



# **UNIFIED DEVELOPMENT ORDINANCE**

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# UNIFIED DEVELOPMENT ORDINANCE

## City of Kannapolis

### TABLE OF CONTENTS

ARTICLE		PAGE
1	GENERAL PROVISIONS .....	1-1
2	ADMINISTRATIVE AGENCIES .....	2-1
3	ZONING AND PERMITTING PROCEDURES .....	3-1
4	ZONING DISTRICTS AND DIMENSIONAL REGULATIONS .....	4-1
5	SUPPLEMENTAL USE REGULATIONS .....	5-1
6	SUBDIVISION REGULATIONS .....	6-1
7	LANDSCAPING AND BUFFERING STANDARDS .....	7-1
8	OFF-STREET PARKING AND PRIVATE DRIVEWAY STANDARDS .....	8-1
9	ENVIRONMENTAL CONTROL REGULATIONS .....	9-1
10	STREET DESIGN STANDARDS .....	10-1
11	SITE DESIGN STANDARDS .....	11-1
12	SIGN REGULATIONS.....	12-1
13	NONCONFORMING USES & STRUCTURES AND VESTED RIGHTS.....	13-1
14	ADEQUATE PUBLIC FACILITIES .....	14-1
15	CORRIDOR AND THOROUGHFARE PROTECTION OVERLAY DISTRICTS.....	15-1
-	APPENDIX A - DEFINITIONS.....	A-1
-	APPENDIX B - SPECIFICATIONS FOR FORMS TO BE SUBMITTED .....	B-1
-	APPENDIX C - SPECIFICATIONS FOR INFRASTRUCURE DESIGN AND INSTALLATION .C-1	
-	APPENDIX D - SPECIFICATIONS FOR DRIVEWAY/ACCESSWAY DESIGN AND INSTALLATION .....	D-1

# ARTICLE 1 GENERAL PROVISIONS

*Summary: This Article provides an introduction to the structure and the legal framework of the Unified Development Ordinance (the “UDO”). The UDO combines the zoning and subdivision authority of the City into one document. This Section recites applicable statutory authority, the applicability of the UDO to various uses and geographic areas of the City and its incorporated areas, consistency with the Area Plans (the Comprehensive Plan), coordination with other regulations, the effective date, violations, and related matters.*

## TABLE OF CONTENTS

SECTION	PAGE
1.1 GENERAL PROVISIONS .....	1-2
1.2 EXEMPTIONS AND SPECIAL CONSIDERATIONS.....	1-4
1.3 CONSISTENCY WITH COMPREHENSIVE PLAN .....	1-5
1.4 INTERPRETATION .....	1-6
1.5 EFFECTIVE DATE .....	1-7
1.6 VIOLATIONS .....	1-8

## 1.1. GENERAL PROVISION.

### 1.1.1. TITLE.

**1.1.1.1.** This Ordinance shall be known and may be cited as the Unified Development Ordinance (hereinafter "the Ordinance"). This Ordinance may also be known and may be referred to as the "UDO."

### 1.1.2. PURPOSE.

**1.1.2.1.** The Ordinance enables the City to respond uniformly and consistently to development proposals and to promote the health, safety, and general welfare of residents. The City is also working towards unified development goals that promote the welfare of the entire region, while providing uniformity, certainty, and predictability for persons subject to this Ordinance. This Ordinance also attempts to provide flexibility in dealing with situations that may fall outside typical processes and requirements. The elements that make up the Ordinance are interrelated and cannot be taken in isolation; they must be taken within the context and intent of the entire Ordinance. Specifically, the purposes of this Ordinance are described in subsections 1.3 through 1.4 of this Section.

### 1.1.3. ZONING REGULATIONS.

**1.1.3.1.** Zoning regulations are included in Articles 4-5 and 7-13. Pursuant to NCGS § 160D-701 et seq., the power of zoning is exercised in order to implement the *Comprehensive Plan*, and to:

- to lessen congestion in the streets;
- to secure safety from fire, panic, and other dangers;
- to promote health and the general welfare;
- to provide adequate light and air;
- to prevent the overcrowding of land;
- to avoid undue concentration of population;
- to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements;
- to protect and/or to enhance the character of each zoning district and its peculiar suitability for particular uses;
- to conserve the value of buildings; and
- to encourage the most appropriate use of land throughout the planning areas.

### 1.1.4. SUBDIVISION REGULATIONS.

**1.1.4.1.** Subdivision regulations are included in Article 6. Pursuant to NCGS § 160D-801 et seq., the power of subdivision control is exercised in order to:

- implement the *Comprehensive Plan* for the City;
- provide for the orderly growth and development of the City and for the efficient use of our resources (land, water, roads, etc.);
- provide for the coordination of transportation networks and utilities within proposed subdivisions with existing or planned streets and highways and with other public facilities;
- provide for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision or, alternatively, for provision of funds to be used to acquire recreation areas serving residents of the neighborhood and/or for residents within the immediate area,
- provide for the dedication or reservation of and rights-of-way or easements for street and utility purposes including the dedication of rights-of-way pursuant to NCGS §§ 136-66.10 or G.S. 136-66.11;
- provide for the distribution of population and traffic in a manner that will avoid congestion and overcrowding
- provide for the distribution of population and traffic that will substantially promote public health, safety, and the general welfare;
- provide that sufficient data is presented accurately by subdividers to determine readily and reproduce accurately on the ground the location, bearing, and length of every street and alley line, lot line, easement boundary line, and other property boundaries, including the radius and other data for curved property lines;
- provide for the more orderly development of subdivisions by requiring the construction of community service facilities in accordance with municipal or county policies and standards and, to assure compliance with these requirements, by requiring the posting of bonds or any other method that will offer guarantee of compliance;

- provide for the reservation of school sites in accordance with comprehensive land use plans approved by the City and/or School Board(s).
- require the preparation and recording of a plat whenever any subdivision of land takes place;
- provide that a developer may offer funds for the City to acquire recreational land to serve the development or subdivision, including the purchase of land which may be used to serve more than one subdivision or development within the immediate area; and
- to provide that, in lieu of required street construction, a developer may be required to provide funds for the City to construct roads that serve the neighborhood and these funds may be used for roads which serve more than neighborhood within the area.

**1.1.5. AUTHORITY.**

**1.1.5.1.** The City is authorized by the North Carolina General Statutes (“NCGS”) to exercise broad powers in the regulation of zoning, planning, subdivision of land, and building. The City through the UDO intends to use all powers provided by virtue of Chapter 160D of the NCGS. The UDO also uses specific powers granted in other Sections of the NCGS relating to particular types of development or particular development issues, including but not limited to right-of-way preservation, sedimentation control, watershed protection, historic preservation, and beautification and urban design.

**1.1.5.2** The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

**1.1.6. APPLICABILITY.**

**1.1.6.1.** The Ordinance shall apply to all public buildings and private land(s), and use(s) thereon over which the City has jurisdiction under the constitution(s) and law(s) of the State of North Carolina and of the United States, including any areas within the jurisdiction of the City pursuant to NCGS § 160D-200 et seq.. Pursuant to NCGS § 160D-913, each provision of this UDO is applicable to the erection, construction, and use of buildings by the State of North Carolina and its political

subdivisions. The Planning Department (hereinafter known as the "Department") of the City can be contacted for further information about the use of this Ordinance.

**1.1.6.2.** The Official Zoning Map of the City of Kannapolis, North Carolina and all notations, references, and other information shown on the map are hereby incorporated and made a part of this Ordinance.

**1.1.7. BUILDING AND LAND USE.**

**1.1.7.1.** The use of buildings and land within the City shall be subject to all other regulations as well as this Ordinance, whether or not such other provisions are specifically referenced in this Ordinance. References to other regulations or provisions of the Ordinance are for the convenience of the reader; lack of a cross reference should not be construed as an indication that other regulations do not apply.

**1.1.8. PERMITS AND CERTIFICATES.**

**1.1.8.1.** No development activity shall occur on any property within the jurisdiction of this Ordinance until all applicable permits, approvals and certificates have been issued and approved by the appropriate officials.

**1.1.9. FEES.**

**1.1.9.1.** The City Council may establish any administrative fees necessary to enforce of the zoning ordinance. Such fees shall be limited to the reasonable costs of administering and processing applications for development approval. No permit shall be processed, and no permit shall be considered to be submitted, until all applicable administrative fees have been paid.

**1.1.10. SEVERABILITY.**

**1.1.10.1.** It is hereby declared to be the intent of the City Council that the provisions of this Ordinance shall be severable. If any provision is declared invalid by a court of competent jurisdiction, it is hereby declared to be the legislative intent that the effect of such decision shall be limited to that provision or provisions which are expressly stated in the decision to be invalid; and such decision shall not affect, impair or nullify this Ordinance as a whole or any other part thereof, but the rest of the Ordinance shall continue in full force and effect.

## **1.2. EXEMPTIONS AND SPECIAL CONSIDERATIONS.**

### **1.2.1. PUBLIC LANDS AND PUBLIC ENTERPRISES.**

**1.2.1.1.** Pursuant to NCGS § 160D-913, no land owned by the State of North Carolina may be included within an overlay district or a conditional zoning district without approval of the Council of State.

ceases to be used for bona fide farm purposes becomes subject to the requirements of this Ordinance.

### **1.2.2. VESTED RIGHTS.**

**1.2.2.1.** The provisions of this UDO shall not apply to:

- a validly approved statutory vested right (including currently effective site-specific vesting plan or preliminary plat approved pursuant to NCGS § 160D-108.1 prior to the effective date of this Ordinance provided); or
- a judicial established common law vested right where (1) the owner has made substantial expenditures; (2) the expenditures were made in good faith; (3) the expenditures were made in reliance on valid government approval, if such was required; and (4) the owner would be harmed with a vested right. [ref. *Browning-Ferris Indus. of S. Atl., Inc. v. Guilford County Bd. of Adjustment*, 126 N.C. App. 168, 171-72, 484 S.E. 2d 411, 414 (1997)]

### **1.2.3. PERMIT CHOICE**

In cases where this Ordinance is amended (i) between the time a development permit application is submitted and a decision on the application is made, or (ii) after a development permit decision has been challenged and found to be wrongfully denied or illegal, the applicant may choose whether the review of and decision on the application will proceed under the requirements of this Ordinance as it was in effect at the time the application was submitted, or under the requirements of this Ordinance as amended, in accordance with NCGS §§ 160D-108 and 143-755 and § 3.1 of this Ordinance.

### **1.2.4. BONA FIDE FARMS IN EXTRA-TERRITORIAL JURISDICTION**

Property on which bona fide farms (as defined in NCGS § 160D-903) are currently operating within the City's extraterritorial jurisdiction are exempt from the requirements of this Ordinance to the minimum extent required by NCGS § 160D-903(c). Property that

### **1.3. CONSISTENCY WITH COMPREHENSIVE PLAN.**

#### **1.3.1. GENERALLY.**

Pursuant to NCGS § 160D-701, this Ordinance is intended to implement the goals, objectives, and policies of the *Comprehensive Plan*. Any amendments to, or actions pursuant to the Ordinance shall be consistent with the applicable *Comprehensive Plan*. The *Comprehensive Plan* may be amended, and the UDO will reflect those amendments.

#### **1.3.2. COMPREHENSIVE PLAN DEFINED.**

The Comprehensive Plan shall be that as defined in Appendix A of this Ordinance.

#### **1.3.3. AMENDMENTS TO TEXT.**

Any amendment to the UDO must conform to the goals of the Comprehensive Plan. Any amendment to the zoning map must be consistent with the future land use map contained in the Comprehensive Plan and/or the purpose statement for the zoning district.

## **1.4. INTERPRETATION OF THE PROVISIONS OF THIS ORDINANCE.**

### **1.4.1. INTERPRETATION AND APPLICATION OF PROVISIONS.**

The provisions of this Ordinance are the basic and minimum requirements for the protection of public health, safety, and welfare. As provided by NCGS §160A-4 and §160D-110, this Ordinance shall be liberally interpreted in order to further its underlying purposes. In all cases, the highest standards will be applied. The meaning of any and all words, terms or phrases in this Ordinance may be found in Appendix A.

### **1.4.2. TEXT CONTROLS OVER GRAPHICS.**

This Ordinance contains numerous graphics, pictures, illustrations, and drawings. However, text of this Ordinance shall control unless otherwise provided in the specific section.



## **1.5. EFFECTIVE DATE.**

### **1.5.1. SCOPE.**

This Ordinance shall become enforceable and shall take effect when it is codified, filed, and indexed in accordance with NCGS §§ 160A-77 or 160A-78. (Source: NCGS § 160 A-79(d). Unless clearly subordinated to another ordinance, regulation, resolution, or express policy, this Zoning Ordinance shall, on the effective date, prevail over any such conflicting or inconsistent ordinance, regulation, resolution, or express policy to the extent necessary to give this Zoning Ordinance full force and effect. The prior City of Kannapolis Zoning Ordinance and Subdivision Ordinance are hereby repealed except to the extent whereby continuing activities or violations regulated by previous ordinances are being administered. As set forth in § 1.2.2.1, the provisions of this UDO shall not apply to a validly approved and currently effective site-specific vesting plan.

## 1.6. VIOLATIONS OF THIS ORDINANCE.

### 1.6.1. APPLICABILITY.

**1.6.1.1.** Unless otherwise specified in other sections of this Ordinance, this Section shall set forth penalties and remedies for violations of this Ordinance.

**1.6.1.2. Appeal.** An appeal of a violation or decision of the Administrator, shall be to the Board of Adjustments in accordance with § 2.2.2.1 of this Ordinance.

### 1.6.2. TYPES OF VIOLATIONS.

Any of the following shall be a violation of this Ordinance and shall be subject to the remedies and penalties provided for in this Ordinance:

**1.6.2.1.** To place any use, structure, or sign upon land that is subject to this Ordinance without all of the approvals required by this Ordinance.

**1.6.2.2.** It is a Class I misdemeanor to subdivide land in violation of this Ordinance or transfer or sell land by reference to, exhibition of, or any other use of an unapproved plat. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from this penalty. The City may bring an action for injunction of:

- Any illegal subdivision
- Transfer of land
- Conveyance of land
- Sale of land

**1.6.2.3.** To erect, construct, reconstruct, remodel, alter, maintain, move, or use any building, structure or sign, or to engage in development or subdivision of any land in contravention of any zoning, subdivision, sign or other regulation of this Ordinance. This section is not intended to address legal nonconforming uses or structures. Article 13 of this Ordinance shall regulate expansions or other alterations to legal nonconforming uses or structures.

**1.6.2.4.** To engage in any subdividing, development, construction, remodeling or other activity of any nature upon land that is subject to this Ordinance without all of the approvals required by this Ordinance.

**1.6.2.5.** To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, certificate, or other form of authorization required in order to engage in such activity.

**1.6.2.6.** To violate, by act or omission, any term, condition, or qualification placed by a decision-making body upon any permit or other form of authorization.

**1.6.2.7.** To reduce or diminish any lot area so that the setbacks or open spaces shall be smaller than prescribed by this Ordinance.

**1.6.2.8.** To increase the intensity of use of any land or structure, except in accordance with the procedural requirements and substantive standards of this Ordinance.

**1.6.2.9.** To remove, deface, obscure, or otherwise interfere with any notice required by this Ordinance.

**1.6.2.10.** To fail to remove any sign or other improvement installed, created, erected, or maintained in violation of this Ordinance, or for which the permit, approval, permission, or other authorization has lapsed. This section is not intended to address legal nonconforming uses or structures. Article 13 of this Ordinance shall regulate expansions or other alterations to legal nonconforming uses or structures.

**1.6.2.11.** To otherwise undertake any development or to establish any use in a manner which does not comply with this Ordinance.

### 1.6.3. CONTINUING VIOLATIONS.

**1.6.3.1.** Each day that a violation remains uncorrected after receiving proper notice shall constitute a separate violation of this Ordinance.

**1.6.3.2.** Any violation of the zoning, subdivision, flood prevention, sedimentation, and erosion control ordinances in effect prior to the adoption of this Ordinance shall continue to be a violation under this Ordinance, and is subject to penalties and enforcement under § 1.6 this Ordinance, unless the use, development, construction, or other activity

complies with the provisions of this Ordinance.

**1.6.3.3.** Nothing in this Ordinance shall prohibit the continuation of previous enforcement actions, undertaken by the City pursuant to previous and valid ordinances and laws.

#### **1.6.4. CIVIL REMEDIES AND ENFORCEMENT POWERS.**

Failure to comply with any provision of this Ordinance is hereby declared unlawful. The following remedies and enforcement powers may be used to administer and enforce this Ordinance:

**1.6.4.1. Withhold Permit.** The administrator may withhold all permits or approvals if there is:

- a repeat violation of this Ordinance as set forth in § 1.6.5.2; or
- there is a condition or qualification of approval granted by the Planning and Zoning Commission or the City Council that has not been met.

The Administrator may deny or withhold all permits, certificates, or other forms of authorization on any land or structure or improvements owned or being developed by a person who owns, developed, or otherwise caused an uncorrected repeat violation of this Ordinance. This provision shall apply whether or not the property for which the permit or other approval is sought is the property in violation.

**1.6.4.2. Revoke Plan, Permit, or Other Approval.** Any Development Permit or other form of authorization required under this Ordinance may be revoked for any reason set forth in § 1.6.1 and in NCGS § 160D-403(f). Any plan approval may be revoked for failure to comply with approved plans or conditions. The revocation shall be processed in accordance with § 3.1.11 of this Ordinance.

**1.6.4.3. Stop Work.** With or without revoking permits, the Administrator may stop work on any land or structure on any land on which there is an uncorrected violation of a provision of this Ordinance or of a permit or other form of authorization issued hereunder, in accordance with the power to stop work pursuant to NCGS § 160D-404(b). The stop order shall be in writing, directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons therefor, and the conditions under which the work may be resumed. A copy of the stop order shall be delivered via personal delivery, electronic mail, or

First-Class Mail to the holder of the permit and the owner of the property (if the owner is not the holder of the permit). The person providing the notice shall certify to the City that the notice was provided, and the certification shall be deemed conclusive in the absence of fraud.

**1.6.4.4. Injunction and Abatement.** This UDO may be enforced by any means or any remedy provided for in NCGS 160D-404(c). An action for injunction of any illegal subdivision, transfer, conveyance, or sale of land may be prosecuted by the Administrator or his designee pursuant to NCGS § 160D-807.

**1.6.4.5. Other Remedies.** The Administrator, City Council, Planning and Zoning Commission and the Board of Adjustment shall have such other remedies as are, and as may be from time to time, provided by North Carolina law for the violation of zoning, subdivision, sign or related Ordinance provisions.

#### **1.6.5. PENALTIES FOR VIOLATION.**

**1.6.5.1. First Offense.** Any violation occurring once within a 36-month period shall be considered a first offense. A notice of violation shall be issued by the Administrator or his/her designee to the violator. Such notice shall set out the nature of the violation, the section violated, and the date of the violation. The notice of violation shall provide for a reasonable period of time by which the violation must be abated or otherwise brought into compliance with this Ordinance. The notice shall specify that a second citation shall incur a civil penalty, together with costs and attorney fees. An appeal of the Administrator's decision shall be allowed as prescribed under § 1.6.1.2. Upon the expiration of the deadline stated in the notice of violation, the violator shall be subject to a civil penalty of \$100.00 for each day that the violation remains on the property without further notice. Should a violation continue to exist <sup>(1)</sup>and/or the violator fails to pay the penalties, the City shall seek to recover the penalty together with all costs by filing a civil action in the General Court of Justice in the nature of a suit to collect a debt. The collection of a penalty pursuant hereto shall not foreclose further proceedings for penalties coming due subsequent to the date of the filing of a prior proceeding. The provisions of this section may also

be enforced through any other appropriate remedies as prescribed in § 1.6.4.

**1.6.5.2. Repeat Offense.** Any violation of reoccurring on the same property by the same violator more than once within a 36-month period shall be considered a repeat offense provided the reoccurrence is a violation of the same Article of this Ordinance. A notice of violation shall be issued by the Administrator or his/her designee and shall have an immediate civil penalty of \$300.00. No warning period shall be granted since this provision applies only to violations that occur more than once in a 36-month period and proper notice was given for the initial violation as prescribed under § 1.6.5.1. For each day the repeat violation remains, the violator shall be subject to a civil penalty of \$300.00. Should a violation continue to exist <sup>(1)</sup>and/or the violator fails to pay the penalties, the City shall seek to recover the penalty together with all costs by filing a civil action in the General Court of Justice in the nature of a suit to collect a debt. Procedures for issuance, service, and collection of non-paid penalties shall be as set forth in Section 1-14 of the City of Kannapolis Code of Ordinances. The collection of a penalty pursuant hereto shall not foreclose further proceedings for penalties coming due subsequent to the date of the filing of a prior proceeding. The provisions of this section may also be enforced through any other appropriate remedies as prescribed in § 1.6.4.

**1.6.6. OTHER POWERS.**

In addition to the enforcement powers specified in this Section, the City Council may exercise any and all enforcement powers granted by North Carolina law.

**1.6.7. REMEDIES CUMULATIVE.**

The remedies and enforcement powers established in this Article shall be cumulative, and the City may exercise them in any order.

**1.6.8. ENFORCEMENT PROCEDURES.**

**1.6.8.1. Non-Emergency Matters.** In the case of violations of this Ordinance that do not constitute an emergency or require immediate attention, the Administrator shall give notice of the nature of the violation to the property owner and any applicant for any relevant permit or holder of any relevant permit in the manner hereafter stated as prescribed in § 1.6.5.1 and 1.6.5.2. Notice shall be given in person, by First Class Mail, or electronic mail. Notice may

also be posted on the property. The person providing the notice shall certify to the City that the notice was provided, and the certification shall be deemed conclusive in the absence of fraud. Notices of violation shall state the nature of the violation and the time period for compliance and may state the corrective steps necessary and the nature of subsequent penalties and enforcement actions should the situation not be corrected.

**1.6.8.2. Emergency Matters.** In the case of violations of this Ordinance that constitute an emergency situation resulting in an immediate threat to the health, or safety of the public, or violations that will create increased problems or costs to the public for the provision of City services if not remedied immediately, the Administrator may use the enforcement powers available under this Article without prior notice, but the Administrator shall attempt to give notice simultaneously with beginning enforcement action. Notice may be provided to the property owner, to any other person who can be contacted and has an identifiable relationship to the violation and/or owner.

# **ARTICLE 2**

## **ADMINISTRATIVE AGENCIES**

*Summary: This Article describes the various agencies involved in administration of the UDO. The jurisdiction, powers, and duties of each agency are described. These agencies include: the Planning Department, the Board of Adjustment, the City Council, the Planning and Zoning Commission, and the Historic Preservation Commission.*

### **TABLE OF CONTENTS**

<b>SECTION</b>	<b>PAGE</b>
<b>2.1 PLANNING DEPARTMENT AND PLANNING ADMINISTRATOR .....</b>	<b>2-2</b>
<b>2.2 BOARD OF ADJUSTMENTS .....</b>	<b>2-3</b>
<b>2.3 PLANNING AND ZONING COMMISSION .....</b>	<b>2-5</b>
<b>2.4 CITY COUNCIL .....</b>	<b>2-7</b>
<b>2.5 (RESERVED) .....</b>	<b>2-8</b>

## **2.1. PLANNING DEPARTMENT AND PLANNING ADMINISTRATOR.**

### **2.1.1. ESTABLISHMENT OF PLANNING DEPARTMENT.**

Pursuant to NCGS § 160D-402, the City hereby establishes the Planning Department of the City. The Planning Department shall perform the planning functions for the City and shall provide technical support and guidance for action on all plan and ordinance amendments and on applications for development approval. The Planning Department shall perform other functions as may be requested by the City Council or authorized by this Ordinance.

### **2.1.2. ESTABLISHMENT OF OFFICE OF PLANNING ADMINISTRATOR.**

The City hereby establishes the Office of the Planning Administrator (the “Administrator”) as a function of the Planning Director. The Administrator is charged with the authority and the duty to enforce this Ordinance. The Administrator is authorized to establish and delegate when appropriate, Department standards of operation and procedures consistent with the intent of this Ordinance. The Administrator or his delegee may also consult with other officials, boards or agencies with needed technical expertise (such as the Public Works Director or the Fire Chief). “Administrator” shall include staff authorized by the Administrator.

### **2.1.3. APPEALS FROM THE DECISION OF THE ADMINISTRATOR.**

Appeals from the decisions of the Administrator in which it is alleged there is an error in an order, requirement, decision, or determination made by the Administrator in the enforcement of this Ordinance shall be made to the Board of Adjustment in accordance with § 3.7.

### **2.1.4. INSPECTION.**

Pursuant to NCGS § 160D-1102, the Administrator is hereby designated the Zoning and Subdivision Inspector for the City. The Inspector is empowered to enter or inspect any building, structure, premises, or real property in the City upon which, or in connection with which, a development or land use is located or proposed for the purpose of inspection to ensure compliance with the provisions of this Ordinance. Such inspections shall be carried out during business hours unless the Administrator determines that an emergency exists. Entry onto private property for the

purpose of inspection shall be made only after securing permission from the owner and upon presentation of proper credentials. Areas not open to the public may be inspected if appropriate consent is given or if an inspection warrant is secured. Application for any development approval shall constitute permission to inspect a property. Failing permission, no inspection shall be undertaken without an order from a court of competent jurisdiction.

### **2.1.5. ENFORCEMENT.**

The Administrator may hereby commence an action to enforce the provisions of this Ordinance pursuant to NCGS § 160D-404(c), and § 1.6 of this Ordinance.

### **2.1.6. CONFLICT OF INTEREST**

**2.1.6.1** No staff member shall make a final decision in the implementation, administration, or enforcement of this Ordinance that involves the determination of facts and the application of objective standards if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member, or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member is prohibited from making a final decision by this section, the staff member’s direct supervisor or other City employee designated by the City Manager shall make the final decision.

**2.1.6.2.** No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Ordinance unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the City to provide staff support shall engage in any work that is inconsistent with their duties or with the interest of the City.

**2.2. BOARD OF ADJUSTMENT.**

**2.2.1. ESTABLISHMENT.**

Pursuant to NCGS § 160D-302, there is hereby established the Board of Adjustment of the City of Kannapolis.

**2.2.2. POWERS AND DUTIES.**

**2.2.2.1.** Pursuant to NCGS § 160D-302, the Board of Adjustment shall have the following powers, duties and authority:

- To hear and decide appeals from the decisions of the Administrator in which it is alleged there is an error in an order, requirement, decision, or determination made by the Administrator in the enforcement of this Ordinance (NCGS § 160D-405).
- To hear and decide on applications for variances from the terms of the zoning ordinance pursuant to § 3.7 of this Ordinance and NCGS § 160D-705(d). The Board shall have the authority to place conditions, including time limits, on variances.
- To approve, approve with conditions, or deny applications for special use permits.
- To interpret the Official Zoning Map and shall pass upon disputed questions of lot lines or district boundary lines and similar questions that may arise in the administration of this Ordinance.
- The Board of Adjustment shall exercise such other powers as may be granted by this Ordinance.

**2.2.2.2. Quasi-judicial Procedures.** The consideration of any appeal, variance, special use permit or interpretation, as provided above, shall be in accordance with the quasi-judicial procedures as set forth in § 3.1.7 and § 3.7 of this Ordinance.

**2.2.2.3.** Any quasi-judicial matter pertaining to property in the extra-territorial jurisdiction of the City shall only be considered by the Commission with the extra-territorial jurisdiction member present.

**2.2.2.4.** The Board of Adjustment shall adopt all rules and procedures necessary or convenient for the conduct of its business, consistent with the North Carolina General Statutes.

**2.2.2.5. Limitations of Board.** The Board of Adjustment shall not have power, jurisdiction, or authority to consider any of the following:

- Make any changes in permitted uses on any zoning classification or zoning district.
- Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.

**2.2.3. MEMBERSHIP.**

**2.2.3.1.** The City Council shall appoint seven (7) persons to the Board of Adjustment as provided in NCGS § 160D-302(a). The membership shall include proportional representation for extraterritorial areas, as provided in NCGS § 160D-307. Included with the seven appointees, the City Council may appoint alternate members to serve on the board in the absence of any regular member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the board and serving in the absence of any regular member, shall have and may exercise all the powers and duties of a regular member. Before serving on the Board of Adjustment, each member shall take the oath of office in accordance with NCGS § 160A-61.

**2.2.3.2.** Members may be compensated per diem, based upon meetings actually attended and reasonable and necessary expenses, as determined by the appointing Council or by intergovernmental agreement.

**2.2.3.3.** All members shall serve a term of three (3) years. Members may be reappointed as necessary by the City Council.

**2.2.3.4.** The City Council may remove any member of the Board of Adjustment for just cause, as may be permitted by law. The City Council shall provide the member with a public hearing, if requested.

**2.2.3.5.** If any member of the Board of Adjustment shall fail to attend three consecutive (3) regular meetings of the commission within any three-month period, it will be sufficient grounds for

termination of the member's appointment. The chair or the vice-chair, as the case may be, shall immediately file a notification of such nonattendance with the City Council for placement on the Council agenda. The City Council may, by appropriate action, terminate the appointment of such person and fill the vacancy as soon as possible.

**2.2.3.6.** No member may participate in or vote on any matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conduct includes, but is 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. Upon objection raised to a member's participation, the remaining members of the Board of Adjustment shall rule on the objection by majority vote.

**2.2.3.7. Recording Secretary.** The Administrator shall appoint a recording secretary to serve the Board of Adjustment. The secretary shall keep minutes to summarize all proceedings, all attested to by a majority of the members of the Board of Adjustment voting. Minutes of the proceedings of the Board of Adjustment showing the vote of each member and records of its examinations and other official actions shall be filed in the office of the Board as a public record. The Planning Department is hereby designated as the office of the Board for purposes of this subsection. In addition, the secretary shall maintain all records of Board of Adjustment meetings, hearings and proceedings, as well as the correspondence of the Board of Adjustment.

**2.2.3.8. Staff.** The Administrator shall be the professional staff of the Board of Adjustment.



## **2.3. PLANNING AND ZONING COMMISSION.**

### **2.3.1. ESTABLISHMENT.**

Pursuant to NCGS § 160D-301, there is hereby established a planning agency known as the Planning and Zoning Commission of the City of Kannapolis.

### **2.3.2. POWERS AND DUTIES.**

**2.3.2.1.** The Commission shall provide an advisory function to assist in making decisions pertaining to amendments to the Comprehensive Plan and this Ordinance, and applications for development approval. The Commission shall have the following powers and duties:

- To exercise any of the powers and/or duties assigned pursuant to NCGS § 160D-301 including, but not limited to, the preparation of a comprehensive plan;
- To prepare amendments to the plan and its elements and to submit the amendments to the City Council;
- To initiate, hear, review, make recommendations to the City Council, and/or make final decisions on applications for amendments to the text of this Ordinance;
- To initiate, hear, review, make recommendations to the City Council, and/or make final decisions on applications for amendments to the Official Zoning Map, and to hear, review, and make a final decision (if an affirmative vote of at least three-fourths of the Commission) on applications for amendments to the Official Zoning Map;
- To hear, review, and or disapprove all applications for major subdivision approval in accordance with the rules and regulations established in Article 6; and
- To adopt bylaws, policies, procedures, and regulations for the conduct of its meetings, the consideration of applications for development approval, and for any other purposes deemed necessary for the functioning of the Commission. All bylaws, policies, procedures, and regulations shall be consistent with this Ordinance and shall be approved by the City Council before taking effect.

### **2.3.3. MEMBERSHIP.**

**2.3.3.1.** The City Council shall appoint and

provide compensation for nine (9) persons to the Planning and Zoning Commission as provided in this Ordinance. The membership shall include proportional representation for extraterritorial areas, as provided in NCGS § 160D-307. Before serving on the Planning and Zoning Commission, each member shall take the oath of office in accordance with NCGS § 160A-61.

**2.3.3.2.** The City Council may remove any member of the Planning and Zoning Commission for just cause, as may be permitted by law. The City Council shall provide the member with a public hearing if requested.

**2.3.3.3.** Members shall be compensated per diem, based upon meetings actually attended and reasonable and necessary expenses, as determined by the City Council.

**2.3.3.4.** All members shall serve a term of three (3) years. Members may be reappointed as necessary by the City Council.

**2.3.3.5.** At an annual organizational meeting, the members of the Commission shall elect one (1) of their members as chair and one (1) as vice-chair. In the absence of the chair, the vice-chair shall act as chair and shall have all powers of the chair. In the absence of both, the Commission shall elect a temporary chair to conduct the meeting.

**2.3.3.6.** The chair, or in the chair's absence the vice-chair, shall administer oaths, be in charge of all proceedings before the commission, and take such action necessary to preserve the order and integrity of all proceedings before the commission.

**2.3.3.7.** If any member of the commission shall fail to attend three (3) regular meetings of the commission within any consecutive three-month period, the chair or the vice-chair shall immediately file a notification of such nonattendance with the City Council for placement on the Council agenda. The City Council may, by appropriate action, terminate the appointment of such person and fill the vacancy as soon as possible.

**2.3.3.8.** The City shall appoint a recording secretary to serve the Commission. The secretary

shall keep minutes to summarize all proceedings, attested to by a majority of the members of the commission voting. In addition, the secretary shall maintain all records of commission meetings, hearings and proceedings, as well as the correspondence of the commission.

**2.3.3.9.** The Administrator shall serve as the professional staff of the Commission.

**2.3.3.10.** No meeting of the Commission may be called to order, nor may any business be transacted by the commission, without a quorum consisting of a majority of the appointed membership of the commission. The chair shall be considered for purposes of establishing a quorum and shall act as a voting member. All planning agency actions shall require the concurring vote of a majority of the members of the Commission unless a more stringent voting standard is prescribed in this Ordinance.

**2.3.4. MEETINGS, HEARINGS AND PROCEDURES.**

**2.3.4.1.** The Commission shall establish a regular meeting schedule by rule. Special meetings may be requested by the City Council, the chair of the Commission, a majority of the members of the Commission, or the Administrator.

**2.3.4.2.** If a matter is postponed due to lack of a quorum, the chair of the Commission shall continue the meeting to the next commission meeting. The recording secretary shall notify all members and all appropriate parties of the date of the continued meeting.

**2.3.5. CONFLICT OF INTEREST**

**2.3.5.1.** A member of the Planning and Zoning Commission shall not vote on any advisory or legislative decision where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

**2.3.5.2.** In quasi-judicial matters, no member of the Planning and Zoning Commission may

participate in or vote on any matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conduct includes, but is 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. Upon objection raised to a member's participation, the remaining members of the Planning and Zoning Commission shall rule on the objection by majority vote.

## **2.4. CITY COUNCIL.**

### **2.4.1. POWERS AND DUTIES.**

The City Council shall render final decisions pertaining to amendments to the Comprehensive Plan and this Ordinance, except where authority for a final decision is delegated to another agency by this Ordinance. The City Council shall render final decisions pertaining to applications for development approval where such authority is assigned pursuant to this Ordinance. The City Council shall have the following powers and duties:

- To initiate, adopt, and amend a Comprehensive Plan;
- To initiate amendments to the text and map of this Ordinance and the Comprehensive Plan;
- To review recommendations of the Planning and Zoning Commission, and make final decisions on applications for amendments to the text of this Ordinance;
- To hear, review, and approve, conditionally approve, or deny amendments to the Official Zoning Map after a recommendation of the Planning and Zoning Commission has been submitted pursuant to NCGS § 160D-604. In accordance with § 3.3 of this Ordinance, such amendments shall only be heard by City Council if:
  - the amendment was denied by Planning and Zoning Commission;
  - the amendment was approved, but the affirmative votes represented less than at least three-fourths of the Commission; or
  - a decision of the Planning and Zoning Commission has been made pursuant to § 3.3 of this Ordinance and an appeal has been filed.
- To take such other action not otherwise delegated, as the City Council may deem desirable and necessary to implement the provisions of this Ordinance and the Comprehensive Plan.

the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

### **2.4.2 CONFLICT OF INTEREST**

A member of the City Council shall not vote on any legislative decision regarding a development regulation where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A member of the City Council shall not vote on any zoning amendment if the landowner of

**2.5. (RESERVED).**

# ARTICLE 3 ZONING AND PERMITTING PROCEDURES

*Summary: This Article describes how to obtain a permit under the Unified Development Ordinance. Typically, the permit approval process involves four steps -*

- *First, an application is submitted to the Administrator. Appendix B lists the submittal requirements for different types of applications.*
- *Second, the Administrator determines whether the application is complete.*
- *Third, the application is forwarded to the appropriate board, commission and/or staff member to approve, approve with conditions, or deny the plans.*
- *Fourth, a permit is issued to the applicant once plans are approved.*

## TABLE OF CONTENTS

SECTION	PAGE
3.1 GENERAL PROCEDURES.....	3-2
3.2 ADMINISTRATIVE PERMITS .....	3-6
3.3 ZONING MAP AMENDMENTS .....	3-11
3.4 CONDITIONAL (CZ) ZONING DISTRICTS .....	3-14
3.5 SPECIAL USE PERMITS.....	3-18
3.6 SITE PLAN REVIEW .....	3-21
3.7 APPEALS AND VARIANCES .....	3-26
3.8 ZONING TEXT AMENDMENTS.....	3-28

## 3.1. GENERAL PROCEDURES.

### 3.1.1. APPLICATION PROCESS AND OFFICIAL FILING DATE.

The specific procedures followed in reviewing various Applications for Development Approval may vary. Generally, the procedures for all applications have four common elements: (1) submittal of a complete application, including required fee payment and appropriate information; (2) review of the submittal by appropriate staff and boards; (3) action to approve, approve with conditions, or deny the application; and (4) issuance of a permit, based on complete and approved plans.

**3.1.1.1. Pre-Application Conference.** The applicant shall meet with the Administrator to discuss the nature of the proposed application, application submittal requirements, the procedure for action, and the standards for evaluation of the application.

**3.1.1.2. Application Materials.** Current application materials shall be made available in the Planning Department offices. Such applications shall be filed in advance of any public hearing or public meeting required pursuant to this Ordinance or the NCGS. The Administrator may establish a schedule to file any Application for Development Approval that requires action by the Planning and Zoning Commission or the City Council. The schedule shall provide adequate time for notice and/or publication consistent with § 3.1.5 of this Ordinance. Completed applications shall be filed according to any published schedule of the Planning Department.

**3.1.1.3. Eligibility to File Application.** Applications for an administrative permit (§ 3.2), special use permit (§ 3.5), site plan (§ 3.6), or appeal or variance (§ 3.7) may be filed by the landowner, a lessee, a person holding an option or contract to purchase or lease land, the landowner's authorized agent, or an easement holder if the requested development is authorized by the easement. Applications for a zoning map amendment (§ 3.3), a conditional zoning district (§ 3.4), or a zoning text amendment (§ 3.8) may only be submitted by the parties authorized to do so by this Ordinance.

**3.1.1.4. Determination of Completeness.** Except as otherwise provided in this Ordinance or

as otherwise required by federal or state law, no application shall be considered submitted unless the Administrator determines that the application is complete and meets the submittal requirements established pursuant to this Ordinance.

### 3.1.2. PLANNING AND ZONING COMMISSION.

The Planning and Zoning Commission shall hold regularly scheduled public hearings to receive and review public input on those items required by this Ordinance and the NCGS. On those items where it has review authority, the Commission shall recommend that the City Council approve, approve with conditions (if applicable), or deny applications. On items it has final decision authority, the Commission shall approve, approve with conditions (if applicable), or deny applications. The Administrator will submit the proposed item to the City Council for its consideration.

### 3.1.3. RECORDS.

The Administrator shall provide for minutes to be written and retained, shall record the evidence submitted within the allotted hearing time, and shall include a summary of the considerations and the action of the Commission.

### 3.1.4. CITY COUNCIL.

The City Council shall hold regularly scheduled public hearings to act upon all items required by this Ordinance and the NCGS to be considered by the City Council. The City Council shall decide whether or not to approve, approve with conditions (if applicable), or deny such applications.

### 3.1.5. NOTICE PROVISIONS FOR LEGISLATIVE AND QUASI-JUDICIAL HEARINGS.

The hearing procedures for each type of application for development approval are prescribed in the individual subsections of this Article and/or the NCGS.

**3.1.5.1.** Unless provided for otherwise, the notice given for legislative and advisory proceedings, including amendments to this Ordinance, or the Official Zoning Map, shall be provided as set forth below.

**A. Newspaper Notice.** A notice shall be published in a newspaper having general

circulation in the City once a week, for two (2) successive weeks, the first notice to be published no less than ten (10) days nor more than twenty-five (25) days prior to the date of the public hearing.

**B. Sign to be Posted.** A prominent sign shall be posted on the subject property no less than ten (10) days nor more than twenty-five (25) days prior to the date of the public hearing. Such sign shall include the case number and a phone number to the Planning Department to contact during business hours for additional information. When multiple parcels are involved in the petition, each parcel is not required to be posted, as long as the parcels share the same road frontage.

**C. First-Class Mail Notification.** A notice of the proposed action shall be sent by first class mail by the Administrator to the following owners of property as shown on the county tax listing: the property(ies) subject to the proposed action, all parcels of land abutting the subject property(ies), (including land separated by an alley, street, railroad, or other transportation corridor), and all parcels of land within 200 feet of the boundaries of the subject property(ies). The notice shall be mailed no less than ten (10) days nor more than twenty-five (25) days prior to the date of the public hearing

**3.1.5.2.** Unless provide for otherwise, the notice given for quasi-judicial proceedings, including Special Use Permits and Variance requests, shall be provided as set forth below:

**A. Sign to be Posted.** A prominent sign shall be posted on the subject property no less than ten (10) days nor more than twenty-five (25) days prior to the date of the public hearing. Such sign shall include the case number and a phone number to the Planning Department to contact during business hours for additional information. When multiple parcels are involved in the petition, each parcel is not required to be posted, as long as the parcels share the same road frontage.

**B. First-Class Mail Notification.** A notice of the proposed action shall be sent by first class mail by the Administrator to the following owners of property as shown on the county tax listing: the property(ies) subject to the proposed action, all parcels of land abutting the subject property(ies),

(including land separated by an alley, street, railroad, or other transportation corridor), and all parcels of land within 200 feet of the boundaries of the subject property(ies). The notice shall be mailed no less than ten (10) days nor more than twenty-five (25) days prior to the date of the public hearing.

**3.1.5.3.** No notice shall be required for an administrative permit issued pursuant to § 3.2 of this Ordinance unless otherwise provided by this Ordinance or by law.

**3.1.6. SCOPE OF ACTION.**

The reviewing body may take any action on the application that is consistent with the notice given, including approval of the application, conditional approval (if applicable), or denial. The reviewing body may allow minor amendments to the application which: (1) proposes fewer dwelling units, floor area or impervious surface than that requested on the original application; (2) reduces the impact of the development; or (3) reduces the amount of land involved from that indicated in the notices of the hearing. The reviewing body shall not, in any case, permit: a greater amount of development, a use falling in a different general use category, a larger land area than indicated in the original application, or a greater variance than was indicated in the notice. In addition, the reviewing body shall not reduce or eliminate conditions for a special use permit or conditional zoning district unless a new notice is provided prior to the meeting at which a final decision is to be made.

**3.1.7. QUASI-JUDICIAL PUBLIC HEARING PROCEDURES.**

**3.1.7.1. Applicability.** The provisions of this subsection apply to applications for special use permits (§ 3.5) and appeals and variances (§ 3.7). In making quasi-judicial decisions, the decision-makers must investigate facts, or ascertain the existence of facts, hold hearings, weigh evidence, and draw conclusions from them, as a basis for their official action, and to exercise discretion of a judicial nature. In the land use context, these quasi-judicial decisions involve the application of land use policies to individual situations, such as variances, special use permits, and appeals of administrative determinations. These decisions involve two key elements: 1.) the finding of facts regarding the specific proposal and 2.) the exercise of some discretion in applying the standards of the ordinance. Due process requirements for

quasi-judicial decisions mandate that certain standards be observed when these decisions are made. This includes a hearing with the right of the parties to offer evidence, have sworn testimony, and have findings of fact supported by competent, substantial, and material evidence. See *Lancaster County v. Mecklenburg County*, 334 N.C. 496, 434 S.E.2d 604 (1993).

**3.1.7.2. Rulemaking Authority.** The Planning and Zoning Commission and the City Council may adopt general rules which apply to quasi-judicial public hearings. These public hearings may relate to a special use permit or to a proceeding before the Board of Adjustment.

**3.1.7.3. CONDUCT OF HEARING.**

**A.** The applicant, the City (by and through its representatives), and any person withstanding to appeal the decision on the matter that is the subject of the hearing may participate in the hearing. The decision-making body may allow participation by other persons who provide competent, material, and substantial evidence that is not repetitive. Each person who appears at a public hearing shall state, for the record, his or her name, address, and if appearing on behalf of an organization or group, its name and mailing address. The hearing shall be conducted in accordance with the procedures set forth in NCGS § 160D-406.

**B.** All applications, reports, and written materials relevant to the matter shall be distributed to the decision-making body, the applicant or appellant, and the landowner if that person is not the appellant or the applicant. The materials shall become part of the hearing record.

**3.1.8. ADMINISTRATIVE DECISIONS.**

**3.1.8.1. Applicability.** Administrative decisions are routine, non-discretionary zoning ordinance implementation matters carried out by the staff, including issuance of permits for permitted uses. In general, the Administrator is a purely administrative agent following the literal provisions of this ordinance. The Administrator may engage in some fact finding, (for example, as in making an initial determination as to whether a nonconforming use was in existence at the time a zoning provision was adopted). This involves determining objective facts that do not involve an element of discretion. In

contrast to quasi-judicial hearings, administrative decisions are made without a hearing at all, with the staff member reviewing an application to determine if it is complete and compliant with objective standards set forth in this Ordinance. *Lancaster County v. Mecklenburg County*, 334 N.C. 496, 434 S.E.2d 604 (1993).

**3.1.8.2. Processing Procedures.** The procedures for processing administrative permits, such as zoning clearance permit and certificates of compliance, conveyance plats, and final plats are set forth in the sections of this Ordinance pertaining to such permits.

**3.1.9. LEGISLATIVE AND ADVISORY HEARINGS.**

**3.1.9.1. Purpose.** The purpose of a legislative or advisory review public hearing is to provide the public an opportunity to be heard. Unlike quasi-judicial hearings, a legislative proceeding does not require due process protections, such as right of the parties to offer evidence, sworn testimony, or findings of fact. Like quasi-judicial hearings, legislative hearings are public hearings preceded by notice to interested parties. Public hearings are required for legislative review hearings, such as amendments to the Comprehensive Plan, amendments to this Ordinance (including Zoning provisions of this Ordinance and the Zoning Map), and applications for a Planned Unit Development.

**3.1.9.2. Notice.** Notice of hearing shall be provided in accordance with Section 3.1.5.1 of this Ordinance

**3.1.9.3. Conduct of Hearing.** Testimony may be presented by any member of the public, but need not be submitted under oath or affirmation. The decision-making body may establish a time limit for testimony.

**3.1.9.4. Record of Proceedings.** The body conducting the hearing shall record the minutes of the proceedings by any appropriate means as prescribed by rule and consistent with NCGS Chapter 132. The Administrator will provide the record upon request by application and payment of a fee set by the City Council (to cover duplication costs).

**3.1.9.5. Neighborhood Meeting Required.** The City will not accept an application for development



approval that increases density or intensity unless:

- all adjacent property owners within 200 feet of the boundaries of the subject property(ies) have been notified via first-class mail and given an opportunity to meet with the applicant at a meeting, at least seven (7) days after mail of the notice, established at a reasonable time; and
- applicant submits a summary report indicating results of meeting.

The Administrator may act as a facilitator if requested by the Applicant in order to avoid *ex parte* contacts. No member of the decision-making entity may participate in a neighborhood meeting. The applicant may conduct additional neighborhood meetings prior to the hearing at his discretion.

**3.1.10. NOTICE OF DECISION**

After a decision has been rendered on an application, the Administrator shall send written notice of the decision to the owner of the property that is the subject of the application and to the applicant, if different from the owner. The notice shall be sent by personal delivery, electronic mail, or first-class mail, to be delivered to the last address listed for the owner of the affected property on the county tax abstract and to the address provided in the application if the applicant is different from the owner.

**3.1.11. REVOCATION OF PERMIT OR APPROVAL.**

**3.1.11.1. General.** If the Administrator determines that there are reasonable grounds for revocation of a development permit or approval, the Administrator shall take appropriate action as set forth in § 1.6. The decision to revoke the permit or approval shall be based on § 3.1.11.2, below.

**3.1.11.2. Grounds for Revocation.** The following shall be considered grounds for revocation of a permit or approval:

- The applicant intentionally supplies misleading information. The provision of information is considered “intentional” when the applicant was aware of the inaccuracies or could have discovered the inaccuracies with reasonable diligence.
- The failure to comply with any condition of a permit or approval.

**3.1.11.3. Process and Notice.** A development permit or approval may be revoked only using the same procedure required for its initial approval.

**Effect and Appeals.** A decision to revoke a development permit or approval under this section may be appealed using the procedure required for an appeal of the initial decision to approve the permit or approval. Unless appealed, a decision to revoke a permit or approval shall become final thirty (30) days after the date the decision is rendered. After that date, any further activities based on the permit shall be deemed to be in violation of this Ordinance and shall be subject to the remedies as prescribed in § 1.6 of this Ordinance.

**3.1.11.4. Right Cumulative.** The right to revoke a development permit or approval, as provided in this Section, shall be cumulative to any other remedy allowed by law.

## 3.2. ADMINISTRATIVE PERMITS.

### 3.2.1. PURPOSE.

The purpose of this Section is to prescribe procedures for permits which do not require quasi-judicial or legislative notice or a public hearing. A public hearing is not required for permits set forth in this Section for one or more of the following reasons:

- If required, public hearings have already been conducted relating to the permit application. The permit application procedure was designed to ensure that the proposed use complies with a previously approved subdivision plat, site plan, specific plan, comprehensive plan amendment, or conditional district rezoning (e.g., zoning clearing, certificate of occupancy).
- The proposed use is permitted by right in the applicable zoning district (e.g., zoning clearance, certificate of occupancy).

### 3.2.2. APPLICABILITY.

The provisions of this Section shall apply to any site plan or final site plan as set forth in § 3.6 of this Ordinance, required administrative permits, or determination of statutory vested rights in accordance with NCGS § 160D-108. Administrative permits include:

- a zoning clearance permit (see below)
- certificate of compliance (see below)
- temporary certificate of compliance (see below)
- grading permit (see below)
- stormwater management permit (see below)
- temporary use permit (see Art. 5)
- home occupation permit (see Art. 5)
- sign permit (see Art. 12)
- special flood hazard area development permit (see Art. 4)
- erosion and sedimentation control permits (see Art. 9)

### 3.2.3. PROCEDURES.

All development permits applicable to a proposed development must be issued in accordance with the provisions of this Ordinance, prior to any development activity. Permits are required for all development, unless otherwise excepted, to ensure compliance with the various adopted codes, standards, and laws and to ensure consistency with the Comprehensive Plan and policies of the City.

### 3.2.4. ZONING CLEARANCE PERMIT.

**3.2.4.1. Application.** Upon adoption of this Ordinance, buildings or structures shall be erected or constructed, and uses shall be established, only on parcels of land that have been created in conformance with this Ordinance, except as provided for in §3.2.4.4. To construct any structure, use any land, or change the use of any structure, or land, a zoning clearance permit must be obtained from the Planning Department and a building permit may be required from the Cabarrus or Rowan County Building Inspections Department.

**3.2.4.2. Grading.** A Grading Permit shall be required in accordance with § 3.2.7.

**3.2.4.3. Stormwater.** A Stormwater Management Permit shall be required in accordance with § 3.2.8.

**3.2.4.4. Exceptions.** The provisions of this section shall not apply to any legal nonconforming use or lot of record established in accordance with the provisions of Article 13 of this Ordinance.

#### 3.2.4.5. Procedures. (See Figure 3.2-1)

**A.** The Applicant shall file a complete application on a prescribed form for a Zoning Clearance Permit with the Administrator. If Site Plan review is required in accordance with § 3.6 of this Ordinance, the approved site plan must be submitted with the application for a zoning clearance. If the proposed development or development activity is not subject to site plan review pursuant to § 3.6, a plot plan must be filed for review as illustrated in Figure 3.2-1. The requirements for a plot plan are set forth in Appendix B.

**B.** Following review, the Administrator shall approve, approve with conditions, or deny the application for a zoning clearance permit. Applications that are denied shall have the reasons for denial, in writing, attached to the application. An appeal of the decision of the Administrator is allowed as provided for in § 3.7.

**3.2.4.6. Approval Criteria.** The zoning clearance permit shall be issued by the

Administrator only if the application complies with all pertinent provisions of this Ordinance, and any approved special use permit, conditional zoning district, or site plan.

**3.2.4.7. Validity.** The zoning clearance permit shall be valid for its established use if:

- The use is in compliance with applicable codes;
- A building permit has been obtained by the applicant within six (6) months of issuance of the zoning clearance permit

If six (6) months elapse without the issuance of a building permit, the zoning clearance permit shall expire. Resubmission of plans and materials and an application for a new zoning clearance permit, including applicable fee(s), shall be required for any approved project that did not commence construction within that six (6) month period.

### **3.2.5. CERTIFICATE OF COMPLIANCE.**

**3.2.5.1. Application.** Upon the effective date of this Ordinance, it shall be unlawful to use, occupy or permit the use or occupancy of, connect or provide utilities to any building or land hereafter created, erected, changed, converted, altered or enlarged in its use or structure until a Certificate of Compliance has been issued by the Administrator.

#### **3.2.5.2. Procedures.**

**A.** The Applicant shall file a complete application for a certificate of compliance with the Administrator. For new construction projects, an approved site plan as submitted for application for a Zoning Clearance Permit shall be used. If the application for a certificate of compliance does not involve new exterior construction, a plot plan showing all exterior improvements, as required by this Ordinance, shall be filed for review. The Administrator shall assist the applicant in determining which materials are required for a submittal.

**B.** Individual tenants desiring to occupy lease space within an existing commercial development with multiple tenants shall be required to obtain a certificate of compliance. However, individual tenants shall not be required to upgrade any existing nonconforming site improvements to conform to the standards of this Ordinance. New construction is not exempted

from meeting the design standards of this Ordinance.

**C.** Following review, the Administrator shall approve, approve with conditions, or deny the application for a certificate of compliance. Denied applications shall have the reasons for denial, in writing, attached to the application. An appeal of the decision of the Administrator is allowed as provided for in § 3.7.

**D. Approval Criteria.** The Administrator shall issue the certificate of compliance only if the application complies with all pertinent provisions of this Ordinance and any approved special use permit, conditional zoning district or site plan.

**E. Validity.** The certificate of compliance shall be valid for its granted use as long as 1.) the use is in compliance with applicable codes and 2.) the property or structure is used, erected, changed, converted, altered, or enlarged in the stated manner.

**F. Performance Guarantee.** The applicant may submit a performance guarantee to the Administrator when an application for a certificate of compliance cannot be approved because certain improvements cannot be completed or installed due to adverse weather conditions or other reasonable factors. The applicant shall submit to the Administrator the following information: (1) a specific description of the factor(s) hindering completion or installation of the improvement(s); and (2) a written estimate from a licensed contractor of the cost of materials and labor for completing the work. The administrator shall then determine if the submission of a performance guarantee is appropriate and if the estimate is acceptable. The performance guarantee may be submitted in the form of a certified check, cashier's check, bond, or letter of credit on approved forms and shall be in the amount of 125% of the estimate. The duration of the performance guarantee shall be one year unless the developer determines that the scope of work necessitates a longer duration. If the improvements are not completed to specifications, and the performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended or a new guarantee issued in an amount equal to 125% of the estimated cost of incomplete improvements for the duration necessary to complete the required

improvements,. The performance guarantee shall be released after the improvements, as guaranteed, are inspected by the Administrator and determined to be in full compliance with the approved plan.

### 3.2.6. TEMPORARY CERTIFICATE OF COMPLIANCE.

**3.2.6.1.** A temporary certificate of compliance may be issued by the Administrator for a period not to exceed six (6) months to allow for partial occupancy of a structure or land in order to complete construction or alteration as permitted. A temporary certificate of compliance may also be issued for a period not to exceed six (6) months to allow for utilities to be connected to an unoccupied structure for rent and/or sale. It shall be unlawful to permanently occupy any portion of a newly constructed or altered building or structure, or to allow a change of use to occur unless a Certificate of Compliance has been granted as prescribed in § 3.2.5. The procedures for issuance of a temporary certificate of occupancy shall be in the same manner as set forth for certificates of compliance in § 3.2.5.2.

### 3.2.7. GRADING PERMITS.

**3.2.7.1. Application.** Upon the effective date of this Ordinance, it shall be unlawful for any person(s) to commit any land disturbing activity, including removal of vegetation, until a Grading Permit has been issued by the Administrator.

**3.2.7.2. Coordination with Erosion Control.** A Grading Permit shall not be issued until a sedimentation and erosion control permit has been issued.

Land disturbances of under one (1) acre is subject to the requirements set forth in the Land Development Standards Manual (LDSM).

Land disturbances of over one (1) acre is subject to the requirements set forth in the Land Development Standards Manual (LDSM) and NCDEQ.

**3.2.7.3. Approval Criteria.** The grading permit shall be issued by the Administrator only if the application complies with the standards of Appendix B and as referenced below:

- the provisions for floodplain protection as prescribed in § 4.14 of this Ordinance;
- the provisions for vegetation protection and

retention as prescribed in § 3.2.7.6 below; and

- as required by an approved special use permit, conditional zoning district, or site plan.

**3.2.7.4. Exemption.** A Grading Permit shall not be required for the following:

- agricultural uses, as defined in Table 4.6-1

**3.2.7.5. Validity.** The grading permit shall be valid for one year. Resubmission of plans and an application for a new grading permit, including applicable fee(s), shall be required upon expiration of grading permit.

**3.2.7.6. Vegetation Protection and Retention.** Grading plans shall be designed to preserve existing trees and vegetation to the greatest extent possible and shall seek to incorporate existing significant stands of trees as well as individual trees. Certain excavation techniques used by utility companies and others can cause removal of vital roots, change drainage patterns and create conditions that could kill trees and plant materials or make them more susceptible to disease and deterioration. The intent of these regulations is to recognize the need to alter the landscape during site development activities while setting out standards necessary to ensure tree preservation to the greatest extent possible.

**A. General Requirements.** Existing trees and vegetation that are to be preserved should be protected from all construction activities including installation and/or replacement of utilities, earthwork operations, movement and storage of equipment and materials and dumping of toxic materials. Tree and vegetation protection techniques shall be shown in the Grading Plans and shall be in conformance with standard practices set forth in Appendix B of this Ordinance.

**B.** The Administrator shall use the guidelines below to assist in determining the approval of a Grading Permit. Vegetation should be removed if:

- the vegetation prevents the reasonable development of a property and without its removal, development of the land will be prevented;
- the vegetation poses a safety hazard to pedestrians or vehicles, buildings or structure;
- the vegetation imposes a disruption or

- potential disruption of utility services;
- the vegetation prevents access to property; or
- the vegetation is diseased or will become diseased due to infectious disease, insect infestation, wind or ice storm, or fire and poses a threat to the safety and welfare of the public, vehicles, structures or buildings.

### 3.2.8. STORMWATER MANAGEMENT PERMITS.

**3.2.8.1. Application.** Upon the effective date of this Ordinance, it shall be unlawful for any person(s) to commit any land disturbing activity, including removal of vegetation, until a Stormwater Management Permit has been issued by the Administrator. See Article 9.

**3.2.8.2. Coordination with Erosion Control.** A Stormwater Management Permit shall not be issued until a sedimentation and erosion control permit has been issued as set forth in § 9.1, if applicable.

**3.2.8.3. Approval Criteria.** The Stormwater Management Permit shall be issued by the Administrator only if the application complies with the standards of Appendix B & the LDSM and as referenced below:

- the provisions for Stormwater as prescribed in Article 9 of this Ordinance;
- as required by any approved special use permit, conditional zoning district, or site plan.

**3.2.8.4. Exemption.** A Stormwater Management Permit shall not be required for the following:

- agricultural uses, as defined in Table 4.6-1;
- single-family detached homes; or
- land disturbing activities that disturb less than 20,000 square feet.

**3.2.8.5. Validity.** The Stormwater Management Permit shall be valid for one year. Resubmission of plans and an application for a new permit, including applicable fee(s), shall be required upon expiration of permit.

### 3.2.9. DETERMINATION OF VESTED RIGHT

**3.2.9.1. Purpose.** The purpose of this section 3.2.9 is to establish a process for the Administrator

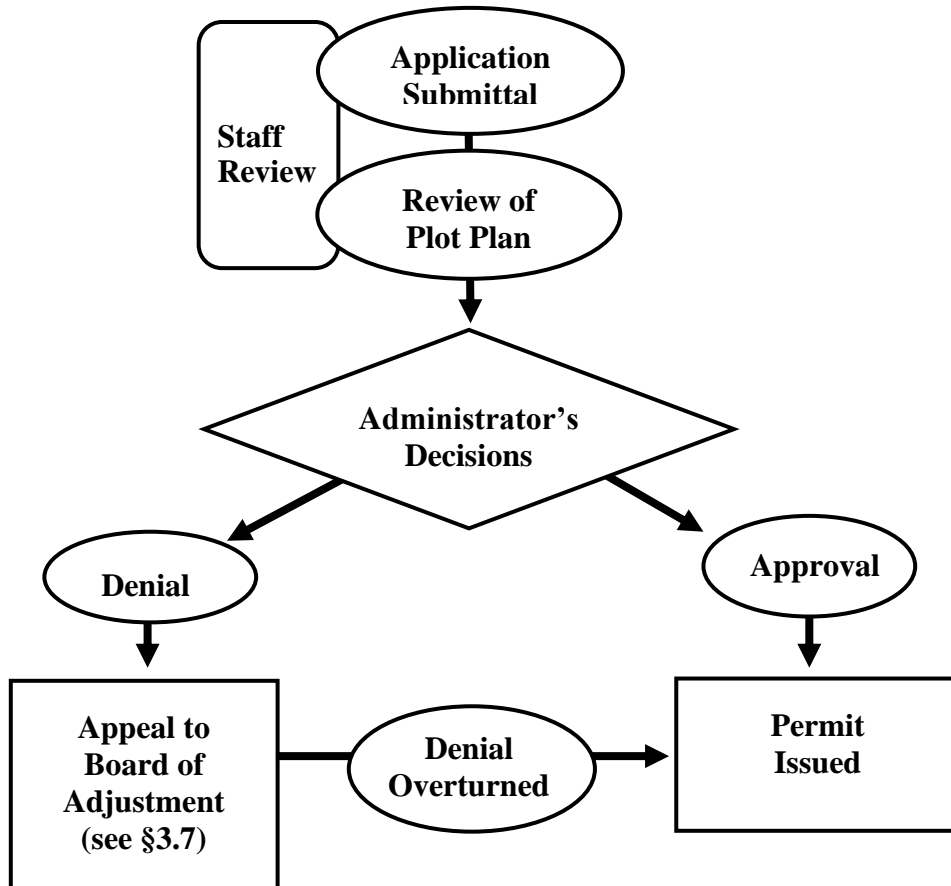
to evaluate and make a determination on the existence of a statutory or common law vested right in accordance with NCGS § 160D-108.

**3.2.9.2. Procedure.** The applicant shall file a completed petition for determination of vested right with the Administrator. Following receipt of the completed petition, the Administrator shall make a determination as to the existence of a vested right in accordance with NCGS § 160D-108.

**3.2.9.3. Determination and Notice.** The Administrator shall provide notice of the Administrator's determination in accordance with § 3.1.10. Appeals of the Administrator's determination are allowed in accordance with § 3.7.

**Figure 3.2-1 – ADMINISTRATIVE PERMIT REVIEW PROCESS\***

**\*Includes only administrative permits applications that are not required to obtain site plan approval as set forth in § 3.7 of this Ordinance.**



### 3.3. ZONING MAP AMENDMENTS.

#### 3.3.1. PURPOSE.

The purpose of this Section is to establish uniform procedures for processing changes to the Official Zoning Map ("rezonings").

#### 3.3.2. INITIATION OF A ZONING MAP AMENDMENT.

**3.3.2.1.** Any person, board, department or commission may apply for a change in zoning district boundaries (rezoning), with the following limitations:

- applications for conditional zoning rezoning as set forth in § 3.4 may be initiated only by petition;
- applications for third party rezonings are prohibited.

**3.3.2.2.** An amendment to the Official Zoning Map (a "Rezoning") may be initiated by filing an application with the Administrator. An application not filed by the City that proposes down-zoning of property must be filed by one of the property owners that would be affected by the amendment and include the written consent of all property owners who would be impacted by the proposed amendment. Before any application is accepted by the Planning Department, the applicant must meet with the Administrator. The purpose of the pre-application meeting is to discuss, in general, the procedures and requirements for a zoning amendment request. During the conference, the administrator will identify the submittal requirements. Neighborhood meetings are required pursuant to § 3.1.9.5 of this Ordinance.

#### 3.3.3. ZONING TEXT AMENDMENTS.

An amendment to the text of this Ordinance is regulated in accordance with § 3.8 of this Ordinance.

#### 3.3.4. ZONING MAP AMENDMENT PROCESS.

The purpose of this Section is to provide a procedure for streamlining the review of rezoning applications as permitted by special legislation.

**3.3.4.1. Delegation.** The Planning and Zoning Commission is hereby delegated by the City Council to have the authority to take final action on applications to rezone property as herein provided.

#### 3.3.4.2. Procedures for Review.

**A.** Zoning Amendment applications shall be submitted for review by the appropriate reviewing departments and a hearing scheduled for the next available meeting of the Planning and Zoning Commission. Notice of the public hearing shall be provided as set forth in § 3.1.5 of this Ordinance. The zoning amendment review process is illustrated in Figure 3.3-1.

**B. Decision.** The Planning and Zoning Commission may render a final decision regarding a zoning amendment by an affirmative vote of at least three-fourths of the members of the Commission present and not excused from voting, and if there is no appeal of this decision. If there is a denial, an approval by a vote of less than three-fourths of the members of Commission, or if an appeal is taken, then only the City Council shall have the authority to make a final decision on a rezoning application. Conditions may be imposed to an approved rezoning only if a conditional zoning district is approved pursuant to § 3.4 of this Article.

**C.** Any person aggrieved by the decision of the Planning and Zoning Commission shall have the right to appeal the action to the City Council. The appeal shall be filed by giving notice in writing to the Administrator within fifteen (15) days of the decision of the Planning and Zoning Commission.

**D.** If an amendment is forwarded to the City Council for review, the City Council shall hold a hearing and decide to approve or deny the zoning amendment. Approval of the amendment shall be by a majority vote. Conditions may be imposed to an approved rezoning only if a conditional zoning district is approved pursuant to § 3.4 of this Article.

#### 3.3.5. APPROVAL CRITERIA.

Whenever the public necessity, safety, or general welfare justifies such action, and after obtaining the recommendation by the Planning and Zoning Commission, the City Council may change zoning district boundaries. The Planning and Zoning Commission and City Council may consider the following questions, at a minimum, in reviewing an

application for a rezoning

**3.3.5.1.** The size of the tract in question.

**3.3.5.2.** Whether the proposal conforms with and furthers the goals and policies of the Comprehensive Plan, other adopted plans, and the goals, objectives, and policies of this Ordinance.

**3.3.5.3.** The relationship of the uses envisioned under the new zoning and the uses currently present in adjacent tracts, as follows:

- Whether 1.) the proposed rezoning is compatible with the surrounding area, or 2.) there will be adverse effects on the capacity or safety of the portion of street network influenced by the rezoning, or 3.) parking problems, or 4.) environmental impacts that the new use will generate such as excessive storm water runoff, water, air or noise pollution, excessive nighttime lighting, or other nuisances.
- Any change of character in the area due to installation of public facilities, other zone changes, new growth trends, deterioration, and development.
- Compliance with the adequate public facilities criteria as set forth in this Ordinance.
- The zoning districts and existing land uses of the surrounding properties.
- Whether the subject property is suitable for the uses to which it has been restricted under the existing zoning classification.
- Whether the rezoning is compatible with the adjacent neighborhood, especially residential neighborhood stability and character.
- The length of time the subject property has remained vacant as zoned.
- Whether there is an adequate supply of land available in the subject area and the surrounding community to accommodate the zoning and community needs.
- Whether the existing zoning was in error at the time of adoption.

**3.3.6. STATEMENT OF REASONABLENESS AND CONSISTENCY**

Prior to making a decision to adopt or deny a zoning map amendment, the Planning and Zoning Commission and, if applicable, the City Council shall adopt a statement in accordance with NCGS §§ 160D-604 and 160D-605 that:

**3.3.6.1.** Explains why the decision is reasonable and in the public interest; and

**3.3.6.2.** States that the amendment is either (i) consistent with the Comprehensive Plan, or (ii) inconsistent with the Comprehensive Plan and that the Future Land Use and Character Map in the Comprehensive Plan is therefore amended to be consistent with the adopted amendment.

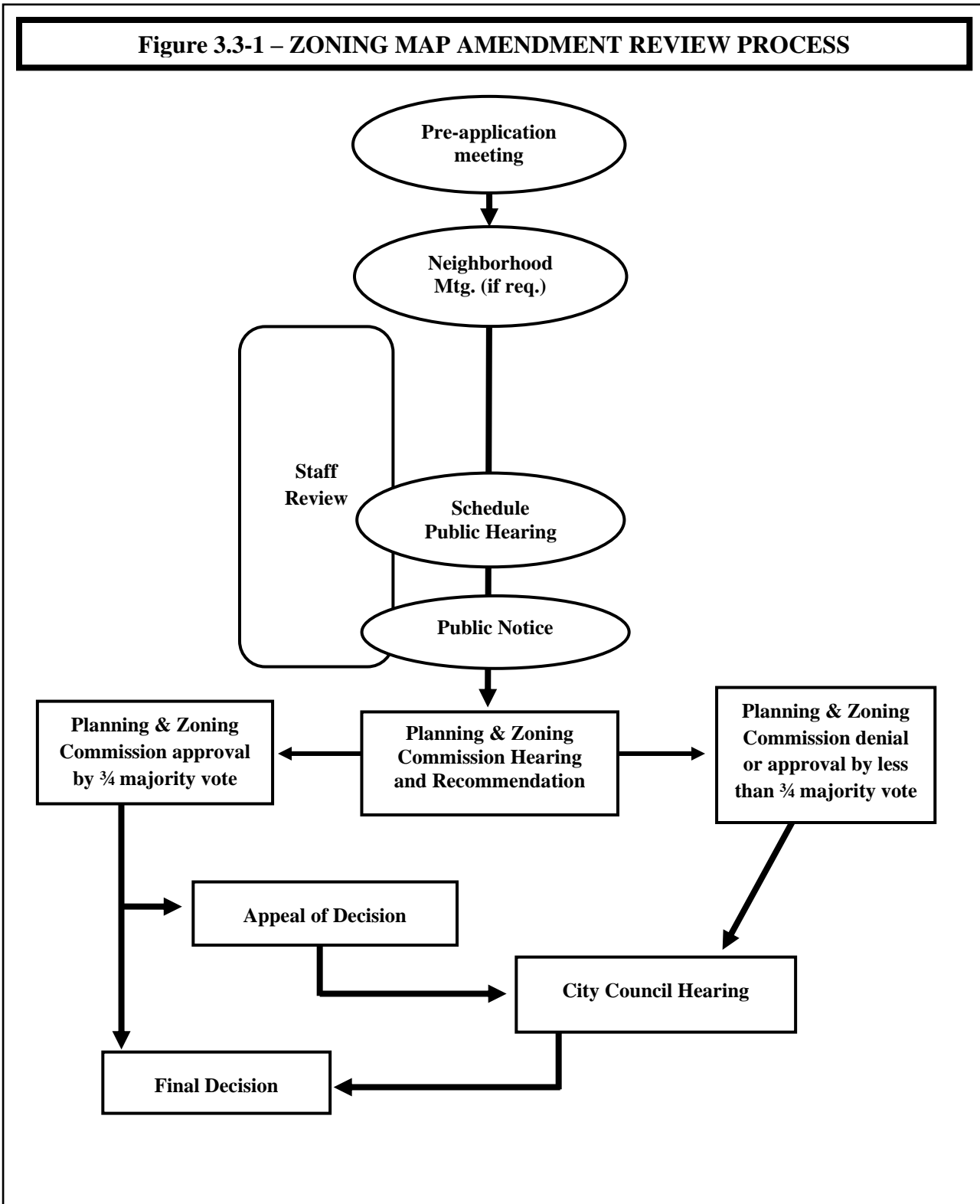
**3.3.7. SCOPE OF APPROVAL.**

The approval of a zoning map or text amendment does not authorize any development activity. For proposed uses that require a special use permit, the approval of a rezoning authorizes the applicant to file a site plan for special use permit approval. If the desired use is permitted as of right, the applicant may file a site plan (if required by § 3.6) and, if no site plan is required, an application for a zoning clearance permit and any other administrative permits required by § 3.2 of this Ordinance.

**3.3.8. SUBSEQUENT APPLICATIONS.**

In the event that an application for a rezoning or text amendment is denied by the City Council or Planning and Zoning Commission (without an appeal) or that the application is withdrawn after the Commission hearing, the Administrator shall refuse to accept another application for the same amendment on the same property or any portion of the same property within one year of the original hearing. However, the Planning and Zoning Commission may consider such an application within that time period if it finds there is new and different evidence that was not reasonably available at the time of the original hearing.





## 3.4. CONDITIONAL ZONING (CZ) DISTRICTS.

### 3.4.1. PURPOSE.

A landowner may apply for a rezoning to a Conditional Zoning (“CZ”) District in cases where the standards of a conventional, general use zoning district are inadequate to ensure that development allowed by the district will conform to the City’s adopted plans or to appropriately address the impacts expected to be generated by the development. Rezoning to a CZ District establishes a conditional zoning district that is equivalent to the corresponding conventional district, but subject to additional conditions that the applicant and the City mutually agree are necessary to ensure conformance to adopted plans and adequately address expected development impacts. The purpose of this section is to establish uniform procedures for processing changes to the Official Zoning Map to establish conditional zoning districts.

### 3.4.2. PROCEDURE. (See Figure 3.4-1)

**3.4.2.1.** Applications for conditional zoning district approvals shall be filed with the Administrator in a similar manner as set forth in § 3.3 and as illustrated in Figure 3.4-1. A “CZ” District shall only be initiated at the request of the petitioner. A “CZ” district shall not be initiated by the City Council, Planning and Zoning Commission, or administrative staff.

**3.4.2.2.** An application for a Conditional Zoning District shall include the following components:

- Conditional Zoning District: A petition for conditional zoning must include a site plan, drawn to scale, and supporting information and text that specifies the actual use or uses intended for the property and any rules, regulations and conditions that, in addition to all predetermined requirements, will govern the development and use of the property.

### 3.4.3. PERMITTED USES.

Within a Conditional Zoning District, only those uses permitted by the zoning district with which the “CZ” District corresponds shall be permitted. Such action approving the preliminary major site plan may further specify:

- the location of units,
- the location and extent of supporting facilities such as parking lots, driveways, and access streets,

- the location and extent of rights-of-way, and other areas to be dedicated for public use, and
- other such matters as the applicant may propose as conditions upon request.

The decision-making body may also impose additional reasonable and appropriate safeguards to serve the purpose and intent of this chapter, public welfare, and justice. In the event of a “CZ” District rezoning, the final major site plan is itself a condition of the rezoning.

### 3.4.4. APPROVAL CRITERIA.

**3.4.4.1.** Conditional Zoning District decisions are a legislative process subject to judicial review using the same procedures and standard of review as apply to general use district zoning decisions. Conditional Zoning District decisions shall be made in consideration of identified relevant adopted land use plans for the area, including, but not limited to, the Comprehensive Plan, the Land Use Plan, strategic plans, district plans, area plans, neighborhood plans, corridor plans, and other land-use policy documents. The applicant shall propose site-specific standards and conditions that take into account the following considerations:

- The proposed Conditional Zoning (CZ) District’s appropriateness for its proposed location and consistency with the purposes, goals, objectives, and policies of the current Land Use Plan.
- The use(s) requested are among those listed as allowed in the corresponding conventional zoning district.
- The design of the proposed Conditional Zoning (CZ) District’s minimization of adverse effects, including visual impact of the proposed development on adjacent lands; and avoidance of significant adverse impacts on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare and vibration and not create a nuisance.
- The limitations and conditions as proposed and/or imposed for the requested district can reasonably be implemented and enforced for the subject property.
- When implemented the proposed and/or

imposed limitations and conditions will mitigate specific land development issues that would likely result if the subject property were zoned to accommodate all the uses and the minimum standards of the corresponding general zoning district. If any standards are proposed that are different from the underlying zoning district, the applicant must clearly demonstrate that the overall resultant project is greater than that which is typically allowed by the general district.

- The applicant has consented in writing to the limitations and conditions as proposed and/or imposed for the requested district.
- The applicant shall submit a “statement of reasonableness” of the proposed rezoning.

### **3.4.5. VIOLATION OR INVALIDITY OF THE TERMS AND CONDITIONS OF A “CZ” DISTRICT.**

**3.4.5.1.** A violation of a condition of rezoning to a “CZ” District as set forth in the final development plan and a violation of other related official documents associated with such rezoning are considered violations of this Ordinance subject to the same remedies and penalties. Upon determining that such a violation has occurred, the Administrator shall notify the property owner of his findings and set a reasonable time for the violation to be corrected or abated in accordance with § 1.6. When a violation is not corrected or abated within the time period set by the Administrator, the Administrator or any person aggrieved may institute appropriate action proceedings to correct or abate the violation consistent with § 1.6 of this Ordinance.

**3.4.5.2.** If any condition imposed or consideration made is found to be illegal or invalid, or if an applicant should fail to accept a condition such “CZ” District and preliminary major site plan shall be null and void. Proceedings will be instigated to rezone the property to its previous classification.

### **3.4.6 STATEMENT OF REASONABLENESS AND CONSISTENCY**

Prior to making a decision to adopt or deny an application for approval of a Conditional Zoning District, the Planning and Zoning Commission and, if applicable, the City Council shall adopt a statement of reasonableness and a consistency statement as required by § 3.3.6 of this Ordinance.

### **3.4.7 SCOPE OF APPROVAL.**

**3.4.7.1** The approval of a rezoning to a conditional zoning district does not authorize development activity. The rezoning to the “CZ” district and approval of the preliminary major site plan shall authorize the applicant to apply for a final major site plan. Final minor site plans shall be reviewed by the Administrator in accordance with § 3.6.4 of this Ordinance.

**3.4.7.2.** The approval of a final major site plan shall constitute approval of the development requested in the application and approved by the Planning and Zoning Commission or City Council. Approval of the final major site plan shall have the same effect as set forth in § 3.6 of this Ordinance.

### **3.4.8. RECORDATION OF CONDITIONAL ZONING DISTRICT.**

**3.4.8.1** The applicant will ensure that the ordinance approving the Conditional Zoning District is duly certified, and that the legal description and accompanying map exhibit (required by Appendix B to this Ordinance), is recorded in the office of the register of deeds of Cabarrus or Rowan County. The applicant shall also record a deed restriction upon the subject property that requires compliance with the conditions attached to the Conditional Zoning District ordinance. This deed restriction is perpetually binding on the property, unless another rezoning request is brought and approved. The Applicant must provide the Administrator a copy of the recorded notification, affixed with the Register's seal and the date, book and page number of recording in order to receive approval of the application for a zoning clearance.

### **3.4.9 SUBSEQUENT PETITIONS.**

Subsequent applications for a conditional zoning “CZ” district shall be handled in the same manner as that of rezonings prescribed in §3.3.8.

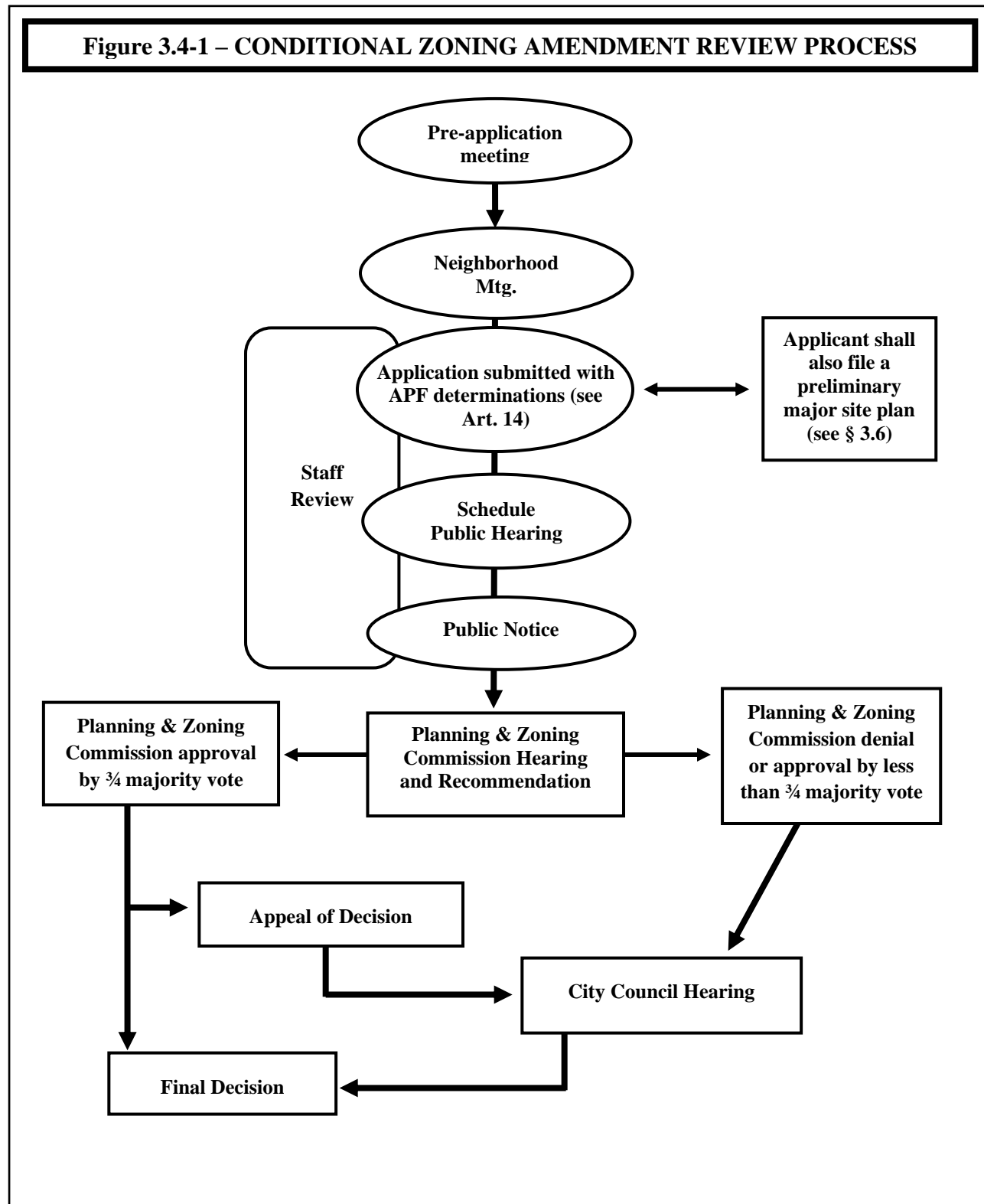
### **3.4.10 TRANSITIONAL PROVISIONS.**

**3.4.10.1.** Upon the applicant’s request, an application for a conditional use rezoning submitted, but not approved, before May 29, 2007, may proceed for approval under the former UDO Section 3.4 CONDITIONAL USE (CU) ZONING DISTRICTS as Section 3.4 existed on May 29, 2007

before amendments were made to Section 3.4 on May 29, 2007 (“former Section 3.4”).

**3.4.10.2** A special use permit/rezoning approved on or before May 29, 2007 may be amended, extended or modified in accordance with the procedures and standards established under former Section 3.4 provided the amendment request is submitted within five (5) years following the initial permit issuance/rezoning. Any amendment request submitted more than five (5) years following the initial issuance of a conditional use rezoning will be considered a request to rezone in accordance with current ordinance provisions.

**3.4.10.3** Former Section 3.4 is re-enacted and incorporated herein by reference to, and only to, the extent necessary to accomplish the purposes of Section 3.4.10 immediately above.



## 3.5. SPECIAL USE PERMITS.

### 3.5.1 APPLICABILITY.

**3.5.1.1** Special uses are generally compatible with the land uses permitted by right in a zoning district, but which require individual review of their location, design, and configuration. Special uses ensure the appropriateness of the use at a particular location within a given zoning district.

**3.5.1.2** Only those uses that are enumerated as special uses in a zoning district, as set forth in § 4.6, Table 4.6-1 of this Ordinance, shall be authorized.

### 3.5.2 APPROVAL PROCEDURE. (See Figure 3.5-1)

**3.5.2.1** No special use permit shall be authorized, developed, or otherwise carried out until the applicant has secured approval of the special use permit by the Board of Adjustment and approval of a final site plan by the Administrator.

**3.5.2.2** Applications for special use permit approvals shall be filed with the Administrator as illustrated in Figure 3.5-1. Pre-application meetings with the Administrator prior to filing are required.

**3.5.2.3** Major site plan applications (see Appendix B) shall be filed concurrently with special use permit applications. The information shall be provided to the Board of Adjustment during their deliberations.

**3.5.2.4** The Board of Adjustment shall conduct a quasi-judicial hearing in accordance with the requirements of § 3.1.7 of this Ordinance. The Board of Adjustment shall conduct a quasi-judicial hearing and shall deny the request, approve the request; or approve the request with conditions.

**3.5.2.5** The Board of Adjustment may place conditions on the use as part of the approval to assure that adequate mitigation measures are associated with the use. The conditions shall become a part of the special use permit approval and shall be included in the final site plan application.

**3.5.2.6** Violations of any of the conditions shall be treated in the manner as set forth in § 1.6 of this Ordinance.

**3.5.2.7** An application for a special use permit that has been denied may be resubmitted only if there has been a substantial change in circumstances, as determined by the Administrator, or if substantial revisions have been made to the application for development approval.

**3.5.2.8** Minor modifications to approved special use permits may be approved by the Administrator if the special use permit still meets the intent of the standards established with the original approval. Minor alteration/revisions shall be limited to changes that do not modify the intensity, density, or character of the use. If the Administrator determines that the change is not minor, the applicant shall be required to apply for a revised Special Use Permit. The applicant may appeal the decision of the Administrator to the Board of Adjustment.

### 3.5.3 APPROVAL CRITERIA.

**3.5.3.1** Uses permitted subject to special use review criteria shall be permitted only after review and approval by the Board of Adjustment only if the applicant demonstrates that:

**3.5.3.2** The proposed use will be in harmony with the area in which it is to be located and in general conformance with the City's Land Use Plan.

**3.5.3.3** Adequate measures shall be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads.

**3.5.3.4** The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.

**3.5.3.5** The establishment of the proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.

**3.5.3.6** The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare.

**3.5.3.7** The applicant consents in writing to all conditions of approval included in the approved special use permit.

**3.5.3.8** Compliance with any other applicable Sections of this Ordinance.

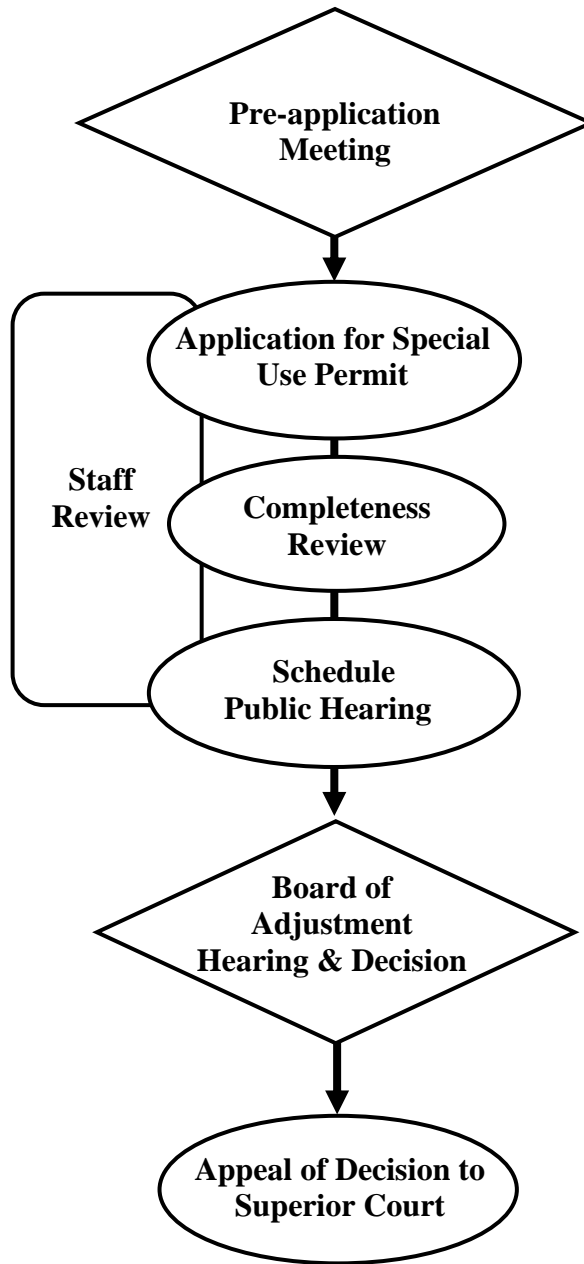
**3.5.4 SCOPE OF APPROVAL.**

The approval of a special use permit shall authorize the applicant to apply for final site plan approval pursuant to § 3.6 of this Ordinance. All approvals of special use permits require approval of the site plan. Any special use permit approval shall become null and void if a required site plan is not approved within 12 months after the date of the approval. No zoning clearance permit may be issued until the final major site plan and special use permits are approved. Final major site plan approval may require approval of variances. Approval of a special use permit does not authorize any development activity.

**3.5.5 SUBSEQUENT APPLICATIONS.**

Subsequent applications for a special use permit shall be handled in the same manner as that for rezonings prescribed in § 3.3.8.

**Figure 3.5-1 – SPECIAL USE PERMIT REVIEW PROCESS**





## 3.6. SITE PLAN REVIEW

### 3.6.1. PURPOSE.

The site plan review provisions and regulations of this Section are intended to promote the safe, functional, and aesthetically pleasing development of property and to ensure that new structures, utilities, streets, parking, circulation systems, yards, and open spaces are developed in conformance with the standards of this Ordinance. The site plan review considers the siting of structures and related site improvements to promote harmonious relationships with adjacent development.

### 3.6.2. MAJOR/MINOR SITE PLAN DEFINED.

No application for development approval in the following categories shall be approved unless a site plan has been approved in accordance with the procedures prescribed in this Section.

#### 3.6.2.1. The following shall require MINOR SITE PLAN approval:

- An application for development approval requesting a non-residential use or any multi-family dwelling unit, which is permitted by right in the applicable zoning district.
- Any application for development approval for which a site plan is required pursuant to Article Five of this Ordinance.

#### 3.6.2.2. The following applications shall require MAJOR SITE PLAN approval:

- Any application for approval of a Planned Unit Development (PUD), Traditional Neighborhood Development (TND), or Transit-Oriented Development (TOD) district.
- Any application for rezoning to a conditional zoning district.
- An application for approval of a special use permit.

### 3.6.3. EXEMPTIONS.

Detached single-family dwelling units and duplex developments on individual lots of record shall be exempt from the provisions of this section. Detached single-family dwelling units and duplex developments on individual lots of record shall be reviewed in accordance with § 3.2.4.4.1.

### 3.6.4. CONFORMITY WITH APPROVED PLAN.

**3.6.4.1.** Development activities subject to the requirements of this Section may be carried out only in substantial conformance with the approved site plan and attached any conditions or restrictions. Any substantial deviation from the approved site plan, unless approved in advance and in writing by the Administrator, shall be deemed a violation of this Ordinance. Further, no certificate of compliance shall be issued if the development activities do not conform to the approved site plan.

### 3.6.5. APPROVAL PROCEDURE (MINOR SITE PLANS). (See Figure 3.6-1)

Approval of a Minor Site Plan is a one-step process. The Applicant submits a Minor Site Plan for approval by the Administrator and an application for a Zoning Clearance Permit as illustrated in Figure 3.6-1.

#### 3.6.5.1. COMPLETENESS REVIEW.

An application for approval of a minor site plan shall be submitted to the Administrator. The Administrator shall determine whether the application for site plan approval is complete as provided for in Appendix B.

