pattern of building spacing along a street may require a greater separation or the provision of specified side yards. (2003 Code, § 8-3.7.11) (Updated 2009)

**§ 8-3.7.12 Standards for Construction; Developer Responsibility.**

Where standards and responsibility for infrastructure construction, including, but not limited to, streets, sidewalks and landscaping, are specified in this document, the town standards shall control. (2003 Code, § 8-3.7.12) (Updated 2009)

**§ 8-3.7.13 Driveways.**

(A) No driveway or other point of access to the street shall be constructed, relocated or altered unless the driveway has been approved by the town.

(B) For development projects composed of multiple buildings and lots, access to the pre-existing public street system shall be determined by the location of proposed intersecting streets, topography and other general site characteristics. No parcel of land which is a functional part of the overall development, even though it may be removed by the developer from the rest of the project area by subdivision or by metes and bounds description, shall be permitted to have driveway access to the public streets bounding the project area. (2003 Code, § 8-3.7.13) (Updated 2009)

**§ 8-3.7.14 Measuring Setbacks along Certain Streets.**

(A) Pursuant to G.S. § 160A-306, the setback requirements for any lot which abuts a street as classified below shall be measured from the proposed right-of-way line as listed if the existing right-of-way is of lesser width.

<i>Street Classification</i>	<i>Distance from Street Center Line to “Proposed Right of-Way Line”</i>
Freeway or expressway	125 feet
Major arterial	50 feet

<i>Street Classification</i>	<i>Distance from Street Center Line to “Proposed Right of-Way Line”</i>
Minor arterial	35 feet
Major collector	30 feet
Minor collector	30 feet

(B) Whenever the proposed right-of-way is greater than the existing right-of-way along a particular street segment, the yard area established under the guidelines above can be used for any purpose allowed by the particular zoning district, except buildings and other permanent uses which are prohibited in the required yard. Required parking, if not able to be provided elsewhere on the lot, shall be considered a permanent use of the lot. At the time that the proposed right-of-way is dedicated or otherwise acquired for roadway purposes, the property owner shall be responsible for the removal of any uses from the right-of-way that would not otherwise be permitted. The property owner shall have one year from the date of right-of-way acquisition to remove any such uses.

(C) The area between the existing right-of-way and the proposed right-of-way line may not be used to satisfy any minimum open space, lot size or pervious surface requirement or any other minimum requirements imposed by this article.

(D) The standards within this section shall not apply to any lot within in the Town Center District.

(E) An affected property owner shall have the right to appeal transitional yard or setback requirements to the Board of Adjustment for variance or modification as they apply to a particular piece of property. The Board of Adjustment may vary or modify these requirements upon a showing that:

(1) The peculiar nature of the property results in practical difficulties or unnecessary hardships that impede carrying out the strict letter of the requirements and

(2) The property will not yield a reasonable return or cannot be put to reasonable use unless relief is granted and

(3) Balancing the public interest in enforcing the setback requirements and the interest of the owner, the grant of relief is required by considerations of justice and equity.

(F) In granting relief, the Board of Adjustment may impose reasonable and appropriate conditions and safeguards to protect the interests of neighboring properties. The Board of Adjustment’s decision shall be subject to review by the superior court by proceedings in the nature of certiorari in accordance with G.S. § 160A-388(e).

(2003 Code, § 8-3.7.14) (Updated 2009)

**§ 8-3.7.15 Negative Access Easements.**

Private negative access easements in which no driveway or other vehicle or pedestrian access is permitted to a lot from an adjacent public street, shall be prohibited, except those easements required by the town to limit driveways on existing public streets.

(2003 Code, § 8-3.7.15) (Updated 2009)

**§ 8-3.7.16 Non-conformities.**

(A) *Purpose and applicability.* The purpose of this article is to regulate and limit the continued existence of uses and structures that were established prior to the effective date of these regulations and that do not conform to these regulations. Any non-conformity created by a change in the text of these regulations or by the reclassification of property shall be regulated by the provisions of this chapter. The “effective date” referenced below shall be the date the text of these regulations or the Zoning Map is amended to render a particular use, structure or lot non-conforming. Many non-conformities may continue, but the provisions of this chapter are designed to curtail substantial investment in non-conformities and to bring about their eventual improvement or elimination.

(B) *Non-conforming uses.*

(1) Non-conforming uses of land or structures may continue only in accordance with the provisions of this section.

(2) A non-conforming use shall not be expanded.

(3) A non-conforming use shall not be changed to any other use unless the new use conforms to the standards of the zoning district in which it is located. Once a non-conforming use is changed to a conforming use, a non-conforming use shall not be re-established.

(4) Where a non-conforming use is discontinued or abandoned for a period of 180 days, then the use shall not be re-established or resumed and any subsequent use of the land or structure shall conform to the requirements of these regulations.

(5) No structural changes shall be made in any structure occupied by a non-conforming use except as follows.

(a) Those structural changes ordered by an authorized official in order to ensure the safety of the structure shall be permitted.

(b) Maintenance and repairs to keep a structure in sound condition shall be permitted.

(c) Structural changes necessary to convert the non-conforming use to a conforming use shall be permitted.

(d) An existing non-conforming residential structure may be enlarged or altered; provided that, no additional dwelling units result therefrom. Any such enlargement or alterations shall be in compliance with all yard requirements of the District and/or use.

(e) The structure and its accompanying use may be moved to another location on the lot so long as the structure meets all applicable requirements of the District.

(C) *Non-conforming structures.*

(1) A non-conforming structure, devoted to a use permitted in the zoning district in which it is located, may continue only in accordance with the provisions of this section.

(2) Normal repair and maintenance may be performed to allow the continuation of a non-conforming structure.

(3) Any non-conforming structure may be enlarged if the expansion does not increase the non-conformity.

(4) A non-conforming structure shall not be moved unless it thereafter conforms to the standards of the zoning district in which it is located.

(5) A non-conforming structure, destroyed or damaged so that more than 25% of the value of the structure remains, may be repaired or restored if a building permit for the repair or restoration is issued within six months of the date of the damage. A non-conforming structure, destroyed or damaged so that no more than 25% of its value remains, may be repaired or restored only if the structure conforms to the standards of these regulations for the zoning district in which it is located. The extent of damage or destruction shall be determined by comparing the estimated cost of repair or restoration with the current assessed tax value.

(6) A non-conforming structure shall not be replaced with another non-conforming structure regardless of the degree of non-conformity.

(D) *Non-conforming vacant lots.*

(1) Except as provided in subsection (D)(2) below, a non-conforming vacant lot may be used for any of the uses permitted by these regulations in the zoning district in which it is located; provided that, the use meets all yard, parking and screening requirements of this article for the zoning district in which it is located.

(2) If two or more adjacent, non-conforming, unimproved lots are held in single ownership, the lots shall be considered to be a single building lot for the purposes of this article. If the combination results in the creation of a building lot that is more than one-and-one half times the width and area required in the zoning district, then the two lots may be legally resubdivided into two lots of equal width and area both of which may be developed under the authority of subsection (D)(1) above.

(E) *Additional requirement for non-conforming accessory uses and structures.* No non-conforming accessory use or accessory structure shall continue after the principal use or structure is terminated by abandonment, discontinuance, damage or destruction unless the accessory use or accessory structure thereafter is made to conform to the standards for the zoning district in which it is located.

(F) *Additional requirements for manufactured home parks.*

(1) Non-conforming manufactured home parks may not be expanded or increased in size which shall include adding spaces to the park.

(2) When a site at a non-conforming manufactured home park is vacated, another manufactured home may not be placed on that site.

(G) *Changes of tenancy and/or ownership.* There may be a change in tenancy or ownership of an existing non-conforming use or structure, provided there is no change in the nature or character of the non-conforming use or structure except as provided herein and all other applicable requirements of this article are met (e.g., parking, screening, landscaping and the like).  
(2003 Code, § 8-3.7.16) (Updated 2009)

#### **§ 8-3.7.17 Building Type.**

(A) Manufactured housing shall not be used as permanent structures except in the MH District.

(B) Modular buildings shall not be used as permanent structures unless such 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.  
(2003 Code, § 8-3.7.17) (Updated 2009)

#### **§ 8-3.7.18 Swimming Pools.**

Swimming pools located on any site, including single-family residential sites, shall be:

(A) Located in a side or rear yard only;

(B) Located a minimum of 20 feet from any property line; and

(C) Completely enclosed by a fence or wall no less than four feet and no more than eight feet in height above grade as measured on the side of the fence or wall which faces away from the swimming pool. This fence or wall shall enclose the pool itself and may include any other additional portions of the lot. All fence or wall openings into the pool area shall be equipped with a gate that opens outward away from the pool and shall be self-closing and have a self-latching device. (See § 8-3.5.2 for additional fence requirements.)  
(2003 Code, § 8-3.7.18) (Updated 2009)

#### **§ 8-3.8 ADDITIONAL CONDITIONS FOR CERTAIN USES.**

Note: These conditions apply only to uses “permitted with conditions” or by “special use permit” in the applicable zoning district as shown in § 8-3.3.5, Table of Uses.  
(2003 Code, § 8-3.8) (Updated 2009)

##### **§ 8-3.8.1 Above Ground Utilities.**

(A) Utility distribution lines, which deliver service to the end user from a substation fed by a transmission line providing service to an area larger than the individual parcel or project area, shall be

installed underground, unless subsurface conditions make underground installation not possible or practical.

(B) Facilities used for the operation of above ground utilities shall, whenever possible, be located on interior properties rather than on properties aligned with other lots that have continuous street frontage.

(C) Areas around water towers, water and wastewater treatment facilities, substations and power plants shall be enclosed by a fence, not easily climbable, at least six feet in height. The fence shall be located at least 20 feet from any public street right-of-way and abutting property line and shall be planted on the exterior side with a semi-opaque vegetative screen with expected height of at least six feet at maturity.

(2003 Code, § 8-3.8.1) (Updated 2009)

### **§ 8-3.8.2 Accessory Communication Antennae.**

(A) No antennae or radio towers shall be permitted in the TC District or adjacent to residential uses or residentially zoned lots.

(B) If an antenna exceeds the height for the District in which it is located, it must be set back one foot from any adjacent property lines for each foot of height over the maximum for the District.

(C) Accessory antennae shall be concealed within or have an exterior appearance as a permitted principle or accessory structure permitted in the District where located.

(2003 Code, § 8-3.8.2) (Updated 2009)

### **§ 8-3.8.3 Accessory Dwelling Unit, Attached or Detached.**

An accessory dwelling may be attached, within or separate from the principal dwelling.

(A) The principal use of the lot shall be residential and the principle structure on the lot shall be a residential building (single-family, duplex, multi-family or townhouse).

(B) No more than one accessory dwelling shall be permitted on a single lot of record in conjunction with the principal dwelling unit.

(C) The accessory dwelling shall be owned by the same person as the principal dwelling.

(D) The accessory dwelling shall not be served by a driveway separate from that serving the principal dwelling unless the accessory dwelling is accessed from a rear alley and the principal dwelling is accessed from a street. A corner lot may be served by a separate driveway if approved by Davie County Development Service and/or NCDOT.

(E) A detached accessory dwelling shall be no greater in size than 1,100 square feet or 75% of the living area of the principal dwelling and may have not more than two bedrooms; the structure may be a dwelling only or may combine a dwelling with garage, workshop, studio or similar accessory use.

(F) An accessory dwelling unit shall be a minimum of 600 square feet.

(G) A detached accessory dwelling shall be located in the rear yard.

(H) The owner of the accessory dwelling shall live on the parcel containing the accessory dwelling.

(I) A manufactured home shall not be used as an accessory dwelling unit.  
(2003 Code, § 8-3.8.3) (Updated 11-1-2011)

#### **§ 8-3.8.4 Adult Establishments.**

(A) No adult establishment shall be located within 1,000 feet (determined by a straight line and not street distance) of the closest boundary line of any Residential Zoning District or of any point on the closest property line of any church, school, day care, public park, residence or playground as measured by a horizontal straight line distance from the closest point on the closest boundary line of the property occupied by the adult establishment.

(B) No adult establishment shall be located within 1,000 feet (determined by a straight line and not street distance) of any other adult establishment as measured by a horizontal, straight line distance from the closest point on the closest boundary line of the property occupied by each.

(C) No more than one adult establishment may be located within the same structure.

(D) Mini-motion picture booths shall be constructed without doors and shall orient the customer entrance of each booth toward the principal sales counter.

(E) Patrons of adult establishments shall be separated from entertainers, performers or entertainment employees by a minimum of six feet.

(F) All performers or entertainment employees of adult establishments shall perform on and be limited to an elevated stage or platform, elevated from the main floor by at least three feet.

(G) No printed material, slide, video, photograph, written text, live show or other visual presentation shall be visible to the public or an adjacent property or use, nor shall any live or recorded voices, music or sounds be heard from outside the walls of the establishment.

(H) A licensed manager shall be on duty at all times

(I) Law enforcement personnel shall be given access to all public areas of the establishment at all times.

(J) An adult establishment shall not locate within a non-conforming structure or non-conforming property.

(K) The gross floor area of any adult establishment shall not exceed 5,000 square feet and all business related activity shall be conducted within the building.

(L) Enclosed or fenced parking shall be prohibited.

(2003 Code, § 8-3.8.4) (Updated 2009)

**§ 8-3.8.5 Agricultural Industry.**

(A) There shall be a separation of no less than 250 feet between structures housing the agricultural industry and the closest point of any property located in a Residential District or developed for residential or mixed use purposes.

(B) The use shall be located on a lot containing no less than ten acres.

(C) Agricultural uses shall maintain a minimum ten foot vegetated buffer or equivalent control as determined by the Soil and Water Conservation Commission along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 scale (7.5 minute) topographic maps.

(2003 Code, § 8-3.8.5) (Updated 2009)

**§ 8-3.8.6 Agriculture, Bonafide Farms.**

Agricultural uses must maintain a minimum ten foot vegetated buffer or equivalent control as determined by the Soil and Water Conservation Commission along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 scale (7.5 minute) topographic maps.

(2003 Code, § 8-3.8.6) (Updated 2009)

**§ 8-3.8.7 Agriculture Implement Sales and Service.**

(A) Outdoor storage of implements and equipment shall be located in the rear yard only.

(B) Outdoor storage shall not occur within 50 feet of a residential use or residentially zoned lot.

(2003 Code, § 8-3.8.7) (Updated 2009)

**§ 8-3.8.8 Amusements, Commercial, Outdoor.**

(A) Outdoor amusement facilities shall be separated by an opaque screen from any abutting property located in a Residential or Mixed Use District.

(B) No permanently established amusement facilities, such as miniature golf courses, skateboard courses or mechanical rides shall be located within 200 feet of the closest point of any abutting property located in a residential District.

(C) Hours of operation shall be no earlier than 8:00 a.m. and no later than 12:00 midnight

(2003 Code, § 8-3.8.8) (Updated 2009)

**§ 8-3.8.9 Arenas; Assembly Halls, Coliseums, Armories, Ballrooms, Reception Halls and Exhibition Buildings.**

(A) The facility shall have direct access to a major arterial.

(B) All facilities shall be located at least one hundred linear feet from any lot line and 300 linear feet from a residential District.  
(2003 Code, § 8-3.8.9) (Updated 2009)

**§ 8-3.8.10 Bed and Breakfast Establishment.**

(A) The establishment shall not serve food or drink to the general public for pay.

(B) The establishment shall serve only breakfast to registered guests of the establishment.

(C) The price of breakfast shall be included in the room rate.

(D) The establishment shall be the permanent residence of the owner of the establishment.

(E) In any residential zoning district, no more than two off-street parking spaces shall be provided in the front yard and overnight guest accommodations shall be in the principal structure only.

(F) Off-street parking in the side and rear yards shall be screened in accordance with parking lot landscaping and screening requirements. Parking shall be placed on the lot in a manner designed to have the least physical impact on adjoining residential uses.

(G) Employment shall not exceed two full time employees in addition to the owner(s).  
(2003 Code, § 8-3.8.10) (Updated 2009)

**§ 8-3.8.11 Boarding or Rooming House.**

(A) The house shall be the permanent residence of the owner of the establishment.

(B) In any Residential Zoning District, no more than two off-street parking spaces shall be provided in the front yard.

(C) Off-street parking in the side and rear yards shall be screened in accordance with parking lot landscaping and screening requirements. Parking shall be placed on the lot in a manner designed to have the least physical impact on adjoining residential uses.  
(2003 Code, § 8-3.8.11) (Updated 2009)

**§ 8-3.8.12 Building Contractors, General; Heavy.**

(A) All outdoor storage of non-passenger vehicles and building materials shall be kept at least 100 linear feet from any adjacent residential use and shall be located in a side or rear yard only. This setback

requirement may be reduced to 50 feet if the outdoor storage area is enclosed by a solid fence of six minimum feet with approval from the Planning Director.

(B) No outdoor equipment or materials shall be visible to the public.

(C) Any materials within a fenced area shall not be stacked higher than the fence.  
(2003 Code, § 8-3.8.12) (Updated 2009)

#### **§ 8-3.8.13 Building Materials Supply; Saw Mills.**

(A) All outdoor storage of logs, lumber and building materials shall be kept at least 100 linear feet from any adjacent residential lot.

(B) Storage of logs, lumber and building materials shall be located in a side or rear yard only.  
(2003 Code, § 8-3.8.13) (Updated 2009)

#### **§ 8-3.8.14 Bulk Storage of Petroleum Products; Fuel Dealers.**

(A) All storage tanks and loading facilities will be located at least 100 feet from any exterior property line.

(B) Vehicle access to the use shall be provided by way of a major or minor thoroughfare or a commercial street directly intersecting a thoroughfare.  
(2003 Code, § 8-3.8.14) (Updated 2009)

#### **§ 8-3.8.15 Car Wash, Automatic.**

(A) The outdoor service area of a car wash shall be placed and screened in accordance with the standards for on-site parking.

(B) Car washes, vacuums and similar service devices shall be a minimum of 20 feet from the nearest portion of an adjacent Residential Zoning District or residential use.

(C) Car washes accessory to a principle use shall be located in the side or rear yard only.  
(2003 Code, § 8-3.8.15) (Updated 2009)

#### **§ 8-3.8.16 Car Wash, Industrial.**

(A) The outdoor service area of a car wash shall be placed and screened in accordance with the standards for on-site parking.

(B) Car washes, vacuums and similar service devices shall be a minimum of 20 feet from the nearest portion of an adjacent Residential Zoning District or residential use.

(C) Car washes accessory to a principle use shall be located in the rear yard only.  
(2003 Code, § 8-3.8.16) (Updated 2009)

#### **§ 8-3.8.17 Car Wash, Self-Service.**

(A) The outdoor service area of a car wash shall be placed and screened in accordance with the standards for on-site parking.

(B) Car washes, vacuums and similar service devices shall be a minimum of 20 feet from the nearest portion of an adjacent Residential Zoning District or residential use.  
(2003 Code, § 8-3.8.17) (Updated 2009)

#### **§ 8-3.8.18 Cemetery.**

(A) Tombstones, crypts, monuments and mausoleums must be located at least 25 feet from any street right-of-way line or abutting property. Greater setbacks shall be observed if otherwise required by the zoning district in which it is located. Gravesites shall also be set back at least twenty feet from any side or rear lot lines in cemeteries (or cemetery expansions).

(B) Sales of crypts shall be allowed as an accessory use on premises (for cemeteries as a principal use only). No building in conjunction with the sales shall be located closer than 20 feet from any side lot line abutting a residential District and 40 feet from any such rear lot line.

(C) Notwithstanding any other provisions of this article, a minimum of three acres shall be needed for any cemetery being developed as a principal use.  
(2003 Code, § 8-3.8.18) (Updated 2009)

#### **§ 8-3.8.19 Childcare Institution; Day Care Center.**

(A) Outdoor play and/or recreation areas shall be located behind the front building line in the rear yard or side yard only. If located in the side yard, a minimum side yard setback of ten feet shall be observed. On corner or through lots, a minimum 20-foot setback as measured from the abutting street right-of-way line shall be required.

(B) All outdoor play and recreation areas shall be surrounded by a fence or wall at least four feet in height.

(C) Outdoor activities are limited to the fenced area between 8:00 a.m. and 10:00 p.m.

(D) At least one off-street passenger loading/unloading space separate from required parking shall be provided for each 20 people enrolled. Adequate on-site turnaround area shall be provided for all loading/unloading and parking spaces.

(E) Uses designed to accommodate more than 30 children shall have a minimum lot size of one acre.

(F) Child care facilities shall comply with other conditions as required by the Board of Adjustment to ensure compatibility with surrounding properties.  
(2003 Code, § 8-3.8.19) (Updated 2009)

**§ 8-3.8.20 Church or Religious Institution, Community Scale.**

(A) Exterior lighting shall be directed or screened so as to protect the privacy of the private living areas and associated open spaces of adjacent residential properties.

(B) Convents, rectories, parsonages or similar uses may be placed on the site as accessory uses.

(C) Accessory uses such as church offices, religious bookstores serving the immediate congregation, parking lots, family life centers, multi-purpose facilities, outdoor recreational facilities and day care centers on the same site or sites contiguous to the principal use shall be permitted. Similar uses on non-contiguous sites or on a site separated from the principal use by a public street shall be considered principal uses in their own right and be regulated as such.

(D) Church accessory uses which are not permitted as principal uses in a District shall adhere to the following restrictions.

(1) No merchandise or merchandise display shall be visible from outside the building.

(2) No business or identification sign pertaining to the accessory uses shall be visible from outside the building.

(E) Except as noted in subsection (C) above, accessory uses not permitted as principal uses (including television stations, radio stations, printing presses or sports complexes) are prohibited.

(F) Direct access to the site shall be provided by a major or minor thoroughfare, as depicted on the most up-to-date version of the Thoroughfare Plan.

(G) The minimum site area shall be three acres.  
(2003 Code, § 8-3.8.20) (Updated 2009)

**§ 8-3.8.20.1 Church or Religious Institution, Neighborhood Scale.**

Accessory uses such as church offices, parking lots, family life centers, multi-purpose facilities, outdoor recreational facilities and day care centers on the same site or sites contiguous to the principal use shall be permitted.

(2003 Code, § 8-3.8.20.1) (Updated 2009)

**§ 8-3.8.21 Civic, Fraternal, Cultural and Community Facilities, Not Otherwise Listed; Private Non-profit Club or Lodge.**

(A) The use has direct access to an arterial or collector street.

(B) No active part of the site (buildings, parking, recreational areas and the like) are permitted within 50 feet of an adjacent single-family residential use.

(C) An auditorium or assembly hall is only permitted; provided that:

(1) The use is permitted as a principle use in the District or

(2) The use is limited to a seating capacity of no more than 150 people.

(2003 Code, § 8-3.8.21) (Updated 2009)

#### **§ 8-3.8.22 Clubs, Private.**

(A) Private clubs shall be open to members of the club and their guests only.

(B) Hours of operation shall be no earlier than 10:00 a.m. and no later than 1:00 a.m. when the use abuts a residential use or a residentially zoned lot. This restriction shall not apply where the use is separated from a residential use or a residentially zoned lot by a major arterial street.

(C) Outdoor seating areas shall not be permitted adjacent to a public street or within 250 feet of a residential use or a residentially zoned lot.

(D) Outdoor entertainment areas, except areas devoted strictly to seating, shall not be permitted.

(E) Music, loud speakers and similar noise devices shall not be permitted outdoors. Noise emanating from the club shall not exceed ambient noise levels in the surrounding area at a distance of more than 100 feet from any point of the property containing the club.

(2003 Code, § 8-3.8.22) (Updated 2009)

#### **§ 8-3.8.23 Cluster Subdivisions.**

(A) All lots within the development shall be accessed solely by interior streets, except that lots used for permitted non-residential uses may have driveway access to adjacent streets if approved by the town.

(B) No non-residential use in the development shall be permitted within 150 feet of the perimeter of the development site unless the adjacent zoning district permits the use.

(C) The overall density of the cluster subdivision shall not exceed that of a non-clustered subdivision. Land “saved” by clustering shall be dedicated for open space according to the requirements of § 8-3.5.

(2003 Code, § 8-3.8.23) (Updated 2009)

#### **§ 8-3.8.24 College or University.**

(A) Schools shall be located on streets sized to accommodate normal traffic volumes of existing

uses plus the additional traffic projected to be generated by the school(s).

(B) Accessory and incidental buildings shall be placed within established rear yards and side yards that do not abut a street.

(C) Where chain link and similar fencing material are installed in an established yard abutting a street, the fencing shall be planted on the exterior side with evergreen shrubs minimum three feet in height (expected height at maturity minimum six feet), six feet on center at installation.

(2003 Code, § 8-3.8.24) (Updated 2009)

#### **§ 8-3.8.25 Community Center.**

Any community center having a seating capacity in excess of 500 persons shall have direct access to a major or minor arterial.

(2003 Code, § 8-3.8.25) (Updated 2009)

#### **§ 8-3.8.26 Construction Vehicle and Heavy Machinery Sales, Repair, Leasing, Maintenance and Storage.**

Outdoor storage of construction vehicles and heavy machinery associated with sales, repair, leasing, maintenance and storage operations shall be permitted according to the following standards:

(A) Where permitted as an accessory use in conjunction with a building, the area of storage shall not be placed in any established yard abutting a street.

(B) Where permitted as a principal use on a lot, the area of storage shall be no closer than forty feet from an abutting street right-of-way.

(C) The area of outdoor storage shall be screened from view from the street(s) and from all abutting properties by an opaque screen; wherever security fencing is desired, it shall be placed on the interior side of the opaque screen.

(2003 Code, § 8-3.8.26) (Updated 2009)

#### **§ 8-3.8.27 Correctional Institutions.**

(A) The principal structure and any accessory use or structure (excluding property boundary fencing) shall be located at least 500 feet from any property located in a Residential District or Mixed Use District.

(B) Property boundary fencing shall not employ barbed wire, razor wire, electrical fencing or similar materials where abutting property located in a Residential or Mixed Use District.

(C) Security fencing shall be provided an opaque screen on the exterior of fencing wherever it is adjacent to a street or property in a Residential or Mixed Use District.

(D) The use shall be located on a lot of at least ten acres if the facility has beds for more than 100 inmates.

(E) The use will be located on a lot of at least five acres if the facility has beds for 100 or fewer inmates.

(2003 Code, § 8-3.8.27) (Updated 2009)

#### **§ 8-3.8.28 Day Care Home, Large and Small.**

(A) A day care home must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling; all building and lot standards for residential dwellings shall be maintained.

(B) No outdoor play shall be permitted after dark and care shall not be provided on a twenty-four hour basis.

(C) The facility shall be staffed by persons residing in the dwelling in which the day care is located except that up to one non-resident may report to work at a day care home.

(D) The day care shall be located in a structure originally constructed as and designed for a single-family dwelling which shall be the principal structure on the lot. The structure shall not be altered in any manner which diminishes its value as a single-family dwelling or which changes its exterior residential character.

(E) The owner of the day care home shall reside on premises.  
(2003 Code, § 8-3.8.28) (Updated 2009)

#### **§ 8-3.8.29 Dormitory.**

(A) In any Residential Zoning District, no more than two off-street parking spaces shall be provided in the front yard.

(B) Off-street parking in the side and rear yards shall be screened in accordance with parking lot landscaping and screening requirements. Parking shall be placed on the lot in a manner designed to have the least physical impact on adjoining residential uses.

(2003 Code, § 8-3.8.29) (Updated 2009)

#### **§ 8-3.8.30 Fairgrounds, Flea Markets and Farmers Markets.**

(A) Direct access to the site shall be provided by a major or minor arterial.

(B) For outdoor flea markets only, the lot shall be at least 300 linear feet from any lot located in a Residential District.

(2003 Code, § 8-3.8.30) (Updated 2009)

#### **§ 8-3.8.31 Freight Terminals.**

(A) The area designated for truck parking shall be located no closer than 40 feet from an abutting street right-of-way.

(B) The area of truck parking shall be screened from view from the street(s) and from all abutting properties by an opaque screen; wherever security fencing is desired, it shall be placed on the interior side of the screening materials.

(C) The use shall be located on or have direct access to a major or minor arterial; truck terminals shall not be sited such that collector streets are regularly traversed to access the larger capacity road. (2003 Code, § 8-3.8.31) (Updated 2009)

#### **§ 8-3.8.32 Funeral Homes.**

The proposed funeral home shall provide a semi-opaque screen, where abutting property located in a residential District or a residential use in a commercial or mixed-use District. (2003 Code, § 8-3.8.32) (Updated 2009)

#### **§ 8-3.8.33 Gasoline Station, Large; Neighborhood.**

(A) Hours of operation shall be no earlier than 6:00 a.m. and no later than midnight when this use abuts a residential use or a residentially zoned lot. This restriction shall not apply where the use is separated from a residential use or a residentially zoned lot by a major arterial street.

(B) Any accessory motor vehicle repair service shall store any wrecked, partially dismantled or inoperative vehicles located on-site in an enclosed building or in a separate motor vehicle storage yard which meets the requirements of this article for outdoor storage.

(C) The overnight storage of all merchandise and vehicles shall be indoors and all repair work and similar activities shall be conducted entirely within enclosed structures.

(D) All fuel pumps shall be located a minimum of 20 feet from any adjacent property line.

(E) All fuel pumps and canopies shall be located in the side or rear yard only. On corner lots, fuel pumps and canopies located in side yards shall be on the side of the principle structure located away from the street intersection. (2003 Code, § 8-3.8.33) (Updated 2009)

#### **§ 8-3.8.34 Group Homes, A or B.**

The zoning lot on which the group home or care facility is proposed shall not be located within a one-half mile radius of a zoning lot containing another such facility. (2003 Code, § 8-3.8.33) (Updated 2009)

**§ 8-3.8.35 Habilitation Facility, A or B.**

(A) Outdoor activity areas shall be located behind the front building line in the rear yard or side yard only. If located in the side yard, a minimum side yard setback of ten feet shall be observed. On corner or through lots, a minimum 20-foot setback as measured from the abutting street right-of-way line shall be required.

(B) All outdoor activity areas shall be surrounded by a fence or wall at least four feet in height.

(C) Outdoor activities shall be permitted only between the hours of 8:00 a.m. and 10:00 p.m.

(D) At least one off-street passenger loading/unloading space separate from required parking shall be provided for each 20 people enrolled.  
(2003 Code, § 8-3.8.35) (Updated 2009)

**§ 8-3.8.36 Heliport.**

(A) Non-emergency use (i.e., uses other than for public safety or medical purposes) of private heliports between the hours of 10:00 p.m. and 6:00 a.m. is prohibited.

(B) Landing pads for on-grade heliports shall be set back a minimum of 100 feet from any property line and 400 feet from buildings used for residential purposes, public or private schools, hospitals or public parks. These distance requirements may be reduced one foot for each one foot of the elevation above ground level for elevated helistops.

(C) The helistop or heliport landing area shall be constructed of a material free of dust and loose particles which may be blown about by the down blast of the helicopter rotor.

(D) Lighting is to be provided according to Federal Aviation Administration requirements and is to be oriented as much as possible away from adjacent uses.

(E) An on-ground helistop shall be surrounded by a fence or other barrier which prohibits access except at controlled access points. Adequate access for fire and other emergency vehicles shall be provided to on-ground sites.  
(2003 Code, § 8-3.8.36) (Updated 2009)

**§ 8-3.8.37 Home Occupation.**

A home occupation is permitted accessory to any dwelling unit (except manufactured housing) in accordance with the following requirements.

(A) The home occupation must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling.

(B) A home occupation conducted in an accessory structure shall be housed only in a garage or other accessory structure typically associated with a dwelling.

(C) The use shall employ no more than one person who is not a resident of the dwelling.

(D) A home occupation housed within the dwelling shall occupy no more than 25% of the total floor area of the dwelling.

(E) There shall be no visible outside display of stock in trade which is sold on the premises.

(F) There shall be no outdoor storage or visible evidence of equipment or materials used in the home occupation, excepting equipment or materials of a type and quantity that could reasonably be associated with the principal residential use.

(G) Operation of the home occupation shall not be visible from any dwelling on an adjacent lot, nor from a street.

(H) Only vehicles used primarily as passenger vehicles will be permitted in connection with the conduct of the home occupation.

(I) The home occupation shall not utilize mechanical, electrical or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare or other nuisances outside the dwelling or accessory structure housing the home occupation.

(J) Home occupations shall be limited to those uses which do not draw clients to the dwelling on a regular basis.

(K) Outdoor kilns used for the firing of pottery shall be provided with a semi-opaque screen to obstruct the view from the street and from adjacent properties located in residential Districts, shall have a secured work area and shall be a minimum of ten feet from abutting property lines.

(L) No advertising signs shall be permitted.  
(2003 Code, § 8-3.8.37) (Updated 2009)

#### **§ 8-3.8.38 Kennel.**

(A) Any structure which houses animals which is not fully enclosed shall be located at least 100 feet from any lot line and 250 feet from a Residential or Mixed Use District.

(B) Any run located partially or wholly outdoors shall be located at least 100 feet from any lot line and 250 feet from a Residential or Mixed Use District.

(C) A maximum of 12 dogs shall be permitted in outside runs.  
(2003 Code, § 8-3.8.38) (Updated 2009)

#### **§ 8-3.8.39 Landfill, Construction and Demolition.**

(A) The actual fill area shall be located at least 300 linear feet from any pre-existing principal

residential structure and at least 50 feet from any lot line. All other structures and facilities (except access driveways) associated with the landfill shall be located at least 100 linear feet from any lot line.

(B) Direct access to the site shall be provided by major or minor arterials only.

(C) All access driveways which serve the site for ingress or egress shall be wide enough to accommodate two lanes of traffic.

(D) Access to the site shall be controlled with gates, fences or other suitable devices to prevent unregulated dumping.

(2003 Code, § 8-3.8.39) (Updated 2009)

#### **§ 8-3.8.40 Landfill, Land Clearing and Inert Debris (LCID).**

(A) *On-site facilities.*

(1) Fill activity must comply with all applicable federal, state and local laws ordinances, rules and regulations, including, but not limited to, zoning restrictions, flood plain restrictions, wetland restrictions, mining restrictions and sedimentation and erosion control regulations.

(2) Any on-site LCID landfill must obtain a permit from and comply with the standards of Davie County and the State of North Carolina.

(3) Fill activity is prohibited in the 100-year floodplain and any wetland as defined in the Clean Water Act, § 404(b).

(4) Fill activity is prohibited within a drainage way unless the drainage is piped in accordance with approved plans.

(5) Fill activity is prohibited within any utility easement.

(6) The owner of a landfill for the on-site disposal of land clearing and inert debris shall file a certified copy of a record plat of the property on which the landfill is located in the Davie County Register of Deeds' Office. This record plat shall accurately show the location of the landfill and the record owner of the land on which the landfill is situated.

(7) Driveway access to the facility must be paved and must directly connect to a major or minor arterial, collector street or a minor non-residential street.

(8) All unpaved areas shall be maintained in a manner which prevents dust from leaving the property.

(9) Any such landfill must be closed in an approved fashion within six months of completion of construction or within twelve months of cessation of construction, if the development project has not been completed.

(10) The location of any such landfill must be indicated on the preliminary subdivision plan and

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the final subdivision plat. Further, any parcel or lot which contains any part of any such landfill must have notification of the existence and extent of the landfill recorded as part of the deed for the lot or parcel.

(11) No portion of any such landfill may be located within 75 feet of any property line which constitutes the external boundary of the project. This includes structures, equipment storage, parking areas and fill areas, except that access drives may cross this area.

(12) A type D buffer shall be provided at the exterior property lines and drive of the LCID site. Buffer requirements may be adjusted as necessary to ensure adequate protection of public health and the environment.

(13) The approved Land Clearing and Inert Debris Landfill permit or notification form issued by the North Carolina Department of Environment Natural Resources, Division of Solid Waste Management shall be presented prior to the commencement of fill activity.

(B) *Off-site facilities (not located on active development sites).*

(1) Fill activity must comply with all applicable Federal, State and Local Laws ordinances, rules and regulations, including, but not limited to, zoning restrictions, flood plain restrictions, wetland restrictions, mining restrictions and sedimentation and erosion control regulations. (NCAC 15A.13B .0560-.0566)

(2) Fill activity is prohibited in the 100-year floodplain and any wetland as defined in the Clean Water Act, § 404(b).

(3) Fill activity is prohibited within a drainage way unless the drainage is piped in accordance with approved plans.

(4) Fill activity is prohibited within any utility easement

(5) The owner of a landfill for the on-site disposal of land clearing and inert debris shall file a certified copy of a record plat of the property on which the landfill is located in the County Register of Deeds' Office. This record plat shall accurately show the location of the landfill and the record owner of the land on which the landfill is situated.

(6) Any facility which would operate for more than 24 months from the time that activity begins shall not be permitted.

(7) No portion of any such landfill may be located within 75 feet of any exterior property line. This includes structures, equipment storage, parking areas and fill areas; access drives may cross this area but may not be placed laterally through this area.

(8) The actual fill area must be located at least 300 feet from any existing residential structure and at least 300 feet from any existing or former off-site LCID or demolition landfill.

(9) Driveway access to the facility must be paved and must directly connect to a major or minor arterial, collector street or minor non-residential street.

(10) All unpaved areas shall be maintained in a manner which prevents dust from leaving the property.

(11) Vehicular and pedestrian access to the site shall be controlled; the site must be closed and secured during hours when filling activities are not under way.

(12) Use of the site for any purpose is limited to the hours of 7:00 a.m. until 6:00 p.m. Monday through Saturday, if the site adjoins or is across the street from property located in a residential District.

(13) No filling of any kind is allowed in a regulated flood plain or floodway fringe.

(14) A type D buffer shall be provided at exterior property lines of the LCID site. Buffer requirements may be adjusted as necessary to ensure adequate protection of public health and the environment.

(15) The landfill operator shall be responsible for removal of any and all debris, dirt or other materials which fall from trucks entering or leaving the landfill from all adjoining streets on at least a weekly basis. Failure to comply constitutes a violation of this article and may constitute grounds for revocation of the operating permit.

(16) All driveways which serve the site must be wide enough to accommodate two-way traffic at all times and an area on the site must be provided to accommodate vehicles entering the site so that no traffic waiting to enter the site will be backed up on any public right-of-way.

(17) A surety bond or irrevocable letter of credit in an amount to be determined by the Town Manager, in consultation with the consulting engineer, must be provided to ensure that any active landfill area will be closed in an approved fashion. The amount of the bond will be based upon the maximum acreage expected to be in use at any given time. No more than 25% of the total area to be filled may be actively used at any one time.

(18) A reclamation plan shall be provided to show how the site will be reclaimed upon the closing of the LCID landfill.

(19) The approved Land Clearing and Inert Debris Landfill permit or notification form issued by the North Carolina Department of Environment and Natural Resources, Division of Solid Waste Management shall be presented prior to the commencement of fill activity.  
(2003 Code, § 8-3.8.40) (Updated 2009)

#### **§ 8-3.8.41 Manufactured Home, Class A or B.**

(A) All homes shall be oriented to ensure that the longer side is parallel or as close as possible to the centerline of the public roadway, unless otherwise approved by the Zoning Administrator.

(B) A permanent porch shall be placed on the front of each home which measures at least six feet in width and a minimum of 24 square feet in area.  
(2003 Code, § 8-3.8.41) (Updated 2009)

**§ 8-3.8.42 Manufactured Home, Temporary.**

(A) Temporary manufactured homes shall only be permitted for reasons of personal hardship, defined as:

- (1) A short-term medical emergency within the immediate family; and
- (2) Cases of fire or destruction of a primary residence requiring temporary relocation.

(B) Homes shall be permitted for a period not to exceed 24 months.

(C) All homes shall be placed on the lot in harmony with existing site built structures.

(D) All homes shall have their entire perimeter enclosed from the ground to the bottom of the structure with material manufactured for this purpose in accordance with standards set by the State of North Carolina Regulations for Manufactured/Mobile Homes. Examples of commonly recognized building materials suitable for use as underpinning shall include, but not be limited to, the following list: brick masonry, concrete block masonry; natural or synthetic stone masonry; or vinyl. Assemblies, products and materials manufactured expressly for the purpose of underpinning shall be installed in accordance with the manufacturers' specifications.

(E) The towing tongue shall be removed, under skirted or screened with shrubbery. The shrubbery shall be of a height to ensure a total visual barrier of the towing apparatus and maintained.

(F) The home shall be placed in a side or rear yard only, but shall not be located in a side yard that abuts a public street. The home shall meet all setbacks for accessory structures in the District where located.

(2003 Code, § 8-3.8.42) (Updated 2009)

**§ 8-3.8.43 Manufactured Home Park.**

(A) Manufactured home parks shall be located on a minimum two acre tract (with a minimum of three manufactured home spaces).

(B) Each park shall provide at least two parking spaces per home. Parking spaces shall be at least feet from adjacent home spaces.

(C) A manufactured home shall be sited so that:

- (1) It is located at least 25 feet from adjacent homes; and
- (2) A minimum five foot setback from adjacent home spaces is maintained.

(D) Each manufactured home park shall have located at its entrance, perpendicular to the public road, a permanent non-lighted sign not to exceed 16 square feet and not less than 12 square feet, indicating the park name in a minimum of six inch letters on both sides of the sign.

(E) Each proposed home space in a manufactured home park shall be clearly marked by a permanent home space number sign or marker. The home space number shall be of a size (numbers shall be at least three inches high), reflectivity and color and in a location which is readily identifiable by emergency personnel and inspectors. All home space numbers shall be consistent within a park and must be approved by the town.

(F) Home spaces shall be properly staked.

(G) All homes shall have their entire perimeter enclosed from the ground to the bottom of the structure with material manufactured for this purpose in accordance with standards set by the State of North Carolina Regulations for Manufactured/Mobile Homes. Examples of commonly recognized building materials suitable for use as underpinning shall include, but not be limited to, the following list: brick masonry, concrete block masonry; natural or synthetic stone masonry; or vinyl. Assemblies, products and materials manufactured expressly for the purpose of underpinning shall be installed in accordance with the manufacturers' specifications.

(H) The towing tongue shall be removed, under skirted or screened with shrubbery. The shrubbery shall be of a height to ensure a total visual barrier of the towing apparatus and maintained.

(I) All manufactured homes located adjacent to public streets shall be oriented to ensure that the longer side is parallel or as close as possible to the centerline of the public roadway, unless otherwise approved by the Zoning Administrator.

(J) Each park containing ten or more home spaces shall provide at least one specifically designated passive recreational area equaling at least 200 square feet per home space.

(K) A permanent porch shall be placed on the front of each home which measures at least six feet in width and a minimum of 24 square feet in area.  
(2003 Code, § 8-3.8.43) (Updated 2009)

#### **§ 8-3.8.44 Manufactured Home Subdivision.**

(A) All lots shall be arranged and all homes oriented to ensure that the longer side is parallel or as close as possible to the centerline of the public roadway, unless otherwise approved by the Zoning Administrator.

(B) Only Class A manufactured homes are permitted in manufactured home subdivisions.  
(2003 Code, § 8-3.8.44) (Updated 2009)

#### **§ 8-3.8.45 Motor Vehicle Sales, Rental and Leasing.**

(A) Motor vehicle sales, lease and rental lots shall front on a major or minor arterial. Drive-in

service windows and service processing, stacking and circulation lanes are prohibited in the established front setback of the principal building and within 75 feet of the right-of-way in a principal building's side yard that abuts a major or minor thoroughfare. On-site stacking lanes for drive-in service windows shall be a minimum of 200 feet in length if accessed directly from a thoroughfare or minimum of 100 feet if accessed directly from a street of lesser capacity.

(B) All signs on the site shall conform to the standards of this article. Non-conforming signs, if present anywhere on the site, shall be removed prior to issuance of a change of use permit, issuance of grading permit or commencement of new construction on the site.

(C) Vehicles for sale or lease may be displayed in the established front yard under the following conditions:

(1) All new display areas must be paved with a decorative paving material; and

(2) No vehicle shall be displayed within 15 feet of the street right-of-way; and

(3) A strip averaging eight feet in width, but in no case less than five feet in width, located in the area of the lot between the street right-of-way and the vehicle display area shall be heavily landscaped with evergreen shrubs and flowering plants which are suitable for this climate and the growing conditions present on the site. A recommended plant list for shrubs is available from the Davie County Planning Department. This strip shall be immediately adjacent to the vehicle display area. The number of plantings may be reduced if used in conjunction with and placed on the street side of an opaque, decorative wall at least two and one-half feet in height. This requirement is in addition to any other screening requirements established by this article.

(D) Outdoor storage of vehicles in process of repair and vehicles for sale or lease that are in the process of dealer preparation for buyer/lessee pick up are permitted as follows:

(1) The storage areas are exempt from the interior landscaping requirements for parking lots. However, the perimeter landscaping requirements of parking lots shall apply to the storage areas.

(2) The storage areas may only be located behind the principal building and/or its accessory buildings and shall not be placed within 100 feet of any property line that abuts a thoroughfare or local public street.

(E) Businesses are prohibited from using amplified speaker/public address systems, except within fully enclosed building(s).

(F) Outdoor lighting shall meet all of the following requirements:

(1) The maximum height for lighting (pole mounted and wall mounted) shall be twenty feet, including the base/mounting fixture;

(2) Floodlights are not permitted for parking lot illumination;

(3) Lighting shall be directed downward and light spillover minimized with the use of hoods and similar devices; and

(4) Lighting fixtures that produce glare visible from adjacent property(s) and public rights-of-way are prohibited.

(G) No vehicle sales/lease lot located within the Neighborhood Center District shall exceed one acre in size.

(2003 Code, § 8-3.8.45) (Updated 2009)

#### **§ 8-3.8.46 Motor Vehicle Repair and Maintenance.**

(A) The lot containing the use shall be located at least 200 feet from any residential use or residentially zoned lot.

(B) A motor vehicle repair, service, body or paint shop which has wrecked, partially dismantled or inoperative vehicles located on-site shall store these vehicles in an enclosed building or in a separate motor vehicle storage yard which meets the requirements of this article for the yards.

(2003 Code, § 8-3.8.46) (Updated 2009)

#### **§ 8-3.8.47 Motor Vehicle Storage Yard.**

(A) A motor vehicle storage yard created or expanded after the adoption date of this article shall have an enclosed storage area not exceeding one acre.

(B) No repair work shall be done on motor vehicles while stored in the storage yard. No parts or other articles may be removed from the vehicles, except for security purposes, nor shall any parts or articles be sold. The sale of whole vehicles shall be permitted only to satisfy a mechanics lien or by order of a law enforcement agency.

(C) Fencing shall be set back a minimum of ten feet from public street rights-of-way.

(D) Vertical stacking of motor vehicles is prohibited.

(E) Any gasoline, oil or other materials spilled or collected on site shall be contained and disposed of in accordance with state and federal laws.

(F) Tractor trailers, tankers and/or any vehicle carrying a hazardous material shall be stored only in motor vehicle storage yards located in the SP or GI Districts. A motor vehicle storage yard which stores a tanker which has contained a hazardous substance shall be enclosed by a minimum six foot high fence which shall be locked during non-operation hours. In addition, a spill containment structure certified by a registered professional engineer as being adequate for spill containment is required. No tanker shall be stored closer than 300 feet from any Residential Zoning District or lot containing a legal conforming residential use.

(2003 Code, § 8-3.8.47) (Updated 2009)

#### **§ 8-3.8.48 Nursery, Lawn and Garden Supply Store, Retail.**

(A) Up to two storage containers/trailers are permitted to be placed on the lot.

(B) Where permitted as a principal use on a lot, the area of storage for live plants shall be no closer than ten feet from an abutting street right-of-way and the area of storage for all other items shall be no closer than 40 feet from an abutting street right-of-way.

(2003 Code, § 8-3.8.48) (Updated 2009)

#### **§ 8-3.8.49 Nursing Care Institutions and Congregate Care Facilities.**

(A) Any facility which is licensed to have more than 50 residents shall maintain a side setback of at least 20 feet and a rear setback of at least 40 feet when the side or rear yard is in or abuts a residential District.

(B) Driveway access to accessory structures shall be through the main entrance to the facility.

(C) Accessory structures shall be arranged to provide for adequate on-site vehicular and pedestrian traffic.

(D) Any portion of a building, which contains living areas, shall be set back a minimum of 15 feet from internal driveways and parking areas. This standard shall only apply to the living areas of buildings which contain a mixture of uses such as offices, storage and living areas.

(E) Any building greater than 10,000 square feet or one story in height shall be a minimum of 50 feet from any adjoining property lines and include a Type A buffer. The setback shall be increased five feet for each additional 5,000 square feet over 10,000 square feet and increased ten feet for each story above one when the building is adjacent to a residentially zoned lot.

(F) Acceptable materials for additions and new construction include wood, brick, stone, stucco, vinyl and similar materials designed to give the exterior a residential appearance. Under no circumstances shall metal siding, not intended to mimic traditional wood siding used on residential structures or unfinished concrete block be permitted.

(2003 Code, § 8-3.8.49) (Updated 2009)

#### **§ 8-3.8.50 Outdoor Display and Sales of Merchandise.**

All display and sales of merchandise shall be conducted completely within enclosed buildings, except where expressly permitted below:

(A) Outdoor seating for restaurants; provided that, such:

(1) Shall not be located in any street right-of-way;

(2) Shall be permitted only along the business' tenant bay or storefront facade; and

(3) Shall not block the entrance to the business or building.

(B) Outdoor display or sales of merchandise accessory to a principle use; provided:

(1) Shall not be located in any public street right-of-way;

(2) Shall be permitted only along the business' tenant bay or storefront facade;

(3) Shall not block the entrance to the business or building;

(4) Shall not exceed 10% of the gross floor area of each non-related and separately operated use; and

(5) The display area shall be shown on the site plan prior to a certificate of occupancy.  
(2003 Code, § 8-3.8.50) (Updated 2009)

#### **§ 8-3.8.51 Outdoor Storage.**

(A) Items must be placed within an enclosed building or approved outdoor storage area at the end of each business day.

(B) Up to two storage trailers are permitted to be placed on a single lot or in conjunction with a single principal use.

(C) Only vehicles and equipment awaiting or in process of repair which are not visibly damaged or are not used or intended to be used as "parts" vehicles shall be permitted.

(D) Where permitted as an accessory use in conjunction with a building, the area of storage shall not be placed in any front yard or side yard abutting a street.

(E) Where permitted as a principal use on a lot, the area of storage shall be no closer than 25 feet from an abutting street right-of-way.

(F) All areas established for outdoor storage, including security fencing of the areas, shall be screened from view from the public street(s) and from all abutting properties by an opaque screen a minimum of six feet in height.

(2003 Code, § 8-3.8.51) (Updated 2009)

#### **§ 8-3.8.52 Parking Lot or Deck.**

Parking lots and decks not accessory to a building on the same development site shall meet all requirements elsewhere herein for the uses, except that

(A) Parking lots may be constructed up to the prevailing established setback line in developed areas or the required setback line in undeveloped areas. In developed areas the prevailing setback line shall be determined by existing structures lying within 300 feet in either direction on the same side of the same street as the proposed parking lot. If the proposed parking lot lies at a street intersection, the prevailing established setback shall be determined for both the fronting street and any abutting side street in the same manner.

(B) Parking decks shall, to the maximum extent practicable, meet the design standards for buildings.

(2003 Code, § 8-3.8.52) (Updated 2009)

#### **§ 8-3.8.53 Pawn Shop.**

(A) A pawn shop shall not be located within 250 feet of a residential use or residentially zoned lot.

(B) A pawn shop shall not be located within 500 feet of a private club, adult entertainment establishment or another pawn shop.

(2003 Code, § 8-3.8.53) (Updated 2009)

#### **§ 8-3.8.54 Progressive Care Community.**

(A) Accessory buildings shall only include accessory dwellings containing no more than four dwelling units, recreation centers and similar facilities, dining halls and maintenance buildings. All other buildings shall be principal buildings the use of which shall be for congregate or nursing care.

(B) Driveway access to accessory structures shall be through the main entrance to the community.

(C) Structures shall be arranged to provide for adequate on-site vehicular and pedestrian traffic.

(D) Paved walkways shall be provided between accessory dwellings, the principal building and all common facilities such as dining halls and recreation centers.

(E) All lease/sale arrangements for accessory dwellings shall be under the direct control of the management company responsible for the progressive care community.

(F) Principal and accessory buildings shall be predominately designed and constructed with architectural features common to residential structures including, but not limited to, the following features: roof pitch, facade material and size, type and placement of windows and doors. Acceptable materials for additions and new construction include wood, brick, stone, stucco, vinyl and similar materials designed to give the exterior a residential appearance. Under no circumstances shall metal siding, not intended to mimic traditional wood siding or unfinished concrete block be permitted.

(G) Any building greater than 10,000 square feet or one story in height shall be a minimum of 50 feet from any adjoining property lines and include a Type A buffer. The setback shall be increased five feet for each additional 5,000 square feet over 10,000 square feet and increased ten feet for each story above one when the building is adjacent to a residentially zoned lot.

(H) No site shall have a density greater than ten units per acre for accessory residential dwellings. For the purposes of calculating density all land lying underneath and within 20 feet of any congregate care or nursing care facility and all loading/unloading, garbage collection and parking areas associated with congregate care or nursing care facilities shall be excluded from the total acreage.

(I) A minimum of five acres shall be required. All land used for the progressive care community shall be contiguous and shall not be divided or transected by public roads, private roads granting easement(s) to tracts of land not included within the community or natural features which would visually and functionally divide the development, including, but not limited to, preventing the free flow of pedestrian and vehicular traffic.

(J) All structures are limited in occupancy to persons aged 62 years or older, the physically handicapped and their spouses except for rooms or units occupied by resident staff personnel performing duties directly related to the operation of the facility.  
(2003 Code, § 8-3.8.54) (Updated 2009)

#### **§ 8-3.8.55 Raceways and Drag Strips.**

(A) The use shall be located on a lot of at least 40 acres.

(B) Vehicular access to the use shall be provided only by way of a major or minor arterial.

(C) A minimum separation of 100 feet, fully vegetated, shall be provided between the fenced use area and any abutting property line.