#### 3.6.5.2. PLAN APPROVAL.

When a complete minor site plan is filed, the Administrator shall render an administrative determination as follows:

- If the site plan conforms to the provisions of this Ordinance and all required conditions (if applicable), the Administrator shall approve the site plan.
- If the site plan is complete, but does not conform to the provisions of this Ordinance and/or required conditions (if applicable), the Administrator shall deny the site plan and return to applicant for revision and resubmission. If the applicant disagrees with the decision of the Administrator, an appeal may be filed in accordance with the procedures set forth in § 3.7.
- If the site plan is determined to be incomplete, the administrator shall return to it to the applicant for revision and resubmission.
- Time limit for final plan approval is regulated in accordance with Table 13.3-1 of this Ordinance.

**3.6.6. APPROVAL PROCEDURE (MAJOR SITE PLANS). (See Figure 3.6-2)**

**3.6.6.1.** Approval of a Major Site Plan is a two-step process. As the first step, the Applicant submits a Preliminary Site Plan for review by the Administrator, which is accompanied by an application for a special use permit, conditional rezoning, or a rezoning to a zoning district for which a Major Site Plan is required. As the second step, after the decision-making agency renders its decision on the underlying zoning map amendment and/or special use permit application, the applicant files a final site plan for approval by the Administrator and an application for a Zoning Clearance Permit as illustrated by Figure 3.6-2.

**3.6.6.2. PRELIMINARY MAJOR SITE PLAN.**

**3.6.6.2.1. APPROVAL PROCEDURE.** An application for approval of a preliminary major site plan shall be submitted with an application for a conditional zoning map amendment, special use permit, or an application for a Planned Unit Development, Traditional Neighborhood Development, or Transit-Oriented Development. The Administrator shall determine whether the application for a preliminary site plan is complete as prescribed in Appendix B.

**3.6.6.2.2.** If the preliminary major site plan is complete, the Administrator shall forward the application, along with the zoning amendment or special use permit application, to the decision-making agency for recommendation as prescribed in § 3.4 or 3.5, respectively.

**3.6.6.2.3.** If the preliminary major site plan is incomplete, the Administrator shall return it to the applicant with a statement of the reasons why the proposed preliminary site plan does not conform to the provisions of Appendix B.

**3.6.6.2.4.** Time limit for preliminary major plan approval is regulated in accordance with Table 13.3-1.

**3.6.6.3. FINAL SITE PLAN.**

**3.6.6.3.1.** The City Council shall render a final decision to approve, deny, or approve with conditions the zoning map amendment or special use permit application and preliminary site plan.

If the zoning map amendment application and Special Use Permit are approved (or approved with conditions), the applicant may file an application for Final Site Plan approval.

**3.6.6.3.2.** The final site plan shall be prepared and submitted to the Administrator in the same manner as set forth in § 3.6.5 APPROVAL PROCEDURE (MINOR SITE PLANS). The final major site plan shall conform to the provisions of the approved Preliminary Site Plan and any conditions as imposed by the decision-making agency.

**3.6.7. FINAL INSPECTION.**

The Administrator shall inspect the site for compliance with the approved site plan before a certificate of zoning compliance is issued for the project. The Administrator will write a letter to the applicant stating any deficiencies.

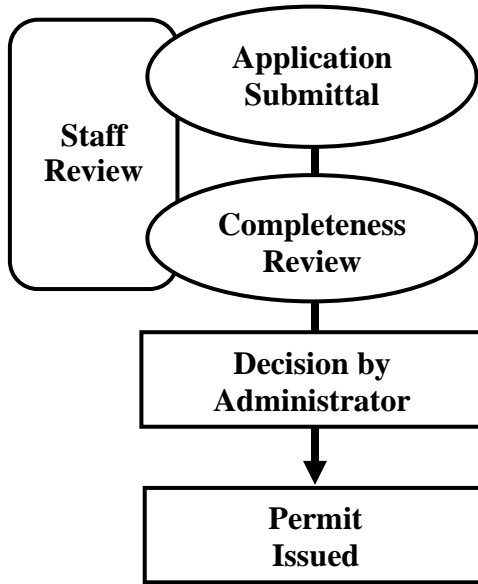
**3.6.8. VALIDITY.**

**3.6.8.1.** The Administrator will sign and date the site plan to indicate approval. Approval shall become effective immediately.

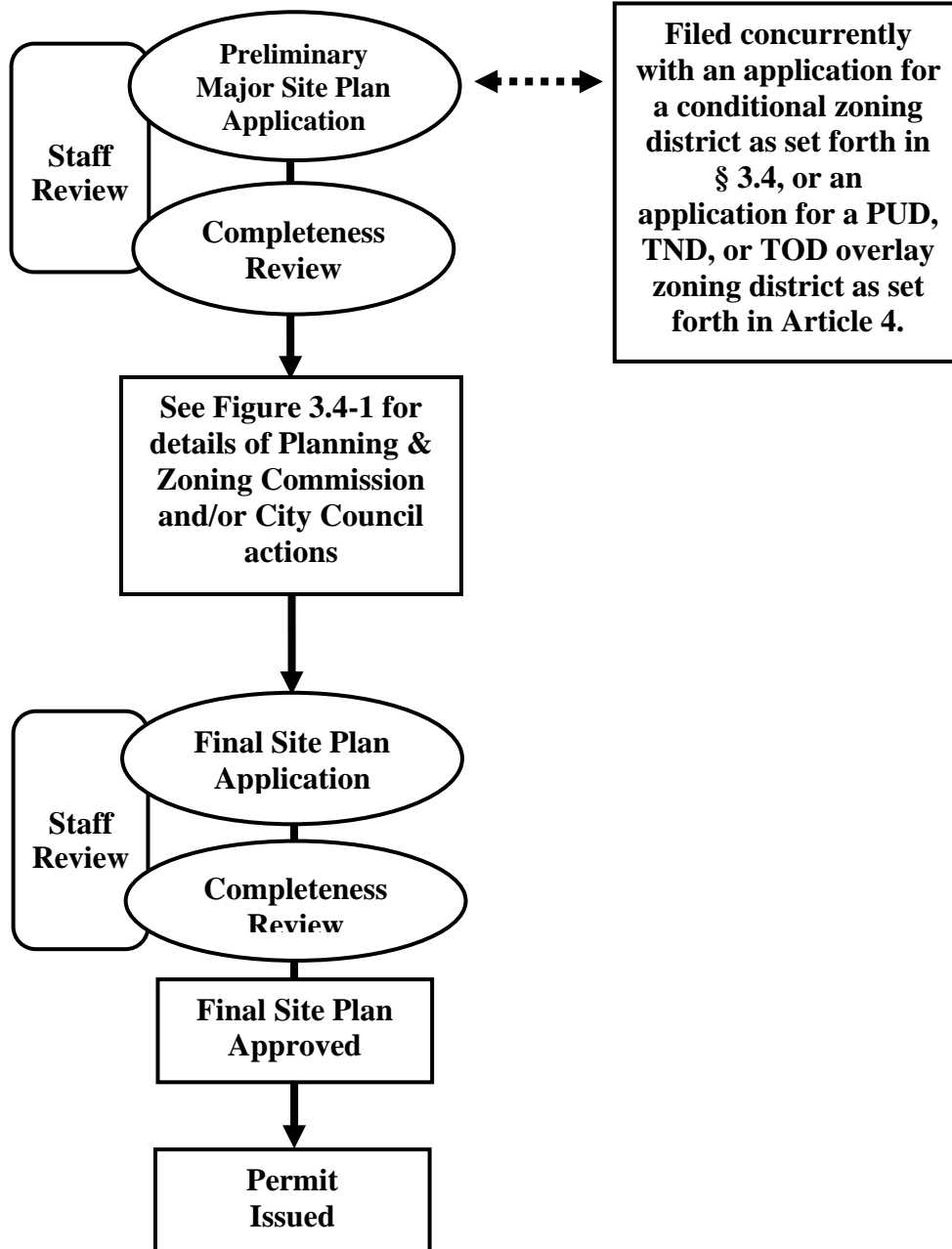
**3.6.8.2.** The owner of a use or property subject to the site plan will be notified if site plan approval must be suspended. Suspension is caused by 1.) violation of any applicable provision of this section, or 2.) failure to comply with any applicable required conditions.

**3.6.8.3.** If ownership changes of the site plan or structure in question, the site plan approval remains valid.

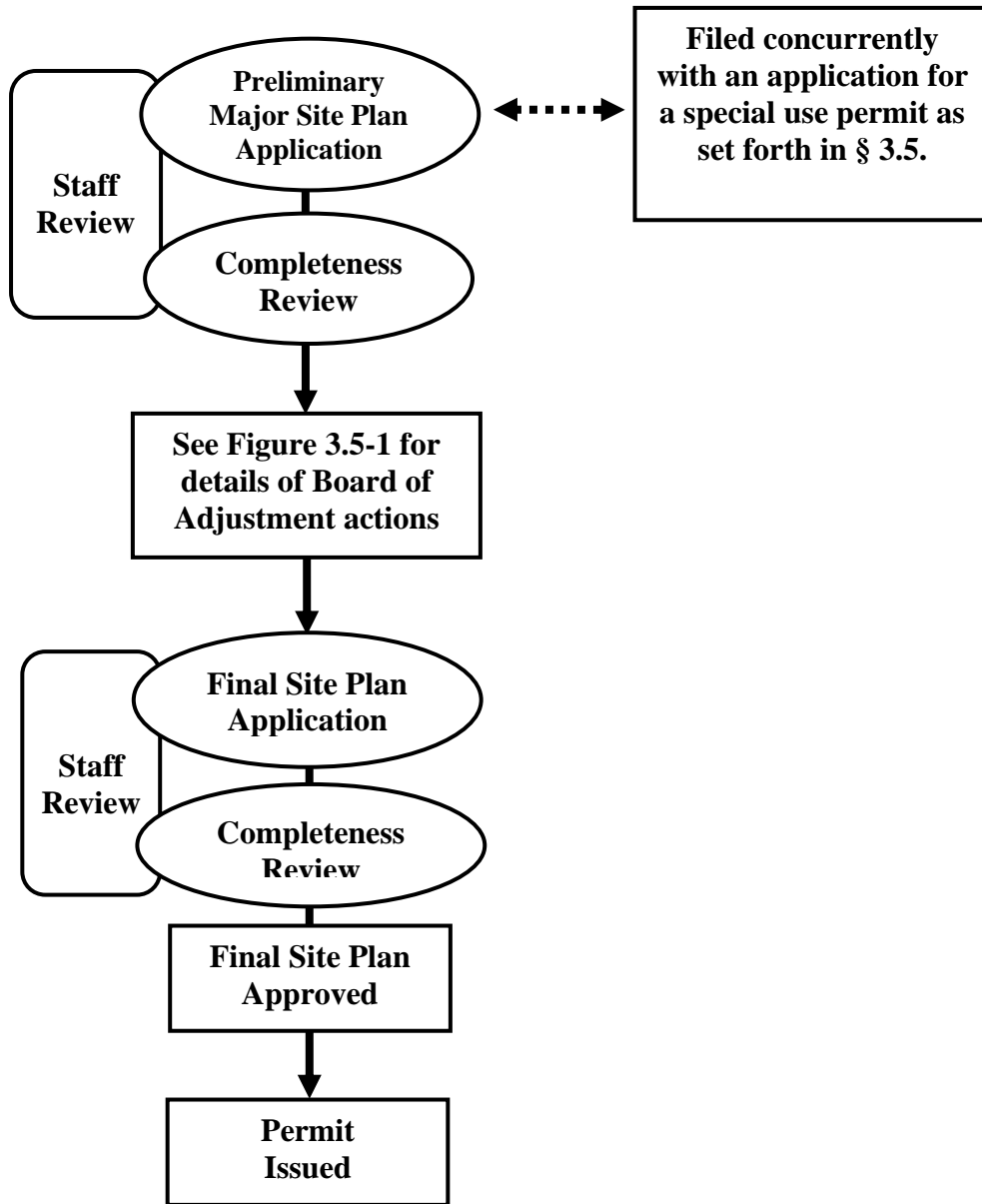
**Figure 3.6-1 – MINOR SITE PLAN REVIEW PROCESS**



**Figure 3.6-2 – MAJOR SITE PLAN REVIEW PROCESS (Conditional Rezoning, § 3.4)**



**Figure 3.6-2 – MAJOR SITE PLAN REVIEW PROCESS (Special Use Permits, § 3.5)**



## 3.7. APPEALS AND VARIANCES.

### 3.7.1. APPLICATION.

The Board of Adjustment (BOA), may decide appeals of administrative interpretations and decisions and may grant variances from the requirements of this Ordinance. The concurring vote of four-fifths of the Board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

### 3.7.2. PROCEDURES. (See Figure 3.7-1)

**3.7.2.1.** The Board of Adjustment will review any appeal of a decision or interpretation of the Administrator and any application for a variance.

**3.7.2.2.** A notice of appeal of an administrative decision from a final decision relating to an application for development approval shall be submitted to the Administrator. The deadline for filing the notice of appeal is thirty (30) days from receipt of the notice of the final decision relating to an application for development approval. In the absence of evidence to the contrary, notice given by first-class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

**3.7.2.3.** Any application request for a variance shall be filed with the Administrator for transmittal to the Board of Adjustment.

**3.7.2.4.** The Board of Adjustment shall conduct a hearing on the appeal pursuant to the procedures established in NCGS § 160D-405 and § 3.1.7 of this Ordinance.

**3.7.2.5.** Appeals from the Board of Adjustment shall be filed with the Clerk of the Cabarrus or Rowan County Superior Court within 30 days of the final decision of the Board. The Board of Adjustment's decision shall be considered final after the final order is signed by the Board chair person or appointee.

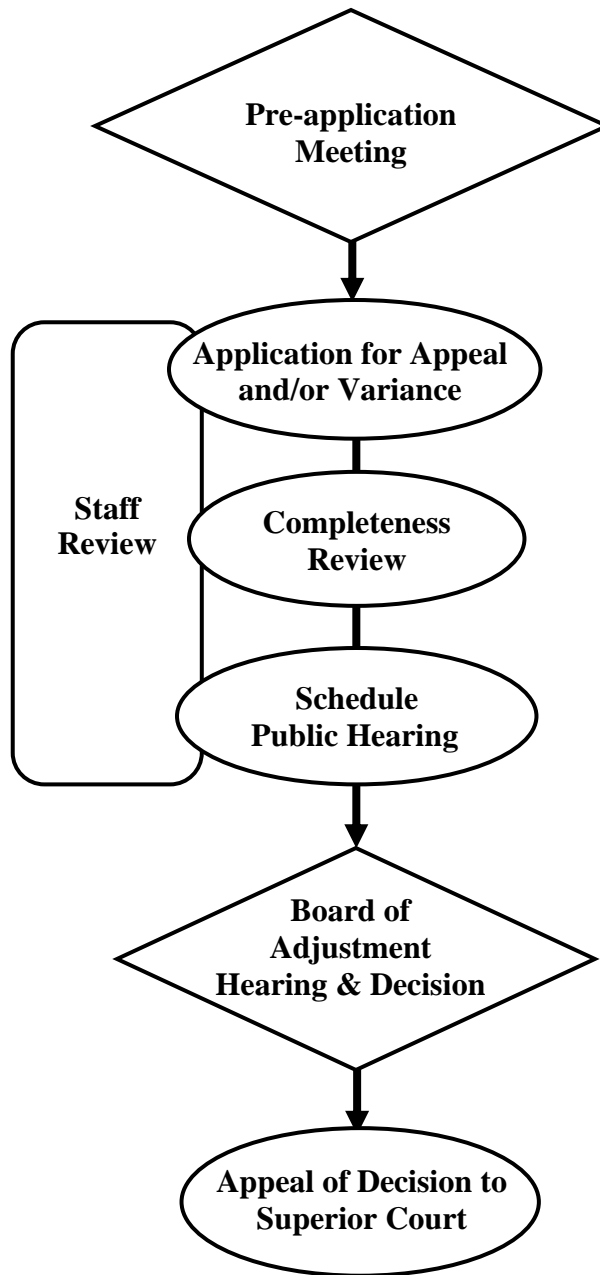
**3.7.2.6.** The Board of Adjustment can attach conditions to the variance so long as the conditions are reasonably related to the condition or circumstances that gives rise to the variance.

### 3.7.3. APPROVAL CRITERIA.

**3.7.3.1. APPEAL OF DECISION.** In an appeal to the Board of Adjustment, regarding an administrative decision or interpretation, the Board's scope of review shall be limited to determining whether the decision or interpretation by the Administrator was in accordance with the intent and requirements of this Ordinance, and accordingly, the Board will affirm or reverse the decision.

**3.7.3.2 APPLICATION FOR VARIANCE.** A variance is not a right. It may be granted to an applicant only if the applicant establishes compliance with the hardship criteria established in NCGS § 160D-705(d).

**Figure 3.7-1 – PROCESS FOR REVIEW OF APPEALS AND VARIANCES**



### 3.8 ZONING TEXT AMENDMENTS.

#### 3.8.1 PURPOSE.

The purpose of this Section is to establish uniform procedures for processing amendments to the text of this Ordinance.

The approval of a zoning text amendment does not authorize any development activity. Development plans shall be filed and reviewed by the appropriate authority as set forth in this Ordinance.

#### 3.8.2 INITIATION OF A ZONING TEXT AMENDMENT.

**3.8.2.1** Only the City, City Council, or Planning and Zoning Commission may apply for a change in zoning ordinance text.

#### 3.8.6 SUBSEQUENT APPLICATIONS.

In the event that an application for a text amendment is denied by the City Council or Planning and Zoning Commission (without an appeal) or that the application is withdrawn after the Commission hearing, the Administrator shall refuse to accept another application for the same amendment within one year of the original hearing. However, this section shall not limit the powers of the City Council and/or Planning and Zoning Commission to initiate a text amendment.

#### 3.8.3 PROCEDURES. (See Figure 3.8-1)

**3.8.3.1** Zoning Text Amendment applications shall be submitted for review by the appropriate reviewing departments and a hearing scheduled for the next available meeting of the Planning and Zoning Commission. Notice of the public hearing shall be provided as set forth in § 3.1.5.1 of this Ordinance. The zoning amendment review process is illustrated in Figure 3.8-1.

**3.8.3.2** A majority vote is required for the Planning and Zoning Commission to recommend approval of a text amendment.

**3.8.3.3** Upon a recommendation of a zoning text amendment, the Administrator shall schedule the application for hearing before the City Council. The City Council shall approve or deny the zoning text amendment by a majority vote.

#### 3.8.4 STATEMENT OF REASONABLENESS AND CONSISTENCY

Prior to making a decision to adopt or deny a zoning text amendment, the Planning and Zoning Commission and, if applicable, the City Council shall adopt a statement in accordance with NCGS §§ 160D-604 and 160D-605 that:

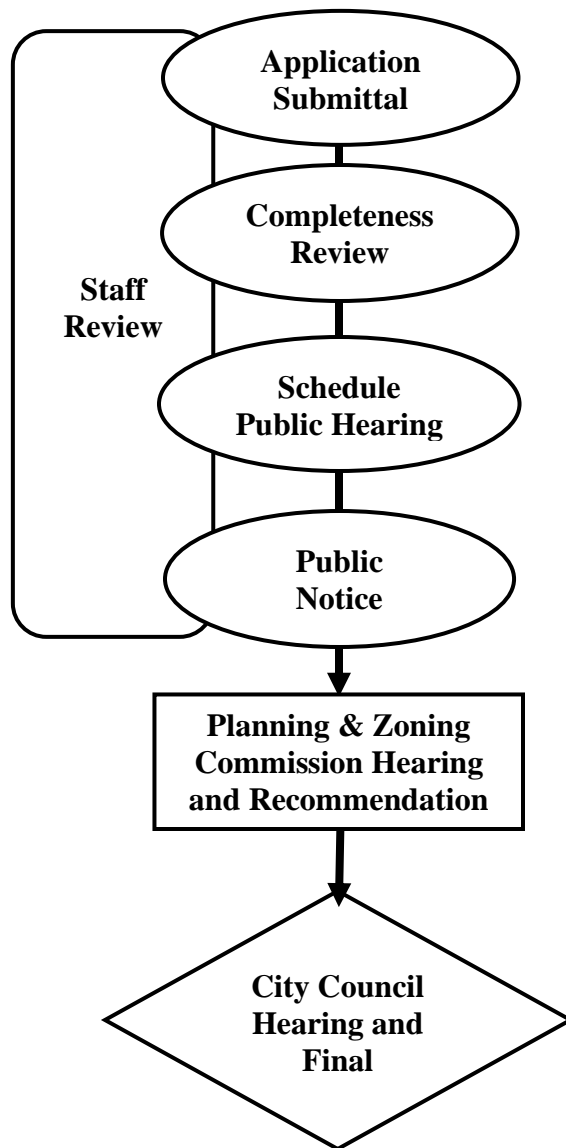
**3.8.4.1** Explains why the decision is reasonable and in the public interest; and

**3.8.4.2** States that the amendment is either (i) consistent with the Comprehensive Plan, or (ii) inconsistent with the Comprehensive Plan.

#### 3.8.5 SCOPE OF APPROVAL.



**Figure 3.8-1 – ZONING TEXT AMENDMENT REVIEW PROCESS**



# ARTICLE 4 ZONING DISTRICTS AND DIMENSIONAL REGULATIONS

*Summary: This Article divides the City into districts for the purpose of regulating the use of lands within the districts, as well as dimensional requirements and other standards applicable to construction, reconstruction and alterations of such uses. This Article establishes a series of basic zoning districts, overlay districts (Airport Overlay, Floodplain Overlay, Watershed Protection Overlays, Corridor Overlays, Historic Overlays, and River/Stream Overlays) within which additional standards may apply, and “floating zones” (PUD, TND, and TOD districts) which may be designated by request. Refer to Article 5 for additional regulations applicable to particular uses.*

## TABLE OF CONTENTS

SECTION	PAGE
4.1 PURPOSE .....	4-2
4.2 ESTABLISHMENT OF ZONING DISTRICTS .....	4-3
4.3 ZONING DISTRICT PURPOSE STATEMENTS .....	4-4
4.4 ZONING MAP .....	4-8
4.5 DISTRICT BOUNDARIES .....	4-9
4.6 USE REGULATIONS .....	4-10
4.7 DIMENSIONAL AND DENSITY REGULATIONS .....	4-12
4.8 RESERVED .....	4-15
4.9 PLANNED DEVELOPMENT (PUD) .....	4-16
4.10 TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND) DISTRICT .....	4-20
4.11 TRANSIT-ORIENTED DEVELOPMENT (TOD) DISTRICT .....	4-31
4.12 (RESERVED) .....	4-34
4.13 AIRPORT OVERLAY (AOD) DISTRICT .....	4-35
4.14 FLOODPLAIN PROTECTION OVERLAY (FPOD) DISTRICT .....	4-40
4.15 RIVER/STREAM OVERLAY (RSOD) DISTRICT .....	4-54
4.16 WATERSHED PROTECTION OVERLAY (WPOD) DISTRICT .....	4-56
4.17 MANUFACTURED HOME OVERLAY (MHOD) DISTRICT .....	4-65
4.18 PUBLIC INTEREST DEVELOPMENT (PID) DISTRICT .....	4-67

## **4.1. PURPOSE STATEMENT FOR ZONING DISTRICTS.**

### **4.1.1. Purpose.**

The City is hereby zoned and divided into districts.  
The purpose of establishing these districts is:

- 4.1.1.1.** To implement the Comprehensive Plan;
- 4.1.1.2.** To promote the health, safety, morals, or the general welfare;
- 4.1.1.3.** To provide for the orderly growth and development of the City and for the efficient use of our resources (land, water, roads, etc.);
- 4.1.1.4.** To lessen congestion in the streets;
- 4.1.1.5.** To secure safety from fire, panic, and other dangers.
- 4.1.1.6.** To facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

**4.2. ESTABLISHMENT OF ZONING DISTRICTS.**

**4.2.1. PURPOSE AND INTENT.**

In accordance with the requirement of NCGS § 160A-382 that zoning regulation be by districts, the City, as shown on the Official Zoning Map accompanying this Ordinance and incorporated herein by this reference, is hereby divided into the following zoning districts which shall be governed by all of the uniform use and area requirements of this Ordinance, the respective symbol for each type of district being set forth opposite its title:

- AG Agricultural District
- RE Rural Estate District
- RL Residential Low Density
- RM-1 Residential Medium Density
- RM-2 Residential Medium Density
- RV Residential Village
- RC Residential Compact
- B-1 Neighborhood Commercial/Office District
- O-I Office-Institutional District
- CC City Center District
- C-1 Light Commercial and Office District
- C-2 General Commercial District
- CD Campus Development District
- I-1 Light Industrial District
- I-2 Heavy Industrial District
- PID Public Interest District
- PUD Planned Unit Development District
- TND Traditional Neighborhood Development District
- TOD Transit Oriented Development District

**4.2.2. OVERLAY DISTRICTS.**

In accordance with the authority provided by NCGS § 160A-382, the City hereby establishes the following overlay districts which shall be governed by all of the uniform use and area requirements of this Ordinance. Within these overlay districts, additional requirements are imposed on certain properties within one or more underlying general or conditional zoning districts. The symbol for each type of district is as follows:

- AO Airport Overlay District
- H Historic Overlay District
- F Flood Plain Overlay District
- MH-1 Manufactured Home Overlay
- MH-2 Manufactured Home Overlay
- CCTPOD Coddle Creek Thoroughfare Protection Overlay District

**4.2.3. CONDITIONAL ZONING DISTRICTS.**

In addition to the base zoning districts established in § 4.2.1, above, the following conditional zoning districts are established which correspond to the above-referenced base zoning districts, and which are identical to the base zoning districts with the exception that a site plan is required as a prerequisite to any use or development therein, as provided for in this Article and in § 3.4 of this Ordinance.

- AG-CZ Agricultural Conditional Zoning District
- RE-CZ Rural Estate Conditional Zoning District
- RL-CZ Residential Low Density Conditional Zoning District
- RM-1-CZ Residential Medium Density Conditional Zoning District
- RM-2-CZ Residential Medium Density Conditional Zoning District
- RV-CZ Residential Village Conditional Zoning District
- RC-CZ Residential Compact Conditional Zoning District
- B-1-CZ Neighborhood Commercial/Office District Conditional Zoning District
- CC-CZ City Center Conditional Zoning District
- C-1-CZ Light Commercial and Office District Conditional Zoning District
- C-2-CZ General Commercial District Conditional Zoning District
- CD-CZ Campus Development Conditional Zoning District
- I-1-CZ Light Industrial District Conditional Zoning District
- I-2-CZ Heavy Industrial District Conditional Zoning District
- PUD-CZ Planned Unit Development District
- TND-CZ Traditional Neighborhood Development District
- TOD-CZ Transit-Oriented Development District
- PID-CZ Public Interest Development District

**4.2.4. ADDITIONAL ZONING DISTRICTS.**

Additional zoning districts may be added from time to time upon the recommendation of the Planning and Zoning Commission to the City Council pursuant to § 3.3 of this Ordinance.

### **4.3. ZONING DISTRICT PURPOSE STATEMENTS**

#### **4.3.1. PURPOSE STATEMENT.**

The purpose of this Article is to implement the land use policies of the Comprehensive Plan. Pursuant to NCGS § 160-A-383, all zoning ordinances or regulations adopted pursuant to this Ordinance shall be consistent with the Comprehensive Plan and any specific plans of the City Council, if any, as adopted under NCGS Article 19 of Chapter 160A. This Section describes the relationship between the various zoning districts and the Comprehensive Plan and a summary of each development district in tabular form. However, to the extent that there is any inconsistency between the tabular summary and the specific provisions of § 4.7 et seq. of this Ordinance, the provisions of § 4.7 et seq. shall prevail.

#### **4.3.2. PURPOSE STATEMENTS FOR BASE ZONING DISTRICTS.**

##### **4.3.3. AG AGRICULTURAL DISTRICT.**

The AG (Agricultural) district is established to provide areas for low intensity agricultural operations and very-low density single-family residential home construction. AG zoning is intended to provide short-term protection and preservation of open space, farmland and rural areas from premature land subdivision and land development prior to the installation of municipal utilities. Furthermore, the AG district is intended to be a “holding zone” designed to facilitate orderly growth and development in areas expected to experience increased urbanization over time.

##### **4.3.4. RE RURAL ESTATE.**

The RE district is established to provide areas for low density single family uses, with a maximum of one (1) dwelling unit per acre. Property zoned RE should include only those tracts which abut or are in close proximity to existing large-lot single family development, making RE an appropriate transition district between rural, agricultural, and suburban uses.

##### **4.3.5. RL RESIDENTIAL LOW DENSITY DISTRICT.**

The RL district is established to provide areas for low density single family uses, with a maximum of two (2) dwelling units per acre, which may provide buffers between the agricultural and RE classifications and the higher density areas of the City. It includes flexible density and minimum lot size requirements in order to

allow for market and design flexibility while preserving the neighborhood character and permitting applicants to cluster development in order to preserve environmentally sensitive and agricultural land areas.

##### **4.3.6. RM-1 RESIDENTIAL MEDIUM DENSITY DISTRICT.**

The RM-1 district is established to provide areas for medium density, single-family residential uses, with a maximum of three (3) dwelling units per acre, where adequate public facilities and services exist with capacity to serve development. Residential Medium Density provides flexible minimum lot size and density requirements in order to allow for market and design flexibility while preserving the neighborhood character and permitting applicants to cluster development in order to preserve environmentally sensitive and agricultural land areas.

##### **4.3.7. RM-2 RESIDENTIAL MEDIUM DENSITY DISTRICT.**

The RM-2 district is established to provide areas for medium density, single-family residential uses, with a maximum of four (4) dwelling units per acre, where adequate public facilities and services exist with capacity to serve development. Residential Medium Density provides flexible minimum lot size and density requirements in order to allow for market and design flexibility while preserving the neighborhood character and permitting applicants to cluster development in order to preserve environmentally sensitive and agricultural land areas.

##### **4.3.8. RV RESIDENTIAL VILLAGE DISTRICT.**

The RV district is established to provide areas for detached and attached single family homes, with a maximum of eight (8) dwelling units per acre, in areas where large-lot development is discouraged and adequate public facilities and services are available. RV supports the principles of concentrating urban growth and reinforcing existing community centers. Design controls are required for single-family attached projects as set forth in Article 11.

##### **4.3.9. RC RESIDENTIAL COMPACT DISTRICT.**

The RC district is established to provide a high density residential district allowing compact development consisting of the full spectrum of residential unit types

where adequate public facilities and services are available. Unit types may include single family attached dwellings, townhouses, duplexes and apartments, with a maximum of fifteen (15) dwelling units per acre except as otherwise provided in this Ordinance. RC may serve as a transitional district between lower density residential and low intensity commercial uses. This district is intended to allow a mix of residential unit types and densities to provide a balance of housing opportunities while maintaining neighborhood compatibility. Design controls are required for multi-family and/or single-family attached projects as set forth in Article 11.

**4.3.10. B-1 NEIGHBORHOOD COMMERCIAL DISTRICT.**

The B-1 district is established to provide small areas for office and professional services combined with shopfront retail uses, shops for artisans and craftsmen, designed in scale with surrounding residential uses. This district provides a balance of residential and non-residential land use opportunities reflecting the economic needs of residents and business owners. Location of B-1 districts should include: (a) Lots, parcels or tracts located at the intersections of collector streets, including collector/collector and minor thoroughfare/collector, except where an existing building or structure used as permitted in the B-1 District has been established prior to the adoption of this Ordinance on a parcel subject to an application for rezoning. The distance shall be measured between the closest boundaries of the two (existing and proposed) districts

**4.3.11. CC CITY CENTER DISTRICT.**

The CC district is established to provide concentrated downtown retail, service, office, industrial and mixed uses (including residential uses) in the existing central business districts. Shopping centers are permitted, but urban design standards as set forth in Article 11 are required in order maintain a neighborhood commercial scale, to promote pedestrian activity, and to maintain the unique character of the center. Pedestrian circulation is required as are common parking areas. The CC district promotes the long-term vitality of the central business districts. No rezoning to a CC or a CC-CU District shall be approved unless the lot, parcel or tract subject to the application adjoins an existing CC, or CC-CU zoning district.

**4.3.12. O-I OFFICE AND INSTITUTIONAL DISTRICT.**

**4.3.12.1.**The Office and Institutional District is established to provide for agencies and offices rendering specialized services and traditional institutional functions (both public and private) including, but not limited to, governmental facilities, cultural and recreational facilities, educational facilities and charitable institutions. To protect the low intensity character of this district, retail and wholesale trade are prohibited as permitted principal uses.

**4.3.13. C-1 LIGHT COMMERCIAL DISTRICT.**

The C-1 district is established to provide areas for indoor retail, service and office uses. The purpose of the C-1 district is to accommodate well-designed development sites that provide excellent transportation access, make the most efficient use of existing infrastructure and provide for an orderly transition between uses. C-1 Zones should be located in areas which continue the orderly development and concentration of moderate commercial uses. C-1 zones should be located on or within proximity to major and/or minor thoroughfares. This shall not apply where an existing building or structure used as permitted within the C-1 District has been established prior to the adoption of this Ordinance on a parcel subject to an application for rezoning.

**4.3.14. C-2 GENERAL COMMERCIAL DISTRICT.**

The C-2 district is established to provide areas for general commercial activities designed to serve the community such as shopping centers, repair shops, wholesale businesses, and retail sales with limited outdoor display of goods and limited outdoor operations. This district promotes a broad range of commercial operations and services necessary for large regions of the County, providing community balance. Rezoning to the C-2 zone should be avoided adjacent to any Single Family Residential Zoning District (RE, RL, RM-1 or RM-2). C-2 zones should be located on or within proximity to major thoroughfares. This shall not apply where an existing building or structure used as permitted within the C-2 District has been established prior to the adoption of this Ordinance on a parcel subject to an application for rezoning.

**4.3.15. CD CAMPUS DEVELOPMENT DISTRICT.**

The CD district is established to provide for a high-quality mixture of employment and/or institutional uses of varying types in a single coordinated development. The district may include light manufacturing, office, warehousing, distribution, institutional and limited retail and service uses in an attractive campus or corporate park setting with architectural design standards, landscaping, screening and buffering. It is not intended that this district be used to accommodate single-use, single building developments which can be located in other zoning classifications. Development within the district shall conform to specific supplemental design standards of Article 11. Further, the district provides significant flexibility in internal arrangement of uses while assuring a satisfactory integration of the district into the surrounding area. Emphasis will be placed on the project's relationship to existing and future public facilities such as roads and greenways. The district is intended for application in select areas of the City primarily for new development on previously undeveloped land. However, the district may also be applied to areas which are appropriate for redevelopment or conversion where it is apparent that all of the development standards may be fulfilled.

**4.3.16. <sup>(1)</sup>CD-R CAMPUS DEVELOPMENT – RESIDENTIAL DISTRICT.**

The CD-R District is established to provide small areas within existing CD Developments for high density residential. The district allows compact residential development consisting of condos, townhouses, and apartments, with a maximum of twenty-two (22) dwelling units per acre where adequate public facilities and services are available, except as otherwise provided in this Ordinance. Development within the district shall conform to the specific design controls required for multi-family and/or single-family attached projects set forth in Article 11.2. The CD-R District shall not be approved unless the lot, parcel, or tract subject to the application adjoins an existing CD Campus Development zoning district and is coordinated with the adjacent CD project.

**4.3.17. I-1 LIGHT INDUSTRIAL DISTRICT.**

The I-1 district is established to provide for areas that contain a mix of light manufacturing uses, office park and limited retail and service uses that service the industrial uses in an attractive business park setting with proper screening and buffering, all compatible

with adjoining uses. I-1 districts should include areas which continue the orderly development and concentration of light industrial uses. I-1 zones should be located so as to have direct access to or within proximity to a major or minor thoroughfare. This shall not apply where an existing building or structure used as permitted within the I-1 District has been established prior to the adoption of this Ordinance on a parcel subject to an application for rezoning.

**4.3.18. I-2 GENERAL INDUSTRIAL DISTRICT.**

The I-2 district is established to provide for areas of heavy and concentrated fabrication, manufacturing and industrial uses which are suitable based upon adjacent land uses, access to transportation and the availability of public services and facilities. It is the intent of this district to provide an environment for industries that is unencumbered by nearby residential or commercial development. I-2 should be located in areas where conflicts with other uses can be minimized to promote orderly transitions and buffers between uses. The I-2 district is established in order to provide sites for activities which involve major transportation terminals, and manufacturing facilities that have a greater impact on the surrounding area than industries found in the I-1 district. I-2 districts should not be located adjacent to any property that is zoned for residential use, including mixed-use developments with an adjacent residential designation. I-2 zones should be restricted so as to have direct access to or within proximity to a major or minor thoroughfare. This shall not apply where an existing building or structure used as permitted within the I-2 District has been established prior to the adoption of this Ordinance on a parcel subject to an application for rezoning.

**4.3.19. STANDARDS FOR BASE DISTRICTS.**

**4.3.19.1.** Permitted Uses are listed in Table 4.6-1. Uses permitted by right, uses permitted as conditional uses and uses for which there are supplemental use regulations in Article 5 are indicated in the table. Accessory Uses shall be regulated in accordance with § 5.2 of this Ordinance.

**4.3.19.2.** Dimensional and density regulations, including setbacks, are listed in Table 4.7-1 and described in detail in § 4.7.

**4.3.19.3.** Standards for landscaping, screening and

buffering are described in detail in Article 7.

**4.3.19.4.** Standards for off-street parking and loading facilities, and vehicular access are described in detail in Article 8 <sup>(1)</sup>and the Land Development Standards Manual (LDSM).

**4.3.19.5.** Environmental control regulations, including those for stormwater and soil erosion and sedimentation control are described in detail in Article 9 <sup>(1)</sup>and the Land Development Standards Manual (LDSM).

**4.3.19.6.** Design and improvement standards for some types of development are regulated in accordance with Article 11. In addition, Article 11 contains specific design standards for the CC Center City District, the CD Campus Development District, and the I-1 Light Industrial District that are unique to the respective districts.

**4.3.19.7.** Sign regulations are described in detail in Article 12.

**4.3.19.8** Adequate public facilities standards are described in detail in Article 14.

**4.3.20. PURPOSE STATEMENT FOR OVERLAY ZONING DISTRICTS.**

The overlay zone creates special siting, use and compatibility issues which require use development regulations in addition to those found in the underlying zoning districts. If any regulation in an overlay zoning district requires lower densities, greater setbacks, or otherwise imposes greater standards than those required by the base zoning district, the more restrictive standard applies. See §§ 4.12 - 4.17 and §§ 15.1 - 15.3 for the purpose statements and regulations applicable to the overlay zoning districts.

**4.3.21. PURPOSE STATEMENTS FOR FLOATING ZONES.**

Certain floating zones, such as Cluster and Hamlet Developments, PUD, TND, TOD and PID are established in order to provide design flexibility and for special design regulations for mixed use development or large uses which provide special public benefits. The purpose statement for each floating zone is set forth in the regulations pertaining to the district. (See §§ 4.9-4.11, 4.18).

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(1) TA-2019-05 – City Council Approved 12/9/2019



## **4.4. ZONING MAP.**

### **4.4.1. BOUNDARIES OF ZONING DISTRICT**

The boundaries of zoning districts established by this Ordinance shall be designated on a map or maps entitled Official Zoning Map(s) of the City of Kannapolis. These maps and all references and dates shown thereon shall be certified by the Mayor.

specific modifications of the then-existing zoning regulations, and any approved final plans, unless and until the zoning classification of such property is amended pursuant to this Ordinance.

### **4.4.2. LOCATION OF OFFICIAL ZONING MAP.**

**4.4.2.1.** The Official Zoning Map shall be located in the Office of the Administrator and a copy of the Official Zoning Map shall be kept on file with the City Clerk. Any changes thereto shall be clearly shown on the Official Zoning Map.

### **4.4.3. OFFICIAL ZONING MAP.**

The Official Zoning Map is hereby incorporated by reference as if set forth in its entirety herein, and may be referred to as Article Four, Section 4.4 of the UDO.

**4.4.2.2.** The Official Zoning Map shall bear a stamp showing the effective date of this Ordinance, shall be certified by the Administrator, shall be identified by the signature of the Mayor, shall be attested by the City Clerk, and bear the seal of the City under the words: "Official Zoning Map, City of Kannapolis, North Carolina". Said map is composed of a series of sheets properly identified as such, which shall be on file in the office of the Administrator, and shall be the official record of zoning status of areas within the City. Land within zoning districts on the Official Zoning Map shall be classified with a zoning district designation, which shall supersede any contrary designation on the Former Official Zoning Map. Regardless of the existence of any purported copy of the Official Zoning Map, the zoning map which shall be located in the office of the Administrator shall be the final authority as to current zoning status.

**4.4.2.3.** If a zoning district is eliminated and there is no corresponding zoning district classification on the Official Zoning Map, the property shall remain subject to all restrictions, regulations and conditions imposed under the zoning ordinance in effect at the time that the Former Official Zoning Map was effective unless and until the zoning classification of the property is amended pursuant to this Ordinance.

**4.4.2.4.** If a property is zoned to a Conditional Zoning District at the time of adoption of this ordinance, it shall remain subject to all terms, conditions, and restrictions of approval under the zoning ordinance in effect when the Conditional Zoning classification was approved, including any

## **4.5. DISTRICT BOUNDARIES.**

### **4.5.1. ZONING DISTRICT BOUNDARIES.**

Unless otherwise provided, zoning district boundaries shall be located on municipal corporate lines, parcel lines, natural boundary lines or on the center lines of highways, streets, alleys, or railroad rights-of-way. In cases where these lines are not used, the zoning district lines shall be as determined by using the scale of the Official Zoning Map. If a parcel of land is divided by a zoning district boundary line at the time of enactment of this Ordinance or by subsequent amendments thereto, the appropriate standards and uses for each zone shall apply on the portion of the parcel covered by that zone.

### **4.5.2. BOUNDARY OR LOCATION DISPUTES.**

Any dispute as to the boundary or location of property within a zoning district shall be resolved in accordance with the following:

**4.5.2.1.** When a district boundary is shown as approximately following a street, highway, alley, road, right-of-way, parkway, public utility right-of-way, railroad, stream or watercourse, the boundary shall be deemed to be the center line of such feature.

**4.5.2.2.** Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

**4.5.2.3.** Boundaries indicated as approximately following established municipal limits and county borders shall be construed as following such lines.

**4.5.2.4.** Boundaries indicated as separated from but approximately parallel to any of the features indicated in sections 4.5.2.1 through 4.5.2.3 above, or any landmarked or monumental line, shall be deemed to be parallel to the aforesaid center line or railroad track mid-point.

**4.5.2.5.** Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

**4.5.2.6.** Where a street, highway, railroad or other physical monument or marker on the ground, by which a boundary is determined, varies from that as shown on the Official Zoning Map, the physical

monument or marker located on the ground shall control.

**4.5.2.7.** Where physical features, such as flood plains, vary from those shown on the Official Zoning Map, or in other circumstances not covered by subsections 4.5.2.1 through 4.5.2.6 above, the Administrator shall determine the district boundaries. Any aggrieved person may appeal such determination to the Board of Adjustment, pursuant to § 3.6 of this Ordinance.

## 4.6. USE REGULATIONS.

### 4.6.1. GENERALLY.

**4.6.1.1.** No use shall be permitted pursuant to this Ordinance, and no Development Permit authorizing a use may be authorized, issued, or approved by any officer, official, or agency, unless said use is listed as a permitted or conditional use in this Section 4.6 and all applicable permits and approvals have been issued by the agency or official with final decision-making authority. Those uses permitted as Primary Uses or Buildings within each zoning district shall be those uses listed in the Use Matrix (Table 4.6-1) and as forth in § 4.6.2, below.

**4.6.1.2.** Permitted Accessory Uses are set forth in § 5.2 of this Ordinance, while permitted Temporary Uses are set forth in § 5.22 of this Ordinance. If a Primary use is listed as prohibited in a Zoning District, but is permitted as an Accessory Use in § 5.2 of this Ordinance, the use is permitted only as an Accessory Use to a Principal Use or Principal Building on the same lot, tract or parcel. Such uses cannot be established unless and until there is a Principal Use or Principal Building on the same lot, tract or parcel to which that use is accessory.

### 4.6.2. PRIMARY USES.

**4.6.2.1. Use Matrix.** No zoning clearance permit shall be issued for a Primary use not specifically mentioned or described by category in the Use Matrix (Table 4.6-1), Evaluation of these uses shall be as set forth in § 4.6.2.2, below. Notwithstanding any provision of this Section to the contrary, uses which are preempted by state statute are not listed in the Use Matrix, and may be permitted in accordance with state law.

**4.6.2.2. PUD, TND, TOD and PID Excluded.** Uses in the PUD, TND, TOD, and PID districts shall be governed by their respective Sections in this Ordinance and not be included in Table 4.6-1.

**4.6.2.3. Use Determinations.** The Administrator shall make a determination if a use not mentioned can reasonably be interpreted to fit into a use category where similar uses are described.<sup>(1)</sup> It is the intent of this Article to group similar or compatible land uses into specific zoning districts, either as permitted uses or as uses

authorized by a conditional use permit. Uses not listed as a permitted or conditional use shall be presumed to be prohibited from the applicable zoning district. In the event that a particular use is not listed in the Use Matrix, and such use is not listed as a prohibited use and is not otherwise prohibited by law, the Administrator shall determine whether a materially similar use exists in this Section. Should the Administrator determine that a materially similar use does exist, the regulations governing that use shall apply to the particular use not listed and the Administrator's decision shall be recorded in writing. Should the Administrator determine that a materially similar use does not exist, the matter may be referred to the Planning and Zoning Commission for consideration for amendment to this Ordinance to establish a specific listing for the use in question. The Administrator may determine that a use is materially similar if it falls within the same industry classification of the *North American Industry Classification Manual* (Executive Office of the President, Office of Management and Budget, 1997) ("NAICS") (subject to § 4.6.2.4, below), and if the proposed use does not generate trips exceeding other uses proposed in the zoning district by more than ten percent (10%), as determined by the Institute of Transportation Engineers, *Trip Generation* (5th ed., 1991), which documents are hereby incorporated by this reference. The Administrator may also refer to similar studies relating to trip generation for the specific use prepared by a licensed professional engineer associated with a firm listed on the NCDOT "register of Firms" pursuant to 19A NCAC 2E.0702.

**4.6.2.4. NAICS numbers.** In order to assist in interpretation of the Use Matrix, the NAICS numbers follow each use in Table 4.6-1. In interpreting the Use Matrix, the following rules of construction shall apply:

**4.6.2.4.1.** If a use is listed for a specific classification, while a more general classification within the same industry classification is also listed for another use, the specific classification governs the use.

**4.6.2.4.2.** Some uses are listed separately but fall within the same NAICS classification. The

(1) City Council approved 4/23/2001

uses within one such classification are not permitted in all of the zoning districts as the others simply because they fall within the same NAICS classification.

**4.6.2.5. Matrix Symbols.** The use categories listed in the first column of Table 4.6-1 are defined in this Ordinance, the NAICS, or in other resources cross-referenced in this Ordinance.

**P Permitted Uses.** The letter “P” indicates that the listed use is permitted by-right within the zoning district. Permitted uses are subject to all other applicable standards of this Ordinance.

**S Permitted Uses with Supplemental Regulations.** The letter “S” indicates that the listed use is either a use permitted by-right or a conditional use within the zoning district. However, the use is also subject to specific design regulations as prescribed in Article Five and/or Article Eleven. The specific reference is indicated in (§ \_\_\_) behind a specific use as listed in the Use column of Table 4.6-1.

**C Conditional Uses.** The letter “C” indicates that the listed use is permitted within the respective zoning district only after review and approval of a Conditional Use Permit, in accordance with the review procedures of § 3.5 of this Ordinance. Conditional Uses are subject to all other applicable standards of this Ordinance and those requirements that may reasonably be imposed by the City consistent with the criteria set forth in § 3.5 of this Ordinance and any Supplementary Use Regulations which apply to said use.

**– Prohibited Uses.** A dash (“–”) indicates that the listed use type is not allowed within the respective zoning district, unless it is otherwise expressly allowed by other regulations of this Ordinance.

#### **4.6.3. ACCESSORY USES, SIGNS, AND TEMPORARY USES.**

**4.6.3.1.** Regulations pertaining to the permissible location of Accessory Uses, Signs, and Temporary Uses are set forth in the Accessory Use Regulations (Article 5, § 5.2), the Sign Regulations (Article 12),

and the Temporary Uses Regulations (Article 5, § 5.22) of this Ordinance.

**4.6.3.2.** If a use is listed as prohibited in a Zoning District, but is permitted as an Accessory Use in § 5.2 of this Ordinance, the use is permitted only as an Accessory Use to a Principal Use or Principal Building on the same lot, tract or parcel. Such uses cannot be established unless and until there is a Principal Use or Principal Building on the same lot, tract or parcel to which that use is accessory

## 4.7. DIMENSIONAL AND DENSITY REGULATIONS.

### 4.7.1. PURPOSE.

This Section establishes minimum and maximum standards for the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings pursuant to NCGS §160A-381(a).

#### 4.7.1.1. PUD, TND and PID Excluded.

Developments in the PUD, TND, and PID districts shall be governed by their respective Sections in this Ordinance and not be subject to the dimensional and density regulations of this § 4.7 or Table 4.7-1.

### 4.7.2. DENSITY IN RESIDENTIAL DISTRICTS.

This Section is applicable only to districts in which residential dwelling units are permitted, as listed in Table 4.6-1. For conventional developments, density shall be regulated by the minimum lot area in accordance with Table 4.7-1. For cluster developments, see § 4.8.

### 4.7.3. DENSITY IN NONRESIDENTIAL DISTRICTS.

Unless otherwise stated, all references to non-residential intensity shall refer to Impervious Surface Ratio.

### 4.7.4. DIMENSIONAL STANDARDS FOR LOTS.

4.7.4.1. No permit for development shall be issued for a lot that does not meet the lot area requirements of Table 4.7-1 of this Ordinance except in the following instances:

4.7.4.1.1. Lots for public utilities, using land or an unoccupied building of generally less than 2,500 square feet of site area, are exempt from minimum lot standards. Exempted utility lots which exceed 2,500 square feet may be permitted subject to review and approval by the Administrator.

4.7.4.1.2. Nonconforming Lots of Record as defined in § 13.1.2 are exempt from minimum lot standards. Permits may be granted for structures to be built on a nonconforming lot, except that such

structure shall conform to all dimensional setbacks as required in Table 4.7-1 and as set forth in § 4.7.5.1, below.

### 4.7.5. DIMENSIONAL STANDARDS FOR STRUCTURES.

#### 4.7.5.1. Setbacks.

4.7.5.1.1. Setbacks for buildings or structures are measured as the area between the furthest projection of a principal structure and the property line of the lot on which the structure is located, except as modified by the standards of this Section. Setbacks shall be unobstructed from the ground to the sky except as specified in this Section. Building setbacks for each zoning district are set forth in Table 4.7-1.

<sup>(1)</sup>Setbacks shown on a preliminary plat approved prior to a change in dimensional standards, shall be permitted for subsequent final plats, as long as the initial preliminary plat is valid (according to Table 13.3-2 of this Ordinance) at the time of filing the first final plat.

4.7.5.1.2. The following features may encroach into a required building setback:

- Bay windows or other structural overhang, not to exceed three (3) feet;
- Chimneys, not to exceed two (2) feet;
- Heating and cooling units, not to exceed (3) feet;
- Overhanging roof, eave, gutter, cornice, or other architectural feature and awnings, not to exceed 2 feet;
- Steps, stairs or fire escapes (non-enclosed), not to exceed 6 feet;
- Uncovered, unenclosed decks, terraces, stoops or porches, but in no case closer than five (5) feet to any property line;
- Fences and Garden/Yard Walls;
- Any accessory building or use customarily incidental to the permitted primary use or building as allowed in accordance with § 5.2 "Accessory Uses and Structures".

4.7.5.1.3. **Setbacks for Lots with more than One Street Frontage.** Structures shall meet the

front yard setback from all abutting street rights-of-way unless otherwise provided in this Ordinance. For undeveloped lots, the developer has the option to determine which yard shall be considered the “front” so long as the structure to be constructed on said lot shall have its front facing the same yard. For the purposes of applying setbacks to existing developed lots, the front yard setback shall be defined as the yard with the shortest amount of street frontage. All other frontages shall be considered street side yards.

belfries, cupolas, spires, domes, monuments, airway beacons, structures for essential services, windmills, flagpoles, chimneys, chimney flues, <sup>(1)</sup>church steeples, municipal water towers, or government buildings.

Height limits shall not apply to any bulkhead, elevator, water tank, or to any similar structure or necessary mechanical appurtenance extending above the roof of any building if such structure does not occupy more than 33 percent of the area of the roof.

**4.7.5.1.4. Provisions for Reduced Front Yard Setback in Developed Areas.** The minimum front yard setback may be reduced for any lot where the average established front setback on developed lots located within 300 feet on each side of such lot, and fronting on the same street as such lot, is less than the minimum required setback. In such cases, the front setback on such a lot may be less than the required front setback but not less than the average of the existing front setbacks on the developed lots within 300 feet of each side.

**4.7.5.2. Height regulations.**

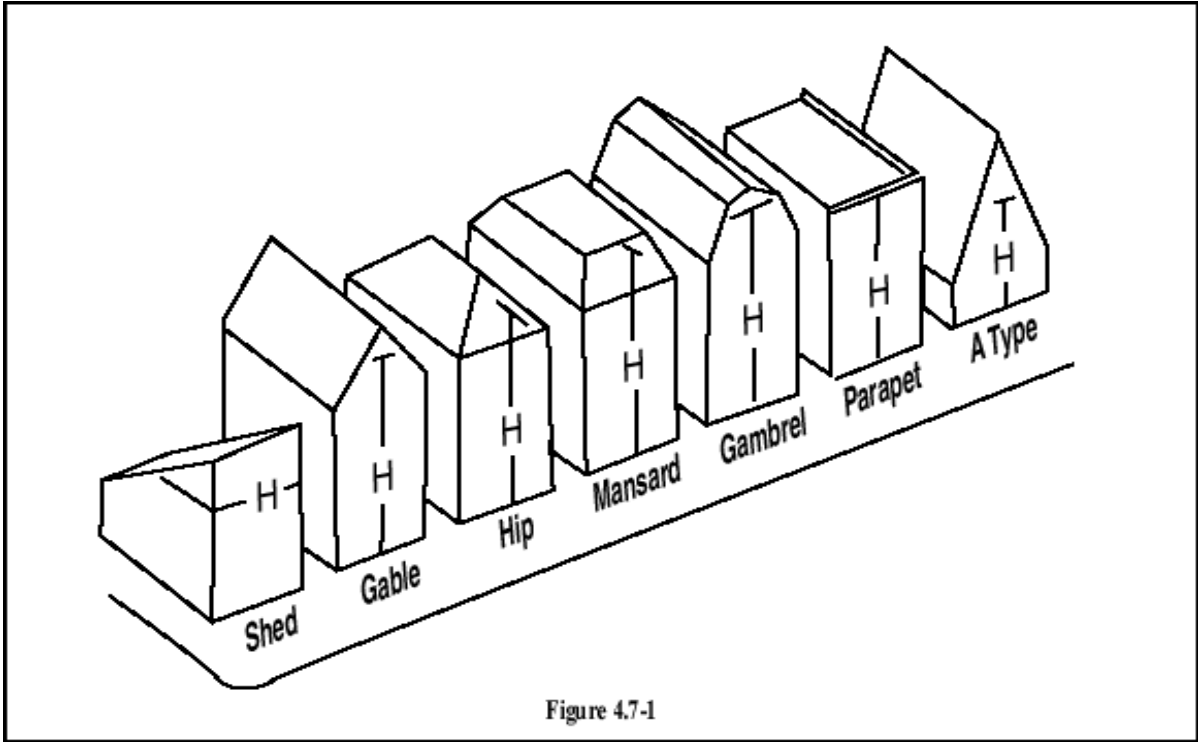
**4.7.5.2.1.** Building height is measured as the vertical distance between the average natural grade between the lowest and highest grades along the foundation and 1) the average height level between the eaves and ridge line of a gable, hip or gambrel roof; or 2) the highest point of a mansard roof; or 3) the highest point of the coping of a flat roof. (See Figure 4.7-1)

**4.7.5.2.2.** The construction, maintenance, or establishment of any building, tree, smokestack, chimney, flagpole, wire, tower or other structure or appurtenances thereto, which may constitute a hazard or obstruction to safe air navigation, landing, or take-off of aircraft near an airport, is prohibited. This § 4.7.5.2.2 is not intended to regulate height of structures in the AO Airport Overlay zoning district (see § 4.13). The AO Airport Overlay zone regulations shall govern the height of all structures within the boundaries of the Airport Overlay zoning district.

**4.7.5.2.3. Exceptions to Height Restrictions.** Zoning district height limits shall not apply to

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(1) TA-2008-07 – City Council approved 3/22/2008



**4.8. <sup>(1)</sup>RESERVED**

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<sup>(1)</sup> TA-2014-01 – City Council approved 3/24/2014 (Negated City Council approved 1/27/2003)



## 4.9. PLANNED UNIT DEVELOPMENT (PUD).

### 4.9.1. PURPOSE

The purpose of the Planned Unit Development district (PUD) is to provide for the orderly development of land with a mix of land uses and intensity. PUD zoning is intended to permit flexibility in the design, construction and processing of residential and non-residential developments of a quality that could not be achieved under conventional zoning approaches. While the conventional zoning districts and the requirements of those districts set forth in the UDO are reasonable, there may be circumstances in which it is in the community's best interests to allow unique and/or creative designs and techniques that:

- 4.9.1.1. promote the most appropriate use of a parcel,
- 4.9.1.2. allow diversification of use,
- 4.9.1.3. facilitate the adequate and economical provision of streets, parks, open space, schools, storm drainage and sewer and water utilities,
- 4.9.1.4. preserve and utilize open space,
- 4.9.1.5. offer recreational opportunities close to residential uses,
- 4.9.1.6. enhance neighborhood appearance,

### 4.9.2. PROCESSING PROCEDURES.

A PUD shall be considered a conditional zoning district and shall be processed in accordance with § 3.4 of this Ordinance. Applications for PUD are also eligible for the expedited rezoning process as prescribed in § 3.3.

### 4.9.3. PERMITTED USES.

4.9.3.1. The uses permitted in a PUD district shall be the permitted uses as set forth in the approved site plan.

4.9.3.1.1. The site plan shall designate land use categories consistent with the zoning district classifications of this Ordinance. Within each land use category, proposed uses shall be subject only to the permitted uses in Tables 4.6-1 for each land use category and the maximum density for each land use category in Table 4.7-1. No conditional use permit shall be required for any

conditional use listed for said land use category in Tables 4.6-1 separate from that issued for the PUD itself.

### 4.9.4. LAND USE COMPOSITION.

4.9.4.1. No site plan for a PUD district shall be approved unless the following minimum percentages of land uses are provided for within the boundaries of the district.

4.9.4.1.1. moderate density residential (4-7 units per acre) = 20%

4.9.4.1.2. high density residential (8 or more units per acre) = 10%

4.9.4.1.3. Open space shall be required in accordance with § 6.5 of this Ordinance.

### 4.9.5. DESIGN STANDARDS.

4.9.5.1. The land uses within a PUD shall not be subject to any of the dimension and density provision of § 4.7, except that a perimeter setback of 25 feet shall be maintained.

4.9.5.2. PUD designs shall be subject to the recommended design elements for Table 4.9-1. The design elements in Table 4.9-1 are for consideration in the design of a Planned Unit Development and shall be considered as criteria for approval. This is not to state that all of the design elements of Table 4.9-1 shall be included in a PUD, rather all elements shall be considered and those that are considered appropriate and reasonable should be included.

### 4.9.6. PROFESSIONAL DESIGN TEAM REQUIRED.

An applicant for a PUD approval shall certify, in writing at the time of application, that a member of each of the following professions will be used in the planning and design process for the proposed development:

4.9.6.1. Project planning and design by a licensed North Carolina architect, licensed North Carolina landscape architect planner certified by the American Institute of Certified Planners (AICP), or a registered land surveyor;

**4.9.6.2** Landscaping design by a certified nurseryman or licensed North Carolina landscape architect; and,

**4.9.6.3** Site engineering by a North Carolina Registered Engineer.

**4.9.7. MODIFICATION OF APPROVED FINAL SITE PLAN.**

Following approval of the CU district and the Conditional Use Permit, no modification of the land use category designations, design standards, uses, densities or any other condition of the site plan shall be permitted unless a new Conditional Use Permit is approved. However, the Administrator may approve the following modifications in writing without a new site plan:

**4.9.7.1.** A change in the location of not more than ten percent (10%) of the dwelling units or floor area;

**4.9.7.2.** A change in the location of any part of open space acreage of not more than ten percent (10%) of the gross acreage;

**4.9.7.3.** A change in the location of any part of proposed street alignment and lot configuration of not more than ten percent (10%) of the gross acreage;

**4.9.7.4.** An increase or decrease of any setback by not more than five (5) feet for setbacks of less than fifty (50) feet, or ten percent (10%) for setbacks exceeding fifty (50) feet.

**Table 4.9-1. - Recommended Design Elements for a PUD Planned Unit Development**

As indicated in § 4.9.1, PUD zoning is intended to permit flexibility in the design, construction and processing of residential, commercial and/or industrial developments of a quality that could not be achieved under conventional zoning concepts. Therefore, the following elements are recommended for consideration in the design of a Planned Unit Development and shall be considered as criteria for approval. This is not to state that all of the following elements shall be included in a PUD, rather all elements shall be considered and those that are considered appropriate and reasonable should be included.

***Architectural Elements***

- Building height, rhythm, articulation, massing and bulk are compatible with the individual site attributes and are compatible with the surrounding neighborhoods.
- Distinctive architectural details such as covered front entries, covered front porches, door and window details, roof overhangs, and/or parapet walls with cap features shall be provided on each dwelling, or principle structure. A variety of roofing colors, textures, and component shapes including shake shingle, shale, and wood compositions, should be provided.
- Significant architectural differences in the choice of elevations, roof lines, and exterior colors for each residential floor plan should be provided. Not more than three (3) adjacent homes should contain the same front facade, and not more than three (3) adjacent homes should contain the same rear facade visible from arterial street view, on any block front. Homes facing one another (across the street) shall not have the same facade. No adjacent home should contain the same elevation.
- Residential design guidelines are provided, which include a variety of conceptual standard plans, and may include: variation in building setbacks, detached garages, recessed garages if attached to the principal building and fencing alternatives.
- Garage fronts should be de-emphasized and not be the most prominent architectural feature of the house. This should be accomplished by providing side access garages, detached “in-line” garages, and/or L-shaped floor plans on not less than fifty percent (50%) of the lots. Garages should be recessed at least one car length in order to provide interest and relief from the street. The front elevation shall prominently feature an entrance for persons rather than automobiles with the garage area not to exceed forty percent (40%) of the front facades.

***Recreation Elements***

- Not less than 20 percent (20%) of the residential units are located within 660 feet of a pedestrian, equestrian and bicycle trail.
- Recreation and open space facilities should be aligned with the community parks and open space network, as provided in any locally adopted land use plans or parks and recreation master plans.
- Neighborhood scale recreation facilities and amenities should be provided which are functional, not retention/detention or basin-like in design. Retention basins used in conjunction with recreational facilities or amenities should be designed in accordance with the Stormwater Management Standards of this Ordinance. Such areas should include turf or landscaping within all areas not permanently covered with standing water.
- Gateway treatments may be incorporated at appropriate locations along an open space network.

**Table 4.9-1. - Recommended Design Elements for a PUD Planned Unit Development  
(continued)*****Transportation Elements***

- Park-and-ride lots may be incorporated with planned facilities.
- Bicycle lanes should be included along at least seventy percent (70%) of the linear frontage of all planned collector streets.
- Bicycle parking facilities should be provided for all uses except single family detached and duplex residences.
- A customized entrance may be provided at the entry street intersecting a thoroughfare or collector which features a waterfall, sculpture, monument signage, special landscaping, specialty pavement, enhanced fence wall details, boulevard median or other similar treatment.

***Landscaping and Buffering Elements***

- Higher density or intensity developments abutting lower density or intensity areas include buffering and should substantially mitigate any negative impacts consistent with the Landscaping Standards of this Ordinance.

***Other Design Considerations***

- Homeowner or property owners associations should be required to maintain all roadway/right-of-way landscaping, pedestrian-bicycle, and equestrian paths (arterial, collector and local as proposed) to the standards of this Ordinance.
- Areas designated for industrial land uses should be designed to create a campus-style environment.

## 4.10. The TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND).

### 4.10.1 PURPOSE AND INTENT.

**4.10.1.1** The TND option is designed to permit the development of land in a manner consistent with traditional neighborhoods. Its provisions adapt the urban conventions which were normal in the United States from colonial times until the 1940's. The TND ordinance prescribes the following physical conventions:

- The neighborhood is spatially understood and limited in size.
- Residences, shops, workplaces, civic buildings and parks are interwoven within the neighborhood, all in close proximity and connected by a system of sidewalks.
- The hierarchy, design and detailing of streets, serves equitably the needs of pedestrians, bicycles and automobiles.
- Carefully placed civic buildings and squares reinforce the identity of the neighborhood.
- Spatially defined squares and parks are distributed and designed as specialized places for social activity and recreation.
- Civic buildings provide places of assembly for social, cultural and religious activities, becoming symbols of community identity through their architectural clarity.
- Private buildings form a disciplined edge, spatially delineating the public street space and the private block interior.
- Architecture and landscape respond to the unique character of the region and traditional design principles with attention toward a classic sense of timelessness. Designs shall preserve the charm and unity of the neighborhood as a whole.
- By providing a full range of housing types and workplaces, residents of all ages are blended together, forming the bonds of an authentic community.
- The provision of comfortable public spaces such as streets and squares, residents may come to know each other to watch over their collective security.
- By bringing within walking distance most of the activities of daily living, including dwelling, shopping and working, the elderly

and the young gain independence of movement.

- The compact layout of TND reduces the requirements for infrastructure, automobile use and traffic congestion. By organizing appropriate building densities, public transit becomes a viable alternative mode for local travel.

**4.10.1.2** For further guidance on the principles set forth herein, the following documents may be useful to the applicant: Reid Ewing, *Best Development Practices: Doing the Right Thing and Making Money at the Same Time* (American Planning Association, 1996 & Florida Department of Community Affairs, 3d. Printing 1997); C. Alexander, et al., *A Pattern Language* (New York: Oxford University Press, 1977); R. Arendt, et al., *Rural by Design* (Chicago: American Planning Association, 1994); P. Calthorpe, *The Next American Metropolis: Ecology, Community, and the American Dream* (New York: Princeton Architectural Press, 1993); Duany, A. & Plater-Zyberk, E., eds., *Towns and Town-Making Principles* (1991); Duany, A. & Plater-Zyberk, E., "Zoning for Traditional Neighborhoods," *Land Development* (a publication of the National Association of Home Builders), vol. 5, no. 2 (Fall 1992), at 20-26; and A. Nelessen, *Visions for a New American Dream: Process, Principles, and Ordinance to Plan and Design Small Communities* (Jan. 1994); Michael Leccese and Kathleen McCormick, *Charter of the New Urbanism* (New York: McGraw-Hill, 1999); Werner Hegemann and Elbert Peets, *Civic Art 1922* (New York, Princeton Architectural Press, reprinted 1988).

**4.10.1.3** A set of Restrictive Covenants and Design Codes shall be established for each TND by the Developer and shall be binding on all property owners.

**4.10.1.4** A Property Owners Association, shall be formed to guide the growth, enforce the Restrictive Covenants, and govern the citizens of the TND.

**4.10.1.5** No parcel shall be removed from an approved and platted TND.

**4.10.1.6** This Section contains procedures and standards for the processing of TND's both in new subdivisions and site plan applications on large, undeveloped parcels (referred to as "Greenfield" sites), and on existing parcels surrounded by developed areas (referred to as "Infill" sites).

#### **4.10.2. TND DISTRICT DEFINED.**

**4.10.2.1.** <sup>(1)</sup>The TND district is hereby established as a floating zone and shall be processed as a zoning map amendment pursuant to § 3.3 and is eligible to be reviewed under the procedures for expedited rezoning pursuant to § 3.3 of this Ordinance.

**4.10.2.2.** <sup>(1)</sup>Applications for a TND district shall be classified as either (a) TND GREENFIELD (b) TND INFILL.

#### **4.10.3. APPLICATION PROCEDURES.**

**4.10.3.1.** The approval process for a TND is two steps:

**4.10.3.1.1.** First, the applicant shall seek a zoning map amendment to a TND district pursuant to § 3.3, with site design and architectural guidelines which supplement this Section.

**4.10.3.1.2.** Second, the applicant shall seek approval of a TND subdivision in accordance with the guidelines set forth in this Section. Such applications shall be labeled "TND Subdivision" and may be processed and approved in accordance with the subdivision plat approval procedures set forth in Article 6 of this Ordinance.

#### **4.10.4. <sup>(2)</sup>TND GREENFIELD.**

All applications for a TND Greenfield site shall comply with the following development parameters.

##### **4.10.4.1. Size and Location of Site.**

**4.10.4.1.1.** The minimum size of the site shall be forty (40) acres and the maximum size shall not exceed six-hundred forty (640) acres excluding areas devoted to greenways. Larger parcels shall be developed as multiple TNDs, each individually subject to all the provisions of this subsection. A TND may be located adjacent to, but shall not be bisected by, a thoroughfare.

**4.10.4.1.2.** The Site shall be divided into the following subareas:

- A Town Center consisting of civic, retail, office, and multi-family uses. The size of the Town Center is based on the size of the entire site (see § 4.10.7.8.1, below).
- A Neighborhood or series of neighborhoods consisting of blended multi-family and single-family uses, small-scale Retail and workshop uses, and public outdoor gathering places. It is the intent of this Ordinance that all areas within a Neighborhood are within a five-minute walking distance from edge to center (radius of 1320 feet).
- Greenway areas which provide a greenway system for the community, open space for community residents, and natural areas for stormwater management. Greenways may border and/or traverse the TND site.

##### **4.10.4.2. Land Use.**

**4.10.4.2.1.** Carefully blended land uses form the essence of Traditional Neighborhood Development. Uses within different land use categories, may abut at rear lot lines or at side lot lines and facing (subject to subsection 4.10.7.2.2, below). Open space, such as parks, squares, greens and plazas shall be considered similar land uses with all TND use categories.

**4.10.4.2.2.** The following land use categories may abut at side lot lines or face across a street, square, park or common space:

- Single family may abut multi-family and small scale institutional;
- Multi-family may abut single-family, office, civic, institutional or retail;
- Retail may abut multi-family, office, civic or institutional;
- Retail uses include shops, restaurants, entertainment and lodging.
- Office may abut retail, institutional, civic, or multi-family.
- Institutional may abut single family (if the institutional use is small in scale), multi-family, office, civic or retail.
- Institutional uses include privately owned uses including religious buildings, non-profit institutions, private recreational facilities, clubhouses, museums, cultural societies, visual and performance arts buildings.

(1) City Council approved 9/27/2004  
(2) TA-2010-10 – City Council approved 8/23/2010

- Civic may about institutional, multi-family, office or retail.
- Civic uses include governmentally owned or funded uses that include public schools, libraries, post offices, municipal offices and meeting halls. EMS, fire and police stations are also civic uses, but due to noise considerations are more restricted in their location.

**4.10.4.2.3.** In order to provide a continuous pedestrian transition for residential neighborhoods and commercial areas, retail land use categories shall not be separated from Multi-family or Single-Family land use categories by berms or buffers. Adequate design measures shall be taken to minimize potential use conflicts. Limited fences and walls may be used when other design measures are ineffective.

**4.10.4.2.4.** Land use for corner lots which front on streets of dissimilar use shall be designated within the more intensive use category.

**4.10.4.2.5.** Prohibited Uses anywhere within a TND:

- <sup>(1)</sup>Automatic food and drink machines visible from adjacent public streets;
- <sup>(1)</sup>Drive-through services other than banking, automated teller machines, laundry services, pharmacies and full service gasoline stations located within an out-parcel directly abutting a major thoroughfare;
- Chemical manufacturing, storage or distribution as a primary use;
- Enameling, painting or plating, except artist's studios;
- Outdoor advertising or billboard as a principal use;
- Carting, moving or hauling terminal are yard, except delivery goods to businesses within a TND;
- Prisons, detention centers or halfway house;
- Manufacture, storage, or disposal of hazardous waste materials;
- Scrap yards;
- Manufactured homes;
- Sand, gravel, or other mineral extraction;
- Kennels;
- Any use or business controlled under the

Adult Entertainment use category;

- Any use which produces any of the adverse impacts defined as prohibited under the definition of Light Industrial Use.

#### **4.10.4.3. Lots and Buildings.**

**4.10.4.3.1.** All lots shall include frontage abutting a street, square or common open space.

**4.10.4.3.2.** The main entrance of all buildings (excluding outbuildings) shall open to a street, square or common open space of at least 20 feet.

**4.10.4.3.3.** All uses shall be conducted within completely enclosed buildings, unless otherwise specified herein.

**4.10.4.3.4.** Building architecture shall be governed by a strict set of Architectural Guidelines, which will encourage home design with a strong orientation to the streetscape. Front or sideyard porches of at least 96 square feet shall be provided on not less than 70% of all dwelling units within the Single-family land use allocation.

**4.10.4.3.5.** The height of the eave or parapet wall of buildings facing across streets shall be sufficient to achieve an Enclosure Ratio for buildings, excluding buildings which face a Park, Square or common open space (of at least 20' in width), shall conform to the following ratios (the first number is the building height, the second number is the measurement from building face to building face. The ground floor use shall designate the ratio:

- Civic, Retail, Office Uses - 1:3.5
- Multi-family, 1:4
- Single Family Uses shall have their building front elevation set according to a single family "Build-To" line along the frontage established on the approved TND plan. Adjacent houses shall vary their setback slightly (no more than 2 feet) so as not to perfectly align with the adjacent dwelling.

#### **4.10.4.4. Town Center Uses**

**4.10.4.4.1.** At a minimum, the Town Center shall consist of a mix of retail and office uses. Additional uses may include institutional, civic, and multi-family as allowed in Table 4.6-1.

**4.10.4.4.2.** All structures utilized for non-

residential purposes within or fronting the Town Center, shall conform to the Design and Improvements Standards of § 11.5.2.4, 11.5.2.6, and 11.5.2.7 of the CC District.

#### **4.10.4.5. Street, Alleys, Sidewalks, Street Trees, Street Furnishings and Utilities.**

**4.10.4.5.1.** The Connectivity Ratio set forth in the Article 6 shall apply to the TND.

**4.10.4.5.2.** The street standards for TND roadways <sup>(1)</sup>can be found in the Land Development Standards Manual (LDSM).

**4.10.4.5.3.** There shall be a continuous network of alleys to the rear of building lots within the TND, except when topography or physical feature makes impractical and as otherwise permitted herein. Dead end alleys are strongly discouraged, but in no circumstances shall an alley have a dead-end length of over 100’.

**4.10.4.5.4.** An on-site transit stop shall be provided where the proposed TND is within the service area of a City bus system, a Public Transportation Authority or a Regional Public Transportation Authority.

**4.10.4.5.5.** Sidewalks shall be located on both sides of the street and separated from the roadway by a planting strip and designated parallel parking. If a planting strip is provided, it shall be a minimum of 6 feet in width.

**4.10.4.5.6.** Canopy Street trees shall be planted on both sides of the street and shall be spaced according to species and to the standards established in the landscape section of this ordinance. No understory trees shall be used as street trees. A consistent variety and species of street tree shall be maintained by street, but adjacent streets shall diversify species as a precaution against blight. Street trees planted within the TND commercial district or within an area subject to heavy foot traffic, design measures (such as tree grates) shall be installed as a measure to protect the tree root system.

**4.10.4.5.7.** Street furnishings shall include but not limited to:

- Commercial Areas: Pedestrian scale decorative street lights, decorative street signs, benches, trash receptacles, water

fountain and other appropriate decorative pedestrian oriented features.

- Residential Areas: Pedestrian scale decorative street lights, decorative street signs.

**4.10.4.5.8.** To the extent possible, underground utilities (and associated pedestals, cabinets, junction boxes and transformers) including electric, cable TV, telephone and natural gas service shall be located within the alley ROW and not along the streetscape frontage. It is assumed that domestic water service and sanitary sewer will serve from the streetscape frontage but will be located in such a way to cause the least impact on the planting strip and required street trees. Public Utility Departments, Companies and their contractors shall be required to cooperate with this effort.

#### **4.10.4.6. Parking.**

**4.10.4.6.1.** Except as otherwise provided by this subsection, parking requirements for all uses shall be in accordance with Article 8 <sup>(1)</sup>and the Land Development Standards Manual (LDSM).

**4.10.4.6.2.** On street parking is required where a particular land use will generate regular guest or customer parking use. Occasional on-street parking (such as within a single-family area) can be accommodated without additional pavement width or delineation.

**4.10.4.6.3.** On-street parking shall be provided on streets abutting squares, small parks or other urban open spaces.

**4.10.4.6.4.** For interior commercial parcels, no less than 75% of the parking space shall be located to the rear of the building being served. Commercial parcels fronting on non-pedestrian oriented major arterials may located primary parking lots along this frontage. Where primary parking abuts streets within the interior of the TND, screen walls shall be erected on the frontage line where primary parking lots are located.

**4.10.4.6.5.** Primary parking lots (over 24 spaces) and parking garages shall not: (1) abut street intersections; (2) be located adjacent to squares or parks; or (3) occupy lots which terminate a street vista.



**4.10.4.6.6.** Adjacent parking lots shall have vehicular connections from an alley.

**4.10.4.6.7.** Parking for retail and service uses shall not require on-site parking provided, however, that: (1) the required parking, in accordance with the Parking Standards of this Ordinance, is available within a six-hundred-foot radius of the activity; (2) the total floor space for the individual uses does not exceed twenty-five hundred (2500) square feet of gross floor area; and (3) such uses are restricted to Retail and multi-family areas. Due to the pedestrian nature of the TND, parking requirements for retail, service and institutional uses may be reduced by 25% of any use related parking standards established in Article 8 of this ordinance. On-street parking shall count toward any minimum parking requirements.

**4.10.4.6.8.** Loading areas shall adjoin alleys or parking areas to the rear of the Principal Building unless otherwise approved on the TND plan.

#### **4.10.4.7. Landscaping and Buffering.**

**4.10.4.7.1.** Except as otherwise provided by this subsection, landscaping requirements for all uses shall be in accordance with the Article 7 Landscaping and Screening Standards of this Ordinance.

**4.10.4.7.2.** The purpose of this Section is to ensure that trees are used as a design element to provide visual identity to the TND and to reinforce the public function of streets. Street trees shall be planted along all streets at an average center to center spacing based on the mature spread of the particular street tree.

#### **4.10.4.8. Town Center.**

<sup>(1)</sup>Land Allocation and Location. The Town Center shall have a minimum area of one square foot per five hundred (500) square feet of gross site area of the entire TND site excluding Greenway areas. Commercial areas shall only be permitted where designated on the Site Plan. A town center shall be located only on a street with adequate capacity to serve it. Example: A proposed TND has a gross site area of 300 acres, with an additional 8 acres of greenway running through the site. The minimum square footage for the Town Center is 26,136 square feet (13,068,000 square feet gross site area / 500 square feet per gross site area).

(1) City Council approved 9/27/2004

(2) TA-2019-05 – City Council approved 12/09/2019

**4.10.4.8.1.** Non-residential Uses. The goal of the Town Center is to incorporate a mixture of small-scale retail, office, and neighborhood service uses into the TND environment. However, larger anchor stores or uses may be included as part of an overall commercial package. Such proposals will be evaluated on a case-by case basis by the Planning & Zoning Commission.

#### **4.10.4.9. Open Space.**

**4.10.4.9.1.** The proposed development shall include at least the amount of open space as prescribed in Table 4.10-1. Open Space shall comply with the design requirements of Column (F) of Table 4.10-1. <sup>(1)</sup>Activities permitted within designated Open Space shall include those activities and their customary appurtenant improvements supporting open space uses as stated in the definition of Open Space shown in Appendix A.

#### **4.10.4.10. TND Site Plan.**

**4.10.4.10.1.** In addition to the preliminary plat and conditional use requirements specified in Appendix B, the TND Site plan shall also include all aspects of the spatial relationships proposed for the Traditional Neighborhood Development including:

- layout and dimensions of lots, setbacks (build-to-lines) <sup>(1)</sup>open spaces and all information required to define the relationships within the streetscape;
- designated land uses and associated building heights with proposed streetscape enclosure ratios;
- proposed streetscape furnishings including the pedestrian lighting plan;
- proposed street tree landscape plan;
- outline covenants and design codes;
- <sup>(2)</sup>Standards for roadways, alleys, and underground utilities can be found in the Land Development Standards Manual (LDSM).

#### **4.10.5. TND INFILL.**

All applications for a TND Infill site shall comply with the following development parameters:

##### **4.10.5.1. Size and Location of Site.** The

maximum size of the site shall not exceed forty (40) acres, except as provided herein. The maximum size may be exceeded for sites zoned CC when the Application for Development Approval is filed.

**4.10.5.2. Land Allocation and Density.** A single land use category, as set forth in Table 4.10-1, may be approved as a TND Infill site. The requested densities shall conform to § Table 4.10-1.

**4.10.5.3. Land Use.**

**4.10.5.3.1.** The standards pertaining to abutting uses relate to the land use category of adjacent uses. The land use category may be determined from Table 4.11-1, below, where an adjacent site is developed as a TND Infill site, or from the Table below where the adjacent site is developed or within another zoning category. Uses listed in the Use Matrix within the zoning districts set forth in Column B, below, are within the “same land use category” as the corresponding TND land use category in Column A.

(A) <u>TND Land Use Category</u>	(B) <u>Zoning Category</u>
Civic	C-1, C-2
Retail	B-1, C-1
Office	C-2
Multi-family	RV, RC
Single-family	RE, RL, RM-1, RM-2

**4.10.5.3.2.** Carefully blended land uses form the essence of Traditional Neighborhood Development. Uses within different land use categories, may abut at rear lot lines or at side lot lines and facing (subject to subsection 4.10.8.3.3, below). Open space, such as parks, squares, greens and plazas shall be considered similar land uses with all TND use categories.

**4.10.5.3.3.** The following land use categories may abut at side lot lines or face across a street, square, park or common space:

- Single family may abut multi-family and small scale institutional;
- Multi-family may abut single-family, office, civic, institutional or retail;
- Retail may abut multi-family, office, civic or institutional. (Retail uses include shops, restaurants, entertainment and lodging.);

- Office may abut retail, institutional, civic, or multi-family.
- Institutional may abut single family (if the institutional use is small in scale), multi-family, office, civic or retail. (Institutional uses include privately owned uses including religious buildings, non-profit institutions, private recreational facilities, clubhouses, museums, cultural societies, visual and performance arts buildings.);
- Civic may abut institutional, multi-family, office or retail. (Civic uses include governmentally owned or funded uses that include public schools, libraries, post offices, municipal offices and meeting halls. EMS, fire and police stations are also civic uses, but due to noise considerations are more restricted in their location.).

**4.10.5.3.4.** In order to provide a continuous pedestrian transition for residential neighborhoods and commercial areas, retail land use categories shall not be separated from Multi-family or Single-Family land use categories by berms or buffers. Adequate design measures shall be taken to minimize potential use conflicts. Limited fences and walls may be used when other design measures are ineffective.

**4.10.5.3.5.** Land use for corner lots which front on streets of dissimilar use shall be designated within the more intensive use category.

**4.10.5.3.6. Prohibited Uses.** Prohibited uses anywhere within a TND include:

- <sup>(1)</sup>Automatic food and drink machines visible from adjacent public streets;
- <sup>(1)</sup>Drive-through services other than banking, automated teller machines, laundry services, pharmacies and full service gasoline stations located within an out-parcel directly abutting a major thoroughfare;
- Chemical manufacturing, storage or distribution as a primary use;
- Enameling, painting or plating, except artist’s studios;
- Outdoor advertising or billboard as a principal use;
- Carting, moving or hauling terminal are yard, except delivery goods to businesses within a TND;

- Prisons, detention centers or halfway house;
- Manufacture, storage, or disposal of hazardous waste materials;
- Scrap yards;
- Manufactured homes;
- Sand, gravel, or other mineral extraction;
- Kennels;
- Any use or business controlled under the Adult Entertainment use category;
- Any use which produces any of the adverse impacts defined as prohibited under the definition of Light Industrial Use.

#### 4.10.5.4. Lots and Buildings.

**4.10.5.4.1.** All lots shall include frontage abutting a street, square or common open space.

**4.10.5.4.2.** The main entrance of all buildings (excluding outbuildings) shall open to a street, square or common open space of at least 20 feet.

**4.10.5.4.3.** All uses shall be conducted within completely enclosed buildings, unless otherwise specified herein.

**4.10.5.4.4.** Building architecture shall be governed by a strict set of Architectural Guidelines, which will encourage home design with a strong orientation to the streetscape. Front or sideyard porches of at least 96 square feet shall be provided on not less than 70% of all dwelling units within the Single-family land use allocation.

**4.10.5.4.5.** The height of the eave or parapet wall of buildings facing across streets shall be sufficient to achieve an Enclosure Ratio for buildings, excluding buildings which face a Park, Square or common open space (of at least 20' in width), shall conform to the following ratios (the first number is the building height, the second number is the measurement from building face to building face. The ground floor use shall designate the ratio:

- Civic, Retail, Office Uses – 1:3.5
- Multi-family, 1:4
- Single Family Uses shall have their building front elevation set according to a single family “Build-To” line along the frontage established on the approved TND plan. Adjacent houses shall vary their setback

perfectly align with the adjacent dwelling.

#### 4.10.5.5. Retail and Office Uses.

**4.10.5.5.1.** Due to the limited scale of the infill TND, Retail and Office uses should be located at the edges of the TND development, but spatially well connected to the TND residential areas.

**4.10.5.5.2.** Retail and Office use buildings within the TND shall conform to §§ 11.5.2.4 and 11.5.2.7 of the CC District supplemental design standards. Retail and Office use buildings shall conform to §§ 11.5.2.4, 11.5.2.5, 11.5.2.6, and 11.5.2.7 of the CC District supplemental design standards.

#### 4.10.5.6. Street, Alleys, Sidewalks, Street Trees, Street Furnishings and Utilities.

**4.10.5.6.1.** The Connectivity Ratio set forth in the Article 10 shall apply to the TND.

**4.10.5.6.2.** The street standards for TND roadways <sup>(1)</sup>can be found in the Land Development Standards Manual (LDSM).

**4.10.5.6.3.** There shall be a continuous network of alleys to the rear of building lots within the TND, except when topography or physical feature makes impractical and as otherwise permitted herein. Dead end alleys are strongly discouraged, but in no circumstances shall an alley have a dead-end length of over 100’.

**4.10.5.6.4.** An on-site transit stop shall be provided where the proposed TND is within the service area of a City bus system, a Public Transportation Authority or a Regional Public Transportation Authority.

**4.10.5.6.5.** Sidewalks shall be located on both sides of the street and separated from the roadway by a planting strip and designated parallel parking. If a planting strip is provided, it shall be a minimum of 6 feet in width.

**4.10.5.6.6.** Canopy Street trees shall be planted on both sides of the street and shall be spaced according to species and to the standards established in the landscape section of this ordinance. No understory trees shall be used as street trees. A consistent variety and species of street tree shall be maintained by street, but adjacent streets shall diversify species as a

(1) TA-2019-05 – City Council approved 12/09/2019 which negates City Council approved 9/27/2004

precaution against blight. Street trees planted within the TND commercial district or within a area subject to heavy foot traffic, design measures (such as tree grates) shall be installed as a measure to protect the tree root system.

**4.10.5.6.7.** Street furnishings shall include but not limited to:

- Commercial Areas: Pedestrian scale decorative street lights, decorative street signs, benches, trash receptacles, water fountain and other appropriate decorative pedestrian oriented features.
- Residential Areas: Pedestrian scale decorative street lights, decorative street signs.

**4.10.5.6.8.** To the extent possible, underground utilities (and associated pedestals, cabinets, junction boxes and transformers) including electric, cable TV, telephone and natural gas service shall be located within the alley ROW and not along the streetscape frontage. It is assumed that domestic water service and sanitary sewer will serve from the streetscape frontage but will be located in such a way to cause the least impact on the planting strip and required street trees. Public Utility Departments, Companies and their contractors shall be required to cooperate with this effort.

**4.10.5.7. Parking.**

**4.10.5.7.1.** Except as otherwise provided by this subsection, parking requirements for all uses shall be in accordance with the Article 8 Parking Standards of this Ordinance.

**4.10.5.7.2.** On street parking is required where a particular land use will generate regular guest or customer parking use. Occasional on-street parking (such as within a single-family area) can be accommodated without additional pavement width or delineation.

**4.10.5.7.3.** On-street parking shall be provided on streets abutting squares, small parks or other urban open spaces.

**4.10.5.7.4.** For interior commercial parcels, no less than 75% of the parking space shall be located to the rear of the building being served. Commercial parcels fronting on non-pedestrian oriented major thoroughfares may located

primary parking lots along this frontage. Where primary parking abuts streets within the interior of the TND, screen walls shall be erected on the frontage line where primary parking lots are located.

**4.10.5.7.5.** Primary parking lots (over 24 spaces) and parking garages shall not: (1) abut street intersections; (2) be located adjacent to squares or parks; or (3) occupy lots which terminate a street vista.

**4.10.5.7.6.** Adjacent parking lots shall have vehicular connections from an alley.

**4.10.5.7.7.** Parking for retail and service uses shall not require on-site parking provided, however, that: (1) the required parking, in accordance with the Parking Standards of this Ordinance, is available within a six-hundred-foot radius of the activity; (2) the total floor space for the individual uses does not exceed twenty-five hundred (2500) square feet of gross floor area; and (3) such uses are restricted to Retail and multi-family areas. Due to the pedestrian nature of the TND, parking requirements for retail, service and institutional uses may be reduced by 25% of any use related parking standards established in Article 8 of this ordinance. On-street parking shall count toward any minimum parking requirements.

**4.10.5.7.8.** Loading areas shall adjoin alleys or parking areas to the rear of the Principal Building unless otherwise approved on the TND plan.

**4.10.5.8. Landscaping and Buffering.**

**4.10.5.8.1.** Except as otherwise provided by this subsection, landscaping requirements for all uses shall be in accordance with the Article 7 Landscaping and Screening Standards of this Ordinance.

**4.10.5.8.2.** The purpose of this Section is to ensure that trees are used as a design element to provide visual identity to the TND and to reinforce the public function of streets. Street trees shall be planted along all streets at an average center to center spacing based on the mature spread of the particular street tree.

**4.10.5.9. Open Space.**

**4.10.5.9.1.** The proposed development shall include at least the amount of open space as prescribed in Table 4.10-1. Open Space shall comply with the design requirements of Column (F) of Table 4.10-1. <sup>(1)</sup>Activities permitted within designated Open Space shall include those activities and their customary appurtenant improvements supporting open space uses as stated in the definition of Open Space shown in Appendix A.

**4.10.5.10. TND Site Plan.**

**4.10.5.10.1.** In addition to the preliminary plat and conditional use requirements specified in Appendix B, the TND Site plan shall also include all aspects of the spatial relationships proposed for the Traditional Neighborhood Development including:

- layout and dimensions of lots, setbacks (build-to-lines), <sup>(2)</sup>open spaces and all information required to define the relationships within the streetscape;
- designated land uses and associated building heights with proposed streetscape enclosure ratios;
- proposed streetscape furnishings including the pedestrian lighting plan;
- proposed street tree landscape plan;
- an outline of covenants and design codes.
- <sup>(2)</sup>Standards for roadways, alleys, and underground utilities can be found in the Land Development Standards Manual (LDSM).