(D) Existing vegetation shall be preserved to the extent practicable and supplemented with new plantings as may be required to provide a year-round opaque buffer from abutting properties.

(E) The site shall be screened from the street(s) by a masonry wall or a solid wood fence, planted on the exterior side with a semi-opaque vegetative screen with expected height of at least 8 feet at maturity; if security fencing of chain link or similar material is provided, it shall be placed on the interior side of the vegetation and wall or fence.

(F) Hours of operation shall be no earlier than 8:00 a.m. Monday to Saturday or 12:00 p.m. Sunday and no later than 11:00 p.m.  
(2003 Code, § 8-3.8.55) (Updated 2009)

#### **§ 8-3.8.56 Recreational Facilities, Golf Courses and Driving Ranges.**

(A) Hours of operation of public or private recreational facilities, golf courses and driving ranges will be no earlier than 6:00 a.m. and no later than 11:00 p.m. for uses located in or abutting a residential District.

(B) All outdoor swimming facilities shall be located at least 100 feet from any adjoining residentially zoned lot.

(C) Private recreational facilities located in a Residential Zoning District shall be open to members of the club and their guests only.

(D) Membership in private recreational facilities located in Residential Zoning Districts shall be open to residents of the immediate area only.  
(2003 Code, § 8-3.8.56) (Updated 2009)

### **§ 8-3.8.57 Recreation Services, Indoors and Outdoors.**

(A) Service areas will be separated by an opaque screen from the view from any street and from abutting properties.

(B) Chain link and similar fencing materials, if used, shall be planted on exterior side with evergreen shrubs minimum three feet in height and six feet on center at installation.

(C) Outdoor lighting associated with outdoor recreational facilities shall not shine directly into yards of a residential use nor into the windows of a residential structure.

(D) Outdoor speaker systems shall not be permitted.

(E) Hours of operation shall be no earlier than 6:00 a.m. and no later than 11:00 p.m.

(F) Recreation Services, outdoors; recreational sportsman range.

(1) A “sportsman range” is any shooting match or contest in which powder burning shot guns/bow and arrow are used and prizes are awarded for marksmanship in which the general public is invited to participate.

(2) No sportsman range shall be conducted without meeting the following:

(3) Only shotguns may be used (#9 shot or smaller).

(4) All shooting shall be directed away from homes and streets.

(5) The design of the turkey shoot target area shall be reviewed and approved by the Town Police Department.

(6) Prior to the operation of any “sportsman range” a license must be first acquired from the Town Police Department. A license shall be issued only after a written application is completed and filed with the Department stating the name, age and address of the applicant and whether or not the applicant has ever been convicted of a felony. No license shall be issued to a minor or to a person who has been convicted of a felony.

(7) A vegetated berm or opaque fence shall enclose the firing area, which is a minimum of 8 ft in height to prevent the public view of the activity.

(8) Back stops shall be constructed of material that will allow the shot to penetrate but not pass

through.

(9) Back stops shall be maintained at a height of four feet above the target.

(10) All sportsman ranges shall be established with the firing line to the target area perpendicular to and a minimum of 100 feet to a road right-of-way.

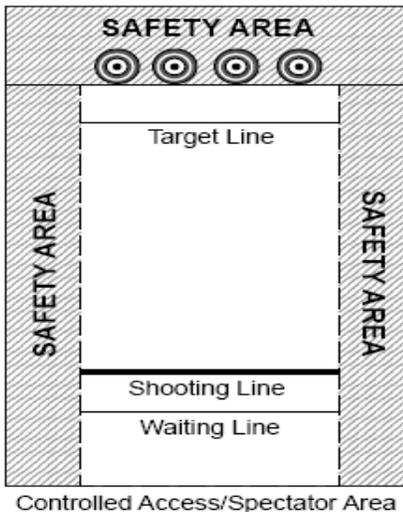
(11) Firing stations/line shall be located a minimum of 250 feet from any “residential lot line”, unless all firing would occur within a completely enclosed resistant building.

(12) A 50-foot safety area shall be established around the target area. This area shall be clearly marked to prevent entry within this area.

(13) All back stops shall be constructed a minimum of 500 feet from a residence.

(14) There shall be two parking spaces provided per target/shooting station.

(15) A sportsman range may operate only on Fridays and Saturdays in the months of November and December and be limited to operate on two additional weeks throughout the year.



(16) Hours of operation: Friday, 5:00 p.m. to 9:00 p.m.; Saturday, 1:00 p.m. to 6:00 p.m.

(17) An outdoor sportsman range shall be properly posted from the street and along the property boundary every 500 feet. (2003 Code, § 8-3.8.57) (Updated 2009)

**§ 8-3.8.58 Recycling Center.**

(A) A 50-foot side and rear yard buffer shall be required for any site which abuts a Residential or Mixed Use District.

(B) No outdoor storage of goods to be recycled shall be permitted. All such materials shall be enclosed within bins,

buildings or storage containers. (2003 Code, § 8-3.8.58) (Updated 2009)

**§ 8-3.8.59 Residential Building, Duplex.**

Duplexes are permitted on corner or through lots in any Residential or Mixed Use District according to the following standards:

(A) The entrances to each unit may face different streets.

(B) The dwelling shall meet the minimum front yard setback from both streets upon which a unit

faces.

(C) The lot shall have at least one and one-half times the minimum lot area, if any, for the District in which it is located.

(2003 Code, § 8-3.8.59) (Updated 2009)

### **§ 8-3.8.60 Residential Building, Multi-family; Townhouse.**

(A) *Standards for multi-family and townhouse developments in all Districts.*

(1) Primary access to the development site shall be from a state or town maintained street. The developer may be required to provide turn lanes and other off-site transportation improvements to ensure safe and adequate access.

(2) When located within 100 feet of a parcel zoned OSR, NR or GR but not MF, the design and appearance of multi-family dwellings must have similar massing, height, roof pitch and architectural features - including front porches; cornice lines; horizontal lines of windows; and architectural embellishments, such as: shutters, dormers, belvederes, chimneys and the like to create, to the maximum extent practicable, the appearance of single-family dwellings.

(3) On small infill development sites in the OSR, GR and NR Districts, multi-family buildings shall be designed to blend in with surrounding single-family residential buildings to the maximum extent practicable with regards to building design, setbacks, driveway and garage design and location, porches and sidewalks.

(4) Site designs shall create a sense of “neighborhood” which includes:

(a) An internal vehicular circulation system reflective of a single-family residential street system shall be used, as opposed to looped systems, whenever practicable, whenever the proposed development includes private streets or drives.

(b) Buildings shall be sited with front entrances and porches oriented toward streets, drives and plazas, rather than clustered around parking lots.

(c) Parking lots shall be located behind buildings or screened from view from internal streets, except where it is deemed appropriate to use a parking lot as a buffer from an arterial street or where the parking area will directly abut a property line exterior to the development site when located in the OSR or NR Districts.

(d) Walkways shall connect all buildings with parking areas, play areas, clubhouses and existing public sidewalks adjacent to the development site.

(e) Plazas, clubhouses, pools and recreational facilities shall be centrally located, when provided.

(5) Building designs that create variety and do not look monotonous if replicated throughout the development shall be required. The designs shall include the following:

(a) Side and rear building elevations, garages, carports and all accessory structures shall have the same level of design, aesthetic quality and architectural detailing.

(b) Porches, varied rooflines and varied facade depths shall be provided to create variety and individuality of each dwelling within the building.

(c) Windows and projecting wall surfaces shall be used to break up larger wall surfaces, establish visual interest and provide visibility of the street and other public spaces encouraging social interaction.

(d) Protective entry courts, common vestibules, covered breeze ways or enclosed stair halls shall be used to reduce the number of visible doors, unless designed in a row house or townhouse manner oriented toward the street.

(e) Garages shall be designed to be integrated with the building design or sited so as to avoid long monotonous rows of garage doors and building walls. Garages shall be oriented so that they do not visually dominate the building facade or the streetscape.

*(B) Standards for multi-family and townhouse developments located within the MF District.*

(1) Open space shall account for a minimum of 25% of the total land area of the development site (Note: Watershed regulations may require more pervious coverage.) For the purpose of this section, open space may include wooded areas, yards, playgrounds and other active recreation space.

(2) Private active recreation space shall be provided for all complexes containing more than twenty dwelling units at the rate of 100 square feet per dwelling unit. The space may also count towards the unobstructed open space requirements outlined in subsection (C) above. Recreation space shall be designed to reduce any impact of night lighting or noise on nearby dwelling units located on or adjacent to the site. The areas shall be developed and maintained in a neat and orderly condition in order to provide a safe, healthful and attractive living environment. Common recreational areas shall be easily accessible by pedestrian walkways so they can be conveniently and safely reached and used. Furthermore, common recreational areas shall be constructed on substantially flat (no more than 5% grade) land which is well drained and otherwise capable of serving the purposes intended. No streets, access easements, rights-of-way, parking areas or required buffer shall be used or counted towards the required recreational space.

*(C) Standards for multi-family and townhouse developments located within the OSR and NR Districts.*

(1) All buildings shall be constructed to mimic single-family or duplex residential dwellings in design, materials and orientation to the street to the maximum extent practicable.

(2) No more than four units per building shall be permitted.

(3) The entrances to each unit in the building may face different streets.

(4) The building shall meet the minimum front yard setback from each street upon which a unit faces and shall meet all other applicable setbacks for the District in which it is located.

(5) Open space shall account for 30% of the total land area of the site. The space shall be used to provide active recreational facilities for the site

(6) Any front or side yard off-street parking shall be designed in scale and appearance to mimic parking for single-family or duplex residential dwellings.

(7) Common parking facilities shall be screened from the property line exterior to the development site and shall not be visible to adjacent single-family parcels. The parking facilities shall not be designed for more than 12 parking spaces and shall not be closer than 100 feet to another such parking facility.

(8) A Type B Buffer shall be required to be planted along the perimeter of the site.  
(2003 Code, § 8-3.8.60) (Updated 2009)

#### **§ 8-3.8.61 Sanitary Landfill.**

(A) The use shall be located on a lot of at least 50 acres.

(B) All land filling operations and off-street parking and service areas shall be separated by a 100 foot buffer from all adjacent properties and shielded from view of a public street by an opaque screen.

(C) No structure or land filling operation will be located within 100 feet of any property line nor within 200 feet of abutting property located in a residential District or developed for residential or mixed use.

(D) Vehicular access to the proposed use shall be provided by an arterial.

(E) There shall be a general timetable indicating the development phases and projected life expectancy of the landfill.

(F) There shall be a detailed plan for the re-use of the property, after landfill operations cease that is not in conflict with the objectives of the most detailed plan approved for the area.  
(2003 Code, § 8-3.8.61) (Updated 2009)

#### **§ 8-3.8.62 Schools, Elementary and Secondary, Including School Stadiums.**

(A) Accessory and incidental buildings shall be placed within established rear yards and side yards that do not abut a street.

(B) Where chain link and similar fencing material are installed in an established yard abutting a street, the fencing shall be planted on the exterior side with evergreen shrubs minimum three feet in height (expected height at maturity minimum six feet), six feet on center at installation.

(C) Schools shall be located on streets sized to accommodate traffic volumes of background uses plus the additional traffic projected to be generated by the school(s).

(D) Senior high schools shall be on a lot which abuts an arterial and primary vehicular access shall be provided from the arterial.  
(2003 Code, § 8-3.8.62) (Updated 2009)

#### **§ 8-3.8.63 Schools, Vocational and Professional.**

(A) Schools shall be located on streets sized to accommodate traffic volumes of background uses plus the additional traffic projected to be generated by the school(s).

(B) Accessory and incidental buildings shall be placed within established rear yards and side yards that do not abut a street.

(C) Where chain link and similar fencing material are installed in an established yard abutting a street, the fencing shall be planted on the exterior side with evergreen shrubs minimum three feet in height (expected height at maturity minimum six feet), six feet on center at installation.

(D) Truck driving schools with outdoor maneuvering areas shall be allowed in the GI and SP Districts only.  
(2003 Code, § 8-3.8.63) (Updated 2009)

#### **§ 8-3.8.64 Services B, Business.**

All storage, repair and maintenance of equipment shall occur inside an enclosed building or shall be restricted to the rear yard and screened entirely from the view of adjacent lots and public streets.  
(2003 Code, § 8-3.8.64) (Updated 2009)

#### **§ 8-3.8.65 Storage and Salvage Yards.**

(A) No dismantling, disassembling, salvaging, wrecking or processing operation on the premises shall be carried on between the hours of 9:00 p.m. and 7:00 a.m.

(B) Any gasoline, oil or other materials spilled or collected on the site shall be contained and disposed of in accordance with state and federal laws.  
(2003 Code, § 8-3.8.65) (Updated 2009)

#### **§ 8-3.8.66 Telecommunication Towers.**

(A) No new telecommunication tower may be established if there is space available on an existing communications tower within the geographic area that the proposed tower is to serve.

(B) No equipment, mobile or immobile, not used in direct support of the transmission or relay

facility shall be stored or parked on the site unless repairs to the facility are being made.

(C) An opaque screen expected to reach a minimum of eight feet in height at maturity shall be planted around the perimeter of the area occupied by the tower, security fencing and auxiliary uses such as parking. In addition, existing on-site trees and other vegetation shall be preserved to the extent practicable to maintain the entire site of the tower (including any anchoring devices) in its pre-construction appearance.

(D) If a communication tower is located on a lot adjacent to a lot or lots located in a Residential or Mixed Use District, it must be located at least 200% of the total constructed tower height from all property lines adjacent to the Residential or Mixed Use District(s).

(E) To be permitted as an incidental accessory use in any zoning district, an accessory communication facility shall be camouflaged on, with or in an existing or proposed conforming structure (e.g., inside church steeple, on utility transmission line tower). A detailed site plan and structural elevations must be submitted to the Planning Director for approval.

(F) The maximum height of a communication tower shall be 180 feet.

(G) Towers shall be of a monopole construction(lattice and guyed towers shall not be permitted).

(H) No signs or logos of any type shall be allowed on any telecommunications tower at any time.

(I) Prior to erecting a telecommunications tower or antenna or accessory communication facility or installing same on any structure, any builder, user, carrier and the like, shall submit documentation that the telecommunications tower or antenna or Accessory communication facility will meet the American National Standards Institute (ANSI) standards and applicable Federal Communications Commission (FCC) and Federal Aviation Administration (FAA) regulations and comply with all other federal, state and local laws and regulations. Moreover, at the time of applying for a building permit to erect a telecommunications tower or antenna or Accessory Communication Facility or to install same on any other structure and prior to erection or installation of the tower or antenna, a structural engineer licensed to work in North Carolina shall certify that the plans for construction and erection or installation of the tower or antenna or Accessory communication facility meet or exceed current safety and design standards of applicable codes.

(J) Co-location required.

(1) Telecommunications towers shall be structurally designed and constructed to support a minimum of four users. Moreover, prior to erecting a telecommunications tower, any builder, user, carrier and the like, shall submit documentation that the owner of the tower or antenna is willing to permit other user(s) to attach accessory communications facilities which do not interfere with the primary purpose of the tower or antenna; provided that, the other user(s) agree to negotiate a reasonable compensation to the owner from the liability as may result from the attachment.

(2) Subsequent co-location or shared use of antennae on existing telecommunications towers which do not increase the height of the existing tower shall not require a special use permit. Subsequent co-location of accessory communication facilities on other structures shall not require a special use permit.

(K) Security fencing. There shall be minimum eight-foot high fence installed and maintained by the owner of the telecommunications tower around the perimeter of the tower compound, except that security fencing shall not be required for accessory communication facilities

(L) Replacement or alteration of non-conforming telecommunications towers or antenna. Non-conforming telecommunications towers or antennae or accessory communication facility shall be treated the same as any other non-conforming use under this article.

(M) Removal of telecommunications towers or antenna no longer in use. Any telecommunications tower or antenna or accessory communication facility which is unused for the original permitted use for a period of 180 consecutive days shall be removed by the owner of the tower or antenna or accessory communication facility, within 120 days of receipt of notification to that effect. If the owner fails to so remove the tower or antenna or accessory communication facility as required by this section, then the town shall remove the tower or antenna or accessory communication facility and the owner shall reimburse the town for all expenses incurred thereby, including without limitation all engineering, demolition, transportation, disposal and legal fees and costs.

(N) Public service access. At the request of any local governing authority a license shall be granted to the local governing authority to place public service communication antennae or other public service communication devices on the telecommunications tower or antenna; provided that, the communication antennae or other public service communication devices do not interfere with the function of the telecommunications tower or antenna or array of antennae of the operator or owner or other existing service providers located on the tower or antenna.

(O) Setbacks in non-residential zoning districts. All telecommunications towers and antennae and accessory communication facilities located within non-residential zoning districts shall have a minimum setback from the base of the tower or antenna or accessory communication facility to the lot boundaries equal to 80% of the height of the tower or antenna or accessory communication facility or equal to the minimum structure setback otherwise required by this article, whichever is greater. Communication towers shall be located a minimum of 500 feet from the nearest public street.

(P) The height of an accessory communication facility shall be defined as 110% of the distance by which the accessory communication exceeds the height of the principal structure to which the accessory communication facility is attached.

(Q) Co-location requirements. Prior to erecting a telecommunications tower or antenna or installing same on any structure, any builder, user, carrier and the like shall submit documentation that the antennae or communication device to be located on a communication tower cannot be accommodated on an existing tower or other structure due to the following reasons:

(1) The planned equipment would exceed the structural capacity of existing and approved towers, considering existing and planned use of those towers and the towers cannot be reinforced or replaced to accommodate the planned equipment;

(2) The planned equipment would cause radio frequency interference with other existing or planned equipment for these towers and the interference cannot be prevented at a reasonable cost; or

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(3) Existing or approved towers do not have space on which the equipment can be placed so it can function effectively and reasonably in parity with similar existing approved equipment.

(R) In no case shall a telecommunications tower be located closer than one mile from another tower unless the builder, user, carrier and the like can establish through competent evidence and documentation either that:

(1) It is in the best interests of the community that the proposed tower be located less than one mile from another tower; or

(2) It is necessary for technical reasons that the proposed tower be located less than one mile from another tower, such as, for example, circumstances where the planned equipment would cause radio frequency interference with other existing equipment or other existing equipment would cause radio frequency interference with the planned equipment and the interference cannot be prevented at a reasonable cost.

(S) Color and lighting. The entire facility must be aesthetically compatible with its environment. If not otherwise camouflaged, towers shall be of a coloration that will blend with the surroundings. Example: brown/green/gray. Telecommunications towers, antennae and accessory communication facilities shall not be artificially lighted, except where otherwise required by the FAA, FCC or other federal or state agencies. Where the agencies allow a choice between painting the tower or installing lighting, painting shall be the choice selected.

(T) Prior to erecting a telecommunications tower or antenna or accessory communication facility or installing same on any structure, any builder, user, carrier and the like must be granted a Special Use Permit by the Town Board of Adjustment, pursuant to the provisions of this article, except that a stealth telecommunications antenna may be erected or installed upon approval by the Zoning Administrator, with a right of appeal to the Board of Adjustment pursuant to § 8-3.9.5. The builder, user, carrier and the like may be granted a special use permit only upon submission of an application and fee payment to the town, who shall transmit the application to the Board of Adjustment; in the case of a stealth telecommunications antenna, approval by the Zoning Administrator may be granted only upon submission of an application and fee payment to the town. The application must be in the form prescribed by the Zoning Administrator and, in addition to any other or further requirements of this article, must contain the following information prior to being granted:

(1) The total number of required telecommunications tower, antennae and accessory communication facility sites;

(2) The required height from sea level of tower or antennae or accessory communication facilities;

(3) The required location of all towers and antennae and accessory communication facilities or co-locations of antennae on existing towers;

(4) A delineation of the boundaries of the maximum search range within which the proposed tower or antennae Accessory communication facility equipment can function.

(5) A site plan showing the site and size of all existing structures within 1,320 feet of the site;

plans and elevations for all proposed structures and descriptions of the color and nature of all exterior material; and plans for all landscaping, buffers and screens, including existing landscaping, buffers and screens.

(6) A listing of all telecommunications towers, antennae and other structures which may be used to locate communication facilities within a two-mile radius of the proposed site.

(7) An explanation of why the proposed telecommunications facilities cannot be co-located on any of the existing structures within the search range.

(8) Documentation from applicable state and federal agencies indicating requirements which affect the appearance of the proposed telecommunications tower, antenna or accessory communication facility, including lighting and color.

(9) A listing of all property owners within 1,000 feet of the site on which the communications tower is proposed to be located.

(2003 Code, § 8-3.8.66) (Updated 2009)

#### **§ 8-3.8.67 Temporary Seasonal Uses and Structures, Including Seasonal Markets.**

The establishment of temporary sales lots for farmers markets, Christmas trees and other seasonal agricultural products, plus related goods, are permitted for up to a maximum of three months upon the issuance of a temporary use permit by the Zoning Administrator. The following conditions shall apply.

(A) The storage of goods in or sale of goods from trailer(s) on the site shall be prohibited.

(B) The use may only be located on a vacant lot or on a lot occupied by a non-residential use.

(C) Off-street parking may be provided behind or to the side of the established use, but not forward of the required front setback.

(D) On-site parking may be provided on a dust-free, pervious surface area and need not comply with additional paving requirements.

(2003 Code, § 8-3.8.67) (Updated 2009)

#### **§ 8-3.8.68 Terminal, Freight.**

(A) The area designated for truck parking and/or container storage (including trailer storage) shall be located no closer than 50 feet from public street right-of-way and no closer than 250 feet from a residential use or residentially zoned lot unless separated by an arterial street or railroad right-of-way.

(B) Truck parking areas are exempt from parking lot landscaping requirements but shall be substantially screened from view from public streets and from all abutting non-industrial properties by an opaque screen; wherever security fencing is desired, it shall be placed on the interior side of the screening materials.

(C) The use shall be located on or directly accessible to a major or minor arterial, freeway or railroad right-of-way. Terminals shall not be sited such that collector or neighborhood streets are regularly traversed to access a larger capacity road or railroad.

(2003 Code, § 8-3.8.68) (Updated 2009)

**§ 8-3.8.69 Theater, Drive-in.**

(A) No part of the theater screen, projection booth or other building shall be located closer than 500 feet to any Residential or Mixed Use District or closer than 50 feet to any property line or public right-of-way.

(B) No parking space shall be located closer than 100 feet to any residential District.

(C) The theater screen shall be placed perpendicular to a public street

(D) On-site stacking space shall be provided for a minimum of ten vehicles awaiting admission.

(2003 Code, § 8-3.8.69) (Updated 2009)

**§ 8-3.8.70 Tire Recapping.**

(A) Up to two storage trailers are permitted in conjunction with the use.

(B) The area of storage shall not be placed in any front yard or side yard abutting a street.

(C) The area of storage shall be no closer than forty feet from an abutting street right-of-way.

(D) All areas established for outdoor storage, including security fencing of the areas, shall be screened from view from any adjacent residential use or residentially zoned lot by an opaque screen a minimum of six feet in height.

(2003 Code, § 8-3.8.70) (Updated 2009)

**§ 8-3.8.71 Veterinary Services.**

(A) Any structure which houses animals which is not fully enclosed shall be located at least 100 feet from any lot line and 250 feet from a residential use or lot located within a Residential or Mixed Use District.

(B) Any run located partially or wholly outdoors shall be located at least 100 feet from any lot line and 250 feet from a residential use or lot located within a Residential or Mixed Use District.

(2003 Code, § 8-3.8.71) (Updated 2009)

**§ 8-3.8.72 Waste Transfer Station.**

(A) Recyclable materials from residential sources shall be limited to tires, scrap metal such as lawnmowers and play equipment; white goods such as refrigerators, clothes dryers and stoves; lead acid

batteries; motor oil; cardboard; and other recyclables of residential origin.

(B) The area of active use must be enclosed by a fence, not easily climbable, from six to seven feet in height and the fence must be located at least 20 feet from the public street right-of-way and 100 feet from abutting property lines.

(C) A minimum separation of 100 feet, fully vegetated, shall be provided between the fenced use area and any abutting property line; existing vegetation shall be preserved to the extent practicable and supplemented with new plantings as may be required to provide a year-round opaque buffer from abutting properties.

(D) The site shall be screened from the street(s) by a screen composed of a masonry wall or a solid fence, planted on the exterior side with a semi-opaque vegetative screen with expected height of at least eight feet at maturity; security fencing shall be placed on the interior side of the vegetation and wall or fence.

(E) The active use areas of the site shall be separated by a 100-foot buffer from all adjacent properties and shielded by an opaque screen from all public streets.

(F) The active use portions of the site will be entirely fenced with non-climbable fencing material to a height of at least six feet, which shall be installed on the interior of the buffer and screen.

(G) No active area will be located within 100 feet of any property line nor within 200 feet of abutting property located in a residential District or developed for residential, institutional or mixed use.

(H) Vehicular access to the proposed use will not be provided by a minor collector or neighborhood street and access roads to the site will connect directly to a designated arterial.  
(2003 Code, § 8-3.8.72) (Updated 2009)

### **§ 8-3.8.73 Planned Development, Commercial or Industrial.**

(A) A Planned Development shall require the submittal of a Level 2 site plan as required by § 8-3.9.3(H) as well as a Preliminary Subdivision plat in accordance with the subdivision regulations. A final subdivision plat shall be approved and recorded for any phase of the development prior to the issuance of any zoning or building permits to construct any principle buildings within the development. Final subdivision plats shall meet the requirements of the subdivision regulations. Any re-division of approved and platted lots within the planned development is subject to plat review and approval.

(B) Building setbacks may be reduced within the planned development to allow for zero lot line buildings. All required minimum setbacks shall be maintained from a defined outer boundary of the planned development as shown on the site plan and subdivision plan.

(C) Individual outparcels and lease lots for freestanding individual principle uses shall maintain the building setbacks within the planned development of the zoning district where the planned development is located.

(D) Front, side and rear yards shall be established by the site plan and shown on all subdivision plats for each lot within the development.

(E) Shared parking shall be permitted within the development. Appropriate legal documents (e.g., covenants, conditions and restrictions and the like) establishing the shared use and access for parking, loading and driveways shall be submitted with the final subdivision plat.

(F) Planned developments shall be subject to review by the Technical Review Committee at the discretion of the Town Manager.

(G) All utility, road and site infrastructure plans shall be reviewed by the appropriate town staff to determine consistency with adopted policies and future plans of the town. Site improvements are the responsibility of the developer unless the town finds it is in their best interest to provide any portion of necessary improvements.

(H) A planned development shall consist of a minimum of five acres of contiguous land area not separated by existing public streets or public bodies of water.

(I) All other applicable zoning requirements shall apply within the development.  
(2003 Code, § 8-3.8.73) (Updated 2009)

#### **§ 8-3.8.74 Recycling and Salvage Operation.**

(A) A 50-foot side and rear yard buffer shall be required for any site which abuts a Residential or Mixed Use District.

(B) All access/drives and parking lots are required to be paved with asphalt or concrete.

(C) Site shall accommodate all traffic to site; parking or stacking of vehicles on side of street shall be prohibited.

(D) No outdoor storage of goods to be recycled shall be permitted. All such materials shall be enclosed within bins, buildings or storage containers.

(E) Hours of operation: no processing operation on the premises shall be carried on between hours of 9:00 p.m. and 7:00 a.m., Monday thru Saturday.

(F) Open burning is prohibited.

(G) Any gasoline, oil or other materials spilled or collected on the site shall be contained and disposed of in accordance with state and federal laws.  
(2003 Code, § 8-3.8.74) (Updated 2009)

#### **§ 8-3.9 ADMINISTRATION.**

##### **§ 8-3.9.1 The Staff.**

(A) *The Zoning Administrator.* The Zoning Administrator shall have the following powers and

duties to be carried out in accordance with these regulations which include, but are not limited to:

(1) To serve as staff to the Town Board, the Planning Board and the Board of Adjustment with regard to their functions under these regulations and to inform the bodies of all facts and information at their disposal with respect to applications for amendments to the text of these regulations, amendments to the zoning maps, appeals, variances, permit requests and any other matters brought before them under this article;

(2) To maintain the text of these regulations and the zoning maps;

(3) To maintain development review files and other public records related to the administration and enforcement of these regulations;

(4) To review applications for zoning permits filed under these regulations;

(5) To recommend and comment on proposed amendments to these regulations and to the zoning maps;

(6) To establish the rules of procedure and permit application forms as are necessary and proper for the administration of their responsibilities under these regulations;

(7) To determine street classifications not otherwise specified on the adopted town Thoroughfare Plan; and

(8) To administer the water supply watershed protection regulations contained herein including the following additional duties:

(a) To serve as staff to the Board of Adjustment when it is serving in its capacity as the Watershed Review Board;

(b) To submit copies of all amendments upon adoption to the Supervisor of the Classification and Standards Group, Water Quality Section, Division of Water Quality;

(c) To keep records of variances granted to the watershed regulations. This record shall be submitted to the Supervisor of the Classification and Standards Group, Water Quality Section, Division of Water Quality on or before January 1 of the following year and shall provide a description of each project receiving a variance and the reasons for granting the variance;

(d) To keep records of the town's utilization of the 10/70 provision, including any acreage allocated by the county to the town. The records shall include the total acres of non-critical area eligible to be developed under the 10/70 provision and individual records for each project showing the following information: location, acres, site plan, use and total allocation of the 10/70; and

(e) To monitor land use activities in the watershed to identify situations that may threaten water quality. The Zoning Administrator shall report these situations to the agency with direct regulatory responsibility for these activities.

(B) *The Zoning Enforcement Officer.* The Zoning Enforcement Officer is charged with enforcing

the provisions of the zoning regulations as set out herein except for enforcement duties specifically assigned to the Zoning Administrator. If the Zoning Enforcement Officer shall find that any of the provisions of this article are being violated, he or she shall notify, in writing, the person responsible for the violations, indicating the nature of the violation and order that necessary actions be taken to correct the deficiency. He shall order discontinuance of illegal uses of land, buildings or structures, removal of illegal buildings or structures or of illegal additions, alterations or structural changes, discontinuance of any illegal work being done and shall take any other action authorized by this article to ensure its compliance.

(C) *The Technical Review Committee.* The Technical Review Committee shall be appointed by the Town Manager and shall meet when needed to discuss land use issues and to review development proposals. The recommendations of the Committee shall be forwarded to review boards by the Zoning Administrator for their consideration in making decisions regarding rezonings, special use permits, special exception permits and any other issue related to land use and development as governed by this article within the zoning jurisdiction of the town.

(D) *The Town Manager.* The Town Manager shall appoint the Zoning Administrator, the Zoning Enforcement Officer and the Technical Review Committee and shall have the authority to exercise any and all duties and authorities assigned to such.  
(2003 Code, § 8-3.9.1) (Updated 2009)

### § 8-3.9.2 The Boards.

(A) *The Planning Board.* The Planning Board shall have the duties prescribed by the town's Code of Ordinances. In summary, those duties related to this article include, but may not be limited to, the following:

- (1) To review and from time to time initiate changes to this article;
- (2) To review and make recommendations on applications for changes to this article or the zoning maps;
- (3) To review and make recommendations on any permit application to be heard by the Town Board;
- (4) Members of the Planning Board shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable financial impact on the member; and
- (5) To serve as the local Watershed Review Board as authorized and prescribed in 15A NCAC 02B and these regulations.

(B) *The Board of Adjustment.*

(1) *Establishment.* The Board of Adjustment of the town shall consist of five regular members and two alternate members appointed by the Town Board and two extraterritorial members appointed by the Board of Commissioners of the county.

(2) *Powers and duties.* The Board of Adjustment shall have the following powers and duties:

(a) To hear and decide appeals according to the procedures of this section, where it is alleged there is an error in any order, decision, determination or interpretation made by the Zoning Administrator or Zoning Enforcement Officer in the administration and enforcement of this article;

(b) To grant variances from the terms of this article according to the standards and procedures prescribed herein;

(c) To grant special use permits for certain uses as specified in the table of uses;

(d) To grant special exception permits for certain uses which request a major waiver from one or more of the development standards required by this article; and

(e) A member of the Board or any other body exercising the functions of a Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business or other associational relationship with an affected person or a financial interest in the outcome of the matter. 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.

(3) *Members from within the town limits.* Each member and alternate shall be appointed by the Town Board for a term of three years. In appointing the original members or in the filling of vacancies caused by the expiration of the terms of existing members, the Town Board may appoint certain members for less than three years to the end that thereafter the terms of all members shall not expire at the same time. The expiration date for each term shall be June 30 of the year in which the term is to expire and the term of office of the succeeding member shall begin on July 1. If the original members are appointed such that their terms of office begin prior to a July 1 date, the terms of original members shall be extended by the period of time between their appointment and June 30 of the year of their appointment, it being the intent that original members shall serve terms of one, two or three years plus a period of time between their initial appointments and June 30 of the year of their initial appointment. A member shall be eligible for reappointment at the end of his or her expired term for any position on the Board for which he or she is qualified. For purposes of this section, original appointments refer to members and alternates appointed upon first establishment of the Board of Adjustment and also to members and alternates appointed to newly created seats upon any expansion of the Board of Adjustment.

(4) *Extraterritorial members.* Extraterritorial members shall have all of the obligations and duties of the other members of the Board of Adjustment, including rights to vote on all matters coming before the Board. Each extraterritorial member shall be appointed for a period of three years. Expiration dates for each term, initially and thereafter, shall be June 30 of the year in which the term is to expire and the term of office of the succeeding member shall begin on July 1; provided further that, if the original members are appointed such that their terms of office begin prior to a July 1 date, the terms of original members shall be extended by the period of time between their appointment and June 30 of the year of their appointment. Eligibility for reappointment shall be determined by the procedures and policies established by the Board of Commissioners of the county.

(5) *Meetings.* All meetings of the Board of Adjustment shall be held at a regular place and time and 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 the fact. Final disposition of permits, appeals or variances shall be recorded in the minutes, indicating the reasons of the board therefore, all of which shall become a part of the public record.

(6) *Quorum.* No final action shall be taken on any matter unless a quorum is present. For the purposes of granting variances, appeals and permits, a quorum shall be four-fifths of the full membership of the board. For the purposes of conducting other business related to the function of the Board, such as adopting or amending rules of procedure or approving the agenda, a quorum shall be a simple majority of the full membership of the Board. 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 super majority if there are no qualified alternates available to take the place of the members. Alternate members, while attending any regular or special meeting of the Board and serving in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member, shall have and exercise all the powers and duties of the regular member so absent.

(7) *Rehearing and appeals from a decision of the Board of Adjustment.*

(a) *Rehearing.* An application for a rehearing shall be made in the same manner as provided for an original appeal within a period of 15 days after the Board's decision has been filed with the Town Manager or his or her designee. In addition, specific information to enable the Board of Adjustment to determine whether or not there has been a substantial change in facts, evidence or conditions of the case, shall be presented in writing or graphically. A rehearing shall be denied by the board, if, in its judgment, the change in facts, evidence or conditions has not been proven. In the event that the Board finds that a rehearing is warranted, it shall thereupon proceed in the same manner as for the original hearing.

(b) *Waiting period required.* Upon the denial of an original application or adverse ruling on appeal or upon the denial of an application for which a rehearing has been conducted, whichever is applicable, a similar application may not be filed for a period of one year after the date of denial of the original application.

(c) *Appeals.* Any person or persons, jointly or severally, aggrieved by any decision of the Board, may, within 30 days after the Board's decision, but not thereafter, present to a court of competent jurisdiction a petition duly verified, setting forth that the decision is illegal, in whole or in part, specifying the grounds of illegality, whereupon the decision of the board shall be subject to review by Superior Court proceedings in the nature of certiorari as provided by law.

(C) *The Board of Commissioners.* The Town Board of Commissioners shall have the following duties related to this article:

- (1) To review and from time to time initiate changes to this article;
- (2) To decide upon any application or request for amendment to this article or the zoning maps;

(3) To take any other action not delegated to the Planning Board or Board of Adjustment as the Board may deem desirable and necessary to implement the provisions of this article; and

(4) A member shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable financial impact on the member.

(2003 Code, § 8-3.9.2) (Updated 2009)

### § 8-3.9.3 Permits.

(A) *Permit required.* No building or land shall hereafter be used or occupied and no building or structure shall be erected, expanded or moved until a zoning permit as required by this article shall have been issued. The form and content of the permit, when not expressly set out in this article, shall be determined by the Zoning Administrator and may include any information required for the applicant to demonstrate an intent to comply with the zoning regulations. Zoning permit forms shall be available at the office of the Zoning Administrator.

(B) *Permit type.* Permits shall be required for any use by right, unless specifically exempted by this article, special uses and special exceptions.

(C) *Expiration of permit.* Any zoning permit issued by the Zoning Administrator shall become null and void after a period of six months from the date of issuance of the permit unless a valid building permit has been issued for the work authorized by the permit or, if a building permit is not required, substantial work has not begun. Once a zoning permit has expired, construction on the property in question cannot proceed until a new zoning permit has been issued.

(D) *Condition of approval.* Zoning permits issued on the basis of site plans, architectural renderings, landscaping plans and other information submitted as part of the zoning permit application process authorize only the use, arrangement, construction and change set forth in the approved plans and applications. Use, arrangement, construction or change that differ from that authorized by the permit shall be deemed a violation of this article.

(E) *Right of appeal.* If a request for a zoning permit from the Zoning Administrator is disapproved or if a ruling of the Zoning Enforcement Officer is questioned, the aggrieved party may appeal the ruling to the Board of Adjustment in accordance with § 8-3.9.5.

(F) *Site plan required.* Site plans shall be required as part of the application process for any of the following:

- (1) New structures;
- (2) Expansions to existing structures;
- (3) Any new use not contained within an existing building, except:

(a) Agricultural uses which do not involve the construction of buildings, containment pens for livestock, swine or poultry or the construction of sediment or animal waste lagoons; and

(b) Temporary or seasonal uses unless the Zoning Administrator cannot otherwise determine compliance with parking or screening requirements.

(4) Any change in impervious surface area on lots located within a Watershed Overlay District; and

(5) Any significant change in required landscaping or buffer areas.

(G) *Level 1 site plan requirements.* A Level 1 site plan shall be required for any single-family or duplex residential use, any use located outside of a Watershed Overlay District that has a land use code of one, any change to an existing use located within a Watershed Overlay District that does not affect the land, any renovation or expansion to a civic use, church or similar non-profit organization where the scope of work does not increase occupancy levels or intensity of use or modify existing parking areas or circulation areas and any other situation determined by the Zoning Administrator or review board to require such a plan. A Level 1 site plan does not require the seal of a professional engineer, architect, landscape architect or surveyor, but shall consist of the following elements, except that the Zoning Administrator has the authority to waive any application requirement where the proposed type or scale of use makes that information unnecessary or impractical.

(1) *Graphic materials required for plans.* Level 1 site plans shall be sketched on a map of the property that is drawn to scale.

(2) *Conditions on the site.* Level 1 site plans shall show existing and proposed features of the site including proposed changes to existing features. The features shall include, but shall not be limited to, the following:

(a) The date the plan was drafted along with the name, address and phone number of the preparer;

(b) The zoning classification of the subject property and all immediately adjacent properties;

(c) Property lines, lot dimensions and total acreage;

(d) The location and extent of rights-of-way and easements;

(e) The location and type of natural water features (e.g., streams, ponds, rivers, wetlands and the like);

(f) The location and dimensions of driveways;

(g) The approximate location and dimension of structures including signs;

(h) The location and dimension of parking lots/areas and internal circulation drives;

- (i) The location and dimension of private streets;
- (j) The approximate location and dimensions of landscaping, buffering, screening, fences and walls;
- (k) Septic tank systems and wells (including dimensions of each); and
- (l) The approximate location of significant trees (those eight inches or greater in caliper when measured six inches above grade).

(H) *Level 2 site plan requirements.* A Level 2 site plan shall be required for any use with a land use code of 2, 3, 4 or 5, any project resulting in a change in impervious surface area within a watershed District except for single-family and duplex residential development and any other situation determined by the Zoning Administrator or Review Board to require such a plan. A Level 2 site plan shall require the seal of a professional engineer, architect or landscape architect, except that surveyors may also seal plans for projects that do not include any engineering storm water control structures. A Level 2 site plan shall consist of the following elements:

(1) *Graphic materials required for plans.* Site plans shall be drawn to scale on a map of the property. A scale shall be used which ensures that all features are legible. All Level 2 site plans shall include the following detail:

- (a) A location map that shows the project in relation to the larger planning area;
- (b) The name of the applicant;
- (c) The name of the development;
- (d) A north arrow;
- (e) A legend; and
- (f) A scale, including a bar scale.

(2) *Conditions on the site.* Level 2 site plans shall show existing and proposed features of the site including proposed changes to existing features. The features shall include, but shall not be limited to, the following:

- (a) *Natural, historic and open space features.*
  - 1. Natural cover (wood, pastureland and the like);
  - 2. Streams, ponds or rivers;
  - 3. Historic sites;
  - 4. Fragile environmental areas;

5. The approximate location of significant trees (those eight inches or greater in caliper when measured six inches above grade);

6. Contour lines shown as dotted lines at no more than five-foot intervals (this may be modified by Zoning Administrator depending upon topography); and

7. The location, size and dimensions of all recreational areas and areas intended to remain as permanent open space, clearly indicating whether the open space areas are intended to be offered for dedication to the public.

(b) *Human-made features.*

1. Parking and loading areas;

2. Public and private streets and alleys, including planned points of ingress and egress;

3. Storm water structures and conveyances, including all engineered storm water control structures required to meet state mandated water supply watershed protection regulations;

4. Utilities, including water, sewer, electric, power and telephone;

5. The location and dimensions of all structures, including freestanding signs;

6. Dimensions and layout of parking and loading areas;

7. A lighting plan;

8. All sidewalks, trails and pedestrian paths; and

9. The location and dimensions of all landscaping, berms, fences, walls, screening and buffering.

(c) *Legal features.*

1. The zoning of the property and adjacent properties, including zoning district lines. (Note: some uses may require identification of zoning district designations as much as 1,000 feet from the proposed development site. Please consult § 8-3.8 of this article entitled additional conditions, regarding the proposed use or contact the Zoning Administrator for more information.);

2. Property lines;

3. Project phase lines;

4. Street rights-of-way;

5. Utility easements (including water, sewer, electric, power, storm water and telephone); and

6. Lot dimensions.

(I) *Design and landscaping information required.* Whenever a proposed project would be subject to one or more of the design standards, landscaping or fencing/wall requirements of this article, architectural renderings sealed by an architect and site plans sealed by an engineer, landscape architect or surveyor that are prepared in sufficient detail at a sufficient scale to determine compliance with relevant sections of this article shall be required as part of a complete application, except that the Zoning Administrator or Review Board may exempt minor modifications that do not require the renderings or plans to demonstrate an intent to comply with the regulations.

(J) *Sign detail required.* Whenever a new sign or change in existing sign would require the issuance of a permit, detailed designs showing all relevant information required to determine compliance with the sign regulations shall be required as part of a complete application.

(K) *Other requirements.* In addition to information required in this subsection, other information or documents deemed relevant by the Zoning Administrator or Review Board shall be required, such as evidence of approval of sedimentation and erosion control plans, prior to issuance of a zoning permit.

(L) *Permits for uses by right and uses with conditions.* A permit for a use by right and a use with conditions shall be obtained from the Zoning Administrator. Applications for a permit shall be made on a form provided by the Zoning Administrator.

(M) *Permits for special uses.* Permits for special uses shall be obtained from the Board of Adjustment. Applications for a special use permit shall be made on a form provided by the Zoning Administrator.

(N) *Permits for special exceptions.* Permits for special exceptions shall be obtained from the Board of Adjustment. Applications for a special exception permit shall be made on a form provided by the Zoning Administrator.

(2003 Code, § 8-3.9.3) (Updated 2009)

#### **§ 8-3.9.4 Special Use Permits.**

(A) *Permit required.* No zoning or building permit shall be issued until a special use permit for the requested use has been approved by the Board of Adjustment.

(B) *Applicants.* A request for a special use permit will be considered only if requested by the owner of the property in question or an authorized agent of the property owner.

(C) *Applications.* Applications for all special use permits or amendments to any approved special use permit must be filed with the Zoning Administrator. Applications which are not complete shall be returned to the applicant, with a notation of the deficiencies in the application. The Zoning Administrator has the authority to waive any application requirements where the type of use or scale of proposal makes that information unnecessary or impractical. A complete application will include all of the following:

(1) A completed application form signed by all of the property owners of the area proposed for the permit or a completed application form signed by the developer along with an affidavit signed by all

property owners giving the applicant the permission to pursue the permit and to bind the property to the proposal and to conditions which the Board might impose;

(2) A complete explanation of the proposed use(s) of the property;

(3) A Level 2 site plan;

(4) A preliminary subdivision plat which meets all of the requirements of the subdivision ordinance when subdivision of the land is proposed;

(5) Documentation containing facts which will be used to support the petition, including, but not limited to, deed restrictions, letter of sufficiency regarding public water and sewer, proposed homeowners association documents and appropriate county and state approvals;

(6) All appropriate fees;

(7) A complete listing of all owners of adjacent property, their addresses and tax identification numbers;

(8) A synopsis or overview of the project, including information relevant to use, density, lot layout, housing type, planned amenities and the like; and

(9) Any other information deemed by the Zoning Administrator to be necessary for sufficient review of the application.

(D) *Staff review.*

(1) *Sketch plan.* Prior to submission of the complete application, all subdivision developers are required to submit a sketch plan for staff review. Preparation and review of the sketch plan shall conform to the requirements of the town's subdivision regulations.

(2) *Applications.* All applications for special use permit shall be reviewed by the Zoning Administrator and the Technical Review Committee prior to Board of Adjustment review. The Zoning Administrator shall determine the number of copies to be submitted by the applicant to ensure that there are sufficient copies to send to the board, the Technical Review Committee and all other appropriate agencies for review and comment. The applicant shall submit a completed application no later than 15 working days prior to the board meeting at which the application is to be heard. If the application is found to be incomplete or the development is found to be in conflict with the requirements of this section, the developer shall be notified and the application rejected.

(3) *Cooperation.* The developer is strongly encouraged to work closely with staff and neighboring property owners before and during the application and review process to minimize delays and address concerns which may arise in the review process.

(E) *Board of Adjustment action.*

(1) *Review.* The Board of Adjustment shall review the application to determine compliance with this article and all applicable regulations within the town's planning jurisdiction. When deciding

special use permits, the Board of Adjustment shall follow quasi-judicial procedures.

(2) *Required general findings.* No special use permit shall be approved by the Board of Adjustment unless the following general findings of fact are made concerning the proposed special use:

(a) The use will not materially endanger the public health or safety if located, designed and proposed to be operated according to the plan submitted;

(b) The use complies with all regulations and standards of this article;

(c) The use will not substantially injure the value of adjoining property or the use is a public necessity;

(d) The location and character of the 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;

(e) Public water and sewer service are available in adequate capacity, if needed;

(f) The proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area in which it is located; and

(g) No change in permitted uses may be authorized by the variance.

(F) *Withdrawal or amendment of a special use permit application.* An application for a special use permit may be withdrawn or amended as follows:

(1) A petition filed according to this section may be withdrawn by the petitioner at any time up to the scheduling of the date of the public hearing on the petition.

(2) If the petitioner wishes to withdraw the petition after the scheduling of the public hearing, the petitioner may file a request to withdraw with the Zoning Administrator. On the date scheduled for the hearing, the Board of Adjustment may approve the request for withdrawal if it finds that there are substantial circumstances favoring the withdrawal and that the withdrawal will not be detrimental to the interests of citizens affected by the petition.

(3) Once the petition has been filed, the petitioner shall not be allowed to amend it, except by request to the Zoning Administrator no later than three weeks prior to the scheduled public hearing date. No changes to the petition shall be accepted in the intervening weeks prior to the public hearing. No changes to the petition shall be made at the hearing; except that, changes proposed by the petitioner, Board of Adjustment and other interested parties may be presented at the hearing and considered by the Board of Adjustment during their deliberations.

(4) If the Board of Adjustment deems any amendment to be a substantial change to the petition, it shall defer action on the petition for 30 days to allow interested parties the opportunity to comment on the amendment to the petition.

(5) If the Board of Adjustment deems any amendment to be an intensification of the petition, it shall call for a new public hearing.

(G) *Hearing.*

(1) A special use permit hearing will be conducted as a quasi-judicial hearing before the Board of Adjustment.

(2) The applicant has the burden of producing competent, material and substantial evidence establishing that:

(a) The proposed special use will comply with all of the lot, size, yard and other standards of this article, except as may be amended through an approved variance or special exception permit; and

(b) The proposed special use will comply with all general and specific standards required by the appropriate section of this article for the issuance of a special use permit for this use.

(H) *Decision.* In considering an application for a special use permit, the Board of Adjustment may attach reasonable and appropriate conditions and safeguards to the location, nature and extent of the proposed use and its relationship to surrounding property, for the purpose of insuring that the conditions of permit approval will be complied with and any potentially injurious effect of the special use on adjoining properties, the character of the neighborhood or the health, safety and general welfare of the community will be minimized. The conditions may relate to parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, intensity of site development, the timing of development and other matters the Board of Adjustment may find appropriate or the applicant may propose. The applicant will have a reasonable opportunity to consider and respond to any additional conditions or requirements prior to final action by the Board of Adjustment.

(I) *Effect of approval.* An approved application for a special use permit and all conditions which may be attached to the approval are binding on the property. All subsequent development and use of the property shall be in conformance with the special use permit and all plans, specifications and conditions unless such are amended or the permit terminated by the Board of Adjustment.

(J) *Effect of denial.*

(1) If an application for a special use permit is denied by the Board of Adjustment, a reapplication for that special use on that property shall not be made within one year of the date of denial.

(2) The Board of Adjustment may allow re-submission of the application within the one-year restricted period, however, if it determines that, since the date of action on the prior application, one of the following criteria has been met:

(a) The Town Board has adopted a new or amended plan for the area that changes public policy regarding how the subject property and/or the general area affected by the special use permit should be developed;

(b) Construction or expansion of a road, water line, sewer line or other infrastructure has occurred or is to occur in a time frame as to serve the property and comfortably accommodate the type and intensity of development which would be allowed under the proposed special use permit; or

(c) There has been a substantial change in conditions or circumstances, outside the control of the applicant, which justifies waiver of the one-year restriction on resubmission of a special use permit application for the property; this shall not include a change in the ownership of the subject property nor a change in the scale or features of the development proposed in the prior application.

(K) *Amendment to an approved special use permit.*

(1) Any major change to a development approved by special use permit shall require an amendment to the special use permit by the Board of Adjustment. Any proposed change in use, increase in density or intensity, decrease in open space and common recreational facilities, substantial change in the location of uses or streets from what is shown on the approved plans, any change in a condition imposed on the use by the Board of Adjustment or any other change the Zoning Administrator determines is significant shall be deemed a major change requiring an amendment to the special use permit. Factors to be considered by the Zoning Administrator in determining if a change is substantial include, but are not limited to, the extent of the change, the expected impact on adjacent properties and the impact on off-site streets and other public infrastructure. Otherwise, minor changes to a permit may be approved by the Zoning Administrator.

(2) The owner of property which is subject to an approved special use permit may petition for an amendment of the special use permit and accompanying conditions by following the procedures applicable to initiation of new special use permits.

(3) Evidence presented at the hearing on the proposed amendment will be limited to the effect of the proposal on the original special use permit, any plans or conditions which were a part of the original special use permit and the present standards and requirements in this zoning ordinance.

(L) *Appeals.* Any petition for review by Superior Court shall be filed with the Clerk Of Superior Court within 30 days after a written copy of the decision of the Board of Adjustment is filed in the office of the Zoning Administrator or is delivered to every aggrieved party who has filed a written request for the copy with the Clerk at the time of the hearing of the case, whichever is later.

(M) *Recognition of previously approved conditional/special use permits.* Conditional or special use permits which have been previously granted by the Board of Adjustment of the town and conditional or special use permits previously granted by the County Board of Adjustment will be recognized for building permit and other administrative purposes during the period of time the project was vested by the ordinance under which it was approved. After the vesting period, if construction of the development has not begun or there is no valid building permit in effect for the property, the conditional or special use permit will be considered null and void.

(N) *Revocation of a special use permit.*

(1) If, at any time, the Zoning Administrator determines that construction inconsistent with the approved special use permit is occurring within the development, he or she shall cause to be issued a stop work order on the construction and he or she shall notify the responsible parties of the violation who will immediately cease and desist further work on the project. If the non-conforming construction is not brought into compliance with the permit or the applicant has not filed an appeal with the Board of Adjustment within 30 days, the Zoning Administrator may initiate a revocation of the special use permit. The Zoning Administrator may also act to suspend the issuance of any additional building permits within

the development if he or she has reason to believe that the construction will not be in conformance with the approved permit or the construction will increase or reinforce the degree of non-conformance.

(2) If the non-conformance involves a completed, unoccupied building, no certificate of occupancy shall be granted for the building until the violation is corrected. If the non-conformance involves initial construction or provision of any of the public facilities, open space, required landscaping or similar common features of the approved permit, no building permits or certificates of occupancy will be issued within the development until the violation is corrected or a new special use permit has been granted by the Board of Adjustment.

(3) Action to revoke a permit shall be taken by the Board of Adjustment after receiving a request from staff. A request shall be in writing and shall declare that the applicant and all property owners within the development, as recorded at the Register of Deeds office, have been notified at least ten days before the meeting of the pending action and the date, time and place of the Board of Adjustment meeting at which the request will be made. The applicant and property owners shall have the right to appear before the Board of Adjustment at the meeting and show cause why the Board of Adjustment should not revoke the permit. Notification shall be deemed given when written notice is sent by first class mail to the property owner at the address shown on the most recent property tax records and one or more signs are posted in prominent locations on the subject site reasonably calculated to give notice of the action.

*(O) Expiration of a special use permit.*

(1) Approval of a special use permit shall confer upon the developer all vested rights as set forth in this article.