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(1) City Council approved 9/27/2004  
(2) TA-2019-05 – City Council approved 12/09/2019

Table 4.10-1 Design Standards for a TND

(A) OPEN SPACE USES	(B) Min. Land Alloc.	(C) Max. Land Alloc.	(D) Min. Floor Area Ratio (FAR)	(E) Max. FAR	(F) Design Standards
<i>Open Space</i>	Greater of 5% Gross Land Area (GLA) or 5 acres	40% GLA	n/a	n/a	Open space should be bounded by streets on at least 25% of their perimeter.
<i>Square</i>	15,000 sf	70,000 sf.	n/a	n/a	<p>Square shall count toward required open space</p> <p>A minimum ½ acre square should front or be located within the Town Center.</p> <p>Squares should adjoin streets on at least two sides.</p> <p>Squares should be distributed throughout the TND so as all dwelling units are located within 1,000 feet (walking distance) of a square.</p>
<i>Greenbelts</i>	may be provided at the perimeter of a TND if adjacent land is incompatible	n/a	n/a	n/a	<p>Greenbelts differ from other types of open space in that existing natural vegetation and wildlife is undisturbed except for bikeways and walking trails.</p> <p>Greenbelts should average at least 100 feet in width and not less than 25 feet at any point.</p>
<p><i>Civic Uses:</i></p> <ul style="list-style-type: none"> <li>• <i>clubhouses</i></li> <li>• <i>meeting halls</i></li> <li>• <i>libraries</i></li> <li>• <i>schools</i></li> <li>• <i>child care centers</i></li> <li>• <i>police &amp; fire stations</i></li> <li>• <i>museums</i></li> <li>• <i>post office</i></li> <li>• <i>religious uses</i></li> <li>• <i>cultural societies</i></li> <li>• <i>visual or performance arts uses</i></li> <li>• <i>government buildings</i></li> </ul>	2% GLA	40% GLA	0.4	1.0	<p>Civic uses should be located in prominent or central locations (most often the Town Center).</p> <p>Civic uses should be located within 500 feet of a square.</p> <p>For the purposes of this TND section, FAR shall include:</p> <ul style="list-style-type: none"> <li>• all the land for the building, landscaping and parking</li> <li>• all the uses in a mixed use building</li> </ul> <p>Civic uses should be designed to spatially reinforce the streetscape standards found elsewhere in this TND Article.</p> <p>Civic buildings should also functionally support the pedestrian-friendly character of a TND.</p>

Table 4.10-1 Design Standards for a TND (continued)

<b>NON-RESIDENTIAL USES</b>	<b>Min. Land Alloc.</b>	<b>Max. Land Alloc.</b>	<b>Min. Floor Area Ratio (FAR)</b>	<b>Max. FAR</b>	<b>Design Standards</b>
<i>Retail Uses includes lodging and commercial uses as permitted for the C-1 district in Table 4.6-1</i>	2% GLA	40% GLA	0.4	1.0	Not less than ½ of retail buildings should have residential uses above. Retail uses should be designed to spatially reinforce the streetscape standards found elsewhere in this TND Article. Retail buildings should also functionally support the pedestrian-friendly character of a TND.
<i>Office Uses includes office uses as permitted for the B-1 district in Table 4.6-1</i>	2% GLA	40% GLA	0.4	1.0	Office uses should be designed to spatially reinforce the streetscape standards found elsewhere in this TND Article. Office buildings should also functionally support the pedestrian-friendly character of a TND.
<b>RESIDENTIAL USES</b>	<b>Min. Land Alloc.</b>	<b>Max. Land Alloc.</b>	<b>Min. Density (Number of Dwelling units)</b>	<b>Max. Density</b>	<b>Design Standards</b>
<i>Multi-family Uses (also includes limited office uses up to 1,000 sq. ft. and congregate living facilities)</i>	10% GLA	40% GLA	8.0	30.0	Multi-family uses should be designed to spatially reinforce the streetscape standards found elsewhere in this TND Article. Balconies overlooking the streetscape are encouraged.
<i>Single-family Uses (also includes home occupations and accessory dwellings/structures)</i>	n/a	60% GLA	5.0	11.0	One carriage house or guest house is permitted per lot. Single family dwellings should be designed in such a manner that is pedestrian-friendly with a strong orientation to the streetscape, especially the sidewalk. Porches overlooking the streetscape are encouraged.

## 4.11. TRANSIT-ORIENTED DEVELOPMENT (TOD) DISTRICT.

### 4.11.1. PURPOSE.

The Transit-Oriented Development zone encourages a mixture of residential, commercial, and employment opportunities within a specified radius of identified light rail stations or other public transit stations. The zone allows for a more intense and efficient use of land at increased densities for the mutual re-enforcement of public investments and private development. Uses and development are regulated to create a more intense built-up environment, oriented to pedestrians, to provide a density and intensity that is transit supportive. The development standards of the zone also are designed to encourage a safe and pleasant pedestrian environment near transit stations by encouraging an intensive area of shops and activities, by encouraging amenities such as benches, kiosks, and outdoor cafes, and by limiting conflicts between vehicles and pedestrians. It is the intent of this Section that a TOD district be restricted to areas within one-half (½) of a mile of a transit station, which area is equivalent to a 10-minute walking distance.

### 4.11.2. CLASSIFICATION OF TOD SUBAREAS.

**4.11.2.1.** The TOD shall be divided into two subdistricts known as the “TOD Core” (“TOD-C”) and the “TOD Periphery” (TOD-P), which shall be considered separate zoning districts subject to the requirements set forth in this Section. The requirements of this section shall apply to both the TOD-C and TOD-P subdistricts, unless otherwise provided.

**4.11.2.2.** Following any rezoning to a TOD District, the Official Zoning Map shall be amended to denote the following subdistricts:

- All areas within one-quarter (¼) of a mile of a transit station shall be classified as “TOD-C.”
- All areas between one-quarter (¼) of a mile and one-half (½) of a mile from a transit station shall be classified as “TOD-P.” No land area shall be zoned “TOD-P” unless it adjoins an area zoned “TOD-C.”

### 4.11.3. USE REGULATIONS.

**4.11.3.1.** Any use permitted in the CC zoning district may be permitted within the TOD-C or the TOD-P districts, except as provided in § 4.11.3.2 below.

**4.11.3.2.** The following set forth in Table 4.11-1 are prohibited within either the TOD-C or the TOD-P subdistricts. Any use listed under Column (B) of Table 4.11-1 is prohibited in the TOD-C subdistrict. Any use listed in Column (C) of Table 4.11-1 is prohibited in the TOD-P subdistrict.

### 4.11.4. DEVELOPMENT REGULATIONS.

#### 4.11.4.1. Floor Area and Density.

The floor area ratio and density within the TOD-C and TOD-P subdistricts shall not be less than that set forth in Table 4.11-2.

#### 4.11.4.2. Parking Standards.

**4.11.4.2.1. Minimum Number.** On the portion of a site within 500 feet of a light rail alignment, the minimum number of parking spaces is 50 percent of the required parking spaces required by the Parking Standards of this Ordinance.

**4.11.4.2.2. Maximum Number.** The maximum number of parking spaces shall not exceed that set forth in Article 8 Parking Standards of this Ordinance.

#### 4.11.4.3. Ground Floor Design.

All uses within the TOD district shall conform to the Design and Improvements Standards of § 11.5.2.1, 11.5.2.4, 11.5.2.5, 11.5.2.6, and 11.5.2.7 of the CC District.

#### 4.11.4.4. Pedestrian Connectivity.

**4.11.4.5.** New retail, office and institutional buildings within five hundred (500) feet of a major transit stop shall provide for convenient pedestrian access to transit through the measures listed in § 4.11.6.4.4 Retail and Workshop Uses, and as listed below.

- Walkways shall be provided which connect building entrances and streets adjoining the site.
- Pedestrian connections to adjoining properties shall be provided except where such a connection is impracticable due to unique topography. Pedestrian connections shall connect the on-site circulation system to existing or proposed streets, walkways, and driveways that abut the property. Where



adjacent properties are undeveloped or have potential for redevelopment, streets, accessways and walkways on site shall be laid out or stubbed to allow for extension to the adjoining property.

- A direct pedestrian connection shall be provided between the transit stop and building entrances on the site;
- An easement or dedication for a passenger shelter shall be provided if requested by the transit provider.

<b>Table 4.11-1 Prohibited Uses in a TOD</b>		
<b>(A) Use</b>	<b>(B) TOD-C</b>	<b>(C) TOD-P</b>
Vehicle Repair	prohibited	prohibited
Drive-through facilities	prohibited	prohibited
Exterior display of goods and exterior storage on the portion of a site within 500 feet of a public transit station. Outdoor seating for restaurants and pedestrian-oriented accessory uses, such as flower, food or drink stands, are exempt from this requirement.	prohibited	prohibited
Sale or lease of consumer vehicles, including passenger vehicles, motorcycles, light and medium trucks, travel trailers, and other recreational vehicles. Offices for the sale or lease of vehicles, where the vehicles are displayed or stored outside of the TOD, are allowed.	prohibited	prohibited
Single-family detached dwelling units	prohibited	allowed
Commercial parking, surface or structured (located within 200 feet of the transit station)	prohibited	allowed
Other surface Parking	prohibited	prohibited

<b>Table 4.11-2 Density and Floor Area Ratio within a TOD</b>				
	<b>Density (residential units per acre)</b>		<b>Floor Area Ratio (nonresidential uses)</b>	
	<b>Minimum</b>	<b>Maximum</b>	<b>Minimum</b>	<b>Maximum</b>
<b>TOD-C</b>				
Parcels, 2 acres or greater	16	20	0.70	1.20
Parcels, less than 2 acres	12	16	0.50	1.00
<b>TOD-P</b>				
Parcels, 2 acres or greater	12	16	0.50	1.00
Parcels, less than 2 acres	8	12	0.30	0.60

**4.12. (RESERVED)**

## 4.13. AIRPORT OVERLAY (AOD) DISTRICT.

### 4.13.1. PURPOSE.

This district is established to prevent the creation or establishment of obstructions or land uses that are hazards to air navigation, thereby protecting the lives and property of the users of the Concord Regional Airport, the property and occupants of land in the vicinity and the public investment in the airport. This district is further intended to provide for the safe landing, take-off, and maneuvering of aircraft in accordance with Federal Aviation Administration (FAA) standards.

### 4.13.2. DEFINITIONS.

The words, terms and phrases set forth herein shall have the meanings prescribed below provided, however, that any words, terms or phrases not included below shall have the meanings prescribed by Appendix A to this Ordinance.

**Airport** - The Concord Regional Airport.

**Airport Elevation** - The highest point of an airport's usable landing area measured in feet from mean sea level, or for the purpose of these regulations, 690 feet above mean sea level for the Concord Regional Airport.

**Airport Hazard** - Any structure or object of natural growth located on or in the vicinity of a public airport, which obstructs the airspace required for the flight of aircraft in landing or takeoff at such airport or is otherwise hazardous to such landing or takeoff of aircraft.

**Approach, Transitional, Horizontal and Conical Zones** - These zones apply to the area under the approach, transitional, horizontal and conical surfaces defined in Federal Aviation Regulations (FAR) Part 77.

**Critical Zone** - A rectangular-shaped zone located directly off the end of a runway's primary surface, beginning two hundred feet (200') from the end of the pavement, which is critical to aircraft operations in that it is more apt to have accidents within it because of the take-off and landing mode of aircraft in that particular area.

**Height** - For the purpose of determining the height limits in all zones set forth in these regulations and shown on the zoning map, the datum shall be mean sea level elevation, unless otherwise specified.

**Nonconforming Use** - Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of these regulations, or any amendment thereto.

**Nonprecision Instrument Runway** - A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area-type navigation equipment for which a straight-in nonprecision instrument approach procedure has been approved or planned and for which no precision approach facilities are planned or indicated on an FAA planning document or military service's military airport planning document.

**Person** - An individual firm partnership, corporation, company, association, joint stock association or governmental entity. It includes a trustee, receiver, assignee or similar representative of any of them.

**Precision Instrument Runway** - A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an FAA approved airport layout plan; a military service's approved military layout plan; any other FAA planning document, or military service's military airport planning document.

**Primary Surface** - A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface of a runway will be width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway center line.

**Runway** - A defined area on an airport prepared for landing and takeoff of aircraft along its length

**Structure** - An object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, earth formations and overhead transmission lines.

**Tree** - Any object of natural growth.

**4.13.3. LOCATION.**

The AO Overlay District shall overlap and overlay the base zoning districts. The former City of Concord Airport Overlay District (AO) designated pursuant to the former City of Concord Zoning Ordinance § 790, is hereby designated as the AO Overlay District. Said overlay district may be expanded by adding additional land area from time to time by an amendment to this Ordinance.

**4.13.4. PRINCIPAL AND ACCESSORY USES.**

Permitted principal uses, conditional uses and accessory uses shall be those within the underlying zoning district as set forth in Table 4.6-1, provided that no use shall be made of land or water within any zone established by these regulations in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, attract birds or other concentrations of wildlife or otherwise in any way create a hazard or endanger the landing, take-off or maneuvering of aircraft intending to use the airport.

**4.13.5. USE RESTRICTIONS.**

Notwithstanding any other provisions of these regulations, no use may be made of land or water within any zone established by these regulations in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, attract birds or other concentrations of wildlife or otherwise in any way create a hazard or endanger the landing, take-off or maneuvering of aircraft intending to use the airport, <sup>(1)</sup>pursuant to NCGS § 143-214.7.

**4.13.6. AREA REGULATIONS.**

Dimensional requirements such as lot size and building depth shall be governed by the underlying zoning districts. Height requirements shall be governed by the General Development Standards § 4.13.7, below, but in no event shall the height of any structure exceed the maximum height permitted by the underlying zoning district.

**4.13.7. GENERAL DEVELOPMENT STANDARDS.**

In order to carry out the provisions of these regulations, there are hereby created and established within the Concord Regional Airport. Such zones are shown on the Official Concord Regional Airport Hazard Zoning Map which is attached to these regulations and made a part hereof. An area located in more than one of the following zones shall be subject to the Airport Overlay District certain zones which include all of the land lying within the approach zones, transitional zones, horizontal zones and conical zones, as they apply to the more restrictive height limitation. The various zones are hereby established and defined in Column (B) of Table 4.13-1. Except as otherwise provided in these regulations, no structure or tree shall be erected, altered, allowed to grow or be maintained in any of the zones created by these regulations to a height in excess of the applicable height limit herein established for such zone. Unless otherwise specified, the height shall be measured from mean sea level. Such applicable height limitations are hereby established for each of the zones in Column (C) of Table 4.13-1.

Table 4.13-1

(A) ZONE	(B) DESCRIPTION	(C) HEIGHT RESTRICTION
<b>PRECISION INSTRUMENT RUNWAY APPROACH ZONE</b>	The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface, its center line being the continuation of the center line of the runway.	Slopes upward 50 feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway center line, then at a slope of 40:1 for an additional 40,000 feet.
<b>LOCAL BUFFER APPROACH ZONE</b>	The extent of this zone coincides with the <b>PRECISION INSTRUMENT RUNWAY APPROACH ZONE</b> as described above.	Uses shall not exceed the maximum height specified for the <b>PRECISION INSTRUMENT RUNWAY APPROACH ZONE</b> less ten (10) feet on southern approach only. Uses encroaching into this zone shall be allowed only as conditional uses, and shall not be constructed, erected, or otherwise established unless and until a conditional use permit has been issued.
<b>TRANSITIONAL ZONES</b>	These zones are hereby established as the area beneath the transitional surfaces. These surfaces extend outward and upward at 90-degree angles to the runway center line and the runway center line extended a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional zones for those portions of the precision approach zones, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach zones and at 90-degree angles to the extended runway center line.	Slopes upward and outward seven feet horizontally for each foot vertically beginning at all the sides of and at the same elevation as the primary surface and the approach zones and extending to a height of 150 feet above the airport elevation, or 840 feet above mean sea level. In addition to the foregoing, there are established height limits sloping upward and outward seven feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the approach zones and extending to where they intersect the conical surface. Where the precision instrument run approach zone projects beyond the conical zone, height limits sloping upward and outward seven feet horizontally for each foot vertically shall be maintained beginning at the sides of and at the same elevation as precision instrument runway approach surface and extending to a horizontal distance of 5,000 feet from the edge of the approach surface measured at 90-degree angles to the extended runway center line.
<b>HORIZONTAL ZONE</b>	The horizontal zone is hereby established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connection the adjacent arcs by drawing lines tangent to those arcs.	One hundred fifty feet about the airport elevation or a height of 840 feet above mean sea level.
<b>CONICAL ZONE</b>	The conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.	Slopes upward and outward 20 feet horizontally for each foot vertically beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation, or 1,040 feet above mean sea level.

**4.13.8. NONCONFORMING USES.**

**4.13.8.1.** The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of these regulations, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these regulations, and is diligently prosecuted.

**4.13.8.2.** No zoning clearance permit shall be granted that would allow the expansion of a nonconforming use, structure or tree to become a greater hazard to air navigation than it was on the effective date of these regulations when the application for a permit is made.

**4.13.8.3.** Whenever the Concord Regional Airport Aviation Director determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated or decayed, no zoning clearance permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

**4.13.8.4.** Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Concord Regional Airport Aviation Director to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated and maintained at the expense of the City of Concord.

**4.13.9. PERMITS.**

**4.13.9.1.** No material change shall be made in the use of land and no structure or tree shall be erected, altered, planted or otherwise established in any zone hereby created unless a zoning clearance permit therefore shall have been applied for and granted.

**4.13.9.2.** Each application for a zoning clearance permit shall indicate the purpose of which the permit

is desired with sufficient particulars to determine whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

**4.13.9.3.** No zoning clearance permit shall be granted that would allow the establishment or creation of an airport hazard when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

**4.13.9.4.** Any zoning clearance permit granted may, if such action is deemed advisable to effectuate the purpose of these regulations and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the City of Concord, at the owner's expense, to install, operate and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.

**4.13.10. VARIANCES.**

**4.13.10.1.** Any persons desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this Ordinance, may apply to the Board of Adjustment for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of the Ordinance. Additionally, no application for variance to the requirements of this Ordinance may be considered by the Board of Adjustment unless a copy of the application has been furnished to the Aviation Director for advice as to the aeronautical effects of the variance. If the Aviation Director does not respond to the application within 30 days after receipt, the Board of Adjustment may act on its own to grant or deny said application.

**4.13.10.2.** Any variance granted may, if such action is deemed advisable to effectuate the purpose of

these regulations and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the City of Concord, at the owner's expense, to install, operate and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.

**4.13.11. ENFORCEMENT.**

**4.13.11.1.** It shall be the duty of the Concord Regional Aviation Director to administer and enforce the regulations prescribed herein. Applications for approval shall be made to the Aviation Director upon a form furnished by the Director. Applications required by these regulations to be submitted to the Aviation Director shall be promptly considered and granted or denied by him. In instances where zoning clearance permits are required, approval shall be secured from the Aviation Director prior to issuance of a zoning clearance permits. Applications for variances shall be filed with the Administrator in accordance with Section 3.7 of this Ordinance.

**4.13.12. APPEALS.**

**4.13.12.1.** Any person aggrieved or any taxpayer affected by any decision of the aviation Director made in his administration of these regulations may appeal to the Board of Adjustment in accordance with § 3.7 of this Ordinance and NCGS § 63-33(4).

**4.13.13. PENALTIES.**

**4.13.13.1.** The Administrator is hereby authorized to commence and proceed to prevent, restrain, correct or abate any violation of this § 4.13 pursuant to § 1.6 of this Ordinance.



## 4.14. FLOODPLAIN PROTECTION OVERLAY (FPOD) DISTRICT.

### 4.14.1. FINDINGS OF FACT.

**4.14.1.1.** The flood prone areas within the jurisdiction of City of Kannapolis are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

**4.14.1.2.** These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas by uses vulnerable to floods or other hazards.

### 4.14.2. STATEMENT OF PURPOSE.

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

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

### 4.14.3. OBJECTIVES OF FLOODPLAIN OVERLAY DISTRICT

The objectives of this Section 4.14 are to:

- Protect human life and safety, health;
- Minimize expenditure of public money for costly flood control projects;
- Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- Minimize prolonged business losses and interruptions;
- Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, cable, sewer lines, streets and bridges located in flood prone areas;
- <sup>(1)</sup>Minimize damage to private and public property due to flooding;
- Make flood insurance available to the community through the National Flood Insurance Program;
- Maintain the natural and beneficial functions of floodplains;
- Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- Ensure that potential home buyers are aware that property is in a Special Flood Hazard Area.

### 4.14.4. LANDS TO WHICH THIS ARTICLE APPLIES.

This Section 4.14 shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs), of the City of Kannapolis and within the jurisdictions of any other community whose governing body agrees, by resolution, to such applicability.

### 4.14.5. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Cabarrus County dated November <sup>(1)</sup>16, 2018, and associated Digital Flood Insurance Maps (DFIRM) panels, including any digital data developed as part of the FIS which are adopted by reference and declared to be a part of this Section 4.14 and shall constitute the official boundaries of the Floodplain Overlay District.

<sup>(1)</sup>Future revisions to the FIS and DFIRM panels that

do not change flood hazard data within the jurisdictional authority of the City of Kannapolis are also adopted by reference and declared part of this ordinance.

**4.14.6. COMPLIANCE WITH THIS ORDINANCE.**

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this Section 4.14 and other applicable regulations.

**4.14.7. ABROGATION AND GREATER RESTRICTIONS.**

This Section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Section 4.14 and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**4.14.8. INTERPRETATION AND APPLICATION OF SECTION 4.14.**

In the interpretation and application of this Section 4.14 all provisions shall be:

- Considered as minimum requirements;
- Liberally construed in favor of the City; and
- Deemed neither to limit nor repeal any other powers granted under State statutes.

**4.14.9. PENALTIES FOR VIOLATION.**

Violation of the provisions of this Section 4.14 or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor <sup>(1)</sup>pursuant to NC G.S. § 143-215.58. Any person who violates this Section 4.14 or fails to comply with any of its requirements shall, upon conviction thereof, be punished in accordance with Section 1.6 of this Ordinance. Nothing contained in this Section shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

**4.14.10. WARNING AND DISCLAIMER OF LIABILITY.**

The degree of flood protection required by this Section 4.14 is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This Section 4.14 does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free

from flooding or flood damages. This Section 4.14 shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this Section 4.14 or any administrative decision made pursuant to this Section 4.14.

**4.14.11. DESIGNATION OF FLOODPLAIN ADMINISTRATOR**

The City’s Planning Director or his /her designee, hereinafter referred to as the Floodplain Administrator, is hereby appointed to administer and implement the provisions of this Section.

**4.14.12. DUTIES OF ADMINISTRATOR**

The Floodplain Administrator shall perform, but not be limited to, the following duties:

**4.14.12.1.** Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this Section have been satisfied.

**4.14.12.2.** Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State and Federal permits have been received.

**4.14.12.3.** Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

**4.14.12.4.** Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.

**4.14.12.5.** Prevent encroachments within floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of this § 4.14.26 are met.

**4.14.12.6.** Obtain actual elevation, in relation to mean sea level, of the reference level, including the basement, and all attendant utilities of all new or substantially improved structures, in accordance with 4.14.14.

(1) TA-2018-07 – City Council approved 10/22/18

**4.14.12.7.** Obtain actual elevation, in relation to mean sea level, to which the new or substantially improved structures and utilities have been floodproofed, in accordance with 4.14.14.

**4.14.12.8.** Obtain actual elevation, in relation to mean sea level, of all public utilities in accordance with the provisions of 4.14.14.

**4.14.12.9.** When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or surveyor in accordance with 4.14.14 and 4.14.19.4.

**4.14.12.10.** Where interpretation is needed as to the exact location of boundaries of the areas of the Special Flood Hazard Areas, floodways, or non-encroachment areas, for example, where there appears to be a conflict between a mapped boundary and actual field conditions, make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 3.7 of this Ordinance.

**4.14.12.11.** When Base Flood Elevation (BFE) data has not been provided in accordance with Section 4.14.5 herein, obtain, review and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data or non-encroachment area data available from a Federal, State or other source in order to administer the provisions of this Ordinance.

**4.14.12.12.** When Base Flood Elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with 4.14.5, obtain review, and reasonable utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this Ordinance.

**4.14.12.13.** When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the Base Flood Elevation, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the floodplain development permit file.

**4.14.12.14.** Permanently maintain all records to the administration of this Section and make these records available for public inspection, recognizing

that such information may be subject to the Privacy Act of 1974, as amended.

**4.14.12.15.** Make on-site inspections of work in progress.

**4.14.12.16.** Issue stop-work orders as required.

**4.14.12.17.** Revoke floodplain development permits as required.

**4.14.12.18.** Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

**4.14.12.19.** Follow through with corrective procedures of 4.14.16.

**4.14.12.20.** Review, provide input, and make recommendations for variance requests.

**4.14.12.21.** Maintain a current map repository to include, but not limited to, FIS Report, FIRM and other official flood maps and studies adopted in accordance with 4.14.4, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

**4.14.12.22.** Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision based on Fill (LOMR-F) and Letters of Map Revision (LOMR).

**4.14.13. DEVELOPMENT PERMIT.**

**4.14.13.1.** A floodplain development permit shall be required in conformance with the provisions of this Section prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of 4.14.5 of this ordinance.

**4.14.13.2.** Application of a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The Applicant shall submit a Flood Prevention Plan as set forth in Appendix B.

**4.14.13.3.** The Floodplain Development Permit shall include, but not be limited to:

- A description of the development to be permitted under the floodplain development permit.
- The Special Flood Hazard Area determined for the proposed development in accordance with available data specified in Section 4.14.5.
- The regulatory flood protection elevation required for the reference level and all attendant utilities.
- The regulatory flood protection elevation required for the protection of all public utilities.
- All certification submittal requirements with timelines.
- A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.
- <sup>(1)</sup>The flood openings requirements, if in Zones A, AE, AH, AO, A99
- Limitations of below BFE enclosure uses (if applicable). (i.e. parking, building access, and limited storage only)

#### **4.14.14. CERTIFICATION REQUIREMENTS**

##### **4.14.14.1. Elevation Certificates**

- An Elevation Certificate (FEMA Form <sup>(1)</sup>086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.
- <sup>(1)</sup>An Elevation Certificate (FEMA form 086-0-33) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, any work done within the seven (7) day calendar period and prior to the submission of the certification.

- A final as-built Elevation Certificate (FEMA <sup>(1)</sup>Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

##### **4.14.14.2. Floodproofing Certificate**

- If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA <sup>(1)</sup>Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan area required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to the permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- <sup>(1)</sup>A final finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with

supporting data, an operation plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate date, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certificate design shall be cause to deny a Certificate of Compliance/Occupancy.

**4.14.14.3.** If a manufactured home is placed within Zone A, AO, AE, <sup>(1)</sup>AH, A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of 4.14.19.3.

**4.14.14.4.** If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

**4.14.14.5.** Certification Exceptions. The following structures, if located within Zone A, AO, AE, <sup>(1)</sup>AH, A99, are exempt from the elevation/floodproofing certification requirements specified in 4.14.14.1 and 4.14.14.2:

- Recreational Vehicles meeting requirements of 4.14.24;
- Temporary Structures meeting requirements of 4.14.21; and
- Accessory Structures less than 150 square feet meeting requirements of 4.14.22.

**4.14.14.6.** <sup>(1)</sup>Determination for existing buildings and structures.

- For applications for building permits to improve buildings and structures, including alternations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvements of or work on such building and structures, the Floodplain Administrator shall:
  - Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
  - Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
  - Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage and;
  - Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirement of the NC Building Code and this Section is required.

#### **4.14.15. INSPECTIONS AND VIOLATIONS.**

**4.14.15.1.** As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local Ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

**4.14.15.2.** Whenever a building or part thereof is being constructed, reconstructed, altered, or

repaired in violation of this article, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the conditions under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

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

**4.14.15.4.** When the Administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

#### **4.14.16. REMEDY TO VIOLATION.**

**4.14.16.1.** If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

- That the building or property is in violation of the floodplain management regulations;
- That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
- That following the hearing, the Floodplain Administrator may issue such order to alter, vacate, or demolish the building; or to remove fill as applicable.
- If, upon a hearing held pursuant to the notice

prescribed above, the Floodplain Administrator shall find that the building or development is in violation of this § 4.14, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than one hundred eight (180) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.

- If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.
- Any Applicant for which a Floodplain Development Permit has been denied, or to which conditions have been attached, or any Applicant owner who has received an order to take corrective action, may appeal from the decision or order pursuant to § 3.7 of this Ordinance.
- <sup>(1)</sup>Failure to Comply with Order: If the Owner of a building or property fails to comply with an order to take corrective actions for which no Appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58. Any person who violates this Section or fails to comply with any of its requirements shall, upon conviction thereof, be punished in accordance with Section 1.6 of this Ordinance. Nothing contained in this Section shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

#### **4.14.17. VARIANCE PROCEDURES.**

**4.14.17.1.** The Board of Adjustment as established by the City of Kannapolis, shall hear and decide requests for variances from the requirements of this Section 4.14 in accordance with the procedures and standards set forth in § 3.7 of this Ordinance.

**4.14.17.2.** Any person aggrieved by the decision of the Board of Adjustment may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

**4.14.17.3.** Variances may be issued for:

- The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.
- Functionally dependent facilities if determined to meet the definition as stated in Appendix A of the UDO, provided such facilities are protected by methods that minimize flood damages during base flood damages during the base flood and create no additional threats to public safety.
- Any other type of development, provided it meets the requirements of 4.14.17.

**4.14.17.4.** In passing upon variances, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of 4.14., and:

- The danger that materials may be swept onto other lands to the injury of others;
- The danger to life and property due to flooding or erosion damage;
- The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- The importance of the services provided by the proposed facility to the community;
- The necessity to the facility of a waterfront location as defined in Appendix A as a functionally dependent facility, where applicable;
- The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- The compatibility of the proposed use with existing and anticipated development;
- The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- The safety of access to the property in times of flood for ordinary and emergency vehicles;
- The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and effects of wave action, if applicable, expected at the site; and
- The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and

facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

**4.14.17.5.** The findings listed above shall be submitted to the Board of Adjustment in writing and included in the application for a variance.**4.14.17.6.** Upon consideration of the factors listed above, and the purposes of this Section 4.14, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this Section 4.14.**4.14.17.7.** Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.**4.14.17.8.** Conditions for variances are as follows:

- Variances shall not be issued when the variance will render the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
- Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- Variances shall only be issued prior to development permit approval.
- Variances shall only be issued upon:
  - A showing of good and sufficient cause;
  - A determination that failure to grant the variance would result in exceptional hardship; and
  - A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

**4.14.17.9.** A variance may be issued for solid waste disposal facilities per site, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the flowing conditions are met:

- The use serves a critical need in the community.
- No feasible location exists for the use outside the Special Flood Hazard Area.

- The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation.
- The use complies with all other applicable Federal, State, and local laws.
- The City of Kannapolis has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

**4.14.17.10.** Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the Base Flood Elevation increases risk of life and property, and that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

**4.14.17.11.** The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

#### **4.14.18. PROVISIONS FOR FLOOD HAZARD REDUCTION.**

In all Special Flood Hazard Areas, the following provisions are required:

- All new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
- Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Regulatory Flood Protection

Elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panel/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.

- All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- Nothing in this Section 4.14 shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this Section 4.14 and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this Section 4.14.
- New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in 4.14.17.9. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified in accordance with the provisions of 4.14.14.
- All subdivision and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.
- When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
- When a structure is located in multiple flood



hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation shall apply.

#### **4.14.19. SPECIFIC STANDARDS FOR CONSTRUCTION OF PERMANENT STRUCTURES.**

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in 4.14.5 or 4.14.14, the following provisions, in addition to the provisions of 4.14.18 are required:

##### **4.14.19.1. Residential Construction.**

New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including the basement, elevated no lower than the regulatory flood protection elevation, as defined in Appendix A of this ordinance.

##### **4.14.19.2. Manufactured Homes.**

The following shall apply to Manufactured homes only:

- New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Appendix A of this ordinance.
- Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS <sup>(1)</sup>§ 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis at least thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
- All enclosures or skirting below the lowest floor shall meet the requirements of 4.14.20.
- An evacuation plan must be developed of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by

the Floodplain Administrator and the local Emergency Management coordinator.

##### **4.14.19.3. Nonresidential Construction.**

New construction and substantial improvement of any commercial, industrial, or non-residential structure shall have the reference level, including the basement, elevated no lower than the regulatory flood protection elevation, as defined in Appendix A. Structures located in A, AE, AO, <sup>(1)</sup>AH and A99 Zones may be floodproofed to the regulatory flood prevention elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with 4.14.14.2. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in 4.14.4, along with the operational and maintenance plans.

#### **4.14.20. ELEVATED BUILDINGS.**

**4.14.20.1.** New construction or substantial improvements of elevated buildings that include fully enclosed areas which are below the lowest floor:

**4.14.20.1.1.** Shall not be <sup>(1)</sup>temperature controlled or conditioned. Shall not be designed or used for human habitation but shall only be used for the parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises.

**4.14.20.1.2.** Shall be constructed entirely of flood resistant materials at least to the regulatory flood protection elevation;

**4.14.20.1.3.** Shall include, in Zones A, AO, AE, <sup>(1)</sup>AH and A99, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

- A minimum of two flood openings on different sides of each enclosed area subject to flooding;
- The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
- If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
- The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;
- Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
- Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
- The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage rooms.
- Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

#### **4.14.21. TEMPORARY NON-RESIDENTIAL STRUCTURES.**

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

- All applicants must submit to the Floodplain Administrator, a plan for the removal of such structure(s) in the event of a hurricane, flash flood, or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval;
- A specified time period for which the

temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;

- The name, address and phone number of the individual responsible for the removal of the temporary structure;
- The time frame prior to the event at which a structure will be removed (i.e. minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
- A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
- Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

#### **4.14.22. ACCESSORY AND <sup>(1)</sup>OTHER STRUCTURES.**

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

- Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
- Accessory structures shall not be temperature-controlled;
- Accessory structures shall be designed to have low flood damage potential;
- Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- Accessory structures shall be firmly anchored in accordance with § 4.14.18;
- Service facilities such as electrical shall be installed in accordance with § 4.14.18.
- Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below base flood elevation in conformance with § 4.14. 20.

**4.14.22.2.** An accessory structure with a footprint of less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 4.14.14.

**4.14.22.3. (1) Tanks:** When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- Underground tanks: Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyance assuming the tank is empty;
- Above-ground tanks, elevated: Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirement of the applicable flood hazard area;
- Above-ground tanks not elevated: Above-ground tanks that do not meet the elevation requirement of the above Section (Above-ground tanks, elevated), shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood without release of content in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.
- Tanks, inlets and vents: Tank inlets, fill openings and vents shall be:
  - At or above Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
  - Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of design flood.

**4.14.22.4. (1) Other Development**

- Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockage fences and wire mesh fences, shall meet the requirements of Section 4.14.26.

- Retaining walls, sidewalks and driveways in regulated floodways and NEAs that involve placement of fill in regulated floodways shall meet the requirements of Section 4.14.26.
- Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the requirements of Section 4.14.26.

**4.14.23. ADDITIONS/IMPROVEMENTS**

**4.14.23.1.** Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

- Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure
- A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

**4.14.23.2.** Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

**4.14.23.3.** Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

- Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
- A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

**4.14.23.4. (1)** Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one (1) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair

is started must comply with the standards for new construction. For each building or structure, the one (1) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a ten (10) year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25% of the market value of the structure before the damage occurred. If the structure has a sustained damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

- Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified and that are the minimum necessary to assume safe living conditions.
- Any alterations of a historic structure provided that the alteration will not produce the structure's continued designation as an historic structure.

#### **4.14.24. RECREATIONAL VEHICLES.**

**4.14.24.1.** A Recreation vehicle shall either:

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

#### **4.14.25. STANDARDS FOR LAND SUBDIVISIONS.**

**4.14.25.1.** All subdivision proposals shall be consistent with the need to minimize flood damage;

**4.14.25.2.** All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

**4.14.25.3.** All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards;

#### **4.14.26. FLOODWAYS AND NON-ENCROACHMENT AREAS.**

**4.14.26.1.** Areas designated floodways or non-encroachment areas are located within Special Flood Hazard Areas established in 4.14.5. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in 4.14.18 through 4.14.20, shall apply to all development within such areas:

**4.14.26.2.** No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:

- It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit, or
- A Conditional Letter of Map Revisions (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

**4.14.26.3.** If § 4.14.26.2 is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this Section 4.14.

**4.14.26.4.** No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, providing the following provisions are met:

- The anchoring and the elevation standards of 4.14.19; and
- The no encroachment standard of 4.14.26.2.

#### **4.14.27. STREAMS WITHOUT BASE FLOOD ELEVATIONS AND/OR FLOODWAYS.**

**4.14.27.1.** Within the Special Flood Hazard Areas designated as Approximate Zone A and established in § 4.14.5, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of 4.14.18, shall apply:

**4.14.27.1.1.** No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

**4.14.27.1.2.** The BFE used in determining the regulatory flood protection elevation shall be determined based on the following criteria:

- When Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall comply with all applicable provisions of this division and shall be elevated or floodproofed in accordance with elevations established in accordance with 4.14.18 and 4.14.19.
- When floodway data is available from a Federal, State, or other resource, all new construction and substantial improvements within floodway areas shall also comply with the requirements of 4.14.19 and 4.14.22.
- All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference in accordance with 4.14.5 and utilized in implementing this ordinance.
- When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Appendix A. All other applicable provisions of 4.14.19 and 4.14.20 shall also apply.

**4.14.28. STANDARDS FOR RIVERINE FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCORACHMENT AREAS**

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

- Standards of Sections 4.14.18 and 4.14.19; and
- Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

**4.14.29. AREAS OF SHALLOW FLOODING (AO ZONES).**

**4.14.29.1.** Located within the Special Flood Hazard Areas established in § 4.14.5 are areas designated as shallow flooding areas. These areas have special flood hazard associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Sections 4.14.18 through 4.14.20, all new construction and substantial improvements shall meet the following requirements:

- 4.14.29.1.1.** The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade; or at least four (4) feet above the highest adjacent grade if no depth is specified.

**4.14.30. <sup>(1)</sup>AREA OF SHALLOW FLOODING (ZONE AH)**

**4.14.30.1.** Located within the Special Flood Hazard Areas established in Section 4.15.5. are areas designated as shallow flooding areas. These are subject to inundation by 1% annual chance shallow flooding (usually area of ponding) where average depths are one (1) to three (3) feet. Base Flood

Elevations derived from detailed hydraulic analyses are shown in this zone. All new construction and substantial improvement shall meet the following requirement:

- Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

**4.14.31. (1)EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE**

This Section in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted October 27, 2008 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforces. The enactment of this section shall not affect any action, suit, or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the City of Kannapolis enacted on October 27, 2008, as amended, which are not reenacted herein are repealed.

## 4.15. RIVER/STREAM OVERLAY (RSOD) DISTRICT.

### 4.15.1. PURPOSE.

The river/stream overlay districts shall be comprised of strips of land adjacent to streams and rivers which shall be retained in their natural vegetated, revegetated or reforested state through the preservation of appropriate perennial vegetation. It is the purpose of the districts and the vegetation to minimize soil erosion, reduce the velocity of overland stormwater flow, trap sediment and soil eroded from cropland or land being developed, and limit other pollutants from entering the waterways.

### 4.15.2. LOCATION.

**4.15.2.1.** When development is planned, waterbodies shall be designated by a qualified individual certified to identify intermittent and perennial streams by the North Carolina Department of Environment and Natural Resources. The following areas shall comprise the River/Stream Overlay District (RSOD):

**4.15.2.2.** A minimum 50 foot undisturbed stream buffer (the "Buffer") shall be established on both sides of all perennial streams and on all sides of water impoundments that are fed by perennial streams. The size of a stream buffer shall be measured from the average annual stream bank perpendicularly for a distance of 50 feet plus four (4) times the average percent of slope of area adjacent to the stream. This slope shall be calculated by measuring a distance of 250 feet from the center of the stream. The percent of slope for this distance shall serve as the determining factor. However, the maximum distance shall not exceed 120 feet from the edge of the stream.

**4.15.2.3.** A 20 foot undisturbed stream buffer (the "Buffer") shall be established on both sides of all intermittent streams and all sides of water impoundments that are fed by intermittent streams.

**4.15.2.4.** A vegetated setback shall be established along all stream buffers. The vegetative setback shall be measured from the buffer boundary landward in a direction perpendicular to the edge of the buffer. Perennial vegetation shall be maintained within the vegetative setback. Any area disturbed within the vegetative setback shall be revegetated with perennial vegetation as soon as practical after the disturbance. No building or structure or part

thereof shall be erected, established, or constructed within this setback. The vegetative setback for perennial streams shall be twenty (20) feet. The vegetative setback for intermittent streams shall be ten (10) feet. If there is a difference in the zoning ordinance setbacks, the strictest setback shall apply.

### 4.15.3. APPLICABILITY; EFFECT UPON BONA FIDE FARMS.

The use of best management practices in farming is strongly encouraged. A stream buffer is one of these practices and is therefore consistent with North Carolina Sediment Control Law and thus is 75% reimbursable under the North Carolina agricultural Cost - Share Program. This program is administered through the County Soil and Water Districts. Therefore, the following text shall apply to all development (farming is not considered development), or changing of conditions (e.g., timbering) adjacent to a perennial stream as defined below.

### 4.15.4. DEVELOPMENT CRITERIA

**4.15.4.1.** No development, including soil disturbing activities, shall occur within the Buffer except the following:

- Sewer easements, providing the activities strictly adhere to applicable state and local soil and erosion control regulations/guidelines. Perennial vegetation must be established as a necessary step in completing construction of any sewer facilities. Sewer easements should be as close to perpendicular or parallel to the stream channel to minimize the impact on the stream buffer.
- Other overhead and/or underground utilities, roads, streets, bridges, or similar structures within dedicated rights-of-way. Said structures shall cross the buffer as close to perpendicular as possible. For purposes of this subsection, a Greenway shall not be considered a "structure".
- Greenways are permitted within the Buffer.
- Projects that have been permitted through the US Army Corps of Engineers.
- Agricultural soil disturbing activities such as plowing, grading, ditching, excavating, placement of fill material, or similar activities may occur within the Buffer. Said activities

shall conform to all State and Federal regulations. Existing agricultural operations, forested or vegetated areas within stream buffer areas shall follow the state's forest practice guidelines which include best management practices (BMPs) as defined by the North Carolina Soil and Water Conservation Commission. Other agricultural activities not enumerated herein, which activities would result in significant disturbance of the existing soil, increase soil erosion, or destroy plant and wildlife habitats, are strongly discouraged and shall not occur except in accordance with the following requirements:

- Said activities shall be consistent with an approved replacement program.
- Said activities shall be consistent with the North Carolina Sediment Control Law.
- Said activities shall be coordinated with the North Carolina Wildlife Resources Commission's District 6 Biologist and the County Soil and Water District Representative.

**4.15.4.2.** All disturbed areas within the buffer zone, permitted or not, shall be revegetated with perennial vegetation as soon as practical (immediately) after the disturbance. Forested areas shall be reforested if possible as detailed in the approved replacement program discussed in subsection 4.15.4.1, above.

**4.15.4.3.** A progress report shall be submitted by the individual, corporation, or company disturbing land in the RSOD to the Planning Department within 60 days of approval of the replacement program. Two other reports may be required at 120 and 180 days if the program is not completed. The first two reports shall explain what work has been completed and any results as well as a time schedule for completion of the rest of the program. The final report shall document that the replacement program has been completed. The site shall be regularly inspected by the Administrator to assure activity and compliance. Any noncompliance shall be treated as a zoning violation and be subject to enforcement as described in § 1.6 of this Ordinance.



## 4.16. WATERSHED PROTECTION OVERLAY DISTRICTS

### 4.16.1. PURPOSE.

The purpose of these overlay districts is to implement the Water Supply Watershed Protection Act (the Act) (NCGS §§ 143-214.5 & 143-214.6). The Water Supply Watershed Protection Rules adopted by the North Carolina Environmental Management Commission (the “EMC”) requires that all local governments having land use jurisdiction within water supply watersheds adopt and implement water supply watershed protection ordinances, and maps. The City of Concord, the City of Kannapolis, the Town of Mount Pleasant and Cabarrus County have adopted watershed protection overlay restrictions as part of their zoning ordinances. It is the intent of this Section 4.16 to continue these restrictions. While the restrictions previously codified separately in the zoning ordinances of Concord, Kannapolis and Cabarrus County are combined herein and rewritten for clarity and it is the intent of this Ordinance to carry forth these regulations which previously existed and which have been approved by the EMC.

### 4.16.2. JURISDICTION.

The provisions of this Ordinance shall apply within the areas designated within the following watershed overlay districts as shown on the Official Zoning Map. All explanatory matter contained thereon accompanies and is hereby made a part of this Ordinance.

### 4.16.3. ESTABLISHMENT.

The watershed overlay zones listed in this subsection have been established by the City of Concord, the City of Kannapolis, Town of Mount Pleasant and Cabarrus County. Said overlay zoning districts are also established and continued in effect by this Ordinance. The watershed protection districts, the watershed classification, and the jurisdiction within which the watershed districts is established, are as listed in Table 4.16-1.

### 4.16.4. CRITICAL AREA BOUNDARY ADJUSTMENTS

The Planning and Zoning Commission may, in carrying out its plan review authority under this Ordinance, including its subdivision review authority under the Subdivision Ordinance, adjust the boundary of a Watershed Critical Area Overlay District to fit existing or proposed streets, lot lines or other features provided that such adjustments are agreed to by the property owner(s) involved and provided that any such adjustment is made with no loss of total area in the

affected Watershed Critical Area Overlay District.

### 4.16.5. INTERPRETATION OF THE WATERSHED BOUNDARIES

The Board of Adjustment shall have the power to make adjustments to the exterior boundary of Watershed Overlay Districts by removing all or part of a piece of property from a Watershed Overlay District where it finds that all or part of such property actually lies outside the drainage area of such Watershed. In any case where there is a dispute as to whether a property or any part of a property that is shown on the Official Zoning Map as being in a Watershed Overlay District actually drains to that Watershed, the Board of Adjustment shall, upon appeal by the owner, make a determination as to the facts of the matter as it affects the subject property.

In determining whether a property or part of a property drains to the Watershed as indicated on the Map, the Board of Adjustment shall base its determination on actual field conditions of the property as determined by topographical conditions. In making its determination, the Board of Adjustment may require the appellant to produce relevant expert testimony and exhibits.

After hearing such appeal, the Board shall find that the subject property (all or part) is either in the designated Watershed or out of the designated Watershed. If the Board shall find that the subject property is out of the designated Watershed, the Board shall order the Map to be adjusted to show the subject property to be outside the designated Watershed. In making such order, the Board of Adjustment shall designate the Watershed in which the subject property is located. If such designation causes the subject property to be located in another Watershed Overlay District, the order shall cause the Map to be adjusted to show the same

### 4.16.6. GENERAL PROVISIONS APPLICABLE TO ALL WATERSHED OVERLAY DISTRICTS

The following general provisions apply to all Watershed Overlay Districts. These provisions and the provisions contained in the Individual Watershed Overlay Districts are designed to protect the water quality of the Water Supply Watersheds that lie within the jurisdiction of this Ordinance and to implement the

rules adopted by the North Carolina Environmental Management Commission for the classified watersheds pursuant to North Carolina General Statutes 143-214.5.

**4.16.6.1.** <sup>(1)</sup>**Density Averaging.** When all of the following conditions are met, two noncontiguous lots, neither of which is publicly held land, may be treated in tandem for compliance with the Maximum Development Intensity of Table 4.16-3. Publicly held land include but are not limited to dedicated drainage and open space, parkland, or other land obtained for watershed protection or otherwise protected from development.

**4.16.6.1.1.** Parcel pairs being submitted for approval under this Section shall be submitted for approval as a single proposal and must be within the zoning jurisdiction of the City of Kannapolis.

**4.16.6.1.2.** The Maximum Development Intensity of the paired parcel averaged-density development shall not exceed the development intensity that would be permitted if the parcels were developed separately. The paired parcels shall be located within the same watershed and classification (Critical Area, Protected Area, or Balance of Watershed).

**4.16.6.1.3.** The paired parcels may include or be developed for residential or non-residential purposes.

**4.16.6.1.4.** Buffers shall at least meet the appropriate minimum City of Kannapolis water supply watershed protection requirements.

**4.16.6.1.5.** The portion of the parcel(s) which is not developed as part of the paired parcel, but that is being averaged in the land being evaluated to meet the maximum development intensity, shall remain in an undisturbed vegetated or natural state and placed in permanent conservation through a metes and bounds description on a recorded plat, as well on owner's covenants and individual deed which shall be irrevocable. It shall be noted on the plat that the City shall reserve the right to make periodic inspections to ensure compliance.

**4.16.6.1.6.** A Density Averaging Certificate (DAC) shall be obtained from the Watershed Review Board to ensure that both parcels considered together meet the standards of the ordinance and that potential owners have record

of how the watershed regulations were applied to the paired parcels. Only the owner(s) of both of the paired parcels may submit the application for the DAC. A site plan for both of the parcels showing the built-upon area as well as the protected area, shall be submitted and approved as part of the DAC. If the DAC is granted, no change in the approved plan shall be made unless the DAC is amended by the Watershed Review Board. Upon issuance of a DAC, one copy shall be forwarded to the North Carolina Department of Environmental Quality (NC DEQ). Included with the DAC will be the approved plan, recorded plats for both properties, a description of both properties, and documentation reflecting the development restrictions to the paired parcels.

**4.16.6.1.7.** The area to remain undeveloped shall be recorded in the deed for the parcel to which it applies. The DAC shall be recorded in the deed for each of the parcel in the parcel pair. Both the undeveloped area and the DAC shall be noted on the plat that applies to each parcel.

**4.16.6.1.8.** Paired parcel averaged-density developments that meet the low-density option development requirements shall transport stormwater runoff from the development by vegetated conveyances to the maximum extent practicable.

**4.16.6.1.9.** No parcel for which a watershed variance has been granted, or would be required, may be included as part of a parcel pair.

**4.16.6.1.10.** The Watershed Review Board shall make written findings supported by appropriate calculations and documentation that the paired parcel averaged-density development plan as a whole conforms to the intent and requirements of this Article and Section, and that the proposed agreement assures protection of the public interest.

**4.16.6.1.11.** Compliance with the above criteria shall be evidence that the parcel pair is consistent with the orderly and planned distribution of development throughout the watershed.

**4.16.6.2.** The construction of new roads and bridges and non-residential development should minimize built-upon area, divert stormwater away from surface water supply waters as much as possible, and employ best management practices

(BMPs) to minimize water quality impacts. To the extent practicable, the construction of new roads in the critical area should be avoided. The N.C. Department of Transportation BMPs as outlined in their document entitled "Best Management Practices for the Protection of Surface Waters" shall be used in all road and bridge construction projects in the Watershed Overlay Districts.

**4.16.6.3.** All development activities within Watershed Overlay Districts, in addition to those activities specifically regulated by these provisions, are subject to the standards, usage conditions and other regulations contained in the Rules and Requirements of the Surface Water Supply Protection Rules adopted by the North Carolina Environmental Management Commission.

**4.16.6.4.** A minimum 50-foot vegetative buffer for development activities is required along all perennial waters, including streams, rivers and impoundments, indicated on the most recent versions of United States Geodetic Survey (USGS) 1: 24,000 scale topographic maps; provided, that nothing in this Subsection shall prevent artificial streambank or shoreline stabilization. No new development is allowed in the buffer, except that water dependent structures, or other structures such as flagpoles, signs, and security lights, which result in only a diminutive increase in impervious area and public works projects such as road crossings and greenways may be allowed where no practicable alternative exists. These activities shall minimize built-upon surface area, direct runoff away from the surface water, and maximize the utilization of BMPs.

**4.16.6.5.** Where otherwise permitted in the underlying Primary Zoning District, Cluster Development is allowed on a project by project basis as follows:

- The overall density of the project meets the density requirements of this Ordinance;
- The appropriate vegetative buffer in 4.16.6.3 above is provided;
- Built upon areas are designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, and maximize the flow length through vegetated areas;
- Areas of concentrated development are located in upland areas and away, to the maximum extent practicable, from surface

waters and drainage ways;

- Remainder of tract to remain in vegetated or natural state;
- The area in the vegetated or natural state may be conveyed to a property owners association; a local government for preservation as a park or greenway; a conservation organization; or placed in a permanent conservation or farmland preservation easement. A maintenance agreement shall be filed with the property deeds and;
- Cluster development shall transport stormwater runoff from the development by vegetated conveyances to the maximum extent practicable.

**4.16.6.6.** All development in Watershed Overlay Districts, shall, to the maximum extent practical, minimize built-upon surface area, direct stormwater runoff away from surface waters and incorporate best management practices to minimize water quality impacts.

**4.16.6.7.** Existing development, as defined in this Ordinance, is not subject to the requirements of the overlay provisions. Expansions to structures classified as existing development must meet the requirements of these provisions, provided however, the built-upon area of the existing development is not required to be included in the density calculations. In determining expansions to existing development, the maximum permitted additional built-upon area is derived by multiplying the area of the portion of the property that is not built-upon by the appropriate percent built-upon limitation for the Overlay District in which the property is located.

**4.16.6.8.** A pre-existing lot created prior to the effective date of this Ordinance, regardless of whether or not a vested right has been established, may be developed or redeveloped for single family residential purposes without being subject to the restrictions of these overlay provisions.

**4.16.6.9.** Any existing building or built-upon area not in conformance with the limitations of these provisions that has been damaged or removed for any reason may be repaired and/or reconstructed, provided:

- Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage or removal.
- The total amount of space devoted to

- built-upon area may not be increased.
- The repair or reconstruction is otherwise permitted under the provisions of this Ordinance.
- No activity, situation, structure or land use shall be permitted or allowed to operate within a watershed which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of stormwater runoff; or any other situation found to pose a threat to water quality.

shall be those permitted within the underlying zoning districts provided, however, that the uses listed in Column (B) of Table 4.16-2 shall be prohibited.

**4.16.6.9.1.** The Administrator may require such information on Zoning Clearance Permit and Site Plan or Subdivision Plan applications, including density/built-upon area calculations, as he may deem necessary to determine compliance with Watershed Overlay District provisions.

**4.16.6.9.2.** The Administrator may, prior to the issuance of any permit in a Watershed Overlay District, require evidence of a valid Sedimentation Control Permit or evidence satisfactory to the Administrator that no permit is required.

**4.16.6.9.3.** The Administrator shall maintain records of the administration of the Watershed Overlay District regulations and shall submit any modifications of the regulations to the Division of Environmental Management, Division of Environmental Health and Division of Community Assistance. The Zoning Administrator shall also maintain a record of variances issued and shall submit an annual report of each project receiving a variance and the reason for the variance to the Division of Environmental Management. The annual report shall contain the record of each variance granted by the Board of Adjustment during the previous calendar year and shall be submitted on or before January 1 of the following year.

**4.16.7. PROHIBITED USES.**

Permitted principal, conditional and accessory uses

**Table 4.16-1: Watershed Overlay Districts**

<b>WATERSHED</b>	<b>CLASSIFICATION</b>	<b>JURISDICTION</b>
Coddle Creek Reservoir	WS-II CA	Cabarrus County
Coddle Creek Reservoir	WS-II BW	Cabarrus County
Dutch Buffalo Creek	WS-II CA	Cabarrus County
Dutch Buffalo Creek	WS-II BW	Cabarrus County
Lake Concord	WS-IV CA	Cabarrus County, City of Concord & City of Kannapolis
Lake Concord	WS-IV PA	City of Kannapolis
Lake Fisher	WS-IV CA	Cabarrus County & City of Kannapolis
Lake Fisher	WS-IV PA	City of Kannapolis
Lake Kannapolis	WS-III CA	City of Kannapolis
Lake Kannapolis	WS-III BW	City of Kannapolis
Tuckertown Reservoir	WS-IV PA	Cabarrus County

**Notes:** "CA" denotes "Critical Area"  
 "PA" denotes "Protected Area"  
 "BW" Balance of Watershed"

**Table 4.16-2: Prohibited Uses**

<b>(A) DISTRICT</b>	<b>(B) PROHIBITED USES</b>
Coddle Creek Reservoir WS-II CA	Commercial or industrial uses or hazardous material
Coddle Creek Reservoir WS-II BW	<input type="checkbox"/> No National Pollution Discharge Elimination System (NPDES) Permits shall be issued for landfills that discharge treated leachate. <input type="checkbox"/> Uses involving the storage of toxic and hazardous materials unless a spill containment plan is implemented.
Dutch Buffalo Creek WS-II CA	Commercial or industrial uses or hazardous material
Dutch Buffalo Creek WS-II BW	<input type="checkbox"/> No National Pollution Discharge Elimination System (NPDES) Permits shall be issued for landfills that discharge treated leachate. <input type="checkbox"/> Uses involving the storage of toxic and hazardous materials unless a spill containment plan is implemented.
Lake Concord WS-IV CA	<input type="checkbox"/> new sites for land application of residual <input type="checkbox"/> new sites for petroleum contaminated soils <input type="checkbox"/> new landfills <input type="checkbox"/> uses involving the storage of toxic and hazardous materials unless a spill containment plan is implemented.
Lake Concord WS-IV PA	Uses involving the storage of toxic and hazardous materials unless a spill containment plan is implemented.
Lake Fisher WS-IV CA	<input type="checkbox"/> new sites for land application of residual <input type="checkbox"/> new sites for petroleum contaminated soils <input type="checkbox"/> new landfills <input type="checkbox"/> uses involving the storage of toxic and hazardous materials unless a spill containment plan is implemented.
Lake Fisher WS-IV PA	Uses involving the storage of toxic and hazardous materials unless a spill containment plan is implemented.
Lake Kannapolis WS-III CA	<input type="checkbox"/> new sites for land application of residual <input type="checkbox"/> new sites for petroleum contaminated soils <input type="checkbox"/> new landfills <input type="checkbox"/> uses involving the storage of toxic and hazardous materials unless a spill containment plan is implemented.
Lake Kannapolis WS-III BW	<input type="checkbox"/> No National Pollution Discharge Elimination System (NPDES) Permits shall be issued for landfills that discharge treated leachate. <input type="checkbox"/> Uses involving the storage of toxic and hazardous materials unless a spill containment plan is implemented.
Tuckertown Reservoir WS-IV CA	<input type="checkbox"/> new sites for land application of residual <input type="checkbox"/> new sites for petroleum contaminated soils <input type="checkbox"/> new landfills <input type="checkbox"/> uses involving the storage of toxic and hazardous materials unless a spill containment plan is implemented.

4.16.8. DEVELOPMENT CRITERIA.

**4.16.8.1. RESIDENTIAL DENSITY & BUILT-UPON AREA.** Residential development activities shall comply with the minimum lot size for the applicable underlying zoning district as established in Section 4.7 of this Ordinance Notwithstanding, residential density shall not exceed that permitted for the corresponding watershed overlay district in one of either Column (B) or Column (C) of Table 4.16-3. As an option to complying with these residential density limitations, maximum built-upon area may be used instead. In such cases, the development project shall not exceed the built-upon amount established in Column (E) of Table 4.16-3 for each Overlay District on a project-by project basis. Use of the built-upon area method shall not be permitted in either the Coddle Creek Reservoir WS-II CA or the Dutch Buffalo Creek WS-II CA.

**4.16.8.2. NON-RESIDENTIAL LOT SIZE AND BUILT UPON AREA.** Non-residential development activities shall comply with the minimum lot size for the applicable underlying zoning district as established in Section 4.7 of this Ordinance. Notwithstanding, individual non-residential development projects shall not exceed the built-upon amount established in Column (E) of Table 4.16-3 for each Overlay District

**4.16.8.3. <sup>(1)</sup>LAKE CONCORD AND LAKE FISHER.** Only development activities within the jurisdiction of the City of Kannapolis in the Lake Concord and Lake Fisher Water Supply Watersheds that require a sedimentation permit are subject to the maximum development intensity standards in Table 4.16-3.

Table 4.16-3: Maximum Development Intensity

(A) DISTRICT	(B) MINIMUM LOT SIZE	LOW DENSITY <sup>(2)</sup>			HIGH DENSITY <sup>7*(2)</sup>
		(C) MINIMUM LAND REQUIRED PER DWELLING UNIT	(D) MAXIMUM DENSITY (DWELLING UNITS/ACR E)	(E) MAXIMUM BUILT- UPON AREA	ALL TYPES <sup>(2)</sup>
Coddle Creek Reservoir WS-II CA	Determined by underlying zoning district, provided the limitations of Column C or D of this Table are complied with.	3 acres	0.33	6% <sup>(1)</sup>	6% to 24%
6Coddle Creek Reservoir WS-II BW		1 acre	1.0	12%	12% to 30%
Dutch Buffalo Creek WS-II CA		2 acres	0.5	6% <sup>(1)</sup>	6% to 24%
Dutch Buffalo Creek WS-II BW		1 acre	1.0	12%	12% to 30%
Lake Concord WS-IV CA		20,000 sf	2.0	24%	24% to 50%
Lake Concord WS-IV PA		20,000 sf	2.0	24%	24% to 70%
Lake Fisher WS-IV CA		20,000 sf	2.0	24%	24% to 50%
Lake Fisher WS-IV PA		20,000 sf	2.0	24%	24% to 70%
Kannapolis Lake WS-III CA		40,000 sf	1.0	12%	12% to 30%
Kannapolis Lake WS-III BW		20,000 sf	2.0	24%	24% to 50%
Tuckertown Reservoir WS-IV CA		20,000 sf	2.0	24%	24% to 50%

Notes: <sup>(1)</sup> Applicable to non-residential development only.  
<sup>(2)</sup>\*In accordance with 15A NCAC 02B .0624

#### 4.16.9. ADDITIONAL DEVELOPMENT CRITERIA

##### 4.16.9.1. Coddle Creek Reservoir WS-II CA and Dutch Buffalo Creek WS-II CA.

A 150 foot vegetative buffer shall be maintained from the normal pool level on all property adjoining the reservoir. No permanent structures shall be permitted within this buffer area.

##### 4.16.9.2. Lake Concord WS-IV PA, Lake Fisher WS-IV PA, and Kannapolis Lake WS-III BW.

**4.16.9.2.1.** Residential development activities within the jurisdiction of the City of Kannapolis in the Protected Area or Balance of Watershed which require a sedimentation permit and which are not required to use, or which do not use, a curb and gutter system, shall not exceed three (3) dwelling units per acre or, optionally, 36% built-upon area.

##### 4.16.9.2.2. Special Intensity Allocation.

Notwithstanding the restrictions established by Table 4.16-3 and subsection 4.16.9.2.1 of this Section, new non-residential development may be established with up to seventy percent (70%) of built-upon area when approved <sup>(1)</sup> as a Special Intensity Allocation (SIA). The Watershed Review Board is authorized to approve SIAs consistent with the provisions of this article <sup>(1)</sup>. The Administrator shall maintain a record of the total acreage within each overlay district that has been used as of the latest date. In no case shall allocated acreage exceed the acreage eligible for allocation. For purposes of this subsection, the total areas that can be allocated within each district area as follows:

- Lake Fisher WS-IV PA: 152.64 acres <sup>(1)</sup>
- Lake Concord WS-IV PA: 192.90 acres <sup>(1)</sup>
- Kannapolis Lake WS-III BW: 46.70 acres.

**4.16.9.2.3.** Applicants requesting a SIA shall present their request to the Planning Staff thirty (30) days prior to the next available Planning Commission meeting. Projects must be presented in the form of a SIA site plan, prepared by a Professional Engineer, and must minimize built-

upon surface area, direct stormwater away from surface waters and incorporate Best Management Practices (BMPs) to minimize water quality impacts. All property subject to a request for a SIA must be uniformly zoned <sup>(1)</sup>.

**4.16.9.2.4.** The right to develop an SIA shall terminate with the loss of the right to develop due to the expiration of a Zoning Compliance permit or building permit. In such cases, allocated acreage or unused allocated acreage shall be returned to the unallocated total acreage eligible for allocation.

**4.16.9.2.5.** The percentage of built-upon area allocated as an SIA shall be determined by Table 4.16-4 and approved by the Watershed Review Board <sup>(1)</sup>.

**4.16.9.2.6.** In no case shall the built-upon area of an SIA exceed the built-upon limitations of the underlying Zoning District <sup>(1)</sup>.

#### 4.16.10. ESTABLISHMENT OF THE WATERSHED REVIEW BOARD <sup>(1)</sup>

**4.16.10.1.** The City of Kannapolis Planning & Zoning Commission is hereby appointed to serve as the Watershed Review Board <sup>(1)</sup>.

**4.16.10.2.** Members of the Watershed Review Board are subject to the same By-Laws adopted for the Planning & Zoning Commission <sup>(1)</sup>.

#### 4.16.11. VARIANCE PROCEDURES.

The Board of Adjustment may authorize variances from the specific requirements of the Watershed Overlay Districts in the same manner and subject to the same procedures and requirements of this Article for authorizing other variances, provided that:

- The notice required in Section 3.1.5 shall also be mailed by first class mail to all other local governments having watershed regulation jurisdiction within the particular watershed where the variance is requested and to each entity using that water supply for consumption; and



- If the variance request is for a major variance as defined herein the following procedure shall apply. If the Board of Adjustment decides in favor of granting the major variance, the Board shall then prepare a preliminary record of the hearing and submit it to the North Carolina Environmental Commission (EMC) for review and action. If the Board does not decide in favor of granting the major variance such unfavorable action shall constitute denial. In the event of

favorable action by the Board on a major variance, the Board, shall cause the record of their hearing to be promptly submitted to the EMC. The record of the hearing shall include but not be limited to: (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) Findings and exceptions; (f) The action of the Board including any conditions proposed.

**Table 4.16-4 Special Intensity Allocation Point System**

Categories Used for SIA Consideration	Potential Points										
<b>1. Tax Base Increase</b> <i>(estimated tax value of completed project)</i> \$200,000 - \$500,000 \$500,000 - \$999,999 \$1,000,000 to \$1,999,999 \$2,000,000 or more	15 25 50 75										
<b>2. Full-time Jobs Created</b> 1 - 10 11 - 25 26 or more	15 25 50										
<b>3. Community Value</b> <b>(determined by Watershed Review Board)</b>	up to 150										
<b>4. Type of Industry</b> Retail Trade Office / Institutional Industrial / Manufacturing Research & Development / Medical	10 10 20 20										
<b>5. Revitalization of Existing Development</b>	50										
<b>6. Energy Reduction / Conservation Measures</b> 10-20% Increase in Landscaping (above UDO) > 20% Increase in Landscaping (above UDO) Bioretention Applications LEED Certification	50 75 75 100										
<table border="1"> <thead> <tr> <th colspan="2">Potential Impervious Allowance</th> </tr> </thead> <tbody> <tr> <td>100 - 149 points</td> <td>40% imp.</td> </tr> <tr> <td>150 - 199 points</td> <td>50% imp.</td> </tr> <tr> <td>200 - 249 points</td> <td>60% imp.</td> </tr> <tr> <td>&gt; 249 points</td> <td>70% imp.</td> </tr> </tbody> </table>		Potential Impervious Allowance		100 - 149 points	40% imp.	150 - 199 points	50% imp.	200 - 249 points	60% imp.	> 249 points	70% imp.
Potential Impervious Allowance											
100 - 149 points	40% imp.										
150 - 199 points	50% imp.										
200 - 249 points	60% imp.										
> 249 points	70% imp.										

## 4.17. MANUFACTURED HOME OVERLAY (MHOD) DISTRICT.

### 4.17.1. PURPOSE.

The purpose of this Section is to provide sufficient land area for the provision of manufactured housing in order to implement NCGS § 160A-383.1 and to provide affordable housing opportunities for low and moderate income persons. A manufactured home is defined as structure, used or intended to be used as a Dwelling Unit, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. §5401, et seq. (Source: The Uniform Standards Code for Manufactured Homes Act," NCGS § 143-145). For purposes of this Ordinance, a "manufactured home" does not include a structure which otherwise complies with this subsection, but which was built prior to June 15, 1976, which units shall be classified as "mobile homes."

### 4.17.2. MODULAR HOMES EXEMPTED.

Manufactured (or Modular) Housing Constructed to meet the N.C. State Building Code shall be exempt from the restrictions of this § 4.17 and shall be permitted in any Single-family detached dwelling zoning district subject to any other provisions of this Ordinance.

### 4.17.3. ESTABLISHMENT.

This Section establishes two (2) Manufactured Home Overlay Districts in order to provide flexibility with regard to various manufactured home products:

MH-1  
MH-2

### 4.17.4. CLASSIFICATION OF MANUFACTURED HOMES.

4.17.4.1. The following classification system is hereby adopted for purposes of this Section:

- MANUFACTURED HOME - TYPE I. A single-section manufactured home less than seventeen (17) feet in width.
- MANUFACTURED HOME - TYPE II. A multi-section manufactured home greater than or equal to seventeen (17) feet in width.

4.17.4.2. The width of a manufactured home shall be determined by mean width when all sections are in a final assembly arrangement.

### 4.17.5. MH-1, MANUFACTURED HOME OVERLAY.

4.17.5.1. **Purpose.** The purpose of the MH-1, Manufactured Home Overlay District, is to provide for the principal use of land developed in harmony with the Underlying Zoning District regulations; however, permitting the substitution of a Manufactured Home as a Principal Building provided the specific design and/or installation regulations appearing in § 4.17.8 herein are met.

#### 4.17.5.2. Uses Permitted.

Use permitted as of right within the MH-1 Overlay District include:

- All uses permitted in the Underlying Zoning District (see Use Matrix, Table 4.6-1 of this Ordinance).
- Manufactured Homes - Type I (permanent installations only)
- Manufactured Homes - Type II (permanent installations only)

4.17.5.3. **Design Standards.** (Refer to § 4.17.8.2 herein.)

### 4.17.6. MH-2, MANUFACTURED HOME OVERLAY.

4.17.6.1. **Purpose.** The purpose of the MH-2, Manufactured Home Overlay District, is to provide for the Principal Use of land developed in harmony with the Underlying Zoning District regulations; however, permitting the substitution of a Manufactured Home as a Principal Building

provided the specific design and/or installation regulations appearing in § 4.17.8 herein are met.

**4.17.6.2. Uses Permitted.**

Use permitted as of right within the MH-2 Overlay District include:

- All uses permitted in the Underlying Zoning District (see Table 4.6-1 of this Ordinance).
- Manufactured Homes - Type II (permanent installations only)

**4.17.6.3. Design Standards.** (Refer to § 4.17.8.2 herein.)

**4.17.7. (Reserved)**

**4.17.8. DESIGN STANDARDS.**

**4.17.8.1. (Reserved)**

**4.17.8.2. Design and Installation Standards for individual Manufactured Homes.**

**4.17.8.2.1.** All individual manufactured homes within an MH-1 or MH-2 Overlay district or within an existing, previously approved Manufactured Home Park shall comply with the following design and installation standards:

**4.17.8.2.2.** Any manufactured home on an individual lot shall conform to the same building setback standards, side and rear yard requirements, standards for enclosures, access, vehicle parking, and square footage standards and requirements to which a conventional single-family residential dwelling on the same lot would be subject. The provisions of this § 4.17.8.2.2 shall not apply to a Manufactured Home Park where the lots are not subdivided into separate tracts of land.

**4.17.8.2.3.** A minimum 3:12 roof pitch is required.

**4.17.8.2.4.** A continuous masonry curtain wall or foundation, unpierced except for ventilation and access, shall be installed under the outer perimeter of the Dwelling from its base to the ground so as to be compatible with surrounding residential land uses. (Note: See APPENDIX C, Section C-503, Volume VII, North Carolina State

Building Code). The provisions of this § 4.17.8.2.4 shall not apply to a Manufactured Home Park where the lots are not subdivided into separate tracts of land.

**4.17.8.2.5.** The Dwelling shall be attached to a permanent foundation system in compliance with the N.C. State Building Code as may be amended, and the following requirements:

**4.17.8.2.6.** All wheels, hitches, axles, transporting lights and removable towing apparatus shall be permanently removed prior to installation of the dwelling unit.

**4.17.8.2.7.** The foundation shall be excavated and shall have continuous skirting or backfill leaving no uncovered open areas excepting vents and crawl spaces. The foundation shall be exposed no more than twelve (12) inches above grade.

**4.17.8.2.8.** For homes which are narrower than seventeen (17) feet in width, the unit shall be oriented on the lot so that its long axis is parallel to the street.

## 4.18. PUBLIC INTEREST DEVELOPMENT (PID) DISTRICT.

### 4.18.1. PURPOSE.

It is the purpose and intent of this Section to permit the creation of Public Interest Development Districts (PID) in areas designated by the city Council as having special and substantial public interest, by virtue of unique environmental, economic, cultural, entertainment, or other characteristics or conditions not generally shared by other areas of the City. It is further intended that such districts and the regulations established therein shall be in accord with and promote the policies set forth in the City's *Comprehensive Plan*. Because the PID addresses situations which affect the entire region, which create intermittent or unusual impacts and public benefits, and which require flexibility in the administration of land use regulations, and in order to avoid the potential for abuse of the PID rezoning process, it is the intent of this Section that only one (1) PID will be designated within the jurisdiction of the City.

### 4.18.2. PERMITTED USES.

The uses permitted in a PID district shall be the permitted uses as set forth and approved in the PID application.

### 4.18.3. EFFECT OF PID DESIGNATION.

A PID may be created as either a new district which completely replaces the existing zoning for a specific area, or may be created as an overlay district which supplements the existing underlying zoning districts. Subsequent to designation as a PID, all property within the district shall be developed in accordance with the standards of the district and other applicable requirements of the City of Kannapolis.

### 4.18.4. APPLICATION OF A PID DESIGNATION.

Application for a PID may be initiated by the City Council or the Planning Commission, or by the owner of a property for which a PID district is sought to be designated. Each application shall include a unique designation which clearly identifies the proposed district and shall include the information listed below:

- Statement of Intent specifying the nature of the special and substantial public interest involved and the objectives to be promoted by special regulations.
- Proposed District boundaries, including any subareas, which must include a map of the proposed district and may utilize narrative

descriptions and /or other references to further define the proposed area.

- A statement as to whether the proposed district is a replacement district or an overlay district.
- Proposed regulations and/or modifications to regulations, which by virtue of the unique characteristics of the district, are appropriate and reasonable to protect the public's interest in the area.
- Procedures for the administration of the regulations in the district which may include processes unique to the district.
- A conceptual plan which depicts the general nature of the proposed district and the general distribution of the uses allowed in the district.

### 4.18.5. LIMITATIONS.

**4.18.5.1.** Applications for PID classification shall only be considered for tracts larger than 25 acres, unless the petition would add land to a previously established PID.

**TABLE 4.6-1: PRINCIPAL USES PERMITTED IN ZONING DISTRICTS**

\* All uses permitted in the CC, CD, and I-1 Districts are subject to supplemental design regulations in Article 11 of this Ordinance.

P - Permitted Use S - Permitted Use with Supplemental Regulations in Article 5 and/or Article 11 (see "§ 0.00" for reference)

SU - Special Use (-) Prohibited Use

USE	NAICS	ZONING DISTRICTS																
		AG	RE	RL	RM-1	RM-2	RV	RC	B-1	O-I	CC*	C-1	C-2	CD-R^	CD*	I-1*	I-2	
<b>RESIDENTIAL</b>																		
Accessory Dwellings (§ 5.3) <sup>(3)</sup>	-	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	-	-	SU/S	SU/S	SU/S	-	SU/S	SU/S	SU/S
Duplex, Triplex (§ 4.7-1) <sup>(4)</sup>	-	-	-	-	-	-	-	P/S	P/S	-	-	SU/S	-	-	-	-	-	-
Family Care Home (see Appendix A for definition)	-	P	P	P	P	P	P	P	P	SU	P	SU/S	-	-	-	-	-	-
Home Occupations (§ 5.12) <sup>(19)</sup>	-	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	-	P/S	P/S	P/S
Rural Home Occupations (§ 5.33)	-	P/S	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Multi-family Dwellings - 4 or more dwelling units (§ 11.2)	-	-	-	-	-	-	SU/S	P/S	SU/S	SU/S	P/S	-	SU/S	P/S	-	-	-	-
Single-family, attached (§ 11.2)	-	-	-	-	-	-	P/S	P/S	SU/S	SU/S	P/S	-	-	P/S	-	-	-	-
Single-family, detached (§ 5.25)	-	P/S	P	P	P	P	P	P	SU	P	SU/S	-	-	-	-	SU/S	SU/S	
Single-family, manufactured home	-	( allowed in MH-1, MH-2, or MHP overlay district only)													-	-		
Single-family, modular home (§ 5.25)	-	P/S	P	P	P	P	P	P	SU	SU	SU/S	-	-	-	-	-	-	-
Pocket Neighborhood Development (§ 11.9)	-	-	-	-	-	-	SU/S	SU/S	-	-	-	-	-	-	-	-	-	-
Tiny House Neighborhood Development (§ 11.9)	-	-	-	-	-	-	SU/S	SU/S	-	-	-	-	-	-	-	-	-	-
<b>INSTITUTIONAL AND CIVIC</b>																		
Animal Shelter	-	SU	-	-	-	-	-	-	-	-	-	-	P	-	-	P	P	
Auditorium/Indoor Public Assembly, up to 350 seats	-	SU	SU	SU	SU	SU	SU	SU	P	P	P	P	P	-	-	-	-	
Auditorium/Indoor Public Assembly, more than 350 seats	-	-	-	-	-	-	SU	SU	SU	SU	P	P	P	-	-	-	-	
Botanical Gardens/Nature Preserves	71213, 71219	P	P	P	P	P	P	P	P	P	P	P	P	-	P	P	P	
Cemeteries, Crematories, & Mausoleums (§ 5.9)	81222	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	P/S	-	-	P/S	P/S	
Child Care Center (§ 5.16) <sup>(5)(12)</sup>	6244	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	P/S	P/S	P/S	P/S	P/S	-	P/S	SU/S	-	
Civic, Social, and Fraternal Organizations	8134	SU	SU	SU	SU	SU	SU	SU	P	P	P	P	P	-	-	-	-	
Correctional Institutions	92214	-	-	-	-	-	-	-	-	-	SU	-	-	-	-	SU	SU	
Country Club	71391	P	P	P	P	P	P	P	-	-	-	-	P	P	-	-	-	
Convention Center/Visitors Bureau	561591	-	-	-	-	-	-	-	-	-	P	P	P	-	P	-	-	
Golf Course, public or private	71391	P	P	P	P	P	P	P	-	-	-	P	P	-	-	-	-	
Government Buildings (excl. correctional institutions) and Facilities	-	SU	SU	SU	SU	SU	SU	SU	P	P	P	P	P	-	P	P	P	
Hospital	622	-	-	-	-	-	-	-	-	-	P	P	P	-	P	-	-	
Museums and Art Galleries	71211, 71212	SU	SU	SU	SU	SU	SU	SU	SU	C	P	P	P	-	P	-	-	
Outdoor Banquet Facility (§ 5.36) <sup>(21)</sup>	-	SU/S	SU/S	SU/S	SU/S	SU/S	-	-	-	-	-	-	-	-	-	-	-	
Park - Public, neighborhood	71219	P	P	P	P	P	P	P	P	P	P	P	P	-	P	P	P	
Park - Public, other than neighborhood	71219	P	SU	SU	SU	SU	SU	SU	P	P	P	P	P	-	P	P	P	
Performing Arts Companies & Artists	7111	-	-	-	-	-	-	-	P	P	P	P	P	-	-	-	-	
Postal Service Facilities	491	-	-	-	-	-	-	-	-	P	P	SU	P	-	P	P	P	
Recreational Sports Clubs (Hunting Clubs, Fishing Clubs, etc.)	713990	SU	SU	SU	SU	SU	SU	SU	P	P	P	P	P	-	-	-	-	
Religious Institutions (§ 5.29) <sup>(13)(17)</sup>	813110	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	P/S	P/S	P/S	P/S	-	-	-	-	
Residential Care Facilities (includes Group Homes) (§ 5.17)	623	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	P/S	P/S	P/S	-	-	-	-	
School - Boarding	6111	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	-	-	-	-	
School - Business, Computer and Management	6114	-	-	-	-	-	-	-	-	-	SU	P	P	P	-	-	P	
School - Charter, Private & Parochial	61111	SU	SU	SU	SU	SU	SU	SU	P	SU	SU	P	P	-	-	-	-	
School - Fine Arts	61161	-	-	-	-	-	-	-	P	SU	P	P	P	-	P	-	-	
School - Public, Elementary & Secondary	6111	P	P	P	P	P	P	P	P	P	P	P	P	-	-	-	-	
School - Technical and Trade	6116	-	-	-	-	-	-	-	SU	SU	P	P	P	-	P	P	P	

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USE	NAICS	ZONING DISTRICTS																
		AG	RE	RL	RM-1	RM-2	RV	RC	B-1	O-I	CC*	C-1	C-2	CD-R^	CD*	I-1*	I-2	
School - University or College	6112, 6113	SU	-	-	-	-	-	-	-	SU	P	P	P	-	P	-	-	
Social Assistance (excluding child care centers)	624	SU	SU	SU	SU	SU	SU	SU	SU	P	P	P	P	-	-	-	-	
Stadium <sup>(22)</sup>	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	
Zoo, public or private	71213	SU	-	-	-	-	-	-	-	-	-	-	SU	-	SU	SU	SU	
<b>PROFESSIONAL OFFICE/BUSINESS SERVICES</b>																		
Accounting & Tax Services	5412	-	-	-	-	-	-	-	-	P	P	P	P	P	-	P	P	-
Advertising & Related Services (excl. Sign Lettering/Painting)	5418	-	-	-	-	-	-	-	-	P	P	P	P	P	-	P	P	-
Architectural, Engineering & Related Services	5413	-	-	-	-	-	-	-	-	P	P	P	P	P	-	P	P	-
Automobile Repair, Major (excl. commercial trucks)	8111	-	-	-	-	-	-	-	-	-	-	-	P	-	-	P	-	
Automobile Repair, Minor (excl. commercial trucks)	81119	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	P	-
Automobile Repair (for commercial trucks/trailers) <sup>(1)</sup>	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	
Automotive Towing Services (\$5.24)	488410	-	-	-	-	-	-	-	-	-	-	-	P/S	-	-	P/S	-	
Banks, Finance and Insurance Offices	52	-	-	-	-	-	-	-	-	P	P	P	P	P	-	P	P	-
Broadcasting & Telecommunications (excl. Towers)	513	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	-	
Building, Chimney, Pool Cleaning Services	56179	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	-	
Carpet & Upholstery Cleaning Services	56174	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	-	
Catering Services	72232	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	-	
Clothing Alterations/Repair, Footwear Repair	811419, 81143	-	-	-	-	-	-	-	-	P	P	P	P	P	-	P	P	
Collection Agencies	56144	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	-	
Computer System Design & Related Services	5415	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	-	
Contractors Office/Shop (with outdoor storage)	233-235	-	-	-	-	-	-	-	-	-	-	-	P/S	-	P/S	P/S	P/S	
Contractors Office/Shop (with indoor storage)	233-235	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	P	
Credit Bureaus	56145	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	-	
Data Processing and News Services	514	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	-	
Delivery/Courier Service, Local	49221	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	-	
Dry Cleaning and Laundry Services	81231, 81232	-	-	-	-	-	-	-	-	P	P	P	P	-	P	-	-	
Electronic and Appliance Repair	8112, 8114	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	-	
Employment/Personnel Services/Agencies	5613	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	-	
Environmental Consulting Services	54162	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	-	
Funeral Home & Services	8122	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	-	
Graphic Design Services	54143	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	-	
Hair, Nail & Skin Care Services	81211	-	-	-	-	-	-	-	-	P	P	P	P	-	P	-	-	
Industrial Design Services	54142	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	-	
Interior Design Services	54141	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	-	
Investigation & Security Services, Locksmiths	5616	-	-	-	-	-	-	-	-	P	P	P	P	-	P	-	-	
Janitorial Services	56172	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	-	
Legal Services	5411	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	-	
Management/Holding Company offices	55	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	-	
Management & Marketing consultants	54161	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	-	

**TABLE 4.6-1: PRINCIPAL USES PERMITTED IN ZONING DISTRICTS**

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P - Permitted Use S - Permitted Use with Supplemental Regulations in Article 5 and/or Article 11 (see "§ 0.00" for reference)

SU - Special Use (-) Prohibited Use

USE	NAICS	ZONING DISTRICTS																
		AG	RE	RL	RM-1	RM-2	RV	RC	B-1	O-I	CC*	C-1	C-2	CD-R^	CD*	I-1*	I-2	
Medical/Health Care Offices	621	-	-	-	-	-	-	-	-	P	P	P	P	P	-	P	P	-
Massage Therapist-Licensed <sup>(7)</sup>	621	-	-	-	-	-	-	-	-	P	P	P	P	P	-	P	P	-
Motion Picture & Sound Recording (excl. Theaters)	512	-	-	-	-	-	-	-	-	-	P	P	P	P	-	P	-	-
Office Administrative Services	5611	-	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	-
Other Business Support Services	56149	-	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	-
Palmistry/Palm Reading/Fortune Teller Services (§5.26) <sup>(18)</sup>	812990	-	-	-	-	-	-	-	-	-	-	-	-	SU/S	-	-	-	-
Personal and Household Goods Repair	8114	-	-	-	-	-	-	-	-	P	P	P	P	P	-	P	-	-
Pest Control Services	56171	-	-	-	-	-	-	-	-	-	P	SU	SU	P	-	P	P	-
Pet Care Services (excluding Kennels & Veterinary Serv.) <sup>(8)</sup>	81291	P	-	-	-	-	-	-	-	P	P	P	P	P	-	-	P	-
Pet Care Services - Kennels only (§ 5.5)	81291	P	-	-	-	-	-	-	-	-	-	-	-	P/S	-	-	P/S	-
Photocopy Services (excl. studios)	56143	-	-	-	-	-	-	-	-	P	P	P	P	P	-	P	P	-
Publishing Industries	511	-	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	-
Real Estate & Leasing Offices (excl. mini-warehousing)	531	-	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	-
Scientific Research & Development Services	5417	-	-	-	-	-	-	-	-	-	P	P	SU	P	-	P	P	P
Sports and Recreation Instruction/Camps	61162	P	-	-	-	-	-	-	-	SU	-	P	P	P	-	P	-	-
Telemarketing/Telephone Call Centers	56142	-	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	-
Travel Services/Agents & Visitors Bureaus	5615	-	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	-
Veterinarian Offices/Animal Hospitals (§ 5.5)	54194	SU/S	-	-	-	-	-	-	-	SU/S	P/S	P/S	P/S	P/S	-	P/S	P/S	-
Weight Reducing Centers, non-medical	81219	-	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	-
<b>RETAIL TRADE</b>																		
Amusement Park	713110	-	-	-	-	-	-	-	-	-	-	-	-	SU	-	-	-	-
Amusement Arcade (Indoor only)	713120	-	-	-	-	-	-	-	-	-	-	P	-	P	-	-	-	-
Art Dealers	45392	-	-	-	-	-	-	-	-	P	P	P	P	P	-	P	-	-
Art Supply Stores	453998	-	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-
Auction House (General Merchandise)	453998	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-
Automotive Parts, Tires, and Accessories (§ 5.28) <sup>(10)</sup>	4413	-	-	-	-	-	-	-	-	-	-	-	-	P	-	SU	-	-
Automobile Rental & Leasing (§ 5.6)	5321	-	-	-	-	-	-	-	-	-	-	-	-	P/S	-	-	P/S	-
Automobile Sales, New & Used (§ 5.6)	4411	-	-	-	-	-	-	-	-	-	-	-	-	P/S	-	-	-	-
Baked Goods/Snack Shops (excluding drive-thru)	722213	-	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-
Bar/Nightclub (§ 5.18) <sup>(4)</sup>	722410	-	-	-	-	-	-	-	-	-	-	-	-	SU/S	-	-	-	-
Beach Bingo (as defined by NCGS 14-309) <sup>(3)</sup>	713290	-	-	-	-	-	-	-	-	-	-	-	-	SU	-	-	-	-
Bed & Breakfast Inns (§ 5.7)	721191	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	P/S	P/S	P/S	P/S	P/S	-	-	-	-
Boarding House (§ 5.30) <sup>(14)</sup>	721310	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	P/S	P/S	P/S	P/S	P/S	-	-	-	-
Book, Periodical & Music Stores	4512	-	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-
Bowling Centers	71395	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-
Building Material Supply (with outdoor storage) (§ 11.1)	4441	-	-	-	-	-	-	-	-	-	-	-	-	P/S	-	P/S	P/S	P/S
Building Material Supply (with no outdoor storage)	4441	-	-	-	-	-	-	-	-	-	-	P	P	P	-	P	P	-
Car Wash (as a principal use)	811192	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-
Cemetery Monument Dealers	453998	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	P	-
Clothing & Clothing Accessories	4481	-	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-

**TABLE 4.6-1: PRINCIPAL USES PERMITTED IN ZONING DISTRICTS**

\* All uses permitted in the CC, CD, and I-1 Districts are subject to supplemental design regulations in Article 11 of this Ordinance.

P - Permitted Use S - Permitted Use with Supplemental Regulations in Article 5 and/or Article 11 (see "§ 0.00" for reference)

SU - Special Use (-) Prohibited Use

USE	NAICS	ZONING DISTRICTS																
		AG	RE	RL	RM-1	RM-2	RV	RC	B-1	O-I	CC*	C-1	C-2	CD-R^	CD*	I-1*	I-2	
Consignment/Used Merchandise Stores	4533	-	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-
Convenience Store (with or without gas sales) (§ 5.10) <sup>(6)</sup>	44512, 44711	-	-	-	-	-	-	-	-	P/S	-	SU/S	P/S	P/S	-	SU	-	-
Equestrian Boarding & Riding Arenas, Commercial	81291, 71131	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Equipment Rental & Leasing (with indoor storage)	53321, 5324	-	-	-	-	-	-	-	-	-	-	-	P	-	P	P	-	-
Equipment Rental & Leasing (with outdoor storage)(§ 11.1)	53231, 5324	-	-	-	-	-	-	-	-	-	-	-	P/S	-	<sup>(24)</sup> P/S	P/S	-	-
Electronics & Appliance Rental	53221	-	-	-	-	-	-	-	-	-	P	P	P	-	P	-	-	-
Electronics, Camera & Appliance Stores	443	-	-	-	-	-	-	-	-	-	P	P	P	-	P	-	-	-
Electronic Gaming Operations (§ 5.31) <sup>(23)</sup>	-	-	-	-	-	-	-	-	-	-	-	-	SU/S	-	-	P/S	P/S	-
Farmer's Market	44523	P	-	-	-	-	-	-	-	P	-	P	-	P	-	-	-	-
Fitness & Recreational Sports Centers <sup>(2)</sup>	713490	-	-	-	-	-	-	-	-	SU	-	P	P	P	-	P	P	-
Florist	4531	-	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-
Formal Wear & Costume Rental	53222	-	-	-	-	-	-	-	-	-	P	P	P	-	P	-	-	-
Furniture & Home Furnishings	442	-	-	-	-	-	-	-	-	-	P	-	P	-	P	-	-	-
Furniture/Party Supply/Sporting Goods Rental	53229	-	-	-	-	-	-	-	-	-	P	-	P	-	P	-	-	-
Game Preserves	7114	SU	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
General Merchandise Stores (less than 25,000 sq. ft.)	452	-	-	-	-	-	-	-	-	-	P	P	P	-	P	-	-	-
Gift, Novelty & Souvenir Stores	45322	-	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-
Grocery/Food Stores (excl. convenience stores)	4451, 4452	-	-	-	-	-	-	-	-	SU	-	P	P	P	-	P	-	-
Heavy Truck, RV, and Semi-Trailer Leasing <sup>(1)</sup>	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-
Hobby, Toy & Game Stores	45112	-	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-
Hotel, Motels & Extended Stay Lodging Facilities	72111	-	-	-	-	-	-	-	-	-	P	-	P	-	P	-	-	-
Ice Vending Operations	-	-	-	-	-	-	-	-	-	-	-	-	P/S	-	-	P/S	P/S	-
Jewelry, Luggage and Leather Goods	4483	-	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-
Lawn & Garden Supply (with outdoor storage) (§ 11.1)	4442	-	-	-	-	-	-	-	-	-	-	-	P/S	-	P/S	P/S	-	-
Lawn & Garden Supply (with no outdoor storage)	4442	-	-	-	-	-	-	-	-	P	-	P	P	P	-	P	P	-
Liquor Sales (ABC stores)	4453	-	-	-	-	-	-	-	-	-	-	-	P	-	P	-	-	-
LP Gas & Heating Oil Dealers	45431	-	-	-	-	-	-	-	-	-	-	-	P	-	P	P	-	-
Manufactured Home Sales (§ 5.23)	45393	-	-	-	-	-	-	-	-	-	-	-	P/S	-	-	-	-	-
<sup>25</sup> Micro-brewery (§5.37)	-	-	-	-	-	-	-	-	-	-	-	P/S	-	P/S	-	-	-	-
Miniature Golf course	713990	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-
Mini-warehousing/Self-storage Leasing (§ 5.15) <sup>(15)</sup>	53113	-	-	-	-	-	-	-	-	-	-	-	SU/S	-	-	SU/S	SU/S	-
<sup>(27)</sup> Mobile Food Vending (§5.38)	-	-	-	-	-	-	-	-	-	-	-	P/S	P/S	P/S	-	-	-	-
Motion Picture Theaters (excl. drive-in)	512131	-	-	-	-	-	-	-	-	-	-	P	-	P	-	-	-	-
Motion Picture Theaters, drive-in	512132	-	-	-	-	-	-	-	-	-	-	-	SU	-	-	-	-	-
Motorcycle, Boat & RV Dealers, New & Used	4412	-	-	-	-	-	-	-	-	-	-	-	P	-	-	P	-	-
Musical Instrument & Supplies	45114	-	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-
Nurseries	44422	P	-	-	-	-	-	-	-	-	-	SU	P	-	P	-	-	-
Office Supplies & Stationery Stores	45321	-	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-
Parking Lots & Structures, Commercial	-	-	-	-	-	-	-	-	-	-	-	P	P	P	-	P	P	P
Pawnshops (subject to NCGS, Chapter 91A)	522298	-	-	-	-	-	-	-	-	-	-	SU	SU	P	-	-	-	-



**TABLE 4.6-1: PRINCIPAL USES PERMITTED IN ZONING DISTRICTS**

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P - Permitted Use S - Permitted Use with Supplemental Regulations in Article 5 and/or Article 11 (see "§ 0.00" for reference)

SU - Special Use (-) Prohibited Use

USE	NAICS	ZONING DISTRICTS															
		AG	RE	RL	RM-1	RM-2	RV	RC	B-1	O-I	CC*	C-1	C-2	CD-R^	CD*	I-1*	I-2
Pet & Pet Supply Stores	45391	-	-	-	-	-	-	-	-	-	P	P	P	-	P	-	-
Pharmacies, Health & Personal Care Stores	446	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-
Photography Studios	54192	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-
Pool Halls/Billiard Parlors <sup>(3)</sup>	713990	-	-	-	-	-	-	-	-	-	-	-	SU	-	-	-	-
Restaurant, Full Service (dine-in only)	7221	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-
Restaurant, Limited Service (delivery, carryout)	722211	-	-	-	-	-	-	-	P	-	P	P	P	-	-	-	-
Restaurant, Limited Service (drive-thru) <sup>(5)</sup>	722211	-	-	-	-	-	-	-	-	-	SU	SU	P	-	SU/S	-	-
Sewing, Needlework & Piece Goods Stores	45113	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-
Sewer/Septic Cleaning Services	56299	-	-	-	-	-	-	-	-	-	-	-	P	-	-	P	P
Sexually-Oriented Businesses (§ 5.20)	-	-	-	-	-	-	-	-	-	-	-	-	SU/S	-	-	-	-
Shoe Stores	4482	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-
Shopping Centers, less than 25,000 sq. ft. (§ 11.3)	-	-	-	-	-	-	-	-	SU/S	-	P/S	P/S	P/S	-	P/S	-	-
Shopping Ctr./Superstore, 25-100,000 sq. ft. (§ 11.3)	-	-	-	-	-	-	-	-	-	-	-	-	SU/S	-	SU/S	-	-
Shopping Centers/Superstore, over 100,000 sq. ft. (§ 11.3)	-	-	-	-	-	-	-	-	-	-	-	-	SU/S	-	SU/S	-	-
Shooting Ranges/Archery Ranges (indoor only)	713990	-	-	-	-	-	-	-	-	-	-	-	P	-	-	P	-
Sign Lettering & Painting (no outdoor storage)	54189	-	-	-	-	-	-	-	-	-	-	-	P	-	-	P/S	-
Sign Lettering & Painting (outdoor storage) (§ 11.1)	54189	-	-	-	-	-	-	-	-	-	-	-	P/S	-	-	P/S	-
Sporting Goods Stores	45111	-	-	-	-	-	-	-	-	-	P	P	P	-	P	-	-
Tanning Salons, Ear Piercing, Permanent Make-up Salons	812199	-	-	-	-	-	-	-	P	-	-	P	P	-	-	-	-
Tattoo Parlors, Body Piercing	812199	-	-	-	-	-	-	-	-	-	-	-	SU	-	-	-	-
Swimming Pool, Hot Tub Supply Stores	453998	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-
Tobacco Stores	453991	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-
Trophy Shops	453998	-	-	-	-	-	-	-	-	-	P	P	P	-	P	-	-
Truck Stop, Travel Plaza	44719	-	-	-	-	-	-	-	-	-	-	-	SU	-	-	-	-
Video Tape & Disk Rental	53223	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-
<b>WHOLESALE TRADE (no outside storage unless specified)</b>																	
Alcoholic Beverage Supply	4228	-	-	-	-	-	-	-	-	-	P	-	P	-	P	P	P
Audio/Video Cassette/Disk (prerecorded) Sales	42199	-	-	-	-	-	-	-	-	-	P	-	P	-	P	P	P
Book, Periodical, & Newspaper Sales	44292	-	-	-	-	-	-	-	-	-	P	-	P	-	P	P	P
Chemical, Plastics & Allied Products	4226	-	-	-	-	-	-	-	-	-	SU	-	-	-	P	P	P
Clothing, Piece Goods & Shoe Supply	4223	-	-	-	-	-	-	-	-	-	P	-	P	-	P	P	P
Coal & Ore Supply (with outdoor storage) (§ 11.1)	42152	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SU/S
Electronic Equipment and Parts Supply	42162	-	-	-	-	-	-	-	-	-	P	-	P	-	P	P	P
Farm Products (Raw Material) Sales	4225	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SU
Farm Supply Product Sales (with indoor storage)	42291	-	-	-	-	-	-	-	-	-	P	-	P	-	P	P	P
Farm Supply Product Sales (with outdoor storage) (§ 11.1)	42291	-	-	-	-	-	-	-	-	-	P/S	-	P/S	-	P/S	P/S	P
Florist & Nursery Supply (with indoor storage)	42293	SU	-	-	-	-	-	-	-	-	P	-	P	-	P	P	P
Florist & Nursery Supply (with outdoor storage) (§ 11.1)	42293	P/S	-	-	-	-	-	-	-	-	P/S	-	P/S	-	-	P/S	P
Furniture & Home Furnishing Sales	4212	-	-	-	-	-	-	-	-	-	P	-	P	-	P	P	P
Grocery/Food Sales	4224	-	-	-	-	-	-	-	-	-	P	-	P	-	P	P	P

**TABLE 4.6-1: PRINCIPAL USES PERMITTED IN ZONING DISTRICTS**

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SU - Special Use (-) Prohibited Use

USE	NAICS	ZONING DISTRICTS																
		AG	RE	RL	RM-1	RM-2	RV	RC	B-1	O-I	CC*	C-1	C-2	CD-R^	CD*	I-1*	I-2	
Hardware, Plumbing & Heating Supply	4217	-	-	-	-	-	-	-	-	-	-	P	-	P	-	P	P	P
Jewelry Supply	42194	-	-	-	-	-	-	-	-	-	-	P	-	P	-	P	P	P
Lumber & Construction Materials (w/ indoor storage)	4213	-	-	-	-	-	-	-	-	-	-	P	-	P	-	P	P	P
Lumber & Construction Materials (with outdoor storage) (§ 11.1)	4213	-	-	-	-	-	-	-	-	-	-	-	P/S	-	P/S	P/S	P	
Metal & Pipe Supply (with indoor storage)	42145	-	-	-	-	-	-	-	-	-	-	P	-	P	-	-	P	P
Metal & Pipe Supply (with outdoor storage) (§ 11.1)	42151	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P/S	P/S
Motor Vehicle - Sales (§ 5.8)	42111	-	-	-	-	-	-	-	-	-	-	-	-	P/S	-	-	P/S	P/S
Motor Vehicle - New Parts Supply	42112	-	-	-	-	-	-	-	-	-	-	P	-	P	-	P	P	P
Motor Vehicle - Used/Salvaged Parts (indoor storage)	42114, 42193	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	P	P
Motor Vehicle-Used/Salvaged Parts (outside storage) (§ 5.13, 11.1)	42114, 42193	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SU/S
Music & Musical Instrument Supply	42199	-	-	-	-	-	-	-	-	-	-	P	-	P	-	P	P	P
Paint, Varnish & Paint Supplies	42295	-	-	-	-	-	-	-	-	-	-	P	-	P	-	P	P	P
Paper/Paper Product Supply	4221	-	-	-	-	-	-	-	-	-	-	P	-	P	-	P	P	P
Petroleum/Petro. Products (excl. Bulk Terminals)	4227	-	-	-	-	-	-	-	-	-	-	-	-	P	-	P	P	P
Petroleum/Petroleum Products - Bulk Terminals	42271	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P
Pharmaceutical and Drug Supply	4222	-	-	-	-	-	-	-	-	-	-	P	-	P	-	P	P	P
Professional & Commercial Equipment Supply	4214	-	-	-	-	-	-	-	-	-	-	P	-	P	-	P	P	P
Tobacco/Tobacco Product Sales	42294	-	-	-	-	-	-	-	-	-	-	P	-	P	-	P	P	P
<b>AGRICULTURAL USES</b>																		
Animal Production & Support (excl. Swine & Feed Lots) (§ 5.4)	112, 1152	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	-	-	-	-	-	-	-	P	P
Auction Sales - Livestock only	45399	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P
Crop Production	111	P	P	P	P	P	P	P	P	P	P	-	P	P	-	P	P	P
Crop Production Support Activities	1151	P	SU	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P
Feed Lots	112	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Forestry and Logging (§ 5.33) <sup>(20)</sup>	113	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	-	P/S	P/S	P/S	P/S	P/S	P/S
Hunting, Fishing and Game Preserves (commercial)	114	SU	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Swine Farms	1122	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>MANUFACTURING AND INDUSTRIAL USES</b>																		
Abrasive Products Manufacturing	3279	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SU	SU	P
Automobile Race Cars and Parts Manufacturing	336999	-	-	-	-	-	-	-	-	-	-	P	-	P	-	P	P	P
Beverage & Tobacco Manufacturing	312	-	-	-	-	-	-	-	-	-	-	P	-	-	-	P	P	P
Broom, Brush, & Mop Manufacturing	339994	-	-	-	-	-	-	-	-	-	-	P	-	-	-	P	P	P
Burial Casket Manufacturing	339995	-	-	-	-	-	-	-	-	-	-	P	-	-	-	P	P	P
Cabinet Manufacturing (with indoor storage) <sup>(11)</sup>	337110	-	-	-	-	-	-	-	-	-	-	SU	-	SU	-	SU	SU	P
Candle & Potpourri Manufacturing	339999	-	-	-	-	-	-	-	-	-	-	P	-	-	-	P	P	P
Cement/Concrete (ready-mix) and Concrete Product Manuf.	3273	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SU
Chemical Manufacturing	325	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SU	SU
Clay & Brick Product Manufacturing	3271	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SU	SU
Computer, Electronics, & Appliance Manuf.	334, 335	-	-	-	-	-	-	-	-	-	-	P	-	-	-	P	P	P

**TABLE 4.6-1: PRINCIPAL USES PERMITTED IN ZONING DISTRICTS**

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SU - Special Use (-) Prohibited Use

USE	NAICS	ZONING DISTRICTS																	
		AG	RE	RL	RM-1	RM-2	RV	RC	B-1	O-I	CC*	C-1	C-2	CD-R^	CD*	I-1*	I-2		
Concrete Form Manufacturing (§ 5.27) <sup>(9)</sup>	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SU	SU	
Concrete (dry mix), Synthetic Stone, Stucco Manuf.	327999	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SU	
Cut Stone & Stone Product Manufacturing (excl. quarrying)	327991	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	SU	P	
Electronic Shopping & Mail-Order Houses	4541	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	P	P	P
Equipment Manufacturing (all types)	333, 336, 3391	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P
Fabricated Metal Product Manufacturing	332	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SU
Fastener, Button, Needle & Pin Manufacturing	339993	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	P	P	P
Food Manuf. (excl. Animal Slaughtering & Processing)	311	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	P	P	P
Food Manuf. - Animal Slaughtering & Processing	3116	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SU
Furniture & Related Products Manufacturing	337	-	-	-	-	-	-	-	-	-	SU	-	-	-	-	-	SU	SU	P
Gasket, Packing & Sealing Device Manufacturing	339991	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	P	P	P
Glass/Glass Product Manufacturing	3272	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SU	SU	P
Industrial Launderers	812332	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P
Jewelry & Silverware Manufacturing	33991	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	P	P	P
Landfill - Demolition & Inert Debris (§ 5.14)	-	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	-	-	P/S	P/S	P/S
Lime & Gypsum Product Manufacturing (excl. quarrying)	3274	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SU	P
Mineral Wool/Fiberglass Insulation Manufacturing	327993	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SU	SU	P
Mining/Extraction Industries (§ 5.19)	21	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SU/S
Musical Instrument Manufacturing	339992	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	P	P	P
Office Supply (excl. Paper) Manufacturing	33994	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	P	P	P
Paper/Paper Product Manufacturing	322	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SU	SU
Petroleum, Asphalt & Coal Manufacturing	324	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SU
Plastics & Rubber Manufacturing	326	-	-	-	-	-	-	-	-	-	SU	-	-	-	-	-	SU	SU	SU
Primary Metal Processing/Manufacturing	331	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SU
Printing and Related Support Activities	323	-	-	-	-	-	-	-	-	-	P	-	P	-	-	-	P	P	P
Sign Manufacturing (with indoor storage)	33995	-	-	-	-	-	-	-	-	-	P	-	P	-	-	-	P	P	P
Sign Manufacturing (with outdoor storage)	33995	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P/S	P/S
Solid Waste Collection and/or Disposal (Non-Hazardous)	562111, 56221	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P
Solid Waste Collection and/or Disposal (Hazardous, <sup>26</sup> including Medical Waste Facilities) (§ 5.11)	562112, 562211	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SU/S	SU/S
Sporting & Athletic Goods Manufacturing	33992	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	P	P	P
Textile Mills & Apparel Manufacturing	313-316	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	P	P	P
Toy, Doll & Game Manufacturing	39993	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	P	P	P
Transportation Equipment Manufacturing	336	-	-	-	-	-	-	-	-	-	SU	-	-	-	-	-	SU	SU	P
Waste Remediation/Recovery Serv. (incl. salvage/junk yard) (§ 5.13)	5629	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SU/S
Wood Products Manuf. (excl. Sawmills, Manuf. Home, Furniture)	321	-	-	-	-	-	-	-	-	-	SU	-	-	-	-	-	SU	SU	P
Wood Products Manuf. - Manufactured Homes	321991	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SU	SU
Wood Products Manuf. - Sawmills	321113	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SU

**TABLE 4.6-1: PRINCIPAL USES PERMITTED IN ZONING DISTRICTS**

\* All uses permitted in the CC, CD, and I-1 Districts are subject to supplemental design regulations in Article 11 of this Ordinance.

P - Permitted Use S - Permitted Use with Supplemental Regulations in Article 5 and/or Article 11 (see "§ 0.00" for reference)

SU - Special Use (-) Prohibited Use

USE	NAICS	ZONING DISTRICTS																										
		AG	RE	RL	RM-1	RM-2	RV	RC	B-1	O-I	CC*	C-1	C-2	CD-R^	CD*	I-1*	I-2											
Vending Machine Operators	4542	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	P	P	P			
<b>TRANSPORTATION, WAREHOUSING AND UTILITIES USES</b>																												
Air Transportation & Support Facilities <sup>(1)</sup>	481, 4881	SU	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SU	SU		
Charter Bus Services	4855	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	P	-	-	-	-		
Electric Power Generation	22111	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SU		
Electric Power Transmission and Distribution (§ 11.6)	22112	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		
Limousine Service	48532	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SU	SU	P	-	-	-	-		
Lumber - Bulk Storage	49139	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SU		
Natural Gas Distribution Facilities/Equipment (§ 11.6)	2212	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		
Petroleum - Bulk Storage	49139	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SU		
Public Urban, Interurban and Rural Transit Systems	4851-4582	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		
Rail Transportation & Support Facilities	482, 4882	SU	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SU		
Sewage Treatment Facility, private	22132	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU		
Taxi Service/Taxi Stand	48531	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SU	SU	P	-	-	-	-		
Truck Transportation, Terminal & Support Facilities	484, 4884	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	
Warehousing and Storage, Farm Products	49313	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P		
Warehousing and Storage, General & Refrigerated	49311-49312	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P
Water Distribution Facilities/Equip. (excl. Water Treatment)	22131	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		
Water Transportation & Support Facilities	483, 4883	SU	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SU		
Water Treatment Facility	22131	SU	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P		
Wireless Telecommunications (WTS) Tower** (§ 5.21)	513	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S	SU/S		
WTS Co-location of equipment on existing tower (§ 5.21)	513	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S		
** WTS towers using approved stealth technology and less than 65 feet in height are permitted by right in all districts.																												
<b>OTHER USES <sup>(16)</sup></b>																												
Parking of Recreational and Commercial Vehicles (§ 5.30)	-	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S		

(1) City Council approved 4/23/2001  
 (2) City Council approved 6/25/2001  
 (3) City Council approved 3/25/2002  
 (4) City Council approved 11/24/2003  
 (5) City Council approved 7/26/2004  
 (6) City Council approved 9/27/2004  
 (7) City Council approved 5/23/2006  
 (8) City Council approved 2/26/2007  
 (9) City Council approved 5/29/2007  
 (10) TA-2007-01 - City Council approved 9/27/2007  
 (11) TA-2007-05 - City Council approved 1/28/2008

(17) TA-2009-11 - City Council approved 12/14/2009  
 (18) TA-2010-04 - City Council approved 4/26/2010  
 (19) TA-2010-06 - City Council approved 5/24/2010  
 (20) TA-2010-11 - City Council approved 2/14/2010  
 (21) TA-2017-06 - City Council approved 9/11/2017  
 (22) TA-2017-07 - City Council approved 9/11/2017  
 (23) TA-2017-08 - City Council approved 9/25/2017  
 (24) TA-2018-05 - City Council approved 10/22/2018  
 (25) TA-2019-04 - City Council approved 6/10/2019  
 (26) TA-2019-03 - City Council approved 7/22/2019  
 (27) TA-2019-06 - City Council approved 10/14/2019

**Table 4.7-1 Dimensional and Density Standards**

Zoning District	A	B	C	D	E	F	G	H	I
	Min. Lot Size (sq. ft.)	Max. Density (per acre)	Impervious Surface Ratio	Min. Public Street Frontage (feet)	Min. Lot Width (feet)		Min. Lot Depth (feet)		Max. Building Height (feet)
AG**	43560 <sup>^</sup>	1	-	30 <sup>^</sup>	200 <sup>^</sup>		200 <sup>^</sup>		35 <sup>^</sup>
RE	43560 <sup>^</sup>	1	-	30 <sup>^</sup>	150 <sup>^</sup>		150 <sup>^</sup>		35 <sup>^</sup>
RL	20000 <sup>^</sup>	2	-	15 <sup>^</sup>	100 <sup>^</sup>		125 <sup>^</sup>		35 <sup>^</sup>
RM-1	15000 <sup>^</sup>	3	-	15 <sup>^</sup>	75 <sup>^</sup>		125 <sup>^</sup>		35 <sup>^</sup>
RM-2	10000 <sup>^</sup>	4	-	15 <sup>^</sup>	75 <sup>^</sup>		100 <sup>^</sup>		35 <sup>^</sup>
RV	7500 <sup>^</sup>	8	0.5	15 <sup>^</sup>	<sup>(3)</sup> 60 <sup>^</sup>		100 <sup>^</sup>		***35 <sup>^</sup> <sup>(1)</sup>
RC	<sup>(3)</sup> 6000 <sup>^</sup>	15	0.5	15 <sup>^</sup>	<sup>(3)</sup> 60 <sup>^</sup>		100 <sup>^</sup>		***35 <sup>^</sup> <sup>(5)</sup>
B-1	-	-	0.65	30 <sup>^</sup>	50 <sup>^</sup>		100 <sup>^</sup>		50 <sup>^</sup>
CC	-	-	-	-	-		-		72 <sup>^</sup>
O-I	-	-	0.7	-	-		-		35 <sup>^</sup>
C-1	-	-	0.7	-	-		-		48 <sup>^</sup>
C-2	-	-	0.8	30 <sup>^</sup>	50 <sup>^</sup>		100 <sup>^</sup>		48 <sup>^</sup>
CD	-	-	0.8	30 <sup>^</sup>	100 <sup>^</sup>		100 <sup>^</sup>		72 <sup>^</sup>
I-1	-	-	0.8	30 <sup>^</sup>	50 <sup>^</sup>		100 <sup>^</sup>		72 <sup>^</sup>
I-2	-	-	0.9	30 <sup>^</sup>	50 <sup>^</sup>		100 <sup>^</sup>		72 <sup>^</sup>

**Building Setbacks**

Zoning District	PRINCIPAL STRUCTURES				ACCESSORY STRUCTURES	
	Min. Front Setback (feet)	Max. Front Setback (feet)	Min. Interior Sideyard Setback (feet)	Min. Rear Setback (feet)	Min. Interior Sideyard Setback (feet)	Min. Rear Setback (feet)
AG	50	-	20	30	10	10
RE	45	-	20	30	5	5
RL	35	-	15	30	5	5
RM-1	25	-	10	25	5	5
RM-2	25	-	10	25	5	5
RV	20	-	7	5	5	5
RC	20	-	7	5	5	5
B-1	10	-	10	20	10	10
CC	see Art. 11	-	-	-	-	-
O-I	10	-	-	-	-	-
C-1	10	-	-	-	-	-
C-2	10	-	-	-	-	-
CD	30	-	-	-	-	-
I-1	30	-	-	-	-	-
I-2	30	-	-	-	-	-

**NOTES:**

- \* Residences permitted in non-residential districts shall conform to the dimensional standards of the RC district.
- \*\*Rural subdivisions (AG zone) are subject to the additional provisions of Section 5.25
- <sup>(4)</sup><sup>(5)</sup>\*\*\* A maximum of building height of 48' is allowed for multi-family development.
- <sup>^</sup> See Sect. 6.6.5 for exceptions.
- <sup>(2)</sup><sup>^</sup> Shall not apply to lots created for government infrastructure and services.
- <sup>(1)</sup> In the districts where permitted, multi-family and/or single-family attached developments shall only be subject to to Columns B, C, D, and I. Setbacks for multi-family and single-family attached developments are set forth in Sect. 11.2 of this Ordinance.
- In the districts where duplexes are permitted and/or are constructed on individual lots, the minimum lot size and minimum lot width shall be 1.5 times the standard listed in Column A and F.
- In districts where triplexes are permitted and/or are constructed on individual lots, the minimum lot size and minimum lot width shall be two times the standard listed in Column A and F.

(1) City Council approved 11/24/2003  
 (2) TA-2008-07 - City Council approved 9/22/2008  
 (3) TA-2014-01 - City Council approved 3/24/2014  
 (4) TA-2015-04 - City Council approved 3/23/2015  
 (5) TA-2017-09 - City Council approved

# ARTICLE 5 SUPPLEMENTAL USE REGULATIONS

*Summary: This Section establishes uniform criteria for particular uses which are permitted within one or more of the zoning districts established in Article 4. If the use is listed as a permitted use in Article 4, Table 4.6-1, the additional criteria set forth in this Article must be satisfied before an application for development approval will be approved or issued. If the use is listed as a special use in Article 4, Table 4.6-1, the additional criteria set forth in this Article must be satisfied before an application for Special Use Permit will be approved. These criteria are designed to ensure that the listed uses are compatible with the other permitted uses in the zoning district and to implement the policies of the Comprehensive Plan.*

## TABLE OF CONTENTS

SECTION	PAGE
5.1 GENERAL PROVISIONS .....	5-3
5.2 ACCESSORY USES AND STRUCTURES .....	5-4
5.3 ACCESSORY DWELLINGS.....	5-6
5.4 ANIMAL REGULATIONS.....	5-7
5.5 ANIMAL BOARDING/STORAGE USES .....	5-8
5.6 MOTOR VEHICLE SALES OR RENTAL.....	5-9
5.7 BED AND BREAKFAST INNS .....	5-10
5.8 CAMPGROUNDS.....	5-11
5.9 CEMETERIES AND CREMATORIES.....	5-12
5.10 CONVENIENCE STORES .....	5-13
5.11 HAZARDOUS WASTE FACILTIES.....	5-14
5.12 HOME OCCUPATIONS.....	5-15
5.13 JUNKYARDS / SALVAGE YARDS .....	5-18
5.14 DEMOLITION LANDFILLS .....	5-20
5.15 MINI-WAREHOUSE/SELF-SERVICE STORAGE .....	5-22
5.16 CHILDCARE FACILITIES .....	5-24
5.17 RESIDENTIAL CARE FACILITIES .....	5-25

**5.18 BARS AND NIGHTCLUBS ..... 5-26**

**5.19 QUARRYING AND MINING USES..... 5-27**

**5.20 SEXUALLY ORIENTED BUSINESSES..... 5-28**

**5.21 WIRELESS TELECOMMUNICATIONS SERVICES..... 5-32**

**5.22 TEMPORARY USES..... 5-39**

**5.23 MANUFACTURED/MODULAR HOME AND STORAGE BUILDING SALES ..... 5-43**

**5.24 AUTOMOTIVE TOWING BUSINESSES ..... 5-44**

**5.25 RESIDENTIAL SUBDIVISIONS IN THE AG ZONE ..... 5-45**

**5.26 PALMISTRY/PALM READING/FORTUNE TELLER SERVICES ..... 5-46**

**5.27 CONCRETE FORM MANUFACTURING..... 5-47**

**5.28 AUTOMOBILE PARTS, TIRES, AND ACCESSORIES ..... 5-48**

**5.29 RELIGIOUS INSTITUTIONS ..... 5-49**

**5.30 PARKING OF COMMERCIAL AND RECREATIONAL VEHICLES ..... 5-50**

**5.31 ELECTRONIC GAMING OPERATIONS ..... 5-51**

**5.32 ICE VENDING OPERATIONS..... 5-53**

**5.33 RURAL HOME OCCUPATIONS..... 5-54**

**5.34 FORESTRY ACTIVITIES..... 5-56**

**5.35 BOARDING HOUSES.....5-57**

**5.36 OUTDOOR BANQUET FACILITIES.....5-58**

**5.37 MICRO-BREWERY.....5-59**

**5.38 MOBILE FOOD VENDING .....5-60**

**5.39 TEMPORARY FAMILY HEALTH CARE STRUCTURES.....5-61**

## **5.1. GENERAL PROVISIONS**

### **5.1.1. APPLICABILITY.**

The provisions of Article 5 are supplemental to the general provisions of the other Articles of the Unified Development Ordinances. All Uses and Structures shall comply with the all other applicable provisions of this Ordinance in addition to the provisions of this Article.

### **5.1.2. CONFLICT WITH OTHER REGULATIONS.**

If there is a conflict between standards of Article 5 and any other requirements of this Ordinance, the standards of this Article 5 shall control, except as set forth in section 5.1.3, below.

### **5.1.3. RELATIONSHIP TO USE TABLE.**

The zoning district in which a particular use is permitted is controlled by Table 4.6-1, and in the event of any inconsistency between the provisions of this Article 5 and the Use Matrix (Table 4.6-1), the provisions of the Use Matrix shall control.



## 5.2. ACCESSORY USES AND STRUCTURES

### 5.2.1. PERMITTED ACCESSORY USES.

5.2.1.3. The uses listed in Column A, below, shall be permitted by right (unless noted otherwise) in any of the zoning districts set forth in Column B, below:

(A) Accessory Use	(B) Zoning Districts
Accessory Dwellings (subject to the provision of § 5.3)	see Table 4.6-1 (see Article 4)
Garages or Carports (noncommercial)	All Zoning Districts.
Greenhouses (noncommercial)	All Residential Zoning Districts.
Home Occupations (subject to § 5.12)	All Residential Zoning Districts.
Temporary Family Health Care Structures (subject to § 5.39)	All Zoning Districts
Off-Street Parking and Driveways	All districts.
Wireless Telecommunications Antennas or Tower (subject to § 5.21)	All Zoning Districts
Other Telecommunication Antennas or Tower	see Table 4.6-1 (see Article 4)
Satellite Dishes	All Zoning Districts
Signs (see Article 12)	All districts.
Storage Buildings (residential)	All districts.
Swimming Pools (subject to the provisions of § 5.2.2)	All Zoning Districts.
Stables/Private (see § 5.4)	AG, RE, RL.
Tennis Courts (subject to the provisions of this Section)	All Zoning Districts.
Any other Building or Use customarily incidental to the permitted Primary Use or Building (subject to the location standards of this § 5.2)	All Zoning Districts.

**5.2.1.4. ESTABLISHMENT.** Accessory buildings or uses shall not be constructed or established on a lot until construction of the principal building has commenced or the primary use is established, except as provided in section 5.2.1.5. Accessory buildings shall not be used for dwelling purposes, except as provided in section 5.3.

#### 5.2.1.5. LOCATION.

**5.2.1.5.1.** Accessory structures shall be required meet the setback standards for accessory structures as set forth in Table 4.7-1 *Dimensional and Density Standards*. Accessory structures may be located within a setback yard for principal structures and shall be regulated in accordance with the standards below. No accessory structure

shall be located less than 36 inches from the exterior wall of the principal structure. Structures that are located closer than 36 inches shall be considered as additions to the principal structure and shall conform to all applicable setbacks.

**5.2.1.5.2.** For residential lots not exceeding two (2) acres, detached accessory buildings shall not be located in the front yard. Detached accessory buildings may be built in the required rear yard but such accessory buildings shall not occupy more than thirty (30%) percent of the rear yard and shall not be closer than five feet to any side or rear lot line or setback line.

**5.2.1.5.3.** For residential lots exceeding two (2) acres, detached accessory buildings may be located in the front yard but not closer than

seventy-five feet (75') from the front property line/street right-of-way. Detached accessory buildings may be closer than the distance specified above if they are not visible from a public street.

**5.2.1.5.4.** The location of permitted non-residential accessory structures shall be governed by the same dimensional regulations as set forth for the principal use structure(s).

**5.2.1.5.5.** Accessory buildings on double frontage lots shall not be closer to either street than the required front yard setback.

**5.2.1.6. HEIGHT.** Accessory buildings shall not exceed:

**5.2.1.6.1.** the standard height regulations of the zoning district as set forth in Table 4.7-1 where accessory structure is located within the buildable lot area;

**5.2.1.6.2.** shall not exceed fifteen (15) feet in height, where accessory structure is located within a principal structure setback yard.

**5.2.2. SWIMMING POOLS.**

A private swimming pool along with incidental installations, such as pumps and filters, is permitted in any zoning district provided:

**5.2.2.2** If any pool contains at least four hundred fifty (450) square feet of water surface area or has a depth of thirty-six (36) inches or greater at its shallowest point, the pool shall be enclosed from adjoining lots by the Principal Building, an Accessory Building, a solid wall, or a protective fence of not less than four (4) feet in height. In the alternative, a poll cover shall be provided and shall be installed whenever the pool is not in use.

**5.2.2.3.** The swimming pool shall be set back from all lot lines a distance of not less than five (5) feet.

**5.2.2.4.** Private swimming pools located in non-residential zoning districts shall be screened from view of adjacent properties.

**5.2.3. LIGHTING.**

Exterior lighting for accessory uses and/or structures shall be placed so as to not direct or reflect light upon

adjoining land.

**5.2.4. EXEMPTIONS TO ACCESSORY USE AND STRUCTURE REGULATIONS.**

The following uses/structures shall be exempt from the provisions of this § 5.2:

**5.2.4.3.** Fencing and walls;

**5.2.4.4.** mailboxes;

**5.2.4.5.** plant materials;

**5.2.4.6.** any structure or improvement, once installed, is at grade or less than 1 feet above grade.

### 5.3. ACCESSORY DWELLINGS

#### 5.3.1. ZONING DISTRICTS.

Accessory Dwellings and Accessory Apartments are conditionally permitted in those zoning districts where such use is permitted in accordance with Table 4.6-1 (see Article 4) and as set forth below.

#### 5.3.2. HOUSING STANDARDS.

Accessory Dwellings must comply with all applicable local, State and Federal housing codes.

#### 5.3.3. NUMBER.

Only one (1) Accessory Dwelling or Accessory Apartment shall be permitted per lot.

#### 5.3.4. STANDARDS FOR ACCESSORY DWELLINGS IN NON-RESIDENTIAL ZONING DISTRICTS (CC, C-1, C-2, CD, I-1, AND I-2)

**5.3.4.1.** An accessory residential single-family dwelling shall be allowed in certain non-residential zoning districts provided the caretaker quarters are located on the same premises as the business where one residing family member is employed.

#### 5.3.4.2. DIMENSIONAL AND DESIGN REQUIREMENTS

The Accessory Dwelling shall conform to all dimensional and design requirements as established for the principal use within the zoning district within which it is located. The accessory dwelling shall be integrated into the required site plan.

#### 5.3.4.3. COMPATIBILITY

The exterior of the Accessory Dwelling shall be compatible with the principal use in terms of architectural materials and appearance.

Manufactured homes shall not be allowed as caretaker residences.

#### 5.3.5. STANDARDS FOR ACCESSORY DWELLINGS IN RESIDENTIAL ZONING DISTRICTS (AG, RE, RL, RM-1, RM-2, RV, AND RC)

#### 5.3.5.1. SIZE OF UNIT.

The Accessory Dwelling or Accessory Apartment shall not exceed fifty (50) percent of the square footage of the livable area of the primary structure or 1,100 square foot of gross floor area, whichever is less.

#### 5.3.5.2. PLACEMENT OF THE ACCESSORY DWELLING ON THE LOT.

An Accessory Dwelling shall be sited to the rear of the principal building. In the AG or RE zoning districts, the Accessory Dwelling unit may be sited to the side of the principal building only if the lot exceeds ten (10) acres in size.

#### 5.3.5.3. SETBACKS.

The Accessory Dwelling shall meet all setback requirements as established for principal uses within the zoning district within which it is located.

#### 5.3.5.4. COMPATIBILITY.

The exterior of the Accessory Dwelling shall be compatible with the principal residence in terms of color, siding, roof pitch, window detailing, roofing materials, and foundation or skirting appearance. Manufactured homes shall not be pulled up to or attached to a primary residence and considered an Accessory Apartment or Accessory Dwelling Unit. Manufactured homes, as a principal or accessory dwelling units, shall be permitted only in the MH Manufactured Home Overlay District.

#### 5.3.5.5. PARKING.

Adequate off-street parking shall be provided for any vehicles owned by occupants of the Accessory Dwelling or Accessory Apartment.

#### 5.3.5.6. UTILITIES.

Where there is no public sanitary sewer service to the Accessory Dwelling unit, County Health Department shall approve sanitary sewer services provided to such Accessory Dwelling unit prior to its construction.

#### 5.3.5.7. OWNER-OCCUPIED RESTRICTION

Accessory dwelling units shall only be allowed on parcels that contain owner-occupied single-family dwelling units that are allowed as a principal permitted use.

## **5.4. ANIMAL REGULATIONS**

### **5.4.1. PURPOSE AND SCOPE.**

The purpose of this Section is to provide rules and regulations for the keeping of agricultural animals or other livestock so that these animals do not become a nuisance, hazard, and/or health problem to the adjoining neighbors and the general public. The provisions of this section shall not apply to dogs, cats, or other similar household pets.

### **5.4.2. USE REGULATIONS.**

The use of land for the keeping of agricultural animals of other livestock shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

### **5.4.3. AGRICULTURAL ANIMALS.**

**5.4.3.3.** The provisions of this Section 5.4 shall not apply to the AG Agriculture District.

**5.4.3.4.** No livestock shall be kept, maintained, or stabled within any Residential Zoning District on any lot not exceeding two (2) acres.

**5.4.3.5.** On parcels of two (2) acres or more and as set forth in Table 4.6-1 (see Article 4), certain livestock shall be permitted subject to the following provisions:

**5.4.3.6.** All livestock shall be fenced so that they are no closer than one-hundred fifty feet (150') from a dwelling unit. The provisions of this section shall not apply if a dwelling unit is constructed so as to encroach upon an existing livestock use, except that such a livestock use may no longer expand towards a newly established residential use.

**5.4.3.7.** Not more than one (1) Animal Unit shall be kept, maintained, or stabled per six thousand (6,000) square feet of land.

## **5.5. ANIMAL BOARDING/STORAGE USES**

### **5.5.1. APPLICABILITY.**

The provisions of this Section shall apply to any use that includes the commercial boarding or storage of live animals, including but not limited to veterinarian hospitals and kennels. Animal Boarding/Storage Uses shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

### **5.5.2. CRITERIA.**

**5.5.2.3.** Facilities for the boarding of all dogs and other household pets shall conform to the following:

**5.5.2.3.1.** Any building housing animals shall be located a minimum of 150 feet from any residentially zoned or developed property.

**5.5.2.3.2.** Animal wastes shall not be stored any closer than fifty (50) feet from any property line or surface waters.

**5.5.2.4.** Areas used for grazing, exercising, or training of said animals shall be securely fenced to prevent the animals from straying, or a suitable restraint shall be provided to prevent straying.

**5.5.2.5.** Any kennel which is not wholly enclosed within a building shall be enclosed by a security fence at least six (6) feet in height.

## **5.6. MOTOR VEHICLE SALES OR RENTAL**

### **5.6.1. APPLICABILITY.**

The provisions of this Section shall apply to any Automobile Sales or Rental establishment as allowed by Table 4.6-1 (see Article 4).

off-street parking for employees and patrons shall be required to conform to the design provisions of Article 8.

### **5.6.2. ACCESSORY USES.**

In addition to the accessory uses set forth in § 5.2.1 of this Article, the following accessory uses are permitted for any Automobile Sales Establishment:

**5.6.2.3.** Sales, office, parts, service, storage, and body shop facilities accessory to new Automobile Sales Establishments.

**5.6.2.4.** Storage, body shop, washing, fueling, painting facilities, and air quality certification.

**5.6.2.5.** Temporary automobile sales offices and display areas (interior or exterior). Such uses shall be allowed for a period not to exceed two years from the date approved by the City. The period may be extended for up to an additional one year if the permanent facility is under construction prior to expiration of the initial two-year period but not yet complete.

### **5.6.3. DISPLAY AREA.**

**5.6.3.3.** All outdoor vehicle display areas shall be paved. Notwithstanding, no outdoor vehicle display area shall exceed 60,000 square feet of continuous paved surface.

**5.6.3.4.** For purposes of this Section, a paved surface shall not be considered “continuous” if it is separated by a Type A buffer yard (as set forth in Article 7) along the boundary between the display areas. The buffer yard may be penetrated by a driveway of not less than twelve (12) or more than eighteen (18) feet in width for every one-hundred fifty (150) feet in buffer yard length.

**5.6.3.5.** No vehicles may be displayed or stored on or within required buffer yards, including required street yards.

**5.6.3.6.** Paved areas reserved for the storage or display of vehicles for sale shall not be required to be striped for individual vehicle spaces. However,

## 5.7. BED AND BREAKFAST INNS

### 5.7.1. LOCATION.

Bed and breakfast inns shall only be established in accordance with Table 4.6-1 (see Article 4) subject to the following location limitations:

**5.7.1.3.** a Historic Preservation Overlay District or;

**5.7.1.4.** on a parcel with frontage on a major or minor thoroughfare; or

**5.7.1.5.** within a PUD Planned Unit Development.

### 5.7.2. STRUCTURE.

A structure which shall be used for a bed and breakfast inn shall not be altered in any way that changes its general residential appearance.

### 5.7.3. APPROVAL CRITERIA.

**5.7.3.3. Off-Street Parking.** See Table 8.1-6.

**5.7.3.4. Receptions/Private Parties.** No receptions, private parties or similar activities shall be permitted unless expressly approved as part of the Special Use Permit or Site Plan application.

**5.7.3.5. Room Rental.** No long-term rental of rooms shall be permitted. The maximum length of stay shall be thirty (30) days.

**5.7.3.6. Guest Rooms.** All guest rooms shall be located within the principal structure.

**5.7.3.7. Meals.** Other than registered guests, no meals shall be served to the general public unless expressly approved as part of the Special Use Permit or Site Plan application. No cooking facilities shall be permitted in the guest rooms.

**5.7.3.8. Accessory Uses.** Accessory uses associated with a bed and breakfast inn include those as set forth in § 5.2.1.

**5.7.3.9. Area Regulations.** Area regulations for minimum lot size, applicable setbacks, building height and other dimensional requirements for new construction shall be governed by the zoning district in which the property is located.

### 5.7.3.10. Maximum Number of Guest Units.

The maximum number of guest bedrooms for each proposed bed and breakfast inn shall be five (5), unless the applicant can demonstrate that the original floor plan of the structure contained a larger number of bedrooms, in which case the original number of bedrooms may be approved as allowable guest lodging

**5.7.3.11. Landscaping and Buffering.** See Article 7.

**5.7.3.12. Lighting.** All outdoor lights must be shielded to direct light and glare only onto the facility's premises and may be of sufficient intensity to discourage vandalism and theft. Lighting and glare must be deflected, shaded, and focused away from any adjoining residential property.

**5.7.3.13. Signage.** Signs for bed and breakfast inns shall meet the requirements of the Sign Regulations and the requirements set forth below.

**5.7.3.13.1.** Signage shall be limited to one ground sign per establishment.

**5.7.3.13.2.** Ground signs identifying bed and breakfast inns shall not exceed five square feet in area nor five feet in height. Such signs shall not be illuminated.

**5.7.3.13.3.** No additional advertising signs shall be permitted on the property.

## **5.8. CAMPGROUNDS**

### **5.8.1. CAMPGROUNDS NOT PERMITTED.**

Campgrounds shall not be permitted within any zoning district in the City of Kannapolis jurisdiction.



## **5.9. CEMETERIES and CREMATORIES**

### **5.9.1. APPLICABILITY.**

The provisions of this Section apply to any Cemeteries or crematories as allowed by Table 4.6-1 (see Article 4) and subject to the provisions below.

### **5.9.2. CRITERIA.**

**5.9.2.3.** Pursuant to NCGS § 90-210.123, any crematories may be established in commercial or industrial zoned district so long as it is adjacent to a funeral establishment.

**5.9.2.4.** Minimum setback for all structures, excluding gatehouses, is one hundred (100) feet from any exterior property line. Gatehouses shall be excluded from any minimum building setback.

**5.9.2.5.** Minimum setback for any grave or burial plot is twenty (20) feet from any exterior property line, except that any grave or burial plot shall be allowed within three (3) feet of a property line of an abutting parcel that contains an existing cemetery.

**5.9.2.6.** Buffering and Landscaping shall be regulated in accordance with Article 7.

## 5.10. CONVENIENCE STORES (with or without Gasoline sales)

### 5.10.1. APPLICABILITY.

The provisions of this Section shall apply to Convenience Stores and Gas Stations as allowed in Table 4.6-1 (see Article 4) and subject to the provisions below.

### 5.10.2. ACCESSORY USES.

**5.10.2.1** The following uses shall be considered accessory to Convenience Stores or Gas Stations:

**5.10.2.2** Car washes.

**5.10.2.3** Gasoline pumps and canopies.

**5.10.2.4** Automatic teller machines (ATM's).

**5.10.2.5** Restaurants located within the Primary Building.

**5.10.2.6** Sales of prepackaged beverages, snack foods, tobacco products, and other retail merchandise, and rental of video tapes and video cassette recorders.

### 5.10.3 APPROVAL CRITERIA

#### 5.10.3.1 Location.

**5.10.3.2** Principal Structure - The site shall have frontage on a thoroughfare or collector road.

**5.10.3.3** Service Equipment – No above-grade equipment for the vehicular service of gasoline, oil, or other petroleum product, shall be closer than 25 feet to any public right-of-way and 10 feet to any exterior property line. Pump island canopies shall not be located closer than 10 feet to a public right-of-way or an exterior property line.

#### 5.10.4 Maximum Square Footage for Principal Structure.

**5.10.4.1** In C-2 District: No maximum.

**5.10.4.2** In all other districts that allow convenience stores: 2,000 leasable square feet for enclosed structure.

### 5.10.5 Lighting.

All exterior lights must be shielded to direct light and glare only onto the Lot or Parcel where the convenience store is located and may be of sufficient intensity to discourage vandalism and theft. Lighting and glare must be deflected, shaded, and focused away from any adjoining residential property.

### 5.10.6 Signage.

See Article 12 Signage Regulations.

### 5.10.7 CD Campus Development District Requirements.

**5.10.7.1** The retail component of CD Campus Development projects must be sixty (60) acres or more before convenience stores and gas stations will be allowed.

## **5.11. HAZARDOUS WASTE FACILITIES**

A special use permit or zoning compliance permit shall not be issued for a hazardous materials collection and disposal facility unless the applicant demonstrates compliance in all respects with applicable state regulations.

## 5.12. HOME OCCUPATIONS

### 5.12.1. PURPOSE

**5.12.1.1.** A home occupation is permitted as an accessory use in the districts shown in Table 4.6-1 (see Article 4) and in the PUD, TND, and TOD Districts. The purpose of the home occupation regulations and performance standards are:

**5.12.1.1.1.** to establish criteria for operation of home occupations in dwelling units within residential districts;

**5.12.1.1.2.** to permit and regulate the conduct of home occupations as an accessory use in a dwelling unit, whether owner or renter-occupied;

**5.12.1.1.3.** to ensure that such home occupations are compatible with, and do not have a deleterious effect on, adjacent and nearby residential properties and uses;

**5.12.1.1.4.** to ensure that public and private services such as streets, sewers, water, or utility systems are not burdened by the home occupation to the extent that usage exceeds that normally associated with residential use;

**5.12.1.1.5.** to allow residents of the community to use their residences as places to enhance or fulfill personal economic goals, under certain specified standards, conditions, and criteria;

**5.12.1.1.6.** to enable the fair and consistent enforcement of these home occupation regulations; and

**5.12.1.1.7.** to promote and protect the public health, safety, and general welfare.

**5.12.1.1.8.** No home occupation, except as otherwise provided herein, may be initiated, established, or maintained except in conformance with the regulations and performance standards set forth in this Section.

### 5.12.2. LIST OF HOME OCCUPATIONS.

The following list specifies those occupations that may be conducted at home. The home occupations permitted herein are allowed in a residential setting

because they do not compromise the residential character of an area, do not generate conspicuous traffic, do not visually call unusual attention to the home, and do not generate noise of a nonresidential level.

**5.12.2.1.** Accounting, bookkeeping

**5.12.2.2.** Appraisal

**5.12.2.3.** Legal services

**5.12.2.4.** Real estate sales

**5.12.2.5.** Insurance sales

**5.12.2.6.** Childcare

**5.12.2.7.** Drafting services

**5.12.2.8.** Tailoring (dressmaking, alterations, etc.) services

**5.12.2.9.** Engineering, architecture, and landscape architecture

**5.12.2.10.** Financial planning & investment services

**5.12.2.11.** Fine arts studio (creation of individual works only, no mass production)

**5.12.2.12.** Interior decoration (no studio permitted)

**5.12.2.13.** Mail order business (order taking only, no stock in trade)

**5.12.2.14.** Musical instruction, voice, or instrument

**5.12.2.15.** Tutoring

**5.12.2.16.** Office work

**5.12.2.17.** Similar, low impact endeavor as determined by the Administrator

### 5.12.3. PERFORMANCE STANDARDS.

Home occupations are authorized if they comply with the performance standards set forth in Table 5.12-1.

**5.12.4. HOME OCCUPATIONS NOT PERMITTED.**

The following Uses shall not be permitted as home occupations in Residential Zoning Districts: medical/dental office, motor vehicle repair or similar uses, temporary or permanent motor vehicle display for purposes of sale or lease, restoration or conversion, engine repair, furniture refinishing, gymnastic facilities, studios or outdoor recreation activities, medical/cosmetic facilities for animals including animal care or boarding facilities, machine shop/metal working, retail sales, commercial food preparation and catering, contractors shops, mortuaries, medical procedures, body piercing and/or painting, tattoos, or any type of physical or psycho therapy, or any other use not allowed in accordance with § 5.12.2.

**5.12.4.1. (RESERVED).**

**5.12.5. EXEMPT HOME OCCUPATIONS.**

No Home Occupation Permit shall be required for the home occupations listed below, provided that they comply with all applicable home occupation regulations and standards of this Section, and provided further, that all persons engaged in such activities reside on the premises and the following conditions are satisfied:

**5.12.5.1.** artists, sculptors, composers not selling their artistic product to the public on the premises;

**5.12.5.2.** craft work, such as jewelry-making and pottery with no sales permitted on the premises;

**5.12.5.3.** home offices with no client visits to the home permitted;

**5.12.5.4.** telephone answering and message services.

**5.12.6. UNSAFE HOME OCCUPATIONS.**

If any home occupation has become dangerous or unsafe, or presents a safety hazard to the public, pedestrians on public sidewalks or motorists on public right-of-way, or presents a safety hazard to adjacent or nearby properties, residents or businesses, the Administrator shall issue an order to the dwelling owner and/or tenant on the property on which the home occupation is being undertaken directing that the home occupation immediately be made safe or be terminated. The property owner and/or tenant shall be responsible for taking the necessary corrective steps or

measures, but in the event of a failure to do so by the owner and/or tenant, after notice and a reasonable period of time, the Administrator may take any and all available enforcement actions to render the home occupation and dwelling safe. Costs incurred by the Administrator, if forced to take enforcement actions, shall be borne by the property owner, and shall be treated as a zoning violation pursuant to § 1.6 of this Ordinance.

**5.12.7. EXPIRATION OF HOME OCCUPATION PERMIT.**

The Home Occupation Permit shall lapse automatically if the property is used for non-residential purposes, if the dwelling is sold or rented, if the home occupation operator dies, or if the home occupation is discontinued for a period of 180 days or more and is not renewed within thirty (30) days after written notice from the Administrator.

**Table 5.12-1  
Home Occupation Performance Standards**

<b>PERFORMANCE STANDARDS</b>
The use shall be clearly incidental and secondary to residential occupancy.
The use shall be conducted entirely within the interior of the residence. Exception may be made for outside play areas of childcare facilities.
The use shall not change the residential character of the dwelling.
The use shall conform with applicable state and local statutes, ordinances and regulations and is reviewed by Administrator.
A full-time resident operator shall be employed.
Obtain permits before operating home occupation, except those exempted under § 5.12.5.
No more than one (1) non-resident employee shall be permitted.
Not more than 9 clients/day (limit 1 visit per day per each client) are permitted to visit home occupation. Hours for visits shall be between the 8:00 AM and 8:00 PM.
Not more than 25% of the gross floor area of the principal dwelling structure shall be utilized for the home occupation
Childcare (maximum of 8 or fewer children)
Demonstrate that public facilities and utilities are adequate to safely accommodate equipment used for home occupation
Storage of goods and materials shall be inside and shall not include flammable, combustible, or explosive materials
Parking shall be provided only in driveway and shall not create hazards or street congestion
Outside storage of heavy equipment or material shall be prohibited.
No more than three (3) commercial vehicles are to be stored/parked on site, provided, the vehicles are owned/operated by the residents. No commercial vehicles may be stored on site on a regular basis which are not owned or operated by persons residing on the premises.
No generation of dust, odors, noise, vibration or electrical interference or fluctuation shall be that is perceptible beyond the property line.
Deliveries and pickups shall be those normally associated with residential services and shall <ul style="list-style-type: none"> <li>a. not block traffic circulation</li> <li>b. occur only between 6:00 a.m. and 8:00 p.m. Monday-Saturday</li> </ul>
Accessory Buildings shall not be used for home occupation purposes.
Signage shall comply with the following: <ul style="list-style-type: none"> <li>a. Limited to one sign of four (4) square feet in area.</li> <li>b. Must be mounted flush against the wall of principal dwelling unit</li> <li>c. Shall not be illuminated.</li> </ul>

## 5.13. JUNKYARDS/SALVAGE YARDS

### 5.13.1 APPLICABILITY.

**5.13.1.1** Any Junkyard or Salvage Yard with outdoor storage.

**5.13.1.2** Any Industrial or Extractive Use involving outdoor storage of junk as a Primary Use or an Accessory Use.

**5.13.1.3** The use of land for the outdoor storage of junk or salvage shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

### 5.13.2 CRITERIA.

No special use permit or building permit shall be issued for a junkyards/salvage yard unless all of the following standards and criteria are satisfied as provided in the Junkyard Control Act, NCGS § 136-144 (i):

**5.13.2.1** Junkyards/salvage yards shall be screened in accordance with the standards for buffers in Article 7. Materials shall not be vertically stacked so as to be visible from the public right-of-way or any buffer yard as required by Article 7.

**5.13.2.2** No yard or storage lot shall be placed or maintained within a required yard setback.

**5.13.2.3** All tires not mounted on a vehicle shall be neatly stacked or placed in racks. If stacked, the stacks shall not be stacked over six feet in height. No garbage or other putrescent waste, likely to attract vermin, shall be kept on the premises. Gasoline, oil, or other hazardous materials which are removed from scrapped vehicles or parts of vehicles kept on the premises shall be disposed of in accordance with applicable federal, state, and local regulations. All other regulations of the state of North Carolina and the City of Kannapolis such as, but not limited to, building codes, fire codes, weed regulations, and health regulations shall apply to the operation of all such uses.

### 5.13.3 AMORTIZATION

All Nonconforming junkyard/salvage yards not found in compliance with the requirements of this Section shall either cease and desist or meet full compliance

standards no later than three (3) years following the effective date of this Ordinance or applicable amendment hereto, provided however, that no existing junkyard/salvage yard may be expanded or enlarged except in accordance with the provisions herein in this Ordinance.

Notwithstanding the above provisions, any junkyard/salvage yards that were subject to, and have complied with, the amortization provisions of the previous Kannapolis Zoning Ordinance shall not be subject to this Section 5.13.3.

## 5.14. DEMOLITION LANDFILLS

### 5.14.1. APPLICABILITY.

The provisions of this Section apply to any Demolition Landfill as defined by NCGS 130A-294(4)a. NCGS § 130A-294(4)a. provides that “A landfill for the disposal of demolition debris generated on the same parcel or tract of land on which the landfill is located that has a disposal area of one acre or less is exempt from the permit requirement of this section and rules adopted pursuant to this section, and shall be governed by G.S. 130A-301.2.”

*{Note: NCGS § 130A-301.2 expires on June 30, 2001. These provisions are consistent with those requirements. The Solid Waste Management Division of DENR repealed its application and operational rules (formerly 15A NCAC 13B.0506 and 13B.0507 for demolition landfills on January 4, 1993.}*

### 5.14.2. USE REGULATIONS.

The use of land for a demolition landfill shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

### 5.14.3. CRITERIA.

**5.14.3.1.** The disposal area of a demolition landfill shall not exceed one (1) acre.

**5.14.3.2.** The disposal area shall not exceed five (5) feet above average grade in height.

**5.14.3.3.** The landfill shall accept and dispose of demolition debris generated on land that the applicant owns in a landfill that is located on the same parcel or tract of land.

**5.14.3.4.** The landfill shall be located at least one-quarter mile from any other landfill of any type.

**5.14.3.5.** The perimeter of the landfill shall be at least 50 feet from the property boundary.

**5.14.3.6.** The perimeter of the landfill shall be at least 500 feet from the nearest drinking water well.

**5.14.3.7.** The waste disposal area of the landfill is at least four feet above the seasonal high groundwater table.

**5.14.3.8.** The landfill shall comply with all

applicable federal, State, and local laws, regulations, rules, and ordinances.

**5.14.3.9.** The applicant shall comply with the siting criteria set forth in 15A NCAC § 13B.0564. After the expiration of NCGS § 130A-301.2, the requirements of 15A NCAC § 13B.0564 shall supersede any standards in this Section 5.14 to the extent permitted by state law.

**5.14.3.10.** Demolition debris may be disposed in a landfill to which this section applies without being separated into demolition debris components. No waste other than that generated by the demolition of a building or other structure shall be disposed of in the landfill.

**5.14.3.11.** The owner or operator shall establish sufficient controls to ensure that the refuse remains within the disposal area, and that the refuse cannot be removed by winds, stormwater, or other foreseeable natural or man-made forces.

**5.14.3.12.** No building shall be located or constructed immediately above any part of a landfill to which this section applies. No construction, except for site preparation and foundation work, shall be commenced on a parcel or tract of land on which a landfill to which this section applies is located until the landfill is closed.

### 5.14.4. APPROVAL PROCESS.

**5.14.4.1. Zoning Clearance and City Council Approval.** No demolition landfill shall be established until a zoning clearance permit is obtained from the Administrator.

**5.14.4.2. Duration of Permit.** A zoning clearance shall be effective for a twelve-month period. The demolition landfill is presumed to be an adjunct to an ongoing construction process and, as such, is permitted only for the life of the construction project. The Administrator shall renew the zoning clearance if a written finding is made that the construction project is ongoing.

**5.14.4.3. Application Requirements.** The following information must be submitted at the time



of application for such permit:

**5.14.4.3.1. Survey.** A survey showing the exact location of the proposed demolition landfill within the entire project.

**5.14.4.3.2. Contents of Landfill.** A statement detailing all contents of the landfill.

**5.14.4.3.3. Reclamation of Landfill Area.** A statement detailing the plans for reclaiming the landfill at the end of its use.

**5.14.4.3.4. Future Building Plans.** A statement describing plans for future building, if any, on the landfill site.

**5.14.5. CLOSURE.**

**5.14.5.1.** Within 30 days of the closure of the landfill, or at least 30 days before the land, or any interest in the land, on which the landfill is located is transferred, whichever is earlier, the owner or owners of record of the land on which the landfill is located shall file with the register of deeds of Cabarrus or Rowan County a survey plat of the property that meets the requirements of NCGS § 47-30. The plat shall accurately show the location of the landfill and shall reference this section. A certified copy of the plat showing the book and page number where recorded shall be filed with the Administrator at the same time that the certified copy of the notice required by § 5.14.5.2 of this section is filed with the Administrator.

**5.14.5.2.** Within 30 days of the closure of the landfill or at least 30 days before the land, or any interest in the land, on which the landfill is located is transferred, whichever is earlier, the owner or owners of record of the land on which the landfill is located shall file with the register of deeds of Cabarrus or Rowan County a notice that a landfill for the disposal of demolition debris has been located on the land. Where state law requires an identical notice, compliance with the state requirements shall constitute compliance with this Section. The notice shall include a description of the land that would be sufficient as a description in an instrument of conveyance. The notice shall list the owners of record of the land at the time the notice is filed and shall reference the book and page number where the deed or other instrument by which the owners of record acquired title is located. The notice shall reference the book and page number where the

survey plat required by § 5.14.5.1 is recorded. The notice shall reference this section, shall describe with particularity the type and size of the building or other structure that was demolished, and shall state the dates on which the landfill opened and closed. The notice shall be executed by the owner or owners of record as provided in Chapter 47 of the North Carolina General Statutes. The register of deeds shall record the notice and index it in the grantor index under the name of the owner, or names of the owners, of the land. The owner shall file a certified copy of the notice showing the book and page number where recorded, together with a certified copy of the survey plat as required by § 5.14.5.1 of this section, with the Administrator. Unless a filing fee is required for DENR, the owner shall pay a filing fee to the Administrator within 15 days after the notice is recorded.

**5.14.5.3.** The owner or operator of the landfill shall close the landfill within 30 days after the demolition is completed or terminated. The owner or operator shall compact the demolition debris and cover it with at least two feet of compacted earth. The cover of the landfill shall be graded so as to minimize water infiltration, promote proper drainage, and control erosion. Erosion of the cover shall be controlled by establishing suitable vegetative cover.

## 5.15. MINI-WAREHOUSE/SELF-SERVICE STORAGE

### 5.15.1. PURPOSE.

This Section sets standards for the establishment and maintenance of safe and attractive mini-warehouse developments that will remain a long-term asset to the community. The use of land for mini warehousing/self-service storage shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

### 5.15.2. MINIMUM/MAXIMUM LOT SIZES.

#### 5.15.2.1. Minimum lot size - one (1) acre

5.15.2.2. The maximum lot size for all mini warehouse / self-service storage facilities shall be limited to three (3) acres. This provision shall apply to individual and combined developments.

### 5.15.3. BUILDING HEIGHT.

5.15.3.1. Except as allowed in § 5.15.3.2, building height shall not exceed one story. For purposes of this section, one story shall mean and refer to a maximum interior ceiling height of 10 feet, which may include a maximum of eight feet with an additional two feet to accommodate a garage-type sliding or roll up door.

5.15.3.2. In the C-2 district, height maximums are governed by the standard allowances as set forth in Article 4, § 4.7.

### 5.15.4. LANDSCAPING AND BUFFERING.

5.15.4.1. A type “B” buffer yard as prescribed in Article 7 shall be provided around the perimeter of the mini-warehouse development.

5.15.4.2. Signs or other advertising mediums shall not be placed within the buffer yard.

5.15.4.3. All areas on the site not covered by pavement or structures shall be brought to finished grade and planted with turf or other appropriate ground cover(s) and shall conform to the standards and planting requirements of Article 7.

### 5.15.5. ON-SITE MANAGER OR SECURITY SYSTEM REQUIRED.

No facility herein provided for shall be used or maintained unless and until an on-site manager shall be provided for such facility, or a security system has been installed.

### 5.15.6. COMMERCIAL ACTIVITY PROHIBITED.

It shall be unlawful for any owner, operator or lessee of any storage warehouse or portion thereof to offer for sale, or to sell any item of personal property or to conduct any type of commercial activity of any kind whatsoever other than leasing of the storage units, or to permit same to occur upon any area designated as a storage warehouse.

### 5.15.7. RESIDENTIAL USE PROHIBITED.

No portion of any Mini-Warehouse/self-service storage shall be used, on a temporary or permanent basis, as a dwelling.

### 5.15.8. REPAIR OF AUTOS, BOATS, MOTORS, AND FURNITURE PROHIBITED; STORAGE OF FLAMMABLE LIQUIDS PROHIBITED.

Because of the danger from fire or explosion caused by the accumulation of vapors from gasoline, diesel fuel, paint, paint remover, and other flammable materials, the repair, construction, or reconstruction of any boat, engine, motor vehicle, or furniture, and the storage of any propane or gasoline engine or propane or gasoline storage tank is prohibited within any structure on a tract of land designated as a mini-warehouse. All mini-warehouse rental contracts shall include clauses prohibiting (a) the storage of flammable liquids, highly combustible or explosive materials, or hazardous chemicals, and (b) the use of the property for purposes other than dead storage.

### 5.15.9. LIGHTING.

All outdoor lights must be shielded to direct light and glare only onto the Lot or Parcel which the Mini Warehouse is located. Lighting and glare must be deflected, shaded, and focused away from any adjoining residential property.

### 5.15.10. OUTSIDE STORAGE.

No outside storage shall be permitted except the storage of recreational vehicles per § 5.30.1.2.1.

### 5.15.11. ACCESSIBILITY.

Vehicular ingress-egress shall provide for safe access by customers and emergency vehicles.

**5.15.12. OFF-STREET PARKING STANDARDS.**

**5.15.12.1. Location of Customer Parking.** Parking shall be provided by parking/driving lanes adjacent to the buildings.

**5.15.12.2. Interior Travel Lanes.** Interior travel lanes shall have a minimum width of twelve (12) feet and shall provide a nine (9) foot wide parking lane. Lanes serving storage units on each side shall provide a nine (9) foot parking lane for each side.

**5.15.12.3. Off-street Parking.** One parking space is required for every 200 storage units with a minimum of two spaces required. The parking spaces shall be provided adjacent to the manager's office.

**5.15.12.4. Vehicular Storage.** Required parking spaces shall not be rented as, or used for, vehicular storage. However, additional parking area may be provided for recreational vehicle storage.

## **5.16. CHILDCARE FACILITIES**

### **5.16.1 APPLICABILITY.**

The provisions of this Section apply to any:

**5.16.1.1.** Childcare Center.

### **5.16.2 PERMIT APPLICATION.**

The following shall be submitted with the application for a zoning compliance permit or certificate of zoning compliance:

**5.16.2.1.** A copy of the N.C. state license issued to the facility.

**5.16.2.2.** Evidence that the N.C. Department of Transportation has issued driveway permits for the facility (may submit copies).

**5.16.2.3.** Such areas shall be located not less than one thousand (1,000) feet from any Hazardous Waste Facility.

### **5.16.3 ACCESS AND LOADING / UNLOADING.**

A paved or otherwise improved driveway, with ingress and egress directly onto a public street, shall be constructed in such a manner as to provide entrance to and exit from the property without backing onto the street right-of-way. Standards for access and off-street parking/loading are set forth in Article 8 of this Ordinance.

### **5.16.4 SITE CONSIDERATIONS**

Outdoor activity or play areas shall not be located in any front yard and shall be of a size equal to seventy-five (75) square feet per attendee, excluding children in cribs.

**5.16.4.1.** As a principal use, an indoor activity area shall be provided equivalent to at least twenty-five (25) square feet per attendee

### **5.16.5 SCREENING AND FENCING**

Play areas shall be enclosed by a chain link or solid fence or wall, with a minimum height of five (5) feet.

**5.16.5.1.** Play areas shall be located a distance of at least 1 ½ times the applicable zoning district setback requirement when abutting residential property.

**5.16.5.2.** Landscaping shall be provided in accordance with Article 7 of this ordinance.

## **5.17. RESIDENTIAL CARE FACILITIES**

### **5.17.1. APPLICABILITY.**

The provisions of this Section apply to any Nursing Home or Residential Care Facility. The Provisions of this section shall not apply to a Family Care Home as defined in Appendix A.

The use of land for a residential care facility shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

### **5.17.2. STATE LICENSING.**

Prior to submission of an application for a certificate of zoning compliance, an owner/operator of a residential care facility shall have received a license from the State of North Carolina for the operation of such a facility.

### **5.17.3. LOCATION.**

No residential care facility shall be located within one thousand (1,000) feet from any Hazardous Waste Facility.

### **5.17.4. SECURITY FENCING.**

Residential care facilities that provide care to patients who suffer from Alzheimer's disease, dementia or other similar disability that may cause disorientation, shall provide a security fence, with a minimum height of five (5) feet, along the perimeter of any portion of the site that is accessible to these patients.

## **5.18. BARS AND NIGHTCLUBS**

### **5.18.1. PURPOSE.**

Regulations for bars and nightclubs are developed to establish consistent guidelines covering review of such uses, which because of their nature, may be objectionable to nearby residential uses. Special regulations and review of individual cases are necessary to determine if these establishments are located in areas where traffic and noise impacts are minimized. It is not the purpose of these regulations to regulate activities controlled by the North Carolina Alcoholic Beverage Control Commission pursuant to NCGS § 18B-901.

Ordinance, an Application for Development Approval for a bar or nightclub shall include a Floor Plan of the Building or Structure in which the private club is located. Said Floor Plan shall delineate separately the areas of the Building or Structure which are used for the dispensing of food and beverages, entertainment, and/or dancing.

### **5.18.2. APPLICABILITY.**

The provisions of this section shall apply to any bar or nightclub as defined by NAICS code 7224 or dance club as defined by NAICS code 713990 to the extent not preempted by NCGS § 18B-901. Bars or nightclubs located completely within motels and hotels shall be exempt from the provisions of these regulations, provided that they encompass no more than 25 percent of the gross floor area of the motel or hotel.

The use of land for a bar or nightclub shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

### **5.18.3. SPACING REQUIREMENTS.**

No bar or nightclub shall be established within 200 feet of any of the following:

**5.18.3.1.** any Residential Zoning District, any Elementary School, Middle School, or High School;

**5.18.3.2.** any Child Care Center or Child Care Facility;

**5.18.3.3.** any Religious Institution; or

**5.18.3.4.** any other existing private club.

**5.18.3.5.** All measurements used in the enforcement of this Section shall be from the outer building walls of the proposed use to the nearest property line of the above uses

### **5.18.4. REVIEW AND APPROVAL.**

In addition to the requirements of Appendix B to this

## **5.19. QUARRYING AND MINING USES**

### **5.19.1. PURPOSE.**

To establish consistent guidelines covering review of applications for mining and quarrying operations where an approved site plan is considered necessary to protect any adjacent residential property from smoke, dust, and noise, and to minimize the effect of scarification of the landscape.

### **5.19.2. APPLICABILITY.**

The provisions of this Section apply to any mining or extractive uses as identified in North American Industrial Classification System (NAICS) Industry Group 21. The use of land for quarrying and/or mining shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

### **5.19.3. COMPLIANCE WITH STATE REGULATIONS.**

All proposed mining and quarrying activities must conform to the "North Carolina Mining Act of 1971" as amended, (NCGS § 74-46 et seq.) NCAC, Title 15, Chapter 5. The applicant shall, if disturbing more than one acre of land, obtain, or be in the process of obtaining, a mining permit issued by the North Carolina Department of Natural Resources and Community Development Regional Office. Wherever conflicts exist between federal, state, or local laws, the more restrictive provisions shall apply.

### **5.19.4. REVIEW AND APPROVAL.**

Submission requirements to obtain complete review and approval for mining and quarrying operations on sites with a disturbed area of one acre or more include a special use permit application, a reclamation plan, and a Preliminary Site Plan detailing the minimum general standards as set forth in Appendix B of this Ordinance.

### **5.19.5. SETBACKS.**

Minimum setbacks in Section 4.7 shall apply to the extent of land disturbing activity and the placement of mining machinery or structures.

### **5.19.6. BARRIER REQUIRED.**

**5.19.6.1.** A barrier shall be provided around the perimeter of a mine or quarry. The barrier shall consist of either an earthen berm, a solid fence, landscaping, existing topographical features, or any

combination of the above. Existing vegetation may also be considered in accordance with Section 7.4.4.4 of this Ordinance. The barrier shall be constructed so as to block the view of the extraction operations from any point on an adjacent property line or public right-of-way, except at points of ingress and egress. For the purposes of this section, the view shall be defined as a perpendicular linear view from the edge of the property line toward the interior of the mine or quarry site. The Board of Adjustments, through the issuance of a Special Use Permit, shall have the authority to grant exceptions where a barrier as required by this section is not practical or feasible. Landscaping shall be in accordance with Article 7.

**5.19.6.2.** The operation shall provide an entrance gate to prevent vehicular access during non-operational hours.

### **5.19.7. EXEMPTIONS.**

**5.19.7.1.** Earth moving activity disturbing less than one acre of land shall be exempt from the provisions of this Section.

**5.19.7.2.** Site grading, as part of a construction project, moving earth from one area of a lot or development to another shall be exempt from the provisions of this Section, regardless of the area disturbed.

**5.19.7.3.** Borrow pits are exempt from the provisions of this Section.

## 5.20. SEXUALLY ORIENTED BUSINESSES

### 5.20.1. PURPOSE & FINDINGS.

**5.20.1.1.** The City Council of the City of Kannapolis finds that this Ordinance is necessary in order to protect the City from the potential secondary effects of sexually oriented businesses including crime, the protection of the City's retail trade, the prevention of the blighting of neighborhoods and the maintenance of property values, protecting and preserving the quality of the City's neighborhoods and the City's commercial districts, the protection of the City's quality of life, the increased threat of the spread of sexually transmitted diseases, and the protection of the peace, welfare and privacy of persons who patronize sexually oriented businesses. Experience in this City as well as in cities and counties within and outside of North Carolina including the County of Los Angeles, the City of Garden Grove and the cities of Renton, Washington; Seattle, Washington; Detroit, Michigan; Austin, Texas; Indianapolis, Indiana; and Phoenix Arizona; have demonstrated that such uses have objectionable secondary effects upon immediately adjacent residential and commercial areas. The City recognizes and relies upon the experience of these other cities and counties in adopting sexually oriented business regulations including the County of Los Angeles (as discussed in *Smith v. County of Los Angeles* 211 Cal. App. 3d 188 (1989)); City of Renton, Washington (as discussed in *City of Renton v. Playtime Theatres, Inc.* 475 U.S. 41 (1976)); the City of Seattle Washington (as discussed in *Northend Cinema v. City of Seattle* 90 Wash. 2d 709, 585 P.2d 1153 (1978)); and the County of Palm Beach, Florida (as discussed in *Movie & Video Work v. Board of County Commissioners* 723 F. Supp. 695 (S.D. Fla. 1989)) in support of this Ordinance. The City also recognizes and relies upon the studies done by: (1) the 1979 Adult Use Study by the Phoenix Planning Department; (2) Tucson, Arizona (1990); (3) the 1991 report to the City of Garden Grove by Drs. McCleary and Meeker on the relationship between crime and adult business operations; (4) the City of Los Angeles in 1977; (5) the 1984 "Analysis of Adult Entertainment Businesses in Indianapolis" by the Department of metropolitan Development; (6) Minneapolis, Minnesota (1980); (7) Cleveland, Ohio (1977); (8) Oklahoma City, Oklahoma (1986);

(9) Austin, Texas' study on effects of adult businesses; (10) Amarillo, Texas (1977); (11) Beaumont, Texas (1982); (12) Houston, Texas (1983); and (13) Seattle, Washington (1989).

**5.20.1.2.** The City Council believes the following statements are true, in part based upon its understanding of the experiences of the various jurisdictions identified.

**5.20.1.2.1.** Crime rates tend to be higher in residential areas surrounding sexually oriented businesses than in industrial areas surrounding sexually oriented businesses;

**5.20.1.2.2.** Areas within close walking distance of single and multiple family dwellings should be free of sexually oriented businesses;

**5.20.1.2.3.** Sexually oriented businesses should be located in specific areas of the City which are a specified distance from sensitive uses such as residences, parks, religious institutions, and schools, irrespective of whether physical barriers are present. This necessary to (1) ensure that the impact on such sensitive uses by adverse secondary effects caused by sexually oriented businesses are mitigated to the maximum extent possible; (2) to prevent ad hoc decisions with respect to a potential sexually oriented business site which does not meet the criteria set forth herein; and (3) to provide certainty to the residents of the City and sexually oriented business operators with respect to potential adult use sites.

**5.20.1.2.4.** The image of the City as an attractive place to reside will be adversely affected by the presence of sexually oriented businesses in close proximity to residential uses, schools, religious institutions, and parks;

**5.20.1.2.5.** The existence of sexually oriented businesses in close proximity to residential areas has been shown in some cities to reduce the property values in those residential areas;

**5.20.1.2.6.** A reasonable regulation of the location of sexually oriented businesses protects the image of the community and its property values and protects its residents from the adverse secondary effects of sexually oriented businesses



while providing those who desire to patronize sexually oriented businesses an opportunity to do so in appropriate areas in the City; and

**5.20.1.2.7.** There is substantial evidence that an increase in crime tends to accompany, concentrate around, and be aggravated by sexually oriented businesses, including but not limited to an increase in the crimes of narcotics distribution and use, prostitution, pandering, and violence against persons and property. The studies from other cities establish convincing evidence that sexually oriented businesses which are not regulated as to permissible locations often have a deleterious effect on nearby businesses in residential areas, causing, among other adverse secondary effects, an increase in crime and a decrease in property values. Regulations for sexually oriented businesses should be developed to prevent deterioration and/or degradation of the vitality of the community before the problem exists, rather than waiting for problems to be created.

**5.20.1.3.** The City Council recognizes and relies on the findings set forth in the 1986 N.C. Attorney General’s Report on Pornography in support of this Ordinance including, but not limited to its recommendations that local governments ban certain features of video booths that facilitate carnal sexual encounters.

**5.20.1.4.** The City Council finds the following, in part based upon its understanding of the documents and judicial decisions in the public record:

**5.20.1.4.1.** Evidence indicates that some dancers, models and other persons who publicly perform specified sexual activities or publicly display specified anatomical parts in sexually oriented businesses (collectively referred to as “performers”) have been found to engage in sexual activities with patrons of sexually oriented businesses on the site of the sexually oriented business;

**5.20.1.4.2.** Evidence has demonstrated that performers employed by sexually oriented businesses have been found to offer and provide private shows to patrons who, for a price, are permitted to observe and participate with the performers in live sex shows;

**5.20.1.4.3.** Evidence indicates that performers

at sexually oriented businesses have been found to engage in acts of prostitution with patrons of the establishment;

**5.20.1.4.4.** As a result of the above, and the increase in incidents of AIDS and Hepatitis B, which are both sexually transmitted diseases, the City has a substantial interest in adopting regulations which will reduce, to the greatest extent possible, the possibility for the occurrence of prostitution and casual sex acts at sexually oriented businesses.

**5.20.1.5.** The City Council has determined that the establishment of a sexually oriented business development permit process is a legitimate and reasonable means of ensuring that:

**5.20.1.5.1.** Operators of sexually oriented businesses comply with the reasonable regulations of this Ordinance;

**5.20.1.5.2.** The recognized secondary impacts of a proposed sexually oriented business in a specific location are mitigated; and

**5.20.1.5.3.** Operators of sexually oriented businesses have specific guidelines with respect to where they can establish or operate a sexually oriented business.

**5.20.1.6.** It is not the intent of the City Council in adopting this Ordinance to suppress any activities protected by the First Amendment, but rather to enact a content neutral ordinance which addresses the secondary effects that sexually oriented businesses have on the City.

**5.20.1.7.** The City Council desires to protect the rights conferred by the United States Constitution to sexually oriented businesses in a manner that ensures the continued and orderly development of property within the City and diminishes those undesirable negative secondary effects the previously mentioned studies have shown to be associated with the development and operation of sexually oriented businesses.

**5.20.1.8.** The City Council and Planning and Zoning Commission have held duly noticed public hearings, to receive input and testimony from the public concerning the adoption of this proposed Ordinance.

**5.20.1.9.** These regulations are authorized by NCGS § 160D-902.

**5.20.2. DEFINITIONS.**

The words, terms and phrases set forth herein shall have the meanings prescribed below provided, however, that any words, terms, or phrases not included below shall have the meanings prescribed by Appendix A to this Ordinance.

**Adult Bookstore** - A bookstore (1) that receives a majority of its gross income during any calendar month from the sale of printed and/or video materials/publications (including but not limited to videocassettes, books, and magazines) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section; or (2) having as a preponderance of its of printed and/or video materials/publications that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section.

**Adult Establishment** - An adult bookstore, adult motion picture theater, adult mini-motion picture theater, adult live entertainment business, or massage business as defined in this section.

**Adult Live Entertainment Business** - Any establishment or business wherein adult live entertainment is shown for observation by patrons; or any performance of or involving the actual presence of real people which exhibits specified sexual activities or specified anatomical areas, as defined in this section.

**Adult Motion Picture Theater** - An enclosed building or premises used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or described anatomical areas, as defined in this section, for observation by patrons therein. Adult motion picture theater does not include any adult mini-motion picture theater as defined in this section.

**Adult Mini-Motion Picture Theater** - An enclosed building with viewing booths designed to hold patrons which is used for presenting motion pictures, a preponderance of which are distinguished or

characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined in this section, for observation by patrons therein.

**Massage** - The manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping, by hand or mechanical device.

**Massage Business** - Any establishment or business wherein massage is practiced including establishments commonly known as health clubs, physical culture studios, massage studios, or massage parlors. Massage Therapy offices shall be excluded from these provisions provided the applicant is a licensed therapist by the State of North Carolina.

**Sexually Oriented Business** – Any business or enterprise that has as one of its principal business purposes or as a significant portion of its business an emphasis on matter and conduct depicting, describing, or related to anatomical areas and sexual activities as specified in NCGS § 14-202.10. A “Sexually-Oriented Business” includes any Adult Establishment as defined in this Section.

**Sexually Oriented Devices** - Without limitation any artificial or simulated specified anatomical area or other device or paraphernalia that is designed principally for specified sexual activities but shall not mean any contraceptive device.

**Specified Anatomical Areas** - Less than completely and opaquely covered (1) human genitals, pubic region, (2) buttock, or (3) female breast below a point immediately above the top of the areola; or human male genitals in a discernibly turgid state, even if complete and opaquely covered.

**Specified Sexual Activities** - Human genitals in a state of sexual stimulation, or arousal; acts of human masturbation, sexual intercourse, or sodomy; or fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts.

**5.20.3. APPLICABILITY.**

The provisions of this Section apply to any Sexually Oriented Business/Adult Establishments. The use of land for a sexually oriented business or adult establishment shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

**5.20.4. LOCATIONAL STANDARDS.**

**5.20.4.1.** No sexually oriented business shall be located within one hundred (100) feet of any other sexually oriented business.

**5.20.4.2.** No sexually oriented business shall be located within one hundred (100) feet of a public or private school, public or private day care center, public or private recreation center, a church or religious complex or a park used by the public for recreational purposes.

**5.20.4.3.** No Sexually oriented business shall be located within one hundred (100) feet of a hotel, motel, or boarding house that has fewer than thirty (30) sleeping rooms.

**5.20.4.4.** No Sexually oriented business shall be located within one hundred (100) feet from any AG, RL, RE, RV, RC, RM-1, RM-2, O&I, C-1, B-1, CC, or CD Zoning District

**5.20.4.5.** All measurements used in the enforcement of this Section shall be from property line to property line.

**5.20.5. SIGNS AND DISPLAYS.**

**5.20.5.1.** Signage shall be regulated in accordance with Article 12, except that no sexually oriented printed material, slide, video, photograph, written text, live show, or other sexually oriented visual display shall be visible from outside the walls of the establishment, nor shall any live or recorded voices, music or sounds be heard from outside the walls of the establishment.

**5.20.6. GENERAL STANDARDS**

Sexually oriented businesses may be established only within the C-2 Districts and only on properties with direct access and frontage on the section of South Cannon Boulevard (U.S. Highway 29) between the First Street overpass and the intersection of Centergrove Road (NC Highway 136). Such businesses are subject to the issuance of a special use permit. The following additional standards shall apply to all sexually oriented Businesses.

**5.20.6.1.** No more than one sexually oriented business or use shall be permitted on the same lot of record, or in the same building, structure, or portion thereof.

**5.20.6.2.** Any sexually oriented business shall be located on an individual lot of record and shall not be part of a combined development.

**5.20.6.3.** No sexually oriented business shall be open earlier than eight o'clock (8:00) a.m. or later than 12:00 midnight. No sexually business shall be open on any Sunday

**5.20.6.4.** All sexually oriented businesses shall be open to inspection at all reasonable times upon presentation of proper credentials by any law enforcement officer, the Administrator, or such other persons as the Administrator may designate in the normal course of his duties. Areas not open to the public may be inspected if appropriate consent is given or if an inspection warrant is secured.

**5.20.6.5.** No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk in front of the building. Neither the performance nor any photograph, drawing, sketch or other pictorial or graphic representation of a performance displaying any portion of the breasts below the top of the areola or any portion of the pubic hair, buttocks, genitals, and/or anus may be visible outside of the adult oriented business.

**5.20.6.6.** Window areas shall not be covered or made opaque in any way. No signs shall be placed in any window. A one-square-foot sign may be placed on the door to state hours of operation and admittance to adults only.

**5.20.7. NONCONFORMING SEXUALLY ORIENTED BUSINESSES**

All Nonconforming sexually-oriented businesses which are not found in compliance with the requirements of this Section shall either cease and desist or meet full compliance standards no later than five years (5) years following the effective date of this Ordinance or applicable amendment hereto provided however, that no existing open storage area may be expanded or enlarged except in accordance with the provisions herein.

Notwithstanding the above provisions, any sexually oriented businesses that were subject to, and have complied with, the amortization provisions of the previous Kannapolis Zoning Ordinance shall not be subject to this Section 5.20.7.

## 5.21. WIRELESS TELECOMMUNICATIONS SERVICES

### 5.21.1. PURPOSE.

The purpose of this Section 5.21 is to:

**5.21.1.1.** protect residential areas and land uses from potential adverse impacts of towers and antennas;

**5.21.1.2.** encourage the location of towers in non-residential and less developed areas;

**5.21.1.3.** strongly encourage joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;

**5.21.1.4.** encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;

**5.21.1.5.** encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;

**5.21.1.6.** enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;

**5.21.1.7.** consider the public's health and safety in regard to communication towers; and

**5.21.1.8.** avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

### 5.21.2. DEFINITIONS.

The words, terms and phrases shall have the meanings assigned below provided, however, that any words, terms, or phrases not defined herein shall have the meaning assigned in Appendix A to this Ordinance:

**Accessory Equipment Structure** - A building or cabinet-like structure located adjacent to, or in the immediate vicinity of, a wireless telecommunication tower or antenna to house equipment customarily incidental to the receiving or transmitting of wireless broadcasts, cellular telephone calls, voice messaging and paging services.

**Alternative Tower Structure** - Man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

**Antenna** - Equipment used for transmitting or receiving radio frequency signals, which is attached to a tower, building or other structure, usually consisting of a series of directional panels, microwave or satellite dishes, or omnidirectional "whip" antenna.

**Antenna, Stealth** - Wireless telecommunication antenna and related equipment designed to blend into the surrounding environment or integrated into the physical structure to which it is attached.

**Base Transceiver Station** - Equipment that provides the link between wireless communications and land-based public telephone switching networks, including radio frequency transceivers, back-up power sources, power amplifiers, and signal processing hardware, typically contained in a small building or cabinet.

**Communications Tower** - A tower, which supports communication (broadcast, receiving, or relay) equipment, utilized by commercial, government or other public and quasi-public users. This does not include private home use of satellite dishes and television antennas or amateur radio operators as licensed by the Federal Communications Commission (FCC).

**Satellite Dish Antennae or Satellite Dish** - A parabolic antennae designed to receive electromagnetic transmissions from a satellite.

**Tower** - Any ground-mounted, pole, spire, structure, or combination thereof, including supporting lines, cables, wires, braces, and masts, to which a telecommunications antenna is attached or affixed.

**Tower, Lattice** - Three- or -four-legged steel girded structures typically supporting multiple communications users and services generally ranging from 60 to 200 feet in height.

**Tower, Monopole** - Single pole design, approximately three feet in diameter at the base narrowing to approximately one and a half feet at the top, generally ranging from 25 to 150 feet in height.

**Wireless Telecommunication Services (WTS)** - Licensed or unlicensed wireless telecommunication services including cellular, digital cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), commercial or private paging services, or similar services marketed or provided to the general public. This definition does not include services by non-commercial entities in the amateur radio service, public safety radio service, or licenses assigned non-profit organizations such as the Red Cross, Civil Air Patrol, or other military affiliated radio services that are licenses by the Federal Communications Commissions.

**5.21.3. APPLICABILITY.**

The provisions of section 5.21 apply to any new Wireless Telecommunications Tower or Antenna, except as provided below. The use of land for wireless telecommunication service antenna or tower shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

**5.21.4. GENERAL GUIDELINES and REQUIREMENTS.**

**5.21.4.1. PRINCIPAL OR ACCESSORY USE.** Antennas and towers may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

**5.21.4.2. LOT SIZE.** In the event that a tower or antenna is installed and/or leased on a portion of a lot, the lot in its entirety will determine any and all district development regulations that the structure may be subjected to; including but not limited to: setback, lot-coverage, and other such requirements.

**5.21.4.3. INVENTORY OF EXISTING SITES.** Each applicant for an antenna and/or tower shall provide to the Administrator with an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the City, Cabarrus County, the City of Kannapolis, or the Towns of Harrisburg and Mt.

Pleasant. Said information shall include specific information about the location, height, and design of each tower. Each applicant shall also provide a one-year build out plan for all other proposed wireless communications facilities within the City. The Administrator may share such information with other applicants applying for administrative approvals or special use permits under this Ordinance or with other organizations seeking to locate antennas within the jurisdiction of this Ordinance provided, however that the Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

**5.21.4.4. AESTHETICS.**

**5.21.4.4.1.** Towers shall either maintain a galvanized steel finish or be painted a neutral color so as to reduce visual obtrusiveness.

**5.21.4.4.2.** The design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings located adjacent to the tower or antenna site.

**5.21.4.4.3.** If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure. This is in order to make the antenna, and related equipment, as visually unobtrusive as possible.

**5.21.4.5. LIGHTS.** No tower or antenna shall have affixed or attached to it in any way except during time of repair or installation, any lights, reflectors, flashers, day-time strobes or steady night time light or other illumination devices, except as required by the FAA, FCC, or the City. This restriction against lights shall not apply to towers which have been combined with light standards for illumination of ball fields, parking lots, playgrounds, or other similar public uses. If lighting is required, the lighting sources and design shall be designed to create the minimum practicable penetration of areas outside the boundaries of the Lot or Parcel.

**5.21.4.6. STATE OR FEDERAL REQUIREMENTS.** All towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other state or federal government agency with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this chapter shall bring such towers and antennas into compliance with the revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

**5.21.4.7. BUILDING CODES; SAFETY STANDARDS.** To ensure the structural integrity of towers and antennas, the owners of such facilities shall ensure that they are maintained in compliance applicable with standards contained in the State Building Code.

**5.21.4.8. FALL ZONE.** No tower or antenna shall be designed and/or sited such that it poses a potential hazard to nearby residences or surrounding properties or improvements. To this end, any tower or antenna, not located a distance equal to the height of the tower plus 50 feet away from all habitable structures, property lines, or other towers, shall be designed to withstand the maximum forces expected from wind and ice when the tower is fully loaded with antennas, transmitters and other equipment. Compliance with this requirement shall be certified by a professional engineer licensed by the State of North Carolina in a report describing the tower structure, specifying the number and type of antennas it is designed to accommodate, providing the basis for the calculations done, and documenting the actual calculations performed.

**5.21.4.9. ESSENTIAL SERVICES.** Wireless telecommunications towers and antennas shall be regulated and permitted pursuant to this chapter and shall not be regulated or permitted as essential services, public utilities, or private utilities.

**5.21.4.10. SIGNS.** Signs on a tower, or on any portion of the premises leased for wireless communication use, shall be limited to those needed

to identify the property and the owner and to warn of any danger. Signs which advertise for commercial purposes are prohibited. All signs shall comply with the requirements of the Sign Regulations of this Ordinance.

**5.21.5. PERMIT REQUIREMENTS.**

**5.21.5.1.** No wireless telecommunications tower or antenna shall be erected or established unless and until a Zoning Clearance permit has been issued pursuant to § 3.2.4 of this Ordinance.

**5.21.5.2.** A Stealth Antennae which does not exceed sixty-five (65) feet in height is permitted as of right, notwithstanding any provisions of the Use Matrix which requires a Special Use Permit. This provision does not permit antennas in any zoning district where they are expressly prohibited by the Use Matrix.

**5.21.5.3.** In addition to the procedures, standards and criteria set forth in § 3.5 of this Ordinance, special use permits for towers and antennas shall be issued in accordance with the following provisions:

**5.21.5.3.1.** Towers or antennas sixty-five (65) feet or more from the average ground level shall require a special use permit. This applies to mounted antennas, referring to the total height from the base of the building or other structure to the top of the antenna. This requirement shall not apply to applications for collocations or to eligible facilities requests in accordance with NCGS §160D-934.

**5.21.5.3.2.** Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a professional engineer licensed in the State of North Carolina.

**5.21.5.4. INFORMATION REQUIRED.** In addition to any other information required pursuant to § 3.5 of this Ordinance, applications for special use permits for towers shall include the following information:

**5.21.5.4.1.** A preliminary major site plan consistent with Appendix B of this Ordinance which clearly indicates the location, type, and height of the proposed tower; on-site land uses and zoning; adjacent land uses and zoning

(including when adjacent to other zoning jurisdictions); adjacent roadways; proposed means of access; setbacks from property lines elevation drawings of the proposed tower and any other structures; and other information deemed by the Administrator to be necessary to assess compliance with this Section.

**5.21.5.4.2.** The setback distance between the proposed tower and the nearest residential unit and residentially zoned properties.

**5.21.5.4.3.** The availability of suitable existing towers, other structures, or alternative technology.

**5.21.5.4.4.** The separation distance from other towers pursuant to Table 5.21-2 shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.

**5.21.5.4.5.** Method of fencing and finished color and, if applicable, the method of camouflage and illumination.

**5.21.5.4.6.** A notarized statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennas for future users.

**5.21.5.4.7.** A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.

**5.21.5.4.8.** A description of the feasible alternative location(s) of future towers or antennas within the City based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

**5.21.5.4.9.** A statement of compliance with the FCC Radio Frequency (RF) exposure standards.

**5.21.6. APPROVAL CRITERIA**

**5.21.6.1. LOCATION.** All non-stealth and stealth towers and mounted antennas are permitted by right or as a special use as listed in Table 4.6-1 in § 4.6.

**5.21.6.2. FACTORS CONSIDERED IN GRANTING SPECIAL USE PERMITS FOR TOWERS.** In determining whether to issue a special use permit, the Board of Adjustment shall consider, in addition to any other standards in this Ordinance governing special use permits, the following factors:

**5.21.6.2.1.** Height of the proposed tower;

**5.21.6.2.2.** Proximity of the tower to residential structures and residentially zoned district boundaries;

**5.21.6.2.3.** Nature of uses on adjacent and nearby properties;

**5.21.6.2.4.** Surrounding topography;

**5.21.6.2.5.** Surrounding tree coverage and vegetation;

**5.21.6.2.6.** Design of the tower, with particular reference to design characteristics that reduce or eliminate visual obtrusiveness;

**5.21.6.2.7.** Proposed ingress and egress; and

**5.21.6.2.8.** Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in § 5.21.6.3 of this Ordinance.

**5.21.6.3. AVAILABILITY OF SUITABLE EXISTING TOWERS, OTHER STRUCTURES, OR ALTERNATIVE TECHNOLOGY.** No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Administrator, or Board of Adjustment (if special use permit is required), that no existing tower, structure or alternative technology, that does not require the use of towers or structures, can accommodate the applicant's proposed tower or antenna. Evidence submitted to demonstrate that no existing tower, structure, or alternative technology can accommodate the applicant's proposed tower or antenna may consist of any or all of the following:

**5.21.6.3.1.** No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.

**5.21.6.3.2.** Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.

**5.21.6.3.3.** Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

**5.21.6.3.4.** The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

**5.21.6.3.5.** The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs required by the owner of existing tower or structure that exceed new tower development are presumed to be unreasonable.