(2) In order for a special use permit to remain in effect for a particular development, a valid building permit must be issued for construction within the time period vested. If, at any time after this date, construction has not been completed and no valid building permits are outstanding for construction within the development, the special use permit shall expire. No further construction may occur within the development until a new special use permit has been issued by the Board of Adjustment. Application for a new special use permit shall follow the procedures outlined in this section.

(2003 Code, § 8-3.9.4) (Updated 2009)

**§ 8-3.9.5 Appeals.**

(A) The Board of Adjustment shall hear and decide appeals from any order, requirement, decision or determination made by the Zoning Administrator or Zoning Enforcement Officer pertaining to this article.

(B) An appeal may be taken by any person aggrieved by any order, requirement, decision or determination made by the Zoning Administrator or Zoning Enforcement Officer. An appeal to the Board of Adjustment shall be made within ten days of the order, requirement, decision or determination made by the Zoning Administrator or Zoning Enforcement Officer.

(C) An appeal, specifying the grounds thereof, shall be filed with the Zoning Administrator on a form provided by the Zoning Administrator. Once an appeal is filed, the Zoning Administrator shall

forthwith transmit all papers with reference to the case to the Board of Adjustment.

(D) The Board of Adjustment may reverse or affirm, in whole or in part or may modify the order, requirement, decision or determination with reference to the appeal.  
(2003 Code, § 8-3.9.5) (Updated 2009)

#### **§ 8-3.9.6 Variances.**

(A) When practical difficulties or unnecessary hardships would result from carrying out the strict letter of this article, the Board of Adjustment shall have the power to vary or modify any of the regulations or provisions of this article relating to the use, construction or alteration of buildings or structures or the use of the land, except those specifically related to water supply watershed requirements, so the spirit of the article shall be observed, public safety and welfare secured and substantial justice done. For variances to the requirements of a water supply Watershed Overlay District, see § 8-3.9.8.

(B) Anyone requesting a variance shall file such with the Zoning Administrator on a form provided by the Zoning Administrator. Applications shall be filed at least ten days prior to the Board of Adjustment meeting at which it will be heard. After filing, the request shall be heard at the next available Board of Adjustment meeting.

(C) The Board of Adjustment, in considering an application for a variance, shall give due consideration to the following.

(1) No non-conforming use of land or structures in the same District and no permitted use of land or structures in other Districts shall be considered grounds for the granting of a variance.

(2) The request for a variance for a use that is expressly or by inference, prohibited in the District involved shall not be granted.

(3) The fact that property may be utilized more profitably will not be considered in granting a variance.

(D) The Board of Adjustment, before granting a variance, shall make all of the following findings:

(1) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the article. This shall be construed to mean:

(a) If the property owner complies with the provisions of this article, he or she can secure no reasonable return from, nor make reasonable use of, his or her property;

(b) The hardship results from the application of the requirements of this article;

(c) The hardship is suffered by the applicant's property;

(d) The hardship is not the result of the applicant's own actions;

(e) The hardship is peculiar to the applicant's property.

(2) The variance is in harmony with the general purpose and intent of the article and preserves its spirit.

(3) In granting of the variance, the public safety and welfare have been assured and substantial justice has been done.

(4) The reasons set forth in the application justify the granting of a variance and that the variance is the minimum one that will make possible the reasonable use of land or structures.

(E) The Board of Adjustment, in granting a variance, may prescribe appropriate conditions and safeguards in conformity with this article. Violation of the conditions and safeguards, when made a part of the terms under which a variance is granted, shall be deemed a violation of this article.

(2003 Code, § 8-3.9.6) (Updated 2009)

### § 8-3.9.7 Amendments.

(A) *Authority.* The Town Board shall have the authority to amend the zoning text and maps as follows; except that, amendments to this text which affect one or more watershed requirements shall also follow the procedures outlined in § 8-3.9.8 for amendments.

(B) *Initiation.* Any amendment to the zoning text or map, except for the classification of property to a conditional District may be initiated by:

(1) The Town Board or the Planning Board;

(2) The property owner(s), upon filing an official petition including a complete application;  
and

(3) A petitioner other than a board or property owner.

(C) *Application for a text amendment.* A petition for amendment to the text of this article shall consist of:

(1) A completed application form;

(2) A written justification for the requested amendment including consistency of the proposal with town planning policies;

(3) All appropriate fees; and

(4) Any other information deemed necessary by the Zoning Administrator or Review Board.

(D) *Application for a map amendment.* A petition for amendment to the Zoning Map shall consist of:

(1) A completed application form;

(2) A list of adjoining properties including tax parcel numbers and the name and address of each owner. For the purposes of this section, adjoining property owners shall include owners of properties lying within 100 feet of the subject property if located across a public or private street;

(3) A map of the parcel and its relationship to the general area in which it is located;

(4) All appropriate fees; and

(5) Any other information deemed necessary by the Zoning Administrator or Review Board.

(E) *Conditional District rezonings.*

(1) *Initiation.* The reclassification of property to a conditional District may be initiated only by the property owner(s) or an agent authorized by affidavit to act on the owner's behalf.

(2) *Petition.* A request for rezoning to a conditional District shall include an official petition consisting of the following:

(a) A completed application form;

(b) A list of adjoining properties including tax parcel numbers and the name and address of each owner. For the purposes of this section, adjoining property owners shall include owners of properties lying within 100 feet of the subject property if located across a public or private street;

(c) A map of the parcel and its relationship to the general area in which it is located;

(d) All appropriate fees;

(e) A Level 2 site plan;

(f) A written description or notation on the map explaining the proposed use of all land and structures, including the number of residential units or the total square footage of any non-residential development; and

(g) Any other information deemed necessary by the Zoning Administrator or Review Board.

(3) *Conditions.* Prior to the action on the proposed amendment (which may also include a period after the public hearing) any Planning Board or Town Board member (or any group of members not comprising a majority of the Board) may meet with the petitioner to discuss the proposed plan and suggest features to be included in the rezoning proposal. The specifics of the plan may be negotiated to address community issues or concerns and to ensure that the spirit and intent of this article are preserved. During the public hearing, the Town Board may suggest additional features to be included or reflected in the proposal prior to taking action on the request, but only those that are mutually approved by the town and the petitioner may be incorporated into the zoning regulations or permit requirements.

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(4) *When development not begun within three years.* The property owner shall commence construction in accordance with the approved development plan within three years after the rezoning. If the Planning Board determines that construction has not commenced in accordance with the plan within the time period, it may, at its discretion, recommend to the Town Board that the town rezone the property to an appropriate General Use Zoning District.

(F) *Copies.* The Zoning Administrator shall determine the number of copies of each petition and other required documentation to be submitted by the petitioner so that copies may be circulated to all appropriate staff, agencies and boards for review and comment.

(G) *Withdrawal or amendment of petition.*

(1) A petition filed according to this section may be withdrawn by the petitioner at any time up to the scheduling, by the Town Board, of the date of the public hearing on the petition.

(2) If the petitioner wishes to withdraw the petition after the scheduling of the public hearing, the petitioner may file a request to withdraw with the Town Clerk. On the date scheduled for the hearing, the Town Board may approve the request for withdrawal if it finds that there are substantial circumstances favoring the withdrawal and that the withdrawal will not be detrimental to the interests of citizens affected by the petition.

(3) Once the petition has been filed, the petitioner shall not be allowed to amend it except by request to the Zoning Administrator no later than three weeks prior to the scheduled public hearing date. No changes to the petition shall be accepted in the intervening weeks prior to the public hearing. No changes to the petition shall be made at the hearing, although potential changes proposed by the petitioner, Planning Board, Town Board and other interested parties may be presented at the hearing and considered by the Planning Board and Town Board during their deliberations.

(4) If the Town Board deems any amendment to be a substantial change to the petition, it shall defer action on the petition for 30 days to allow interested parties the opportunity to comment on the amendment to the petition.

(5) If the Town Board deems any amendment to be an intensification of the petition, it shall call a new public hearing.

(H) *Protest petitions.*

(1) Written protest against an amendment to the zoning classification of property, excepting amendments which initially zone property added to the territorial coverage of the ordinance, shall require a favorable vote of three-fourths of all members of the Town Board under the following conditions:

(a) If written protests are submitted by the owners of 20% or more of the area of the lots included in a proposed change; or

(b) If written protests are submitted by the owners of 5% of a 100-foot wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right-of-way shall not be considered in computing the 100-foot buffer area as long as that street right-of-way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine the “owners” of potentially qualifying areas.

(c) Vacant positions on the Council and members who are excused from voting shall not be considered members of the council for calculation of the requisite super majority.

(d) The foregoing provisions concerning protests shall be applicable to any amendment which initially zones property added to the territorial coverage of the ordinance as a result of annexation or otherwise or to an amendment to an adopted:

1. Special use District;
2. Conditional District; and

3. If the amendment does not change the types of uses that are permitted within the District or increases the approved density for residential development or increase the total approved size of non-residential development or reduce the size of any buffers or screening approved for the special use District or conditional District.

(2) To be valid and effective, protest letters shall:

- (a) Be presented in writing;
- (b) Contain the signature(s) and address(s) of the protesting property owner(s);
- (c) State that the signer does protest the proposed amendment;

(d) Be received by the Town Clerk at least two working days, excluding Saturdays, Sundays and legal holidays before the date established for a public hearing on the proposed amendment, in order to establish the sufficiency and accuracy of the petition; and

(e) A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning amendment. Only those protest petitions that the qualifying standards set forth in G.S. § 160A-385 at the time of the vote on the zoning amendment shall trigger the super majority voting requirement.

(I) *Hearing.*

(1) The Town Board may refuse to call for a public hearing on any petition for amendment to the zoning text or zoning map if, in the Board’s opinion, the petition lacks merit.

(2) Notice of public hearings required under these regulations shall be in accordance with the North Carolina General Statutes.

(3) Notice of any request for a change in the zoning map shall state that the Planning Board and Town Board may consider the application of any of the zoning districts to the property, not just the classification requested.

(4) Conduct of public hearing:

(a) No amendment shall be adopted until after the Town Board has held a public hearing on the proposed amendment.

(b) The hearing shall be conducted in accordance with rules and procedures established by the Mayor and Town Board.

(c) When presenting a petition for the reclassification of property to a General Use District, as opposed to a Conditional Zoning District, the petitioner shall refrain from using any graphic materials or descriptions of the proposed use or development site design, except for those which would apply to any use or development site design permitted in the requested district.

(J) *Recommendation and decision.*

(1) No proposed amendment shall be approved unless it is first submitted to the Planning Board for a recommendation. If the Planning Board does not make a recommendation to approve, approve with conditions, deny or defer a decision on the proposed amendment within 31 calendar days after the petition has been referred to it, then the Planning Board shall be considered to have recommended deferral for additional deliberation. The petition, along with the recommendation of the Planning Board, shall be placed on the agenda of the Town Board at its next regular zoning meeting.

(2) The Town Board, after receiving the recommendation of the Planning Board, shall within a reasonable time either reject the proposed amendment or approve the proposed amendment, with or without modifications.

(3) In considering any petition to reclassify property the Planning Board in its recommendation and the Town Board in its decision shall consider all of the following:

(a) Whether the proposed reclassification is consistent with the purposes, goals, objectives and policies of adopted plans for the area;

(b) Whether the proposed reclassification is consistent with the overall character of existing development in the immediate vicinity of the subject property;

(c) The adequacy of public facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreational facilities, police and fire protection, hospitals and medical services, schools, storm water drainage systems, water supplies and wastewater and refuse disposal; and

(d) Whether the proposed reclassification will adversely affect a known archaeological,

environmental, historical or cultural resource.

(4) When considering a petition to reclassify property to a general-use District, the Planning Board and the Town Board shall not evaluate the petition based on any specific proposal for the use of the property or design of the site.

(5) In approving an amendment to reclassify property to a general-use District or, with the consent of the petitioner, to a conditional District, the Town Board may change the existing classification of the property or any part of the property covered by the petition, to the classification requested or to any other classification or classifications permitted by this article.

(6) The Town Board may modify any proposed text amendment upon adoption of an ordinance enacting the amendment, without the withdrawal or modification of the petition or further public hearings, when, in the opinion of the Board, such a change would not require a separate public hearing.

(7) The Planning Board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is available. The Planning Board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.

(8) A statement analyzing the reasonableness of the proposed rezoning shall be prepared for each petition for a rezoning to a conditional use District or other small-scale rezoning.

(9) Prior to adopting or rejecting any zoning amendment, the governing board shall adopt a statement describing whether its action is consistent with the adopted land use plan and explaining why the Board considers the action taken to be reasonable and in the public interest.

(K) *Effect of the denial of a petition.*

(1) A petition for the reclassification of property that has been denied in whole or in part, shall not be re-submitted within one year of the date of the Town Board's action on the original petition.

(2) The Town Board may, however, allow re-submission of a petition within the one-year restricted period if it determines that, since the date of action on the prior petition, one of the following criteria has been met:

(a) There has been a similar change in the zoning district classification of an adjacent property;

(b) The Town Board has adopted a new or amended plan for the area that changes public policy regarding how the property affected by the amendment should be developed;

(c) Construction or expansion of a road, water line, sewer line or other infrastructure has occurred or is to occur in a time frame as to serve the property and comfortably accommodate the intensity of development allowed under the proposed classification; and

(d) There has been a substantial change in conditions or circumstances, outside the control of the petitioner, which justifies waiver of the one-year restriction on a new petition. This shall not include a change in the ownership of the subject property nor, in the case of a petition for reclassification to a conditional or overlay District, a change in the scale or features of the development proposed in the prior petition.

(2003 Code, § 8-3.9.7) (Updated 2009)

### § 8-3.9.8 Watershed Amendments and Variances.

(A) *Amendments.* All amendments to the watershed regulations shall be heard as regular amendments to this article. However, under no circumstances shall the town amend, supplement or change the watershed regulations so as to cause these regulations to violate the watershed protection rules as adopted by the State Environmental Management Commission. All amendments shall be filed with the State Division of Water Quality, State Division of Environmental Health and the State Division of Community Assistance.

(B) *Watershed variances.*

(1) The Board of Adjustment shall handle minor variances to the watershed requirements in the same manner as regular zoning variances.

(2) If a major variance (see definition) is requested, the Planning Board shall, after making a favorable decision to grant the request, prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include all of the following:

- (a) The variance application;
- (b) The hearing notices;
- (c) The evidence presented;
- (d) Motions, offers of proof, objections to evidence and rulings on them;
- (e) Proposed findings and exceptions; and
- (f) The proposed decision including all conditions proposed to be added to the permit.

(3) (a) The information shall be sent to the State Environmental Management Commission for its review. The EMC shall review the preliminary record and determine whether or not:

1. The request qualifies as a major variance;
2. The property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted; and
3. The variance, if granted, will not result in a serious threat to the water supply.

(b) Based on its findings, the EMC shall approve the variance as proposed or approve the proposed variance with conditions and stipulations or disapprove the variance. The EMC shall prepare a decision and send it to the Board of Adjustment. The Planning Board shall prepare a final decision based on the decision of the EMC.

(4) The Zoning Administrator shall notify any jurisdictions within the watershed of a proposed variance to the watershed regulations. Local governments may submit any comments to the Zoning Administrator before the public hearing by the Planning Board.  
(2003 Code, § 8-3.9.8) (Updated 2009)

### **§ 8-3.9.9 Waiver of Architectural and Site Design Requirements.**

In order to encourage creative design, to avoid undue hardship and to expedite the zoning approval process for developments within the town, a waiver of any of the architectural or site design requirements contained within this article may be approved as follows.

(A) *Minor waiver.* The Zoning Administrator is authorized to grant a minor waiver from the standards of this article subject to the following:

(1) Any request for a waiver of a standard set forth in the ordinance including, but not necessarily limited to, height requirements and limitation, yard requirements, parking requirements, screening or buffer requirements, planting requirements, ratio requirements, density requirements, spacing requirements and signage requirements, landscaping material, building design and parking lot layout shall be granted only after the applicant has demonstrated that:

(a) The deviation was a result of unique conditions of the property; or

(b) The deviation will result in a project that is at least equal to or better than what would be accomplished under the strict application of this article.

(2) Before granting a minor waiver the Zoning Administrator shall reasonably determine that granting the waiver:

(a) Does not and will not violate the spirit and intent of the ordinance; and

(b) Does not and will not adversely affect the rights of other property owners in any material manner.

(3) A minor waiver may not deviate by more than 10% from any of the measurable standards of this article.

(4) The authority given to the Zoning Administrator to grant the waivers shall be construed to be permissive and not mandatory and the Zoning Administrator may decline to make the waiver. In the event this occurs, the applicant shall have the right to request a special exception permit from the Board of Adjustment granting a major waiver to these requirements.

(5) Nothing in this section shall be construed as limiting the Zoning Administrator's duties and rights under this article or an applicant's right to appeal the decision of the Zoning Administrator to the

Board of Adjustment.

(B) *Major waiver.* The Board of Adjustment is authorized to grant a major waiver from the standards of this article through the issuance of a special exception permit. Application and issuance of the permits shall be governed as follows.

(1) *Applicants.* A request for a special exception permit will be considered only if requested by the owner of the property in question or an authorized agent of the property owner.

(2) *Applications.* Applications for all special exception permits or amendments to any approved special exception permit must be filed with the Zoning Administrator. Applications which are not complete shall be returned to the applicant, with a notation of the deficiencies in the application. A complete application will include all of the following:

(a) A completed application form signed by all of the property owners of the property or land proposed for the permit or a completed application form signed by the developer along with an affidavit signed by all property owners giving the applicant the permission to pursue the permit and to bind the property to the proposal and to conditions which the Board might impose;

(b) A complete explanation of the purpose and extent of the requested waiver including sealed site plans and architectural renderings when applicable or requested by the Zoning Administrator or the Board of Adjustment;

(c) Documentation containing facts which will be used to support the petition, including, but not limited to, deed restrictions, proposed homeowners association documents and statements from adjacent property owners (where applicable);

(d) All appropriate fees;

(e) A complete listing of all owners of adjacent property, their addresses and tax identification numbers; and

(f) Any other information deemed by the Zoning Administrator or the Board of Adjustment to be necessary for sufficient review of the application.

(3) *Staff review.* All applications for a special exception permit shall be reviewed by the Zoning Administrator and, where necessary, the Technical Review Committee prior to Board of Adjustment review. The Zoning Administrator shall determine the number of copies to be submitted by the petitioner to ensure that there are sufficient copies to send to the Board, the Technical Review Committee and all other appropriate agencies for review and comment. The applicant shall submit a completed application no later than 15 working days prior to the board meeting at which the petition is to be heard. If the application is found to be incomplete, the developer shall be notified and the petition rejected.

(4) *Cooperation.* The developer is strongly encouraged to work closely with staff and neighboring property owners before and during the application and review process to minimize delays and address concerns which may arise.

(5) *Board review.* The Board of Adjustment shall review the application for a waiver in the context of the spirit and intent of the requirements of this article; existing, proposed and planned development in the immediate area; similar properties and situations in other areas of the town's jurisdiction; and all other applicable regulations affecting the property.

(6) *Required general findings.* No special exception permit shall be approved by the Board of Adjustment unless the following general findings of fact are made concerning the proposed special use:

(a) The proposed development 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;

(b) The proposed development will be compatible with and will not substantially injure the value of adjoining property; and

(c) The proposed development is consistent with the intent of this article.

(7) *Withdrawal or amendment of a special exception permit application.* An application for a special exception permit may be withdrawn or amended as follows.

(a) A petition filed according to this section may be withdrawn by the petitioner at any time up to the scheduling of the date of the public hearing on the petition.

(b) If the petitioner wishes to withdraw the petition after the scheduling of the public hearing, the petitioner may file a request to withdraw with the Zoning Administrator. On the date scheduled for the hearing, the Board of Adjustment may approve the request for withdrawal if it finds that there are substantial circumstances favoring the withdrawal and that the withdrawal will not be detrimental to the interests of citizens affected by the petition.

(c) Once the petition has been filed, the petitioner shall not be allowed to amend it, except by request to the Zoning Administrator no later than three weeks prior to the scheduled public hearing date. No changes to the petition shall be accepted in the intervening weeks prior to the public hearing. No changes to the petition shall be made at the hearing, although potential changes proposed by the petitioner, Board of Adjustment and other interested parties may be presented at the hearing and considered by the Board of Adjustment during their deliberations.

(d) If the Board of Adjustment deems any amendment to be a substantial change to the petition, it shall defer action on the petition for 30 days to allow interested parties the opportunity to comment on the amendment to the petition.

(e) If the Board of Adjustment deems any amendment to be an intensification of the petition, it shall call for a new public hearing.

(8) *Hearing.*

(a) A special exception permit hearing will be conducted as a quasi-judicial hearing before the Board of Adjustment.

(b) The applicant has the burden of producing competent, material and substantial

evidence in support of the application.

(9) *Decision.* In considering an application for a special exception permit, the Board of Adjustment may attach reasonable and appropriate conditions and safeguards to the location, nature and extent of the proposed use and its relation to surrounding property, for the purpose of insuring that the conditions of permit approval will be complied with and any potentially injurious effect of the special use on adjoining properties, the character of the neighborhood or the health, safety and general welfare of the community will be minimized. The conditions may relate to parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, intensity of site development, the timing of development and other matters the Board of Adjustment may find appropriate or the applicant may propose. The applicant will have a reasonable opportunity to consider and respond to any additional conditions or requirements prior to final action by the Board of Adjustment.

(10) *Effect of approval.* An approved application for a special exception permit and all conditions which may be attached thereto are binding on the property.

(11) *Amendment to an approved special exception permit.*

(a) Any change to a development approved by special exception permit shall require an amendment to the special exception permit by the Board of Adjustment.

(b) The owner of property which is subject to an approved special exception permit may petition for an amendment of the special exception permit and accompanying conditions by following the procedures applicable to initiation of new special exception permits.

(c) Evidence presented at the hearing on the proposed amendment will be limited to the effect of the proposal on the original special exception permit, any plans or conditions which were a part of the original special exception permit and the present standards and requirements in this article.

(12) *Appeals.* Any petition for review by Superior Court shall be filed with the Clerk Of Superior Court within thirty days after a written copy of the decision of the Board of Adjustment is filed in the office of the Zoning Administrator or is delivered to every aggrieved party who has filed a written request for the copy with the Clerk at the time of the hearing of the case, whichever is later.

(13) *Revocation of a special exception permit.*

(a) A special exception permit may be revoked by the Board of Adjustment if it determines that the applicant is exceeding the authority granted by the permit or fails to meet the conditions attached thereto.

(b) Action to revoke a permit shall be taken by the Board of Adjustment after receiving a request from staff. Such a request shall be in writing and shall declare that the applicant and all property owners within the development, as recorded at the register of deeds office, have been notified at least ten days before the meeting of the pending action and the date, time and place of the Board of Adjustment meeting at which the request will be made. The applicant and property owners shall have the right to appear before the Board of Adjustment at the meeting and show cause why the Board of Adjustment should not revoke the permit. Notification shall be deemed given when written notice is sent by first class mail to the property owner at the address shown on the most recent property tax records and one or more

signs are posted in prominent locations on the subject site reasonably calculated to give notice of the action.

(14) *Expiration of a special exception permit.*

(a) Approval of a special exception permit shall confer upon the developer all vested rights as set forth in this article.

(b) In order for a special exception permit to remain in effect for a particular development, a valid building permit must be issued for construction within the time period vested. If at any time after this date, construction has not been completed and no valid building permits are outstanding for construction within the development, the special exception permit shall expire. No further construction may occur within the development until a new special exception permit has been issued by the Board of Adjustment. Application for a new special exception permit shall follow the procedures outlined in this section.

(2003 Code, § 8-3.9.9) (Updated 2009)

**§ 8-3.9.10 Enforcement.**

Whenever there is a violation of this article, the Zoning Administrator and/or Zoning Enforcement Officer may take any or all of the following actions to stop the violation.

(A) *Permit revocation.* The Zoning Administrator may revoke any zoning permit issued by staff after written notification to the permit holder when violations of this article have occurred, when false statements or misrepresentations were made in securing the permit, work is being or has been done in substantial departure from the approved application or plan or a permit has been mistakenly issued in violation of this article.

(B) *Stop work orders.* Whenever a building, structure or part thereof is being constructed, demolished, renovated, altered or repaired in substantial violation of any applicable provision of this article, the Zoning Administrator and/or Zoning Enforcement Officer may order the specific part of the work that is in violation or would be when the work is completed, to be immediately stopped. The stop work order shall be in writing, directed to the person doing the work and shall state the specific work to be stopped, the specific reasons for cessation and the action(s) necessary to lawfully resume work.

(C) *Civil penalties.*

(1) In addition to the other remedies cited in this article for the enforcement of its provisions and pursuant to G.S. § 160A-175, the regulations and standards of this article may be enforced through the issuance of civil penalties by the Zoning Administrator and/or Zoning Enforcement Officer.

(2) Subsequent citations for the same violation may be issued by the Zoning Administrator and/or Zoning Enforcement Officer if the offender does not pay the citation (except as otherwise provided in a warning situation) after it has been issued unless the offender has sought an appeal to the decision of the Zoning Administrator through the Board of Adjustment. Once the ten-day warning period has expired, each day which the violation continues shall subject the violator to additional citations to be issued by the Zoning Administrator.

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(3) The following penalties are hereby established:

- (a) Warning citation: correct violation within ten days;
- (b) First citation: \$50;
- (c) Second citation for same offense: \$100; and
- (d) Third and subsequent citations for same offense: \$500.

(4) If the offender fails to pay the civil penalties within three days after having been cited, the town may recover the penalties in a civil action in the nature of debt.

(D) *Criminal penalties.* Any person, firm or corporation convicted of violating the provisions of this article shall, upon conviction, be guilty of a misdemeanor and shall be fined an amount not to exceed \$500 and/or imprisoned for a period not to exceed 30 days. Each day of violation shall be considered a separate offense; provided that, the violation of this article is not corrected within 30 days after notice of the violation is given.

(E) *Equitable remedy.* The Zoning Administrator and/or Zoning Enforcement Officer may apply to a court of competent jurisdiction for any appropriate equitable remedy to enforce the provisions of this article. It is not a defense to the Zoning Administrator's application for equitable relief that there are other remedies provided under general law or this article.

(F) *Injunction.* Enforcement of the provisions of this article may also be achieved by injunction. When a violation occurs, the Zoning Administrator and/or Zoning Enforcement Officer may, either before or after the institution of other authorized action, apply to the appropriate division of the General Court for a mandatory or prohibitory injunction commanding the defendant to correct the unlawful condition or cease the unlawful use of the property.

(G) *Order of abatement.* In addition to an injunction, the Zoning Administrator may apply for and the court may enter into an order of abatement as part of the judgment in the case. An order of abatement may direct any of the following actions:

- (1) Buildings or other structures on the property be closed, demolished or removed;
- (2) Fixtures, furniture or other moveable property be moved or removed entirely;
- (3) Improvements, alterations, modifications or repairs be made; or
- (4) Any other action be taken that is necessary to bring the property into compliance with this article.

(2003 Code, § 8-3.9.10) (Updated 2009)

**§ 8-3.10 RULES OF CONSTRUCTION, INTERPRETATION AND DEFINITIONS.****§ 8-3.10.1 Rules of Construction.**

For the purposes of these regulations, the following rules of construction apply.