**5.21.6.3.6.** The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

**5.21.6.3.7.** The applicant demonstrates that alternative technologies, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, that does not require the use of towers or structures, are unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

**5.21.6.3.8. SEPARATION.** Towers shall be separated a distance, as measured from the base, equal to at least the minimum standards established in Table 5.21-2 from any preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the preexisting tower and the base location, pursuant to a site plan, of the proposed tower.

**5.21.6.3.9. SECURITY FENCING.** Towers shall be enclosed by security fencing not less than six (6) feet in height and no more than eight (8) feet in height and shall be equipped in such a manner as to deter climbing.

**5.21.6.3.10. LANDSCAPING.**

Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from adjacent residential property. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound. Plant materials forming the visual buffer may be existing on the subject property or installed as part of the proposed facility, but existing mature plant growth and natural landforms on the site shall be preserved to the maximum extent possible. The Administrator may waive these requirements in locations where the view of the tower base is obstructed by existing buildings or natural topography and cannot be viewed from adjacent property or a public street.

**5.21.7. BUILDINGS OR OTHER EQUIPMENT STORAGE.**

**5.21.7.1. ACCESSORY EQUIPMENT STRUCTURES.** The equipment cabinets and other support structures used in association with towers or antennas shall comply with the following provisions:

**5.21.7.1.1.** Equipment cabinets and/or other structures shall comply with all applicable building codes.

**5.21.7.1.2.** Guys and accessory buildings shall satisfy the minimum zoning district setback requirements.

**5.21.7.2. LOCATION OF ACCESSORY EQUIPMENT STRUCTURES.**

**5.21.7.2.1.** Equipment cabinets and/or structures shall be no greater than fourteen (14) feet in height or three hundred (300) square feet in gross floor area. The entry or access side of a cabinet and/or structure shall be gated by a solid, sight-obscuring gate that is separate from the cabinet and/or structure. Such access way shall not face residentially zoned property.

**5.21.8. CO-LOCATION.**

**5.21.8.1. GOOD FAITH.** Applicants and permittee shall make a good faith effort to share wireless communication structures, facilities, and sites where feasible and appropriate. Good faith effort shall



include sharing technical information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location and may include negotiations for erection of a replacement support structure to accommodate co-location. A competitive conflict to co-location or financial burden caused by sharing such information normally will not be considered as an exception to the duty of good faith.

**5.21.8.2. THIRD PARTY TECHNICAL REVIEW.** In the event a dispute arises as to whether a permittee has exercised good faith in accommodating other users, the Administrator may require the applicant to obtain a third-party technical study at the applicant’s expense. The Administrator may review any information submitted by the applicant and permittee(s) in determining whether good faith has been exercised.

**5.21.8.3. EXCEPTIONS.** No co-location may be required where the shared use would or does result in significant interference with the broadcast or reception capabilities of the existing wireless communication facilities or the failure of the facilities to meet federal standards for emissions.

**5.21.8.4. VIOLATION; PENALTY.** Failure to comply with co-location requirements may result in denial of a permit request or revocation of an existing permit.

**5.21.9. REMOVAL OF ABANDONED ANTENNAS AND TOWERS.**

**5.21.9.1.** Any antenna or tower that is not operated for a continuous period of one (1) year shall be considered abandoned, and the owner of such facility shall remove the antenna or tower within ninety (90) days of receipt of notice from the Board of Adjustment notifying the owner of such abandonment. If there are two or more users of a single tower or antenna, then this provision shall not become effective until all users cease using the tower or antenna for the prescribed period. “Physically remove” shall include, but not be limited to:

**5.21.9.1.1.** Removal of antennas, mount, equipment shelters and security barriers from the subject property.

**5.21.9.1.2.** Proper disposal of the waste

materials from the site in accordance with local and state solid waste disposal regulations.

**5.21.9.1.3.** Restoring the location of the facility to its natural condition, except that any landscaping and grading shall remain in the after condition.

**5.21.9.2. AUTHORITY TO REMOVE / REQUIRED BOND.** A performance bond shall be set for 1.25 times the estimated cost of removal of all towers, antennas, and accessory equipment structures that are approved. The performance bond shall be filed prior to issuance of a zoning clearance. This amount will be determined by a removal company and certified by a North Carolina Licensed Engineer. For every year following approval, the bond shall increase by an inflation factor based upon the Consumer Price Index (CPI) Index.

**5.21.10. NONCONFORMING USES.**

**5.21.10.1.NO EXPANSION OF NONCONFORMING USE.** Towers that are constructed, and antennas that are installed, in accordance with the provisions of this chapter shall not be deemed to constitute the expansion of a nonconforming use or structure.

**5.21.10.2.PREEXISTING TOWERS.** Preexisting towers constructed prior to the adoption of this Ordinance shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this chapter.

**5.21.10.3.REBUILDING DAMAGED OR DESTROYED NONCONFORMING TOWERS OR ANTENNAS.** Notwithstanding this Section, bona fide nonconforming towers or antennas that are damaged or destroyed by weather events or other non-manmade causes to conform to the requirements of this Ordinance provided the type, height, and location of the tower onsite shall be of the same type and intensity as the original facility; provided, however, that any destroyed lattice or guyed tower shall be replaced with a monopole structure only. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned.

<b>Table 5.21-1 Separation Requirements from Offsite Uses/Areas</b>	
Single-family or duplex residential units [1]	200 feet or 300% of tower height, whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary plat approval which is not expired [2]	
Existing multi-family residential units greater than duplex units	100 feet or 100% of tower height, whichever is greater
Non-residentially zoned lands or non-residential uses	None, only setbacks apply
[1] Includes modular homes and mobile homes used for living purposes. [2] Separation measured from base of tower to closest building setback line.	

**Table 5.21-2  
Separation Distances Between Towers**

	Monopole 65 ft. in height or greater	Monopole less than 65 ft. in height
Monopole 65 feet in height or greater	1,500 feet	750 feet
Monopole less than 65 feet in height	750 feet	750 feet

## 5.22 TEMPORARY USES

### 5.22.1. PURPOSE

The Temporary Use Permit is a mechanism to allow a use on a short-term basis and certain seasonal or transient uses not otherwise allowed. Prior to conducting or establishing a temporary use or structure, approval of a Temporary Use Permit by the Planning Department is required pursuant to Section 3.2 of this Ordinance.

### 5.22.2. APPROVAL CRITERIA.

All temporary uses listed in this Section require a Temporary Use Permit. The Administrator shall not approve or modify and approve an application for a Temporary Use Permit unless the following criteria, specific regulations and time limitations are met in addition to criteria for any particular temporary use as specified in sections 5.22.2.1 through 5.22.9 below.

**5.22.2.1. Compatibility with / Effect on Surrounding Area.** The allowance of such use shall not be detrimental to the public health, safety and general welfare, and the use shall be consistent with the purpose and intent of this Ordinance and the specific zoning district in which it will be located; and the use is compatible in intensity, characteristics and appearance with existing land uses in the immediate vicinity of the temporary use, and the use, value and qualities of the neighborhood surrounding the temporary use will not be adversely affected by the use or activities associated with it. In addition to those listed herein, factors such as location, noise, odor, light, dust control and hours of operation shall be considered.

**5.22.2.2. Location (Permission Required).** The use shall not be on publicly or privately owned property unless the applicant first obtains written approval from the owner.

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

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

**5.22.2.5. Property Line Setbacks.** Structures and/or display of merchandise shall comply with the yard and property line setback requirements of the zone district within which it is located. The items shall be displayed so as not to interfere with the sight triangle of the intersection of the curb line of any two (2) streets or a driveway and a street. In no case shall items be displayed, or business conducted within the public right-of-way, except that this section shall not apply to the CC district.

**5.22.2.6. Display of Permit.** A copy of the zoning compliance permit must be prominently displayed on the site of the temporary use.

**5.22.2.7. Number Per Parcel.** Only one (1) Temporary Use Permit shall be permitted for a single parcel of land at any given time.

5.22.2.8. PERIOD OF TIME BETWEEN PERMITS.

Temporary Use Type	Per Location				Section of UDO
	Min. Permit Length	Time Between Expiration	Max. Time Allowed Per year	Permit Required	
<b>Agriculture Products, Non-Residential</b>	180 days	NA	180 days**	Yes	5.22.3.2
<b>Agriculture Products, Residential</b>	7 days	NA	180 days**	Yes	5.22.3.2
<b>Amusement Enterprises</b>	21 days	90 days *	21 days**	Yes	5.22.5
<b>Fireworks Stands</b>	45 days	90 days *	45 days**	Yes	5.22.3.1
<b>Promotional Activities</b>	7 days	1 day*	21 days	Yes	5.22.7
<b>Contractors Office, Equipment, Sheds</b>	30 days	NA	12 months	Yes	5.22.4.1
<b>Real Estate Office, Trailer</b>	6 months	Renewable	12 months	Yes	5.22.4.2
<b>Real Estate Office, Model Home</b>	6 months	Renewable	12 months	Yes	5.22.4.3
<b>Single Family, Temporary Structure</b>	12 months	NA	12 months**	Yes	5.22.4.4
<b>Religious Events, Offsite</b>	30 days	Renewable	60 days	Yes	5.22.6
<b>Religious Events, Onsite</b>	NA	NA	NA	No	5.22.9.1
<b>Sidewalk Vendors</b>	90 days	90 days *	90 days**	Yes	5.22.3.4
<b>Special Events and Activities</b>	NA	NA	NA	No	5.22.9.2
<b>Yard Sales</b>	2 days	Renewable	8 days	Yes	5.22.8

\*The period of time between an expired Temporary Use Permit on a parcel and application for another Temporary Use Permit on the same parcel per fiscal year (July 1st to June 30th).

\*\*Even if at any time the temporary use does not occupy the permitted site, the noted day/month limit shall not be extended

**5.22.3. TEMPORARY RETAIL SALES USES.**

**5.22.3.1. Fireworks Stand.** Limited to only non-residential zones. A maximum of one (1) structure, not to exceed 120 square feet in area, shall be allowed. The structure must be portable and completely removed at the end of the permit period.

**5.22.3.2 Seasonal Sale of Agricultural Products.** (including Christmas Trees). A maximum of one (1) building/display booth shall be allowed and may cover a maximum of 400 square feet in non-residential districts. The building/display booth must be portable and completely removed at the end of the period. A maximum display area of 100 square feet shall be allowed in residential districts. Such residential sales are limited to selling excess vegetables and fruits incidental to the residence. Residential seasonal sales shall be limited to the daylight hours.

**5.22.3.3. Sidewalk Vendors** Limited non-residential outdoor sales (sidewalk vendors) may receive a temporary use permit if the sales activities are incidental to the primary use, the sales activity is conducted with property owner permission and the display area is located in the C-1 or C-2 zoning districts. The display area shall not extend beyond the sidewalk or concrete apron entrance of the building, nor encroach into a public right-of-way. If the private sidewalk or pedestrian way in front of the building is used for display of merchandise, a minimum width of four (4) feet must remain unobstructed for pedestrian use. Temporary sales activities are prohibited on vacant property and from vehicles.

**5.22.4. REAL ESTATE DEVELOPMENT AND CONSTRUCTION-RELATED TEMPORARY USES.**

**5.22.4.1. Contractors Office and Equipment / Storage Sheds.** Accessory to a Construction Project (Residential and/or non-residential) Placement of such a temporary use is limited to a period of time determined by an estimated project completion date with the option of an extension of up to one (1) year as and if approved by the Administrator. A construction trailer may be used for a contractor’s office and/or for the contractor’s storage of equipment and/or materials. All temporary buildings and trailers shall be completely

removed from the site within thirty (30) days of issuance of either a Certificate of Occupancy on the last permitted Residential unit and/or completion of the Non-Residential construction project which has been issued a Certificate of Occupancy.

**5.22.4.2. Real Estate Office in a Construction or a Temporary Modular Unit.**

Temporary structures, such as a construction trailer(s) and/or temporary modular unit(s) may be used as a real estate sales office, promotion and management office in any new construction project for the sale and promotion of properties within that project and/or its future phases only. Such a temporary use shall be allowed in all zoning districts, if approved by the Administrator. A real estate office may not contain sleeping or cooking accommodations unless located in a model dwelling.

**5.22.4.3. Real Estate Office in a Model Home.**

Accessory to Construction of a New Residential Development, if approved by the Administrator. The number of employees utilizing the office at any one time may not exceed five (5). A real estate office may not contain sleeping or cooking accommodations unless located in a model dwelling.

**5.22.4.4. Single Family Dwelling in Temporary Structure.**

During the active construction period (after a building or grading permit has been issued) of a construction project involving a non-residential use or a residential development with building permit(s) for more than 50 units at any one time, one (1) mobile home or trailer may be allowed on the same property to be used as a temporary residence by a night watchman for a period not to exceed 12 months or the active construction period, whichever is less. The temporary home shall be removed from the site within 14 days of issuance of the Certificate of Zoning Compliance for a non-residential structure or the first residential unit if within a residential development.

**5.22.4.5. No Recreational Vehicles.**

No Recreational Vehicles shall be permitted as a Temporary Use or Structure.

**5.22.5. AMUSEMENT ENTERPRISES.**

Carnivals, circuses, fairs, and amusement rides may be

allowed in any non-residential zoning district. This classification excludes events conducted in a permanent entertainment facility.

**5.22.6. RELIGIOUS EVENTS, OFFSITE.**

Religious events in a tent or other temporary structure may be allowed in any non-residential zoning district with the issuance of a temporary use permit.

**5.22.7. PROMOTIONAL ACTIVITIES IN BUSINESS AND COMMERCIAL ZONES INVOLVING THE DISPLAY OF GOODS AND MERCHANDISE (OUTDOOR COMMERCIAL SALES).**

A temporary use permit may be issued for limited non-residential outdoor sales for permanent retail establishments, if the sales activities are incidental to the primary use and the sales activity is conducted by an onsite tenant or merchant who sells similar or related merchandise in the C-1 or C-2 zoning districts. The outdoor display of items for sale at permanent retail establishments shall not extend beyond the sidewalk or concrete apron entrance of the building. If the private sidewalk or pedestrian way in front of the building is used for display of merchandise, a minimum width of four (4) feet must remain unobstructed for pedestrian use.

**5.22.8. YARD SALES.**

A yard sale may be conducted by an individual occupant of a residence, a coordinated group of homeowners within an established development, or a civic or religious organization for the purpose of selling surplus household items for profit or for charitable purposes. Yard sales shall be prohibited on commercially developed properties and vacant lots. Items purchased elsewhere expressly for resale are prohibited. Goods intended for sale shall not be stored or displayed in the front or side yards of a dwelling except on the day of the sale. Each yard sale event is limited to the daylight hours. Yard sale signs shall be allowed in accordance with Section 12. 4. 18 of this Ordinance.

**5.22.9 EXEMPT TEMPORARY USES.**

**5.22.9.1 Religious or Non-profit Events, Onsite.**

Religious or non-profit events conducted entirely on a lot occupied by their primary facility are exempt from the provisions of this ordinance.

**5.22.9.2 Special Events and Activities**

Special events and activities conducted on public property, such as school sites and public parks, and public events on private property shall be exempt from the provisions of this Section of the Ordinance. However, such events and activities must comply with any guidelines, regulations and permitting process required by the authorizing agency (e.g. School District or a Parks and Recreation Department). A zoning waiver must be obtained for all special events and activities.

**5.22.10. SIMILAR AND COMPATIBLE USES NOT SPECIFIED.**

If a particular temporary use is listed in the Ordinance, the Administrator shall have the authority to grant a temporary use permit for a “similar and compatible use”. Similar and compatible uses not specified are those uses which are similar and compatible to those allowed as temporary uses in this Section. Determination of what constitutes similar and compatible shall be made by the Administrator. In such instances, the applicant shall provide the following information such as type of use; number of employees; parking/circulation needs/hours of operation; and duration of operation. If the Administrator determines that the use is not similar and compatible, the applicant may appeal the decision to the Board of Adjustment in accordance with Sect. 3.7 of this Ordinance.

## 5.23 MANUFACTURED/MODULAR HOME AND STORAGE BUILDING SALES

### 5.23.1 APPLICABILITY.

The provisions of this Section shall apply to any tract of land designed for the display and sale of bulky items including manufactured homes, modular homes, and/or enclosed storage (accessory) buildings and boats.

### 5.23.2 CRITERIA.

**5.23.2.1** Site Plan Requirements. In addition to the site plan requirements found elsewhere in this ordinance, the site plan shall define display areas, storage and repair areas, office, and parking areas, landscaping materials, and materials used to obstruct off-site views. Other accessory uses (such as sales of items not described in this Section) may not locate on the site unless the use has been designated on the site plan. In the case of manufactured and modular home sales, the number of home display pads shall be noted on the plan.

**5.23.2.2** Setbacks. All display pads shall be located at least ten (10) feet from any property line or public street right-of-way line. Setbacks for permanent structures such as an office shall be located in accordance with the underlying district. **EXCEPTION:** In the event that the width of a required landscape planting yard is greater than ten (10) feet, then the minimum building setback shall be in accordance with the width of the landscape planting yard.

**5.23.2.3** Type of Manufactured Home. All manufactured homes displayed for sale (not in screened storage or repair areas) shall conform to all Federal Manufactured Home Construction and Safety Standards and/or building requirements and/or codes for Manufactured Homes and bear the required United States Department of Housing and Urban Development (HUD) tag and/or data plate.

**5.23.2.4** Required Paving. All travel lanes, access lanes, areas, sidewalks, and parking spaces shall be paved. Storage and repair areas and display pads may be gravel.

**5.23.2.5** Storage and Repair Areas. Storage and repair activities shall be completely screened from off-site views. Homes or buildings not for immediate sale, or replacement or discarded parts

and accessories shall also be screened from off-site views.

**5.23.2.6** Sidewalks. Four (4) foot wide sidewalks shall be constructed throughout the site so as to provide complete pedestrian connections from the parking area to each displayed item (pad) and the office.

**5.23.2.7** Signs. Signs shall conform to the sign regulations of the zoning district in which the use is located. In addition, each display item may have a sign not to exceed three square feet in area which gives information about the item.

**5.23.2.8** Display Pads. All manufactured or modular homes and storage buildings shall be located on a pre-determined display pad (shown on the site plan) equaling no more than 120% of the structure's footprint.

**5.23.2.9** Manufactured or Modular Home Display Areas. A minimum separation of at least ten (10) feet shall be maintained between display pads. Display homes shall be level and blocked. Display homes which are visible off-site shall be provided with some type of material (skirting, low fence, or landscaping) around the base which will prevent open views underneath the manufactured home. Access to the display homes shall be through a stairway or other means that has a permanent appearance.

**5.23.2.10** Storage Building Display Areas. A minimum separation of at least five (5) feet shall be maintained between display pads.

**5.23.2.11** Landscaping Requirements. In addition to the landscaping requirements found elsewhere in this Ordinance, the display area for manufactured and modular home sales shall include the installation of one ornamental tree or shade tree, two medium shrubs and six small shrubs per display pad. The location of the plantings shall be determined by the Administrator, but the intention is to provide each space with a permanent, residential appearance. Portions of any display area not included in individual display pads shall be grassed or mulched and suitably landscaped. No display area may be entirely paved.

## **5.24 AUTOMOTIVE TOWING BUSINESSES**

### **5.24.1 APPLICABILITY.**

The provisions of this Section shall apply to Automotive Towing Businesses as allowed in Table 4.6-1 (see Article 4) and subject to the provisions below.

### **5.24.2 APPROVAL CRITERIA.**

#### **5.24.2.1 Location.**

**5.24.2.1.1** Recognizing the importance of certain highways to the economic health and aesthetic image of the city, special development standards are designed to help safeguard the function and appearance of these major highway corridors. As a result, no Automotive Towing Business shall be located within a one-mile radius from a major gateway to the city. For the purposes of this and other sections of the ordinance, major gateways are identified as any primary entry way into the city limits.

#### **5.24.2.2 Storage.**

**5.24.2.2.1** In the C-2 District, no more than twenty (20) motor vehicles shall be stored on the premises at any one time.

**5.24.2.2.2** In the I-1 District, no more than fifty (50) motor vehicles shall be stored on the premises at any one time.

**5.24.2.2.3** A minimum six (6) foot high opaque fence shall surround the automotive storage area. Where storage area/fence is abutting a public street frontage, a street yard landscaping buffer as specified in Section 7.7 of the UDO shall be required.

**5.24.2.2.4** No outdoor disassembly or salvaging shall be permitted. The storage yard is used exclusively for vehicle storage and no parts from stored vehicles are sold at wholesale or retail on said site.



## 5.25 RESIDENTIAL SUBDIVISIONS IN THE AG ZONE

### 5.25.1 APPLICABILITY.

The provisions of this Section shall apply to any tract of land to be subdivided for the purpose of residential development within an AG zone.

### 5.25.2 PURPOSE.

The purpose of this section is to protect land and open space from premature land subdivision (prior to municipal utilities) while recognizing that small subdivisions in the AG zoning district are necessary for family land transfers and similar transactions. Rural Subdivisions shall be considered the division of any parcel of record at the adoption date of this ordinance into 4 or more lots.

### 5.25.3 APPROVAL CRITERIA.

Rural subdivisions shall adhere to the following conditions:

- Lot size and Density - Lots within rural subdivisions shall meet the minimum lot standards for the AG district as outlined in Table 4.7-1;
- Each parcel of record shall not exceed a density of one lot per acre for the first three acres of property and one lot per four acres for additional acreage above three acres.

**5.23.3.1. Access.** Lots within Rural Subdivisions exceeding three lots shall not be permitted direct access to City or State maintained roads. A new interior road that meets the standards of this ordinance shall be constructed for access to these lots. Divisions of thirty lots or greater must include the construction of a left turn lane at the access point(s) that meets the standards of the City or the NC Department of Transportation. This provision shall in no way substitute for or lessen any additional requirements of the City or NCDOT made as part of a required driveway permit.

**5.23.3.2 Orientation.** All lots within rural subdivisions must have the front yard oriented to the interior access road.

**5.23.3.3 Buffer.** New rural subdivisions must be buffered from surrounding properties. The required buffer must meet the standards of Bufferyard Type A as outlined in Article 7.4 of this ordinance.

**5.23.3.4. Tree Retention.** Rural Subdivisions must include an effort to retain mature trees. Existing trees of 12-inch diameter at breast height (dbh) or greater must be identified and shall not be removed except when buildings, roads or required utilities are to be constructed.

### 5.23.4 APPEALS AND EXCEPTIONS.

Where a person or persons proposing a rural subdivision feels that they are not able to meet the provisions of this supplemental use section they may appeal to the Board of Adjustment. The Board of Adjustment shall review the appeal as they would a variance and follow all applicable procedures.

## 5.26 PALMISTRY/PALM READING/FORTUNE TELLER SERVICES

### 5.26.1 APPLICABILITY.

The provision of this Section shall apply to any Palmistry/Palm Reading/Fortune Teller Services establishment as allowed in Table 4.6-1 (see Article 4) and subject to the provisions below.

### 5.26.2 APPROVAL CRITERIA.

#### 5.26.2.3 Location.

**5.26.2.3.1** Recognizing the importance of certain highways to the economic health and aesthetic image of the city, special development standards are designed to help safeguard the function and appearance of these major highway corridors. As a result, no Palmistry/Palm Reading/Fortune Teller Services establishment shall be located within a one-mile radius from a major gateway to the city. For the purposes of this and other sections of the ordinance, major gateways are identified as any primary entry way into the city limits.

#### 5.26.2.4 Landscaping and Buffering.

See Article 7 Landscaping and Buffering Standards.

#### 5.26.2.5 Signage.

Signs for Palmistry/Palm Reading/Fortune Teller Services establishments shall meet the requirements of the Sign Regulations (Article 12) and the requirements set forth below.

**5.26.2.5.1** Signage shall be limited to one ground sign per establishment.

**5.26.2.5.2** Ground signs identifying these establishments shall not exceed thirty-two square feet in area per side with a maximum of two sides.

**5.26.2.5.3** No additional advertising signs shall be permitted on the property.

**5.26.2.5.4** No neon or other effects which simulate the appearance of neon, nor any flashing, chasing, undulating or other variable lighting effects shall be used in connection with any use hereunder where such

lighting effect would be visible from the exterior of the establishment.

**5.26.2.5.5** No signs shall be posted on the windows of the property which are visible from the exterior of the establishment.

#### 5.26.2.6 Supplemental Requirements

In additional to the foregoing requirements and those other requirements of general applicability found elsewhere in this Ordinance, the following supplemental requirements shall also apply to uses under this section.

**5.26.2.6.1** All public parking shall be paved with asphalt or concrete.

**5.26.2.6.2** At least 50% of the floor area of the business, which is open to the public, excluding restrooms, shall be devoted to the bona fide retail sale of merchandise.

**5.26.2.6.3** The outdoor sale of goods or merchandise of any kind is prohibited.

**5.26.2.6.4** No establishment offering services under this section shall be located any closer than 1 mile in any direction from any other establishment to which this section applies.

## **5.27 CONCRETE FORM MANUFACTURING**

### **5.27.1 APPLICABILITY**

The provisions of this Section shall apply to any Concrete Form Manufacturing establishment as allowed in Table 4.6-1 (see Article 4) and subject to the provisions below.

### **5.27.2 APPROVAL CRITERIA**

No special use permit or building permit shall be issued for concrete form manufacturing unless all of the following standards and criteria are satisfied:

**5.21.2.1** Concrete Form Manufacturing establishments shall be located a minimum of 400 feet from any residentially zoned or developed property and within 1,000 feet of Interstate 85.

**5.27.2.2** Outside storage shall be limited to the finished product of the on-site manufacturing only.

**5.27.2.3** In addition to the standards for buffers in Article 7, outside storage of finished product must be screen by an opaque fence up to eight (8) feet in height.

**5.27.2.4** Outside manufacturing and noxious smokestack discharge is prohibited.

## **5.28. AUTOMOBILE PARTS, TIRES, AND ACCESSORIES**

### **5.28.1 Applicability**

The provisions of this Section shall apply to any Automobile Parts, Tires, and Accessories establishment allowed in Table 4.6-1 in the CD Campus Development District and subject to the provisions below.

### **5.28.2 Approval Criteria**

No special use permit or building permit shall be issued for Automobile Parts, Tires and Accessories facilities unless all of the following standards and criteria are satisfied:

**5.28.3** The retail component of CD Campus Development projects must be sixty (60) acres or more before Automobile Parts, Tires, and Accessories will be allowed.

## **5.29 RELIGIOUS INSTITUTIONS**

### **5.29.1 APPLICABILITY**

The provisions of this Section apply to any Religious Institution as allowed by Table 4.6-1 (see Article 4) and subject to the provisions below.

### **5.29.2 CRITERIA**

**5.29.2.1** The minimum setback requirement for all structures is 1 ½ times the applicable zoning district setback requirement when abutting residential property.

**5.29.2.2** A preliminary major site plan which clearly indicates the location and type of all structures, on-site land uses, and zoning; adjacent land uses and zoning; adjacent roadways; proposed means of access; setbacks from property lines; elevation drawings of the proposed structures; and other information deemed by the Administrator to be necessary to assess compliance with the requirements of this ordinance

### **5.29.3 LIGHTING**

**5.29.3.1** Exterior lighting shall be placed so as to not direct or reflect light upon adjoining properties.

## 5.30 PARKING OF COMMERCIAL AND RECREATIONAL VEHICLES

### 5.30.1 APPLICABILITY

The provisions of this Section shall apply to any vehicle that meets one of the following classifications:

#### 5.30.1.1 Commercial / Special Vehicles

5.30.1.1.2 A vehicle with more than two axles.

5.30.1.1.3 A vehicle used in the transport of hazardous materials that requires the vehicle to be placarded under the Code of Federal Regulations, Title 49, Part 172, Subpart F.

5.30.1.1.4 Construction vehicles designed for off-road usage such as bulldozers, excavators, and other similar equipment.

5.30.1.1.5 A vehicle requiring the driver to have either a Class A or Class B North Carolina Driver's License or the equivalent.

#### 5.30.1.2 Recreational Vehicles

5.30.1.2.1 Recreational Vehicles, including but not limited to campers, travel trailers, or motor homes, used for traveling and recreational activities.

#### 5.30.1.3 Watercraft Vehicles

5.30.1.3.1 Vehicles, including but not limited to boats and jet skis, designed to be operated on the water.

### 5.30.2 PERFORMANCE STANDARDS

5.30.2.1 Commercial / special vehicles, as defined in Section 5.30.1.1, shall be prohibited from being parked and/or stored in any primary Residential Zoning District, except as provided in Section 5.30.3.

5.30.2.2 Not more than one recreational vehicle shall be allowed to be parked and/or stored on a lot within any primary Residential Zoning District for a period exceeding sixty days.

5.30.2.3 No recreational vehicle shall be

occupied for a period exceeding thirty days unless such vehicle is located within a conforming manufactured home park or recreational vehicle park.

5.30.2.4 No recreational or watercraft vehicle may be parked and/or stored in the front yard.

### 5.30.3 EXEMPTIONS

The following vehicles shall be exempt from the provisions of § 5.30.2:

5.30.3.1 Vehicles engaged in Bona fide farming operations, as defined in Appendix A of this ordinance.

5.30.3.2 Vehicles designed and operated in conjunction with typical residential purposes such as lawn mowers and garden tractors.

5.30.3.3 Vehicles engaged in loading or unloading household goods for a period of up to 24 hours.

5.30.3.4 Vehicles located on properties occupied by institutional and/or civic uses which are necessary for their normal operations.

5.30.3.5 Vehicles involved in governmental purposes and/or performing an emergency function.

## 5.31 ELECTRONIC GAMING OPERATIONS

### 5.31.1 APPLICABILITY.

The provisions of this Section shall apply to any Electronic Gaming Operation establishment as defined in Appendix A and allowed in Table 4.6-1 (see Article 4) subject to the provisions below.

### 5.31.2 APPROVAL CRITERIA.

A Special Use Permit, granted by the Board of Adjustment, is required for any Electronic Gaming Operation in accordance with the procedures of Section 3.5 of this ordinance. Any application for an Electronic Gaming Operation shall, at a minimum, comply with the requirements below.

#### 5.31.2.1 Location.

**5.31.2.1.1** Any establishment offering services under this section shall be located in a C-2 Zoning District.

**5.31.2.1.2** Electronic gaming devices are allowed as an accessory use to the extent that the use functions are a use accessory, incidental, and subordinate in area, extent, and purpose to the principal use of the premises.

**5.31.2.1.3** No establishment offering services under this section shall be located any closer than 500 feet in any direction from any tax parcel having a current tax-exempt designation from the county in which it is located. A survey may be required to verify compliance with this provision.

**5.31.2.1.4** All measurements used in the enforcement of this Section shall be from the outer building walls containing<sup>4</sup> the proposed use to the nearest property line of the tax parcel specified in Section 5.31.2.1.3. Such measurement shall be in a straight line without regard to intervening structures.

#### 5.31.2.2 Landscaping and Buffering

Landscaping and buffering Standards for Electronic Gaming Operations shall meet the requirements of Article 7, Landscaping and Buffering Standards.

#### 5.31.2.3 Signage.

**5.31.2.3.1** Signs for Electronic Gaming

Establishments shall meet the requirements of the Sign Regulations (Article 12) and the requirements set forth below.

**5.31.2.3.2** No neon or other effects which simulate the appearance of neon, nor any flashing, chasing, undulating, or other variable lighting effects shall be used in connection with any use hereunder where such lighting effect would be visible from the exterior of the establishment.

**5.31.2.3.3** No signs shall be posted on the windows of the property which are visible from the exterior of the establishment. <sup>(2)</sup>

#### 5.31.2.4 Supplemental Requirements

**5.31.2.4.1** In addition to the foregoing requirements and those other requirements of general applicability found elsewhere in this Ordinance, the following supplemental requirements shall also apply to uses under this section.

**5.31.2.4.2** At least one parking space shall be designated for each on-duty employee and one parking space for every electronic gaming terminal/computer/device/gaming station in the establishment. Designated parking spaces shall not include parking spaces allocated to other businesses within a combined development. In instances where the electronic gaming establishment is considered an accessory use, spaces allocated for the principal use may not be used to meet the requirements of this section.

**5.31.2.4.3** Electronic Gaming Operations operating as a principal use, shall require all public parking be paved with asphalt or concrete,

**5.31.2.4.4** Each establishment permitted under this section shall post a permanent weatherproof and reasonably visible placard in English and Spanish within two (2) feet of each entryway into the establishment.

**5.31.2.4.5** No establishment offering the uses under this section shall be allowed within the following setback:

**5.31.2.4.6** A two-hundred-foot (200') setback is hereby established along each side of the gateway corridors listed below. The setback shall be measured perpendicular to the existing road right-of-way. For the purposes of this section, a major gateway is identified as an entry way into the city limits along any of the following transportation corridors: NC-3, NC-73, Hwy 29, Kannapolis Parkway, Lane Street, C Street, Ridge Avenue, Rogers Lake Road or Main Street.



## 5.32 ICE VENDING MACHINES

### 5.32.1 APPLICABILITY.

The provisions of this Section shall apply to any Ice Vending Operation as allowed by Table 4.6-1 (see Article 4) and subject to the provision below.

### 5.32.2 APPROVAL CRITERIA

No permit shall be issued for freestanding ice vending machines unless all of the following standards and criteria are met:

**5.32.2.1** Freestanding ice vending machines shall meet the minimum setback requirements for principle uses within the zoning district in which it is located.

**5.32.2.2** Freestanding ice vending machines shall not be allowed in required parking areas, loading areas, or buffers.

**5.32.2.3** A roof structure constructed of either metal or wood shall be required to screen the mechanical equipment and other rooftop appurtenances. Fabric screening shall not be allowed.

**5.32.2.4** A planted buffer area with a minimum width of twenty-four (24) inches shall be established around three (3) sides of the base of the unit with evergreen shrubs planted on not less than eighteen (18) inch centers. Alternatives to the buffer area requirement may be submitted to the Technical Review Committee (TRC) for consideration, so long as the original intent of the requirements is met. Machines located on individual lots shall meet all other landscaping requirements established in Article 7 of the ordinance.

**5.32.2.5** Signage shall be in accordance with the standards established in Article 12 of the ordinance.

**5.32.2.6** Safety barriers shall be covered with a wood or brick façade.

**5.32.2.7** At least one individual parking space and one van accessible handicapped parking space shall be provided. Parking spaces shall be striped and paved and meeting the minimum dimensional requirements of Article 8 of the ordinance.

**5.32.2.8** Ice vending machines on individual lots shall meet the minimum driveway standards established in Article 8 of the

ordinance.

**5.32.2.9** All ice vending machines shall be attached to a permanent foundation system in compliance with the North Carolina State Building Code.

**5.32.2.10** All wheels, hitches, axels, transporting lights, and removable towing apparatus shall be permanently removed prior to approval of the certificate of compliance.

**5.32.2.11** Site plans and architectural plans for construction shall be prepared by professional site plan preparer or draftsman.

## 5.33 RURAL HOME OCCUPATIONS

### 5.33.1 PURPOSE

**5.33.1.1** A rural home occupation is permitted as an accessory use in the district(s) shown in Table 4.6-1 (see Article 4). The purpose of the rural home occupation regulations and performance standards are:

**5.33.1.1.1** to establish criteria for operation of rural home occupations in dwelling units within residential districts;

**5.33.1.1.2** to permit and regulate the conduct of rural home occupations as an accessory use in a dwelling unit or accessory structure;

**5.33.1.1.3** to ensure that such rural home occupations are compatible with, and do not have a deleterious effect on, adjacent and nearby residential properties and uses;

**5.33.1.1.4** to ensure that public and private services such as streets, sewers, water, or utility systems are not burdened by the rural home occupation to the extent that usage exceeds that normally associated with residential use;

**5.33.1.1.5** to allow residents of the community to use their residences as places to enhance or fulfill personal economic goals, under certain specified standards, conditions, or criteria

**5.33.1.1.6** to enable the fair and consistent enforcement of these rural home occupation regulations; and

**5.33.1.1.7** to promote and protect the public health, safety, and general welfare.

**5.33.1.1.8** No rural home occupation, except as otherwise provided herein, may be initiated, established, or maintained except in conformance with the regulations and performance standards set forth in this Section.

### 5.33.2 PERFORMANCE STANDARDS

Rural Home Occupations are authorized if they comply with the performance standards set forth in Table 5.33-1.

### 5.33.3 UNSAFE RURAL HOME OCCUPATIONS.

If any rural home occupation has become dangerous or unsafe, or presents a safety hazard to the public, pedestrians on public sidewalks or motorists on public right-of-way, or presents a safety hazard to adjacent or nearby properties, residents or businesses, the Administrator shall issue an order to the dwelling owner and/or tenant on the property on which the rural home occupation is being undertaken directing that the rural home occupation immediately be made safe or be terminated. The property owner and/or tenant shall be responsible for taking the necessary corrective steps or measures. In the event of a failure to do so by the owner and/or tenant, after notice and a reasonable period of time, the Administrator may take any and all available enforcement actions to render the rural home occupation and dwelling safe. Costs incurred by the Administrator, if forced to take enforcement actions, shall be borne by the property owner, and shall be treated as a zoning violation pursuant to § 1.6 of this Ordinance.

### 5.33.4 EXPIRATION OF RURAL HOME OCCUPATION PERMIT.

The Rural Home Occupation Permit shall lapse automatically if the property is used for non-residential purposes, if the dwelling is sold or rented, or if the home occupation is discontinued for a period of 180 days or more and is not renewed within thirty (30) days after written notice from the Administrator.

**Table 5.33-1  
Rural Home Occupation Performance Standards**

<b>PERFORMANCE STANDARDS</b>
Minimum lot size: 2 acres
One rural home occupation shall be permitted per lot.
The use shall be clearly incidental and secondary to residential occupancy.
The rural home occupation may take place in either the principal dwelling or an accessory structure. If the rural home occupation is located in an accessory structure, the structure shall meet the principal structure setbacks for the zoning district.
Not more than 25% of the gross floor area of the principal dwelling structure may be utilized as a part of the rural home occupation.
Accessory buildings utilized for rural home occupations shall not exceed the square footage of the principal structure.
The rural home occupation shall cause no change to the residential character and appearance of the land, buildings, or structures.
The use shall conform to applicable state and local statutes, ordinances and regulations and is reviewed by Administrator.
A full-time resident operator shall be employed.
All permits and licenses must be acquired before operating a rural home occupation.
No more than three (3) non-resident employees shall be permitted.
Client visits to the rural home occupation shall be between 8:00 a.m. and 8:00 p.m.
The operator shall demonstrate that public facilities are adequate to safely accommodate equipment used for the rural home occupation
No outside storage of materials or equipment shall be allowed in connection with the rural home occupation.
Parking shall be provided only in driveway and shall not create hazards or street congestion
Outside storage of heavy equipment or material shall be prohibited.
Rural home occupations shall be limited to office and service uses inside a fully enclosed building. No wholesale or retail sales of goods shall be permitted.

## 5.34 FORESTRY ACTIVITIES

### 5.34.1 APPLICABILITY.

The provisions of this Section shall apply to any Forestry Activity as allowed by Table 4.6-1 (see Article 4) and subject to the provision below.

### 5.34.2 DEFINITIONS

**Forest Management Plan** – A document that defines a landowner’s forest management objectives and describes specific measures to be taken to achieve those objectives. A forest management plan shall include silvicultural practices that both ensure optimal forest productivity and environmental protection of land by either commercially growing timber through the establishment of forest stands or ensuring the proper regeneration of forest stands to commercial levels of production after the harvest of timber.

**Forestland** – Land that is devoted to growing trees for the production of timber, wood, and other forest products.

**Forestry** – The professional practice embracing the science, business, and art of creating, conserving, and managing forests and forestland for the sustained use and enjoyment of their resources, materials, or other forest products.

**Forestry Activity** – Any activity associated with the growing, managing, harvesting, and related transportation, reforestation, or protection of trees and timber, provided that such activities comply with existing State rules and regulations pertaining to forestry.

### 5.34.3 APPROVAL CRITERIA

No permit shall be issued for Forestry Activities unless one of the following criteria is met:

**5.34.3.1** The forestry activity is conducted on forestland that is taxed on the basis of its present-use value as forestland under Chapter 105, Article 12 of the North Carolina General Statutes.

**5.34.3.2** The forestry activity is conducted in accordance with a forest management plan that is prepared or approved by a forester registered in accordance with Chapter 89B of the North Carolina General Statutes.

## 5.35 BOARDING HOUSES

### 5.35.1 LOCATION

**5.35.1.1** Boarding houses shall only be established in accordance with Table 4.6-1.

### 5.35.2 STRUCTURE

A structure which shall be used for a boarding house shall not be constructed or altered in any way that changes its general residential appearance.

### 5.35.3 APPROVAL CRITERIA

**5.35.3.1** Off-street Parking. See Table 8.1-6.

**5.35.3.2 Reception/Private Parties.** No receptions, private parties or similar activities shall be permitted unless expressly approved as part of the Special Use Permit or Site Plan application.

**5.35.3.3 Guest Rooms.** All guest rooms shall be located within the principal structure.

**5.35.3.4 Meals.** Other than registered tenants and their guests, no meals shall be served to the general public unless expressly approved as part of the Special Use Permit or Site Plan application.

**5.35.3.5 Area Regulations.** Area regulations for minimum lot size, applicable setbacks, building height and other dimensional requirements for new construction shall be governed by the zoning district in which the property is located.

**5.35.3.6 Maximum Number of Guest Units.** The maximum number of guest bedrooms for each proposed boarding house shall be five (5), unless the applicant can demonstrate that the original floor plan of the structure contained a larger number of bedrooms, in which case the original number of bedrooms may be approved as allowable guest lodging.

### 5.30.4 LANDSCAPING AND BUFFERING.

**5.30.4.1** See Article 7.

### 5.30.5 LIGHTING

**5.30.5.1** All outdoor lights must be shielded to direct light and glare only onto the facility's premises and may be of sufficient intensity to discourage vandalism and theft. Lighting and glare must be deflected, shaded, and focused away from any adjoining residential property.

### 5.35.6 SIGNAGE

**5.35.6.1** Signs for boarding houses shall meet the requirements of the Sign Regulations and the requirements set forth below.

**5.35.6.2** Signage shall be limited to one ground sign per establishment.

**5.35.6.3** Ground signs identifying the boarding house shall not exceed five (5) square feet in area nor five (5) feet in height. Such signs shall not be illuminated.

**5.35.6.4** No additional advertising signs shall be permitted on the property.

## 5.36 OUTDOOR BANQUET FACILITIES

### 5.36.1 APPLICABILITY.

The provisions of this Section shall apply to any Outdoor Banquet Facility establishment as defined herein and allowed in Table 4.6-1 (See Article 4) subject to the provisions below.

### 5.36.2 MINIMUM LOT SIZE.

Any property which contains an Outdoor Banquet Facility shall have a minimum lot size of 5 acres.

### 5.36.3 STRUCTURES ON SITE.

One single-family detached residence may be located on site.

### 5.36.4 APPROVAL CRITERIA

A Special Use Permit, granted by the Board of Adjustment, is required for any Outdoor Banquet Facility in accordance with the procedures of Section 3.5 of this ordinance. Any application for an Outdoor Banquet Facility shall, at a minimum, comply with the requirements below.

**5.36.4.1 Location.** An Outdoor Banquet Facility shall only be permitted with a Special Use Permit in the following zoning districts: “AG”, “RE”, “RL”, “RM-1”, and “RM-2”.

**5.36.4.2 Off-Street Parking.** The facility shall provide a minimum of two parking spaces for the owner/operator, plus one for every four persons in attendance at events. Staff, caterers, and other service providers shall be included in the parking calculations at a rate of one space for each employee or service provider.

#### 5.36.4.3. Access Drives and Parking Areas.

The initial 50 feet of driveway from the public or private street providing access to the site shall be paved with concrete or asphalt. Internal drives, parking and service areas shall be paved with materials suitable for accommodating the anticipated traffic. These areas shall be well maintained, minimizing dust, and kept free of potholes, weeds, etc. Gravel, crushed stone, or other materials may be approved as a condition of the Special Use Permit.

**5.36.4.4 Hours of Operation.** The hours of operation, including set-up and break-down for an event, shall be set as a condition of the Special Use Permit.

**5.36.4.5 Noise Ordinance.** All events shall comply with City of Kannapolis Noise Ordinance,

including the requirement for a sound permit if required.

**5.36.4.6 Screening and Fencing.** Any Outdoor Banquet Facility that is located adjacent to a residential zoning district or property developed for residential use shall provide a minimum of a Type 2 Buffer Yard wherever the property abuts the residentially zoned or used property. Event areas shall be located at a minimum of 60 feet from any adjacent residential zoning district or property developed for residential use. This setback may be increase as a condition of any Special Use Permit granted by the Board of Adjustment.

Parking areas shall be located 50 feet from adjacent properties and shall be screened from public streets and adjoining properties with perimeter landscaping as required in Section 7.6.2.A of this ordinance.

Buffering and screening requirements may be modified by the Board of Adjustment during the time of Special Use Permit approval based on the topography and use of the property.

## **5.37 MICRO-BREWERY**

### **5.37.1 APPLICABILITY**

The provisions of this Section shall apply to any micro-brewery establishment as defined in Appendix A and allowed in Table 4.6-1 (See Article 4) subject to the provisions below.

### **5.37.2 CRITERIA**

**5.37.2.1** Any micro-brewery establishment shall provide a tap room that is oriented towards the street or main pedestrian entrance of the building. Tap rooms shall be open for business no less than one quarter of the time each week the business facility is operating.

**5.37.2.2.** Outdoor storage of good and materials shall not be permitted.

**5.37.2.3.** Noise Ordinance. All activities and events shall comply with City of Kannapolis Noise Ordinance.

## 5.38. MOBILE FOOD VENDING

### 5.38.1. APPLICABILITY.

The provisions of this Section shall apply to any mobile food vending as defined in Appendix A and allowed in Table 4.6-1 (See Article 4) subject to the provisions below.

### 5.38.2. Permit Requirement

**5.38.2.1.** A mobile food vendor, or the property owner on which mobile food vending will be placed shall obtain a zoning clearance permit. Permits must be posted in a visible location on the mobile food vending unit.

**5.38.2.2.** The property owner will be issued a notice of violation if no permit has been issued for the location. However, the mobile food vendor will be cited if located on a property without property owner approval.

**5.38.2.3.** A permit shall be valid for one calendar year and must be renewed on an annual basis.

**5.38.2.4.** All applicable local and state regulations, including, but not limited to, Health Department, Environmental Health, and Environmental Protection, shall be met.

### 5.38.3. Site Criteria

**5.38.3.1.** No mobile food vending unit shall be located within any required setback, sight distance triangle, or required buffer, nor shall any drive aisle, loading/service area, pedestrian walkway, emergency access, or fire lane be impeded.

**5.38.3.2.** Trash receptacles must be provided by the property owner, or designee, for customers to dispose of food wrappers, food utensils, paper products, cans, bottles, food, and other such waste. Such trash receptacles shall be located no more than 10 feet from the mobile food vending unit. The property owner, or designee, is responsible for removing all trash, litter, and refuse from the site at the end of each business day.

**5.38.3.3.** No mobile food vending unit shall operate as a drive-thru service.

**5.38.3.4.** In all districts where food trucks are allowed, the mobile food vending unit shall provide one (1) parking space per 250 square feet of the mobile food vending unit. Mobile food vending units located in the Center City (CC)

district are exempt from this regulation.

**5.38.3.5.** Any sidewalk encroachment shall require permit approval from the Public Works Department.

**5.38.3.6.** Mobile food vending units are required to return to their associated commissary at the end of each business day.

**5.38.3.7.** These restrictions shall not be applicable to special events recognized by the City where mobile food vending is permitted or non-profit events of five (5) days or less.



## 5.39. TEMPORARY FAMILY HEALTH CARE STRUCTURES

### 5.39.1. PURPOSE

This section establishes standards for temporary family health care structures.

### 5.39.2. DEFINITIONS

The following terms shall have the definitions provided in this Section 5.39:

**ACTIVITIES OF DAILY LIVING** – Bathing, dressing, personal hygiene, ambulation, or locomotion, transferring, toileting, and eating.

**CAREGIVER** -- An individual eighteen (18) years of age or older who (i) provides care for a mentally or physically impaired person and (ii) is a first- or second-degree relative of the mentally or physically impaired person for whom the individual is caring.

**FIRST- OR SECOND-DEGREE RELATIVE** - A spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew, or niece and includes half, step, and in-law relationships.

**MENTALLY OR PHYSICALLY IMPAIRED PERSON.** - A person who is a resident of North Carolina and who requires assistance with two or more activities of daily living as certified in writing by a physician licensed to practice in North Carolina.

### 5.39.3. WHEN PERMITTED

Subject to the requirements of this section, a maximum of one temporary family health care structure is permitted as an accessory use to a single-family detached dwelling that is allowed in the zoning district where it is located when the structure is used:

**5.39.3.1.** By a caregiver in providing care for a mentally or physically impaired person on property owned or occupied by the caregiver as the caregiver's residence; or

**5.39.3.2.** By an individual who is the named legal guardian of the mentally or physically impaired person and the structure is placed on the property of the residence of the individual and is used to provide care for the mentally or physically impaired person.

### 5.39.4. STANDARDS

**5.39.4.1.** A temporary family health care structure shall comply with the setback

requirements that apply to the primary structure on the site.

**5.39.4.2.** No signage may be placed on the exterior of the structure.

### 5.39.5. PERMIT REQUIRED

A permit is required before any temporary family health care structure may be installed on a site. The applicant shall submit an application on a form provided by the Administrator, along with any required fee. The Administrator shall review the form and issue a permit upon determining that the application demonstrates that the proposed temporary family health care structure complies with the requirements of this section. A permit issued in accordance with the section is valid for one year and an applicant may file an application for renewal.

### 5.39.6. REMOVAL OF STRUCTURE

Any temporary family health care structure installed pursuant to this section shall be removed within sixty (60) days of the date on which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance with two or more activities of daily living as provided for in this section. If the temporary family health care structure is needed for another mentally or physically impaired person, the temporary family health care structure may continue to be used or may be reinstated on the property within sixty (60) days of its removal, as applicable.

# ARTICLE 6 SUBDIVISION REGULATIONS

*Summary: This article establishes procedures for the subdivision of land. Included are requirements for the division of land into a subdivision, as defined in Appendix A of this Ordinance, as authorized by Article 8 of NCGS Chapter 160D.*

## TABLE OF CONTENTS

SECTION	PAGE
6.1 GENERAL STANDARDS.....	6-2
6.2 CRITERIA FOR SUBDIVISION APPROVAL .....	6-5
6.3 MINOR SUBDIVISIONS .....	6-6
6.4 MAJOR SUBDIVISIONS.....	6-10
6.5 OPEN SPACE STANDARDS .....	6-23
6.6 LOT DESIGN STANDARDS.....	6-27

## 6.1. GENERAL STANDARDS.

### 6.1.1. PURPOSE.

**6.1.1.1.** This Article of the UDO shall officially be known, cited, and referred to as the Subdivision Regulations of the City of Kannapolis, North Carolina.

**6.1.1.2.** As required by Article 8 of NCGS Chapter 160D, the purpose of establishing this Article is:

**6.1.1.2.1.** To ensure the orderly growth and development of the City, including the requirement that adequate public facilities are available to serve new subdivisions of land, and the use of techniques such as the timing and sequencing of development, promotion of infill development in existing neighborhoods and non-residential areas with adequate public facilities, the assurance of urban form and open space separation of urban areas, the protection of environmentally critical areas and areas premature for urban development.

**6.1.1.2.2.** To provide for the coordination of transportation networks and utilities within proposed subdivisions with existing or planned streets and highways and with other public facilities.

**6.1.1.2.3.** To provide for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision or for provision of funds to be used to acquire recreation areas serving residents of the development or subdivision or more than one subdivision or development within the immediate area.

**6.1.1.2.4.** To provide rights-of-way or easements for street and utility purposes including the dedication of rights-of-way pursuant to NCGS §§136-66.10 or 136-66.11.

**6.1.1.2.5.** To provide for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions that substantially promote public health, safety, and the general welfare.

**6.1.1.2.6.** To provide that the final plat show sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every street and alley line, lot line, easement boundary line, and other property boundaries, including the radius and other data for curved property lines, to an appropriate accuracy and in conformance with good surveying practice.

### 6.1.2. APPLICABILITY

**6.1.2.1.** This Article shall apply to any subdivision, as defined in Appendix A of this Ordinance, within the corporate limits of the City or any extraterritorial jurisdiction established pursuant to NCGS § 160D-202.

**6.1.2.2.** Land that has been subdivided prior to the effective date of these regulations should, whenever possible, be brought within the scope of these regulations to further the purposes of this Ordinance. However, all existing preliminary plats that were approved under the prior Ordinance shall remain valid unless or until the approval expires.

**6.1.2.3. Rural Subdivisions.** Any tract of land to be subdivided for the purpose of residential development within an AG zone shall comply with the provisions of this Article 6 as well as the supplemental standards as set forth in § 5.25 of this Ordinance.

### 6.1.3. AUTHORITY AND JURISDICTION

**6.1.3.1.** The Planning and Zoning Commission is vested with the authority to review, approve, conditionally approve, and disapprove applications for Conditional Zoning District preliminary major subdivision plats. The Technical Review Committee is vested with the authority to review, revise, and approve major subdivision preliminary plats.

**6.1.3.2.** The Administrator is vested with the authority to review and approve sketch plats and to approve, conditionally approve and disapprove applications for final minor and major subdivision plats.

**6.1.3.3.** The Public Works Director is vested with

the authority to review and approve Construction Plans, Subdivision Improvement Agreements, and Maintenance Bonds. The Public Works Director is also granted the authority to inspect and accept or deny all improvements as required by this Article 6.

**6.1.3.4.** The City Council is vested with the authority to accept all public dedications including, but not limited to right-of-way, easements, park facilities, and open space.

**6.1.4. WHEN A SUBDIVISION PLAT IS REQUIRED.**

**6.1.4.1.** From and after the effective date of this chapter, the owner or proprietor of any tract of land who desires to Subdivide land (to create a “Subdivision”) shall be required to submit a plat of such Subdivision to the Administrator, whom is hereby charged with the responsibility for coordinating the processing of such plats. The subdivision plat submitted to the Administrator must be made in accordance with the regulations set forth in this Article.

**6.1.4.2.** No person shall Subdivide Land without making and recording a plat and complying fully with the provisions of this Article and all other state and local laws and regulations applying to Subdivisions.

**6.1.4.3.** No person shall sell or transfer ownership of any lot or parcel of land by reference to a plat of a subdivision before such plat has been duly recorded with the Register of Deeds, unless such subdivision was created prior to the adoption of this Ordinance and any other subdivision ordinance applicable thereto.

**6.1.4.4.** No building permit or certificate of occupancy shall be issued for any parcel or plat of land which was created by subdivision after the effective date of this Ordinance, and no construction of any public or private improvements shall be commenced, except in conformity with the requirements of this Ordinance.

**6.1.4.5.** In any matter in which a court orders the partition of land by dividing the same among the owners, such action shall be exempt from the provisions of this Article, provided that the City is made a party defendant to said action and gives its consent or fails to file responsive pleadings to said

division of the property.

**6.1.4.5.1.** A final subdivision plat shall be approved by the Administrator before the subdivision of a parcel may be recorded. No land may be subdivided through the use of any legal description other than with reference to a plat approved by the Administrator in accordance with these regulations.

**6.1.5. WHEN A SUBDIVISION PLAT IS NOT REQUIRED.**

Pursuant to NCGS § 160D-802(a), a subdivision plat shall not be required for any of the following: (see definition of “Subdivision” in Appendix A).

**6.1.5.1.** 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 City as shown in this Ordinance;

**6.1.5.2.** The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved.

**6.1.5.3.** The public acquisition by purchase of strips of land for the widening or opening of streets.

**6.1.5.4.** 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 municipality, as shown in this Ordinance.

**6.1.5.5.** The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under NCGS Chapter 29.

**6.1.6. RECORDATION OF UNAPPROVED PLAT PROHIBITED.**

The Register of Deeds shall not file or record any subdivision plat required by this Ordinance until such plat shall have been approved, and such approval evidenced thereon, in accordance with the regulations set forth in this Article.

**6.1.7. SALE OF PROPERTY IN VIOLATION OF THIS ORDINANCE PROHIBITED.**

No land described in this Section shall be subdivided or sold, or transferred until each of the following

conditions has occurred in accordance with these regulations:

**6.1.7.1.** the subdivider or his agent has submitted a conforming sketch plat of the subdivision to the Administrator; and the subdivider or his agent has obtained approval of the sketch plat, a preliminary plat (when required), and a final plat as provided in this Article; and

**6.1.7.2.** The subdivider or his agent files the final plat with the Register of Deeds.

**6.1.8. CLASSIFICATION OF APPLICATIONS.**

Before any land is subdivided, the owner of the property proposed to be subdivided, or his authorized agent, shall apply for and secure approval of the proposed subdivision in accordance with the following procedures, which include two (2) principal steps for an expedited or minor subdivision and three (3) principal steps for a major subdivision:

**6.1.8.1. Minor Subdivision (§ 6.3).**

**6.1.8.1.1.** Sketch Plat

**6.1.8.1.2.** Final Plat

**6.1.8.2. Major Subdivision (§ 6.4).**

**6.1.8.2.1.** Sketch Plat

**6.1.8.2.2.** Preliminary Plat

**6.1.8.2.3.** Final Subdivision Plat

## 6.2. CRITERIA FOR SUBDIVISION APPROVAL.

**6.2.1.** It is the intent of this Ordinance that land to be subdivided shall be of a character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace, and land shall not be subdivided until adequate public facilities and improvements are existing or proposed, and proper provision has been made for drainage, water, sewerage, and capital improvements such as schools, parks, recreational facilities, transportation facilities and improvements. Accordingly, the Administrator or Planning and Zoning Commission shall not approve a subdivision plat unless all of the following findings with respect to the proposed development are made:

**6.2.1.1.** The proposed land uses are in accord with the adopted *Comprehensive Plan* and the Official Zoning Map, or that the means for reconciling any differences have been addressed. A Preliminary Plat may be processed concurrently with a rezoning request.

**6.2.1.2.** The proposed subdivision conforms to all relevant requirements of this ordinance and to any variances that have been granted to permit any nonconformance. The plat shall meet all requirements of this Ordinance with respect to lot size and area, and in no way create a violation of any applicable current ordinances, statutes, or regulations.

**6.2.1.3.** The proposed development, including its lot sizes, density, access, and circulation, are compatible with the existing and/or permissible future use of adjacent property.

**6.2.1.4.** That the proposed subdivision will not have detrimental impacts on the safety or viability of permitted uses on adjacent properties.

**6.2.2.** That the soils and topography have been adequately studied to ensure that all lots are developable for their designated purposes.

**6.2.2.1.** That any land located within Zone A as shown on the currently adopted Flood Boundary and Floodway Maps of the Flood Insurance Study, is determined to be suitable for its intended use and that the proposed subdivision adequately mitigates the risks of flooding, inadequate drainage, soil and rock formations with severe limitations for

development, severe erosion potential, or any other floodplain-related risks to the health, safety or welfare of the future residents of the proposed subdivision in a manner consistent with this ordinance, as described in § 4.14 of this Ordinance.

**6.2.3.** The proposed name of a subdivision shall be approved by the Cabarrus County E-911 Coordinator and shall not use a word which is the same as, similar to, or pronounced the same as a word in the name of any other subdivision in the E-911 jurisdiction except for the words "court," "addition," "place," "heights," "hills," and similar words, unless the land platted is contiguous to and platted by the same applicant that platted the existing subdivision bearing the name, or the applicant has obtained the written consent of the party who platted the subdivision bearing that name, or the Administrator requires the use of the same name for purposes of clear identification.

**6.2.4.** In considering an application for a subdivision plat, the decision-making agency shall consider and may impose modifications or conditions to the extent that such modifications or conditions are necessary to ensure compliance with the criteria of this § 6.2.

### 6.3. MINOR SUBDIVISIONS.

#### 6.3.1. MINOR SUBDIVISION DEFINED.

A minor subdivision is defined as a subdivision involving no new public street right-of-way dedications (except widening of existing, platted street rights-of-way).

#### 6.3.2. UTILITY EXTENSIONS PERMITTED UNDER A MINOR PLAT.

A utility extension shall be defined as the extension of a water or sewer line that falls under the ownership and maintenance of the City of Kannapolis and shall require permitting by the State of North Carolina (or the City if approved by the State for "Self-permitting"). Such extension shall require a right-of-way or easement. If applicable, utility extensions shall be allowed under a minor plat review provided that:

- all construction drawings for utility extensions are submitted and approved in accordance with § 6.4.11 of this Ordinance;
- all lines/improvements are constructed in accordance § 6.4.11 of this Ordinance; and
- a final plat shall not be approved until all utility extension improvements have been inspected and accepted in accordance with §§ 6.4.12-6.4.16 of this Ordinance.

#### 6.3.3. GENERAL SUBMISSION REQUIREMENTS.

6.3.3.1. Applications for sketch plat and final plat approval shall be submitted to the Administrator for completeness review. Appendix B outlines the information that is to be submitted with an application for any type of subdivision plat. The Administrator shall determine whether the application is complete and complies with the submission requirements set forth in Appendix B. If the application is incomplete or the submission requirements have not been complied with, the Administrator shall so notify the Applicant, specifying the deficiencies. Incomplete and/or non-compliant submissions shall not be processed.

#### 6.3.4. SKETCH PLAT SUBMISSION REQUIREMENTS.

6.3.4.1. The applicant shall schedule an appointment and meet with the Administrator to discuss a sketch plan. The Administrator shall also advise the applicant, when appropriate, to discuss

the proposed subdivision with those officials who must eventually approve those aspects of the subdivision plat coming within their jurisdiction.

6.3.4.2. The Administrator, upon consultation with the Public Works Director, shall issue either the Notice to Proceed or a Notice of Noncompliance not later than fifteen (15) days after the date on which the sketch plat was submitted to the Administrator. The Administrator shall issue a Notice to Proceed only if the sketch plat complies with all applicable laws governing the subdivision of land. The approval shall include, as appropriate, recommended changes in the sketch plat to be incorporated into the final plat. Subsequent to an approval, the applicant may proceed directly to the filing of an application for approval of a final subdivision plat as provided in these regulations. If the sketch plat of a minor subdivision is denied by the Administrator, the applicant may appeal to Planning and Zoning Commission. The Planning and Zoning Commission shall review the application and shall affirm or reverse the decision of the Administrator. The applicant shall have one (1) year from the date that the sketch plat is approved to submit a final plat, after which time a new sketch plat must be submitted for approval.

#### 6.3.5. FINAL PLAT SUBMISSION REQUIREMENTS.

6.3.5.1. Submission of a Final Plat shall be in the form of a standard plat in accordance with the provisions of Appendix B.

#### 6.3.6. FINAL PLAT APPROVAL.

6.3.6.1. Prior to approval of a final plat, the Administrator shall provide an opportunity to review and make recommendations on the final plat to the district highway engineer as to proposed state-maintained streets and highways and related drainage systems, and the relevant county health director as to proposed water or sewerage systems, as applicable.

6.3.6.2. The Administrator, upon consultation with the Public Works Director shall render a determination as to whether the plat is approved, approved with conditions, or denied pursuant to §

6.2 of this Ordinance and NCGS §§ 160D-804 and 160D-804.1. The application shall be processed within the time period specified in Column (C) of Table 6.1-1. If a plat is approved, the Administrator (Planning Director) and the Public Works Director shall certify such approval by signing the plat. If disapproved, the Administrator shall advise the subdivider of such action and shall indicate the reasons for denial.

**6.3.7. RECORDING A FINAL PLAT.**

**6.3.7.1.** Within 30 days of final plat approval, the applicant shall file the plat with the Register of Deeds as provided by law. The final plat approval shall expire within the above-referenced time period, unless the Administrator has granted an extension. The Administrator may grant up to two extensions of final plat approval, each of up to six (6) months. Failure to record the final plat within the time frame noted shall cause the final plat approval to be void.

**6.3.7.2.** The applicant shall return a reproducible (mylar) copy of the recorded plat to the office of the Administrator.

**6.3.7.3.** No zoning clearance permit or building permit shall be issued or approved until the expiration of ten (10) business days after a final plat has been recorded. The purpose of this time period is to permit the assignment of addresses and P.I.N.s (Parcel Identification Numbers) in the Land Records office of Cabarrus County.

**6.3.7.4.** Plat Review Officer. As required by N.C.G.S. 47-30.2, a plat to be recorded shall be submitted to a Review Officer before the map or plat is presented to the register of deeds for recording. The Review Officer shall certify the map or plat if it complies with all statutory requirements for recording. The register of deeds shall not accept for recording, any map or plat required to be submitted to the Review Officer, unless the map or plat has the certification of the Review Officer affixed to it.



Figure 6.3-1. Minor Subdivision Plat review process. (Subdivision does not include Water and/or Sewer Utility Extensions).

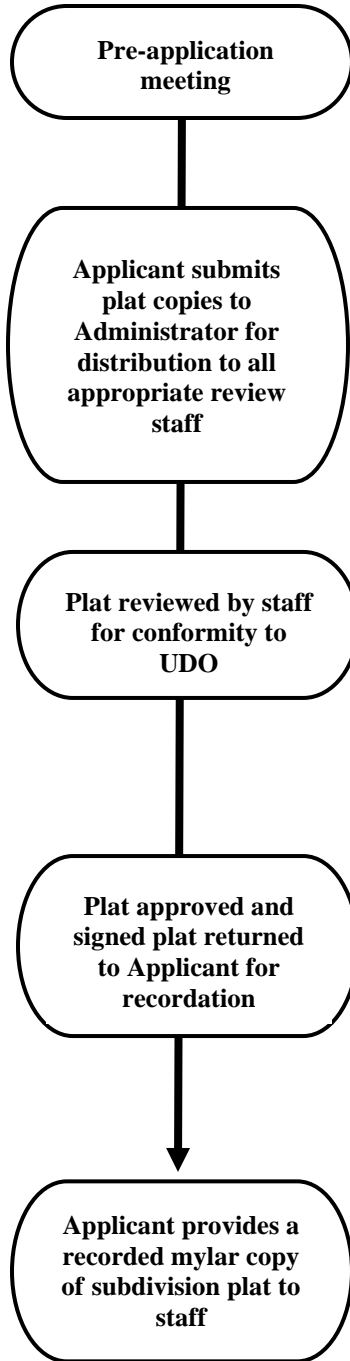
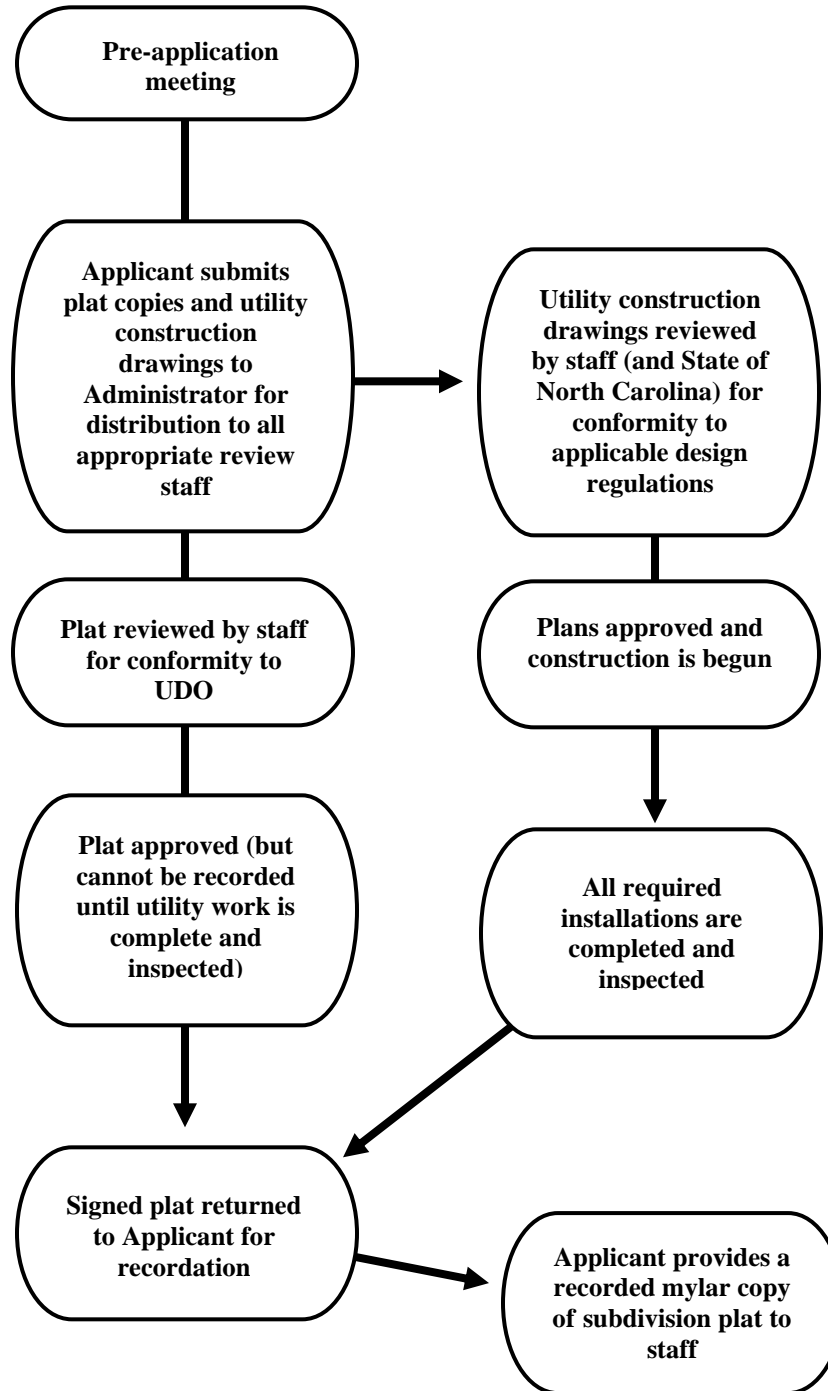


Figure 6.3-2. Minor Subdivision Plat review process. (Subdivision does include Water and/or Sewer Utility Extensions).



## 6.4. MAJOR SUBDIVISIONS.

### 6.4.1. MAJOR SUBDIVISIONS DEFINED.

**6.4.1.1.** All land subdivisions that are not exempted by state statute or previously described under the minor subdivision procedures shall be processed as a major subdivision.

### 6.4.2. GENERAL SUBMISSION REQUIREMENTS.

Applications for sketch plat and final plat approval shall be submitted to the Administrator for completeness review. Appendix B outlines the information that is to be submitted with an application for any type of subdivision plat. The Administrator shall determine whether the application is complete and complies with the submission requirements set forth in Appendix B. If the application is incomplete or the submission requirements have not been complied with, the Administrator shall so notify the Applicant, specifying the deficiencies. Incomplete and/or non-compliant submissions shall not be processed.

### 6.4.3. SKETCH PLAT SUBMISSION PROCEDURES FOR MAJOR PLATS.

**6.4.3.1.** The applicant shall schedule an appointment and meet with the Administrator to discuss a sketch plan. The Administrator shall also advise the applicant, when appropriate, to discuss the proposed subdivision with those officials who must eventually approve those aspects of the subdivision plat coming within their jurisdiction.

**6.4.3.2.** The Administrator shall issue a Notice to Proceed only if the sketch plat complies with all applicable laws governing the subdivision of land and upon recommendation from the Public Works Director. The approval shall include, as appropriate, recommended changes in the sketch plat to be incorporated into the preliminary plat to assist the applicant in obtaining preliminary plat approval from the Planning and Zoning Commission. If the Administrator determines that the sketch plat does not comply with all applicable laws governing the subdivision of land and the applicant refuses to modify the sketch plat, the Administrator shall issue a Notice of Noncompliance. The Administrator shall issue either the Notice to Proceed or a Notice of Noncompliance not later than fifteen (15) days

after the date on which the sketch plat was submitted to the Administrator. After receipt of a notice of approval, the applicant shall be eligible to file an application for approval of a preliminary plat, as provided in these regulations, before filing for final subdivision plat approval.

### 6.4.4. PRELIMINARY PLAT SUBMISSION PROCEDURES FOR MAJOR PLATS.

**6.4.4.1.** If the Administrator has issued a Notice to Proceed for a sketch plat for a major subdivision, then the subdivider may proceed with a "Neighborhood Meeting" to be held at any location convenient to the property being developed or at City of Kannapolis meeting facilities. An invitation/announcement of the "Neighborhood Meeting" must be sent out by first class mail, no less than 10 days prior to the meeting to (1) the Planning and Zoning Administrator, (2) P&Z Commission Members, and (3) all property owners of record within 200 feet of the property lines of the subject development site. The invitation announcement must clearly indicate the time, place, and purpose of the meeting. After the "Neighborhood Meeting," the subdivider may proceed with the preparation of a preliminary plat.

**6.4.4.2.** Approval of a Preliminary Plat shall be required for any tract where the eventual platting of the property involves a major subdivision. No final plat shall be approved until a Preliminary Plat for the property has been approved.

**6.4.4.3.** Appendix B establishes the information that is to be submitted with an application for approval of a Preliminary Plat.

**6.4.4.4.** Upon final approval, a Preliminary Plat shall be made a matter of record as follows:

**6.4.4.4.1.** The reasons for approval, disapproval, or approval with conditions shall be maintained on file with the Administrator.

**6.4.4.4.2.** The approved plat shall be indexed and filed by the Administrator.

**6.4.5. SCOPE OF PRELIMINARY PLAT APPROVAL.**

**6.4.5.1.** Approval of the preliminary plat by the Planning and Zoning Commission or the Technical Review Committee (TRC) shall allow a subdivider to proceed with:

- the preparation of the final plat;
- site preparation/grading (subject to obtaining Grading Permit and/or Erosion Control Permit as required in Art. 3 and Art. 9, respectively); and
- the installation of required improvements (subject to approval of construction drawings as described in § 6.4.11, below).

**6.4.5.2.** Approval of the preliminary plat by the Planning and Zoning Commission or the Technical Review Committee (TRC) without approved construction plans as set forth in § 6.4.11 shall not constitute the necessary approval for submittal of the final plat.

**6.4.5.3.** Should the plat be approved subject to conditions or labeling corrections, the plat shall be revised and resubmitted to the Administrator with all corrections within 60 days of the Commission’s approval. Failure to return a corrected plat within this time period shall constitute a violation and shall be remedied in accordance with Section 1.6 of this Ordinance. Additionally, no final plat may be approved until a corrected copy of the preliminary plat has been filed with the Administrator.

**6.4.5.4.** The preliminary plat shall serve as a guide in the preparation of the final subdivision plat, which must be submitted for final approval and recordation upon fulfillment of the requirements of this chapter.

**6.4.5.5.** The preliminary plat shall be valid for the period prescribed by Table 6.4-1 herein. A preliminary plat shall become void if a final plat is not approved within the specified time period. Final Approval of a phase or portion of a preliminary plat shall re-establish the date for measuring the time period of a preliminary plat approval.

**6.4.5.6.** The Planning and Zoning Commission or Technical Review Committee (TRC) may approve a staging plan extending the effective period of the preliminary plat approval up to an

agreed time period or date where it is the intent of the landowners to proceed to final plats covering only a portion of the tract at any one time. Beyond two (2) years, the applicant shall resubmit the preliminary plat to the Administrator for review by the Planning and Zoning Commission.

**Table 6.4-1 Time Limits  
for Major Subdivision Plat Approvals**

Type of Approval	Time Limit of Approval
Preliminary Plat	Agreed Time Period
for Final Plat approval	
Final Plat	30 days to record

**6.4.5.7.** The Technical Review Committee (TRC) may grant an extension, with just cause, of the time limit for the expiration of an approved subdivision upon receipt of a request from the landowner in writing prior to the expiration of the original approval. Notification of an extension shall be in writing to the landowner and specify the time period of the extension. After expiration of the extension the approved preliminary plat shall become void.

**6.4.6. REVISING APPROVED PRELIMINARY PLATS.**

**6.4.6.1. Minor Modifications.**

The Administrator shall have the authority to approve the following minor modifications from an approved preliminary plat and subject to the conditions below and as listed in § 6.4.6.2:

- A change in the location of not more than ten percent (10%) of the number of lots;
- A change in the location of any part of open space acreage of not more than ten percent (10%) of the gross acreage; or
- A change in the location of any part of proposed street alignment and lot configuration of not more than ten percent (10%) of the gross acreage so long as the number of external access points is not decreased and the minimum street connectivity ratio as set forth in Article 10 is maintained.
- changes are restricted to within internal parcel boundaries and shall not affect external property lines.

**6.4.6.2.** All other changes to an approved Preliminary Plat that do not meet the standards of this § 6.4.6 shall require the filing and approval of a new Preliminary Plat.

**6.4.7. PUBLIC MEETING REQUIREMENTS**

- a) **Meeting Location;** to be at a facility close to the development site or, if none available, at the Kannapolis City Council chambers at the Train Station, 201 South Main Street, Kannapolis.
- b) **Public Notification;** Invitations to be sent 15 days prior to the meeting to all property owners of records within 650 feet of the boundary of the proposed subdivision parcel and to members of the Planning and Zoning Commission by First Class Mail at the developer’s expense,
- c) **Certification of Mailing;** Developer shall deliver stamped or metered letters and a list of the adjacent property owners to the Kannapolis Planning Department for delivery to the United States Post Office.
- d) **Invitations;** Invitation text to be reviewed by Kannapolis Planning Department for accuracy. Note: A copy of the proposed major subdivision information must always be provided to the Planning and Zoning Commission regardless of whether or not they conduct the final review of the project.

**6.4.8. FINAL PLAT SUBMISSION PROCEDURES FOR MAJOR PLATS.**

**6.4.8.1.** There shall be a final plat for each subdivision which receives preliminary plat approval. No final subdivision plat shall be recorded until a final plat has been approved as provided in this Section.

**6.4.8.2.** The materials required by Appendix B shall be submitted to the Administrator for a determination as to whether it complies with the approved preliminary plat. The subdivider may submit final plat copies for only that portion of the approved preliminary plat which is proposed for recordation and development at that time, if such portion conforms to all requirements of this Article. The final plat shall conform to the approved preliminary plat. Any deviation from the approved preliminary plat which does not constitute a Minor Amendment as set forth in § 6.4.6.1, shall require additional review and approval by the Planning and Zoning Commission.

**6.4.8.3.** The Administrator may find the application incomplete if 1) any of the information required for Final Plats in Appendix B is not provided; 2) the final plat does not conform to the conditions attached to approval of the preliminary plat; or 3) the plat is in conflict with the provisions of this Ordinance and no variance been approved.

**6.4.8.4.** Upon submittal of the copies of the final plat and other required materials, the Administrator shall review the application for completeness and shall initiate and coordinate review by affected city and state agencies in order to determine substantial compliance with the approved preliminary plat and general compliance with the provisions of this ordinance and other applicable laws and regulations. Prior to approval of a final plat, the Administrator shall provide an opportunity to review and make recommendations on the final plat to the district highway engineer as to proposed state-maintained streets and highways and related drainage systems, and the relevant county health director as to proposed water or sewerage systems, as applicable.

**6.4.8.5.** The final plat and related materials shall be approved or disapproved by the Administrator within the time period set forth in Table 4-1 of this Article. Approval shall be in the form of a written letter to the subdivider (or contact person as listed on application) advising that the final plat meets all city and state requirements and that the original of the final plat may be submitted to the Administrator.

**6.4.8.6.** The Administrator shall sign the plat. The action of the Administrator shall be noted on all copies of the final plat to be retained as required for records or further action of the department or other affected agencies of the city or state. Following execution of the final plat, the applicant shall record it with the Register of Deeds.

**6.4.8.7.** Except as provided in § 6.4.15 Subdivision Improvement Agreements, all applicants shall be required to complete, to the satisfaction of the Administrator and Public Works Director, all street, sanitary, and other public improvements of the subdivision as required by this Ordinance before the final plat is recorded.

**6.4.8.8.** As a condition of Final Plat approval, the Administrator may require the applicant to:

- 6.4.8.8.1.** In the event the applicant is unable

to complete the required improvements, and such improvements are deemed necessary for the preservation of the public health and safety, the City may compel the delivery of the deed and guarantees in order to complete the improvements as required.

**6.4.8.9.** The final subdivision plat application shall be accompanied by all formal irrevocable offers of dedication to the public of all streets, local government uses, utilities, parks, and easements, and the subdivision plat shall be marked with a notation indicating the formal offers of dedication as set forth in Appendix B.

**6.4.8.10.** In addition to the criteria as set forth in § 6.2 of this Ordinance, the Administrator shall not approve a final plat unless and until satisfactory evidence is filed that the final plat is in a form acceptable for recording with the Register of Deeds, and that all improvements have been satisfactorily installed or Subdivision Improvement Agreements have been signed by the applicant. The subdivider will also be required to submit a final subdivision plat fee, payment of all design costs for improvements, and appropriate performance surety.

**6.4.8.11.** The final plat shall comply with any staging or sequence plan set forth in the preliminary plat.

**6.4.8.12.** The applicant shall place reference monuments in the subdivision as required by NCGS § 47-30.

**6.4.9. PHASING OF A PRELIMINARY PLAT.** Whenever a subdivider applies for approval of a final plat which contains only a portion of the land encompassed in the approved preliminary plat, the final plat shall coincide with phase lines as established on the preliminary plat. Phasing of a preliminary plat shall not be permitted unless the phase lines are established and approved under the action of the Planning and Zoning Commission.

**6.4.10. RECORDING A FINAL PLAT.**

**6.4.10.1.** Within the time period prescribed by Table 6.4-1 of this Ordinance, after final plat approval, the applicant shall file the plat with the Register of Deeds as provided by law. The final plat approval shall expire within the above-referenced time period, unless the Administrator has granted an

extension. Failure to record the final plat within the time frame noted shall cause the final plat approval to be void and shall require a new application.

**6.4.10.2.** The applicant shall return a reproducible (mylar) copy of the recorded plat to the office of the Administrator.

**6.4.10.3. Plat Review Officer.** Final plats for major subdivisions shall be reviewed by a Review Officer in the same manner as set forth in § 6.3.7.4 of this Ordinance.

**6.4.11. SCOPE OF APPROVAL FOR FINAL PLAT.**

**6.4.11.1.** Approval of the final plat for a subdivision or section thereof shall not be deemed to be acceptance by the city or state of any street, alley, public space, utility or other physical improvements shown on the final plat and engineering plans for the maintenance, repair or operation thereof. (See § 6.4.13 for acceptance).

**6.4.11.2.** No zoning clearance permit or building permit shall be issued or approved until the expiration of ten (10) business days after a final plat has been recorded. The purpose of this time period is to permit the assignment of addresses and P.I.N.s (Parcel Identification Numbers) in the Land Records office of Cabarrus (or Rowan) County.

**6.4.12. CONSTRUCTION PLANS.**

**6.4.12.1.** Following approval of the Preliminary Plat, the applicant shall have prepared, by a professional engineer or professional landscape architect, registered in the State of North Carolina, construction plans, consisting of complete construction drawings and specifications of all easements, streets, traffic control devices, street lights, sanitary sewers, storm water facilities, water system facilities, sidewalks and other improvements required by Appendix C and the Land Development Standards Manual (LDSM) and any additional technical manuals as adopted by the City. Construction plans shall be submitted to the Public Works Director for review and approval as an administrative permit. All improvements required pursuant to these regulations shall be constructed in accordance with the applicable requirements of this Ordinance, and, where applicable, the requirements and authorization of the appropriate state agency, utility company or local franchisee.

**6.4.12.2.** The Administrator shall delegate the authority to review and approve all construction plan applications to the Public Works Director.

**6.4.12.3.** All installations of improvements shall conform to the approved construction plans. If the applicant chooses to make modifications in design and/or specifications prior to construction, such changes shall be subject to review and approval by the Public Works Director. It shall be the responsibility of the applicant to notify the Administrator in advance of any changes to be made from the approved drawings. In the event that actual construction work deviates from that shown on the approved construction plans, such unapproved work shall constitute a violation of this Ordinance and shall be remedied in accordance with Section 1.6. The applicant shall be required to correct the installed improvements to conform to the approved construction plans. In addition, the Administrator may take such other actions as may be deemed appropriate including, but not limited to, revocation of permits already issued and/or withholding of future approvals and permits until the violation is corrected.

**6.4.12.4. As-Built Drawings.**

Prior to final inspection of the required improvements, the applicant shall submit to the Administrator, per the Land Development Standards Manual (LDSM), as-built engineering drawings for each of the required improvements that have been completed. Each set of drawings shall be re-certified by the applicant's engineer indicating the date when the as-built survey was made.

**6.4.12.4.1.** As-built drawings shall show the constructed vertical elevation, horizontal location and size of all sanitary and storm sewers, manholes, inlets, junction boxes, detention basins and other appurtenances or elements of the sewerage and storm drainage systems constructed to serve the subdivision. In conjunction with the submittal of engineering plans and specifications, the subdivider shall be required to demonstrate compliance with the Sedimentation Control Standards of the overall area proposed to be developed. The subdivider shall cause all grading, excavations, open cutting, and similar land surface disturbances to be mulched, seeded, sodded, or otherwise protected to ensure compliance with the City's Sedimentation

Control Standards. No work shall be initiated relative to the preparation of land or the installation of general improvements until such time as all aspects of the subdivider's engineering plans and sedimentation control proposals have received approval.

**6.4.12.4.2.** As-built drawings shall depict water lines, valves, fire hydrants and other appurtenances or elements of the water distribution system constructed to serve the project. Such information shall include the horizontal location and size of water lines and location and description of valves with dimensional ties.

**6.4.12.4.3.** As-built drawings shall depict the location of all street rights-of-way, alignments, widths, and vertical elevations.

**6.4.12.4.4.** As-built drawings shall show all control points and monumentation.

**6.4.13. INSPECTION OF IMPROVEMENTS.**

**6.4.13.1.** During the preparation of land and the installation of general improvements, periodic inspections shall be made to ensure conformity with the approved plans, specifications, and standards. Appropriate agencies of the city and state may make inspections at any time during the progress of work.

**6.4.13.2.** All improvements required by these regulations shall be inspected prior to acceptance by the City. Where inspections are made by individuals or agencies, other than the Public Works Director, (or his/her designee), the applicant shall provide the Public Works Director with written reports of each final inspection.

**6.4.13.3.** Prior to beginning construction, the applicant shall arrange with the Public Works Director a pre-construction meeting for the purpose of coordinating construction activities.

**6.4.13.4.** It shall be the responsibility of the applicant to notify the Public Works Director (or his/her designee) of the commencement of construction of improvements one (1) full working day prior thereto. Inspections shall be required at each of the following stages of construction or as otherwise determined through and owner contract or development improvement agreement:

- Site grading/erosion control completion

- Underground utility installation
- Subgrade preparation prior to aggregate base installation
- Aggregate base compaction
- Concrete curb and gutter installation
- Bituminous binder placing
- Final surfacing prior to seal coat

**6.4.13.5.** The applicant or the bonded construction contractor shall bear full and final responsibility for the installation and construction of all required improvements according to the provisions of these regulations and the standards and specifications of other public agencies.

**6.4.14. ACCEPTANCE OF IMPROVEMENTS.**

**6.4.14.1.** Approval of the installation of improvements by the Public Works Director shall not constitute acceptance by the City of the improvement for dedication purposes. The installation of improvements in any subdivision shall, in no case, serve to bind the City to accept such improvements for maintenance, repair or operation thereof. Such acceptance shall be subject to the existing regulations concerning the acceptance of each type of improvement.

**6.4.14.2. Easements.** The specific standards for acceptance of easements shall be subject to the technical design standards of this Ordinance and any other adopted policy or manual of the City. All easements shall be in full compliance with this Ordinance prior to acceptance.

**6.4.14.3.** The City shall not have any responsibility with respect to any street, or other improvement, notwithstanding the use of the same by the public, unless the street or other improvements have been accepted.

**6.4.14.4.** When improvements have been constructed in accordance with the requirements and conditions of these regulations and the specifications of this Article, and the applicant has submitted as-built drawings to the Public Works Director, the City Council shall accept the improvements for maintenance by the City, except that this shall not apply to improvements maintained by another entity.

**6.4.14.5.** These provisions shall not be construed to relieve the subdivider or the subdivider's agent or

contractor of any responsibility in notifying any agency for the City of completed work and formal request for inspection of same. The agency having jurisdiction shall inspect and approve all completed work prior to the release of any applied performance sureties.

**6.4.15. SITE CLEANUP.**

**6.4.15.1.** The applicant shall be responsible for removal of all equipment, material, and general construction debris from the subdivision and from any lot, street, public right-of-way, or property therein or adjacent thereto. Dumping of such debris into sewers, onto adjacent property or onto other land in the City is prohibited.

**6.4.16. SUBDIVISION IMPROVEMENT AGREEMENTS.**

**6.4.16.1.** The Administrator shall delegate the authority to review and approve all residential subdivision improvement agreements to the Public Works Director (or his/her designee).

**6.4.16.2.** The Public Works Director may delay the requirement for the completion of required improvements prior to recordation of the Final Plat if the applicant enters into a Subdivision Improvement Agreement by which the applicant covenants and agrees to complete all required on-site and off-site public improvements no later than one (1) year following the date upon which the final plat is recorded. Such period may be extended for up to an additional six (6) months upon its expiration at the discretion of the Public Works Director. The Applicant shall bear the responsibility to prepare a Subdivision Improvement Agreement. The City Attorney shall approve any Subdivision Improvement Agreement as to form.

**6.4.16.3.** In order to provide for emergency access, no Zoning Clearance Permit is to be issued until the Base Course for the streets within the applicable phase for which a final plat is proposed has been installed.

**6.4.16.4.** At the discretion of the of the Public Works Director, the City may enter into a subdivision improvement agreement with the applicant for a residential development containing multiple final plats concerning the timing and sequence of roadway, water, wastewater, drainage, and park or open space dedication and



improvements. Notwithstanding any provision in this Ordinance to the contrary, the subdivision improvement agreement shall determine the time when the required improvement or dedication for multiple final plat developments shall occur.

**6.4.16.5. Performance Guarantee.** Whenever the Public Works Director permits an applicant to enter into a Subdivision Improvement Agreement, the applicant shall be required to provide a performance guarantee to ensure completion of the required public improvements. The performance guarantee shall be in the form of an irrevocable letter of credit, performance bond (subject to approval by the City Attorney and the Public Works Director) or cash escrow.

**6.4.16.6.** The performance guarantee shall be in an amount approved by the Public Works Director as reflecting 125 percent of the cost of the improvements in the approved construction plan and shall be sufficient to cover all promises and conditions contained in the Subdivision Improvement Agreement. The applicant shall submit an executed contract from N.C. licensed contractors, made assignable to the applicant and the City. The Public Works Director shall have the opportunity to review the estimates of work to be completed prior to approval.

**6.4.16.7.** In addition to all other security, when the City participates in the cost of an improvement, the applicant shall provide a performance bond from the contractor, with the City as a co-obligee.

**6.4.16.8.** The issuer of any surety bond shall be subject to the approval of the City Attorney and the Public Works Director.

**6.4.16.9.** If the performance guarantee is provided in the form of a cash escrow, the applicant shall deposit with the City Attorney a cash amount or certified check endorsed to the escrow agent for a face value in an amount not less than the amount specified by the Public Works Director.

**6.4.16.10.** The cash escrow account shall accrue to the City for administering the construction, operation, and maintenance of the improvements.

**6.4.16.11.** Where oversized facilities are required, the Public Works Director and applicant shall specify a reimbursement procedure in the

Subdivision Improvement Agreement.

**6.4.16.12.** The duration of the performance guarantee shall be one year unless the developer determines that the scope of work necessitates a longer duration. If the improvements are not completed to specifications, and the performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended or a new guarantee issued in an amount equal to 125 percent of the estimated cost of incomplete improvements for the duration necessary to complete the required improvements.

**6.4.16.13.** Release of Performance Guarantee. Upon completion of all improvements as covered by the Subdivision Improvement Agreement, the Public Works Director (or his/her designee) shall inspect the work. If the Public Works Director determines that the work is satisfactory and complete, the performance guarantee shall be released. The Public Works Director shall also require evidence from the subdivider that all contractors have been paid in full prior to the release of the performance guarantee. Upon approval, the Public Works Director shall permit either a one-time release or incremental release of the performance guarantee.

**6.4.16.14. Failure to Complete Improvements.** If a Subdivision Improvement Agreement has been executed and security has been posted and required public improvements are not installed pursuant to the terms of the Agreement, the Public Works Director may:

**6.4.16.14.1.** Declare the Agreement to be in default thirty days prior to the expiration of the guarantee instrument, and require that all public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;

**6.4.16.14.2.** Obtain funds pursuant to the surety and complete the public improvements by itself or through a third party;

**6.4.16.14.3.** Assign its right to receive funds pursuant to the surety in whole or in part to any third party, including a subsequent owner of the subdivision or addition for whom the public improvements were not constructed, in exchange

for the subsequent owner's Agreement to complete the required public improvements; and/or

**6.4.16.14.4.** Exercise any other rights available under the law.

**6.4.17. MAINTENANCE GUARANTEE.**

**6.4.17.1.** The Administrator shall delegate the authority to review and approve all maintenance bonds to the Public Works Director.

**6.4.17.2.** The applicant shall guarantee the improvements against defects in workmanship and materials for a period of one (1) year from the date of acceptance of such improvements. In exceptional situations, where undue hardship would otherwise result and the shorter term would not be inconsistent with the purposes of this Ordinance, the Public Works Director may approve a shorter-term maintenance guarantee. The maintenance guarantee shall be secured by a surety bond or cash escrow in an amount reflecting five (5) percent of the cost of the completed improvements.

**6.4.17.3.** The applicant shall construct and pay for all costs of temporary improvements required by the Public Works Director and shall maintain said temporary improvements for the period specified by the Public Works Director.

**6.4.17.4.** Thirty (30) days prior to the expiration of the maintenance guarantee instrument, if any defects in workmanship and/or materials are not repaired to the satisfaction of the Public Works Director, the subdivider shall be required to make all necessary repairs immediately.

**6.4.18. SUBDIVISION EXCEPTIONS.  
(Applies Only to Preliminary Plats for Major Subdivisions).**

**6.4.18.1.** Where the Planning and Zoning Commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve exceptions to these subdivision regulations so that substantial justice may be done and the public interest secured, provided that the exception shall not have the effect of nullifying the intent and

purpose of these regulations; and further provided that the Planning and Zoning Commission shall not approve exceptions unless it shall make findings based upon the evidence presented to it in each specific case that:

**6.4.18.1.1.** The granting of the subdivision exception will not be detrimental to the public safety, health, or welfare or injurious to other property;

**6.4.18.1.2.** The conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable generally to other property;

**6.4.18.1.3.** Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;

**6.4.18.1.4.** The relief sought will not in any manner vary the provisions of the Comprehensive Plan, or Official Map, except that those documents may be amended in the manner prescribed by law.

**6.4.18.2.** In approving a subdivision exception, the Planning and Zoning Commission may require such conditions as will, in its judgment, secure substantially the purposes described in § 6.2 of this Ordinance.

**6.4.18.3. Application Procedure for Subdivision Exception.** A petition for a subdivision exception shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for consideration. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

**6.4.18.4.** The Planning and Zoning Commission shall consider the application at a public hearing and shall approve, approve with conditions, or deny the Subdivision Exception. Said hearings before the Planning and Zoning Commission shall be considered a quasi-judicial proceeding and shall be subject to § 3.1.7 of this Ordinance.

**6.4.18.5.** The applicant may appeal the decision of the Planning and Zoning Commission to the City Council by filing a Notice of Appeal with the

Administrator. If the applicant submits a Notice of Appeal, the Administrator shall schedule the application for a hearing before the City Council. The City Council shall consider the appeal of the decision of the Planning and Zoning Commission at a public hearing and shall approve, approve with conditions, or deny the application for an exception. Said hearings before the City Council shall be considered a quasi-judicial proceeding and shall be subject to § 3.1.7 of this Ordinance.

#### **6.4.19. CLUSTER SUBDIVISIONS.**

**6.4.19.1. PURPOSE.** The Cluster Development provisions provide an alternative to standard residential development practices. This land development technique involves locating clusters of home sites on smaller lots than those permitted under conventional development regulations with the remaining “saved” land being retained as common open space. The permanent, common open space, legally dedicated through subdivision plat recordation and deed restriction, can be used for natural conservation and/or recreational facilities for community benefit. A perimeter buffer defines the edges of a Cluster Development to provide visual screening and separation from adjoining properties and streets.

**6.4.19.2. CLUSTERING PERMITTED.** In any residential zoning district where clustering is permitted, a developer may create lots that are smaller and arranged differently than those required by the standard zoning district regulations if the developer complies with the provisions of this Section. Cluster developments are permitted only as a special use in the following base zoning districts, or as an allowed use in the corresponding conditional zoning districts, and only in accordance with the standards and criteria set forth in this Ordinance:

AG Agricultural District  
 RE Rural Estate District  
 RL Residential Low Density  
 RM-1 Residential Medium Density  
 RM-2 Residential Medium Density

#### **6.4.19.3. GENERAL STANDARDS.**

**6.4.19.3.1.** The lots intended to be open space dedications shall be designated on the subdivision plat as “Open Space Lots.” Residential structures

shall not be permitted to be constructed on such lots.

**6.4.19.3.2.** Cluster lots shall be located in one or more contiguous groupings. Provided, however, that no more than twenty (20) lots may be in a single contiguous group without a minimum 50-foot separation. Streets shall be considered acceptable for constituting the minimum separation, except that contiguous lots that extend or “wrap” around a block shall be required to provide the minimum 50-foot separation.

**6.4.19.3.3.** Cluster lots may adjoin a local street (including a Cul-de-sac) and active or passive Open Space.

**6.4.19.3.4. PUBLIC WATER & SEWER.** The development shall be served by a public water system and a public sewer system.

#### **6.4.19.3.5. LOT DIMENSIONAL STANDARDS.**

**6.4.19.3.5.1.** At least thirty (30) percent of the total project area shall be set aside as common open space, which shall allow a twenty (20) percent reduction in the standard minimum lot size, minimum lot width, and the minimum structure setbacks of the zoning district.

**6.4.19.3.5.2.** In any zoning district, a Cluster Development shall not exceed the permissible density and the maximum impervious surface area per lot of the zoning district described in Table 4.7-1.

#### **6.4.19.3.6. OPEN SPACE STANDARDS.**

**6.4.19.3.6.1.** Dedicated open space shall comply with the requirements of the Section 6.5 of this Ordinance in addition to the standards set forth herein. Notwithstanding, the fee-in-lieu of open space dedications described in § 6.5.5 shall not be applied to any cluster development. Where there are conflicts, the more restrictive standard shall apply.

**6.4.19.3.6.2.** Such active open space shall be located a minimum of fifty (50) feet from any residential lot, which may be in a publicly dedicated street right-of-way, or alternatively,

must be screened by a screening device that meets the requirements of §7.4.2.2 of this Ordinance.

**6.4.19.3.6.3.** The required open space shall be limited to maximum of 25% percent of inaccessible land. Inaccessible land is defined in Table 6.5-1 of this Ordinance. Additional open space as volunteered by an applicant under § 4.8.3.5.1 shall also be subject to a 25% limit on percent of inaccessible land.

**6.4.19.3.7. LANDSCAPING AND BUFFERING REQUIREMENTS.**

**6.4.19.3.7.1.** A Class “C” Buffer yard pursuant to the Article 7 of this Ordinance shall be established around the entire perimeter of a Cluster Development and designated as either undisturbed, conservation easements or common open space on a subdivision plat. The following additional provisions shall apply to any buffer yard:

- Buffer yards designated as common open space on a subdivision plat may be used in calculating the required common open space.
- The use of existing vegetation to meet the requirements will be judged on field observation by the Administrator.
- Except in active recreation areas, existing healthy trees over twelve (12) inches in diameter in the common open space shall be preserved. The use of temporary fencing shall be employed to protect such trees during site development.

**Table 6.4.19-1. - Recommended Design Elements for a Cluster Development**

As indicated in § 6.4.19.1, the cluster development option is intended to permit flexibility in the design, construction, and processing of residential developments of a quality that could not be achieved under conventional subdivision design. Therefore, the following elements are recommended for consideration in the design of a cluster development and shall be considered as criteria for approval. This is not to state that all of the following elements shall be included in a cluster development, rather all elements shall be considered and those that are considered appropriate and reasonable should be included.

***Architectural elements***

- Building height, rhythm, articulation, massing, and bulk are compatible with the individual site attributes and are compatible with the surrounding neighborhoods.
- Distinctive architectural details such as covered front entries, covered front porches, door and window details, roof overhangs, and/or parapet walls with cap features shall be provided on each dwelling, or principle structure. A variety of roofing colors, textures, and component shapes including shake shingle, shale, and wood compositions, should be provided.
- Significant architectural differences in the choice of elevations, roof lines, and exterior colors for each residential floor plan should be provided. Homes facing one another (across the street) shall not have the same facade. No adjacent home should contain the same elevation.
- Residential design guidelines are provided, which include a variety of conceptual standard plans, and may include variation in building setbacks, detached garages, recessed garages if attached to the principal building and fencing alternatives.
- Garage fronts should be de-emphasized and not be the most prominent architectural feature of the house.

Figure 6.4-1. Major Plat review process – Includes Step (1) Preliminary Plat and Step (2) Construction Drawings. Figure 6.4-2 includes process for Step (3) Final Plat.

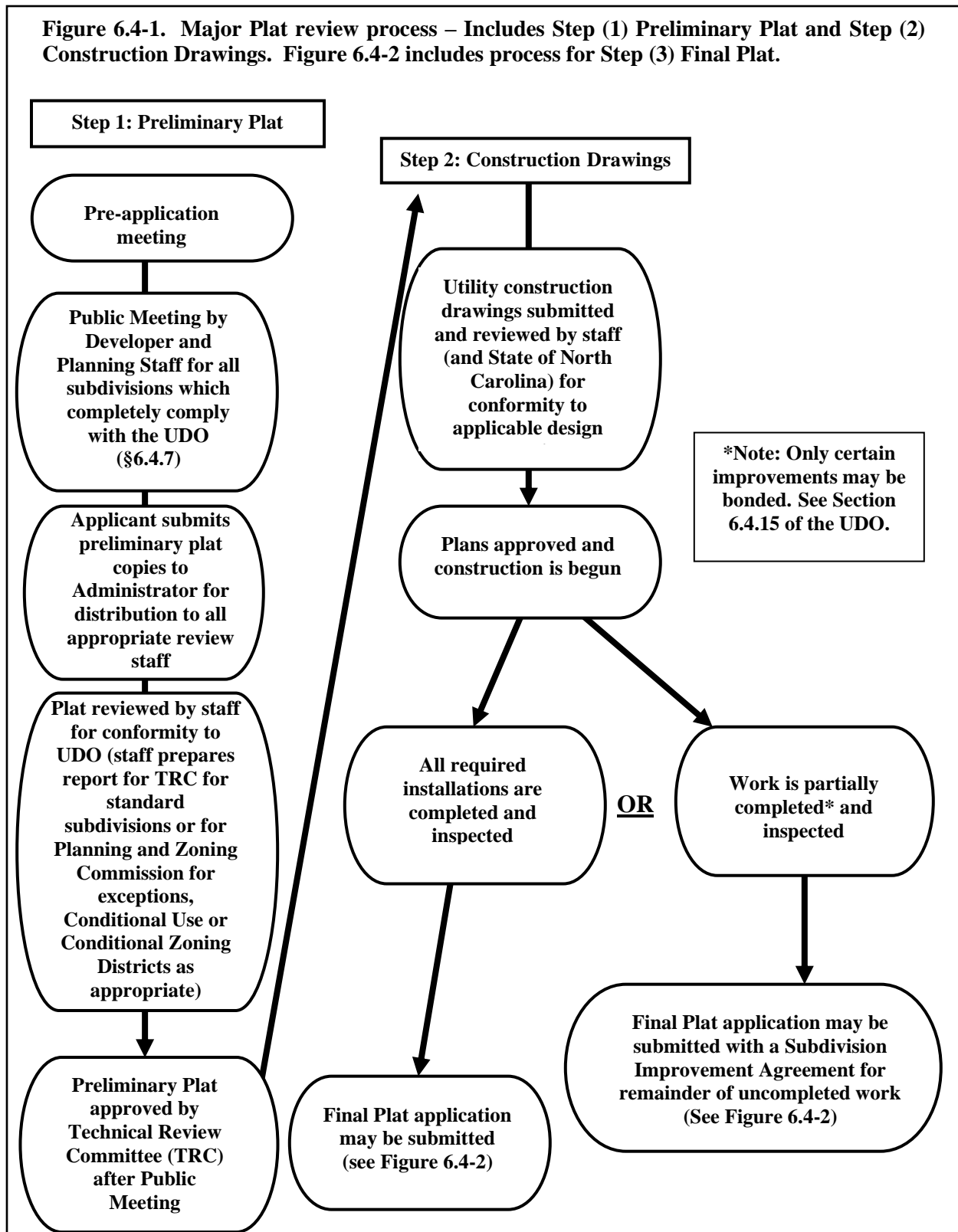
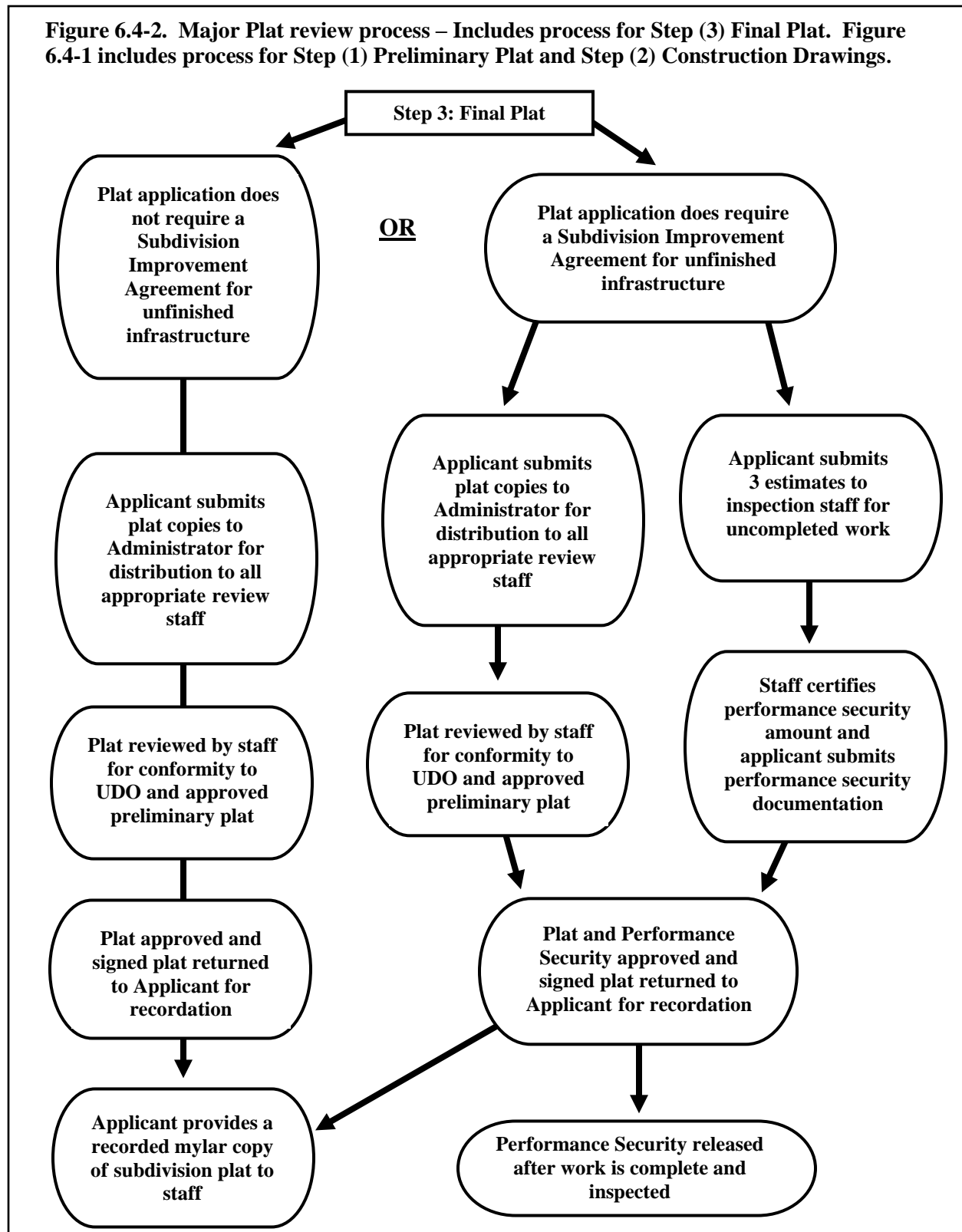


Figure 6.4-2. Major Plat review process – Includes process for Step (3) Final Plat. Figure 6.4-1 includes process for Step (1) Preliminary Plat and Step (2) Construction Drawings.



## 6.5. OPEN SPACE STANDARDS.

### 6.5.1. APPLICABILITY

**6.5.1.1.** The provisions of this section shall apply to an application for a major subdivision plat approval.

**6.5.1.2. Connection to Public Open Space.** The Administrator may require connection to a community open space network and/or trails system if the proposed development is adjacent to the boundary of an established community public open space as included in the *Livable Communities Blueprint* for Cabarrus County, which is hereby incorporated by this reference as if set forth in its entirety herein. The open space/trail system shall be maintained by the applicant or subsequent owners provided, however, that the applicant may request to publicly dedicate any trail specifically delineated in the *Parks and Trails Plan*.

### 6.5.2. PRESERVATION OF OPEN SPACE.

**6.5.2.1.** Required open space shall be reserved for any major subdivision of land within the zoning districts set forth in column "A" of Table 6.5-1 based upon the percentage of net acres in the proposed development corresponding the zoning district as set forth in Column "B" in Table 6.5-1 hereto.

**6.5.2.2. Exemption.** Subdivisions with less than 200 dwelling units, located within ½ mile of walking distance from an existing or planned public park (or a public school with recreation facilities accessible to the general public) shall be exempt from the requirements of this Section 6.5.2.1. Subdivisions with 200 or more dwelling units shall not be exempt.

**6.5.2.3.** Open-space areas shall be maintained so that their use and enjoyment as open space are not diminished or destroyed. Open-space areas may be owned, preserved, and maintained as determined by the City Council by any of the following mechanisms or combinations thereof:

**6.5.2.3.1.** Dedication of open space to the City, an appropriate public agency, or a non-profit entity (such as a land conservancy) if such an agency or entity is willing to accept the dedication

and is financially capable of maintaining such open space.

**6.5.2.3.2.** Common ownership of the open space by a property owner's association which assumes full responsibility for its maintenance. The restrictive covenants shall provide that, in the event the homeowner's association fails to maintain the open space according to the standards of this Ordinance, the City may, following reasonable notice:

**6.5.2.3.2.1.** demand that deficiency of maintenance be corrected; or

**6.5.2.3.2.2.** enter the open space to maintain same. The cost of such maintenance shall be charged to the homeowner's association.

### 6.5.3. OPEN SPACE CHARACTERISTICS.

Land designated as open space shall be maintained as open space and may not be separately sold, subdivided, or developed except as provided below.

#### 6.5.3.1. Open Space Provisions and Maintenance Plan Required.

Any areas reserved as open space shall be indicated on a preliminary and/or final subdivision plat. An Open Space Provision and Maintenance Plan shall be submitted as a part of the application for development approval including the project phasing schedule. This plan shall designate and indicate the boundaries of all open-space areas required by this Ordinance. The plan shall:

**6.5.3.1.1.** Designate areas to be reserved as open space. The specific design of open-space areas shall be sensitive to the physical and design characteristics of the site.

**6.5.3.1.2.** Designate the type of open space which will be provided (passive or active). Passive and Active open space are defined as:

- Active Open Space - Any park and recreational facility that is not dependent upon a specific environmental or natural resource, which is developed with recreation and support facilities that can be provided anywhere for the convenience of the user. Activity-based recreation areas include, but



are not limited to, playgrounds, golf courses, bicycle trails, baseball or softball fields, football or soccer fields, basketball courts, swimming pools, clubhouses, equestrian facilities, and tennis courts.

- Passive Open Space - Areas in and located due to the presence of a particular natural or environmental setting and which may include conservation lands providing for both active and passive types of resource-based outdoor recreation activities that are less formalized or program-oriented than activity-based recreation. Resource-based outdoor recreation means and refers to activities requiring a natural condition that cannot easily be duplicated by man and includes, but is not limited to, boating, fishing, camping, nature trails and nature study. Farms may be considered as passive open space.

**6.5.3.1.3.** Specify the manner in which the open space shall be perpetuated, maintained, and administered.

**6.5.3.1.4.** The types of open space which may be provided to satisfy the requirements of this Ordinance, together with the maintenance required for each type, are as follows:

**6.5.3.1.4.1.** Passive open space maintenance is limited to removal of litter, dead tree, and plant materials (that is obstructing pedestrian movement), and brush; weeding and mowing. Natural water courses are to be maintained as free-flowing and devoid of debris. Stream channels shall be maintained so as not to alter floodplain levels.

**6.5.3.1.4.2.** No specific maintenance is required for agricultural uses.

**6.5.3.1.4.3.** Active open space areas shall be accessible to all residents of the development. Maintenance is limited to ensuring that there exist no hazards, nuisances, or unhealthy conditions.

**6.5.3.2. Greenways.**

Greenways connecting residences, schools and recreational areas are encouraged. Maintenance is limited to a minimum removal and avoidance of hazards, nuisances, or unhealthy conditions.

**6.5.3.3. Greenbelts (as required in TND developments, see § 4.10).**

**6.5.3.3.1.** Greenbelts, as required by the Traditional Neighborhood Development overlay district, may be counted as Passive Open Space provided, however, that:

**6.5.3.3.2.** The greenbelt shall have an average width of not less than fifty (50) feet.

**6.5.3.3.3.** If the greenbelt consists of agricultural areas, the agricultural areas shall have a continuous area of not less than fifty (50) acres. The agricultural areas may be combined with adjacent agricultural lands provided, however, that the minimum width prescribed above shall be met on all portions of the agricultural greenbelt on the site.

**6.5.3.4. Spacing and Dimensional Limitations.**

In order to ensure that all designated open space has suitable size, location, dimension, topography and general character, and proper road and/or pedestrian access, as may be appropriate, to be usable open space, the following standards shall apply.

**6.5.3.4.1.** Open space should be within one-half (1/2) of a mile from any lot upon which a dwelling is intended to be built.

**6.5.3.4.2.** The minimum dimension for usable open space shall be fifteen (15) feet of width.

**6.5.3.4.3.** The percentage of open space comprised of inaccessible land as defined in Table 6.5-1 shall not exceed the amount set forth in column (D) of Table 6.5-1.

**6.5.3.5. Use of Stormwater Detention Basins.**

Retention areas or detention basins which may be required as part of Sect. 9.2 of this Ordinance shall not qualify as an open space area unless fifty percent (50%) or more of the active and usable area is above the ten (10) year storm and is designed for multiple uses and the area(s) conforms to the requirements of subsections 1 and 2 below. This standard shall not apply to commercial or industrial developments which shall be permitted to calculate the retention and detention area as part of the required open space area.

**6.5.3.5.1.** Retention or detention areas may meander through the subdivision as a greenbelt, rather than as a single basin. Retention areas shall be improved so as to be useable and accessible. Retention areas shall not be inundated so as to be unusable for their designated recreational purposes.

**6.5.3.5.2.** Retention or detention areas shall be given a natural character and shall be constructed of natural materials. Terracing, berming and contouring is required in order to naturalize and enhance the aesthetics of the basin. Basin slopes shall not exceed a 3:1 slope.

#### **6.5.3.6. Required Improvements**

**6.5.3.6.1.** Subdividers shall be responsible for making certain improvements to the land they dedicate as open space within their development for park, playground and public active open space purposes as follows:

**6.5.3.6.2.** Provide finish grading and turf establishment for all disturbed areas and provide landscaping and/or screening in accordance with Article 7.

**6.5.3.6.3.** Complete, construct, and pave walkways which may be required as a trail link connector in accordance with this Section 6.5. Such walkways may be within or abutting residential street right-of-ways. Such connections shall not be used in the calculations described in §6.5.3.6.4

**6.5.3.6.4.** For developments consisting of 200 lots or more, provide for active open space improvements as defined in § 6.5.3.1.2. Such improvements shall equal a total minimum financial investment of 200% of the pre-development tax value for the amount of dedicated land from the parcel from which the open space is being dedicated as required. The specified contribution shall be determined by the tax value of the parcel at the time final plat approval is granted. Such tax value shall consider zoning district changes that occur at any time up until final plat approval. Tax deferrals of any kind shall not be used in the calculation of the fees.

#### **6.5.4. ACCESS TO OPEN SPACE.**

**6.5.4.1.** All areas to be preserved for open space are to be accessible to pedestrians by one of the following:

- frontage (width as required in this Section) on a public street right-of-way; or
- recorded pedestrian easement (min. 15' wide); or
- fee simple property

**6.5.4.2.** Upon review of the design by the Administrator, additional pedestrian access points may be required.

#### **6.5.5. FEES IN LIEU OF OPEN SPACE**

**6.5.5.1.** In lieu of land dedication, the City Council may permit the subdivider to contribute a cash payment to the City. The value of such payment shall be the pre-development tax value for the amount of dedicated land from the parcel from which the open space is being dedicated as required and the cash value of the minimum required financial investment for active open space improvements as described in § 6.5.3.6.4. The specified contribution shall be determined by the tax value at the time final plat approval is granted. Such tax value shall consider zoning district changes that occur at any time up until final plat approval. Tax deferrals of any kind shall not be used in the calculation of the fees.

**6.5.5.2.** If, at the option of the City Council it is determined that a cash dedication shall be made, said cash shall be paid to the City Finance Director and shall be deposited into a special Parks and Recreation Service Area fund prior to final plat approval. Money in the fund, including accrued interest, shall be expended solely for acquisition, development or rehabilitation of park land or improvements related thereto.

**6.5.5.3.** Collected fees shall be appropriated by the City for a specific project to serve residents of the subdivision in a budgetary year within seven years upon receipt of payments or within seven years after the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later. If such fees are not so committed, these fees shall be distributed and paid to the then record owners of the subdivision in the same proportion that the size of their lots bears to the total area of all lots in the subdivision.

**Table 6.5-1 Required Open Space for Subdivisions**

(A) Zoning District(s)	(B) Required Percentage of Open Space	(C) Maximum Percent in Inaccessible Land*
AG	N/A	N/A
RE, RL, RM-1, RM-2, RV and RC	8% (0 - 2 units per acre)** 10% (2.1 - 4 units per acre)** 12% (greater than 4 units per acre)**	25%
B-1, O-I, CC, C-1, C-2	N/A	N/A
CD	8%	75%
I-1, I-2	N/A	N/A
PUD	25%	25%

\*"Inaccessible Land" shall include:

- any land where no zoning and/or building construction permits may be issued (such as dedicated easements and rights-of-way (except those existing to only protect underground utilities such as water or sewer lines), wetlands, bodies of water, etc. as determined by the Administrator); or
- land with a post-development slope greater than 3:1 which severely limits its usefulness as open space.

\*\*Based on the proposed density of the project subject to the maximum density of the respective zoning district

Note: Floodway areas shall not be included in calculating areas to be considered for Open Space.

## 6.6. LOT DESIGN STANDARDS.

### 6.6.1. PURPOSE OF SITE DESIGN STANDARDS.

This Section establishes standards to guide the design and review of proposed developments involving the layout or development of lots and relationship to streets and other public facilities.

### 6.6.2. MINIMUM LOT STANDARDS.

**6.6.2.1.** The provisions of this § 6.6 shall apply to any newly created or proposed Lot or Parcel resulting from a subdivision of land as provided for in Article 6 of this Ordinance.

**6.6.2.2.** Lots shall meet or exceed zoning district standards and shall be designed for their potential uses, so that adequate buildable area is provided and adequate room for required setbacks (see § 4.7) and buffer yards (see Article 7) will exist on the lot.

### 6.6.3. BLOCKS.

**6.6.3.1.** The purpose of this subsection is to discourage long blocks lined with homes and other buildings, which reduces street connectivity and diminishes the efficiency of public and safety services, while increasing distances between residences and non-residential destinations or public gathering places. The maximum length of any blocks within a subdivision shall not exceed that as shown in Table 6.6-1, except where topographic conditions and / or unique lot configurations offer no practical alternatives; non-conforming blocks require approval by the Technical Review Committee (TRC) prior to preliminary plat approval. (a dash [-] indicates that the requirement is not applicable). Block length shall be measured from the end of the right-of-way (ROW) on one side of the block to the beginning of the right-of-way (ROW) on the other side of the block.

**Table 6.6-1 Block Length Requirements**

Zoning District	Maximum Length (in feet)
AG, RE	–
RL, RM-1, RM-2, RV, RC, B-1, CC, TC, C-1, C-2	600
CD, I-1, I-2	–
PUD, TND	500

### 6.6.4. CORNER LOTS.

Side lot lines of lots abutting a public or private right-of-way shall, to the extent practicable:

**6.6.4.1.** run at right angles to the right-of-way line, or

**6.6.4.2.** in the case of cul-de-sacs or curvilinear street right-of-ways, radial to the curve.

### 6.6.5. LOT FRONTAGE REQUIREMENTS.

**6.6.5.1.** Unless otherwise permitted herein, every lot resulting from a subdivision of land as provided for in Article 6 of this Ordinance shall abut and have direct access to a publicly maintained street or other public right-of-way legally dedicated, except as provided in this section.

**6.6.5.2.** For proposed subdivisions with frontage on a thoroughfare street, the maximum number of lots to be created shall be limited to five (5) lots. Any proposed subdivision proposing more than five lots shall require the additional lots to be served by a newly constructed internal public street.

**6.6.5.3.** Frontage on a public street shall not be required in the following situations; provided, however, that an easement or other right-of-way arising out of operation of law providing access to the public street shall be recorded and submitted with the application for development approval:

**6.6.5.3.1.** Parcels within nonresidential subdivisions;

**6.6.5.3.2.** Town home lots where the individual lots are separated from a public right-of-way by a strip of land under common ownership by the owners of the town home lots;

**6.6.5.3.3.** Lots fronting on approved private streets;

**6.6.5.3.4.** A lot of record existing on January 8, 2001 without public street frontage may be subdivided once provided that the created lot meets all other zoning district lot standards. The created lot may only be developed for one single-family residence and may not be subdivided.

When a private easement serving the lot, parcel or tract is acquired from intervening property owners, such easement shall be in compliance with the following requirements:

- The easement must have a minimum continuous width of 18 feet.
- The recorded documents creating the easement shall specify that public service, utility, and emergency personnel and vehicles shall have freedom of ingress and egress from the property.
- The recorded documents creating the easement shall also specify that utilities (i.e., natural gas, electricity, telephone, cable) may be installed within the easement.
- The recorded documents creating the easement shall also include a statement specifying the party responsible for maintaining the easement and its traveled surface.
- The easement must have an all-weather surface of gravel, concrete, or asphalt with a minimum continuous width of ten (10) feet and a minimum overhead clearance of twelve (12) feet to ensure access of public service, utility, and emergency personnel and vehicles.
- The grantor and grantee of the easement will agree to continuously keep the easement free and clear of any and all obstructions that would in any way impede vehicular traffic.

**6.6.5.4.** Lots shall be designed with adequate frontage for the purpose of providing direct physical access to the property from public streets for vehicles and utilities and for public safety equipment.

#### **6.6.6. FLAG LOTS.**

**6.6.6.1.** Flag lots may be developed on a limited basis in subdivisions where individual development of each lot is contemplated, and the Administrator determines that no future street access through the property will be needed. Flag lots may be used to better use irregularly shaped properties or sites with physical limitations, or to eliminate or reduce access to a thoroughfare or collector street. Flag lots shall not be permitted in any proposed Subdivision except as provided for in this section.

**6.6.6.1.1.** The maximum number of flag lots

shall be set forth in Table 6.6-2, where the Administrator finds that the flag lot(s): (1) allow for the more efficient use of irregularly shaped parcels of land, or (2) where the integrated nature of multiple buildings on a site dictates the need for such lots.

**6.6.6.1.2.** The minimum width of the “pole” portion of a flag lot shall be the minimum public street frontage requirement set forth in Table 4.7-1.

#### **6.6.7. CUL-DE-SAC LOTS.**

**6.6.7.1.** A lot located on a cul-de-sac that does not maintain the minimum required width along the public street frontage shall provide:

**6.6.7.1.1.** lot frontage of at least 50 percent of the minimum required, but in no case less than 25 feet; and

**6.6.7.1.2.** lot area equal to or greater than the minimum lot area (if one is specified); and

**6.6.7.1.3.** the minimum required lot width at the building line.

#### **6.6.8. PERIMETER BUFFER YARD FOR MAJOR RESIDENTIAL SUBDIVISIONS.**

**6.6.8.1.** A buffer yard shall be required along the perimeter of a major residential subdivision in order to separate residential lots from abutting thoroughfares and abutting non-residential uses.

**6.6.8.2.** The buffer yard for abutting non-residential uses shall be designed and landscaped per Section 7.4 of this Ordinance. The buffer yard for abutting a thoroughfare shall be a Type D buffer as set forth in Table 7.4-2 of this Ordinance.

**6.6.8.3.** All required buffer yards shall be platted as common areas and may be included as “open space” subject to the standards and criteria as set forth in § 6.5 of this Ordinance.

**Table 6.6-2. Maximum Number of Flag Lots**

Size of Subdivision	Maximum Number or Percentage (%) of Flag Lots
2 – 20 lots	1 lot
Over 20 lots	1 per every 20 lots

- This table does not apply to the AG District. The AG district does not have a limit on the number of flag lots.
- The Administrator may approve additional flag lots if evidence is presented that physical hardships prevent development of land using conventional lot design.

**6.6.9. INFRASTRUCTURE STANDARDS.**

**6.6.9.1. Standards for Street Design.**

Public and/or private streets shall be designed in accordance with Article 10 of this Ordinance and the Land Development Standards Manual (LDSM).

**6.6.9.2. Standards for Utilities.**

Standards for the design and installation of public utilities shall be in accordance with Appendix C of this Ordinance and the Land Development Standards Manual (LDSM).

# ARTICLE 7 LANDSCAPING AND BUFFERING STANDARDS

## TABLE OF CONTENTS

SECTION	PAGE
7.1 GENERAL STANDARDS FOR LANDSCAPING AND BUFFERING .....	7-2
7.2 LANDSCAPE PLAN.....	7-6
7.3 PLANTING YARDS .....	7-7
7.4 PERIMETER BUFFER YARDS .....	7-9
7.5 BUILDING YARDS.....	7-18
7.6 PARKING LOT YARDS.....	7-19
7.7 STREET YARDS .....	7-20
7.8 SPECIFICATIONS FOR PLANT MATERIALS AND INSTALLATION .....	7-24

## 7.1. GENERAL STANDARDS FOR LANDSCAPING AND BUFFERING.

### 7.1.1. PURPOSE.

The purpose of these landscaping, screening, and buffer requirements is to provide standards that will protect the health, safety and general welfare of the public, enhance property values, improve the appearance of the community, and preserve natural resources, trees, and native plants. Planting yard regulations are established herein to minimize potential conflicts between abutting developments, enhance the appearance of buildings and parking lots, and create a unified and attractive streetscape. These requirements will be applied to all new development, redevelopment or building expansion projects including streetscaping of rights-of-ways. These minimum requirements will:

- Reduce soil erosion and increase infiltration in permeable land areas essential to storm water management and aquifer recharge;
- Mitigate adverse grade changes between adjacent properties;
- Enhance the City's streetscapes by separating the pedestrian from motor vehicles; abating glare and moderating temperatures of impervious areas; filtering air of fumes and dust; providing shade; attenuating noise; and reducing the visual impact of large expanses of pavement;
- Address the design of entryways into the City to express the community's values;
- Promote innovative and cost-conscious approaches to the design, installation, and maintenance of landscaping while encouraging water and energy conservation;
- Screen unsightly equipment or materials from the view of persons on public streets or adjoining properties and buffering from uncomplimentary land uses;
- Maintain and increase property values by requiring site appropriate landscaping to be incorporated into development that is designed and installed by a qualified landscape professional;
- Improve the quality of the built and natural environments through air quality enhancements; energy conservation; reductions in the amount and rate of stormwater runoff and erosion; stormwater runoff quality improvements; and increase in the capacity for groundwater recharge.

### 7.1.2. GENERAL STANDARDS.

**A. Retention of Existing Vegetation.** Existing trees, shrubs and ground cover shall be retained and incorporated into the landscape plan to the extent possible.

**B. Qualified Designer and Installer Required.** Landscape materials shall be installed in conformance with the approved landscape plan prepared by a professional designer in accordance with § 7.2.

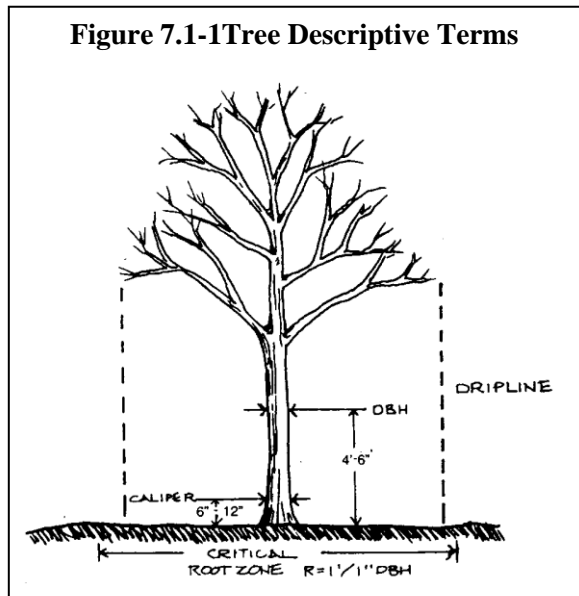
### 7.1.3. INTERPRETATION OF LANDSCAPING TERMS.

Where necessary to interpret the precise meaning of technical landscaping terms used in this Section, reference shall be made to American Nursery and Landscape Association ("ANLA")(formerly the American Association of Nurserymen), *The American Standard For Nursery Stock*, (1996), which document is hereby incorporated by reference.

**A. Definitions.** In addition to the definitions set forth in Appendix A to this Ordinance, the following definitions shall apply to the regulation and control of landscaping within this Section.



Figure 7.1-1 Tree Descriptive Terms



**ARBORIST:** A qualified professional who has studied the science or art of cultivating trees especially for ornamental use.

**CALIPER:** A standard trunk diameter measurement for trees taken six inches above ground for up to and including four-inch caliper size and twelve inches above ground for larger sizes.

**CRITICAL ROOT ZONE (CRZ):** A circular region measured outward from a tree trunk representing the essential area of the roots that must be maintained in order for the tree's survival. The critical root zone is one foot of radial distance for every inch of tree DBH with a minimum of eight feet.

**CROWN:** The upper mass or head of a tree, shrub, or vine, including branches with foliage. (Source: G. Hightshoe, *Native Trees, Shrubs, and Vines for Urban and Rural America* (New York: Van Nostrand Reinhold & Co., 1988), at 790).

**DBH:** Diameter-at-breast-height is the tree trunk diameter measured in inches at a height of 4.5 feet above ground level.

**DECIDUOUS:** Plants that lose their leaves annually.

**DECIDUOUS TREE:** A tree which sheds or loses foliage at the end of the growing season. (Source: G. Hightshoe, *Native Trees, Shrubs, and Vines for Urban and Rural America* (New York: Van Nostrand Reinhold & Co., 1988), at 790).

**DRIP LINE:** A vertical line from a tree canopy or shrub branch extending from the outermost edge to the ground.

**EVERGREEN:** Plants that retain their foliage throughout the year.

**EVERGREEN SCREEN:** A dense vegetative screen that grows to a minimum of 8 feet in height at maturity and retains foliage year round used for purposes of visual mitigation between zoning districts and/or uses.

**EVERGREEN TREE:** A tree which holds green leaves, either broadleaf or needle-shaped, throughout the year. (Source: G. Hightshoe, *Native Trees, Shrubs, and Vines for Urban and Rural America* (New York: Van Nostrand Reinhold & Co., 1988) at 791).

**GABION:** A wire basket containing primarily stones deposited to provide protection against erosion.

**GROUND COVER:** A prostrate plant growing less than 2 feet in height at maturity that is used for: a) ornamental purposes, b) alternatives to grasses, and c) erosion control on slopes.

**HORTICULTURIST:** A qualified professional who has studied the science or art of cultivating plants especially for ornamental use.

**LANDSCAPE ARCHITECT:** A landscape architect licensed pursuant to the North Carolina General Statutes.

**LANDSCAPE CONTRACTOR:** A landscape contractor, or nurseryman, certified pursuant to the NC Landscape Contractors Registration Board.

**LANDSCAPING:** The process or product of site development including grading, installation of plant materials and seeding of turf or ground cover.

**NON-LIVING MATERIALS:** Landscaping materials used to complement plants such as river rock, stone, bark, and similar materials.

**NUISANCE:** Any tree or shrub or part thereof that grows upon private or public property which 1) interferes with the use of any public area; 2) is infected with an infectious plant disease or insects; 3) is invasive and damaging to other plants; or 4) which endangers the life, health, or safety of persons or property.

**PLANTING YARDS:** The required installation of landscaping and/or screening material between zoning districts and certain individual uses. The four Planting Yards are as follows:

- **Perimeter Buffer Yard:** A planting yard comprised of a strip of land containing landscaping and/or screening materials, having a varying minimum width, located along side and rear property lines between zoning districts and/or between certain individual uses, as specified in this Article.
- **Building Yard:** A planting yard comprised of a strip of land containing landscaping materials located along the front and/or sides of a building and having a varying minimum width, as specified in this Article.
- **Parking Lot Yard:** A planting yard comprised of a strip, or strips of land containing landscaping materials located around and within a parking lot and having a varying width, as specified in this Article.
- **Street Yard:** A planting yard comprised of a strip of land containing landscaping materials located along and parallel to a public street, or streets and having a varying minimum width, as specified in this Article.

**SCREEN:** Vegetation, fence, wall, berm or a combination of any or all of these which partially or completely blocks the view of and provides spatial separation of a portion or all of a site from an adjacent property or right-of-way.

**SHRUB, LARGE:** An upright plant growing to a mature height of more than 8 feet for use as natural ornamentation or screening.

**SHRUB, MEDIUM:** An upright plant growing to a mature height of 4 to 8 feet.

**SHRUB, SMALL:** An upright plant growing to a mature height of less than 4 feet.

**SIGNIFICANT STANDS OF TREES OR SHRUBS:** A massing or group of trees or shrubs which are (1) in good condition and are established on the site, or (2) which may be among the earliest grown species of the area, or (3) which have been identified by the community with a particular area.

**STREET TREE:** A tree planted along a public street or roadway behind or within the right-of-way.

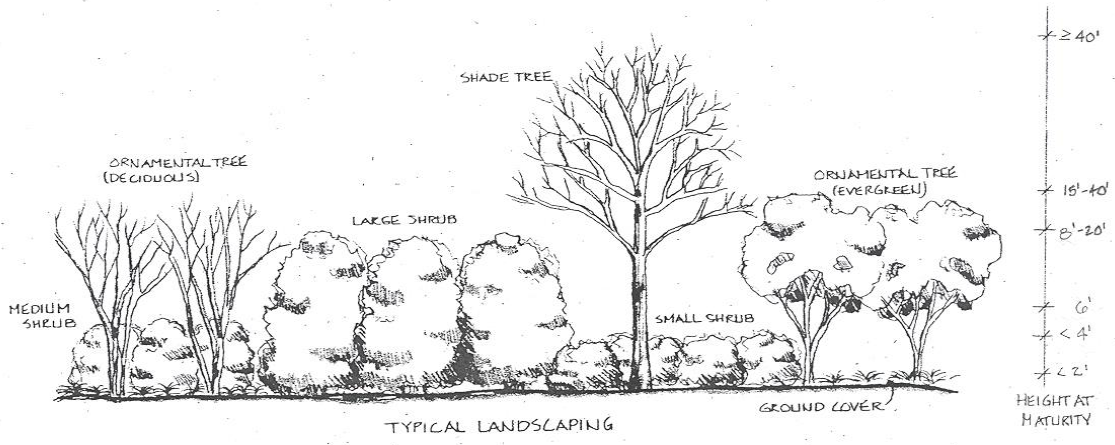
**TREE, ORNAMENTAL:** A small to medium tree, growing to a mature height of 15 to 40 feet and characterized by specific aesthetic qualities, such as colorful flowering, interesting bark or brilliant fall foliage.

**TREE, SHADE:** A large tree growing to a height of 40 feet or more at maturity, usually deciduous, and characterized by its ability to provide canopy cover shade.

**VINES:** A woody plant that spreads as it grows over the ground, walls or trellises.

**XERISCAPE:** a landscaping method that employs drought-resistant plants in an effort to conserve resources, especially water.

FIGURE 7.1.-2 LANDSCAPE PLANTS TYPICAL SIZES



## 7.2. LANDSCAPE PLAN.

### 7.2.1. PLAN REQUIRED.

Landscape plans shall accompany any application for site plan approval. Landscape plans shall include such criteria that are required by the Department of Planning & Zoning to determine compliance with this code. These criteria shall include, but are not limited to:

- Show all buildings, walkways, vehicular use areas, utility areas, retention/detention areas, sight triangles, and miscellaneous site structures (Minimum scale of 1" = 40').
- Show current zoning and land use of all adjacent property.
- Planting areas drawn to scale with a list of the botanical and common names, and size of all plants designated for each area.
- Location, name, and size of all existing trees, shrubs, groundcover, and other plant materials that are to be incorporated as a part of the landscape plan.
- Location and width of landscaped buffer strips, including height of berms.
- All landscape plans shall include a summary tabulation of all landscape requirements.
- Show all existing and proposed paved surfaces, curbs, steps, and grade changes.
- Location and sizes of any irrigation facilities used to maintain planting areas.
- Location of any overhead powerlines or easements on the property.

### 7.2.2. PERMITS REQUIRED.

All required landscaping materials shall be in place prior to the time of issuance of a final Certificate of Compliance (as required in Article 3).

**A. Performance Guarantee.** Subject to the conditions as specified in § 3.2.5.2.6 of this Ordinance, a temporary Certificate of Compliance may be issued for occupancy of a structure or initiation of a use prior to the completion of installation of all required planting yards.

1. If water is rationed or watering prohibited, the owner may request a deferment for the landscaping installation and extension of the temporary Certificate of Compliance equal in time to the length of the City imposed prohibition. In the event a deferment is granted, a performance

guarantee shall be submitted to the Administrator and include the following information:

- a. A specific description of the factor(s) hindering completion or installation of the required improvement(s); and
- b. A written estimate from a licensed contractor of the cost of materials and labor for completing the work.

The performance guarantee shall be in the amount of 125% of the total cost provided in the estimate and may be submitted in the form of a certified check, cashier's check, bond, or letter of credit. The duration of the performance guarantee shall be one year unless the developer determines that the scope of work necessitates a longer duration. If the improvements are not completed to specifications, and the performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended or a new guarantee issued in an amount equal to 125% of the estimated cost of incomplete improvements for the duration necessary to complete the required improvements. The performance guarantee shall be released after the improvements, as guaranteed, are inspected by the Administrator and determined to be in full compliance with the approved plan

### 7.2.3. VIOLATIONS.

Failure to maintain required landscaping or to adhere to an approved landscaping plan shall constitute a zoning violation, subject to any and all remedies set forth in § 1.6 of this Ordinance.

## 7.3. PLANTING YARDS.

### 7.3.1. PURPOSE.

Planting yards are intended to aesthetically enhance and separate different land uses and zoning districts from each other, as well as to beautify individual sites, the roadside or streetscape, and are intended to eliminate or minimize potential nuisances such as dirt, litter, glare of lights, and unsightly buildings or parking areas. Planting yards shall include the following:

- Perimeter Buffer Yards (see § 7.4)
- Building Yards (see § 7.5)
- Parking Lot Yards (see § 7.6)
- Street Yards (see § 7.7)

### 7.3.2 APPLICABILITY.

Planting yards shall be required for all uses except:

- single-family detached homes;
- duplexes and triplexes;
- agricultural uses as listed in Table 4.6-1 of this Ordinance;
- developments in the CC District (except that the Parking Lot yard requirements of § 7.6 shall apply);
- sites containing unoccupied public utility equipment that are less than 1,000 square feet in area, except that all electrical substations shall install a minimum Type B buffer per § 7.4.

#### A. Additions, Expansions and Change in Use.

If there is a categorical change of use resulting in an increase of greater than 40% in required off-street parking and/or loading area, or an expansion to the heated square footage of an existing structure greater than twenty percent (20%), the lot shall fully comply with all landscaping requirements of Article 7. If there is a categorical change of use resulting in an increase less than or equal to 40% in off-street parking and loading area, or an expansion to the heated square footage of an existing structure less than or equal to 20%, the lot shall fully comply with all landscaping requirements of Article 7, except that the provisions of Section 7.6.2.B. shall not apply.

**B.** Expansions to the parking and loading areas shall comply with the following:

1. An increase of the total area equal to or less than 40% of the existing parking or loading area square footage shall be required to

comply with the landscaping requirements of Article 7, except that buffer yard widths shall be reserved, but plantings are not required, and the provisions of Section 7.6.2.B shall not apply.

2. An increase of the total area greater than 40% shall be required to comply with all applicable requirements of Article 7.

**C.** Different uses require different planting yards. Minimum dimensions shall apply and be measured horizontally. Plant quantities, in most cases, shall be based upon a point system.

**D.** For the purpose of this section, building setbacks (as listed in § 4.7-1) shall supersede planting yard requirements.

**E.** Buffer yard areas shall be counted towards required building setbacks.

**F.** Landscaping as required within a planting yard shall be counted for only that planting yard and shall not be used in calculating the minimum quantity for any other planting yard.

**G.** The point system, as partially illustrated in Table 7.3-1, is established to ensure that a minimum level of landscaping is achieved during development. It sets forth the points attributable to the five different plant types that are required in the three planting yards subject to the point system. Table 7.3-1 is to be used in conjunction with the other tables in this Article to determine total landscaping required. This table is applicable to planting yards, as well as in determining credits for tree preservation.

**H.** When calculating points, or quantities of plants, fractions shall be rounded upward to the higher whole number for decimals of .5 and higher. Decimals below .5 shall be rounded downward to the lower whole number.

**TABLE 7.3-1: POINTS FOR INDIVIDUAL PLANT TYPES**

Type of Plant	Points
Shade Tree	12
Ornamental Tree	6
Large Shrub	3
Medium Shrub	2
Small Shrub	1

Total landscaping required for buffer yards, building yards and street yards is determined by multiplying the length of the respective planting yard by the minimum required points per linear foot shown in the landscaping requirements tables for each of the three planting yards subject to the point system. The resultant total point figure determines the total amount of landscaping required for the respective planting yard. In some cases, the tables which set forth the planting yard landscaping requirements include a minimum required number of individual plant types, such as shade trees, or large shrubs. In those instances, the minimum number of individual plants types required shall be considered included as part of the total landscaping required.

### **7.3.3 RELIEF FROM PLANTING REQUIREMENTS.**

**A.** In the event the unusual topography, location of existing buildings, or location or size of the parcel to be developed would make strict adherence to the requirements of this Section serve no meaningful purpose or would make it physically impossible to install and maintain the required landscaping, the Administrator may alter the requirements of this Section, provided the spirit and intent of the Section are maintained. Such an alteration may occur only at the request of the developer, who shall submit a plat to the Administrator showing existing site features that would screen the proposed use and any additional screen materials the developer may propose to install.

**B.** The vacancy or non-use of an adjoining parcel shall not constitute grounds for providing relief to the landscaping requirements contained in this Ordinance. Neither shall the desire of an owner to make a more intensive use or greater economic use of the property be grounds for reducing the landscaping requirements.

## 7.4. PERIMETER BUFFER YARDS.

**7.4.1. PURPOSE.** The purpose of perimeter buffer yards is to:

- provide a transitional buffer between uses that may differ in development intensity and density; or
- provide a minimum buffer between uses of similar intensity and density.

These landscaped planting yards are intended to ensure that a natural area of appropriate size and density of plantings is planted or preserved between zoning districts and/or uses. Perimeter buffer yards shall be of different types, based upon the zoning classifications of adjacent parcels along which the perimeter buffer yard is to be located. The width of the perimeter buffer yard and the density of plantings shall increase as the difference between adjacent land uses increases. Minimum dimensions shall apply, and be measured, horizontally. Widths shall be measured from the respective property line, except where perimeter buffer yards are permitted to straddle property lines, as set forth in § 7.4.4.7. Where perimeter buffer yards turn at property corners, the length measurements determining plant quantities shall not be required to overlap.

### 7.4.2. YARD TYPES.

There shall be six (6) different categories used to determine Perimeter buffer yard requirements. The categories shall be based upon the specific zoning designation of the property.

**A.** Table 7.4-1 identifies the perimeter buffer yard type required for a given development, based on the relationship between the adjacent zoning designations. Table 7.4-2 contains the required plantings and dimensions of the respective perimeter buffer yard types. The width of the perimeter buffer yard and the density of plantings increase as the difference in the nature and intensity of development in the respective adjacent zoning designations increases.

### 7.4.3 EXEMPTIONS

In addition to the exemptions as set forth in § 7.3.2, certain uses are exempt from the buffer requirements as described in this section. Exemptions include, but are not limited to the following:

- Lot or parcels on which the uses or buildings demonstrate compatible design elements and are linked to adjacent lots or buildings by a common system of sidewalks or other pedestrian walkways across property lines; and
- Lots or parcels separated by a public street right-of-way greater than 30 feet in width;
- Lots or parcels separated by a railroad right-of-way.

### 7.4.4. STANDARDS FOR PERIMETER BUFFER YARD DEVELOPMENT.

**A.** Each perimeter buffer yard can fluctuate in both width and the amount of required plant materials based on the “Unit Multiplier”. The minimum widths, plants required, and structure requirements are provided in Tables 7.4-2 through 7.4-6.

1. When a computation using the “Unit Multiplier” results in a fraction of five tenths (0.5) or greater, the planting requirements shall be rounded up to the next whole number.

**B. Plant Substitutions.** One (1) ornamental tree may be substituted for four (4) shrubs. If more than 8 feet is available, one (1) shade tree may be substituted for four (4) shrubs.

**C. Prohibited Uses.** The construction of any building or the placement of any mechanical equipment within the perimeter buffer yard is not permitted except for equipment necessary for the provision of public utilities. Signs may be placed within the buffer yard consistent with the Sign Regulations of this Ordinance. Active recreational uses, such as play fields, swimming pools, racquetball and tennis courts or other active, structured recreational uses, or circulation drives and parking lots, shall not be permitted in the perimeter buffer yard.

**D. Permitted Uses.** The following other uses may be permitted in a perimeter buffer yard provided that none of the required plant material is eliminated, the intended screening is accomplished, the total width of the buffer yard is maintained, and all other requirements of this Section are met:

- passive recreation;
- sculpture, outdoor furniture, picnic areas; pedestrian, bike or equestrian trails; golf courses,
- storm water retention basins; parks and open space

**E. Reduction in Required Perimeter Buffer Yard Permitted.** Where a dedicated perimeter buffer yard exists on an abutting property, a reduction or elimination in a perimeter buffer yard for a property to be developed may be allowed subject to the following

- the adjoining property owners have provided a written agreement restricting the use of the dedicated perimeter buffer yard to uses provided for in this Section
- maintenance of the existing perimeter buffer yard consistent with the requirements of this Section, the Administrator may approve a reduction in the required perimeter buffer yard for the property to be developed
- the “net” perimeter buffer yard satisfies the minimum perimeter buffer yard requirements of this Section. The net buffer shall include the cumulative total for both required buffers.

**F. Existing Vegetation.** Existing healthy vegetation may be counted toward required landscaping. In order to do so, the landscape plan shall indicate the type, number and size of existing plants which are sufficient to comply with the respective perimeter buffer yard. It shall not be necessary to indicate the total inventory of existing plants. Only plants required to meet the provisions of this Ordinance shall be required to be listed.

**G. Designation of Perimeter Buffer Yard as Landscaped Area.** Perimeter buffer yards shall be designated as landscaped areas on the application for development approval and as landscape easements when shown on a subdivision plat. The perimeter buffer yard shall be recorded with the title of the property as a landscape perimeter buffer yard easement.

**H. Perimeter Buffer Yard On Property Line (Residential Subdivisions).** When platting abutting lots, the applicant may dedicate a perimeter buffer yard that straddles the property line, provided the cumulative buffer width is maintained for both yards.

**I. Visual Separation.** Where complete visual separation is required, that may be accomplished through the use of landscaping which provides year-round opaque screening, earth berms, masonry walls, or fences constructed of vinyl, pressure-treated wood or other wood resistant to deterioration due to exposure to weather, moisture and insects, or a combination of two or more of these techniques

Screening must provide visual separation to a minimum of six (6) feet in height. Landscaping provided to meet the requirements of this Section must provide complete visual separation within three (3) years of planting.

**J. Exceptions.**

1. In instances where a parking lot is directly adjacent to a property line, the parking lot yard shall be used in place of the required perimeter buffer yard (unless abutting residential uses).
2. Where non-residential uses are a part of a mixed-use development, perimeter buffer yards are not required between lesser intense uses.
3. Perimeter buffer yards are not required for internal property boundaries of a planned community with mixed-uses, but shall be required around the perimeter of the project.

#### **7.4.5. ALTERNATIVE BUFFER YARD.**

In the event of unusual topography or elevation of a development site, soil or other sub-surface condition on the site, or the presence of existing vegetation, the Zoning Administrator may alter the perimeter buffer yard requirements as long as the existing features of the development site comply with the spirit and intent of Section 7.4. Such an alteration may occur only at the request of the property owner, who shall submit a plan showing existing site features that would buffer the proposed use and any additional buffer yard materials the property owner will plant or construct to buffer the proposed use. The Plan Reviewer shall not alter the requirements of the buffer yard unless the developer demonstrates that existing features and any additional buffer yard materials will buffer the proposed use as effectively as the required buffer yard. Future development or changes to the site shall be reviewed on a case by case basis to ensure the spirit and intent of this Section 7.4 is maintained. If the Zoning Administrator determines the spirit and intent



of the ordinance is no longer met, the site shall be required to meet the perimeter buffer yard requirements of Section 7.4.

**7.4.6. BERM STANDARDS.**

**A.** Berms shall be permitted as a means of meeting the required perimeter buffer yard standards providing that they:

1. Are designed and constructed with an undulating appearance which mimics as much as is practicable a natural topographical feature of the site.
2. Are fully installed, planted and stabilized prior to certificate of zoning compliance.
3. Are not permitted along public streets as a means of meeting the buffering requirements of this section.
4. Shall meet the following specifications:
  - a. Have a height of 3 feet, a minimum crown width of 8 feet, and a side slope of no greater than 3 to 1 (3:1); or
  - b. Have a height of 6 feet, a minimum crown width of 8 feet, and a side slope of no greater than 4 to 1 (4:1)
5. Are substantially planted and covered with live vegetation. No berm shall consist entirely of turf grass, mulch, or similar material.
6. Are free of structures, including fences, unless approved by the City as part of the landscaping requirements for a development site.
7. Are not used for the display of vehicles or other merchandise.
8. Are designed to prevent standing water or to impede the flow of stormwater from adjacent properties.
9. Are held and maintained by a legally constituted homeowners association if located in a residential development and shall not be used as a part of any outdoor living space by adjacent property owners within the development.


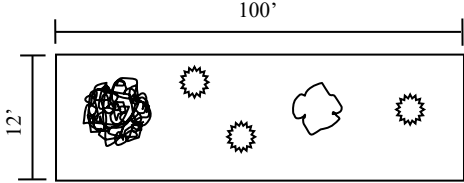




**TABLE 7.4-1 PERIMETER BUFFER YARD CHART**

<b>Perimeter Buffer Yard Types for Adjacent Zoning Districts</b>								
<b>Adjacent Zoning District</b>								
<b>Project Site Zoning District</b>	<b>Zoning District</b>	<b>AG RE RL</b>	<b>RM-1 RM-2</b>	<b>RV RC</b>	<b>O-I B-1 C-1</b>	<b>C-2 CD PID PUD TND</b>	<b>I-1 I-2</b>	
	<b>AG RE RL</b>	N/A	N/A	N/A	N/A	N/A *	N/A*	N/A*
	<b>RM-1 RM-2</b>	N/A	N/A	N/A	N/A* (1)	N/A* (2)	N/A* (3)	
	<b>RV RC</b>	1	1	1	2	3	4	
	<b>O-I B-1 C-1</b>	2	2	2	1	1	3	
	<b>C-2 CD PID PUD TND</b>	3	3	3	2	1	2	
	<b>I-1 I-2</b>	4	4	4	3	2	N/A	

\*New single-family subdivisions shall provide the required perimeter buffer yard, if they abut existing non-residential developments which were constructed before the adoption of this Ordinance and lack the required perimeter buffer yard. If an adjacent non-residential development includes the required perimeter buffer yard, none shall be required of the residential subdivision.




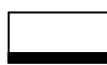
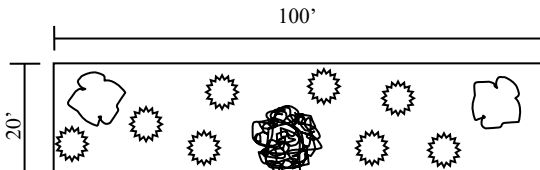


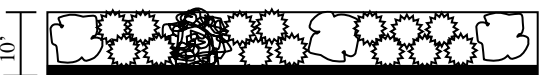
**TABLE 7.4-2  
PERIMETER BUFFER YARD  
TYPE 1**

**Unit  
Multiplier**

<b>Required Plants / Points Per 100'</b>				
Shade Trees	1		0.6	
Ornamental Trees	2			
Medium/Large Shrubs	5			
Fence (F) / Wall (W) / Berm (B)			1	

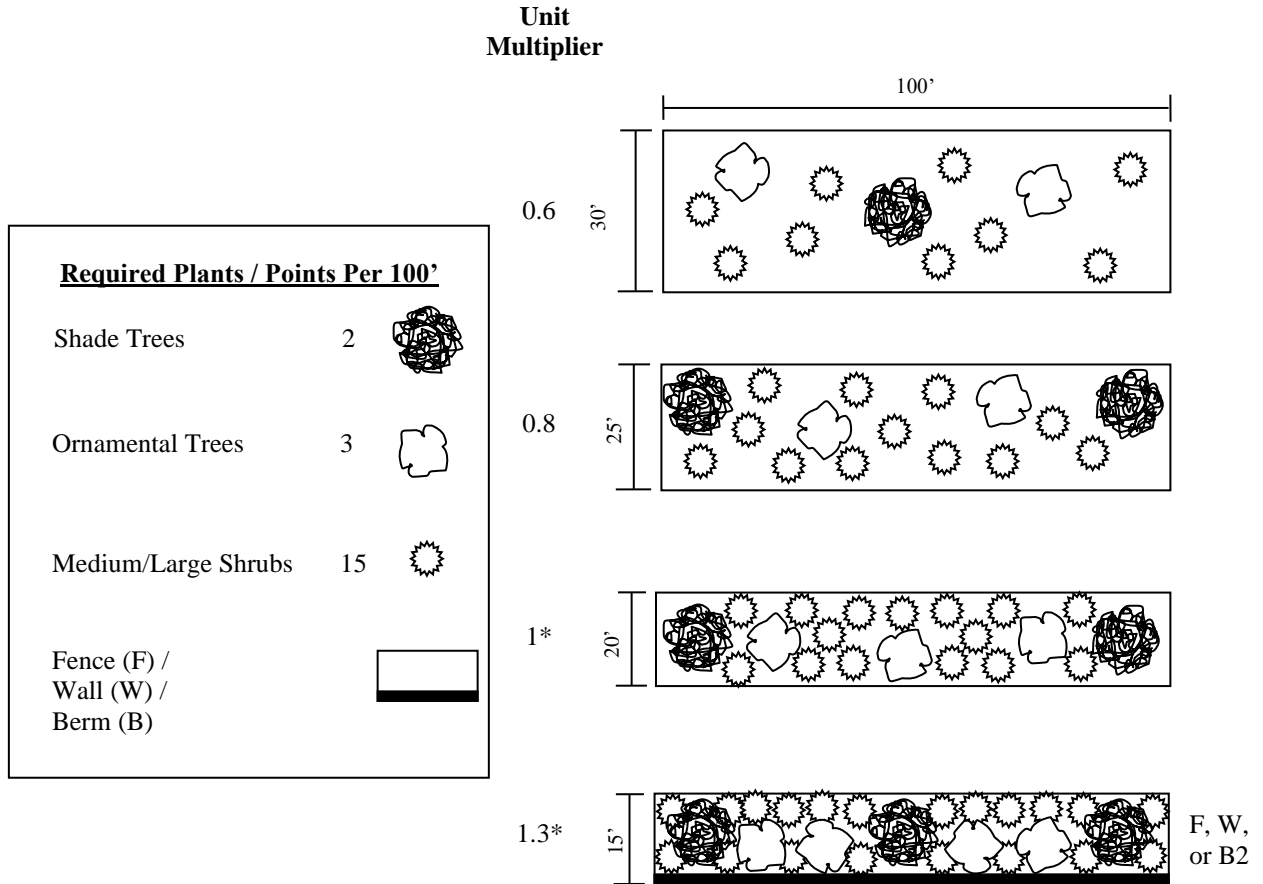
\* Fence or wall required adjacent to residential use

**TABLE 7.4-3  
PERIMETER BUFFER YARD  
TYPE 2**

		Unit Multiplier	
<p><b>Required Plants / Points Per 100'</b></p> <p>Shade Trees            1     </p> <p>Ornamental Trees       2     </p> <p>Medium/Large Shrubs   10    </p> <p>Fence (F) / Wall (W) / Berm (B)                 </p>		0.75	
		1	
		1.2*	
		1.4	
			F, W, or B1

\* Fence or wall required adjacent to residential use

TABLE 7.4-4  
**PERIMETER BUFFER YARD  
 TYPE 3**



\* Fence or wall required adjacent to residential use

TABLE 7.4-5  
 PERIMETER BUFFER YARD  
 TYPE 4

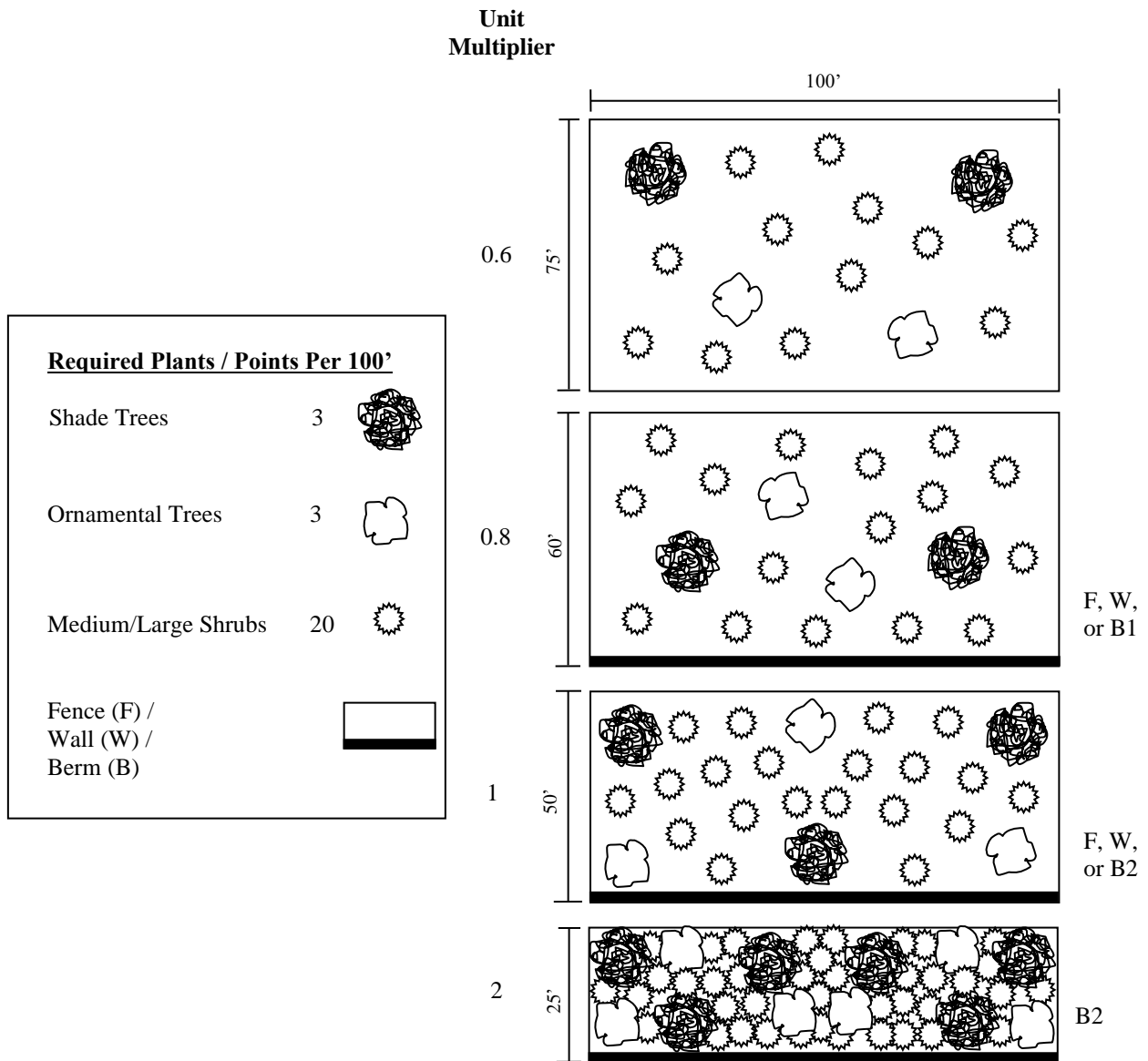
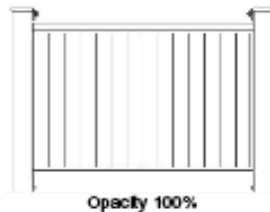


Table 7.4-6

**STRUCTURE REQUIREMENTS**

**FENCES**



<u>Symbol</u>	<u>Height</u>	<u>Materials Allowed</u>
F	6'	Brick, Stone, Concrete Pressure treated wood Vinyl Metal (chain link, sheet metal, barbed and razor wire are prohibited)
* May also be required in certain instances where abutting residential uses		

**BERMS**



<u>Symbol</u>	<u>Height</u>	<u>Material</u>	<u>Specifications</u>
B1	3'	Earth	Minimum height of 3 feet Minimum crown width of 8 feet Side slope no greater than 3:1
B2	6'	Earth	Minimum height of 6 feet Minimum crown width of 8 feet Side slope no greater than 4:1

## 7.5 BUILDING YARDS.

**7.5.1 PURPOSE AND APPLICABILITY.** The purpose of building yards is to aesthetically and visually enhance the appearance of buildings. Building yards shall be provided along the portion(s) of the building facing any adjacent off-street parking area, excluding loading/unloading areas. Minimum dimensions shall apply, and be measured, horizontally. Widths shall be measured from the respective building front wall. Where building yards turn at building corners, the length measurements determining plant quantities shall not be required to overlap. Building yards shall be of different types, based upon the size of the structure around which the building yard is to be located. The width of the building yard and the density of plantings shall increase as the size of the structure around which the building yard is to be located increases. Entrance walkways to buildings may cross building yards. The width of the entrance walkway shall not be calculated as part of the length of the building yard for purposes of determining the total required landscaping, provided, however, that the width deducted for the entrance walkway shall not exceed the width of the entrance to the building.

**7.5.2 YARD TYPES.**

There shall be four different categories of building size for purposes of determining the building yard type:

**Category 1**

Less than 2,500 Square Feet GFA (Gross Floor Area)

**Category 2**

2,500 Square Feet to 9,999 Square Feet GFA

**Category 3**

10,000 Square Feet to 99,999 Square Feet GFA

**Category 4**

100,000 Square Feet GFA and over

**7.5.2.1** Table 7.5-1 identifies the building yard required for a given development, based on the size of the structure around which the building yard is to be located, and specifies the required plantings and dimensions of the respective building yard.

EXCEPTION: Buildings located in the I-1, I-2 or CD zoning district, where the building yard is not visible from an interstate or state numbered highway, may have a reduced building yard, regardless of building size. The reduced building yard shall not be less than six (6) feet (Category 1); Building orientation and building yard location, in relation to the interstate or state numbered highway, must be clearly depicted on the required landscape/site plan to determine visibility.

**TABLE 7.5-1: BUILDING YARD LANDSCAPING REQUIREMENTS**

<b>Building Yard Category</b>	<b>Minimum Width</b>	<b>Min. Required Ornamental Trees</b>	<b>Min. Required Small or Medium Evergreen Shrubs</b>	<b>Min. Required Points per Linear Foot</b>
1	6 feet	1 per 30 lin. feet	1 per 3 linear feet	0.4
2	8 feet	1 per 30 lin. feet	1 per 3 linear feet	0.5
3	12 feet	2 per 50 lin. feet	1 per 2 linear feet	0.8
4	16 feet	2 per 50 lin. feet	1 per 2 linear feet	1.0



## 7.6 PARKING LOT YARDS.

**7.6.1 PURPOSE AND APPLICABILITY.** The purpose of parking lot yards is to aesthetically and visually enhance the appearance of parking lots. Parking lot yards shall be located around and within parking lots and shall be of different sizes, based upon the size of the respective parking lot. The size of the parking lot yard shall increase as the size of the respective parking lot increases. Minimum dimensions shall apply, and be measured, horizontally. The requirements of this section shall apply to all new and expanded parking lots. Lots with less than 5 total parking spaces shall be exempt from the parking area landscaping requirements of this section.

### 7.6.2 DESIGN CRITERIA.

**A. Minimum Perimeter Landscaping Requirements.** Screening shall be provided by installing along the perimeter of the parking lot a continuous row of evergreen shrubs with a maximum separation of 6 feet on center (minimum 2 foot height at installation with an expected height of 3-5 feet at maturity) and/or a masonry wall 3 feet to 5 feet in height. In addition, shade trees shall be planted at a rate of 40 feet on center (see Figure 7.7-3 for reference).

1. Existing vegetation which meets, in whole or in part, the purposes of perimeter landscaping above, may be applied toward the requirements.
2. Areas lying under overhead power lines shall use ornamental trees in the place of shade trees. In such instances, ornamental trees shall be planted at a rate of 20 feet on center.

**B. Minimum Interior Landscaping Requirements.** The following requirements shall be applied to the interior of all parking lots as required by Section 7.3.2 (A):

1. Minimum Quantity of Landscape Plantings. Interior landscaping of parking lots shall consist of shade trees placed such that each section of parking (maximum of 35 spaces per section) is enclosed by trees (or building wall) with a maximum spacing of 40 feet on center (see Figure 7.7-3 for reference).

**2. Minimum Planting Area Dimensional Requirements.** Planting areas and islands shall be not less than nine (9) feet in width and shall include a minimum of 200 square feet of open planting area. Shrubs, or ground covers may be planted within the required open planting area for trees without increasing the area. Planting areas and islands shall have a minimum prepared depth of 18 inches. Landscaped areas shall be covered with mulch, ground cover or grass between shrub and tree plantings.

**3. Curbing Required.** All landscaped areas shall be protected from vehicular encroachment by concrete curb and gutter.

**4. Location of Trees.** Required trees shall be located within parking lots as tree islands, medians, at the end of parking bays, traffic delineators, or between rows or parking spaces in a manner such that no parking space is located more than 60 feet from a parking lot tree.

**5. Structures and Mechanical Equipment.** Dumpsters shall be set on a concrete pad and shall be screened with an opaque fence or wall of sufficient height, as required in Section 11.1.2.2.2, to screen the container and any appurtenances. Trash containers shall not be located abutting residential property. All mechanical equipment shall be screened from view with an opaque screen.

### 7.6.3. EXCEPTIONS.

In instances where the strict application of this Section will seriously increase stormwater runoff, create ponding of water so as to impair the habitability of buildings, or interfere with traffic circulation, the Administrator may permit a portion of the required landscaping to be located in other planting yard locations on the site. The relocated planting yard landscaping shall not be used to meet the requirements of other required planting yards.

## 7.7 STREET YARDS.

**A. PURPOSE AND APPLICABILITY.** The purpose of street yards is to provide continuity of vegetation along the street right-of-way, creating a pleasing view from the road, and establishing a transition from vehicular thoroughfares, pedestrian areas or the built environment. Minimum dimensions shall apply, and be measured, horizontally. Widths shall be measured from the respective right-of-way/property line. Where street yards turn at street corners, the length measurements determining plant quantities shall not be required to overlap. Street yards shall be of different types, based upon the zoning of the property. The width of the street yard and the density of plantings shall increase as the intensity of the development increases.

1. New single-family home subdivisions shall require street yards, provided, however, that the street yard may be located in the right-of-way in the required planting strip between the curb and the sidewalk in accordance with the design specifications in Appendix B of this Ordinance.
2. In areas where the parking lot is directly adjacent to the street, parking lot yards shall take the place of required street yards.

### B. YARD TYPE.

There shall be five (5) different categories used to determine the street yard type. The categories shall be based upon the specific zoning designation of the property as follows:

#### Class 1

- AG Agricultural
- RE Rural Estate
- RL Residential Low Density
- RM-1 Residential Medium Density
- RM-2 Residential Medium Density

#### Class 2

- RV Residential Village
- RC Residential Compact

#### Class 3

- O-I Office-Institutional
- B-1 Neighborhood Commercial/Office
- C-1 Light Commercial and Office

#### Class 4

- C-2 General Commercial
- CD Campus Development
- PID Public Interest District
- PUD Planned Unit Development
- TND Traditional Neighborhood Development

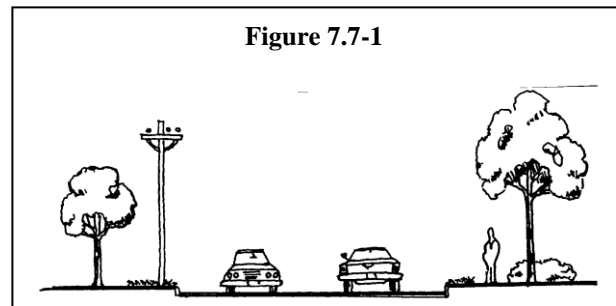
#### Class 5

- I-1 Light Industrial
- I-2 Heavy Industrial

1. Table 7.7-1 contains the required plantings and dimensions of the respective street yard types.

### C. DESIGN CONSIDERATIONS.

1. **Overhead Power Lines.** The presence of overhead power lines requires street yard trees to be ornamental trees. Larger shade tree varieties are encouraged where overhead power lines are not present. (see Fig. 7.7-1, below).



2. **Site Triangles.** Corner lots, and in situations where driveways and alleys intersect with street rights-of-way, shall be kept free of landscaping and plant materials that interfere with the vision of a motorist or pedestrian. The triangular area (site triangle) of corner lots, driveways and alleyways abutting rights-of-way shall conform to the requirements of Appendix C of this ordinance.

TABLE 7.7-1: STREET YARD LANDSCAPING REQUIREMENTS

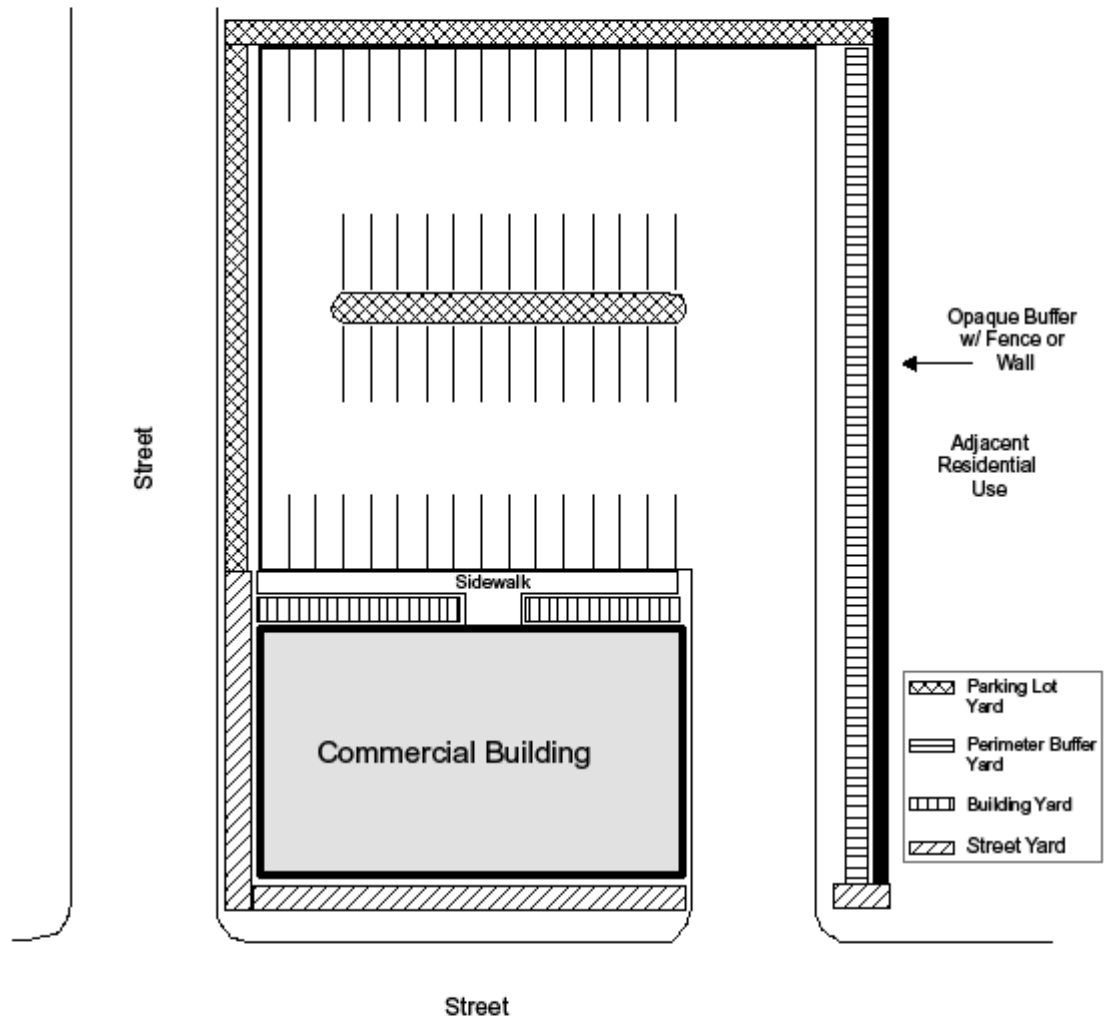
Zoning District	Minimum Width	Min. Required Shade* or Ornamental Trees	Min. Required Points per Linear Foot
AG, RE, RL, RM-1, RM-2**	6'	1 per 100' or 2 per 100'	---
RV, RC	6'	1 per 100' or 2 per 100'	---
O-I, B-1, C-1	8'	1 per 75' or 2 per 75'	0.4
C-2, CD, PID, PUD, TND	8'	1 per 50' or 2 per 50'	0.5
I-1, I-2	12'	1 per 50' or 2 per 50'	0.6

\*Shade trees may not be planted under over-head power lines.

\*\*This standard shall only apply to new subdivision streets and along existing streets with curb and gutter that provides access to the subdivision..

Figure 7.7-2  
**Typical Planting Yard Illustration**

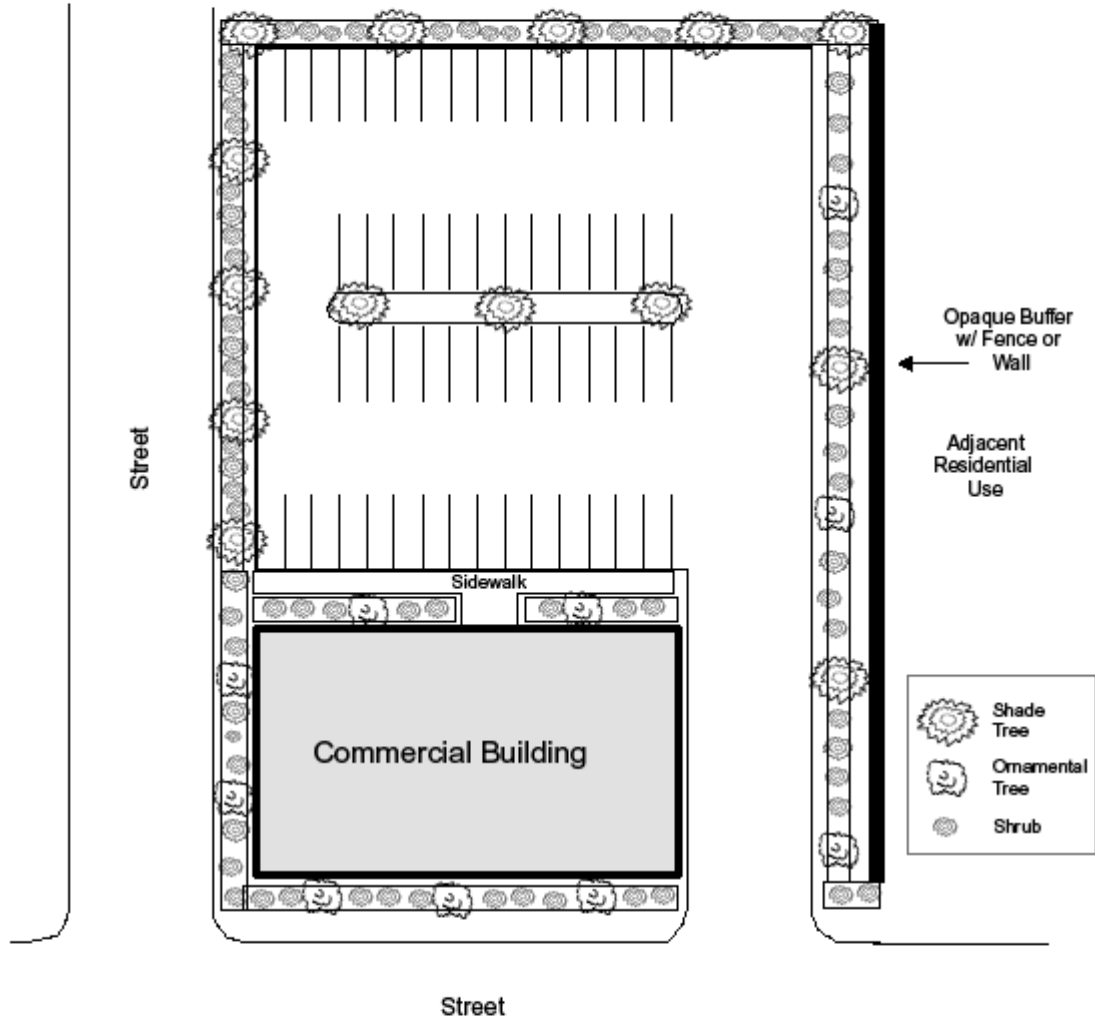
Adjacent Commercial Use



- Parking Lot Yard - To enhance the aesthetic appearance of parking lots
- Perimeter Buffer Yard - To separate and buffer different land uses
- Street Yard - To establish a coordinated pattern of tree plantings and other landscaping along streets
- Building Yard - To enhance the aesthetic appearance of buildings

Figure 7.7-3  
**Typical Planting Yard Illustration**

Adjacent Commercial Use



- Planting Yards - Commercial abutting residential and commercial
- Parking Lot Yard - Shade trees planted a maximum of 40 ft. on center;  
 Continuous row of shrubs planted a maximum of 6 ft. on center
- Perimeter Buffer Yard - Type 4 between commercial and adjacent residential use
- Street Yard - Class 4 (areas of parking lot abutting the street require a parking lot yard but no street yard)
- Building Yard - Classification dependent of building square footage. Required between building and sidewalk

## 7.8. SPECIFICATIONS FOR PLANT MATERIALS AND INSTALLATION.

### A. SIZE STANDARDS.

The minimum allowable plant size for new installations shall be as set forth herein. Due to the variation between genus and species, the caliper or height necessary for newly installed plant materials may vary. As a general rule, the caliper or diameter of trees shall be measured 6 inches from the ground level up to a 4-inch caliper diameter and at 12 inches for 4-inch caliper diameter or greater. The height of shrubs shall be a minimum of 24 inches as measured at ground level to the top of the densest portion of the top of the shrub or hedge.

1. **Shade Trees.** Shade trees shall measure a minimum 2 to 2.5-inches in caliper, and 10 to 12 feet in height at the time of planting.
2. **Ornamental Trees.** Ornamental trees shall measure a minimum 1.5 to 2-inches in caliper for single-stem trees or 1 to 1.5-inches in caliper for multi-stem trees, and 6 to 8 feet in height at the time of planting.
3. **Large Shrubs.** Large shrubs, normally planted for screening, shall measure a minimum of 3 to 3½ feet in height at the time of planting. Shrubs planted for screening purposes shall form the required density to block visibility within three (3) years from the date of installation.
4. **Small Shrubs.** Small shrubs shall measure a minimum of 18 to 24 inches in spread and/or height at the time of planting. A mix of deciduous and evergreen shrubs is encouraged in order to obtain a variety of color and texture throughout the year.
5. **Ground Cover (Organic).** Organic ground covers shall provide 100 percent coverage on the ground within three (3) years of installation. Except for seeding, grass or turf shall provide 100 percent coverage upon installation. Organic mulch may be used around plantings to maintain soil moisture and prevent the growth of weeds.
6. **Ground Cover (Inorganic).** Inorganic ground covers consisting of river rock or similar materials may be used provided they do not exceed 20 percent coverage of the required landscape planting area.

### B. SELECTION OF PLANT MATERIALS.

All plant material, except Ground Covers, shall be selected from Table 7.8-1 Acceptable Plant Species. Consideration shall be given to the environmental conditions of the site, such as soil, topography, climate, microclimate, pattern of sun movement, prevailing winds and precipitation, and air movement to ensure that plant materials will be established successfully. Tree selection for street yards, or other locations within utility rights-of-way, shall consider the presence or planned addition of overhead utility lines. Such trees shall be small and medium trees that are pest- and disease-resistant and are slow growing.

1. **Substitution of Plant Materials.** The Administrator shall have the authority to approve the installation of comparable substitution plant materials to satisfy the requirements of the approved landscape plan when the approved plants and landscape materials are not available at the time that installations are to occur, or when other unforeseen conditions prevent the use of the exact materials shown on the approved landscape plan. Significant changes that require the replacement and relocation of more than 25 percent of the plant materials shall require a new landscape plan and approval through the plan review process.
2. **Mix of Genus and Species Encouraged.** Except for Street Yard trees (§ 7.7), a mix of genus and species of trees, shrubs, ground covering, perennials and annuals is encouraged in order to avoid potential loss due to infectious disease, blight, or insect infestation. Street Yard Trees should retained a reasonably uniform pattern along both sides of a street within the same block or corridor.