(A) Interpretations shall be guided by statements of intent.

(B) The term “this article” shall refer to the “Town of Mocksville Zoning Ordinance”.

(C) The words “shall”, “must” and “will” are mandatory, implying an obligation or duty to comply with the particular provision.

(D) The word “may” is permissive, except when the context of the particular use is negative, then it is mandatory (e.g., “may not”).

(E) The word “should”, whether used in the positive or the negative, is a suggested guideline.

(F) References to “days” will always be construed to be business days, excluding weekends and holidays, unless the context of the language clearly indicates otherwise.

(G) For purposes of interpreting this article, certain words, concepts and ideas are defined in § 8-3.10.3. Except as defined herein, all other words used in this article shall have their everyday dictionary definition.

(H) Words used in the present tense include the future tense and words used in the future tense include the present tense.

(I) Words used in the singular number include the plural and words used in the plural number include the singular.

(J) The word “person” includes a firm, association organization, partnership, corporation, trust and company as well as an individual.

(K) The word “lot” includes the word “plot”, “parcel” or “tract”.

(L) The word “building” includes the word “structure” and the word “structure” includes the word “building”.

(M) 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.

(N) Words used in the masculine gender include the feminine gender.

(O) The word “street” includes the words road, avenue, place, way, drive, lane, boulevard, highway and any other facility principally designed for motor vehicle traffic, except an alley or an easement solely for utilities or pedestrians.

(P) The terms “Town Board” and “Board of Commissioners” shall mean the Town Board of Commissioners of the Town of Mocksville, North Carolina.

(Q) The term “Planning Board” shall mean the Planning Board of the Town of Mocksville, North Carolina.

(R) The term “Zoning Administrator” shall mean the Zoning Administrator of the town of Mocksville, North Carolina.

(S) The term “Subdivision Administrator” shall mean the Subdivision Administrator of the town of Mocksville, North Carolina.

(T) The term “Manager” or “Town Manager” shall mean the Town Manager of the town of Mocksville, North Carolina.

(U) The term “Board of Adjustment” shall mean the Board of Adjustment of the town of Mocksville, North Carolina”.

(V) The term “State” shall mean the state of North Carolina.

(W) Any reference to a section shall mean a section of The Town of Mocksville Zoning Ordinance, unless otherwise specified.

(2003 Code, § 8-3.10.1) (Updated 2009)

### **§ 8-3.10.2 Interpretation.**

(A) *Zoning boundaries.* Where uncertainty exists as to the boundaries of any District shown on the official zoning map, the Zoning Administrator shall employ the following rules of interpretation.

(1) Where the zoning maps show a boundary line located within a street or alley right-of-way, railroad or utility line right-of-way, easement or waterway, it shall be considered to be in the center of the right-of-way, easement or waterway. If the actual location of the right-of-way, easement or waterway varies slightly from the location as shown on the zoning maps, then the actual location shall control.

(2) Where the zoning maps show a District boundary to approximately coincide with a property line or city, town or county border, the property line or border shall be considered to be the District boundary, unless otherwise indicated on.

(3) Where the zoning maps show a District boundary to not coincide or approximately coincide with any street, alley, railroad, waterway or property line and no dimensions are shown, the location of the boundary shall be determined by use of the scale appearing on the zoning maps.

(4) If, because of error or omission in the zoning maps, any property within the jurisdiction of this article is not shown as currently being in a zoning district, the property will be classified as OSR, until changed by amendment.

(5) Where District boundaries appear to parallel to the center line of streets, easements or

rights-of-way, the District boundaries shall be construed to be parallel thereto and at such a distance therefrom as is indicated on the zoning maps.

(6) The Zoning Administrator shall decide the exact location of zoning district boundary lines when a question arises concerning boundary lines shown on the zoning maps. This decision may be appealed to the Zoning Board of Adjustment.

(B) *Split tracts and fractional requirements.* The Zoning Administrator shall employ the following rules with respect to split tracts and fractional requirements.

(1) Where a District boundary line divides a lot or tract in single ownership, the District requirements for the least restricted portion of the lot or tract shall be extended to apply to the whole, provided the extensions shall not include any part of a lot or tract more than 35 feet beyond the District boundary line. The term “least restrictive” shall refer to all zoning restrictions except lot or tract size.

(2) When any requirement of this article results in a fraction of a dwelling unit or other measurement, that fraction will be disregarded and the nearest lower whole number shall apply.

(3) Whenever a density calculation for a legal lot of record results in less than one dwelling unit being permitted, one dwelling unit will be permitted subject to the remaining provisions of this article.

(C) *General rules of conflict.*

(1) In the event of a conflict between the text of this article and any caption, figure, illustration or table included herein, the text of this article shall control.

(2) In the event there is a conflict in limitations, requirements or standards applying to any individual use or structure, the more stringent or restrictive provision shall apply.

(D) *Distance measurements.* Distance separations are required for many uses in this article. Unless otherwise specified, the following rules shall apply in determining the measurements:

(1) Where lot separation is required, measurements shall be made from lot line to lot line using the shortest straight-line distance between lots.

(2) Where separation between a building, structure, parking area, buffer, driveway or similar feature on a development site and any other feature on the same or abutting site is required or is part of a regulation contained herein, the separation shall be measured between the closest points on the feature using the shortest straight-line distance between the two.

(2003 Code, § 8-3.10.2) (Updated 2009)

### § 8-3.10.3 Definitions.

For the purpose of interpreting this article, certain words and terms used in this article are defined as follows. Except as defined herein, all other words used in this article shall have their usual, customary dictionary meaning.

**ABANDONED.**

(1) 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];

(b) The premises are devoted to another use; or

(c) The characteristic equipment and furnishings of a non-conforming non-residential use have been physically removed from the premises and have not been replaced by the same or similar equipment within 30 days.

(2) 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 the parties that prevent continuation of the use.

**ABATTOIRS.** A facility used for slaughtering and processing of animals and the refining of their byproducts.

**ACCESSORY DWELLING UNIT.** See **DWELLING UNIT, ACCESSORY.**

**ACCESSORY STRUCTURE.** See **STRUCTURE, ACCESSORY.**

**ACCESSORY USE.** See **USE, ACCESSORY.**

**ADAPTIVE REUSE.** The rehabilitation, reconstruction or renovation of existing buildings or structures for any use other than its current use.

**ABUTTING PROPERTIES.** Having common property boundaries or lot lines which are not separated by a street, alley or other vehicular right-of-way such as a railroad.

**ACCESSORY COMMUNICATION ANTENNAS.** An antennas 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 STRUCTURE OR USE.** A use or structure that is customarily or typically subordinate to and serves a principal use or structure; is clearly subordinate in area, extent or purpose to the principal use or structure served; and is located on the same lot as the principal use or structure.

**ADJACENT.** This term shall mean anything that is contiguous or abutting with the assumption that railroads, roads and other rights-of-way do not exist.

**ADULT ESTABLISHMENT.** Any principal or accessory structure or use of land which meets the definition of adult establishment as set forth in G.S. §§ 14-202.10 et seq. and the Town Code of Ordinances, but excluding massage therapy.

**AGRICULTURAL INDUSTRY.** Commercial poultry or swine production, cattle or swine feed lots, fur bearing animal farms, commercial plant production (not retail nurseries) on more than two acres, commercial fish or poultry hatcheries and other similar activities.

**AIRPORT.** 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.

**ALLEY.** A service way providing a secondary means of public access to abutting property.

**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.

**AMENDMENT.** Any change by the Town Board 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.

**AMUSEMENT, COMMERCIAL INDOOR.** Any business establishment which is primarily engaged in providing an amusement activity such as a video arcade, billiard parlor, skating rink or similar activity as a principal use to the general public, but does not include indoor motion picture theaters.

**AMUSEMENT, COMMERCIAL OUTDOOR.** Any business establishment which is primarily engaged in providing an amusement activity such as a miniature golf course, skateboard course, water slide, mechanical ride, par 3 golf course, golf driving range or go-cart course, fish ranch or similar activity to the general public, but does not include outdoor motion picture theaters, raceways, drag strips or motorcycle courses.

**APPLICANT.** Any person seeking approval under these regulations for any form of development or use of land.

**ARCHITECT.** A person licensed to practice architecture in the state.

**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.

**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.

**ARTS AND CRAFTS STUDIO.** The creation of objects in a studio, made one at a time, by hand. The creation includes, but is not limited to, woodworking, tinsmithing, silversmithing, pottery throwing, glass blowing, painting, weaving, caning, metal working and sculpting.

**ASPHALT AND CONCRETE PLANT AND CONTRACTORS.** 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 only those uses in the following NAICS group(s):

2357	Concrete Contractors
324121	Asphalt Paving Mixture and Block Manufacturing

***AUTOMATIC TELLER MACHINE.*** A type of banking and financial services with automated or self-service banking features with no staff or personnel provided.

***AUTOMOTIVE REPAIR.*** See ***MOTOR VEHICLE REPAIR AND MAINTENANCE.***

***AWNING.*** A structure made of cloth, metal or other material affixed to a building in such a manner that the structure may be raised or retracted from a building to a flat position against the building, but not a canopy.

***BANKING AND FINANCIAL SERVICES.*** A facility engaged in deposit banking or extending credit in the form of loans. This definition includes only those uses in the following NAICS group(s):

5221	Depository Credit Intermediation
5222	Non-depository Credit Intermediation

***BED AND BREAKFAST ESTABLISHMENT.*** An owner-occupied residential building providing rooms for temporary overnight lodging and breakfast for more than three, but not more than eight, guests on a paying basis.

***BERM.*** An earthen mound designed to provide visual interest, screen undesirable 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.

***BOARDING OR ROOMING HOUSE.*** An owner-occupied dwelling or part thereof, in which lodging is provided to more than three, but not more than eight, paying guests on a weekly or longer basis and where the rooms rented neither individually nor collectively constitute separate dwelling units.

***BROADCAST STUDIO.*** An establishment primarily engaged in providing two-way radio/telephone communication services, telephone voice and data communications, telegraph services,

radio and television broadcasting or cable and other pay television services, but excluding those uses classified as utilities. This definition includes only those uses in the following NAICS group(s)

5131	Radio & Television Broadcasting
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**BUFFER.** (See also *SCREENING*.) A strip of land with natural or planted vegetation, located between a structure or use and a side or rear property line, intended to spatially separate and visually obstruct the view of two adjacent land uses or properties from one another. A **BUFFER AREA** may include any required screening for the site.

**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 principle vertical plane of the front building elevation must be erected; intended to create an even building facade 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 supported by columns or walls and which can be used for the shelter, housing or enclosure of persons, animals or goods.

**BUILDING AREA.** The area of a zoning lot remaining after the minimum setback requirements of this article have been satisfied.

**BUILDING CONTRACTORS, GENERAL.** An establishment providing general contracting and/or building construction services for residential, farm, industrial or commercial uses and which typically does not involve outdoor storage of machinery or equipment. This definition includes only those uses in the following NAICS group(s)

2351	Plumbing, Heating, Air-Conditioning Contractors
2352	Painting and Wall Covering Contractors
2353	Electrical Contractors
2354	Masonry, Drywall, Insulation and Tile Contractors
2355	Carpentry and Floor Contractors
2356	Roofing, Siding and Sheet Metal Contractors
23592	Glass and Glazing Contractors
23595	Building Equipment and Other Machinery Installation Contractors
23599	All Other Special Trade Contractors

**BUILDING CONTRACTORS, HEAVY.** An establishment providing general contracting and/or building construction services other than for buildings, such as highways and streets, bridges, sewers and flood control projects and which may involve outdoor storage of machinery or equipment. This definition includes only those uses in the following NAICS group(s):

2341	Highway, Street, Bridge and Tunnel Construction Contractors
23491	Water, Sewer, Pipeline Construction Contractors
23591	Structural Steel Erection Contractors
23593	Excavation Contractors
23594	Wrecking and Demolition Contractors

**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 MATERIALS SUPPLY.** An establishment engaged in selling lumber and a general line of building materials and hardware to the public. This definition includes only those uses in the following NAICS group(s)

4441	Building Materials and Supplies Dealer (Retail)
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**BUILDING PRESENTATION.** The direction of the architectural front facade of a building in relation to the street or public space.

**BUILDING, PRINCIPAL.** The building in which the principal use of the zoning lot is conducted.

**BUILDING SITE.** (See also **DEVELOPMENT**.) An area of land or property where development is undertaken.

**BUILDING WALL.** The entire surface area, including windows and doors, of an exterior wall of a building. For the purposes of this article, the area of a wall will be calculated for only the first three stories or 45 feet in height of a building, whichever is less.

**BUILT-UPON AREA.** (Applies only to the Watershed Overlay District.) Built-upon areas 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) and the like. (NOTE: Wooden slatted decks and the water area of a swimming pool are considered pervious.)

**BULK STORAGE OF PETROLEUM PRODUCTS (TANK FARMS).** The storage on a zoning lot of 2,500 gallons water capacity or more of flammable liquid or 2,000 gallons water capacity or more of flammable gas, excluding "storage tanks, above ground" and "fuel dealers", as defined herein. This definition includes all uses listed in the following NAICS group(s):

4227	Petroleum and Petroleum Products Wholesalers
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**BUS/TRANSIT SHELTER.** A freestanding structure less than 100 square feet, located on a bus transit route, which is designed to accommodate embarking and disembarking bus transit passengers.

**CALIPER.** The diameter measurement of a tree-trunk.

**CAMPGROUND.** See **RECREATIONAL VEHICLE PARK.**

**CANOPY.** A structure, either detached from or attached to and extending from the enclosed portion of a building and used principally to provide shelter in connection with activities conducted in the principal building.

**CANOPY TREE.** A species of tree which normally grows to a mature height of 35 feet or more with a minimum mature crown width of 30 feet and meets the specifications of the *American Standards for Nursery Stock*, published by the American Association of Nurserymen.

**CARPORT.** A roofed structure enclosed on not more than two sides and used for the parking of motor vehicles.

**CAR WASH, AUTOMATIC.** An unattended, automated, mechanical facility for the washing of automobiles, small recreational vehicles and light trucks wherein the customer remains in the vehicle during the service.

**CAR WASH, FULL SERVICE.** An attended facility wherein the customer pays for the labor, materials and equipment necessary to wash or otherwise clean an automobile, small recreational vehicle or light truck. This type of car wash may or may not be partially automated. Typically, the customer does not remain in the vehicle during the service.

**CAR WASH, INDUSTRIAL.** Mechanical facilities for the washing, vacuuming and waxing of large automobiles and heavy machinery.

**CAR WASH, SELF SERVICE.** A car wash wherein the customer provides labor and where no self-propelled wash racks are provided.

**CEMETERY.** Land and facilities, including offices and chapels, used for the burial of the dead.

**CEMETERY, LICENSED.** Land and facilities used for burial of the dead meeting the requirements of a perpetual care cemetery under state law. 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 Zoning Administrator setting forth that a lot, building, structure or use complies with the zoning ordinance and that the same may be used for the purposes stated therein.

**CERTIFICATE OF OCCUPANCY.** A certificate issued by the Building Inspector setting forth that a building, structure or use complies with all State Building Codes in effect within the town's

jurisdiction.

**CHANGE OF USE.** A change in the use of a structure or land for which a certificate of compliance is required.

**CHILD CARE INSTITUTION.** A facility providing residential and non-residential care for 13 or more children under the age of 21, who are handicapped or who are without the benefit of parents who can provide for those children's basic physical, emotional, educational, spiritual and/or other special needs.

**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.

**CHURCH OR RELIGIOUS INSTITUTION - COMMUNITY SCALE.** A church or religious institution in which the seating capacity in the sanctuary or main activity area is greater than 600 persons.

**CHURCH OR RELIGIOUS INSTITUTION - NEIGHBORHOOD SCALE.** A church or religious institution in which the seating capacity in the sanctuary or main activity area is 600 persons or less.

**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.

**CLINIC, VETERINARY.** See **VETERINARY SERVICES.**

**CLUB OR LODGE, PRIVATE 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, café or other place open to the public.

**CLUB, PRIVATE.** A for profit establishment as defined in G.S. § 18B-1000(5) which holds an ABC permit from the state.

**CLUSTER DEVELOPMENT.** The grouping of buildings and built-upon areas in order to conserve and/or protect natural resources and to provide for innovation in the design of a development project.

**CLUSTER HOUSING.** A development pattern where the dwelling units are grouped or "clustered" on a density basis for the total land area of the development, rather than spread evenly throughout the site on a lot by lot basis. A **CLUSTER HOUSING DEVELOPMENT** includes permanent open space and greenways usually owned and maintained by a homeowner's association or developer.

**COLLECTOR STREET.** See **STREET, COLLECTOR.**

**COLLEGE or UNIVERSITY.** An institution of higher education offering undergraduate and/or graduate degrees.

**CO-LOCATION.** The siting of two or more separate person's wireless antennas on the same support structure.

**COMMUNITY CENTER.** A building used for recreational, social, educational and cultural activities, open to the public and usually owned and operated by a public or non-profit group or agency.

**COMMERCIAL COMMUNICATION TOWER.** See **TELECOMMUNICATION TOWER.**

**CONGREGATE CARE FACILITY.** A licensed multi-unit facility which provides housing, part-time medical care, shared food preparation and dining areas and recreational facilities, as well as significant social facilities to meet the needs of the elderly. **CONGREGATE CARE FACILITIES** do not include nursing care institutions or similar institutions devoted primarily to the care of the chronically ill or incurable.

**CONSTRUCTION, START OF.** The first placement 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 at the point of placing the foundation or beyond the state of excavation or the placement of a manufactured home on a foundation. This definition does not include the installation of streets or walkways nor does it include the installation of temporary buildings on the property, such as garages, sheds or trailers, not part of the main structure nor occupied as dwelling units.

**CONTIGUOUS AREA.** Any area which abuts directly on a subject property or is separated from the subject property by a street or the right-of-way of a railroad or other utility or public service corporation.

**CONVENIENCE STORE.** Any retail establishment offering for sale gasoline, diesel fuel, kerosene, automotive products, prepackaged food products, household items and/or other goods commonly associated with the same and having a gross floor area of less than 5,000 square feet.

**CONVENTIONAL SUBDIVISION.** A subdivision which complies with the standard lot dimensions of Section 6 of the Town Zoning Ordinance and the development standards found in Sections 7.000 and 8.000 of the Town Subdivision Ordinance.

**CORNER LOT.** See **LOT, CORNER.**

**CORRECTIONAL INSTITUTION.** A jail or other institutional facility used to confine and provide treatment or rehabilitation to violators of criminal laws, including facilities for persons who are participating in supervised work-release programs, whether the facilities provide confinement for all of each 24-hour period or only a portion thereof; but not including temporary holding facilities that are accessory to a police station.

**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.

**CUL-DE-SAC.** See **STREET, MINOR.**

**CULTURAL FACILITY.** An indoor or outdoor theater, auditorium or other building or structure designed, intended or used primarily for musical, dance, dramatic or other live performances or a museum or gallery operated primarily for the display, rather than the sale, of works of art.

**DAY CARE.** Any child or adult care arrangement for three or more individuals 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 but less than 24 hours per day.

**DAY CARE CENTER.** A day care facility in which day care is provided for 13 or more children when any child is preschool-age or sixteen or more other children and/or adults.

**DAY CARE HOME, LARGE.** A facility in which day care is provided for six to 12 preschool-age children or up to fifteen other children and/or adults.

**DAY CARE HOME, SMALL.** An operation in which day care is provided for up to five preschool-age children or up to eight other children and/or adults.

**DECIDUOUS.** A plant or tree with foliage that is shed annually.

**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, GROSS 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.

**DENTAL LABORATORY.** See **MEDICAL OR DENTAL LABORATORY**.

**DETENTION STRUCTURE.** A permanent structure designed for the temporary storage of storm water runoff in order to reduce the peak rate of discharge from a site.

**DEVELOPER.** Any person actively engaged in the development of land. See **APPLICANT**.

**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 or more parcels.

(1) Except as provided in subsection (C) hereof, for the purposes of these regulations, the following activities or uses shall be considered **DEVELOPMENT**:

(a) The reconstruction, alteration of the size or material change in the external appearance of a structure on land or water;

(b) A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices or dwelling units in a structure or on land;

(c) Alteration of the shore or bank of a pond, lake, river or other waterway;

(d) Commencement of drilling (except to obtain soil samples), mining or excavation on a parcel of land;

(e) Clearing of land, including clearing or removal of vegetation and including any significant disturbance of vegetation or soil manipulation; or

(f) Deposit of refuse, solid or liquid waste or fill on a parcel of land.

(2) **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.

(3) For the purposes of these regulations the following operations or uses shall not be considered **DEVELOPMENT**; some may, however, require a zoning permit:

(a) 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;

(b) Work involving the maintenance or replacement of existing landscaped areas and existing rights-of-way;

(c) A change in use of land or structure from a use within a specified category of use to another use in the same category;

(d) A change in the ownership or form of ownership of any parcel or structure;

(e) 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 bylaw; or

(f) The clearing of survey cuts or other paths of less than four feet in width.

**DEVELOPMENT SITE.** See **BUILDING SITE.**

**DISTURBED AREA.** An area subject to erosion due to the removal of vegetative cover and/or earthmoving activities.

**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 the institution. **DORMITORY** shall not include a boarding house, motel, hotel, group home or health institution.

**DOUBLE FRONTAGE LOT.** See **LOT, DOUBLE FRONTAGE.**

**DRIVE-THROUGH SERVICE WINDOW.** 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.

**DRY CLEANING AND LAUNDRY PLANTS.** A building, portion of a building or premises used for cleaning fabrics, textiles, wearing apparel or articles of any sort by immersions in volatile solvents including, but not limited to petroleum distillates and/or chlorinated hydrocarbons and any process incidental thereto. This definition includes only those uses in the following NAICS group(s)

8123	Drycleaning and Laundry Services
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**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 the 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 UNIT.** A room or combination of rooms designed for year-round habitation, containing a bathroom and kitchen facilities and designed for or used as a permanent residence by at least one family.

**DWELLING UNIT, ACCESSORY, ATTACHED.** A second dwelling unit connected to or located within three feet of a residential building, which is restricted in area, purpose and occupancy in accordance with this article.

**DWELLING UNIT, ACCESSORY, DETACHED.** A dwelling unit located within an accessory structure, which is located more than three feet from the principal structure and is restricted in area, purpose and occupancy in accordance with this article.

**DWELLING UNIT, EFFICIENCY.** A dwelling unit in which the sleeping and living areas are contained in the same room.

**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 or another person.

**EASEMENT, NEGATIVE ACCESS.** An easement, which allows no driveway or other vehicles, access to a lot from an adjacent public street.

**EASEMENT, SIGHT.** An easement, which grants the right to maintain unobstructed view across property, located at a street intersection.

**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 person licensed to practice engineering in the state.

**EVERGREEN.** A plant or tree with foliage that persists year-round.

**EXHIBITION BUILDING.** A structure or facility designed, intended or used primarily for public gatherings, indoor exhibitions, galleries or conventions.

**EXISTING DEVELOPMENT.** (Applies only to the Watershed Overlay District.)

(1) Existing development means projects that are built or projects that at a minimum have established a vested right under state zoning law as of the effective date of the amendment incorporating water supply watershed regulations into the town's zoning ordinance based on at least one of the following criteria:

(a) 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;

(b) Having an outstanding valid building permit; or

(c) Having an approved site specific or phased development plan under the provisions of § 3-2.2.

(2) For projects that require a state permit, such as landfills, NPDES wastewater discharges, land application of residuals and road construction activities, existing development shall be defined as those projects that are built or those projects for which a state permit was issued prior to 8-3-1992.

**EXISTING LOT OF RECORD.** (Applies only to the Watershed Overlay District.) 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 article or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this article.

**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.

**FACADE.** The exterior wall of a building extending from grade to the top of the parapet, wall or eaves that is exposed to public view.

**FAIRGROUNDS.** An area of land use including, but not limited to: agricultural related office buildings, animal judging shows, carnivals, circuses, community meeting or recreational buildings and uses, concerts, food booths and stands, games, rides, rodeos, sales and auctions, storage and theaters.

**FAMILY.** An individual or two or more persons related by blood, marriage or adoption living together as a single housekeeping unit; or a group of not more than six persons not related by blood, marriage or adoption living together as a single housekeeping unit and domestic servants as are employed on the same premises. A **FAMILY** may include five or fewer foster children placed in a family foster home licensed by the state. The term **FAMILY** shall not be construed to include any group of persons living together as a fraternal, sororal, social, honorary or professional organization.

**FAMILY SUBDIVISION.** (Applies only to the Watershed Overlay District.) A division of a tract of land:

(1) To convey the resulting parcels, with the exception of parcels retained by the grantor, to a relative or relatives as a gift or for nominal consideration, but only if no more than one parcel is conveyed by the grantor from the tract to any one relative: or

(2) To divide land from a common ancestor among tenants in common, all of whom inherited by intestacy or by will.

**FARM PRODUCT SALES.** Seasonal sale of farm products raised on the premises where products are sold only as an accessory to an agricultural use.

**FARMER'S 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.

**FARMHOUSE CLUSTER.** A rural subdivision for up to six house lots accessed by a private drive.

**FEED AND FLOUR MILL.** Establishments primarily engaged in milling flour or meal from grains (except rice) or vegetables and/or milling flour and preparing flour mixes or dough.

**FEED AND SEED STORE.** Establishments primarily engaged in the retail sale of supplies directly related to the day to day activities of agricultural production.

**FENCE OR WALL, OPAQUE.** A vertical structure constructed of masonry, concrete, metal or wooden material which does not allow light to pass through.

**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.

**FLAMMABLE FUEL STORAGE (BELOW GROUND).** The storage of flammable or other hazardous liquids at a below grade location in compliance with applicable state laws.

**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 from open facilities or temporary structures.

**FLOOD.** A temporary rise in stream flow or stage that results in water over topping stream banks and inundating areas adjacent to the watercourse.

**FLOOD BOUNDARY AND FLOODWAY MAP.** An official map on which the Federal Emergency Management Agency has delineated both the floodway and floodway fringe areas. The maps also contain cross section information relevant to both the floodway and floodway fringe areas with data available in official reports supplied by the Federal Emergency Management Agency.

**FLOODPLAIN, 100-YEAR.** The channel and area abutting a watercourse, which would be covered with water during a 100-year flood as designated by reports and data provided by the Federal Emergency Management Agency and as shown on the zoning map.

**FLOODPLAIN, 500-YEAR.** The channel and area abutting a watercourse, which would be covered with water during a 500-year flood as designated by reports and data provided by the Federal Emergency Management Agency.

**FLOODWAY.** The portion of the channel and floodplain of a stream designated by Federal Emergency Management Agency reports and data as adequate to provide passage for the 100-year flood, without increasing the elevation of that flood at any point by more than one foot.

**FLOODWAY FRINGE.** An area lying outside the floodway, but within the floodplain.

**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 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.

**FOOD AND BEVERAGE STORE.** An establishment primarily engaged in selling food or beverages for home preparation and consumption off premises. This definition includes only those uses in the following NAICS group(s)

445	Food and Beverage Stores
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**FREEWAY or EXPRESSWAY.** A divided highway with full control of access and grade separation of all intersections.