### C. STANDARDS FOR INSTALLATION OF LANDSCAPING MATERIALS.

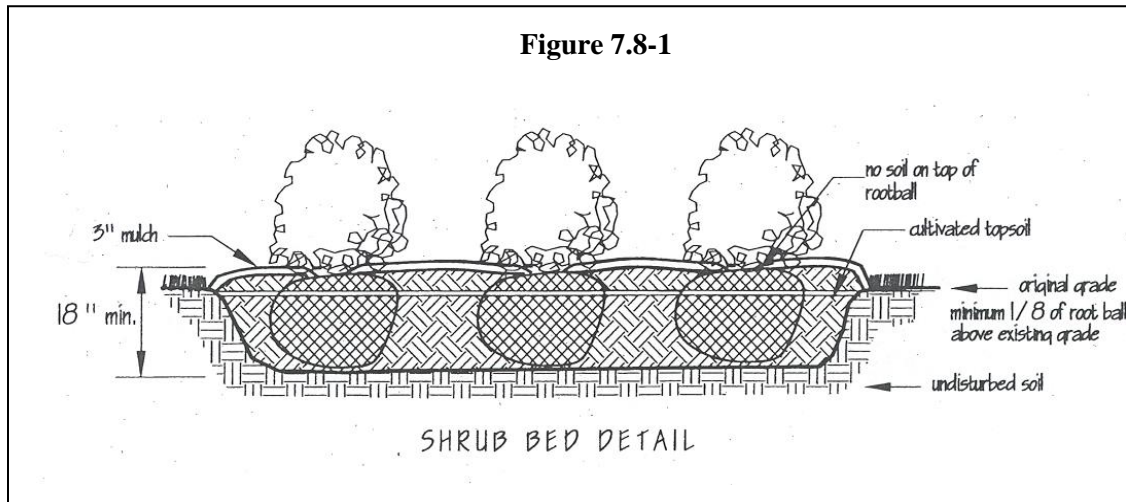
1. **Plant Pit, Hedge Trench and Shrub Bed Preparation.** Preparation of plant pits, hedge trenches and shrub beds shall be done in conformance with Leaflet No: 601, *Planting Techniques for Trees and Shrubs*, North Carolina Cooperative Extension Service, (1997), which is

incorporated by reference hereto and the following procedures:

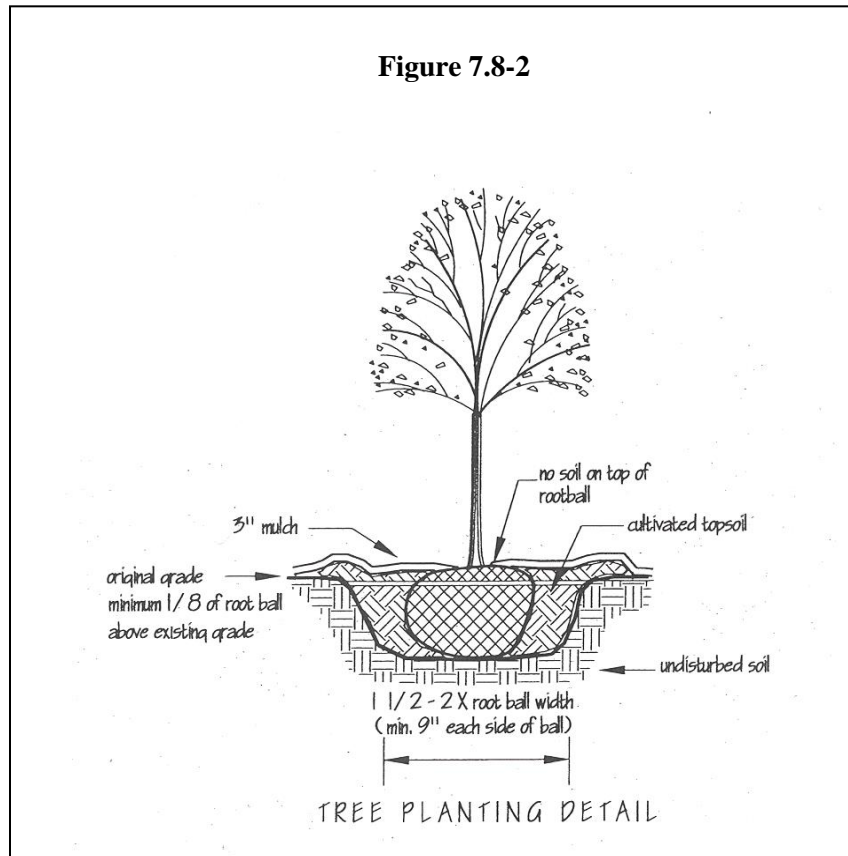
**2. Site Maintenance During Construction.**

Equipment, wood and similar objects shall not be stored or laid upon the critical root zone area

during or after construction. Chemicals and liquid construction wastes shall not be dumped, poured or spilled in the area of any plant materials. Washing of concrete mixers shall not be done near the site.



- Excavate pits with vertical sides approximately the depth of the rootball and with a circular outline which shall be approximately 2 to 3 times wider than the rootball. For planting pits, beds or trenches which are to be developed where paving existed previously, all paving and base stone shall be removed as part of the excavation.
- Remove rock, debris, inorganic compositions and chemical residues from soil in planting pits.
- Cultivate shrub planting pits to a minimum depth of 18 inches. Ground cover and vine planting pits shall be cultivated to a minimum depth of 12 inches.
- Install root ball on a flat, compact surface of undisturbed soil and remove any inorganic ties on top of the rootball. Remove the top 1/3 of wire baskets.
- Leave the top of the tree root ball exposed, to be covered by mulch only.
- Finish the planting with a minimum 3-inch layer of mulch of pine needles, tree bark or similar materials distributed around the tree trunk.
- Prepare soil, plant, fertilize, mulch, and control insects and disease in conformance with the North Carolina Cooperative Extension Service, *Landscape Management Calendar*, which is incorporated by reference hereto.
- Re-establish native plants salvaged from the site or relocated as a result of grading in conformance with the recommendations of the North Carolina Cooperative Extension Service.
- Support trees and shrubs adequately when planted in order to avoid interference with their typical growing patterns.



#### D. GENERAL MAINTENANCE OF LANDSCAPING AND SITE.

1. The applicant, property owner, and/or subsequent or successor owner, and their agents, including tenants, shall be jointly and severally responsible for maintenance of landscaping on the property on a continuing basis for the life of the development as specified in this Section. All required landscaping shall be maintained in a neat and orderly manner at all times. This shall include, but not be limited to, mowing, edging, pruning, fertilizing, watering, weeding and other activities common to the maintenance of landscaping. Landscaped areas shall be kept free of trash, litter, weeds and other materials or plants not a part of the landscaping.

2. Required landscaping shall be maintained in perpetuity, in accordance with § 7.8.4.1. After initial installation, it shall be the responsibility of the owner and/or tenant of the property upon

which the landscaping is installed to maintain all required plantings in a healthy, vigorous and attractive state, or replace dead, diseased or deteriorated plants. Within residential subdivisions, the maintenance of street trees in planting strips between curbs and sidewalks which are within the street right-of-way shall be the responsibility of the respective homeowners association, or the abutting homeowner, in the absence of a homeowners association.

3. If after three (3) years following installation of required screening plant materials, the plants have not formed an effective screen, or if an effective screen is not maintained, the Administrator may require that another type of screen be added or additional plantings be installed. Landscaped areas shall require protection from vehicular encroachment. The Administrator shall inspect all landscaping and no Certificate of Occupancy or similar authorization



will be issued unless the landscaping meets the requirements of this Ordinance.

4. All required plant material shall be maintained in a healthy, growing condition as is appropriate for the season. Plant materials which exhibit evidence of insect pests, disease and/or damage shall be appropriately treated. Dead plants shall be promptly removed and replaced within the next planting season after removal. If replacement is necessary, all plants and other non-living landscape materials shall be equal in size, density and appearance as originally required at the time of the approval of the development permit.

**E. UTILITY RIGHT-OF-WAY TREE TRIMMING.**

Utility crews and companies are encouraged to do directional pruning of branches interfering with utility lines to prevent damage, disfigurement and heavy suckering and reduce future pruning needs. Utility tree trimmers are encouraged to remove branches to laterals in order to direct tree growth away from utility lines. Directional pruning includes top trimming, side trimming, under trimming and through trimming.

TABLE 7.8-1 ACCEPTABLE PLANT SPECIES

The following list of plant species includes shade trees, ornamental trees and shrubs which are acceptable for landscaping in this area of North Carolina. A few species are labeled as “discouraged” due to marginal hardiness in this zone, to disease susceptibility, or to overuse.

<b>SMALL SHRUBS</b>			
<b>Botanical Name</b>	<b>Growth Rate</b>	<b>Height</b>	<b>Common Name</b>
<i>Aucuba jacobinica</i> *	Slow	3-4 ft.	Dwarf Aucuba
<i>Azalea hybrida</i> *	Slow	3.5 ft.	Glennedale Azalea
<i>Berberis thunbergii</i> *	Medium	3-5 ft.	Japanese Barberry
<i>Buxus microphylla</i> *	Slow	3-4 ft.	Japanese Boxwood
<i>Deutzia gracilis</i> *	Medium	2-4 ft.	Slender Deutzia
<i>Gardenia radicans</i> *	Slow	2-4 ft.	Creeping Gardenia
<i>Hydrangea arborescens</i> *	Fast	3-5 ft.	‘Annabelle’ Smooth Hydrangea
<i>Hypericum hypericoides</i>	Medium	2-3 ft.	St. Andrew’s Cross
<i>Ilex cornuta</i> *	Slow	3-4 ft.	‘Carissa’ Holly
<i>Ilex cornuta</i> *	Slow	3-4 ft.	‘Rotunda’ Dwarf Chinese Holly
<i>Ilex crenata</i> *	Medium	3-4 ft.	‘Compacta’ Compact Holly
<i>Ilex crenata</i> *	Medium	3-4 ft.	‘Green Lustre’ Holly
<i>Ilex vomitoria</i> *	Slow	3-4 ft.	‘Nana’ Dwarf Yaupon Holly
<i>Itea virginica</i>	Medium	3-5 ft.	Virginia Sweetspire
<i>Jasminum nudiflorum</i> *	Fast	3-4 ft.	Winter Jasmine
<i>Juniperus davurica</i>	Medium	2 ft.	‘Expansa’ Parsons Juniper
<i>Juniperus horizontalis</i>	Slow	2 ft.	‘Plumosa’ Andorra Juniper
<i>Kerria japonica</i> *	Medium	3-5 ft.	Japanese Kerria
<i>Lonicera pileata</i> *	Medium	2-3 ft.	Privet Honeysuckle
<i>Nandina domestica</i> *	Medium	2-3 ft.	Nandina
<i>Pittosporum tobira</i> *	Medium	3-4 ft.	‘Nana’ Dwarf Pittosporum
<i>Pyracantha koidzumii</i> *	Medium	2-3 ft.	‘Santa Cruz’
<i>Raphiolepis indica</i> *	Slow	2-4 ft.	Indian Hawthorne
<i>Spiraea x burmalda</i>	Fast	2-3 ft.	Bumald Spiraea
<i>Spiraea nipponica</i>	Fast	3-5 ft.	‘Snowmound’ Spiraea
<i>Spiraea thunbergii</i>	Medium	3-4 ft.	Thunberg Spiraea
*Denotes Evergreen Shrub			
<b>MEDIUM SHRUBS</b>			
<b>Botanical Name</b>	<b>Growth Rate</b>	<b>Height</b>	<b>Common Name</b>
<i>Abelia x grandiflora</i> *	Slow	4-5 ft.	Abelia
<i>Aucubajaponica</i> *	Medium	6-8 ft.	Japanese Aucuba
<i>Azalea indica</i> *	Medium	5-8 ft.	Southern Indian Azalea
<i>Berberis julianae</i> *	Slow	5-6 ft.	Wintergreen Barberry
<i>Cytissus scoparius</i> *	Medium	5-6 ft.	Scotch Broom
<i>Forsythia intermedia</i>	Fast	5-7 ft.	Border Forsythia (Hybrid)
<i>Hydrangea macrophylla</i> *	Fast	5-8 ft.	‘Big Leaf’ Hydrangea
<i>Hydrangea quercifolia</i>	Medium	6-8 ft.	‘Oak Leaf’ Hydrangea
<i>Ilex cornuta</i> *	Slow	5-6 ft.	‘Burfodii Nana’ Dwarf Buford Holly
<i>Ilex glabra</i> *	Medium	6-8 ft.	Inkberry Holly
<i>Lespedeza thunbergii</i>	Fast	5-6 ft.	Thunberg Lespedeza
<i>Lonicera fragrantissima</i>	Medium	6-10 ft.	Sweet Breath of Spring
<i>Mahonia bealei</i> *	Medium	6-7 ft.	Leatherleaf Mahonia
<i>Nandina domestica</i> *	Medium	5-6 ft.	Nandia or Heavenly Bamboo
<i>Spiraea prunifolia</i>	Medium	5-7 ft.	‘Plena’ Bridalwreath Spiraea

<i>Spiraea vanhouttei</i>	Medium	5-7 ft.	Vanhoutte Spirea
<i>Vaccinium corymbosum</i>	Medium	6-12 ft.	Smooth Bush Blueberry
<i>Vaccinium fuscatum</i>	Medium	6-12 ft.	Black Highbush Blueberry
<i>Yucca filamentosa</i> *	Medium	5-6 ft.	Adam's Needle Yucca

\*Denotes Evergreen Shrub

### LARGE SHRUBS

<u>Botanical Name</u>	<u>Growth Rate</u>	<u>Height</u>	<u>Common Name</u>
<i>Buddleia davidii</i>	Fast	10-15 ft.	Butterfly Bush
<i>Calycanthus floridus</i>	Medium	8-12 ft.	Sweetshrub
<i>Camellia japonica</i> *	Slow	8-10 ft.	Camellia
<i>Camellia sansanqua</i> *	Slow	8-10 ft.	Sansanqua Camellia
<i>Chaenomeles speciosa</i>	Medium	8-10 ft.	Flowering Quince
<i>Cupressocyparis lylandii</i> *	Fast	60-70 ft.	Leyland Cypress
<i>Elaeagnus x ebbingii</i> *	Fast	8-10 ft.	Elaeagnus
<i>Eunonymus alatus</i>	Slow	10-15 ft.	Winged Burning Bush
<i>Hamamllis vernalis</i>	Medium	8-12 ft.	Vernal Witchhazel
<i>Hibiscus syriacus</i>	Medium	8-12 ft.	Shrub Althea (Rose of Sharon)
<i>Ilex x attenuate</i> *	Slow	8-10 ft.	'Fosteri' Foster Holly
<i>Ilex cornuta</i> *	Medium	8-10 ft.	'Burfordii' Buford Holly
<i>Ilex vomitoria</i> *	Medium	8-12 ft.	Yaupon Holly
<i>Juniperus chinensis</i>	Fast	12-15 ft.	'Hetzi' Hetz Juniper
<i>Juniperus chinensis</i>	Fast	8-10 ft.	'Pfitzeriana' Pfitzer Juniper
<i>Leucothoe popululifolia</i> *	Medium	8-12 ft.	Fetterbush
<i>Ligustrum japonicum</i> *	Medium	8-12 ft.	Japanese Privet
<i>Ligustrum lucidum</i> *	Medium	10-20 ft.	Waxleaf Privet
<i>Ligustrum sinense</i> *	Medium	10-15 ft.	Chinese Privet
<i>Ligustrum vulgare</i> *	Medium	10-15 ft.	European Privet
<i>Ligustrum x vicaryi</i> *	Medium	10-12 ft.	Vicary Golden Privet
<i>Magnolia stellata</i>	Medium	10-15 ft.	Star Magnolia
<i>Myrica cerifera</i> *	Medium	8-10 ft.	Southern Waxmyrtle
<i>Osmanthus fortunei</i> *	Slow	8-10 ft.	Fortunes Osmanthus
<i>Philadelphus coronarius</i>	Medium	10-12 ft.	Sweet Mockorange
<i>Pittosporum tobira</i> *	Fast	8-10 ft.	Japanese Pittosporum
<i>Podocarpus macrophyllus</i> *	Medium	8-12 ft.	Southern Yew
<i>Pyracantha coccinea</i> *	Fast	10-12 ft.	Scarlett Firethorn
<i>Rhus typhina</i>	Fast	15-25 ft.	Staghorn Sumac
<i>Ternstoemia gymnathera</i> *	Slow	8-10 ft.	Cleyera
<i>Viburnum lantana</i>	Medium	10-15 ft.	Wayfaringtree, Viburnum
<i>Viburnum opulus</i>	Medium	8-12 ft.	European Cranberrybush, Viburnum
<i>Viburnum plicatum</i>	Medium	8-10 ft.	Doublefile Viburnum
<i>Viburnum x pragnese</i>	Medium	10-12 ft.	Prague Viburnum

\* Denotes Evergreen Shrub

### ORNAMENTAL TREES

<u>Botanical Name</u>	<u>Growth Rate</u>	<u>Height</u>	<u>Common Name</u>
<i>Acer buergeranum</i>	Slow	20-25 ft.	Trident Maple
<i>Acer palmatum</i>	Medium	20-25 ft.	Japanese Maple
<i>Arbutus unedo</i>	Slow	15-30 ft.	Strawberry Tree
<i>Castanea pumila</i>	Medium	20-25 ft.	Chinquapin
<i>Cercis canadensis</i>	Medium	25-30 ft.	Eastern Redbud
<i>Chionanthus virginicus</i>	Slow	10-20 ft.	Fringe Tree or Grancy Graybeard
<i>Continus coggyria</i>	Medium	10-15 ft.	Common Smoketree

<i>Cornus florida</i>	Medium	15-25 ft.	Flowering Dogwood
<i>Cornus kousa</i>	Medium	15-25 ft.	Kousa Dogwood
<i>Crataegus phaenopyrum</i>	Medium	25-30 ft.	Washington Hawthorn
<i>Cupressocyparis leylandii</i>	Fast	60-70 ft.	Leyland Cypress
<i>Eriobotrya Japonica*</i>	Medium	10-20 ft.	Loquat
<i>Halesia carolina</i>	Medium	20-30 ft.	Carolina Silverbell
<i>Ilex decidua</i>	Medium	25-30 ft.	Possumhaw Holly
<i>Ilex latifolia*</i>	Medium	20-25 ft.	Lusterleaf Holly
<i>Ilex opaca*</i>	Medium	20-30 ft.	American Holly
<i>Ilex x attenuate*</i>	Medium	25-30 ft.	Savannah Holly
<i>Ilex x 'Nellie R. Stevens'*</i>	Medium	15-25 ft.	'Nellie R. Stevens' Holly
<i>Koelreutaria paniculata</i>	Medium	20-30 ft.	Golden Rain-tree
<i>Lagerstroemia indica</i>	Fast	20-30 ft.	Crape Myrtle
<i>Maclura promifera</i>	Fast	20-30 ft.	Osage-orange
<i>Magnolia x soulangiana</i>	Medium	20-30 ft.	Saucer Magnolia
<i>Magnolia stellata</i>	Medium	15-20 ft.	Star Magnolia
<i>Malus hybrids</i>	Medium	15-30 ft.	Flowering Crabapple
<i>Malus x domestica</i>	Fast	10-25 ft.	Apple
<i>Oxydendrum arboreum</i>	Medium	25-30 ft.	Sourwood
<i>Pinus virginiana*</i>	Slow	25-30 ft.	Virginia Pine
<i>Prunus avium</i>	Medium	10-25 ft.	Bing Cherry
<i>Prunus armeniaca</i>	Fast	15-20 ft.	Moorpark Apricot
<i>Prunus caroliniana*</i>	Fast	20-30 ft.	Carolina Cherry Laurel
<i>Prunus cerasifera pissardii</i>	Medium	20-25 ft.	Purpleleaf Plum
<i>Prunus persica</i>	Fast	15-25 ft.	Peach
<i>Prunus serrulata</i>	Medium	20-30 ft.	Japanese Flowering Cherry
<i>Prunus subhirtella pendula</i>	Medium	10-15 ft.	Weeping Cherry
<i>Prunus x yedoensis</i>	Medium	10-15 ft.	Yoshino Cherry
<i>Pyrus calleryana</i>	Medium	35-40 ft.	Bradford Pear
<i>Pyrus communis</i>	Fast	12-20 ft.	Common Pear
<i>Vitex agnuscastus</i>	Medium	15-20 ft.	Chaste Tree

\* Denotes Evergreen Tree

**SHADE TREES**

<b><u>Botanical Name</u></b>	<b><u>Growth Rate</u></b>	<b><u>Height</u></b>	<b><u>Common Name</u></b>
<i>Acer floridanum</i>	Medium	40-50 ft.	Florida Maple or Southern Sugar Maple
<i>Acer rubrum</i>	Medium	40-50 ft.	Red Maple
<i>Acer saccharum</i>	Medium	60-80 ft.	Sugar Maple
<i>Betula nigra</i>	Fast	40-70 ft.	River Birch
<i>Carya illinoensis</i>	Medium	50-60 ft.	Pecan
<i>Castanea mollissima</i>	Medium	40-60 ft.	Chinese Chestnut
<i>Cunninghamia lanceolata*</i>	Slow	30-75 ft.	Common China Fir
<i>Cupressocyparis leylandii</i>	Fast	60-70 ft.	Leland Cypress
<i>Diospyros virginiana</i>	Medium	30-60 ft.	Persimmon
<i>Fagus grandiflora</i>	Slow	50-70 ft.	American Beech
<i>Franxius pennsylvanica</i>	Medium	50-60 ft.	Green Ash
<i>Ginko biloba</i>	Slow	50-70 ft.	Ginko or Maiden Tree
<i>Juglans nigra</i>	Medium	50-75 ft.	Black Walnut
<i>Juniperus virginiana</i>	Medium	40-50 ft.	Eastern Red Cedar
<i>Liriodendron tulipifera</i>	Fast	70-90 ft.	Tuliptree (Yellow Poplar)
<i>Liquidambar styraciflua</i>	Fast	60-75 ft.	American Sweetgum
<i>Magnolia grandiflora*</i>	Slow	60-80 ft.	Southern Magnolia
<i>Metasequoia glyptosfroboides</i>	Fast	40-50 ft.	Dawn Redwood

<i>Pinus echinata*</i>	Fast	70-80 ft.	Short Leaf Pine
<i>Pinus elliotii*</i>	Fast	80-100 ft.	Slash Pine
<i>Pinus taeda*</i>	Fast	80-100 ft.	Loblolly Pine
<i>Quercus acutissima</i>	Medium	35-45 ft.	Sawtooth Oak
<i>Quercus falcata</i>	Medium	70-80 ft.	Southern Red Oak
<i>Quercus nigra</i>	Medium	80-90 ft.	Water Oak
<i>Quercus palustris</i>	Medium	70-80 ft.	Pin Oak
<i>Quercus phellos</i>	Medium	80-100 ft.	Willow Oak
<i>Quercus shumardii</i>	Medium	40-60 ft.	Shumard Oak
<i>Quercus virginiana*</i>	Medium	60-80 ft.	Live Oak
<i>Taxodium distichum</i>	Medium	50-70 ft.	Common Bald Cypress
<i>Ulmus parvifolia</i>	Fast	40-50 ft.	True Chinese Elm (Lacebark Elm)
<i>Zelkova serrata</i>	Fast	50-80 ft.	Japanese Zelkova

\* Denotes Evergreen Tree

**ARTICLE 8  
OFF-STREET PARKING AND PRIVATE  
DRIVEWAY STANDARDS**

*TABLE OF CONTENTS*

<b>SECTION</b>	<b>PAGE</b>
<b>8.1 GENERAL STANDARDS.....</b>	<b>8-2</b>
<b>8.2 PRIVATE DRIVEWAY PROVISIONS.....</b>	<b>8-5</b>
<b>8.3 OFF-STREET PARKING STANDARDS.....</b>	<b>8-6</b>
<b>8.4 OFF-STREET LOADING AND UNLOADING AREA STANDARDS.....</b>	<b>8-14</b>

## 8.1. <sup>(2)</sup>GENERAL STANDARDS.

### 8.1.1. APPLICABILITY

**A.** The provisions of this Section shall apply to any application for Zoning Clearance or Site Plan approval.

1. New Development – Unless otherwise expressly stated in this section, the <sup>(3)</sup>standards of this Article shall apply to all new development, as defined in Appendix A of this Ordinance.
2. Additions and Expansions – Unless otherwise expressly stated in this section, the <sup>(3)</sup>standards of this Article shall apply to any addition or expansion of an existing structure, except that the requirements of Section 8.1.2.K. shall not apply when the addition of heated floor area is less than or equal to 20% of existing heated floor area or for an expansion of parking or loading areas less than or equal to 40% of the existing parking or loading area square footage. Additional off-street parking and loading spaces shall be required only to serve the addition or expansion area.
3. Change <sup>(3)</sup>in Use – Unless otherwise expressly stated in this section, the standards of this Article shall apply to any change in use, as defined by Appendix A of this Ordinance, except that a change in use resulting in an increase of less than or equal to 40% in required off-street parking and/or loading area shall not require compliance with Section 8.1.2.K. Additional off-street parking or loading spaces shall be required only in proportion to the extent of the change in use.

### **B. Exemption.**

The standards of this Article 8 shall not apply to:

1. Detached single-family, duplex, or triplex dwellings on individual lots of record (except that such dwellings shall conform to the requirements of § 8.1.3);

**C.** Parking areas which constitute the Principal Use of a Site shall comply with the provisions of § 8.1.2(A) – 8.1.2(F) hereto, but not the minimum number of spaces as required in § 8.3.1.

### 8.1.2. <sup>(1)</sup>GENERAL DESIGN STANDARDS.

**A. Location** - Required off-street parking area(s) shall be provided on the same parcel as the principal structure or use, unless shared parking is provided as set forth in § 8.3.1(I) of this Ordinance.

1. No parking spaces shall be allowed in a required street yard or buffer yard as required in Article 7.

**B. Landscaping** – Landscaping shall be required in accordance with Article 7 Landscaping and Buffering Standards.

**C. Exterior Lighting** - Lighting sources shall be designed and constructed so as to direct light away from public rights-of-way and residentially zoned or developed areas.

**D. Paving Required** - All required parking and vehicular traffic surfaces shall be graded for drainage in accordance with § 9.2 Stormwater Control and shall be surfaced with concrete or bituminous asphalt pavement except as allowed by § 8.1.2(E) and 8.1.2(F), below. Alternative materials may be approved by the Administrator. Alternative materials shall only be considered if such material(s) exhibits equivalent load bearing and wear characteristics as concrete or bituminous asphalt. In making such a determination, the Administrator may consult the Public Works Director or other persons with knowledge of paving materials. All surfaces shall be maintained in sound condition free of weeds, dust, trash and debris.

**E. Overflow Parking** - Overflow parking areas, event parking areas and/or low-traffic storage yards shall use turf. Overflow parking shall be defined as off-street parking in excess of the minimum required by this Ordinance which is designed not to be used more than ten (10) times per year. A low-traffic storage yard means a storage area generating less than 30 ADT (average daily trips).

**F. Paving Exemption for Assembly Uses** Paving of parking areas and access ways for assembly uses (churches, sports facilities, fairgrounds, etc.) may be waived if evidence is

presented to the Administrator that these spaces will not be used regularly on a daily basis (will be used less than five times per week). Parking areas for which paving is waived shall maintain a gravel or crushed stone surface. The gravel must be at least two (2) inches deep throughout the vehicular use area, except as permitted in Watershed Protection Overlay Districts in Article 4. All parking areas for which paving is waived shall meet the minimum requirements of Volumes I-C and V of the North Carolina State Building Code for Accessibility and for Fire Prevention. All parking lots shall be constructed with proper drainage.

**G. Overhang Protection** - Wheel or bumper guards or curbing shall be provided, located and arranged so that no part of any parked vehicle will extend beyond the boundaries of the parking space and into a pedestrian crossing area.

- 1. Except where a wall is constructed, a minimum six (6) inch high vertical concrete curb (or individual bumper guard) shall be constructed or installed so that no part of a vehicle extends beyond the property line.

**H. Striping Required** - Off-street parking areas, as required by this Ordinance, shall be striped in accordance with the dimensions as set forth in this Article 8.

**I. Backing Movements Prohibited.** Except for single-, two-, and three-family dwellings on individual lots, parking spaces and driveways shall be arranged to require ingress and egress from the lot to a public street by forward motion of the vehicle.

**J. Sight Triangles** - Sight Triangles for intersections of driveways and public streets shall be regulated in accordance with <sup>(2)</sup>the Land Development Standards Manual (LDSM).

**K. Upfit to existing Public Street Required.** New multi-family and nonresidential projects shall be required to provide curb and gutter and sidewalks\* to adjacent public streets which provide access to the development, <sup>(1)</sup>in accordance with the policy on file in the office of the Public Works Director, except as where approved for an exception per Section C.1.8. Sidewalk, Curb, and Gutter Exception. Such improvements may be subject to road widening

and other related improvements. Road widening, sidewalks, curb and guttering, utility relocations, and all other related improvements shall be the responsibility of the developer and/or owner. Additional right-of-way dedication may be required, as deemed necessary, to accomplish future road improvements as determined by the City of Kannapolis Public Works Director. Design standards shall be subject to review and approval by the Public Works Director. Design standards for pedestrian upfits to state maintained roads shall be subject to review and approval by the Public Works Director, and the N. C. Department of Transportation.

\*Note that sidewalks shall not be required <sup>(1)</sup>for development located in the I-1 and/or I-2 zoning districts. However, this shall not prohibit the requirement for other roadway improvements (such as curb and gutter or additional right-of-way).

**L. Maintenance Standards** - Parking lot access roads and off-street parking areas shall be properly maintained in all respects. In particular, parking lot access roads and off-street parking area surfaces shall be kept in good condition (free from potholes, structural failures, etc.) as determined by the City of Kannapolis Public Works Director, or his/her designee, and parking space lines or markings shall be kept clearly visible and distinct.

**M. Fractions** - When calculation of the number of required parking spaces results in a fractional number, a fraction of less than .5 shall be disregarded and a fraction of .5 or more shall be rounded to the next highest whole number.

**8.1.3. DRIVEWAY AND PARKING SPACE REQUIREMENTS FOR SINGLE-FAMILY AND DUPLEX DWELLINGS ON INDIVIDUAL LOTS.**

**A.** New Single-Family, Duplex, and Triplex dwellings shall construct and maintain a paved area large enough to accommodate two (2) 9’x18’ off-street parking spaces per dwelling unit (excluding garage spaces) unless the public street on which the driveway connects is 20 feet wide or less of paved surface (excluding curb and gutter). In such cases, three (3) 9’x18’ paved off-street parking spaces per dwelling unit shall be constructed and maintained. The driveway and

(1) TA-2017-04 – City Council approved 7/24/2017  
(2) TA-2019-05 – City Council approved 12/09/2019



garage/carport can serve as these spaces. The requirements of Appendix D shall also apply to the construction of driveways connecting to public streets.

**B.** Parking is permitted in the front yards of single family, duplex, or triplex dwellings in any zoning district other than agricultural. Front yard parking areas are subject to the following requirements:

1. No person shall park or store any motor vehicle in the front yard (between the street and a line drawn parallel to the street from the point of the dwelling that is closest to the street) other than completely upon an improved driveway or improved parking pad.
2. Improved drive and parking areas shall be limited in size to eighteen (18) feet by eighteen (18) feet and shall not exceed thirty percent (30%) of the structure's front yard. Access to the improved front yard area shall be limited to properly approved curb cuts or other approved access points. Proposed improved parking areas shall be designed and installed so as to avoid creating standing water conditions, diverting runoff onto neighboring properties, or adversely impacting stormwater water quality.
3. Improved parking or vehicular use areas shall be surfaced with asphalt, concrete, brick, or other pavers as approved by the Planning Director. Gravel or crushed stone may be used if the gravel is at least two (2) inches deep throughout the vehicular use area, and the vehicular use area has a visible and definable edge made of landscape timbers, vegetation such as low shrubs or decorative grasses, or similar technique to distinguish the vehicular use area from the front or corner side yard area.

## 8.2. <sup>(1)</sup>PRIVATE DRIVEWAY PROVISIONS.

### 8.2.1. SCOPE.

All proposed vehicular access points to connect to a public street shall conform to the Access Management provisions of this Section 8.2, as well as applicable sections of Article 10 and Appendix D of this Ordinance <sup>(2)</sup>and the Land Development Standards Manual (LDSM). This Section 8.2 shall apply to all driveways or access points to be maintained on private property. The provisions of Appendix D of this Ordinance shall regulate that portion of a private driveway that connects to a public and extends to the edge of a public right-of-way.

**A.** If ingress and egress are the same, off-street parking spaces shall be connected to a public street by a paved driveway which affords safe and convenient ingress and egress provided, however, that the Administrator may waive this requirement where:

1. the driveway is connected to an adjacent driveway or series of driveways with access to a public street, and
2. the applicant has a valid easement providing for access to all driveways leading to the public street.

**B. Driveway Width** - The width of driveways shall be measured at the point of intersection with the public street right-of-way. Driveway width shall be regulated in accordance with <sup>(2)</sup>the LDSM, unless the Administrator determines the width should be expanded as set forth in § 8.2.1(C). Medians shall not be included in the calculation for the width of driveways. Where no right-of-way exists, the Administrator shall determine the most appropriate location for the measurement.

**C.** The Administrator may waive the requirements of § 8.2.1(B) only under the following conditions:

1. The Public Works Director determines that a wider turning area is needed in order to avoid a traffic hazard,
2. The Public Works Director and the Administrator jointly determine an appropriate

distance from the point of intersection with the public street right-of-way where the driveway shall conform to the dimensional requirements of <sup>(2)</sup>the LDSM,

3. The design of the driveway is such that it progressively decreases in width to conform to the width as determined in <sup>(2)</sup>the LDSM,

4. Review and final approval of any proposed driveway design that does not conform to the dimensional limitation shall be under the authority of the Administrator upon recommendation from the Public Works Director.

### 8.3. <sup>(2)</sup>OFF-STREET PARKING STANDARDS.

#### 8.3.1. REQUIRED AMOUNT OF OFF-STREET PARKING.

**A.** Off-street parking spaces shall be provided in accordance with the requirements of Table 8.3-1.

**B. Uses With Variable Parking Demand Characteristics** – Uses that reference this subsection in Table 8.3-1 have widely varying parking and loading demand characteristics, making it difficult to establish a single off-street parking or loading standard. Upon receiving a development application for a use subject to this subsection, the Planning Director shall apply the off-street parking and loading standard specified or listed use that is deemed most similar to the proposed use, or establish minimum off-street parking standards on the basis of a parking and loading demand study prepared by the applicant. Such a study shall include estimates of parking demand based on recommendations of the Institute of Traffic Engineers (ITE) or other acceptable estimates as approved by the Planning Director, and should include other reliable data collected from uses or combinations of uses that are the same as or comparable with the proposed use. Comparability will be determined by density, scale, bulk, area, type of activity, and location. The study shall document the source of data used to develop the recommendations.

**C. Alternative Parking Plans** – An Alternative Parking Plans represents a proposal to meet vehicle parking and transportation demands by means other than providing parking in accordance with the requirements of Table 8.3-1. Alternative Parking Plans may not be used to reduce required setbacks, landscaping, or screening of off-street parking areas.

**1. Applicability** – Applicants who wish to provide fewer off-street parking spaces than required pursuant to Table 8.3-1 shall be required to secure approval of an Alternative Parking Plan in accordance with the standards of this Section.

**2. Review and Approval**

**a.** The Planning Director shall be authorized to approve, approve with conditions, or deny approval of Alternative Parking Plans for developments that will provide at least seventy-five percent (75%) of the required number of off-street parking spaces.

**b.** All other Alternative Parking Plans shall require review and approval by the Planning & Zoning Commission. In order to approve an Alternative Parking Plan, the Planning & Zoning Commission must determine that the proposed plan will do at least as good a job protecting surrounding neighborhoods, maintaining traffic circulation patterns, and promoting quality urban design as would strict compliance with otherwise applicable off-street parking standards.

**3. Contents** – Alternative Parking Plans shall, at a minimum, address the size and type of the proposed development, the composition of tenants, the anticipated rate of parking turnover, and the anticipated peak parking and traffic loads for all uses.

**4. Recording** – Approved Alternate Parking Plans shall be recorded in the office of the County Register of Deeds. No certificates of compliance shall be issued until proof of recordation of the agreement has been provided to the Planning Director.

**D. Parking Structures Exempted.** The maximum parking requirements shall not apply to parking spaces within an above-ground or an underground parking structure. For the purposes of parking calculations, the gross area of any parking garage within a building shall not be included within the Gross Floor Area of the building.

**E. <sup>(1)</sup>Exemption from Required Number of Spaces** - The minimum requirement for the number of vehicle parking spaces shall not apply within the following zoning districts:

TND Traditional Neighborhood Development  
TOD Transit-Oriented Development

**F. Uses Not Identified in Table 8.3-1** The Administrator shall determine the parking requirement for uses which do not correspond to the categories listed in Table 8.3-1. In such instances, the applicant shall provide adequate information by which the proposal can be reviewed, which includes but may not necessarily be limited to the following:

- type of use(s);
- number of employees;
- the Occupant Load (per Building Code) of the building;
- square feet of sales area and service area;
- parking spaces proposed on-site;
- parking spaces provided elsewhere; and
- hours of operation.

**G. Multiple Uses** - In those instances where there are clearly identified accessory or multiple uses within a structure or multiple structures, the minimum standards shall apply to each use or structure, resulting in a total parking requirement when summed, except as provided in § 8.3.1(I).

**H. Seating Calculations.** When seating consists of benches, pews, or other similar seating facilities, each 20 linear inches of seating space shall be counted as 1 seat. Where parking requirements relate to movable seating in auditoriums and other assembly rooms, 15 square feet of net floor area shall be construed to be equal to one seat.

**1. Modification to Required Number of Spaces.** In unusual circumstances, the standard parking requirement may not be appropriate. The Administrator shall have the authority to reduce the parking requirement by up to 10 percent, if fifty (50%) of the reduced area is used for parking lot landscaping. Additional landscaping must be in addition to that required by Article 7 of this Ordinance. Bonus landscaping area for reduced parking spaces shall only apply to industrial, commercial, and office/institutional districts.

**I. Shared Parking** - Off-street parking requirements of a given use may be met with off-site, off-street parking facilities of another use when, and if, all of the following conditions are met:

**1.** In non-residential zoning districts, the parking may be up to five hundred (500) feet from the principal structure;

**2.** The applicant shall submit a shared parking study to the Planning Director clearly demonstrating the feasibility of shared parking. The study shall address, at a minimum, the size and type of proposed development and/or use, the composition of tenants, the anticipated rate of parking turnover, and the anticipated peak parking and traffic loads for all uses that will be sharing off-street parking spaces; and

**3.** A written agreement between the owners and lessees is executed for a minimum of ten (10) years, approved by the Administrator, recorded, and a copy maintained in the project file. Should the lease expire or otherwise terminate, the use for which the off-site parking was provided shall be considered to contain nonconforming site improvements. Future expansion of the use shall be prohibited unless the use is brought into compliance with the parking regulations of this Ordinance.

**J.** Developments which contain a mix of uses on the same parcel, as set forth in Table 8.1-5 below, may reduce the amount of required parking in accordance with the following methodology: (1) determine the minimum parking requirements in accordance with Table 8.3-1 for each land use as if it were a separate use, (2) multiply each amount by the corresponding percentages for each of the five time periods set forth in Columns (B) through (F) of Table 8.3-3, (3) calculate the total for each time period (Columns), (4) select the Column with the highest total, and (5) use this number as the required minimum number of parking spaces.

Minimum dimensions of standard parking spaces (other than compact car spaces and handicap spaces) and maneuvering area shall be as set forth in <sup>(1)</sup>the LDSM.

### **8.3.2. PARKING AISLE AND SPACE DIMENSIONS.**

**A. Handicapped Spaces** – <sup>(1)</sup>Parking spaces for handicapped or disabled persons

shall comply with <sup>(2)</sup>the LDSM and Chapter 4 of the North Carolina Accessibility Code.

**B. Compact Car Spaces** – <sup>(1)</sup>Not more than twenty (20) percent of the spaces required by Table 8.3-1 shall be designed as compact car parking spaces. Each compact car parking space shall meet the requirements of <sup>(2)</sup>the LDSM, Compact-size vehicles. Compact car parking spaces shall be clearly marked or posted for “Compact Cars Only.” All other provisions of this Article relating to off-street parking requirements shall be met.

<b>Table 8.3-1 Off-street Vehicular Parking Space Requirements</b>		
<b>Land Use</b>	<b>Min. Vehicle Space</b>	<b>Max Vehicle Space</b>
<b><i>Residential</i></b>		
Accessory Dwellings	1 per unit	n/a
Duplex/Triplex	2 per unit	n/a
Family Care or Group (Social Assistance) Home	1 per employee + 1 per every 5 children or 1 per every 3 adults	n/a
Multi-Family (4 or more units) and attached Single-Family	1.5 per 1-2 bedroom unit + 2 per 3+ bedroom unit	2.5 per unit
④Elderly or Age Restricted Multi-Family (4 or more units)	1 per dwelling unit + 1 per employee	n/a
Single Family, detached (includes manufactured and modular homes)	2 per parcel (excluding garage spaces)	n/a
Nursing Home	1.5 per employee + 0.33 per bed	n/a
<b><i>Institutional and Civic</i></b>		
Auditorium/Public Assembly	Use with Variable Parking Demand Characteristics	n/a
Botanical Garden and Nature Preserves	Use with Variable Parking Demand Characteristics	n/a
Campground	1 per 6 camp sites + 4 per laundry & shower facility	n/a
Child Care Center	1.5 per classroom + 1 per 300 sf office/administration space + sufficient stacking area for drop-off / pick-up	2.5 per classroom + 1 per 150 sf office/administration space + sufficient stacking area for drop-off / pick-up
Civic, Social and Fraternal Organizations	1 per 250 sf GFA	1 per 200 sf GFA
Emergency Service Facilities	1 per employee + 1 per 3 volunteer personnel on normal shift + 1 per 200 sf usable office space	n/a
Golf Course	4 per hole + 1 per employee at peak shift	1 per tee + per employee at peak shift
Golf Driving Range	1 per 2 tees + 1 per employee at peak shift	1 per tee + 1 per employee at peak shift
Government Buildings	1 per 300 sf GFA	1 per 125 sf GFA
Hospital	1 per 400 sf GFA	1 per 100 sf GFA
Museums and Art Galleries	1 per 1,000 sf GFA + 1 employee at peak shift	1.5 per 1,000 sf GFA + 1 employee at peak shift
Park, public	Use with Variable Parking Demand Characteristics	n/a
Religious Institutions	1 per 8 seats	1 per 1.5 seats
Schools – Business, Technical, Trade and/or other Vocational	1 per 2 students + 1 per 300 sf office/administration space	1 per student + 1 per 300 sf office/administration space
Schools – Elementary and Middle	1 per classroom + 1 per 300 sf office/administration space + sufficient stacking area for drop-off / pick-up	2 per classroom + 1 per 300 sf office/administration space + sufficient stacking area for drop-off / pick-up
Schools – Fine Arts	1 per 150 sf GFA + sufficient stacking area for drop-off / pick-up	1 per 50 sf GFA + sufficient stacking area for drop-off / pick-up
Schools – Senior High	1 per classroom + 1 per 300 sf office/administration space + 1 per every 6 students + sufficient stacking area for drop-off / pick-up	2 per classroom + 1 per 300 sf office/administration space + 1 per every 4 students + sufficient stacking for drop-off / pick-up
Schools – University or College	Use with Variable Parking	n/a

	Demand Characteristics	
Zoo	Use with Variable Parking Demand Characteristics	n/a
All other Institutional Uses	1 per 300 sf GFA of bldg..	1 per 125 sf of bldg..
<b>Professional Office / Business Services</b>		
Automobile Repair/Body Shop	1 per 500 sf GFA including all service areas + 1 per employee	1 per 375 sf GFA including all service areas + 1 per employee
Banks (with drive-through)	1 per 200 sf GFA, plus sufficient stacking spaces to accommodate any drive-through lane(s)	1 per 150 sf GFA, plus sufficient stacking spaces to accommodate any drive-through lane(s)
Banks (without drive through)	1 per 250 sf GFA	1 per 140 sf GFA
Contractor's Office	1 per 600 sf GFA	n/a
Funeral Home and Services	1 per fixed seats or 1 per 75 sf of parlor or chapel area, whichever is greater	1 per 2 seats or 1 per 50 sf parlor or chapel area, whichever is greater
Personal Services (Dry Cleaners, etc.)	1 per 500 sf GFA	1 per 215 sf GFA
Personal Care Services (Hair, skin, etc.)	1 per 500 GFA	1 per 215 sf GFA
All other Professional Office / Business Service Uses	1 per 300 sf GFA	1 per 150 sf GFA
<b>Retail Trade</b>		
Amusement Arcade (Indoor Only)	1 per game table, video game or other amusement device	n/a
Amusement Park	Use with Variable Parking Demand Characteristics	n/a
Automobile Rental and Leasing	1 per 300 sf GFA + 1 per employee + 1 per vehicle stored on site	1 per 150 sf GFA + 1 per employee + 1 per vehicle stored on site
Automobile Sales, New and Used (see § 5.6)	1 per 375 sf GFA of sales area +1 per employee + 1 per vehicle stored on site	1.5 per 375 sf GFA of sales area + 1 per employee + 1 per vehicle stored on site
Bar/Nightclub or Micro-brewery	1 per 4 seats	1 per 2 seats
Bed and Breakfast Inns (see § 5.7)	1 per guest bedroom + 2 for owner/operator	n/a
Bowling Centers	2 per lane + 1 per employee at peak shift	4 per lane + 1 per employee at peak shift
Building Material Supply / Greenhouses / Nurseries / Lawn & Garden Supply	1 per 375 sf of sales or service building area	1.5 per 375 sf of GFA of sales or service building area
Car Wash (as a principal use), Truck Stops, and/or Travel Plaza	1 per 500 sf GFA including wash bays/tunnels and retail area	1 per 375 sf GFA including wash bays/tunnels and retail areas
Convenience Store	6 per 1,000 GFA + sufficient stacking area to accommodate 2 vehicles per each side of pump island	10 per 1,000 GFA sufficient stacking are to accommodate 2 vehicles per each side of pump island
General Merchandise Stores (less than 25,000 sf GFA)	1 per 300 sf GFA	1 per 200 sf GFA
Grocery / Food Stores	1 per 300 sf GFA	1 per 200 sf GFA
Health Clubs and Fitness Centers	1.5 per 1,000 sf GFA	10 per 1,000 GFA
Hotels, Motels and Extended Stay Facilities	1 per room + 1 per employee at peak shift + spaces to accommodate all accessory uses	2 per room + 1 per employee at peak shift + spaces to accommodate all accessory uses
Manufactured Home Sales	1 per 100 sf GFA of office area + 1 per every 2 employees	n/a
Miniature Golf	1 per hole + 1 per employee at peak shift	2 per hole + 1 per employee at peak shift
Mini-warehousing / Self-storage Leasing (see § 5.15)	1 for every 200 rental spaces (2 required)	n/a

Motion Picture Theater	1 per 6 seats	1 per 4 seats
Motion Picture Theater, drive-in	1 for each viewing space the facility is designed to accommodate + 1 per every 2 employees	1 for each viewing space the facility is designed to accommodate + 1 per every employee
<sup>(1)</sup> Pharmacies	1 per 300 sf GFA	n/a
Pool Halls / Billiard Parlors	2 per table + 1 per employee at peak shift	3 per table + 1 per employee at peak shift
Restaurants (with drive-through service and/or carry-out)	1 per every 3 seating accommodation + sufficient stacking area to accommodate any drive-through lane(s)	1 per 50 sf GFA + sufficient stacking area to accommodate any drive-through lane(s)
Shopping Centers/Superstores (25,000 – 400,000 sf GFA)	1 per 205 sf GFA	1 per 150 sf GFA
Shopping Centers / Superstores (400,001 – 600,000 sf GFA)	1 per 225 sf GFA	1 per 150 sf GFA
Shopping Centers / Superstores (over 600,000 sf GFA)	1 per 200 sf GFA	1 per 150 sf GFA
All other Retail uses	1 per 300 sf GFA	1 per 150 sf GFA
<b><i>Wholesale Trade uses, Manufacturing and Industrial Uses</i></b>		
Junk / Salvage Yard	1 per 2 employees at peak shift + 1 per 5,000 sf of land area devoted to material storage + 1 per company vehicle at peak shift	n/a
Manufacturing uses	2 per 3 employees at peak shift + 1 per each company vehicle at peak shift	n/a
Mining and Extractive Uses	1 per employee at max. shift + 1 per each company vehicle at peak shift	n/a
Wholesale sales and all other Industrial Uses	1 per 400 sf GFA of sales and office area + 1 per each company vehicle at peak shift OR 2 per 3 employees at peak shift + 1 per each company vehicle at peak shift (whichever is greater)	n/a
<b><i>Transportation, Warehousing and Utility Uses</i></b>		
Air, Rail or Bus Terminal	Use with Variable Parking Demand Characteristics	n/a
Communications Tower / Antenna	None (see § 5.21)	n/a
Truck Terminal	1 per employee at peak shift + 1 per each company vehicle at peak shift	n/a
Warehouse and Storage	1 per 400 sf GFA of sales and office area + 1 per each company vehicle at peak shift OR 2 per 3 employees at peak shift + 1 per each company vehicle at peak shift (whichever is greater)	n/a
Utility Uses	1 per employee at peak shift + 1 per each company vehicle at peak shift	n/a



**Table 8.3-2 RESERVED<sup>(1)</sup>**  
See LDSM

**Table 8.3-3**  
**SHARED PARKING ALLOWANCES BY LAND USE**

A Land Use	B Weekday		D Weekend		F Nighttime*
	C Daytime*	C Evening*	D Daytime*	E Evening*	
Office/Industrial	100%	10%	10%	5%	5%
Retail	60%	90%	100%	70%	5%
Hotel	75%	100%	75%	100%	75%
Restaurant	50%	100%	100%	100%	10%
Entertainment/ Commercial	40%	100%	80%	100%	10%

**\*Key:**

- Daytime (6am – 5pm)
- Evening (5pm – midnight)
- Nighttime (midnight – 6 am)

**Table 8.3-4 RESERVED<sup>(1)</sup>**  
See LDSM

**8.3.3 VEHICLE STACKING AREAS**

The vehicle stacking standards of this subsection shall apply unless otherwise expressly approved by the Planning Director.

**A. Minimum Number of Spaces.**

1. Off-street stacking spaces shall be provided as required in Table 8.3-5.
2. Required stacking spaces are subject to the following design and layout standards.
  - a. **Size** – Stacking spaces shall be a minimum of 10 feet by 20 feet in size.

(1) TA-2019-05 – City Council approved 12/09/2019

**TABLE 8.3-3  
VEHICLE STACKING SPACES REQUIRED**

<b>ACTIVITY TYPE</b>	<b>MINIMUM NUMBER OF SPACES</b>	<b>SPACES MEASURED FROM</b>
Automated Teller Machine	3	Teller Machine
Bank Teller Lane	4	Teller or Window
Restaurant Drive-Thru	4	Order Box
Restaurant Drive-Thru	4	Order Box to Pick-up Window
Quick Lube	3	Entrance
Daycare Facility	5	Drop-off Entrance
Schools	10	Drop-off Entrance
Hospital	5	Drop-off Entrance
Car Wash Stall (Self-service)	3	Entrance
Car Wash Stall (Automatic)	4	Entrance

## 8.4. OFF-STREET LOADING AND UNLOADING AREA STANDARDS.

### 8.4.1. SCOPE.

There shall be provided on the same lot with each nonresidential building or structure, adequate space for off-street loading, unloading and the maneuvering of shipping and delivery vehicles. Off-street maneuvering space shall be provided so that no backing onto or from a public street is required. All loading and maneuvering areas shall:

- be surfaced with pavement, concrete or equivalent,
- be properly drained,
- be designed with regard to pedestrian safety,
- have direct access to public streets, and
- shall be screened from adjacent residentially zoned or developed property as provided in Article 7 Landscaping Standards of this Ordinance.
- No loading docks shall be visible from a thoroughfare or collector street right-of-way.

### 8.4.2. REQUIRED AMOUNT.

A. The Uses required to provide off street loading/unloading space and, the quantity and size of said space required shall be:

**1. Retail and service establishments -** One (1) loading space with minimum dimensions of 12 feet by 25 feet for every 20,000 square feet of Gross Leasable Area rounded off to the nearest 20,000.

**2. Office buildings and lodging establishments -** One (1) loading space with minimum dimensions of 12 feet by 25 feet for every 50,000 square feet of Gross Leasable Area rounded to the nearest 50,000.

**3. Industrial/manufacturing and wholesale establishments shall provide the following loading spaces with a minimum dimension of 12 feet by 25 feet:**

- Up to 50,000 sf 1 space
- 50,000 120,000 sf 2 spaces
- 120,000 220,000 sf 3 spaces
- 220,000 350,000 sf 4 spaces
- 350,000 550,000 sf. 5 spaces
- 550,000 850,000 sf. 6 spaces
- Each additional 400,000 sf 1 additional

space

**B.** Off street loading/unloading areas shall be located such that interference with traffic on Streets is minimized (subject to approval by the Administrator).

**C.** No off street loading/unloading space shall be sized such that any reasonably anticipated vehicle utilizing the space will protrude into any required Parking Space and/or Street right of way.

# **ARTICLE 9 ENVIRONMENTAL CONTROL REGULATIONS**

## *TABLE OF CONTENTS*

<b>SECTION</b>	<b>PAGE</b>
<b>9.1 GENERAL PROVISIONS .....</b>	<b>9-2</b>
<b>9.2 ADMINISTRATION AND PROCEDURES .....</b>	<b>9-6</b>
<b>9.3 STANDARDS .....</b>	<b>9-9</b>
<b>9.4 MAINTENANCE .....</b>	<b>9-13</b>
<b>9.5 ENFORCEMENT AND VIOLATIONS .....</b>	<b>9-19</b>
<b>9.6 SEDIMENTATION AND EROSION CONTROL .....</b>	<b>9-22</b>

## **9.1 GENERAL PROVISIONS.**

### **9.1.1 TITLE**

This ordinance shall be officially known as “The Phase II Stormwater Ordinance.” It is referred to herein as “this ordinance.”

### **9.1.2 AUTHORITY**

The Kannapolis City Council is authorized to adopt this ordinance pursuant to North Carolina law.

### **9.1.3 FINDINGS**

It is hereby found by the Kannapolis City Council that: Development and redevelopment alter the hydrologic response of local watersheds and increases stormwater runoff rates and volumes, flooding, soil erosion, stream channel erosion, nonpoint and point source pollution, and sediment transport and deposition, and reduction of groundwater recharge;

These changes in stormwater runoff contribute to increased quantities of water-borne pollutants and alterations in hydrology which are harmful to public health and safety as well as to the natural environment; and

These effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from development sites.

Further, the Federal Water Pollution Control Act of 1972 (“Clean Water Act”) and federal Phase II Stormwater Rules promulgated under it, as well as rules of the North Carolina Environmental Management Commission promulgated in response to federal Phase II requirements, compel certain urbanized areas, including this jurisdiction, to adopt the minimum stormwater controls such as those included in this ordinance.

Therefore, the Kannapolis City Council hereby adopts water quality and quantity regulations set forth in this Ordinance to meet the requirements of state and federal law regarding control of stormwater runoff and discharge.

### **9.1.4 PURPOSE**

#### **A. General**

The purpose of this ordinance is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and

procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint and point source pollution associated with new development and redevelopment as well as illicit discharges into municipal stormwater systems. It has been determined that proper management of construction-related and post- development stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, and general welfare, and protect water and aquatic resources.

#### **B. Specific**

This ordinance seeks to meet its general purpose through the following specific objectives and means:

1. Establishing decision-making processes for development that protects the integrity of watersheds and preserves the health of water resources;
2. Requiring that new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable for the applicable design storm in order to reduce flooding, streambank erosion, nonpoint and point source pollution and increases in stream temperature, and to maintain the integrity of stream channels and aquatic habitats;
3. Establishing minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
4. Establishing design and review criteria for the construction, function, and use of structural Stormwater Control Measures (SCM) that may be used to meet the minimum post- development stormwater management standards;
5. Encouraging the use of better management and site design practices, such as the use of vegetated conveyances for stormwater and the preservation of greenspace and other conservation areas to the maximum extent practicable;

6. Establishing provisions for the long-term responsibility for and maintenance of structural and nonstructural SCM to ensure that they continue to function as designed, are maintained appropriately, and pose no threat to public safety;

7. Establishing administrative procedures for the submission, review, approval and disapproval of stormwater management plans, for the inspection of approved projects, and to assure appropriate long-term maintenance.

8. Coordinating site design plans that include open space and natural areas as referenced within the Unified Development Ordinance.

9. Controlling illicit discharges into the municipal separate stormwater system.

10. Controlling erosion and sedimentation from construction activities.

11. Assigning responsibility and processes for approving the creation and maintenance of adequate drainage and flood damage prevention.

#### 9.1.5 APPLICABILITY AND JURISDICTION

##### A. General

Beginning with and subsequent to its effective date, this ordinance shall be applicable to all development and redevelopment, including, but not limited to, site plan applications, subdivision applications, and grading applications, unless exempt pursuant to Subsection (B) of this Section, Exemptions, below.

##### B. Exemptions

Development and redevelopment that disturb less than one acre are not exempt if such activities are part of a larger common plan of development or sale, even though multiple, separate or distinct activities take place at different times on different schedules.

Activities that are exempt from permit requirements of Section 404 of the federal Clean Water Act, as specified in 40 CFR 232 (primarily, ongoing farming and forestry

activities) are exempt from the provisions of this ordinance.

##### C. No Development or Redevelopment Until Compliance and Permit

No development or redevelopment shall occur except in compliance with the provisions of this ordinance or unless exempted. No development for which a permit is required pursuant to this ordinance shall occur except in compliance with the provisions, conditions, and limitations of the permit.

##### D. Map

The provisions of this ordinance shall apply within the Kannapolis municipal boundaries and property within the extra territorial jurisdiction (ETJ) of the City.

#### 9.1.6 INTERPRETATION

##### A. Meaning and Intent

All provisions, terms, phrases, and expressions contained in this ordinance shall be construed according to the general and specific purposes set forth in 9.1.4 Purpose. If a different or more specific meaning is given for a term defined elsewhere in Kannapolis Code of Ordinances, the meaning and application of the term in this ordinance shall control for purposes of application of this ordinance.

##### B. Text Controls in Event of Conflict

In the event of a conflict or inconsistency between the text of this ordinance and any heading, caption, figure, illustration, table, or map, the text shall control.

##### C. Authority for Interpretation

The Director of Public Works or his designee has authority to determine the interpretation of this ordinance. Any person may request an interpretation by submitting a written request to the Director of Public Works or his designee who shall respond in writing within 30 days. The Director of Public Works or his designee shall keep on file a record of all written interpretations of this ordinance.

##### D. References to Statutes, Regulations, and Documents

Whenever reference is made to a resolution, ordinance, statute, regulation, manual (including the Design Manual), or document, it shall be construed as a reference to the most recent edition of such that has been finalized

and published with due provision for notice and comment, unless otherwise specifically stated.

**E. Computation of Time**

The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the City of Kannapolis, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the City of Kannapolis. References to days are calendar days unless otherwise stated.

**F. Delegation of Authority**

Any act authorized by this Ordinance may be carried out by the Director of Public Works or his designee.

**G. Usage**

**1. Mandatory and Discretionary Terms**

The words “shall,” “must,” and “will” are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words “may” and “should” are permissive in nature.

**2. Conjunctions**

Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows: The word “and” indicates that all connected items, conditions, provisions or events apply. The word “or” indicates that one or more of the connected items, conditions, provisions or events apply.

**3. Tense, Plurals, and Gender**

Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

**H. Measurement and Computation**

Lot area refers to the amount of horizontal land area contained inside the lot lines of a lot or site.

**9.1.7. DESIGN MANUAL**

**A. Reference to Design Manual ("Design Manual")**

The Director of Public Works or his designee shall use the policy, criteria, and information, including technical specifications and standards, in the most recent edition of the North Carolina Department of Environmental and Natural Resources ("NCDENR") Manual of Stormwater Best Management Practices as the basis for decisions about stormwater permits and about the design, implementation and performance of structural and non-structural SCM.

The NCDENR Manual of Stormwater Best Management Practices includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. Stormwater treatment practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards of the Phase II laws. Exceptions to the NCDENR SCM Manual will be the decision of the Director of Public Works or his designee.

**B. Relationship of Design Manual to Other Laws and Regulations**

If the specifications or guidelines of the NCDENR Manual of Stormwater Best Management Practices are more restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent application of the specifications or guidelines in the NCDENR Manual of Stormwater Best Management Practices.

**C. Changes to Standards and Specifications**

If the standards, specifications, guidelines, policies, criteria, or other information in the NCDENR Manual of Stormwater Best Management Practices are amended subsequent to the submittal of an application for approval pursuant to this ordinance but prior to approval, the new information shall control and shall be utilized in reviewing the application and in implementing this ordinance with regard to the application.

**9.1.8. RELATIONSHIP TO OTHER LAWS, REGULATIONS AND PRIVATE AGREEMENTS**

**A. Conflict of Laws**

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare, shall control.

**B. Private Agreements**

This ordinance is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this ordinance are more restrictive or impose higher standards or requirements than such easement, covenant, or other private agreement, then the requirements of this ordinance shall govern. Nothing in this ordinance shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not legitimize any failure to comply with this ordinance.

In no case shall the City of Kannapolis be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

**9.1.9. SEVERABILITY**

If the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this ordinance.

**9.1.10. EFFECTIVE DATE AND TRANSITIONAL PROVISIONS**

**A. Effective Date**

This Ordinance shall take effect on August 25, 2008.

**B. Final Approvals, Complete Applications**

All development and redevelopment projects for which complete and full applications were submitted and approved by the City of Kannapolis prior to the effective date of this

ordinance shall be exempt from complying with all provisions of this ordinance dealing with the control and/or management of post-construction runoff, but shall be required to comply with all other applicable provisions, including but not limited to illicit discharge provisions.

**C. Violations Continue**

Any violation of provisions existing on the effective date of this ordinance shall continue to be a violation under this ordinance and be subject to penalties and enforcement under this ordinance unless the use, development, construction, or other activity complies with the provisions of this ordinance.



## 9.2 ADMINISTRATION AND PROCEDURES.

### 9.2.1. REVIEW AND DECISION-MAKING ENTITIES

#### A. Director of Public Works

##### 1. Designation

The Director of Public Works or his designee shall administer and enforce this ordinance.

##### 2. Powers and Duties

In addition to the powers and duties that may be conferred by other provisions of the Kannapolis Code of Ordinances and other laws, the Director of Public Works or his designee shall have the following powers and duties under this ordinance:

- a. To review and approve, approve with conditions, or disapprove applications for approval of plans pursuant to this ordinance.
- b. To make determinations and render interpretations of this ordinance.
- c. To establish application requirements and schedules for submittal and review of applications and appeals, to review and make recommendations on applications for development or redevelopment approvals.
- d. To enforce the provisions of this ordinance in accordance with its enforcement provisions.
- e. To maintain records, maps, and official materials as relate to the adoption, amendment, enforcement, or administration of this ordinance.
- f. To designate appropriate other person(s) who shall carry out the powers and duties of the Director of Public Works.
- g. To take any other action necessary to administer the provisions of this ordinance.

### 9.2.2. REVIEW PROCEDURES

#### A. Permit Required; Must Apply for Permit

A stormwater permit is required for all development and redevelopment unless exempt pursuant to this ordinance. A permit may only be issued subsequent to a properly submitted and

reviewed permit application, pursuant to this section. See Article 3.2.8 Stormwater Management Permits for permit submittal requirements and review procedures.

### 9.2.3. APPLICATIONS FOR APPROVAL

#### A. Concept Plan and Consultation Meeting

Before a stormwater management permit application is deemed complete, the Director of Public Works or his designee or developer may request a consultation on a concept plan for the post-construction stormwater management system and stormwater drainage plan to be utilized in the proposed development project. This consultation meeting should take place at the time of the preliminary plan of subdivision or other early step in the development process. The purpose of this meeting is to discuss the post-construction stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential approaches to stormwater management designs before formal site design engineering is commenced. Local watershed plans, the natural areas as referenced within the Unified Development Ordinance, and other relevant resource protection plans may be consulted in the discussion of the concept plan.

See Appendix B.13 Stormwater Concept Plan for information that shall be included in the concept plan, which should be submitted in advance of the meeting. See Appendix C.5 Stormwater Management for requirements for Stormwater Drainage Plans.

#### B. Stormwater Management Permit Application

The stormwater management permit application shall detail how post-development stormwater runoff will be controlled and managed and how the proposed project will meet the requirements of this ordinance, including section 9.3 Standards of this ordinance. All plans shall be prepared by a qualified registered North Carolina professional engineer, surveyor, soil scientist or landscape architect, and the engineer, surveyor, soil scientist or landscape architect shall perform services only in their area of competence, and shall verify that the design of

all stormwater management facilities and practices meets the submittal requirements for complete applications, that the designs and plans are sufficient to comply with applicable standards and policies found in the Design Manual, and that the designs and plans ensure compliance with this ordinance. All plans submitted as part of the stormwater management permit application shall be approved by the Director of Public Works or his designee.

The submittal shall include all of the information required in the submittal checklist established by the Director of Public Works or his designee. Incomplete submittals shall be treated pursuant to Article 3.

**C. As-Built Plans and Final Approval**

Upon completion of a project, and before a certificate of occupancy shall be granted, the applicant shall certify that the completed project is in accordance with the approved stormwater management plans and designs, and shall submit actual “as built” plans for all stormwater management facilities or practices after final construction is completed.

The plans shall show the final design specifications for all stormwater management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed. The designer of the stormwater management measures and plans shall certify, under seal, that the as-built stormwater measures, controls, and devices are in compliance with the approved stormwater management plans and designs and with the requirements of this ordinance. A final inspection and approval by the Director of Public Works or his designee shall occur before the release of any performance securities.

**D. Other Permits**

No certificate of compliance or occupancy shall be issued without final as-built plans and a final inspection and approval by the Director of Public Works or his designee, except where multiple units are served by the stormwater practice or facilities, in which case the Public Works Director or his designee may elect to withhold a percentage of permits or certificates of occupancy until as-built plans are submitted and final inspection and approval has occurred.

**9.2.4. APPROVALS**

See Article 3 for conditions of approval for stormwater permits.

**9.2.5. VARIANCES**

The Board of Adjustment may authorize variances from the specific requirements of this Article, subject to the requirements below.

**A. APPROVAL PROCEDURE.**

1. The Board of Adjustment shall conduct a hearing on variance requests in accordance with the procedures set forth in § 3.7 of this Ordinance. No variance shall be authorized or carried out until the applicant has obtained approval by the Board of Adjustment.

2. Major site plan applications shall be filed concurrently with all variance applications. The City of Kannapolis Planning and Engineering Departments shall review the site plan to ensure the variance approval criteria have been satisfied and any potential negative impacts have been mitigated. The site plan and associated comments shall be provided to the Board of Adjustment during their deliberations.

**B. APPROVAL CRITERIA.**

1. Variances shall only be granted by the Board of Adjustment if the applicant demonstrates that:

- a. Unnecessary hardships would result from strict application of the Ordinance; and
- b. The hardships result from conditions that are peculiar to the property, such as location, size, or topography; and
- c. The hardships did not result from actions taken by the petitioner; and
- d. The requested variance is consistent with the spirit, purpose, and intent of the Ordinance; will protect water quality; will secure public safety and welfare; and will preserve substantial justice. Merely proving the variance would permit a greater profit from the property shall not be considered adequate justification for a variance.

2. Notwithstanding the variance criteria above, variances may also be granted in the following instances:

- a. When there is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of SCM; or
- b. When there is a lack of practical alternatives for a stormwater management facility; a stormwater management pond; or a utility, including, but not limited to, water sewer, or gas construction and maintenance corridor, as long as it is located fifteen (15) feet landward of all perennial and intermittent surface waters and as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of SCM; or
- c. A lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration, or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters.

3. The Board of Adjustment may place reasonable and appropriate conditions and safeguards on the variance as part of the approval to ensure that adequate mitigation measures are associated with the proposed use. Violation(s) of any of the conditions shall be treated in the manner set forth in § 1.6 of this Ordinance.

**C. SCOPE OF APPROVAL.**

The approval of a variance shall authorize the applicant to apply for final site plan approval pursuant to § 3.6 of this Ordinance. All variance approvals require approval of the final site plan. Any variance approval shall become null and void if a required site plan is not approved within twelve (12) months following the date of approval by the Board of Adjustment. No zoning clearance permits shall be issued until the variance and final site plan are approved. Approval of a variance does not authorize any development activity.

**D. SUBSEQUENT APPLICATIONS.**

Subsequent applications for a variance shall be handled in the same manner as that for rezonings prescribed in § 3.3.8 of the Ordinance.

**9.2.6. APPEALS**

See Article 3 for information regarding the appeals process for the issuance of stormwater permits

## 9.3. STANDARDS.

### 9.3.1. GENERAL STANDARDS

All development and redevelopment to which this ordinance applies shall comply with the standards of this section.

### 9.3.2. DEVELOPMENT STANDARDS FOR LOW-DENSITY PROJECTS

Low-density projects shall comply with each of the following standards:

**A.** Stormwater runoff from the development shall be transported from the development by vegetated conveyances to the maximum extent practicable.

**B.** Low-density projects shall be subject to all of the regulations set forth in Article 4.15 River/Stream Overlay (RSOD) District of this ordinance.

**C.** The approval of the stormwater permit shall require an enforceable restriction on property usage that runs with the land, such as a recorded deed restriction or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.

**D.** Meet all stormwater detention requirements in section 9.3.4 Development Standards For Detention Facilities.

### 9.3.3 DEVELOPMENT STANDARDS FOR HIGH-DENSITY PROJECTS

High-density projects shall implement stormwater control measures that comply with each of the following standards:

**A.** The measures shall control and treat the stormwater runoff volume leaving the project site generated by a one (1) inch rain event. Runoff volume drawdown time shall be a minimum of 48 hours, but not more than 120 hours. Volumes to be detained must comply with the methods listed in the NCDENR Stormwater Best Management Practices Manual.

**B.** All structural stormwater treatment systems used to meet the requirements of the program shall be designed to have a minimum of 85% average annual removal for Total Suspended Solids (TSS);

**C.** General engineering design criteria for all projects shall be in accordance with 15A NCAC 2H .1008(c), as explained in the Design Manual;

**D.** High-density projects shall be subject to all the regulations set forth in Article 4.15 of this ordinance.

**E.** The approval of the stormwater permit shall require an enforceable restriction on property usage that runs with the land, such as recorded deed restrictions or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans

**F.** Meet all stormwater detention requirements in section 9.3.4 Development Standards For Detention Facilities.

### 9.3.4 DEVELOPMENT STANDARDS FOR DETENTION FACILITIES

See Appendix C.5 Stormwater Management for development standards for detention facilities.

### 9.3.5 CAPACITY OF STORMWATER MANAGEMENT FACILITIES.

All proposed site plans that require sediment and erosion control plan approval or that will exceed 20,000 square feet of impervious coverage shall be required to construct a complete drainage system sufficient to mitigate the impacts of the design rainfall event.

Post development runoff shall not exceed pre-development runoff unless a maximum discharge rate has been adopted for the applicable drainage basin and the discharge does not exceed that rate.

If a maximum discharge rate has not been adopted for the applicable drainage basin, post development discharge may not exceed predevelopment discharge. Stormwater volumes resulting from the proposed development shall be detained within the development and released at a rate no greater than existed prior to the development.

Detention facilities shall be designed to maintain the predeveloped runoff rate from the 1-year and 10-year, 24-hour design storm events.

Emergency spillway facilities shall be designed to accommodate the 50-year, 24-hour frequency storms. Cross-drainage storm sewers shall be designed for a 25-year, 24-hour frequency storm, unless located within a FEMA flood hazard area, in which case the storm sewer shall be designed for the 100-year, 24-hour storm event. All other storm sewers shall be designed for a 10-year, 24-hour frequency storm.

All industrial, commercial, and residential subdivision site plans shall include an analysis of off-site downstream features to determine the stormwater impacts on the receiving private and public properties. The analysis shall extend a minimum of one-fourth of a mile downstream from the project and include measures to mitigate these impacts.

**9.3.5.1 CHARLOTTE MECKLENBURG STORM WATER DESIGN MANUAL.** The City Council hereby finds that hydrologic conditions in Cabarrus and Rowan County and Mecklenburg County are similar and that it is in the public interest to maintain a uniform regional procedure for computing the stormwater impacts of new development. Accordingly, the methodology of computing peak flows, runoff volumes, and discharge capacities for storm events and stormwater management facilities shall be computed using the methodology in accordance with the *Charlotte Mecklenburg Storm Water Design Manual*. U.S. Geological Survey and NOAA (National Oceanic and Atmospheric Administration) rainfall data for Cabarrus and Rowan County shall be used in the analysis of stormwater facilities. A copy of the Charlotte Mecklenburg Storm Water Design Manual can be viewed at the City of Charlotte-Mecklenburg County website, [www.charmeck.org](http://www.charmeck.org).

In any case where the *Charlotte Mecklenburg Storm Water Design Manual* and the NCDENR Manual of Stormwater Best Management Practices have conflicting design standards, the state's SCM requirements apply.

The following sections of the Stormwater Manual shall not apply to this Ordinance: Flood Analysis, Approximate Flood Limits, Storm Drain Location, Inlet Types and Spacing, Cross Slope, Curb and Gutter, and Detention Facilities Used for Credits, including any references to the

Charlotte-Mecklenburg Land Development Standards Manual or to storm water fees.

### **9.3.6 STANDARDS FOR STORMWATER CONTROL MEASURES**

#### **A. Evaluation According to Contents of Design Manual**

All stormwater control measures and stormwater treatment practices required under this ordinance shall be evaluated by the Director of Public Works or his designee according to the policies, criteria, and information, including technical specifications and standards and the specific design criteria for each stormwater practice, in the Design Manual. The Director of Public Works or his designee shall determine whether they will be adequate to meet the requirements of this ordinance.

#### **B. Determination of Adequacy; Presumptions and Alternatives**

Stormwater treatment practices that are designed, and constructed, and maintained in accordance with the criteria and specifications in the Design Manual will be presumed to meet the minimum water quality and quantity performance standards of this ordinance. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the Design Manual, the applicant shall have the burden of demonstrating that the practice(s) will satisfy the minimum water quality and quantity performance standards of this ordinance. The Director of Public Works or his designee may require the applicant to provide such documentation, calculations, and examples as necessary for the Director of Public Works or his designee to determine whether such an affirmative showing is made.

### **9.3.7 DEDICATION OF SCMs, FACILITIES & IMPROVEMENTS**

Easements, rights-of-way, or other legal access shall be provided to all stormwater management facilities for inspection, periodic maintenance, and infrequent repairs. Property owners and their successors and interest are responsible for the maintenance and upkeep of the easement area, operation and per the Maintenance Agreement (hereinafter defined). Easements in favor of the City must be provided for access, inspection, and emergency maintenance by the City when a

property owner defaults on the maintenance agreement. Emergency maintenance performed or directed by the City shall be completed at the cost of the owner of the detention facility. No permanent structures or other impediments to access shall be constructed within the area of easement.

### **9.3.8. OBSTRUCTION OF DRAINAGE CHANNELS PROHIBITED.**

No fences or structures shall be constructed across an open or closed drainage channel that will reduce or restrict the flow of water or adversely affect the public infrastructure.

The Director of Public Works or his designee may require any water course or stormwater management facility to be located within a dedicated drainage easement officially recorded by the Cabarrus or Rowan County Register of Deeds as a “permanent detention easement” that provides sufficient width for maintenance.

### **9.3.9. LOT GRADING AND LANDSCAPING STANDARDS.**

The following standards shall be followed in establishing the grading plan for a development.

#### **9.3.9.1. Positive Drainage Required.**

Developments shall be designed and constructed with a positive drainage flow away from buildings towards approved stormwater management facilities. Plans for drainage facilities shall be approved by the Engineer. All interim and permanent drainage facilities shall be designed and constructed in accordance with the standards established in the Stormwater Standards of this Ordinance.

#### **9.3.9.2. Drainage Plans to Account for All Development.**

In the design of site grading plans, all impervious surfaces in the proposed development (including off street parking) shall be considered.

#### **9.3.9.3. Protection from Sedimentation.**

Site grading and drainage facilities shall protect sinkholes, wetlands, ponds and lakes from increased sediment loading.

#### **9.3.9.4. Increased Runoff Prohibited**

Site grading shall not increase the volume or velocity of runoff onto downstream properties unless specifically approved as part of a project’s drainage plan. Exceptions to this will

be at the discretion of the Public Works Director or his designee.

#### **9.3.9.5. Landscaping.**

All disturbed areas within the dedicated right-of-way and easements of any subdivision street shall be restored with vegetation. Street trees shall be planted or, where permitted trees already exist, consistent with the Landscaping Standards of this Article, maintained and protected between the paved areas and sidewalks. Where no sidewalks are required, street trees shall be planted, or existing trees shall be maintained or protected between the paved areas and the edge of the right-of-way.

#### **9.3.9.6. Designation as Open Space.**

Stormwater facilities to be located in designated open space areas shall be regulated in accordance with § 6.5.3.5 of this Ordinance.

#### **9.3.9.6 Permeable Pavement.**

Certain provisions of this ordinance (See Parking Standards; Site Design & Standards) permit Permeable Pavement in some situations. Other Permeable Pavement is permitted if the location and design shall comply with the following:

**9.3.9.6.1** Permeable Pavement shall not be located in soils with an apparent or perched high water table or a depth to bedrock of less than ten (10) feet, as set forth in Table 16 of the Soil Survey.

**9.3.9.6.2** Permeable Pavement shall not be located on any slope exceeding ten percent (10%).

**9.3.9.6.3** Permeable Pavement designs shall meet the requirements in the NCDENR Manual of Stormwater Best Management Practices.

**9.3.9.6.4** The Permeable Pavement area shall be vacuum swept and washed with a high-pressure hose not less than four (4) times per year.

### **9.3.10. VARIANCES**

See Appendix C.1.7 Improvements Variance for information on variances.

### **9.3.11. ADDITIONAL STANDARDS FOR SPECIAL SITUATIONS**

**A. Nutrient Sensitive Waters**

In addition to the standards for stormwater handling set out in the design manual, development and redevelopment that drains in whole or part to class NSW waters shall design and implement the best stormwater practices that reduce nutrient loading, while still meeting the other requirements of this ordinance.

**9.3.12. ONSITE WASTEWATER**

**A. Operation and Maintenance Requirements**

New and replaced onsite above ground systems for domestic wastewater installed after the effective date of this ordinance shall be subject to the same requirements for operation and maintenance as are structural SCMs for stormwater, including, at a minimum, annual inspection reports and a recorded operation and maintenance agreement, pursuant to Section 4 of this ordinance. Below ground systems shall be maintained in proper working order.

**B. Standards for Operation and Maintenance**

Onsite systems for domestic wastewater, which are privately owned by a property owner and covered by this ordinance, shall be operated and maintained so as to avoid adverse effects on surface water and groundwater, including eutrophication of surface water and microbial or nitrate contamination of groundwater. Septic tank residuals shall be pumped whenever necessary to assure the proper operation of the system to meet these standards, and the septage shall be reused or disposed of in a manner that does not present significant risks to human health, surface water or groundwater.

## 9.4. MAINTENANCE.

### 9.4.1. GENERAL STANDARDS FOR MAINTENANCE

#### A. Function of SCMs as Intended

The landowner or person in possession or control of the land upon which each structural SCM is installed pursuant to this ordinance ("Owner") shall maintain and operate it so as to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the structural SCM was designed.

#### B. Annual Maintenance Inspection and Report

The individual responsible for maintenance of any structural SCM installed pursuant to this ordinance shall submit to the Director of Public Works or his designee an inspection report from a qualified registered North Carolina professional engineer, surveyor, or landscape architect performing services only in their area of competence. The inspection report shall contain all of the following:

1. The name and address of the landowner;
2. The recorded book and page number of the lot of each structural SCM;
3. A statement that an inspection was made of all structural SCMs;
4. The date the inspection was made;
5. A statement that all inspected structural SCMs are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this ordinance; and
6. The original signature and seal of the engineer, surveyor, or landscape architect.

All inspection reports shall be on forms supplied by the Director of Public Works or his designee. An original inspection report shall be provided to the Director of Public Works or his designee beginning one year from the date of as-built certification and each year thereafter on or before the date of the as-built certification.

### 9.4.2 OPERATION AND MAINTENANCE AGREEMENT

#### A. In General

Prior to the conveyance or transfer of any lot or building site ("Lot") to be served by a structural SCM pursuant to this ordinance, and prior to issuance of any permit for construction, development or redevelopment requiring a structural SCM pursuant to this ordinance, the applicant or owner of the site must execute an operation and maintenance agreement that shall run with the land and be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the structural SCM. Until the transference of all property, sites, or lots served by the structural SCM, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.

1. The operation and maintenance agreement shall require the owner or owners or successors in interest to maintain, repair and, if necessary, reconstruct the structural SCM, and shall state the terms, conditions, and schedule of maintenance for the structural SCM. In addition, it shall grant to the City of Kannapolis a right of entry in the event that the Director of Public Works or his designee has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the structural SCM; however, in no case shall the right of entry, of itself, confer an obligation on the City of Kannapolis to assume responsibility for the structural SCM.

2. Each operation and maintenance agreement shall contain, without limitation, the following provisions:

- a. A description of the property on which the SCM is located and all easements from the site to the facility;
- b. Size and /configuration of the SCM;
- c. A statement that properties which will be served by the SCM facility are granted rights to construct, use, inspect, replace, reconstruct, repair, maintain, access to the device and to transport, store, and discharge stormwater to and from the device;
- d. A statement that each lot served by the SCM is jointly or severally responsible for repairs and



maintenance of the device and any unpaid ad valorem taxes, public assessments for improvements and unsafe building and public nuisance abatement liens charged against the facility, including all interest charges together with attorney's fees, cost and expenses of collection. A requirement of contribution in favor of each owner shall be included in the operation and maintenance agreement. That failure to maintain SCM is a violation of the City Code potentially subjecting each lot owner subject to this legal document to significant daily civil penalties and other enforcement actions.

**3.** If an association is delegated these responsibilities, then membership into the association shall be mandatory for each parcel served by the device and any successive owner, the association shall have the power to levy assessments for these obligations, and that all unpaid assessments levied by the association shall become a lien on the individual parcel.

**4.** An operation and maintenance plan or manual, together with a budget, shall be provided by the initial developer. The plan or manual shall indicate what operation and maintenance actions are needed, and what specific quantitative criteria will be used to determine when those actions are to be undertaken. The plan or manual must indicate the steps that will be taken to restore a stormwater system to design specifications if a failure occurs. The budget shall include both annual costs such as routine maintenance, periodic sediment removal and replenishment of rip-rap, insurance premiums, taxes, mowing and reseeding, required inspections, and a sinking fund for structural; biological; or vegetative replacement of the SCM, major repair and replacement repair of the SCM and other cost of the stormwater control facilities. These required documents shall be attached to the property association declaration as an exhibit; and

**5.** A statement that the BMP shall be maintained in accordance with the attached stormwater operations and maintenance manual and budget, and at all times BMP

shall comply with all applicable laws, ordinances, regulations, rules and directives of governmental authorities, and that the BMP shall perform as designed.

**6.** The BMP shall be maintained by the homeowners' association, property owners' association, or designated commercial lot owner(s) in accordance with the approved stormwater operations and maintenance manual and budget, which manual shall be attached to the operations and maintenance agreement as an exhibit, and at all times the BMP shall comply with all applicable laws, ordinances, regulations, rules and directives of governmental authorities, and that the BMP shall perform as designed.

**7.** Common expenses include but are not limited to : (i) maintenance of the BMP and (ii) premiums for liability insurance in an amount of not less than one million dollars (\$1,000,000.00) covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership, or maintenance of common areas, including the BMP and the premiums of hazard insurance on the common area(s) insuring against all risk of loss commonly insured against, including fire and extended coverage of peril.

**8.** A statement that within permanently protected undisturbed open space areas no land-disturbing activity, placement of impervious surface, removal of vegetation, encroachment, construction or erection of any structure shall occur except in accordance with a permit first being issued by the City of Kannapolis.

**9.** A warning statement stating that the stormwater control measures are required to comply with Kannapolis City Code of Ordinances and that failure to maintain a SCM is a violation of the City Code potentially subjecting each lot owner subject to this legal document to significant daily civil penalties and other enforcement actions.

**10.** The operation and maintenance agreement must be approved by the Director of Public Works or his designee prior to plan approval, and it shall be referenced on the final plat and shall be recorded with the county Register of Deeds upon final plat

approval. A copy of the recorded maintenance agreement shall be given to the Director of Public Works or his designee within fourteen (14) days following its recordation.

**B. Special Requirement for Homeowners' and Other Associations**

For all structural SCMs required pursuant to this ordinance and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity, ("Association") the required operation and maintenance agreement shall include all of the following provisions:

1. Acknowledgment that the association shall continuously operate and maintain the stormwater control and management facilities.
2. Establishment of an escrow account, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of structural SCMs. If structural SCMs are not performing adequately or as intended or are not properly maintained, the City of Kannapolis, in its sole discretion, may remedy the situation, and in such instances the City of Kannapolis shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the structural SCMs, provided that the City of Kannapolis shall first consent to the expenditure.
3. Both developer contribution and annual sinking funds shall fund the escrow account. Prior to plat recordation or issuance of construction permits, whichever shall first occur, the developer shall pay into the escrow account an amount equal to fifteen (15) percent of the initial construction cost of the structural SCMs. Two-thirds (2/3) of the total amount of sinking fund budget shall be deposited into the escrow account within the first five (5) years and the full amount shall be deposited within ten (10) years following initial construction of the structural SCMs. Funds shall be deposited each year into the escrow account. A portion of the annual assessments of the association shall include an allocation into the escrow account. Any

funds drawn down from the escrow account shall be replaced in accordance with the schedule of anticipated work used to create the sinking fund budget.

4. The percent of developer contribution and lengths of time to fund the escrow account may be varied by the City of Kannapolis depending on the design and materials of the stormwater control and management facility.
5. Grant to the City of Kannapolis a right of entry to inspect, monitor, maintain, repair, and reconstruct structural SCMs.
6. Each Owner, by acceptance of a deed or other instrument conveying title to a Lot, whether or not it shall be so expressed therein, is deemed to covenant and agree:
  - a. to pay to the Association (or to any Person who may be designated by the Association to collect such monies) a stormwater assessment, ("Stormwater Assessment"), established and collected as hereinafter provided, and each Owner of a Lot, by acceptance of a deed or other instrument conveying title to a Lot, whether or not it shall be so expressed therein, is deemed to covenant and agree to pay to the Association (or to any person who may be designated by the Association to collect such monies) such Stormwater Assessment. The annual budget for the Association shall include a line item evidencing the Stormwater Assessments, and the amount budgeted shall be sufficient to satisfy the total annual inspection, management and maintenance budget for the SCM and any replacement account. The Association shall honor its obligations under the Agreement, and the Association shall assess the Stormwater Assessment. Each Owner of a Lot shall be obligated to pay the Stormwater Assessment, whether or not the annual budget contains the required line item for the Stormwater Assessment, and whether or not the annual budget is ratified by the members of the Association. No vote of the Owners is required to levy, collect, or foreclose a Stormwater

Assessment. Stormwater Assessments shall be paid to the Association at the same time annual assessments are due. Stormwater Assessments to be levied against such Lot shall be used as follows:

1. to pay the actual and estimated expenses incurred or anticipated to be incurred by the Association, including any reasonable reserve funds, under any stormwater operation and maintenance agreement, including maintenance of any SCM so that at all times the SCM shall perform as designed and shall comply with the stormwater operations and maintenance agreement, the City Code, applicable regulations and rules and directives of the City;
  2. to pay all legal, engineering and other professional fees incurred by the Association in carrying out its duties as set forth herein, or in the stormwater operations and maintenance agreement in connection with the SCM; and
  3. payments to the City pursuant to the operations and maintenance agreement.
- b. In the event of nonpayment of any Stormwater Assessment for a period of forty-five (45) days or longer after the payment due date, such Stormwater Assessment, together with interest at a rate not to exceed the highest rate allowed by North Carolina law), as computed from the date the delinquency first occurs, late charges, and costs of collection thereof, including reasonable attorney's fees, shall be a charge on the land upon the filing of a claim of lien, in the manner provided in G.S.47F-3-116(g), in the office of Clerk of Superior Court in the County in which the Lot is located and shall be a continuing lien upon each Lot against which the assessment is made until paid in full. The lien may be foreclosed in accordance with North Carolina law, or in any other manner permitted by law. When the holder of a first mortgage or first deed of trust of record or other purchaser of
- a Lot who obtains title to the Lot as a result of a foreclosure of a first mortgage or first deed of trust, such purchaser and its heirs, successors, and assigns shall not be liable for the Stormwater Assessments against such Lot which became due prior to the acquisition of title to such Lot by such purchaser. In such instances, such unpaid assessments shall be deemed a debt collectible from all Owners, including the new Owner.
- c. Each Stormwater Assessment, together with late charges, interest, the costs of collection thereof, including attorney's fees, shall also be the personal obligation or corporate obligation of each individual or entity who was the Owner of a Lot at the time when the Stormwater Assessment first became due and payable. If more than one individual or entity held an ownership interest in a Lot at the time the Stormwater Assessment first became due, then each individual or entity shall be both jointly and severally liable. An Owner's personal obligation for payment of Stormwater Assessments shall not become the personal obligation of a subsequent Owner unless expressly assumed by the subsequent Owner, although the lien shall continue against the Lot until the amount due is paid.
  - d. The creation of the Stormwater Assessments is for the benefit of the City, and the Stormwater Assessments may be collected and enforced by the City as provided herein and in the City of Kannapolis Code of Ordinances.
  - e. Additional real property annexed to the Association shall be subjected to any existing operation and maintenance agreement upon the recording of the document annexing the additional property, either in the form of a new agreement and/or an amendment to an existing agreement (as determined by the City) which shall be entered into between the City and the Association to address the SCMs of the additional property.

f. There shall be dedicated for the benefit of each Lot, the Common Area and each Owner thereof:

1. a perpetual, irrevocable and nonexclusive easement, right and privilege to discharge and store surface water drainage from such lot or Common Area into the SCM situated in private drainage easements that serve the property within the development, whether located on or off or the development, and
2. a perpetual, irrevocable and non-exclusive easement, right and privilege to use and maintain SCMs, including the right of access to and from the private drainage easements and other portions of the development as reasonably necessary to maintain the SCMs.

g. Each Owner of any portion of the property served by the SCM is jointly and severally responsible for maintenance of such SCM, including payment of any unpaid *ad valorem* taxes, public assessments for improvements, and unsafe building and public nuisance abatement liens charged against the SCM, and including all interest charges thereon, together with the costs and expenses of collection incurred by the City or other collecting entity, including court costs and reasonable attorney's fees actually incurred. Each Owner of any portion of the property served by the SCM has a right of contribution against all other Owners of other portions of the property served by the same SCM for payment of such costs and expenses to the extent that the Owner having such right of contribution pays more than such Owner's prorata share thereof.

1. A statement that this agreement shall not obligate the City of Kannapolis to maintain or repair any structural SCMs, and the City of Kannapolis shall not be liable to any person for the condition or operation of structural SCMs.
2. A statement that this agreement shall not in any way diminish, limit, or restrict the right of the

City of Kannapolis to enforce any of its ordinances as authorized by law.

3. A provision indemnifying and holding harmless the City of Kannapolis its agents, contractors, and employees for any costs and injuries arising from or related to the structural SCM, unless the City of Kannapolis has agreed in writing to assume the maintenance responsibility for the SCM and has accepted dedication of any and all rights necessary to carry out that maintenance.

#### 9.4.3 INSPECTION PROGRAM

Inspections and inspection programs by the City of Kannapolis may be conducted or established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in SCMs; and evaluating the condition of SCMs.

If the owner or occupant of any property refuses to permit such inspection, the Director of Public Works or his designee shall proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2 or its successor. No person shall obstruct, hamper or interfere with the Director of Public Works or his designee while carrying out his or her official duties

#### 9.4.4 PERFORMANCE SECURITY FOR INSTALLATION AND MAINTENANCE

##### A. May Be Required

The City of Kannapolis may, at its discretion, require the submittal of a maintenance performance security or bond with surety, cash escrow, letter of credit or other acceptable legal arrangement prior to issuance of a permit in order to ensure that the structural SCMs are:

1. installed by the permit holder as required by the approved stormwater management plan, and/or
2. maintained by the owner as required by the operation and maintenance agreement.

**B. Amount****1. Installation**

The amount of an installation performance security shall be the total estimated construction cost of the SCMs approved under the permit, plus 25%.

**2. Maintenance**

The amount of a maintenance performance security shall be the present value of an annuity of perpetual duration based on a reasonable estimate of the annual cost of inspection, operation and maintenance of the SCMs approved under the permit, at a discount rate that reflects the jurisdiction's cost of borrowing minus a reasonable estimate of long term inflation.

**3. Default**

Upon default of the owner to construct, maintain, repair and, if necessary, reconstruct any structural SCMs in accordance with the applicable permit or operation and maintenance agreement, the Director of Public Works or his designee shall obtain and use all or any portion of the security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after requesting the owner to comply with the permit or maintenance agreement. In the event of a default triggering the use of installation performance security, the City of Kannapolis shall not return any of the unused deposited cash funds or other security, which shall be retained for maintenance.

**4. Costs in Excess of Performance Security**

In the event of default, the City may recover from the applicant, owner or successor the costs for enforcement actions including but not limited to court costs and attorney fees failure by the applicant or owner, the City of Kannapolis may collect from the applicant or owner.