**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 facade of a structure facing the street.

**FRONTAGE BUILDOUT.** The portion of lot frontage which has a building or wall running parallel to it.

**FUEL DEALER.** An establishment primarily engaged in the retail sale of fuel oil (excluding retail sale of motor fuels), bottled gas, coal, wood or other fuels. This definition includes only those uses in the following NAICS group(s)

45431	Direct Selling Establishments, Fuel Dealers
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**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. This definition includes only those uses in the following NAICS group(s)

8122	Death Care Services
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**GASOLINE STATION, LARGE.** A retail establishment which primarily sells gasoline to the public and which may include a convenience store, garages for passenger vehicle repair with associated vehicle storage areas and an automatic carwash as accessory uses.

**GASOLINE STATION, NEIGHBORHOOD.** A retail establishment which primarily sells gasoline to non-commercial vehicle operators, having no more than two canopies and eight separate pumping stations and providing only minor passenger vehicle repairs.

**GENERAL RETAIL.** See **RETAIL, GENERAL.**

**GOLF COURSE.** An area designed for golf, including a par 3 golf course, having at least nine 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.** An open air golf practice facility.

**GOVERNMENT OFFICES.** The offices of the executive, legislative, judicial, administrative and regulatory branches of federal, state and local governments. This definition includes only those uses in the following NAICS group(s)

92	Public Administration
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**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.

**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 12 inches.

**GROUND LEVEL.** For floodway purposes, the existing average elevation of the land.

**GROUND SIGN.** See **SIGN, GROUND MOUNTED.**

**GROUP CARE FACILITY.** A transitional housing facility for more than 20 residents, licensed by the state and operated by a non-profit corporation chartered pursuant to G.S. Ch. 55A, which provides room and board, personal care and rehabilitation services while persons receive therapy and/or counseling for one or more of the following purposes:

(1) To assist them to recuperate from the effects of or refrain from the use of drugs or alcohol;

(2) To provide emergency and temporary shelter for persons in distress such as runaway children and battered individuals; and,

(3) To provide shelter and support for older adults and persons who are handicapped. A **GROUP CARE FACILITY** shall not serve primarily as an alternative to incarceration. The facilities may have accessory uses conducted on the premises, including, but not limited to, schooling of residents, training programs in occupational fields and production of goods and crafts to be sold off-premises.

**GROUP HOME A.** A transitional housing facility with support and supervisory personnel licensed by the state and operated by a non-profit corporation chartered pursuant to G.S. Ch. 55A, which provides room and board, personal care and rehabilitation services in a supportive family environment for not more than six residents, exclusive of supervisory personnel, including, but not limited to, handicapped persons, older adults, foster children and abused individuals. This use shall include family care homes, as defined in G.S. § 168-21. This use shall not serve primarily as an alternative to incarceration, shall not include individuals who are dangerous to others, as defined in G.S. § 122C-3(11)(b) and shall not include persons living together as a fraternal, sororal, social, honorary or professional organization.

**GROUP HOME B.** A transitional housing facility with support and supervisory personnel licensed by the state and operated by a non-profit corporation chartered pursuant to G.S. Ch. 55A, which provides room and board, personal care and rehabilitation services in a supportive family environment for not more than 12 residents, exclusive of supervisory personnel, including, but not limited to, handicapped persons, older adults, foster children and abused individuals. This unit shall not serve primarily as an alternative to incarceration, shall not include individuals who are dangerous to others, as defined in G.S. § 122C-3(11)(b) and shall not include persons living together as a fraternal, sororal, social, honorary or professional organization.

**HABILITATION FACILITY A.** Any facility in which one to eight handicapped persons receive habilitation services, rehabilitation services or engage in recreational activities, regardless of whether these services and activities are therapeutic or educational in nature. These facilities are licensed by the state and do not provide room and board. This definition does not include the principal uses schools, elementary or schools, secondary. These facilities are intended to serve handicapped persons as defined in state law, in accordance with rights provided by applicable laws.

**HABILITATION FACILITY B.** Any facility in which more than eight handicapped persons receive habilitation services, rehabilitation services or engage in recreational activities, regardless of whether these services and activities are therapeutic or educational in nature. These facilities are licensed by the state and do not provide room and board. This definition does not include the principal uses schools, elementary or schools, secondary. These facilities are intended to serve handicapped persons as defined in state law, in accordance with rights provided by applicable laws.

**HANDICAPPED PERSON.** A person with a physical or mental impairment which substantially

limits one or more of the person's life activities; a record of having the 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 Willie M. children, but does not include persons who are dangerous to others as defined by G.S. § 122C-3(11)(b).

**HAZARDOUS MATERIAL.** Any substance listed as such in the Superfund Amendments and Reauthorization Act (SARA) § 302, Extremely Hazardous Substances; the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), Hazardous Substances; § 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:

(1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

(2) 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 process, including incineration or neutralization, the physical, chemical or biological character of any hazardous material so as to neutralize the 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:

(1) A facility which manufactures hazardous materials from component non-hazardous materials;

(2) A facility or location for the long term or perpetual storage of hazardous materials; or

(3) 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 NCAC 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.

**HEALTH SERVICES, MISCELLANEOUS.** This class of use includes outpatient care centers such as kidney dialysis centers, blood banks, birth control clinics, mental health and drug treatment centers and similar uses. This definition includes only those uses in the following NAICS group(s)

6214	Outpatient Care Centers
6215	Medical and Diagnostic Laboratories
62199	All Other Ambulatory Health Care Services

**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.

**HELICOPTER LANDING PAD.** The designated takeoff and landing area from which helicopter departures and approaches are intended to originate or terminate.

**HELIPORT.** A helicopter terminal facility for general public transportation with support facilities. The word **HELIPORT** shall mean an area on the ground used by helicopters, which may include, in addition to the landing pad, passenger and cargo facilities, maintenance, overhaul, fueling, service and storage facilities, tie-down areas, hangars, parking and other necessary buildings and open spaces. The term **HELIPORT** includes the terms heliports and public-use heliport used in Federal Aviation Administration publications.

**HELISTOP.** A limited use helicopter terminal facility that is clearly subordinate to a related business, institution or other operation. The word **HELISTOP** shall mean an area, either on the ground or on a building and shall include the landing pad used by helicopters for the purpose of picking up or discharging passengers or cargo, routine maintenance facilities, parking area, fuel pumping facilities (only if the activity is approved by the appropriate agencies) and storage or hangar facilities, but no other accessory facilities. The term **HELISTOP** includes the terms private-use heliport and personal-use heliport contained in Federal Aviation Administration publications, except for the limitations on the facility as noted in this definition.

**HOME OCCUPATIONS.** A business, profession, occupation or trade which is conducted within a residential building or accessory structure 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.

**HOSPITAL.** A facility providing medical, psychiatric or surgical services for sick or injured persons, including emergency treatment, diagnostic services, training, research and administration. This definition includes only those uses in the following NAICS group(s)

622	Hospitals
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**HOTEL.** 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. **HOTELS** may or may not provide on-site parking and access to hotel rooms is generally provided through interior hallways.

**IMPERVIOUS SURFACE COVER.** Any structure or material which significantly reduces or prevents natural absorption of storm water 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 structure or constructed feature not included under the definition of structure.

**INDEPENDENT LIVING FACILITY.** An unlicensed facility providing living arrangements for the elderly and their spouses in single-family, duplex or multi-family units designed to allow a predominately independent lifestyle within the framework of a larger, unified, health maintenance environment.

**INFILL DEVELOPMENT.** The construction of a building on a vacant parcel located in a predominately built up area.

**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 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.** The use of more than 600 square feet of the area of 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 the material is for sale.

**KENNEL.** A use or 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.

**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.

**LANDFILL, LAND CLEARING AND INERT DEBRIS (LCID).** A landfill that is limited to receiving land clearing waste, concrete, brick, concrete block, uncontaminated soil, gravel and rock, untreated and unpainted wood and yard trash.

**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 MATURING TREE.** A tree whose height is greater than 35 feet at maturity and meets the specification of *American Standards for Nursery Stock*, published by the American Association of Nurserymen. See also **CANOPY TREE**.

**LANDSCAPE ARCHITECT.** A person licensed to practice landscape architecture in the state.

**LAUNDRY AND LINEN SUPPLY SERVICE.** Establishments primarily engaged in supplying laundered items, such as table and bed linens, towels, diapers and types of uniforms.

**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.

**LINEAR FRONTAGE.** The length of a property abutting a public right-of-way from one side lot line to another.

**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 uses and the 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 135 degrees.

**LOT COVERAGE.** The portion of the lot area, expressed as a percent that is covered by impervious surface cover.

**LOT, DOUBLE FRONTAGE.** 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, INTERIOR.** A lot other than a corner lot with frontage on only one street.

**LOT, REVERSE FRONTAGE.** A lot having frontage on two or more streets, one of which is a minor or less important street in the community, the access to which is restricted to the minor street.

**LOT, THROUGH.** See **LOT, DOUBLE FRONTAGE.**

**LOT LINE.** A line or series of connected line segments bounding a lot.

**LOT LINE, FRONT.** The line which separates the lot from a street right-of-way. Corner lots shall have only one **FRONT LOT LINE.**

**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, a line ten 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 Zoning Administrator shall designate the rear lot line.

**LOT LINE, SIDE.** A lot line other than a front or rear lot line.

**LOT OF RECORD.** A lot described by plat or by metes and bounds which has been recorded in the office of the 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.

**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:

- (1) Is not constructed in accordance with the standards of the State Building Code for one- and two-family dwellings;
- (2) Is composed of one 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; and
- (3) Exceeds 40 feet in length and eight feet in width.

**MANUFACTURED HOME, CLASS A.** A manufactured home constructed after 7-1-1976, that 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 and that satisfies the following additional criteria, the intent of which is to ensure that a Class A manufactured home, when installed, shall have substantially the appearance of an on-site, conventionally built, single-family dwelling:

- (1) The manufactured home has a length not exceeding four times its width, with the length measured along the longest axis and width measured at the narrowest part of the other axis;

(2) The manufactured home has a minimum of 1,000 square feet of enclosed heated living area;

(3) The pitch of the roof of the manufactured home has a minimum vertical rise of two and two-tenths feet for each 12 feet of horizontal run and the roof is finished with a type of shingle that is commonly used in standard residential construction;

(4) All roof structures shall provide an eave projection of no less than six inches, which may include a gutter;

(5) The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding whose reflectivity does not exceed that of gloss white paint, wood or hardboard comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction;

(6) The home is placed on a permanent masonry foundation, not to include unfinished concrete block. The foundation wall shall be continuous and unpierced except for ventilation as required by the state regulations for manufactured/mobile homes; and

(7) The towing tongue shall be removed upon final placement of unit.

**MANUFACTURED HOME, CLASS B.** A manufactured home constructed after 7-1-1976, that 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, but which does not meet the definition of a Class A manufactured home.

**MANUFACTURED HOME PARK.** A development site, whether a single parcel or multiple contiguous parcels, containing spaces leased or intended to be leased for occupancy by manufactured homes used as residential dwellings regardless of whether the 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.

**MANUFACTURED HOME SUBDIVISION.** Any parcel of land which is subdivided, with utilities extended for the installation or placement of manufactured homes.

**MANUFACTURING 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 no noise, odor, vibration, glare and/or air and water pollution and, therefore, has minimal impact on surrounding properties. This definition may include the uses in the following NAICS group(s):

3149	Other Textile Product Mills
315	Apparel Manufacturing

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335991	Motorcycle, Bicycle and Parts Manufacturing
3369	Other Transportation Equipment
3399	Other Miscellaneous Manufacturing

**MANUFACTURING B.** A manufacturing establishment primarily engaged in the manufacture of foodstuffs, textiles, electrical components or tobacco products and the fabrication of wood, leather, paper, water or plastic products. Because of the nature of its operations and products, Manufacturing B could impact immediately adjoining properties due to noise, odor, vibration, glare and/or air and water pollution. This definition may include the uses in the following NAICS group(s):

3119	Other Food Manufacturing
3122	Tobacco Manufacturing
313	Textile Mills
3169	Other Leather and Allied Product Manufacturing
3219	Other Wood Product Manufacturing
322	Paper Manufacturing
3231	Printing and Related Support Activities
3261	Plastics Product Manufacturing
3341	Computer and Peripheral Equipment Manufacturing
3342	Communications Equipment Manufacturing
3343	Audio and Video Equipment
3344	Semiconductor and other electronic component manufacturing
3351	Electric Lighting Equipment Manufacturing
3353	Electrical Equipment Manufacturing
337	Furniture and Related Products Manufacturing
3391	Medical Equipment and Supplies Manufacturing

**MANUFACTURING C.** A manufacturing establishment primarily engaged in the processing and manufacturing of materials or products not otherwise classified under Manufacturing A, Manufacturing B or other use defined in this section. Manufacturing C includes the processing and manufacturing of products from extracted or raw materials, the assembly of large or heavy machinery and the storing or using of flammable, explosive, hazardous or toxic materials in the manufacturing processes. Because of the nature of its operations and products, Manufacturing C may impact surrounding properties due to noise, odor, vibration, glare and/or air and water pollution. This definition may include the uses in the following NAICS group(s):

3133	Textile and Fabric Finishing and Fabric Coating Mills
3161	Leather and Hide Tanning and Finishing
321114	Wood Preservation
3212	Veneer, Plywood and Engineered Wood Product Manufacturing
3221	Pulp, Paper and Paper Board
3241	Petroleum and Coal Products Manufacturing
3259	Other Chemical Product and Preparation Manufacturing
3262	Rubber Product Manufacturing
3271	Clay Product and Refractory Manufacturing
3272	Glass and Glass Product Manufacturing
3279	Other Non-metallic Mineral Product Manufacturing
331	Primary Metal Manufacturing
3329	Other Fabricated Metal Product Manufacturing
3333	Commercial and Service Industry Machinery Manufacturing
3353	Electrical Equipment Manufacturing
3359	Other Equipment and Component Manufacturing
3369	Other Transportation Equipment Manufacturing

**MASSAGE AND BODY WORK THERAPY.** Any massage or body work therapy as defined by the State Massage and Bodywork Therapy Practice Act, G.S. §§ 90-621 et seq., provided by a person licensed as provided therein to perform the 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 the county are referenced.

**MEAT PACKING PLANT.** An establishment primarily engaged in the slaughtering of cattle, hogs, sheep, lambs and calves for meat to be sold or to be used on the same premises in canning, cooking, curing and freezing and in making sausage, lard and other products. The definition includes all uses in the following NAICS group(s):

3116	Animal Slaughtering and Processing
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**MEDICAL OR DENTAL LABORATORY.** An establishment primarily engaged in providing professional analytic or diagnostic services to the medical profession or to the patient, on direction of a

physician; or an establishment primarily engaged in making dentures, artificial teeth and orthodontic appliances to order for the dental profession. This definition includes only those uses in the following NAICS group(s):

6215	Medical and Diagnostic Laboratories
3391	Medical Equipment and Supplies Manufacturing

**MEDICAL AND SURGICAL OFFICES.** An establishment primarily engaged in furnishing medical and surgical services to individuals and licensed for the practice by the state. This definition includes only those uses in the following NAICS group(s):

6211	Offices of Physicians
6212	Offices of Dentists
6213	Offices of Other Health Practitioners

**MIXED USE BUILDING.** The combination of both commercial and residential uses within a single building of two or more stories, wherein at least 50% of the heated floor area contains residential dwelling unit(s).

**MIXED USE DEVELOPMENT.** A planned development where two or more use categories (commercial, residential, industrial, institutional and the like) are incorporated on a single development site.

**MOBILE HOME.** See **MANUFACTURED HOME.**

**MOBILE HOME PARK.** See **MANUFACTURED HOME PARK.**

**MOBILE HOME SUBDIVISION.** See **MANUFACTURED HOME SUBDIVISION.**

**MODULAR HOME.** A dwelling unit which is constructed in compliance with the 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 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, INOPERATIVE.** A motor vehicle which meets at least one of the following criteria:

- (1) Vehicle is presently unable to satisfy the vehicle inspection standards of the state, regardless of whether the vehicle possesses a currently valid inspection certificate;
- (2) Vehicle lacks a current inspection certificate or displays an expired certificate;
- (3) Vehicle is partially dismantled or wrecked;
- (4) Vehicle cannot be self-propelled or move in the manner in which it originally was intended to move; or
- (5) Vehicle has expired license plate or is unlicensed.

**MOTOR VEHICLE BODY OR PAINT SHOP.** An establishment primarily engaged in body work, painting or customizing of automobiles or other motor vehicles. This definition includes only those uses in the following NAICS group(s):

81112	Automotive Body, Paint, Interior and Glass Repair
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**MOTOR VEHICLE DISMANTLING AND WRECKING YARD.** Any open area of more than 200 square feet used for storing or dismantling inoperative motor vehicles. This definition includes only those uses in the following NAICS group(s):

4211	Motor Vehicle and Motor Vehicle Parts and Supplies Wholesaler
4219	Miscellaneous Durable Goods Wholesalers

**MOTOR VEHICLE REPAIR AND MAINTENANCE.** An establishment engaged in providing mechanical automotive maintenance and repair, such as engine repair, exhaust system replacement and transmission repair and/or providing other related services, such as upholstery or glass replacement. This use includes service stations but does not include body work or painting. This definition includes only those uses in the following NAICS group(s):

8111	Automotive Repair and Maintenance
81112	Automotive Body, Paint, Interior and Glass Repair

**MOTOR VEHICLE SALES, RENTAL AND LEASING.** Any use where automobiles, other motor vehicles or manufactured homes are stored and/or displayed for the purpose of sale or lease as an entire or complete unit. This definition includes only those uses in the following NAICS group(s):

4411	Automobile Dealers
4412	Other Motor Vehicle Dealers

45393	Manufactured (Mobile) Home Dealers
5321	Automotive Equipment Rental and Leasing

**MOTOR VEHICLE STORAGE YARD.** An outdoor area for the storage of more than one 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, NAICS group 5015 and Waste Materials, NAICS group 5093.

**MULTIPLE BUILDING SITE.** A group of two or more non-residential buildings established on a single development tract, having unified design of buildings and coordinated organization of open space, parking and service areas.

**MULTI-FAMILY.** See **RESIDENTIAL BUILDING, MULTI-FAMILY.**

**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. This definition includes only those uses in the following NAICS group(s):

7121	Museums, Historical Sites and Similar Institutions
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**NAICS.** North American Industry Classification System, 1997.

**NATURAL OBSTRUCTION.** Any rock, tree, gravel or similar natural matter which is an obstruction and has been located within the floodway by a non-human cause.

**NEIGHBORHOOD RECREATION AREA.** Public or private tennis, basketball or other courts, swimming pools or similar indoor and/or outdoor uses that are operated on a fee or membership basis primarily for the use of persons who reside in a specific area or neighborhood in which the facility is located. **NEIGHBORHOOD RECREATION AREAS** may include accessory uses such as snack bars, pro shops and locker rooms, which are designed and intended primarily for the use of patrons of the principal recreational use.

**NON-CONFORMING LOT.** Any lot of record which does not meet the dimensional requirements established in these regulations as adopted or amended.

**NON-CONFORMING STRUCTURE.** Any structure which does not comply with all of the standards and regulations of this article as adopted or amended.

**NON-CONFORMING USE.** Any use of land or buildings which does not comply with all of the regulations of this article as adopted or amended.

**NON-RESIDENTIAL DEVELOPMENT.** All development other than residential development, agriculture and silviculture.

**NON-STORE RETAIL.** See **RETAIL, NON-STORE.**

**NURSERY, LAWN AND GARDEN SUPPLY STORE, RETAIL.** An establishment primarily engaged in the retail sale of trees, shrubs, other plants, seeds, bulbs, mulches, soil conditioners, fertilizers, pesticides, garden tools and other garden supplies to the general public. These establishments primarily sell products purchased from others, but may sell some plants, which are grown at the establishment. This definition includes only those uses in the following NAICS group(s)

4442	Lawn and Garden Equipment and Supplies Store
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**NURSING CARE INSTITUTION.** A licensed healthcare facility, however named, governmental or non-governmental, which provides in-patient care to six or more non-related persons for whom planned and continued medical or nursing attention or both, are indicated in contrast to the occasional or incidental care provided in congregate care facilities. A **NURSING CARE INSTITUTION** may be designed and marketed specifically for the elderly, physically handicapped or both, but not specifically for mentally ill persons who are dangerous to others as defined in G.S. § 122C-3(11)(b).

**OFF-STREET PARKING.** Parking which occurs on a lot and not on a street or other public right-of-way.

**OFFICE.** A use or structure in which business or professional services are conducted or rendered.

**OFFICE, MISCELLANEOUS.** Office uses not specifically listed and defined elsewhere in this article as a principal use.

**OFFICES, PROFESSIONAL.** See **PROFESSIONAL OFFICES**.

**OPEN SPACE.** Land used for recreation, natural resource protection, amenities, protection of important rural and town vistas and/or buffer yards. **OPEN SPACE** may include, but is not limited to, lawns, walkways, active recreation areas, playgrounds, wooded areas and greenways.

**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.

**OPTICAL SERVICES.** An establishment where health practitioners engage in the practice of optometry by providing patients with eye examinations to determine visual acuity or the presence of visual problems. **OPTICAL SERVICES** also include the prescription and sale of the products as eye glasses, contacts or other instruments intended to enhance visual perception.

**ORTHOPEDIC SUPPLY HOUSES.** A place where prosthetic appliances, surgical dressings, crutches, surgical sutures and personal industrial safety devices are prepared and distributed.

**OUTDOOR DISPLAY, RETAIL.** An establishment primarily engaged in selling motor vehicles, trucks, manufactured homes, recreational vehicles, boats or other large items, which require outdoor display. This definition includes only those uses in the following NAICS group(s):

4539	Other Miscellaneous Store Retailers
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4411	Automobile Dealers
4412	Other Motor Vehicle Dealers

**OUTDOOR LIGHTING.** Any light source that is installed or mounted outside of an enclosed building, but not including street lights installed or maintained along public or private streets.

**OUTDOOR STORAGE AREA.** Any area which contains trash collection areas or dumpsters, open air docks, 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 separately leased or owned lot developed apart from, but linked functionally to a larger development site.

**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.

**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.** 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.

**PARK, NEIGHBORHOOD.** A town or county owned park intended to serve the recreational needs of people living or working within a one-half mile radius of the park.

**PARK, REGIONAL.** A town or county owned park intended to serve the recreational needs of all residents of the town and perhaps a large portion of the county with activities and natural features not included in most other types of parks and often based on a specific natural feature or scenic or recreational opportunity.

**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.

**PEDESTRIAN ORIENTED DEVELOPMENT.** Any development type which accommodates the needs of the pedestrian. The 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.

**PERENNIAL STREAM.** A stream or creek containing a continuous natural flow of water throughout the year except possibly under exceptionally dry conditions and identified on 7.5 minute United States Geological Survey Quadrangle Maps by solid blue lines.

**PERSONAL SERVICES.** An establishment primarily engaged in providing a service(s) to individuals such as a beauty and/or barber shop, a dry-cleaning establishment, advertising or computer services but shall not include any use which may be defined as adult entertainment. Personal Services include the following list of uses:

81143	Footwear and Leather Goods Repair
8121	Personal Care Services
8123	Dry Cleaning and Laundry Services, excluding Dry Cleaning and Laundry Plants
8129	Other Professional Services except 81293
5617	Services to Buildings and Dwellings
5419	Other Professional, Scientific and Technical Services except 54194 Veterinary Services

**PERVIOUS SURFACE COVER.** A surface cover that presents an opportunity for precipitation to infiltrate into the ground.

**PHARMACY.** A place where drugs and medicines are prepared and dispensed by prescription from a hospital, medical or dental clinic.

**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.

**PLAZA.** An urban open space, constructed entirely or largely of hard-surfaced paving blocks, stone, brick or similar materials, framed on at least two sides by the vertical rise of building walls; occasionally framed by closely planted large maturing trees in lieu of buildings. May be used for occasional parking in front of a civic or public building.

**PLANNED DEVELOPMENT.** An area of a minimum contiguous size, as specified herein, to be planned, developed, operated and maintained according to approved plans as a single entity and containing one or more structures with appurtenant common areas.

**PLANNED COMMERCIAL DEVELOPMENT.** A Planned Development consisting primarily of retail, service, commercial or office uses or a combination of the uses and appurtenant common areas and accessory uses incidental to the principle uses within the development.

**PLANNED INDUSTRIAL DEVELOPMENT.** A planned development consisting primarily of industrial uses, but which may also include retail service and recreational uses to accommodate employees of the principle industrial uses within the development.

**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 FACILITY, NEIGHBORHOOD.** 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.

**PREMISES.** See *LOT*.

**PRINCIPAL BUILDING OR STRUCTURE.** A building or structure containing the principal use of the lot.

**PRINCIPAL USE.** The primary purpose or function that a lot serves or is proposed to serve.

**PROCESSING FACILITY.** A building or an enclosed space used for the collection and processing of recyclable material or for the purpose of re-preparation of materials for efficient shipment.

**PROFESSIONAL OFFICES.** An establishment primarily engaged in providing: engineering, architectural and surveying services; accounting, auditing and bookkeeping services; public relations services; legal services; real estate services; the services of insurance agents, brokers and carriers; the services of security and commodity brokers; and the services of bank holding companies. This definition includes only those uses in the following NAICS group(s):

5111	Newspaper, Periodical, Book and Database Publishers
5615	Travel Arrangement and Reservation Services
5231	Securities and Commodity Contracts Intermediation and Brokerage
5241	Insurance Carriers
5242	Agencies, Brokerages and other insurance related activities
5312	Offices or Real Estate Agents and Brokers
5511	Management of Companies and Enterprises
5418	Advertising and Related Services (except 54184 Display Advertising)
5614	Credit Reporting and Collection Agencies
5416	Management, Scientific and Technical Consulting Services
5415	Computer System Design and Related Services
5112	Software Publishers
5415	Computer System Design and Related Service
5411	Legal Services
5413	Architectural, Engineering and Related Services
5412	Accounting, Tax Preparation, Bookkeeping and Payroll Services
5418	Advertising and Related Services

**PROGRESSIVE CARE COMMUNITY.** An area of land including one or more buildings under unified management, planned and developed as a unit to provide for the traditional residency and care of the elderly in a full range of living and care arrangements which includes at least two of the following: independent living and care, congregate care or nursing care institutions.

**PROJECT AREA.** Any area of land and/or water, regardless of the number of individual parcels contained therein, on which development is proposed under these regulations. See **DEVELOPMENT**.

**PROJECTING SIGN.** See **SIGN, PROJECTING**.

**PROPOSED RIGHT-OF-WAY LINE.** The margin of a thoroughfare's right-of-way at its ultimate intended width, determined by:

- (1) The thoroughfare's classification; and
- (2) Dimensional requirements or location criteria as established in the subdivision ordinance.

**PROTEST PETITION.** A petition, authorized by state law, submitted to the City Council by adjacent property owners in opposition to a proposed zoning amendment.

**PUBLIC.** Under the control or responsibility of the Town Board of Commissioners on behalf of the general population, rather than individual or private control.

**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 State Utilities Commission.

**QUARRY.** An operation for the dredging, digging, extraction, mining or quarrying of stone, sand, gravel or minerals for commercial purposes.

**REDEVELOPMENT.** The demolition and reconstruction of a building or a portion of a building.

**REAL ESTATE SIGN.** See **SIGN, REAL ESTATE**.

**REAR LOT LINE.** See **LOT LINE, REAR**.

**REAR YARD.** See **YARD, REAR**.

**RECREATIONAL FACILITY, PUBLIC.** 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 public and under the management or control of a public agency.

**RECREATION SERVICES, INDOOR.** Establishments engaged in providing indoor recreation services. Such may include public or private health or exercise clubs, tennis or other racquet courts, swimming pools, YMCAs, YWCAs 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 locker rooms, which are designed and intended primarily for the use of patrons of the principal recreational use. This definition includes only those uses in the following NAICS group(s):

7139	Dance Studios, Schools and Halls
6116	Other Schools and Institutions
7111	Performing Arts Companies
711	Performing Arts, Spectator Sports and Related Industries
71394	Fitness and Recreational Sports Center

**RECREATION SERVICES, OUTDOOR.** Establishments engaged in providing outdoor recreation services such as public or private golf courses, country clubs, swimming pools, tennis courts, ball fields and ball courts which are not enclosed in buildings and are operated on a commercial 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. **OUTDOOR RECREATION** shall include any accessory uses, such as snack bars, pro shops and club houses which are designed and intended primarily for the use of patrons of the principal recreational use. This definition includes only those uses in the following NAICS group(s):

7139	Other Amusement and Recreation Industries (excluding Sportsman ranges, i.e.: archery, turkey shoots)
7112	Spectator Sports

**RECREATIONAL VEHICLE.** A vehicle type accommodation, other than a manufactured home, designed as temporary accommodations for travel, vacation or recreational purposes, which is propelled by its own motive power or is mounted on or drawn by another vehicle.

**RECREATIONAL VEHICLE PARK AND CAMPGROUND.** Any lot or parcel of land used or intended to be used for the accommodation of two or more recreational vehicles or non-vehicle campers for transient dwelling purposes.

**RECYCLING CENTER.** A facility at which recovered household 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, SIC group 5015, which is listed as a separate use.

**RECYCLING AND SALVAGE OPERATION.** Places of business or public facilities for the collection or processing of recyclable materials which has been separated at the source, including, but not limited to, metals, glass, plastic, paper, appliances or white metals within a completely enclosed building. Appliances and white metals shall be limited to 25% of the floor area devoted to storage of recyclable materials but not more than 400 square feet. **RECYCLING AND SALVAGE OPERATIONS** exclude automobile wrecking yards, junk yards and the collection of refuse or hazardous materials, except recyclable batteries, paint, oil or antifreeze limited to 1,000 gallons of each fluid. **RECYCLING AND SALVAGE OPERATIONS** may process only source separated recyclable materials for efficient

shipping or to an end-user’s specifications by baling, bunching, crushing, smashing, separation, shredding or similar action.

**RESIDENTIAL BUILDING.** A building which contains one or more dwelling units.

**RESIDENTIAL BUILDING, DUPLEX.** A residential building which contains two dwelling units and which occupies one zoning lot.

**RESIDENTIAL BUILDING, MULTI-FAMILY.** A residential building which contains three or more dwelling units. This definition includes condominiums and apartment complexes, but does not include townhouses.

**RESIDENTIAL BUILDING, SINGLE-FAMILY.** A residential building which contains one dwelling unit and which occupies its own zoning lot. This term includes modular housing units.

**RESIDENTIAL BUILDING, TOWNHOUSE.** A residential building which contains three or more dwelling units where each unit occupies a separate lot of record.

**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 cafés, tea rooms and outdoor cafés.

**RETAIL, GENERAL.** An establishment primarily engaged in selling goods to the public. This definition includes only those uses in the following NAICS group(s)

44131	Automotive Parts and Accessories Stores (indoor sales only)
442	Furniture and Home Furnishings Stores
443	Electronics and Appliance Stores
44413	Hardware stores
446	Health and Personal Care Stores
448	Clothing and Clothing Accessories Stores
451	Sporting Goods, Hobby, Book and Music Stores
452	General Merchandise Stores
453	Miscellaneous Store Retailers

**RETAIL, NON-STORE.** A use that retails merchandise using non-store methods, such as the broadcasting and publishing of direct-response advertising, direct solicitation and electronic shopping.

This definition includes only those uses in the following NAICS group(s)

4541	Electronic Shopping and Mail-Order Houses
4542	Vending Machine Operators
4543	Direct Selling Establishments (excluding on-site fuel storage)

**RETAIL STORE, LARGE.** A single retail or wholesale use which occupies no less than 65,000 square feet of gross floor area, typically requires high parking to building area ratios and has a regional sales market. The stores include, but are not limited to, membership warehouse clubs that emphasize bulk sales, discount stores and department stores.

**RETAIL STORE, MEDIUM.** A single retail or wholesale use which occupies between 25,000 and 65,000 square feet of gross floor area, typically requires moderate parking to building area ratios and has a local sales market.

**RETAIL STORE, SMALL.** A single retail or wholesale use which occupies less than 25,000 square feet of gross floor area, typically requires low parking to building area ratios and has a local or neighborhood sales market.

**RIDING STABLES.** 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.

**RIGHT-OF-WAY.** The legal right of public passage, especially vehicular, over land.

**ROOF LINE.** The highest point of a flat roof or mansard 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.

**ROOF SIGN.** See **SIGN, ROOF**.

**ROOMING HOUSE.** See **BOARDING OR ROOMING HOUSE**.

**ROOT PROTECTION ZONE.** Generally 18 to 24 inches deep at a distance from the trunk equal to one-half of its height or to its drip line, whichever is greater.

**SANITARY LANDFILL.** See **LANDFILL, SANITARY**.

**SATELLITE DISH.** A type of receive-only antenna, which is dish-shaped and is used to receive satellite signals, primarily television transmissions.

**SAWMILL.** A facility where logs are sawn, split, shaved, stripped, chipped or otherwise processed to produce wood products, not including the processing of timber for use on the same lot by the owner or resident of that lot.

**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.

**SCHOOL, ELEMENTARY AND SECONDARY.** A public or private school providing instruction to students in kindergarten through grade 12.

**SCHOOL, PRIVATE.** A structure used primarily by and for any two or more age or grade levels not operated by the public school system, but registered with the State 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 article.

**SCHOOL, PUBLIC.** A structure used primarily by and for any two or more age or grade levels in grades kindergarten through 12 and operated by the public school system or approved by the State 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 article.

**SCHOOL, VOCATIONAL OR PROFESSIONAL.** 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 or elementary or secondary 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 A, BUSINESS.** An establishment primarily engaged in providing a service(s) to businesses and to a lesser extent, individuals. All merchandise and rental equipment is stored inside enclosed buildings. **BUSINESS SERVICES A** includes the following list of uses (including NAICS groups and all subcategories not elsewhere listed):

5414	Specialized Design Services
56141	Document Prep Services
5322	Consumer Goods Rental
5414	Computer Systems Design and Related Services
5614	Business Support Services

**SERVICES B, BUSINESS.** An establishment primarily engaged in providing services to commercial and business establishments. Operations may include large scale facilities and storage of merchandise and equipment outside enclosed buildings. **BUSINESS SERVICES B** includes the following list of uses (including related NAICS groups and all subcategories not elsewhere listed):

8123	Dry Cleaning and Laundry Services
5418	Advertising and Related Services
5617	Services to Buildings and Dwellings
5323	General Rental Centers
8113	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance
8114	Personal and Household Goods Repair and Maintenance

**SERVICES, PERSONAL.** See **PERSONAL SERVICES**.

**SERVICE STATION.** See **GASOLINE STATION**.

**SETBACK.** The minimum required horizontal distance between a structure and the lot line or street centerline.

**SETBACK, ESTABLISHED.** The setback established by existing structures along a block front.

**SETBACK, REQUIRED.** The setback required by this article.

**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 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.

**SHOPPING CENTER, LARGE.** A shopping center totaling 65,000 square feet or more of gross floor area.

**SHOPPING CENTER, MEDIUM.** A shopping center containing between 25,000 and 65,000 square feet of gross floor area.

**SHOPPING CENTER, SMALL.** A shopping center totaling 25,000 square feet or less of gross floor area.

**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 at a distance of 35 feet from the point of intersection.

**SIGHT EASEMENT.** See *EASEMENT, SIGHT*.

**SIGN.** Any device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol or writing to advertise, announce the purpose of or identify the purpose of a person or entity or to communicate information of any kind to the public.

**SIGN AREA.** The area of a sign face.

**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.

**SIGN HEIGHT.** The distance from the base of the sign at normal grade to the top of the highest attached component of the sign, as detailed in § 8-3.6.

**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, ANIMATED.** Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

**SIGN, BANNER (OUTDOOR ADVERTISING).** A sign intended to be hung either with or without a frame, possessing characters, letters, illustrations or ornamentation applied to plastic or fabric of any kind, excluding flags and emblems of political, professional, religious, educational or corporate organizations.

**SIGN, BEACON.** Any sign with one or more beams directed into the atmosphere or directed at one or more points not on the same zoning lot as the light source; also, any light with one or more beams that rotate or move.

**SIGN, BILLBOARD.** A type of off-premises sign, generally, but not always, consisting of a rigidly assembled sign, display or devise, that is affixed to the ground or to a building, the primary purpose of which is to display advertising posters.

**SIGN, CAMPAIGN OR ELECTION.** A sign that advertises a candidate or issue to be voted upon on a definite election day.

**SIGN, CANOPY (AWNING).** Any sign that is a part of or attached to an awning, canopy or other fabric, plastic or structural protective cover over a door, entrance, window or outdoor service area, excluding a marquee (see *SIGN, MARQUEE*).

**SIGN, CHANGEABLE COPY.** A sign or portion thereof with characters, letters or illustrations that can be changed or rearranged without altering the remaining face or the surface of the sign.

**SIGN, CONSTRUCTION.** A sign placed at a construction site identifying or announcing the project or the name of the architect, engineer, contractor, financier or others involved in the development of the project.

**SIGN, COPY.** Any words, letters, numbers, figures, characters, symbols, logos or insignia that are used on a sign face.

**SIGN, DIRECTIONAL OR INSTRUCTIONAL.** An on-premises sign designed to guide vehicular and/or pedestrian traffic by using such words as “Entrance”, “Exit”, “Parking”, “One-Way”, “Warning”, “No Trespassing” or similar direction or instruction, but not including any advertising message. The name or logo of the business or use to which the sign is giving direction may also be included on the sign.

**SIGN, DIRECTORY.** A sign other than an identification sign, listing the names, uses or locations of the various businesses or activities conducted within a building or group of buildings that is centrally located and intended to provide direction

**SIGN, ELECTION.** Any sign that advertises a candidate or an issue which is to be voted on in a local, state or federal election process.

**SIGN, FLAG.** Any fabric, banner or bunting containing distinctive colors, patterns or symbols, used as a symbol of a government, political subdivision or other entity.

**SIGN, FLASHING.** A sign that uses an intermittent or flashing light source to attract attention.

**SIGN, FREESTANDING.** Any sign supported by structures or supports that are placed on or anchored in the ground and that are independent from any building or other structure.

**SIGN, GOVERNMENT.** Any temporary or permanent sign erected and maintained for any governmental purposes.

**SIGN, GROUND MOUNTED.** A sign which extends from the ground or which has a support which places the bottom thereof less than three feet from the ground.

**SIGN, INCIDENTAL.** A sign, generally informational, that has a purpose secondary to the use of the zoning lot on which it is to be located, such as “no parking”, “entrance”, “loading only”, “telephone” and other similar directives which are free of any commercial, advertising or similarly unrelated message.

**SIGN, IDENTIFICATION.** A sign which displays only the name, address and/or crest, insignia, trademark, occupation or profession of an occupant or the name of any building on the premises.

**SIGN, KIOSK.** A freestanding sign consisting of three to five sides that lists names of businesses located on a property, in a building or within the immediate area.

**SIGN, MARQUEE.** Any sign attached to, in any manner, a marquee. For purposes of this definition,

a marquee is defined as a permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

**SIGN, MEMORIAL OR PLAQUE.** A sign designating the name of a building and/or date of erection and other items such as architect, contractor or others involved in the building's creation, cut into or attached to a building surface.

**SIGN, MONUMENT.** A freestanding sign supported primarily by an internal structural framework or integrated into landscaping or solid structural features other than support poles where the base of the sign is on the ground or no more than twelve inches above the adjacent grade.

**SIGN, OFF-PREMISES.** A sign that directs attention to a business, commodity or service, conducted, sold or offered at a location other than the premises on which the sign is erected.

**SIGN, ON-PREMISES.** A sign that directs attention to a business, commodity or service, that is conducted, sold or offered on the premises on which the sign is erected.

**SIGN, PENNANT.** Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in series, designed to move in the wind.

**SIGN, PERMANENT BANNER.** Any banner constructed of lightweight fabric or similar material that is permanently mounted to a building by a permanent frame, excluding flags. (see **SIGN, FLAG.**)

**SIGN, PLANNED DEVELOPMENT.** A directory sign placed at a major entrance to a planned development which may list the name of the development as well as the businesses or locations within the development. A planned development sign shall consist only of monument signs and shall not include pole, pylon or other non-monument freestanding signs.

**SIGN, PORTABLE.** Any sign not permanently attached to the ground or other permanent structure or a sign designed to be transported, including, but not limited to, signs converted to A or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless the vehicle is used in the normal day-to-day operations of the business.

**SIGN, PROJECTING.** Any wall sign affixed to a building or wall in a manner that its leading edge extends more than six inches beyond the surface of the building or wall.

**SIGN, REAL ESTATE.** A sign that is used to offer for sale, lease or rent the premises upon which the sign is placed.

**SIGN, RESIDENTIAL.** Any sign located in a District zoned for residential uses.

**SIGN, ROOF.** Any sign erected and constructed wholly or partially on or over the roof or parapet of a building.

**SIGN, SUSPENDED.** A sign that is suspended from the underside of a horizontal plane surface and

is supported by the surface.

**SIGN, TEMPORARY.** A sign which is not permanently installed in the ground or affixed to any structure or building.

**SIGN, WALL.** Any sign attached to a wall, painted on the wall surface or erected and confined within the limits of an outside wall of any building or structure and which is supported by the wall.

**SIGN, WINDOW.** Any sign, pictures, symbol or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

**SIGNIFICANT TREE.** Any tree other than a pine tree with a caliper of 18 inches or more.

**SINGLE-FAMILY DWELLING.** See **RESIDENTIAL BUILDING, SINGLE-FAMILY.**

**SITE PLAN.** A scaled plan showing uses and structures proposed for a parcel of land as required by this article, which includes lot lines, streets, building sites and buildings, reserved open space, major landscape features (natural and manmade) and the location of proposed utility lines when applicable in addition to other features which may be required by this article.

**SMALL MATURING TREES.** A tree whose height is less than 35 feet at maturity and meets the specifications of *American Standards for Nursery Stock*, published by the American Association of Nurserymen.

**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 the following:

(1) Fowl and animal fecal waste;

(2) Solid or dissolved material in any of the following:

(a) 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;

(b) Irrigation return flows; or

(c) Wastewater discharges and the sludge incidental thereto and generated by the treatment thereof, which are point sources subject to permits granted under § 402 of the Federal Water Pollution Control Act, as amended (33 U.S.C. §§ 1251 et seq.) and permits granted under G.S. § 143-215.1 by the Environmental Management Commission;

(3) Oils and other liquid hydrocarbons controlled under G.S. Art. 21A of Ch. 143;

(4) Any radioactive material, as defined by the State Radiation Protection Act (G.S. §§ 104E-1

through 104E-23); or

(5) Mining refuse covered by the State Mining Act (G.S. §§ 74-46 through 74-68) and regulated by the State Mining Commission (as defined under G.S. § 143B-290).

**STEALTH TELECOMMUNICATIONS ANTENNAS.** Telecommunications antennas which are housed within a building or on a structure so that the antennas are disguised as some other permitted structure or use.

**STORAGE AND SALVAGE YARD.** The use of land for outdoor storage of machinery, construction equipment, construction supplies, used building materials, scrap metal and similar items. This definition does not include motor vehicle storage yard, motor vehicle dismantling operations or junkyards.

**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.** The 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 BUFFER.** An area of natural or planted vegetation through which storm water 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 measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

**STREET.** A right-of-way for vehicular travel.

**STREET, ARTERIAL.** A federal and/or state highway designed primarily for the movement of large volumes of vehicular traffic from one area or region to another; a thoroughfare. Also referred to as a **MAJOR THOROUGHFARE**.

**STREET, COLLECTOR.** A public way designed primarily to connect minor streets with arterial streets and/or to provide direct connection between two or more arterial streets and which may be designed to carry significant volumes of vehicular traffic having neither origin nor destination on the street.

**STREET, MINOR RESIDENTIAL.** Those streets whose primary function is to provide direct access to residential property.

**STREET, MINOR NON-RESIDENTIAL.** Those streets whose primary function is to provide direct access to commercial-industrial property.

**STREET, CUL-DE-SAC.** A short minor street having one end open to traffic and the other permanently terminated by a vehicular turnaround.

***STREET, RURAL.*** A street designed for and located in non-urban and non-urbanizing areas as classified by the town.

***STREET, URBAN.*** A street designed for and located in urban or urbanizing areas as classified by the town.

***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 or the state.

***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 or the town or the county, 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; or has otherwise been established as a public street prior to the adoption of this article.

***STREET VISTA.*** A view framed by buildings at the termination of the axis of a thoroughfare or large neighborhood street.

***STREET PLANTING YARD.*** The area of land along the front property line parallel to a right-of-way reserved for tree planting and landscaping. Also called ***STREET TREE PLANTING EASEMENT.***

***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-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.

***STRUCTURE, ACCESSORY.*** A structure detached from a principal building on the same zoning

lot, the use of which is customarily incidental to the principal building. This includes freestanding satellite dishes, any other devices that access satellites and amateur radio antennas.

**STRUCTURE, DETACHED.** For purposes of determining setback requirements for accessory structures, a structure, which is separated from an adjacent structure by at least three feet, as measured from any part of the structures.

**STUDIOS.** A working place or place of study for a painter, sculptor, photographer, dancer or person engaged in a similar artistic pursuit. This definition includes only those uses in the following NAICS group(s):

541430	Art studios, commercial
611610	Dance studios
541922	Photography studios, commercial
541921	Photography studios, portrait

**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 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:

- (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the town’s subdivision regulations;
- (2) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved;
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets or the location of public utility rights-of-way;
- (4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the town’s subdivision regulations;
- (5) The division of land into plots or lots for use as a cemetery; and
- (6) Subdivisions resulting from proceedings to partition interests in lots or parcels pursuant to G.S. Ch. 46 (or any successor statute) resulting in the division of a lot or parcel into two or more lots or parcels except where the partition proceeding is brought to circumvent the provisions of this article or the town’s subdivision regulations.

**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 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.

**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, antennas of amateur radio (ham) operators, amateur club services licensed by the Federal Communications Commission, satellite dishes and antennas less than 60 feet in height with transmitting power of 250 watts or less.

**TEMPORARY STRUCTURE.** A building placed on a lot for a specific purpose which is to be removed within a specified time period. Examples of temporary structures are monitoring stations, mobile classrooms, construction trailers and guard houses and produce stands.

**TERMINAL, BUS OR TAXI.** A facility for the storage, maintenance and dispatch of buses or taxi and associated customer ticketing and waiting areas. This definition includes only those uses in the following NAICS group(s):

485	Transit and Ground Passenger Transportation
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**TERMINAL, FREIGHT.** Any facility for handling freight, with or without storage and maintenance facilities. This definition includes only those uses in the following NAICS group(s):

492	Couriers and Messengers
48849	Other Support Activities for Road Transportation

**TESTING AND RESEARCH LABORATORY.** An establishment primarily engaged in commercial research and providing testing services such as calibration and certification of instruments, food testing services, forensic laboratories, metallurgical testing and industrial X-ray inspection services, etc. This definition includes only those uses in the following NAICS group(s):

5417	Scientific Research and Development Services
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**THEATER, DRIVE-IN.** An establishment for the outdoor viewing of motion pictures by patrons while in motor vehicles. This definition includes only those uses in the following NAICS group(s):

512132	Drive-In Motion Picture Theaters
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**THEATER, INDOOR.** An establishment for the indoor viewing of motion pictures by patrons. This definition includes only those uses in the following NAICS group(s):

512131	Motion Picture Theaters (except Drive-Ins)
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**THOROUGHFARE.** See **STREET, ARTERIAL.**

**THOROUGHFARE PLAN.** The most recent map adopted by the Town Board which indicates the system of roads expected to serve major access and travel needs with regard to auto, truck and transit transportation.

**TIRE RECAPPING SHOPS.** Establishments primarily engaged in repairing, re-treading and rebuilding tires from natural or synthetic rubber. This definition includes only those uses in the following NAICS group(s):

326212	Tire Retreading
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**TOWER, GUYED.** A type of wireless transmission tower that is supported by guy wires.

**TOWER, LATTICE.** A self-supporting three or four-sided, open steel frame structure used to support telecommunications equipment.

**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.

**TOWER, TELECOMMUNICATIONS.** A structure, either freestanding or attached to a building, principally intended to support a telecommunications antenna.

**TOWNHOUSE.** See **RESIDENTIAL BUILDING, TOWNHOUSE.**

**TRADITIONAL NEIGHBORHOOD.** A traditional neighborhood is one that incorporates design principles that produce compact, mixed use, pedestrian scaled communities designed to:

- (1) Promote independence of movement for the elderly and young by bringing many activities of daily living within walking distance;
- (2) Reduce traffic congestion and road construction costs by reducing number and length of car trips;
- (3) Use or allow for future use of alternative forms of transportation by organizing appropriate building densities;
- (4) Improve security of public spaces organized to stimulate informal surveillance by residents and business operators;

(5) Enhance the sense of community and improve security through the provision of a range of housing types and workplaces in proximity to one another; and

(6) Provide accessible places for public assembly and civic engagement by identification of suitable sites for civic buildings.

**TRANSITIONAL SETBACK OR YARD.** The area, if any, along a thoroughfare, which lies between:

(1) The minimum setback or yard line for the zoning district measured from the existing street right-of-way line; and

(2) The minimum setback or yard line measured from the proposed right-of-way line.

**TRANSITIONAL USE.** A permitted use or structure that, by nature, level of activity or physical scale, acts as a transition or intermediate use between two or more incompatible uses.

**TREE.** A large, woody plant having one or more self-supporting stems or trunks and numerous branches. May be classified as deciduous or evergreen.

**UNDERSTORY TREE.** A species of tree which normally grows to a mature height of 15 to 35 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, ACCESSORY.** A use or activity which is customarily incidental to a specific principal use and which is located on the same zoning lot as the associated principal use.

**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 the use upon the expiration of the time period.

**U.S.G.S.** United States Geological Survey.

**UTILITIES.** Facilities of any agency which, under public franchise or ownership, provides the general public with electricity, gas, oil, water, sewage, electronic sign 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.

**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 and transformers, which are part of an underground utilities system:

(1) **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,

(2) **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.

**VARIANCE.** Relief from the requirements of this article granted by the Board of Adjustment.

**VESTED RIGHT (ZONING).** A right established pursuant to the provisions of this article to undertake and complete the development and use of property.

**VETERINARY SERVICES.** Any facility used for the purpose of giving licensed medical treatment to animals or pets and any other customarily incidental treatment of the animals, such as grooming, boarding or selling of pet supplies. This definition includes only those uses in the following NAICS group(s):

54194	Veterinary Services
81291	Pet Care Services (except Veterinary)

**WALL SIGN.** See **SIGN, WALL.**

**WAREHOUSING.** Establishments primarily engaged in the warehousing and storage of general merchandise, refrigerated goods and farm products. This definition includes only those uses in the following NAICS group(s):

4931	Warehousing and Storage
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**WAREHOUSING, SELF STORAGE.** Establishments primarily engaged in the rental or leasing of mini-warehouses and self-storage units. This definition includes only those uses in the following NAICS group(s):

531130	Warehousing, self storage
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**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.

**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 DEPENDENT STRUCTURES.** Those structures for which the use requires access or proximity to or siting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks, piers, bulkheads and similar structures. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not **WATER DEPENDENT STRUCTURES.**

**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 storm water 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.

**WHOLESALE TRADE A.** 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. Activities including physically assembling, sorting and grading goods in large lots and breaking bulk lots for redistribution in smaller lots are conducted inside enclosed buildings in a way as to have a minimal impact on surrounding properties. Operations with over 25% of sales to retail customers require the appropriate retail zoning district. This definition includes only those uses in the following NAICS group(s):

42112	Motor Vehicle Supplies and New Parts Wholesalers
4212	Furniture and Home Furnishing Wholesalers
4213	Lumber and Other Construction Materials Wholesalers
4214	Professional and Commercial Equipment and Supplies Wholesaler
4216	Electrical Goods Wholesalers
4217	Hardware, Plumbing and Heating Equipment and Supplies Wholesalers
4219	Miscellaneous Durable Goods Wholesalers
4221	Paper and Paper Products Wholesalers
4222	Drugs and Druggists Sundries Wholesalers
4223	Apparel, Piece Goods and Notions Wholesalers
4224	Grocery and Related Products Wholesalers

4228	Beer, Wine and Distilled Alcoholic Beverage Wholesalers
4229	Miscellaneous Non-durable Goods Wholesalers (except 422910 Farm Supplies Wholesalers)

**WHOLESALE TRADE B.** An establishment primarily engaged in selling durable and non-durable goods to retailers; to industrial, commercial, institutional, farm, construction contractors; or to professional business uses; or to other wholesalers. Merchandise may be stored outside or inside enclosed buildings. Activities including physically assembling, sorting and grading goods in large lots and breaking bulk lots for redistribution in smaller lots may be conducted outside enclosed buildings. Operations with over 25% of sales to retail customers require the appropriate retail zoning district. This definition includes only those uses in the following NAICS group(s):

4211	Motor Vehicle and Motor Vehicle Parts and Supplies Wholesalers (except 42114 Motor Vehicle Parts Used Wholesalers)
4215	Metal and Mineral (excluding Petroleum Wholesalers)
4218	Machinery, Equipment and Supplies Wholesalers
4225	Farm Product Raw Material Wholesalers
4226	Chemical and Allied Products Wholesalers
422910	Farm Supplies Wholesalers

**WORKING DAY.** Any day on which the offices of the town are officially open, not including Saturdays, Sundays and other holidays designated by the Town Board.

**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, FRONT.** The yard extending across the full width of the lot and lying between the front lot line and the front setback line as required in this article.

**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 building setback line, as required in this article; 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 building setback line as required in this article.

**YARD, STREET SIDE.** The yard extending along the length of the lot between the required front yard and the required rear yard adjacent to a public right-of-way or private access easement and between the side lot line and the side building setback line as required in this article.

**ZERO LOT LINE.** The location of a building on a lot in a manner that one of the building’s sides rests directly on a lot line.

***ZONING LOT.*** See ***LOT, ZONING.***  
(2003 Code, § 8-3.10.3) (Updated 2009)