**5. Refund**

Within sixty days of the final approval, the installation performance security shall be refunded to the applicant or terminated, with the exception of any amount attributable to the cost (plus 25%) of landscaping installation and ongoing maintenance associated with the SCMs covered by the security. Any such landscaping shall be inspected one (1) year after installation with replacement for compliance with the approved plans and specifications and, if in

compliance, the portion of the financial security attributable to landscaping shall be released.

**9.4.5 NOTICE TO OWNERS****A. Deed Recordation and Indications On Plat**

The applicable operations and maintenance agreement pertaining to every structural SCM shall be referenced on the final plat and shall be recorded with the county Register of Deeds upon final plat approval. If no subdivision plat is recorded for the site, then the operations and maintenance agreement shall be recorded with the county Register of Deeds so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles.

**B. Signage**

Where appropriate as determined in the exclusive discretion of the Director of Public Works or his designee to assure compliance with this ordinance, structural SCMs shall be posted with a conspicuous sign stating who is responsible for required maintenance and annual inspection. The sign shall be maintained so as to remain visible and legible.

**9.4.6. RECORDS OF INSTALLATION AND MAINTENANCE ACTIVITIES**

The owner of each structural SCM shall keep records of inspections, maintenance, and repairs for at least five years from the date of creation of the record and shall submit the same upon reasonable request to the Director of Public Works or his designee.

**9.4.7. NUISANCE**

The owner of each stormwater SCM, whether structural or non-structural SCM, shall maintain it so as not to create or result in a nuisance condition.

**9.4.8. MAINTENANCE EASEMENT**

Every structural SCM installed pursuant to this ordinance shall be made accessible for adequate maintenance and repair by a maintenance easement. The easement shall be recorded, and its terms shall specify who may make use of the easement and for what purposes.

## 9.5. ENFORCEMENT AND VIOLATIONS.

### 9.5.1. GENERAL

#### A. Authority to Enforce

The provisions of this ordinance shall be enforced by the Director of Public Works, his or her designee. Whenever this section refers to the Director of Public Works, it includes his or her designee.

#### B. Violation Unlawful

Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this ordinance, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to this ordinance, is unlawful and shall constitute a violation of this ordinance.

#### C. Each Day a Separate Offense

Each day that a violation continues shall constitute a separate and distinct violation or offense.

#### D. Responsible Persons/Entities

Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, SCM, practice, or condition in violation of this ordinance shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this section. Persons subject to the remedies and penalties set forth herein may include any architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this ordinance, or fails to take appropriate action, so that a violation of this ordinance results or persists; or an owner, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or development of the property on which the violation occurs. For the purposes of this article, responsible person(s) shall include but not be limited to:

##### 1. Person Maintaining Condition Resulting In or Constituting Violation

An architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that

constitutes a violation of this ordinance, or fails to take appropriate action, so that a violation of this ordinance results or persists.

##### 2. Responsibility For Land or Use of Land

The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for stormwater controls or practices pursuant to a private agreement or public document, or any person, who has control over, or responsibility for, the use, development or redevelopment of the property.

### 9.5.2. REMEDIES AND PENALTIES

The remedies and penalties provided for violations of this ordinance, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

#### A. Remedies

##### 1. Withholding of Certificate of Occupancy

The Director of Public Works or his designee or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

##### 2. Disapproval of Subsequent Permits and Development Approvals

As long as a violation of this ordinance continues and remains uncorrected, the Director of Public Works or his designee or other authorized agent may withhold, and the Planning Director may disapprove, any request for permit or development approval or authorization provided for by this ordinance or the UDO for the land on which the violation occurs.

##### 3. Injunction, Abatements, etc.

The Director of Public Works or his designee, with the written authorization of the City Manager, may institute an action in a court of competent jurisdiction for a

mandatory or prohibitory injunction and order of abatement to correct a violation of this ordinance. Any person violating this ordinance shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.

#### **4. Correction as Public Health Nuisance, Costs as Lien, etc.**

If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by North Carolina G.S. § 160A-193, the Director of Public Works or his designee, with the written authorization of the City Manager, may cause the violation to be corrected and the costs to be assessed as a lien against the property.

#### **5. Stop Work Order**

The Director of Public Works or his designee may issue a stop work order to the person(s) violating this ordinance. The stop work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop work order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations.

#### **6. Discontinuance of Water Service**

Pursuant to the provisions of North Carolina G.S. § 160A-314 and this section, water service may be temporarily discontinued for willful disregard of this section. All applicable penalty fees may be applied in the event of service suspensions. In the event of continued gross noncompliance with this section, removal of the meter and service will be deemed proper and service will be discontinued. Connection fees and deposits will be forfeited.

#### **B. Civil Penalties**

Any person, firm or corporation violating the mandatory provisions of this section shall be issued a civil citation pursuant to section 1-14 of the Kannapolis City Code having a penalty of one hundred dollars (\$100.00) for residential customer violations and three hundred dollars (\$300.00) for commercial or industrial customer violations. The penalty assessed against a stormwater customer shall be added to the water bill and shall be paid in the same

manner as the water bill. The inability to pay the penalty fees is not relevant to a customers' liability for violating this section. Partial payments for city enterprise services shall be first applied in accordance with City policy. The provisions of this section may also be enforced by actions for abatement or injunction.

#### **C. Criminal Penalties**

Violation of this ordinance may be enforced as a misdemeanor subject to the maximum fine permissible under North Carolina law.

### **9.5.3 PROCEDURES**

#### **A. Initiation/Complaint**

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the alleged violation and the basis thereof and shall be filed with the Director of Public Works or his designee, who shall record the complaint. The complaint shall be investigated promptly by the Director of Public Works or his designee.

#### **B. Inspection**

The Director of Public Works or his designee shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this ordinance.

#### **C. Notice of Violation and Order to Correct**

When the Director of Public Works or his designee finds that any building, structure, or land is in violation of this ordinance, the Director of Public Works or his designee shall notify, in writing, the property owner or other person violating this ordinance. The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. If civil penalties are to be assessed, the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as a debt.

The Director of Public Works or his designee may deliver the notice of violation and correction order personally, by certified or

registered mail, return receipt requested, or by any means authorized for the service of documents by Rule 4 of the North Carolina Rules of Civil Procedure.

If a violation is not corrected within a reasonable period of time, as provided in the notification, the Director of Public Works or his designee may take appropriate action under this ordinance to correct and abate the violation and to ensure compliance with this ordinance.

**D. Extension of Time**

A person who receives a notice of violation and correction order, or the owner of the land on which the violation occurs, may submit to the Director of Public Works or his designee a written request for an extension of time for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the Director of Public Works or his designee may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding 90 days. The Director of Public Works or his designee may grant 90-day extensions in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the person violating this ordinance. The Director of Public Works or his designee may grant an extension only by written notice of extension. The notice of extension shall state the date prior to which correction must be made, after which the violator will be subject to the penalties described in the notice of violation and correction order.

**E. Enforcement After Time to Correct**

After the time has expired to correct a violation, including any extension(s) if authorized by the Director of Public Works or his designee, the Director of Public Works or his designee shall determine if the violation is corrected. If the violation is not corrected, the Director of Public Works or his designee may act to impose one or more of the remedies and penalties authorized by this ordinance.

**F. Emergency Enforcement**

If delay in correcting a violation would seriously threaten the effective enforcement of

this ordinance or pose an immediate danger to the public health, safety, or welfare, then the Director of Public Works or his designee may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The Director of Public Works or his designee may seek immediate enforcement, without prior written notice, through any remedy or penalty authorized by this article.



## **9.6. SEDIMENTATION AND EROSION CONTROL.**

### **9.6.1. SECTION RESERVED**

This section is reserved for future inclusion of local sedimentation and erosion control administration and enforcement. Until such time, the NC Department of Environment Quality (NCDEQ) shall have jurisdiction in Kannapolis. State standards, requirements and procedures shall apply to all projects in the City of Kannapolis City limits.

*References: American Society of Civil Engineering Design and Construction of Urban Stormwater Management Systems (WEF Manual of Practice FD- 20, 1992), at 496-97; Dewberry & Davis, Land Development Handbook: Planning, Engineering & Surveying (McGraw-Hill: 1996), at 629.*

**ARTICLE 10**  
**STREET IMPROVEMENT STANDARDS**

*TABLE OF CONTENTS*

<b>SECTION</b>	<b>PAGE</b>
<b>10.1 STREET IMPROVEMENT STANDARDS.....</b>	<b>10-2</b>

## 10.1. STREET IMPROVEMENT STANDARDS.

### 10.1.1. PURPOSE.

The purpose of this Section is to prescribe minimum design standards for new public and/or private streets. These requirements may exceed the standards prescribed by NCDOT for the acceptance of streets into the Secondary System of State Highways.

### 10.1.2. SIDEWALKS AND OTHER PEDESTRIAN FACILITIES

**10.1.2.1** Except as otherwise provided by subsection 10.1.2.2 below, sidewalks, and/or curb and gutter (where required by the street cross-sections for the applicable street cross-sections in the LDSM) are required along the entire frontage of a development located on an existing street, and along both sides of all streets within the development. Sidewalks, curb and gutter, shall comply with all applicable standards in the LDSM and with any additional sidewalk standards that apply in the zoning district (see Article 4: Zoning Districts and Dimensional Regulations).

**10.1.2.2** Sidewalks, and/or curb and gutter are not required if the street cross-section in the LDSM for the applicable street classification does not require a sidewalk, and/or curb and gutter. Additionally, the Planning Director, in consultation with the Director of Engineering, may waive or modify the requirement for sidewalks in specific locations on determining the sidewalk:

**10.1.2.2.1** Would duplicate an existing greenway or other pedestrian way;

**10.1.2.2.2** Is included in a project for which state funding has been allocated or is already included within the City's Capital Improvement Program (CIP);

**10.1.2.2.3** Is impractical or infeasible due to the presence of topographic conditions or natural features, such as steep grades that do not allow connections to be made; or

**10.1.2.2.4** Would not be located within 500 feet of an existing sidewalk on the same side of the street, provided a public easement for the future installation of a sidewalk is granted, or dedication of additional right-of-way where there is insufficient right-of-way to accommodate a future sidewalk and other required right-of-way improvements.

### 10.1.2.3 Exempt lots and Lots on Existing Streets Not Requiring Utility Extensions

**10.1.2.3.1** For exempt lots, or lots located on existing streets that do not require the dedication of new right-of-way or the extension of utilities (excluding lateral connections) sidewalks, curb and gutter improvements will not be required along the frontage of these lots unless such improvements are already in place adjacent to the lot being developed.

**10.1.2.3.2** Where a development has frontage on an existing street with insufficient right-of-way width to accommodate installation of a required sidewalk (and any associated curb and gutter) along the frontage, the developer shall dedicate additional right-of-way for the installation of the required sidewalk or install the sidewalk on the development site within a dedicated public easement running parallel and adjacent to the public street.

**10.1.2.3.3** Sidewalks or other pedestrian ways shall be constructed within any [commercial, mixed-use, or multifamily] development consisting of multiple buildings to link buildings in the development with other destinations in the development, including parking areas, open space and other on-site amenities, and other common areas serving the development (e.g., mailbox clusters), and with sidewalks and other pedestrian ways on adjoining lands.

### 10.1.2.4 Pedestrian Access at Cul-de-Sacs

In all districts except the AG, RE, and HI districts, if a cul-de-sac street is proposed, a minimum eight feet wide pedestrian access shall be provided from the cul-de-sac head or a location on the cul-de-sac street within 200 feet of the cul-de-sac head to an adjoining sidewalk, other pedestrian way, or open space where practicable.

### 10.1.3. PUBLIC STREETS.

**10.1.3.1.** Public streets shall be designed and constructed in accordance with the LDSM standards for the applicable street classification type, as determined by the Public Works director in accordance with the Street Classification Standards,

the CRMPO Comprehensive Transportation Plan, and all applicable locally adopted plans.

**10.1.3.2.** All streets within a proposed development shall conform in alignment to any publicly adopted transportation plan, including the Comprehensive Transportation Plan and all applicable locally adopted plans.

**10.1.3.3.** Where a proposed subdivision abuts an existing street maintained by the City or NCDOT, the applicant shall dedicate right-of-way necessary to accomplish future road improvements, in accordance with state law. Where the subdivision, or development abuts has is designed to utilize the street for frontage and/or direct access on an existing street maintained by the City or NCDOT, the subdivider or developer shall make any required improvements to the street so it conforms to the LDSM standards for the applicable street classification type, or the CRMPO Comprehensive Plan.

**10.1.3.4.** New developments shall provide curb, gutter, sidewalks, and tree grates or a planting area between the street and the sidewalk, from the new development to adjacent public streets that provide access to the development, in accordance with the LDSM. All such planting areas and tree grates shall be planted with street trees spaced apart an average of 40 feet or less on center. Road widening, sidewalks, bike lanes, street trees, curb and guttering, utility relocations, and all other related improvements shall be the responsibility of the developer and/or owner. The Planning Director may waive or modify the requirement for sidewalks, or curb and gutter in specific locations in accordance with Section 10.1.2.2 above.

**10.1.3.5. Street Classification System.**

**10.1.3.5.1.** Classification of an existing or proposed street not already identified on the Thoroughfare Plan, for the purpose of determining the appropriate design of a roadway or development, or for the purpose of determining the appropriateness of a location for a proposed use, shall be done by the Administrator in consultation with the Director of Transportation.

**10.1.3.5.2.** The street classification system set forth in Table 10.1-1 is hereby adopted for rural and urban streets. Streets may be further categorized pursuant to the adopted *Cabarrus-*

*South Rowan Urban Area Transportation Plan.*

**Table 10.1-1 Street Classifications**

- Freeway/Expressway
- Major Thoroughfare
- Minor Thoroughfare
- Collector (residential and non-residential)
- Residential Street
- Alley

**10.1.3.6. Determination Criteria.** In determining the classification of a street, factors to be considered include the following existing or proposed features:

**10.1.3.6.1.** Facility Geometrics, including the number and width of traffic lanes, turning lanes, and parking lanes.

**10.1.3.6.2.** Access Conditions, including any restrictions on access, the spacing of private accesses, and average lot frontages.

**10.1.3.6.3.** Traffic Characteristics, including ADT, percentage of trucks, average operating speed, percentage of turning movements, origin-destination characteristics of the traffic, and peak hour characteristics of traffic.

**10.1.3.6.4.** In applying these factors, the Administrator may refer to § 10.1.2.4.2 and the sources listed therein, which are hereby incorporated by this reference.

**10.1.3.7. Designation Authority.** Utilizing the criteria of § 10.1.2.5, above, in conjunction with the Thoroughfare Plan Map and the narrative descriptions for each roadway classification provided in Appendix C and the LDSM, Director of Transportation shall determine which of the Thoroughfare Plan designations apply to the street under consideration.

**10.1.4. PRIVATE STREETS.**

**10.1.4.1.** Private streets that develop as part of a subdivision, or integrated commercial, industrial, multifamily residential or institutional development shall be designed and constructed to the public street standards set forth in Appendix C of this Ordinance and the LDSM. Private streets (with established right-of-way for public utilities) shall be allowed in TND and PUD developments and should be designed in accordance with the standards of those sections in Article 4. Private streets (with

established right-of-way for public utilities) shall be allowed in single-family residential subdivisions with less than 100 lots subject to City approval. This section shall not include private accessways/driveways as regulated in Article 8.

**10.1.4.2.** A legally responsible organization (i.e. homeowners association, special district, etc.) as acceptable to the Administrator shall be established to maintain a private street(s). Documents to assure private responsibility of future maintenance and repair by a homeowners association or a special district shall be approved as to form by the Administrator.

**10.1.4.3.** A private street maintenance agreement, satisfactory to the Administrator and Public Works Director, must be recorded by the developer and/or property owner(s) in the office of the Register of Deeds to ensure proper maintenance. The agreement shall specify lot owners' responsibilities for maintenance of private streets and drainage systems, and shall provide for assessments to finance all maintenance activities. In addition, all property transfer instruments must contain reference to that agreement, as well as a statement indicating if the private street does meet public standards for maintenance and that it will not be considered for public maintenance unless improved by the legally responsible organization to those standards. This agreement shall also specify that unless the street is privately maintained in condition for safe passage of public service and emergency vehicles, the City may provide such maintenance, with charges therefore becoming a lien on the properties served, dividing among them proportionate to their assessed tax valuation.

**10.1.4.4.** All gated or controlled access subdivisions within the jurisdiction of this Ordinance must provide continuous accessibility to subdivision lots for provision of public service and emergency vehicles. The method of continuous accessibility will be defined within the private street maintenance agreement and shall be approved by the City Manager (and/or designees).

**10.1.5. DEVELOPMENT ON PRIVATE STREETS**

**10.1.5.1.** For the proposed development of a lot or lots (including exempt lots) on an existing private street (not maintained by the City), the Engineering Department shall assess the street to determine

whether the street is suitable to accommodate the additional traffic anticipated to be generated by the proposed new development.

**10.1.5.2.** In making a determination whether an existing private street is suitable to accommodate additional traffic to be generated by new development on that street, the Director of Engineering (or designee) shall assess the condition of the existing private street based on the standard cross section for private streets, found in the City's LDSM. The basis of mitigation requirements for existing gravel streets will be the NC Fire Code (Fire Apparatus Access Roads), NC Powell Bill funding requirements, and current LDSM street cross-sections.

**10.1.5.3.** If the private street is deemed to be suitable to accommodate additional traffic by the Director of Engineering (or designee), a zoning clearance permit for development will be issued by the City Planning Department. If the street is deemed not to be suitable to accommodate the traffic to be generated by the proposed development, the Director of Engineering (or designee) shall identify what mitigation is required to accommodate the proposed development, including but not limited to: repair or upgrade of the existing street sub-base or surface; repair, addition or enhancement of drainage structures; and or the addition of right-of-way to accommodate necessary improvements. Once the required improvements have been made, the City Planning Department will issue a Zoning Clearance permit for the requested development.

**10.1.5.4.** Any improvements made to accommodate the proposed new development shall not be deemed as sufficient to satisfy the requirements necessary to dedicate the private street to the City for public maintenance.

**10.1.5.5.** At the time an assessment of an existing private street is made by the Director of Engineering (or designee), the Director will (upon request) provide the applicant with a composite list of requirements to dedicate the private street for acceptance by the City, in accordance with the City's Policy for street acceptance.

**10.1.6. STREET LAYOUT STANDARDS.**

This Section establishes general standards regarding the manner in which the public street system of a development is planned.

**10.1.6.1. Conformity to adopted Plans.** The streets within the proposed subdivision shall conform in alignment to the adopted *Cabarrus-South Rowan Urban Area Transportation Plan* and the related Collector Street Plan. The improvement standards of the Thoroughfare Plan shall not apply, except where such a standard has been specifically set forth in Appendix C of this Ordinance and the LDSM. Whenever a tract to be subdivided embraces any part of a collector street or thoroughfare so designated on a plan approved pursuant to NCGS § 136-66.2, such part of the proposed street or thoroughfare shall be platted by the subdivider in the location and width indicated on such plan. Stub streets within previously platted subdivisions shall be extended and the street system aligned thereto and to the Collector Street Plan.

#### **10.1.7. STREET CONNECTIVITY REQUIREMENTS.**

**10.1.7.1.** The City Council hereby finds and determines that an interconnected street system is necessary in order to protect the public health, safety and welfare in order to ensure that streets will function in an interdependent manner, to provide adequate access for emergency and service vehicles, to enhance non-vehicular travel such as pedestrians and bicycles, and to provide continuous and comprehensible traffic routes. [For reference, see Institute for Transportation Engineers, ITE Transportation Planning Council Committee 5P-8, *Traditional Neighborhood Development Street Design Guidelines* (June 1997)].

**10.1.7.2.** All proposed streets shall be continuous and connect to existing or platted streets without offset with the exception of cul-de-sacs as permitted and except as provided below. Whenever practicable, provisions shall be made for the continuation of planned streets into adjoining areas.

**10.1.7.3.** The street network for any subdivision shall achieve a connectivity ratio of not less than 1.40 (see example in Figure 10.1-1).

**10.1.7.4.** The phrase “connectivity ratio” means the number of street links divided by the number of nodes or link ends, including cul-de-sac heads.

**10.1.7.5.** A “link” means and refers to that portion of a street defined by a node at each end or at one end. Approved stubs to adjacent property shall be

considered links. However, alleys shall not be considered links.

**10.1.7.6.** A “node” refers to the terminus of a street or the intersection of two (2) or more streets, except that intersections that use a roundabout shall not be counted as a node. For the purposes of this section, an intersection shall be defined as:

- any curve or bend of a street that fails to meet the minimum curve radius as established in the LDSM; or
- any location where street names change (as reviewed and approved by the Administrator).

**10.1.7.7.** For purposes of this subsection, the street links and nodes within the collector or thoroughfare streets providing access to a proposed subdivision shall not be considered in computing the connectivity ratio.

**10.1.7.8.** Residential streets shall be designed so as to minimize the block length of local streets, to provide safe access to residences with minimal need for steep driveways and to maintain connectivity between and through residential neighborhoods for autos and pedestrians.

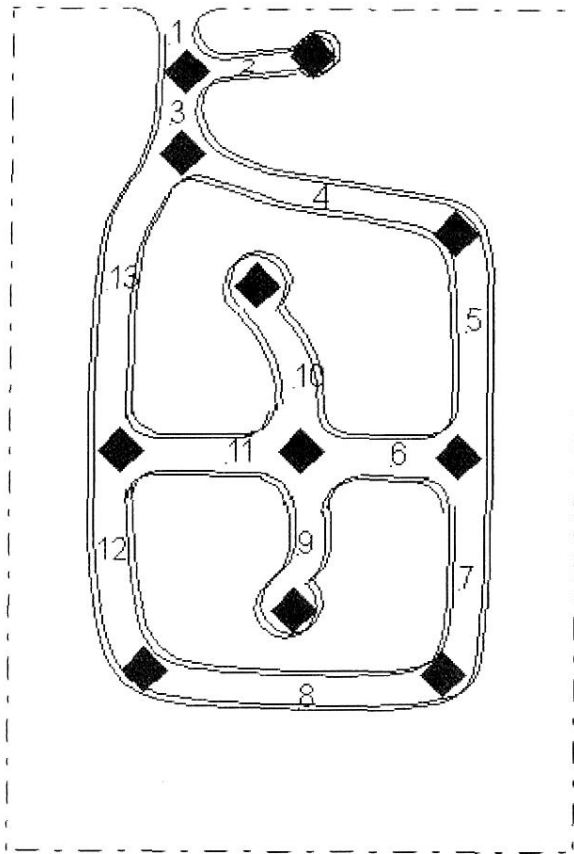
**10.1.7.9.** Where necessary to provide access or to permit the reasonable future subdivision of adjacent land, rights-of-way and improvements shall be extended to the boundary of the development. A temporary turnaround may be required where the dead end exceeds 500 feet in length. The platting of partial width rights-of-way shall be prohibited except where the remainder of the necessary right-of-way has already been platted, dedicated or established by other means.

**10.1.7.10. Exemption.** New subdivisions that intend to provide one new cul-de-sac street shall be exempt from the connectivity ratio standard as set forth in this section, provided the Administrator determines that there is:

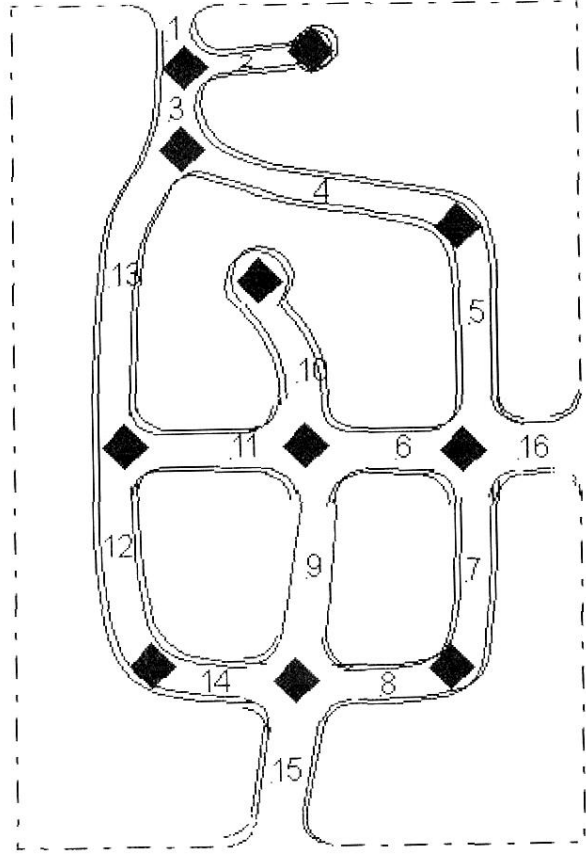
- no options for providing stub streets due to topographic conditions, adjacent developed sites, or other limiting factors; and
- interconnectivity (use of a looped road) within the development cannot be achieved or is unreasonable based on the constraints of the property to be developed.

Figure 10.1-1 Example of Street Connectivity Ratio as applied

Example 1: Subdivision that does not meet the Ratio  
(13 links/11 nodes = 1.18 ratio)



Example 2: Same development modified to meet Ratio  
(16 links/11 nodes = 1.45 ratio)



**10.1.8. STREET HIERARCHY.**

**10.1.8.1.** Streets shall be designed to create a hierarchy of streets according to the following standards, provided, however, that the Director of Transportation may recommend design modifications where such modifications are consistent with an adopted access management plan or necessary by reason of natural features or existing development, and do not create safety hazards or increased maintenance costs:

- Local Streets or Local Roads shall intersect with two streets of equal or higher classification, except where otherwise permitted by this Ordinance.
- Alleys shall intersect with Residential Collector Streets, or Residential Streets. <sup>(1)</sup>
- The Administrator may require a street to be of a collector level design where the anticipated ADT will exceed 3,000 vehicles per day and serves to collect and distribute traffic to the major street system identified on the Thoroughfare Plan.
- Reserve strips and cul-de-sac streets that interfere with street connections needed to serve existing or planned development are prohibited.

**10.1.9. DRIVEWAY PERMIT REQUIRED.**

A driveway permit is required prior to the construction of any new access point to a publicly maintained street. Said permits are issued by the NCDOT for a connection to any State Highway (19A NCAL §§ 2B.0601-2B.0605). A driveway permit is required in accordance to the standards of Appendix D to connect to a City maintained street. Applicants for preliminary subdivision plat or site plan approval shall submit copies of any driveway permit applications with the application for development approval.

**10.1.10. ACCESS MANAGEMENT STANDARDS.**

The following standards shall be used to determine the adequacy of lot layouts so that safe and adequate access to each lot is provided. The purpose of regulating the number, spacing and design of vehicular access points is to balance the need for providing access to individual private properties with the need to preserve an adequate level of capacity on the streets providing access. Vehicular access restrictions shall be required to be shown on subdivision plats.

**10.1.10.1.** Required spacing between adjacent access locations or a proposed access location and an adjacent street intersection are listed in the Land Development Standards Manual (LDSM). For existing lots, driveways shall be located at the point of maximum separation if the standards of this section cannot be met.<sup>(2)</sup>

**10.1.10.2.** Where lots in a proposed subdivision front on a thoroughfare, options for designing access that meets the standards of this Section shall include:

- the use of cross access easements in order to maintain private access points at intervals of no less than 400 feet.
- the use of lower level public streets to provide secondary access in accordance with § 6.6.5.2.

**10.1.10.3.** Notation shall be provided on an approved final plat to restrict vehicular access for lots along the frontage of thoroughfares, nonresidential collectors or higher-level streets.

**10.1.10.4. Secondary Access.** Secondary access shall be provided for major subdivisions of 100 or more lots. Secondary access streets shall be routed to avoid hazard areas such as floodways. <sup>(1)</sup>The secondary access shall be constructed to City of Kannapolis Street cross-section standards and open to public traffic prior to the final platting of the 100<sup>th</sup> lot.

**10.1.10.5. Substandard Access.** Where access meeting the spacing guidelines of this Section cannot be provided, the Director of Transportation shall consider the following standards in determining whether a substandard access location may be permitted.

**10.1.10.5.1.** The Director of Transportation shall first determine whether alternate access is available. Alternate access includes:

- access to another street that meets the standards of the Ordinance; or
- access provided jointly with an adjacent property that will meet the standards of this Ordinance.

**10.1.10.5.2.** Where alternate access opportunities are determined not to exist, the Director of Transportation may grant a reduction in spacing standards of up to 20%.



**10.1.10.5.2.1.** If after considering alternatives above, the Director of Transportation determines that no feasible alternatives exist, a substandard access permit may be granted only subject to the exception provisions of § 6.4.17.

**10.1.11. EMERGENCY VEHICLE ACCESS.**

The purpose of this Section is to ensure that all premises shall be readily accessible for emergency service vehicles, particularly fire-fighting equipment.

**10.1.11.1. Emergency Access Required.**

For developments which do not have frontage on a public street, access for fire vehicles and emergency apparatus from a public street shall be provided as follows:

**10.1.11.1.1.** Except as provided by this § 10.1.9, a fire lane shall be required to provide access to any portion of any structure which is more than:

- one hundred and fifty (150) feet from the nearest street right-of-way when the structure is thirty (30) feet or less in height; or
- fifty (50) feet from the nearest street right-of-way when the structure exceeds thirty (30) feet in height.

**10.1.11.1.2.** When fire vehicles and emergency apparatus are provided access to any portion of a structure more than the distance from a street right-of-way specified in above, by means of either buffer yard area or adjoining property, the requirements of this § 10.1.9 may be waived by the Administrator, after consultation with the fire chief.

**10.1.11.1.3.** The City shall not be liable for damage to underground utilities beneath fire access lanes caused by firefighting equipment.

**10.1.12. VARIANCES.**

Requests for variances or relief from any provisions of Section 10.1 shall be covered under Section 6.4.18 of this Ordinance, except that which is allowed under Section 10.1.10.5.

# **ARTICLE 11**

## **SITE DESIGN STANDARDS**

### *TABLE OF CONTENTS*

<b>SECTION</b>	<b>PAGE</b>
<b>11.1 OUTDOOR STORAGE AND SOLID WASTE STORAGE .....</b>	<b>11-2</b>
<b>11.2 MULTI-FAMILY RESIDENTIAL DESIGN STANDARDS .....</b>	<b>11-5</b>
<b>11.3 STANDARDS FOR SHOPPING CENTERS AND SUPERSTORES .....</b>	<b>11-10</b>
<b>11.4 ZERO LOT LINE DEVELOPMENT STANDARDS .....</b>	<b>11-12</b>
<b>11.5 SUPPLEMENTAL DESIGN STANDARDS FOR CENTER CITY (CC) DISTRICT .....</b>	<b>11-14</b>
<b>11.6 SUPPLEMENTAL DESIGN STANDARDS FOR CAMPUS DEVELOPMENT (CD) DISTRICT .....</b>	<b>11-16</b>
<b>11.7 SUPPLEMENTAL DESIGN STANDARDS FOR LIGHT INDUSTRIAL (I-1) DISTRICT.....</b>	<b>11-21</b>
<b>11.8 SUPPLEMENTAL DESIGN STANDARDS FOR CAMPUS DEVELOPMENT- RESIDENTIAL (CD-R) DISTRICT.....</b>	<b>11-22</b>
<b>11.9 POCKET &amp; TINY HOUSE NEIGHBORHOOD DESIGN STANDARDS .....</b>	<b>11-23</b>

## 11.1. OUTDOOR STORAGE AND SOLID WASTE STORAGE STANDARDS.

### 11.1.1. RESIDENTIAL DISTRICTS.

**11.1.1.1.** In the RE, RL, RM-1, RM-2, RV and RC districts, open storage of junk, salvage or equipment including but not limited to scrap metal, used boxes, or crates, used appliances, salvaged furniture or glassware, salvaged automobiles or parts shall be prohibited. All Nonconforming open storage areas as described above, which are not found in compliance with the requirements of this Section shall either cease and desist or meet full compliance standards no later than three (3) years following the effective date of this Ordinance or applicable amendment hereto provided however, that no existing open storage area may be expanded or enlarged except in accordance with the provisions herein.

Notwithstanding the above provisions, any open storage areas that were subject to, and have complied with, the amortization provisions of the previous Kannapolis Zoning Ordinance shall not be subject to this Section 11.1.1.1.

**11.1.1.2.** Open storage of materials for non-residential uses within a residential zoning district shall conform to the standards of § 11.1.2 Non-residential Zoning Districts.

### 11.1.2. NON-RESIDENTIAL ZONING DISTRICTS.

#### 11.1.2.1. General Provisions.

In the AG, B-1, CC, C-1, C-2, CD, I-1 and I-2 districts, outdoor storage areas shall comply with the following, except that allowed under §§ 11.1.2.2-11.1.2.4.

**11.1.2.1.1.** Outdoor storage areas shall be prohibited within 50 feet of any public street right-of-way and within one hundred (100) feet of residential uses and/or residential zoning districts. This provision shall not apply to nursery stock in non-residential zoning districts.

All measurements used in the enforcement of this Section shall be depicted on a major or minor site plan as required for development approval.

**11.1.2.1.2.** Outdoor storage areas shall be screened where visible from the public or private right-of-way and residential zoned or residential used properties by an opaque screen. This provision shall not apply to Junk/Salvage Yards (see § 5.13).

**11.1.2.1.3.** Except for integral units (see Definitions, Appendix A), openly stored items shall not project above the screening. Notwithstanding this requirement, no item may exceed the building height restrictions in Table 4.7-1 for the zoning district within which the item is located.

**11.1.2.1.4.** No open storage area shall be maintained in the required front yard area, except that allowed by §§ 11.1.2.3 and 11.1.2.4.

**11.1.2.1.5.** Fences of chain link with fabric mesh, and fences of sheet metal and barbed and razor wire, with or without slats of wood or metal inserted, shall not be considered as sufficient materials to screen outdoor storage areas or operations.

**11.1.2.1.6.** Screening shall be constructed of durable, weather-proof, permanent materials such as concrete or stone block, metal, vinyl, wood or similar material. The applicant shall ensure that the choice of materials and color are consistent and compatible with those of the principal building(s) on the site.

**11.1.2.1.7.** All Nonconforming open storage areas as described above, which are not found in compliance with the requirements of this Section shall either cease and desist or meet full compliance standards no later than three (3) years following the effective date of this Ordinance or applicable amendment hereto provided however, that no existing open storage area may be expanded or enlarged except in accordance with the provisions herein.

Notwithstanding the above provisions, any open storage areas that were subject, to and have complied with, the amortization provisions of the previous Kannapolis Zoning Ordinance shall not

be subject to this Section 11.1.2.1.7.

**11.1.2.1.8.** The provisions of this § 11.1.2 shall not apply to open storage associated with agricultural uses as permitted in Table 4.6-1 of this Ordinance.

**11.1.2.2. Solid Waste Storage Areas.**

**11.1.2.2.1.** Solid waste dumpsters or other large containers for solid waste storage shall be confined in an enclosed area that is screened on all sides. A solid waste enclosure, large enough to confine solid waste items and dumpster(s), should be of solid opaque construction, six-foot-high with latching gates providing access. The applicant shall indicate on the site plan the choice of materials and color so that the Administrator can determine that they are consistent and compatible with those of the principal building(s) on the site. No solid waste storage area shall be located in any front building yard setback as described in Table 4.7-1 or any street yard or buffer yard as set forth in Article 7.

**11.1.2.2.2.** Enclosures shall be constructed of durable, weather-proof, permanent materials such as concrete or stone block, metal, vinyl, wood or similar material. The applicant shall ensure that the choice of materials and color are consistent and compatible with those of the principal building(s) on the site.

**11.1.2.2.3.** Fences of chain link, sheet metal and barbed and razor wire, with or without slats of wood or metal inserted, shall not be considered as sufficient materials to screen outdoor storage areas or operations.

**11.1.2.2.4.** Solid waste dumpsters or other large containers for solid waste storage shall have a lid to minimize the potential contamination of stormwater runoff.

**11.1.2.2.5.** The provisions of this § 11.1.2.2 shall apply to all non-residential development, multi-family residential developments and/or single-family attached residential developments, which do not use roll-out containers for curbside solid waste pickup.

**11.1.2.3. Outdoor Display of Vehicles.**

**11.1.2.3.1.** For outdoor display of vehicles for sale, see § 5.6 of this Ordinance.

**11.1.2.3.2.** For outdoor storage of vehicles in need of major repair, such vehicles shall be located within an area screened from view from a public right-of-way or an adjacent property line. Storage of vehicles in need of minor repair are exempt from the requirements of this section. Minor repair shall include vehicles scheduled for immediate repair and shall be stored on-site for no more than five working days (unless evidence can be provided to the Administrator to indicate circumstances, such as part availability, prevent repair in within the five day period).

**11.1.2.4. Retail Standards.**

**11.1.2.4.1.** The provisions of this section shall apply to any retail use that includes the sale or storage of merchandise in an open or unenclosed area except as provided in § 11.1.2.3. The provisions of this section § 11.1.2.4 shall not apply to the CC district or to sidewalk vendors permitted under the temporary use regulations of § 5.22.7 of this Ordinance.

**11.1.2.4.2.** No booths, stalls, or materials on display may be located within any required setback area.

**11.1.2.4.3.** Outdoor display areas shall not be located in such a manner as to displace or otherwise interfere with any required parking spaces and maneuvering areas.

**11.1.2.4.4.** Outdoor storage areas shall be prohibited within 30 feet of any public street right-of-way and within one hundred (100) feet of residential uses and/or residential zoning districts. This provision shall not apply to nursery stock in non-residential zoning districts.

All measurements used in the enforcement of this Section shall be depicted on a major or minor site plan as required for development approval.

**11.1.2.4.5.** Non-enclosed areas for the storage and sale of seasonal inventory shall be:

- permanently defined on an approved site plan;
- completely screened from view from a public street right-of-way or an adjacent residential

- zoned parcel with walls and/or fences; and
- comprised of materials, colors, and design of screening walls and/or fences which shall conform to those used as in the principal structure. If such areas are to be covered, then the covering shall conform to the exposed roofing colors on the building.

rights-of-way or residentially zoned or developed property in order to screen outdoor storage areas containing commercial products or materials.

**11.1.2.5. Equipment Rental and Leasing (with outdoor storage)**

**11.1.2.5.1.** The provisions of this section shall apply to any Equipment Rental and Leasing (with outdoor storage use) located in the CD zoning district. General provisions under Section 11.1.2.1 – 11.1.2.1.8. shall also apply.

**11.1.2.5.2.** Outdoor storage area shall not exceed 50% of the total parcel footage in which it is located.

**11.1.3. MIXED USE ZONING DISTRICTS.**

**11.1.3.1.** The provisions of this section shall apply to the PUD, TND, and PID districts. Outdoor storage within these districts shall be allowed as follows.

**11.1.3.1.1.** Outdoor storage of commercial products or materials shall be shown on a site-specific development plan approved as part of a special use permit. No outdoor storage of commercial products or materials shall be allowed unless included in an approved special use permit.

**11.1.3.1.2.** The provisions of this § 11.1.3 shall not apply to any existing use(s) that is considered a legal nonconforming use as set forth in § 13.1 of this Ordinance, provided however, that no existing outdoor storage area may be expanded or enlarged except in accordance with the provisions herein.

**11.1.3.1.3.** Screening of outdoor storage areas shall be required as follows:

**11.1.3.1.3.1.** Within a mixed-use development, a Type C buffer shall be required between residential uses and outdoor storage areas containing commercial products or materials;

**11.1.3.1.3.2.** A Type C buffer shall be required along the perimeter of the mixed-use development where abutting public street

## 11.2. MULTI-FAMILY RESIDENTIAL DESIGN STANDARDS.

### 11.2.1. PURPOSE.

The purpose of this Section is to provide reasonable design standards for multi-family residential developments and single-family attached residential developments which:

- provide design flexibility;
- accommodate affordable housing for current and future residents of the City;
- protect the health, safety and general welfare of the general public and occupants of the units;
- protect the property values of surrounding dwelling units;
- promote a pedestrian-friendly, walkable streetscape; and
- provide for aesthetically pleasing development patterns.

### 11.2.2. APPLICABILITY.

**11.2.2.1.** The provisions of this Section apply to multi-family residential developments or single-family attached residential developments as permitted by Table 4.6-1 of this Ordinance.

**11.2.2.2.** Single-family detached homes, duplexes on individual lots, and triplexes on individual lots are exempt from the standards of this Section.

**11.2.2.3.** The provisions of this section shall not apply to developments within the CC Center City District.

### 11.2.3. RULES OF CONSTRUCTION.

For purposes of computing the number of dwelling units to determine applicability of the standards of this Section, the number of existing or proposed dwelling units within any tract of land plus all existing or proposed Multi-family Residential Dwellings on any adjacent property under Common Ownership shall be counted.+

### 11.2.4. BULK AND DENSITY STANDARDS.

Notwithstanding any provision of § 4.7 of this Ordinance to the contrary, the lot size, lot width, setback, and building separation standards shall conform to Table 11.2-1.

### 11.2.5. OFF-STREET PARKING AND ACCESS STANDARDS.

**11.2.5.1.** All projects shall conform to the parking requirements of Article 8.

**11.2.5.2. Access to Public Street(s).**

Developments with 40 or more dwelling units should have direct primary access on a major or minor thoroughfare as shown on the Thoroughfare Plan.

Developments with 40 or more dwelling units without direct primary access on a major or minor thoroughfare shall require a Traffic Impact Analysis (TIA) to determine project feasibility.

Developments for one hundred 100 dwelling units are encouraged to have two (2) direct entrances onto at least one Major and/or Minor Thoroughfare as shown on the Thoroughfare Plan.

#### 11.2.5.3. Off-street Parking.

**11.2.5.3.1.** No parking space shall be located in the required setbacks, except for the rear setbacks.

**11.2.5.3.2.** No off-street parking space shall be located closer than ten (10) feet to any residential building wall.

#### 11.2.5.4. Accessway/Driveway Design.

**11.2.5.4.1.** No driveway shall be located closer than fifteen (15) feet to any wall of a residential building.

**11.2.5.4.2.** All proposed drives shall be improved in accordance with Article 8.

**11.2.5.4.3.** For developments of forty (40) or more dwelling units, a divided ingress-egress driveway with a landscaped median for all entrances from public streets shall be provided. Median design shall be in conformity with the standards in Appendix C of this Ordinance and the Land Development Standards Manual (LDSM).

### 11.2.6. COMMON OPEN SPACE.

#### 11.2.6.1. Applicability.

Common open space areas shall be required in accordance with Table 11.2-1 except as provided below.

**11.2.6.2.** The Administrator may waive up to fifty percent (50%) of the open space requirement if all units within the development are located within

1,000 feet of a public park as measured along a public sidewalk, trail or bikeway.

**11.2.6.3.** The open space requirements of this Section shall not apply to multi-family residential developments which are second floor units above first floor commercial development, or to any residential developments in the CC zoning district which are above the first floor.

**11.2.6.4. Open Space Characteristics.**

Land designated as open space shall be maintained as active open space and may not be separately sold, subdivided, or developed except as provided below. Open space shall be required in accordance with Table 11.2-1.

**11.2.6.4.1. Open Space Provisions and Maintenance Plan Required.**

Any areas reserved as open space shall be indicated on a site plan. An Open Space Provision and Maintenance Plan shall be submitted as a part of the application for development approval including the project phasing schedule. This plan shall designate and indicate the boundaries of all open-space areas required by this Ordinance. The plan shall:

- Designate areas to be reserved as active open space. The specific design of open-space areas shall be sensitive to the physical and design characteristics of the site.
- Specify the manner in which the open space shall be perpetuated, maintained, and administered.

**11.2.6.4.2. Spacing and Dimensional Limitations.**

In order to ensure that all designated open space has suitable size, location, dimension, topography and general character, and proper road and/or pedestrian access, as may be appropriate, to be usable open space, the following standards shall apply.

- Open space provided pursuant to this requirement shall be accessible to all residents of the development and shall measure at least thirty (30) feet across its narrowest dimension.

**11.2.6.4.3. Use of Stormwater Detention Basins.**

Retention areas or detention basins which are required as part of this Ordinance shall not qualify as an open space area unless fifty percent (50%)

or more of the active and usable area is above the ten (10) year storm and is designed for multiple uses and the area(s) conforms to the requirements of subsections 1 and 2 below.

**11.2.6.4.3.1.** Retention or detention areas shall meander through the subdivision as a greenbelt, rather than as a single basin. Retention areas shall be improved so as to be useable and accessible. Retention areas shall not be inundated so as to be unusable for their designated recreational purposes.

**11.2.6.4.3.2.** Retention or detention areas shall be given a natural character and shall be constructed of natural materials. Terracing, berming and contouring is required in order to naturalize and enhance the aesthetics of the basin. Basin slopes shall not exceed a three-to-one slope.

**11.2.6.5. Preservation of Open Space.**

**11.2.6.5.1.** Open-space areas shall be maintained so that their use and enjoyment as open space are not diminished or destroyed. Open-space areas may be owned, preserved, and maintained by the owner(s) of the development or a homeowner's association (in the case of a single-family attached development) which assumes full responsibility for its maintenance. The restrictive covenants shall provide that, in the event that any private owner of open space fails to maintain same according to the standards of this Ordinance, the City Council may, following reasonable notice and demand that deficiency of maintenance be corrected and direct appropriate City staff, or a contractor to and direct appropriate City staff, or a contractor to enter the open space to maintain same. The cost of such maintenance shall be charged to those persons having the primary responsibility for maintenance of the open space.

**11.2.7. PEDESTRIAN FACILITIES.**

**11.2.7.1.** Sidewalks shall be constructed within the interior of the development to link residential buildings with other destinations such as, but not limited to: parking, adjoining streets, mailboxes, trash disposal, adjoining sidewalks or greenways and on-site amenities such as recreation areas. These interior sidewalks shall be constructed in accordance with the standards for sidewalks as set forth in Appendix C of this Ordinance and the LDSM.

**11.2.7.2.** Sidewalks, in combination with curb and gutter, shall be required adjacent to all public streets which provide access to the development; in accordance with the policy on file in the office of the Public Works Director. Such improvements may be subject to road widening and other related improvements. Road widening, sidewalks, curb and guttering, utility relocations, and all other related improvements shall be the responsibility of the developer and/or owner. Design standards shall be subject to review and approval by the City of Kannapolis Public Works Director. Design standards for pedestrian upfits to state-maintained roads shall be subject to review and approval by the City of Kannapolis Public Works Director and the NC Department of Transportation.

**11.2.7.3.** A shelter shall be constructed at the location(s) (including at the perimeter of a development site) where a public school bus(es) pick-up/drop-off children as established by the appropriate School system. The shelter shall be constructed to a minimum size to accommodate the average number of children that may be awaiting pick-up. The shelter shall be included in the sidewalk design to ensure adequate access.

#### **11.2.8. DIMENSIONAL AND DENSITY STANDARDS.**

**11.2.8.1.** The maximum impervious surface coverage (impervious surface ratio) shall conform to the standards as set forth on Table 4.7-1 for the appropriate zoning district. Multi-family or Single-family attached developments that are allowed (by right or as special use) in non-residential districts shall use the dimensional and density standards of Table 4.7-1 as set forth for the RC district. Where a Watershed Overlay District (§ 4.16) exists, the more restrictive requirements shall apply.

**11.2.8.2.** The minimum spacing between buildings is 20 feet, plus one (1) foot for each one (1) foot of building height in excess of 30 feet.

#### **11.2.9. BUILDING DESIGN.**

**11.2.9.1.** In order to provide interesting and aesthetically attractive multi-family developments and to avoid monotonous, “barracks”-style buildings, the following standards shall apply:

**11.2.9.2.** Multi-family buildings shall have a multifaceted exterior form in which articulated

facades are combined with window and door placements, as well as other detailing, to create an interesting and attractive architectural design which is comprised of more than flat walls with minimal features.

**11.2.9.3.** Buildings shall be arranged on multi-family sites in patterns that are not strictly linear. Adjacent buildings shall not be located in continuous straight lines. Limited linear building placements, which are part of an arrangement to define common space such as a courtyard, are acceptable.

**11.2.9.4.** Entryways shall face a street, sidewalk, or common area. Buildings shall not face the rear of other buildings on the same lot or parcel.

**11.2.9.5.** All buildings within the CD-R District shall be designed with at least 40% of the overall façade consisting of masonry components.

#### **11.2.10. UTILITIES AND LIGHTING.**

**11.2.10.1.** All utility lines shall be located in accordance with the standards in the LDSM.

**11.2.10.2.** Outdoor area lighting shall be provided for security. Such lighting shall be shielded to direct light downward and not into dwelling units on, or adjacent to, the multi-family site. Lighting shall be provided to illuminate the intersections of primary interior driveways and building entryways.

#### **11.2.11. LANDSCAPING REQUIREMENTS**

A landscaping plan shall be submitted which shall incorporate all applicable landscaping requirements as set forth in Article 7 of this Ordinance.

#### **11.2.12. RECYCLING FACILITIES.**

Multi-family residential developments or single-family attached residential developments shall be required to provide a container(s) for the collection of recyclable materials. Such a container shall be subject to approval by the City’s Director of Environmental Services.

#### **11.2.13. UNIT OWNERSHIP.**

Developments in which property is proposed to be conveyed in Unit Ownership shall comply with the North Carolina Unit Ownership Act. Common areas, parking, landscaping, open space, and driveway facilities shall be under common ownership.



**11.2.14. SIGNAGE.**

Signage for multi-family dwellings and/or single-family attached dwellings shall be subject to the sign standards as set forth in Article 12 and, more specifically, Table 12.1-4 (regardless of what zoning district the development may be located within).

*Table 11.2-1 Design Standards for Multi-family or Single-family Attached Dwelling Projects*

<b>Lot Size</b>	Not applicable – see “Density”.
<b>Density</b>	see Table 4.7-1 (Article 4)*
<b>Lot Width and Depth</b>	see Table 4.7-1 (Article 4)*
<b>Front Setback or Street Side Setback</b>	Developments of less than 40 dwelling units: see Table 4.7-1 (Article 4)* Developments of 40 or more dwelling units: 50 feet, except that the minimum front setback may be reduced to 20 feet if all required off-street parking is located at the rear of the building(s).
<b>Interior Side Setback</b>	20 feet
<b>Rear Setback</b>	20 feet
<b>Separation between Buildings</b>	20 feet, plus one (1) foot for each one (1) foot of building height in excess of 30 feet
<b>Common Open Space</b>	see Table 6.5-1 (Article 6). (Note: multi-family developments allowed in non-residential districts shall comply with the open space standards for residential districts in Table 6.5-1.)
<b>Maximum Building Length</b>	200 feet

\*Note: Multi-family or Single-family attached developments that are allowed (by right or as special use) in non-residential districts shall use the dimensional and density standards of Table 4.7-1 as set forth for the RC district.

## 11.3. STANDARDS FOR SHOPPING CENTERS AND SUPERSTORES.

### 11.3.1. APPLICABILITY.

The following standards and guidelines are applicable to any Retail Use Structure, or group of Structures primarily devoted to Retail Activities, which have a total in excess of twenty-five thousand (25,000) square feet of Gross Floor Area. Freestanding structures with less than 25,000 square feet of gross floor area that are developed along perimeter outparcels of a shopping center are not subject to the supplemental standards of this § 11.3.

### 11.3.2. SITE DESIGN.

**11.3.2.1. Outdoor Space.** Shopping centers and superstores shall provide at least one outdoor space, or site amenity, to beautify the site in addition to the minimum landscaping requirements of Article 7. The outdoor space or site amenity is intended to enhance the vehicular and pedestrian entryways to the site and the buildings on the site. An “outdoor space” or “site amenity” may include, but is not limited to, the following:

- A public plaza or courtyard on the site;
- A landscaped median for the driveway(s) leading into the site and landscaped pedestrian areas; or
- A public square or park on the site, or on adjacent land.

**11.3.2.2. Design Features.** The outdoor space or site amenity shall be improved with features which may include, but are not limited to:

- Landscaping
- Seating walls
- Benches
- Fountains
- Clock towers

**11.3.2.3. Building Setbacks.** The minimum setback for any building facade shall be seventy-five (75) feet from the nearest perimeter property line. Perimeter property lines are those that establish the boundaries of the development, including any and all perimeter outparcels.

**11.3.2.4. Transit Stops.** Each development shall provide an off-street transit bus stop for

customers and employees if the development is located on an established or planned public transit route.

### 11.3.3. LANDSCAPING.

A landscaping plan shall be submitted which shall incorporate all applicable landscaping requirements as set forth in Article 7 of this Ordinance.

### 11.3.4. PEDESTRIAN CIRCULATION.

**11.3.4.1.** Sidewalks shall be constructed within the interior of the development to link buildings with other destinations such as, but not limited to:

- parking,
- adjoining streets,
- adjoining sidewalks, or
- adjoining developments or amenities where appropriate pedestrian connections can be reasonably accomplished.

These interior sidewalks shall be constructed in accordance with the standards for sidewalks as set forth in Appendix C of this Ordinance and the LDSM.

**11.3.4.1.1.** Sidewalks, in combination with curb and gutter, shall be required adjacent to all public streets that provide access to the development; in accordance with the policy on file in the office of the Public Works Director. Such improvements may be subject to road widening and other related improvements. Road widening, sidewalks, curb and guttering, utility relocations, and all other related improvements shall be the responsibility of the developer and/or owner. Design standards shall be subject to review and approval by the City of Kannapolis Public Works Director. Design standards for pedestrian upfits to state-maintained roads shall be subject to review and approval by the City of Kannapolis Public Works Director and the NC Department of Transportation.

### 11.3.5. OUTDOOR STORAGE.

Standards for outdoor storage and/or display shall be regulated in accordance with § 11.1 of this Article.

**11.3.6. BUILDING DESIGN.**

**11.3.6.1. Facades.**

**11.3.6.1.1.** In order to provide interesting and aesthetically attractive retail developments and to avoid monotony in design, the following standards shall apply:

- Facades greater than 150 feet in length, measured horizontally, shall incorporate wall plane projections or recesses to create an interesting and attractive architectural design which is comprised of more than flat walls with minimal features.
- Ground floor facades that face public streets shall have arcades, display windows, entry areas, awnings, or other such features along no less than 60 percent of their horizontal length.

**11.3.6.2. Roofing.**

**11.3.6.2.1.** The following standards are intended to foster variations in roof lines to soften and reduce the massive scale of large buildings. Roofs shall have the following features:

- Parapets concealing flat roofs and rooftop equipment, such as HVAC units from public view. The height of such parapets shall not exceed one-third of the height of the supporting wall. Such parapets shall feature three-dimensional cornice treatment and shall not be of a constant height for a distance of greater than 150 feet.
- Three or more roof slope planes.

**11.3.6.3. Exterior Materials and Color.**

**11.3.6.3.1.** Predominant exterior buildings materials shall be high quality materials, including but not limited to brick, wood, stucco, sandstone, other native stone, or tinted, textured, or concrete masonry units.

**11.3.6.3.2.** Facade colors shall be low reflectance, subtle, neutral or Earth Tone colors. The use of high intensity colors, metallic colors, black or fluorescent colors is prohibited.

**11.3.6.3.3.** Building trim and accent areas may feature brighter colors, including primary colors.

**11.3.6.3.4.** No more than 50% of exterior

building materials shall include smooth-faced concrete block, smooth-faced tilt-up concrete panels or prefabricated steel panels.

**11.3.6.4. Entryways.**

**11.3.6.4.1.** Entryway design elements and variations shall provide orientation and aesthetically pleasing character to the building. The following standards identify desirable entryway design features. Each principal building on a site shall have clearly defined, highly visible customer entrances featuring no less than three of the following:

- canopies or porticos
- overhangs
- recesses/projections
- arcades
- raised corniced parapets over the door
- peaked roof forms
- arches
- outdoor patios
- display windows
- architectural details such as tile work and moldings which are integrated into the building structure and design
- integral planters or wing walls that incorporate landscaped areas and/or places for sitting

**11.3.6.5. Mechanical Appurtenances.**

**11.3.6.5.1.** To the greatest extent possible, mechanical appurtenances shall be located within the structure. External mechanical appurtenances such as heating and air conditioning equipment shall be screened from public view and finished to match the colors of adjacent building materials.

**11.3.7. PARKING STANDARDS.**

Off-street parking and vehicular standards shall be governed by Article 8 of this Ordinance and the Land Development Standards Manual (LDSM).

## 11.4. DESIGN STANDARDS FOR ZERO LOT LINE DEVELOPMENTS.

### 11.4.1. PURPOSE.

The purpose of this Section is to provide reasonable design standards for detached single family dwelling development with zero lot lines. In a zero lot line development, houses are shifted to one side of the lot. This provides for greater usable yard space on each lot. These developments require that planning for all of the house locations are done at the same time. Because the exact location of each house is predetermined, greater flexibility in site development standards are possible while assuring that the single-family detached character of a neighborhood is maintained.

### 11.4.2. APPLICABILITY.

Zero lot line developments are permitted by right in the following zoning districts: AG, RE, RL, RM-1, RM-2, RV and RC. Zero lot line developments shall conform to the design standards of Table 11.4-1 and as set forth in this § 11.4.

### 11.4.3. EAVES.

The eaves on the side of a house with a reduced setback may project a maximum of 18 inches over the adjacent property line. In this case, an easement for the eave projection shall be recorded on the deed for the lot where the projection occurs.

### 11.4.4. MAINTENANCE EASEMENT.

An easement to allow for maintenance or repair is required when the eaves or side wall of a house are within four (4) feet of the adjacent property line. The easement on the adjacent property shall provide at least five (5) feet of unobstructed space between the furthestmost project of the structure and be wide enough to allow five (5) feet between the eaves or side wall and the edge of the easement.

### 11.4.5. PRIVACY.

If the side wall of the house is on the property line, or within three (3) feet of the property line, windows or other openings that allow for visibility into the side yard of the adjacent lot are not permitted. Windows that do not allow visibility into the side yard of the adjacent lot, such as a clerestory window or a translucent window, are permitted

### 11.4.6. BUILDING SEPARATIONS

In no case shall the reduced setbacks result in a

distance of less than ten (10) feet between residential structures.

### 11.4.7. SUBDIVISION PLAT NOTES

The reduced setbacks shall be pre-determined and shall be clearly denoted on the preliminary subdivision plat and final plat.

*Table 11.4-1 Design Standards for Zero Lot Line Developments*

<b>Lot Size</b>	see Sect. 4.7
<b>Density</b>	see Sect. 4.7
<b>Minimum Frontage on a Public Street</b>	Less than 40 units: see Sect. 4.7 40 or more units: 80 feet
<b>Lot Width</b>	See Sect.4.7 (except in Cluster Developments, refer to Sect. 4.8)
<b>Front Setback or Street Side Setback</b>	see Sect. 4.7 (except in Cluster Developments, refer to Sect. 4.8)
<b>Rear Setback</b>	20 feet (except in Cluster Developments, refer to Sect. 4.8)
<b>Separation between Buildings</b>	10 feet
<b>Common Open Space</b>	as required per Article 6 Subdivision Regulations and/or § 4.8 Cluster Development

## 11.5. SUPPLEMENTAL DESIGN STANDARDS FOR CENTER CITY (CC) DISTRICT.

### 11.5.1. SCOPE.

In addition to all other design and improvement regulations within this Ordinance, sites and buildings within the CC District are regulated in accordance with specific standards as listed below. The standards of this section shall not apply to any industrial use or residential single or two-family structures.

### 11.5.1. DESIGN CRITERIA.

**11.5.1.1.** In order to promote pedestrian friendly development, Parcels within the CC District shall be exempt from the minimum off-street parking spaces as set forth in Article 8 of this Ordinance except that lots within the CC district that have frontage along Dale Earnhardt Blvd./Loop Road shall be subject to the minimum off-street parking standards of Article 8. For large lots with frontage that have a lot depth of 200 feet or greater, any development beyond the 200 feet shall be exempt from the off-street parking requirements of Article 8.

**11.5.1.2.** The following off-street parking design requirements shall apply except that lots within the CC district that have frontage along Dale Earnhardt Blvd./Loop Road are exempt from the provisions of this Section 11.5.2.2. However, for large lots with frontage along Dale Earnhardt Blvd./Loop Road that have a lot depth of 200 feet or greater, any development beyond the 200 feet shall be subject to the standards as set forth below.

- All buildings shall have their principal entrance opening to a public or private street, square, plaza, or sidewalks. Where a principal building entrance opens to a private street, square, plaza, or sidewalks, it shall be accompanied by a public access easement. The principal entrance shall not open onto an off-street parking lot.
- No off-street surface parking shall be permitted in front of a Principal Structure<sup>1</sup>
- Loading/unloading areas shall be located only in the rear or side yard.

**11.5.1.3.** Pedestrian access from the public sidewalk, street right-of-way or driveway to the principal structure shall be provided through an improved surface.

**11.5.1.4.** The first floors of all buildings shall be designed to encourage and to complement pedestrian-scale activity by use of windows and doors arranged in scale proportionate to the building elevations in which they occur. Not less than not fifty percent (50%) of the length of building façade having frontage on a public or private street shall be composed of windows and/or doors. Basic exterior building materials shall consist of horizontal wood siding and/or brick and shall as to the maximum extent as possible be consistent with architectural style of neighboring structures. Similarly, roof slopes, roofing materials and exterior colors shall be architecturally conforming with existing neighboring structures.

**11.5.1.5.** No building setbacks are required for lots in the CC District, except that a minimum 10' building setback shall be maintained from the Dale Earnhardt Blvd./Loop Road

**11.5.1.6.** Canopies, awnings, and similar appurtenances may be constructed over the entrance to any building, and/or over windows subject to the following criteria:

- Such appurtenances shall be constructed of material designed to complement the streetscape.
- Any such appurtenance may extend from the building to up to eighty percent (80%) of the width of the sidewalk area in front of the building or nine (9) feet, whichever is less, subject to any encroachment permit which may be required by the North Carolina Department of Transportation, or the City.
- In no case shall any such facility extend beyond the curb line of the street, nor shall it interfere with the growth or maintenance of street trees, or maintenance of streetlights or street signs.
- A minimum overhead clearance of eight (8) feet from the sidewalk shall be maintained.

**11.5.1.7. Use Regulations.** All newly constructed buildings, except single-family detached dwellings, shall devote the first-floor area to retail, office and/or service uses, as listed in Table 4.6-1. Such buildings shall include said uses along

not less than 50% of frontage where abutting the streets as designated below:

- West A Street, west/south side only, between Walnut Street and Oak Avenue
- West A Street, both sides, between Oak Avenue and Main Street (including the private street section)
- West B Street, both sides (including the private street section)
- West D Street, east/north side only
- West 1<sup>st</sup> Street, both sides
- Chestnut Avenue, both sides
- Juniper Street (private street), both sides
- North Main Street, east side only, between Southern Avenue and 1<sup>st</sup> Street
- South Main Street, both sides, between, 1<sup>st</sup> Street and D Street
- Oak Avenue, both sides, between 1<sup>st</sup> Street and D Street
- Oak Avenue Mall Drive (private street), both sides
- Pine Street, both sides
- Vance Street, both sides
- Walnut Street (private street), both sides
- West Avenue (public and private street sections), both sides
- Within an approved TND – Traditional Neighborhood Development

New buildings with frontages along streets other than those listed above shall not be subject to the design criteria as set forth in this Section 11.5.2.7. Residential dwellings shall be permitted as set forth in Table 4.6-1.

**11.5.1.8.** In order to promote pedestrian activity and to avoid the impacts of traffic crossing sidewalks, no auto-oriented use(s) shall be located within four hundred (400) feet of another auto-oriented use, as measured from the exterior boundaries of the buildings, or not more than one shall be located along any single block frontage, whichever is less. For purposes of this subsection, “auto-oriented uses” shall mean and refer to the following: drive-through window facilities including those for automated tellers, banks, cleaners, liquor stores, and restaurants; fuel sales; shopping centers; vehicle sales; auto mechanical repair; car wash; gasoline service station; and quick lubrication.

Exception. Lots within the CC district that have frontage along Dale Earnhardt Blvd./Loop Road are exempt from the provisions of this Section 11.5.2.8, except that large lots with frontage along Dale Earnhardt Blvd./Loop Road that have a lot depth of 200 feet or greater, any development beyond the 200 feet shall be subject to the standards as set forth in this Section 11.5.2.8.



## 11.6. SUPPLEMENTAL DESIGN STANDARDS FOR CAMPUS DEVELOPMENT (CD) DISTRICT.

### 11.6.1. SUPPLEMENTAL USE REGULATIONS.

**11.6.1.1.** Retail establishments and commercial service uses (including restaurants; social, recreational, and cultural facilities, and day care facilities) as permitted in Table 4.6-1 shall be subject to the following requirements:

- No retail or commercial service use or establishment may exceed (or occupy) more than 70,000 square feet of gross leasable floor area. Exceptions may be made for developments located within one mile of Interstate 85, whereas up to two retail or commercial uses or establishments may occupy up to 200,000 square feet of gross leasable floor area.
- No more than 30 percent of any property or group of properties may be used for retail or commercial service uses or establishments,
- Automobile and truck repair and related manufacturing establishments shall be limited exclusively to such activities related to professional auto racing.
- Utilities substations other than individual transformers shall be screened as set forth in Article 7 Landscaping and Buffering.

**11.6.1.2.** Structures and uses required for operation of a public utility or performance of a governmental function are permitted, provided no uses involving extensive storage, or with storage as the principal purpose shall be permitted.

### 11.6.2. DIMENSIONAL REQUIREMENTS.

**11.6.2.1. Minimum Size.** The minimum parcel size for submitting a site plan or subdivision for review in the CD district shall be 20 acres of contiguous property except that the site may include more than one owner and more than one recorded lot provided that the total property equals or exceeds 20 acres and the site plan incorporates the entire project site. Rezonings to the CD district for property less than 20 acres may be requested provided that any proposed site plan will equal 20 acres or more.

**11.6.2.2. Exception.** Parcels which are less than 20 acres but are at least one (1) acre shall be permitted as a Special Use provided that any property less than 20 acres shall have been a lot of record at the time of the adoption of this ordinance or shall have been rendered with less than 20 acres due to purchase of part of the land by a government agency (e.g., new road). In reviewing such requests, the Planning and Zoning Commission shall consider the project's relationship to adjacent CD-zoned properties, developed or undeveloped.

### 11.6.3. DESIGN STANDARDS

**11.6.3.1.** Sites in CD Districts may be divided by streets, alleys, rights-of-way, or easements, but shall be so located and arranged as to permit a unified design for the overall development

**11.6.3.2.** Common, accessible open space shall be required for all CD district sites, whether subdivided, or not. The open space shall be pedestrian oriented and include such amenities as park benches, walking trails and gazebos. Parking or vehicular access within these areas shall be prohibited. The open space must comprise at least 8% of the gross project area which may include buffer requirements. No additional open space shall be required for individual building sites within a Campus Development project other than the required buffers and setbacks.

**11.6.3.3.** Five (5) foot sidewalks shall be included on both sides of all new interior access streets and parking area designs. Sidewalks may be constructed at the time of development or may be phased in over a period of several years as portions of a project are developed.

**11.6.3.4.** All CD projects shall have access to at least one major or minor thoroughfare or connection to an existing approved site having such access where Site Plan and/or Subdivision approval has been previously granted.

**11.6.3.5.** All new interior streets shall be built in conformance with Article 10. Where practical, all such roads shall be designed to ultimately connect to adjacent, undeveloped property that is

also zoned CD to allow for a connected, continuous street system when the adjacent property develops.

**11.6.3.6.** All building sites and/or buildings within any Campus Development project classified as a Professional Office/Business Services or Retail Trade Use as shown in Table 4.6-1 of this Ordinance be accessed on interior streets, not on thoroughfares or collectors. Exception to this provision is offered where a lot of record exists at the time of this amendment. All other permitted uses within any Campus Development Project may have access on interior streets, thoroughfares or collectors.

**11.6.3.7.** In general, the plan shall provide a unified and well-organized arrangement of buildings, service areas, parking, pedestrian, and landscaped common areas providing for maximum comfort and convenience of visitors and employees with a minimum of conflicts with vehicles. More specifically, the following pedestrian design requirements shall apply to all development in the CD District:

**11.6.3.7.1.** Individual building sites within CD developments shall include provisions for pedestrian-scale amenities such as benches, picnic tables, courtyards, plazas, water attractions and trash receptacles. These enhancements are essential to creating an efficient and functional environment as well as promoting a "sense of place." Such area(s) may include covered malls for general pedestrian use, exterior walkways, outdoor seating areas, and the like where the facilities are available for common use by employees and visitors. Required open space, buffer areas and setback yards as well as improved deck, patio and roof areas may be used to meet this requirement.

**11.6.3.7.2.** All buildings or building clusters within the development shall be connected with linkages other than roads (sidewalks, bikeways and walking paths). Unless topographic or other physical constraints exist, these linkages shall be provided between adjacent sites whether developed or undeveloped. Pedestrian access may be provided at any suitable locations within the district, but shall, where practicable, be separated from vehicular access points in order to reduce congestion, marginal friction, and hazards, except where signalization is used in such a manner as to control pedestrian and vehicular

movements safely.

**11.6.3.7.3.** Loading and maintenance areas shall be so located and arranged as to prevent interference with pedestrian movement within the site. All loading shall be from the rear or side of the building, but not facing a public street.

**11.6.3.7.4.** All on-site utilities (electrical, telephone, etc.) shall be located underground.

**11.6.3.7.5.** Paving materials in pedestrian areas (including crosswalks and sidewalks) shall only include brick, concrete (aggregate exposed finish), concrete pavers, brick pavers and similar materials.

**11.6.4. LANDSCAPING BUFFERING AND SCREENING REQUIREMENTS**

Developments in the CD district shall comply with the provisions of Article 7 and the following:

- All CD projects must provide for the installation of a median-type entranceway for all entrances on major or minor thoroughfares. The median shall be grassed and suitably landscaped and conform to the design standards of Article 10 and Appendix D.
- Developments shall utilize existing topography such as hills, ridges and berms to screen parking and maintenance areas to the maximum extent possible.
- Developments with outdoor storage, as permitted in Table 4.6-1, shall comply with the requirements of Article 11.1

**11.6.5. ARCHITECTURAL STYLE AND APPEARANCE REQUIREMENTS.**

These criteria are not intended to restrict imagination, innovation or variety, but rather to help focus on design principles that will result in creative and cohesive approaches to architecture and building design.

**11.6.5.1.** Building designs in the CD District shall promote a diversity in style while striving to define a distinct character and maintain a high quality development standard. New buildings shall be built sensitive to the scale, form and proportion of other buildings in the same project. A human scale shall be achieved at entrances to all buildings through the creative use of windows, doors, canopies and columns. In the application of

provisions of this Section, the Administrator may require the submittal of photographs and/or architectural renderings.

**11.6.5.2.** Buildings shall include similar architectural styles but should not be identical throughout the development. All sides of an individual building shall be treated in an architecturally similar manner. More specifically, at least two of the following three “unifying elements” must be presented in each building (including accessory buildings and those buildings located on outparcels) and to the greatest extent practical, in other architectural features of the development (walls, fences, signs, etc.):

**11.6.5.2.1.** Building Materials. If selected, the dominant material (and its color) must be stated in writing with the Site Plan submittal. Such materials shall apply to at least 30% of each ground mounted signs as well.

**11.6.5.2.2.** Colors. If selected, the dominant color or pattern of colors must be stated in writing with the Site Plan submittal. A maximum of three colors may be designated as the unifying element but the maximum number of colors throughout the development are not limited.

**11.6.5.2.3.** Architectural Features. If selected, the dominant architectural feature(s) must be stated in writing with the Site Plan submittal. These features include but are not limited to: roof treatment (style, color and material), façade treatments or building form (overhangs, canopies, arcades, protected walkways, entrance treatments).

**11.6.5.3.** Quality Materials. Building materials shall be of a high quality. No building elevation may be covered (exposed) with sheet or corrugated aluminum, iron or steel, plain concrete, plain concrete block, exterior panelized plywood, including foundation materials. Except, however, such materials may be used as secondary exterior finish materials if they cover no more than 10 percent of the surface area. The buildings may consist of any of the following materials: utility brick, standard brick, stucco, synthetic stucco, colored split-faced block, glass, stone, tile or other similar high quality materials. Buildings designed for planned expansion may use architectural metal panels on the wall(s) to be removed for expansion of the building. Awnings should be constructed of

canvas or a similar material.

**11.6.5.4.** Where there is an exterior alteration to an existing building, the exterior finish materials on the portion of the building being altered or added must visually match the appearance of those on the existing building. In such cases, the requirements of § 11.6.5.3 shall not apply. However, if the exterior finishes and materials on the existing building do not meet the above standards, any material that meets the above standards may be used.

**11.6.5.5.** The use of unusual shapes, colors or other characteristics that would cause a building to create aesthetically unpleasant visual disharmony with other buildings in a CD district development, shall be avoided.

**11.6.5.6.** If several entrances are located in one building, similar treatment of each entrance, materials and windows should be provided.

**11.6.5.7.** All roof-mounted equipment, including HVAC systems, satellite dishes and other communication equipment, must be screened from adjacent street or parking area views in one of the following ways (solar heating panels are exempt from this standard):

- A parapet as tall as the tallest part of the equipment;
- A screen around the equipment that is as tall as the tallest part of the equipment; or
- The equipment is set back from the street-facing perimeters of the building three feet for each foot of height of the equipment.

**11.6.5.8.** To avoid the visual monotony created by large, blank building elevations, the elevation must be separated by a projection or structural relief such as:

- Constructing a porch with a roof,
- Incorporating fascias, canopies, arcades, or other multidimensional design features to break up large wall surfaces on their street facing elevations,
- Setting part of the facade back at least three feet from the rest of the façade
- Creating a visually distinct ground floor,
- Providing for changes in material or texture,
- Installing a row of windows on the building's street facing elevation.

**11.6.6. NON-CONFORMING USE PROVISIONS**

Bona Fide Farms – Existing bona fide farms or agri-businesses in the CD zoning district may be operated on property so designated by Cabarrus County or Rowan County as of the time of the effective date of this ordinance. Such farms or agri-businesses may continue in their current state and with their existing level of activity. Such farms or agri-businesses shall be permitted to expand to the maximum extent permitted under the requirements of this district on the same property or adjacent property (also having the bona fide farm designations). New or expanded agri-business operations on property not having a bona fide farm designation shall not be permitted. Agri-business operations include agricultural products, materials, and equipment servicing and sales; storage and/or processing of agricultural products and/or animals; medical and/or technical support services; and similar activities. Bona-fide farms which cease to qualify as such may return to active farming and may continue as farms as if they had never ceased operating. However, once a bona fide farm ceases to qualify as such, and the property is developed for other non-farm uses permitted in the CD District, it may not be re-established as a bona fide farm.

**11.6.7. RESTAURANTS W/DRIVE-THRU SERVICE**

Restaurants w/drive-thru service shall be permitted as a special use in the CD zoning district. The special use permit will be reviewed by the Board of Adjustment and meet the requirements of § 3.5.3 for approval. Additionally, the following findings must be made:

- a. The project site includes provisions for pedestrians per § 11.6.3.7.1, such as outdoor seating areas including benches and/or tables. On-site pedestrian connections are made via sidewalk to the adjacent streets or greenways.
- b. Drive-thru service is not the primary function of the restaurant, but instead secondary to the business. Indoor service and seating provided.
- c. Drive-thru service windows and stacking lanes are discouraged in the established front yard of the principle building, or in an established side yard if it abuts a public street. In circumstances such as corner lots where such requirements are determined as not feasible or impractical, the applicant must provide evidence that there are no other feasible alternatives to locating the drive-thru window and/or stacking lanes in the front or side yards.

**Table 11.6-1 Design Standards for Campus Development Projects**

<b>Lot Size</b>	20 acres minimum, see §§ 11.6.2.1 and 11.6.2.2
<b>Density</b>	NA
<b>Lot Width and Depth</b>	see § 4.7
<b>Front Setback or Street Side Setback</b>	see § 4.7
<b>Interior Side Setback</b>	see § 4.7
<b>Rear Setback</b>	see § 4.7
<b>Separation between Buildings</b>	20 feet, plus one (1) foot for each one (1) foot of building height in excess of 30 feet
<b>Common Open Space</b>	8 percent of total area

## **11.7. SUPPLEMENTAL DESIGN STANDARDS FOR LIGHT INDUSTRIAL (I-1) DISTRICT.**

### **11.7.1. SCOPE.**

In addition to all other design and improvement regulations within this Ordinance, sites and buildings within the I-1 District are regulated in accordance with specific standards as listed below.

### **11.7.2. CRITERIA.**

The following design elements shall be promoted in order to minimize the impacts of industrial development on the surrounding community and to enhance the appearance for industrial development in an I-1 zone:

- Loading and unloading areas shall not be visible from any public street. Screening of such areas shall be required in accordance with Article 7. If such areas face a parcel which is zoned or developed residentially, the rear buffer shall be increased by fifty percent (50%).
- All noises, noxious odors, vibrations, emissions of smoke, dust, or gases shall be controlled so as not to be detrimental or cause a nuisance to nearby residential or commercial areas in conformance with the Industrial Performance Standards of this Ordinance.

### **11.7.3. RETAIL OPERATIONS IN AN I-1 ZONE.**

This section shall allow for the retail sale of items or products manufactured by the primary use subject to the limitation that retail operations may not exceed twenty percent (20%) of the gross floor area of the site. Standards of off-street parking shall apply to the retail use and the industrial use as set forth in Article 8.

## **11.8 SUPPLEMENTAL DESIGN STANDARDS FOR CAMPUS DEVELOPMENT - RESIDENTIAL (CD-R) DISTRICT**

### **11.8.1 SUPPLEMENTAL USE REGULATIONS.**

**11.8.1.1** Residential uses allowed within the CD-R District (including condos, townhouses, and apartments), as permitted in Table 4.6-1 shall be subject to the following requirements:

- The residential development must accompany an approved CD development which is at least 60 acres or greater.
- Utilities substations other than individual transformers shall be screened as set forth in Article 7 Landscaping and Buffering.

### **11.8.2 DIMENSIONAL REQUIREMENTS.**

**11.8.2.1 Minimum Size.** The minimum parcel size for submitting a site plan or subdivision for review in the CD-R district shall be 15 acres of contiguous property except that the site may include more than one owner and more than one recorded lot provided that the total property equals or exceeds 15 acres and the site plan incorporates the entire project site. The total acreage of the CD-R development shall not exceed twenty percent (20%) of the acreage of the accompanying CD Development.

### **11.8.3 DESIGN STANDARDS**

**11.8.3.1** All residential developments within the CD-R District are subject to the design standards set forth in Article 11.6.

**11.8.3.2** CD-R projects must be designed and arranged such that they complement the overall CD project.

### **11.8.4 LOCATION**

**11.8.4.1** All CD-R projects must be located within a ½ mile proximity of the interstate (I-85).

**11.8.4.2** All CD-R projects must be centrally located within the CD development.

## 11.8. POCKET & TINY HOUSE NEIGHBORHOOD DESIGN STANDARDS

### 11.9.1. POCKET NEIGHBORHOOD

#### 11.9.1.1. PURPOSE AND INTENT

The purpose of this section is to establish design standards to facilitate the voluntary development of pocket neighborhoods that:

- Encourage affordable housing for current and future residents of the City;
- Encourage proper use of open space to provide health, safety and general welfare of the community members;
- Provide for standards that minimize the impact of automobile traffic and parking.

#### 11.9.1.2. APPLICABILITY

**11.9.1.2.1** The provisions of this section apply to pocket neighborhood developments as permitted by Table 4.6-1 of this Ordinance.

**11.9.1.2.2** Only single-family detached dwellings and incidental and subordinate accessory uses are permitted as part of a pocket neighborhood development.

**11.9.1.2.3** Pocket neighborhood developments shall be located on a parcel of land at least one-third ( $\frac{1}{3}$ ) of an acre and no greater than 6 acres in area, with at least 50 feet of frontage along a public street.

#### 11.9.1.3. MINIMUM DESIGN STANDARDS

**11.9.1.3.1.** Developments shall include at least 4 dwellings but no more than 12 dwellings. In no instance shall the gross density of the development exceed a 20 percent increase in the density of the underlying base zoning district.

**11.9.1.3.2.** Developments shall include common elements that comprise at least 30 percent of the total site and include open space, improved pedestrian facilities that provide for connectivity to each dwelling unit and public sidewalk network, and parking area(s).

**11.9.1.3.3** The common open space shall

include a central green, lawn, or garden area fronting the dwellings, containing at least 375 square feet of area for each dwelling in the development.

**11.9.1.3.4** If a common building is provided, it shall not be larger than 1,500 square feet and shall not be used as a permanent dwelling unit.

#### 11.9.1.3.5. LANDSCAPING REQUIREMENTS

A landscaping plan shall be submitted which shall incorporate all applicable landscaping requirements as set forth in Article 7 of this ordinance, except that:

- A pocket neighborhood shall incorporate a Type II perimeter landscape yard in accordance with table 7.4-3, of this ordinance, where the neighborhood abuts lots with existing single-family detached dwellings. The perimeter landscape yard shall be considered part of the common elements.

#### 11.9.1.3.6. LOT FRONTAGE

- The lots in pocket neighborhoods are exempt from the minimum street frontage requirement for platted lots in Table 4.7-1, Minimum Street Frontage.
- At least 60 percent of the individual building lots shall front the common open space area, not a street or alley.

#### 11.9.1.3.7. OFF-STREET PARKING

- Pocket neighborhoods are exempt from the parking standards in Table 8.3-1, Off-Street Vehicular Parking Space Requirements.
- The pocket neighborhood shall include a shared parking area that accommodates resident and guest parking.
- Off-street parking areas shall include at least 1 parking space for each dwelling unit plus 1 designated guest parking space for every four dwelling units.
- Provision of resident parking spaces within a shared parking area is not required in cases



where resident parking is provided through individual driveways or by parking spaces along alleys.

- In no instance shall a parking space be more than 300 linear feet from the dwelling it serves.
- Off-street parking areas shall comply with the minimum standards of the Land Development Standards Manual (LDSM)

**11.9.1.3.8.** Vehicular entryways into pocket neighborhoods and accessways serving off-street parking areas and individual dwelling lots shall be configured as private drives.

**11.9.1.3.9.** If provided, detached garages serving more than 1 dwelling shall be accessed via a private drive or alley. A garage shall not exceed 5 car bays or include individual garage doors wider than 12 feet each.

**11.9.1.3.10.** Each individual dwelling shall have at least 40 square feet of covered storage space outside the heated floor area. Storage space may be located on an individual lot or on common land adjacent to a common building. This includes accessible attic spaces and crawl spaces.

**11.9.1.4.** Each individual lot in a pocket neighborhood shall contain only 1 dwelling unit.

**11.9.1.5. DIMENSIONAL STANDARDS**

**11.9.1.5.1.** Minimum dimensional standards are established in table 11.9-1 of this section.

**11.9.1.5.1.** A dwelling unit shall not exceed 30 feet above grade.

**11.9.1.5.2.** A pocket neighborhood dwelling unit shall have not more than 2,000 square feet of gross floor area.

- **11.9.1.5.3. Fences.** Fences within front yards or side yards forward of the front facade plane shall not exceed 3 feet in height. Fences in rear yards or side yards behind the front facade plane shall not exceed 6 feet in height.
- In no instance shall a fence be placed within a use or access easement.

**11.9.1.6. Homeowner’s Association.** A pocket neighborhood shall have a homeowner's or property

owner's association that maintains control of all common elements and is responsible for the maintenance of such elements within the neighborhood. Confirmation of the establishment of the HOA shall be provided to the City prior to final plat approval.

(Ord. No. [7287/17-29](#) , § 11, 4-3-2017; Ord. No. [7365/17-108](#) , § 1, 11-20-2017; Ord. No. [7399/18-28](#) , §§ 4.A—4.C, 3-19-2018; Ord. No. [7542/19-59](#) , § 4.D, 7-15-2019; Ord. No. [7622/20-38](#) , § 19, 8-5-2020)

**TABLE 11.9-1**

FEATURE	REQUIREMENT
Maximum lot size (sq ft)	7500
Minimum lot width (ft)	20
Minimum front setback (ft)	10 from common elements; zoning district requirement from street [1]
Minimum side setback (ft)	5 [1]
Minimum rear setback (ft)	None [2]
NOTES:	
[1] Porch steps, ramps, fences, and walkways may encroach into the front setback, but no other structures shall be permitted to encroach into the required setback.	
[2] When an individual lot includes a driveway, the minimum rear setback shall be 20 feet.	

**11.9.2. TINY HOUSE NEIGHBORHOOD.**

**11.9.2.1. PURPOSE AND INTENT**

The purpose of this section is to establish design standards to facilitate the voluntary development of tiny house neighborhoods that:

- Encourage affordable housing for current and future residents of the City;
- Encourage proper use of open space to provide health, safety and general welfare of the community members;
- Provide for standards that minimize the impact of automobile traffic and parking.

**11.9.2.2. APPLICABILITY**

**11.9.2.2.1** The provisions of this section apply to tiny house neighborhood developments as permitted by Table 4.6-1 of this Ordinance.

**11.9.2.2.2** Only single-family detached dwellings and incidental and subordinate accessory uses are permitted as part of a pocket neighborhood development.

**11.9.2.2.3** Tiny house neighborhood developments shall be located on a parcel of land at least one-fourth (1/4) of an acre and no greater than 2 acres in area, with at least 50 feet of frontage along a public street.

**11.9.2.3. MINIMUM DESIGN STANDARDS**

**11.9.2.3.** Tiny house neighborhoods shall include at least 4 dwellings but no more than 12 dwellings.

**11.9.2.3.2.** Developments shall include common elements that comprise at least 30 percent of the total site and include open space, improved pedestrian facilities that provide for connectivity to each dwelling unit and public sidewalk network, and parking area(s).

**11.9.1.3.3** It may include a shared parking area, a common building used for recreation and/or storage, a picnic are, community garden space, or other common amenity.

**11.9.1.3.4** If a common building is provided, it shall not be larger than 1,000 square feet and shall not be used as a permanent dwelling unit.

**11.9.1.3.5. LANDSCAPING REQUIREMENTS**

A landscaping plan shall be submitted which shall incorporate all applicable landscaping requirements as set forth in Article 7 of this ordinance, except that:

- A tiny house neighborhood shall incorporate a Type II perimeter landscape yard in accordance with table 7.4-3, of this ordinance, where the neighborhood abuts lots with existing single-family detached dwellings. The perimeter landscape yard shall be considered part of the common elements.

**11.9.2.3.6.** The lots in tiny house neighborhoods are exempt from the minimum street frontage requirement for platted lots in Table 4-7.1, Minimum Street Frontage.

**11.9.2.3.7. OFF-STREET PARKING**

- Tiny house neighborhoods are exempt from the parking standards in Table 8.3-1, Off-Street Vehicular Parking Space Requirements.
- The tiny house neighborhood shall include a shared parking area that accommodates resident and guest parking.
- Off-street parking areas shall include at least 1 parking space for each dwelling unit plus 1 designated guest parking space for every four dwelling units.
- Provision of resident parking spaces within a shared parking area is not required in cases where resident parking is provided through individual driveways or by parking spaces along alleys.
- In no instance shall a parking space be more than 300 linear feet from the dwelling it serves.
- If provided, off-street parking areas shall comply with the minimum standards of the Land Development Standards Manual (LDSM).

**11.9.2.3.8.** Vehicular entryways into a tiny house neighborhood and accessways serving off-street parking areas shall be configured as private drives.

**11.9.2.3.9.** Fences are permitted only within the perimeter landscape yard and to protect community garden areas and shall be 4 feet or less in height.

**11.9.2.4.** Each individual lot in a tiny house neighborhood shall contain only 1 dwelling unit.

**11.9.2.5. DIMENSIONAL STANDARDS**

**11.9.2.5.1.** Minimum dimensional standards are established in table 11.9-2 of this section.

**11.9.2.5.1.** A tiny house dwelling unit shall not exceed 18 feet above grade.

**11.9.2.5.2.** A tiny house dwelling unit shall have less than 600 square feet of gross floor area.

**11.9.2.5.3.** A tiny house dwelling shall face interior common open space or a street. No dwelling shall face a perimeter landscape yard.

**11.9.2.6. Homeowner's Association** A tiny house neighborhood shall have a homeowner's or property owner's association that maintains control of all common elements and is responsible for the maintenance of such elements within the neighborhood. Confirmation of the establishment of the HOA shall be provided to the City prior to final plat approval.

(Ord. No. [7399/18-28](#) , § 3, 3-19-2018; Ord. No. [7542/19-59](#) , § 4.E, 7-15-2019).

**TABLE 11.9-2**

FEATURE	REQUIREMENT
Maximum lot size (sq ft)	6000
Minimum lot width (ft)	None
Minimum front setback (ft)	5 from common elements; zoning district requirement from street [1]
Minimum side setback (ft)	3 [1]
Minimum rear setback (ft)	None [2]
NOTES:	
[1] Porch steps, ramps, fences, and walkways may encroach into the front setback, but no other structures shall be permitted to encroach into the required setback.	
[2] When an individual lot includes a driveway, the minimum rear setback shall be 20 feet.	

# **ARTICLE 12 SIGN STANDARDS.**

## *TABLE OF CONTENTS*

<b>SECTION</b>	<b>PAGE</b>
<b>12.1 GENERAL PROVISIONS .....</b>	<b>12-2</b>
<b>12.2 SIGN PERMIT .....</b>	<b>12-6</b>
<b>12.3 PROHIBITED SIGNS .....</b>	<b>12-8</b>
<b>12.4 SIGNS THAT DO NOT REQUIRE A PERMIT .....</b>	<b>12-9</b>
<b>12.5 PERMANENT SIGNS THAT REQUIRE A PERMIT .....</b>	<b>12-12</b>
<b>12.6 COMPREHENSIVE SIGN PACKAGES .....</b>	<b>12-14</b>
<b>12.7 OUTDOOR ADVERTISING (BILLBOARD) SIGNS .....</b>	<b>12-15</b>

## 12.1. GENERAL PROVISIONS.

### 12.1.1. PURPOSE.

This sign ordinance is adopted under the zoning authority of the City in furtherance of the more general purposes set forth in this Ordinance.

The purpose of these sign regulations are:

- to encourage the effective use of signs as a means of communication in the City while preserving the rights of free speech under the First Amendment to the United States Constitution;
- to maintain and enhance the aesthetic environment and the City's ability to attract sources of economic development and growth;
- to improve pedestrian and traffic safety;
- to minimize the possible adverse effect of signs on nearby public and private property; and
- to enable the fair and consistent enforcement of these sign restrictions.

### 12.1.2. APPLICABILITY.

A sign may be constructed, erected, placed, established, painted, created, or maintained in the City only in conformance with the standards, procedures, exemptions, and other requirements of this Ordinance. The effect of this Ordinance as more specifically set forth herein is:

**12.1.2.1.** To establish a permit system to allow a variety of types of signs in commercial and industrial zones, and a limited variety of signs in other zones, subject to the standards and the permit procedures of this Ordinance;

**12.1.2.2.** To allow certain signs that are small, unobtrusive, and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this Ordinance, but without a requirement for permits;

**12.1.2.3.** To prohibit all signs not expressly permitted by this Ordinance; and

**12.1.2.4.** To provide for the enforcement of the provisions of this Ordinance.

### 12.1.3. ALTERATION OF SIGN FACE.

The physical alteration of a sign face or supporting structure shall be considered the same as construction of a new sign which shall require a permit and

conformity to all the dimensional requirements of this Ordinance. However, repainting of sign or replacement of sign face (i.e., with business ownership change) shall be considered maintenance or repair and shall not require a permit.

### 12.1.4. SIGNS ON PUBLIC PROPERTY FORFEITED.

Any sign installed or placed on public property or within a public right-of-way, except in conformance with the requirements of this article, shall be forfeited to the public and is subject to confiscation. In addition to other remedies hereunder, the Administrator shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.

### 12.1.5. DEFINITIONS.

The terms used in this Section shall have the meaning assigned herein. Any term not defined herein shall have the meaning assigned in Appendix A to this Ordinance.

**A-Frame Sign** - A portable sign comprised of two separate panels or faces joined at the top and spread apart at the bottom to form the base on which the sign stands.

**Animation** - The movement, or the optical illusion of movement of any part of the sign structure, design or pictorial segment including the movement of any illumination or the flashing, scintillating or varying of light intensity. The automatic changing of all or any part of the facing of a sign shall be considered to be animation. Also included in this definition are signs having "chasing action" which is the action of a row of lights commonly used to create the appearance of motion.

**Arm Sign** - A freestanding, ground mounted sign comprised of a vertical post to which a perpendicular arm is attached and from which a sign hangs.

**Balloon** - A nonporous bag of material filled with heated or non-heated air or gas so as to rise or float in the atmosphere.

**Banner** - A sign or outside advertising display having the character, letters, illustrations, ornamentations, symbol, color or visual representation applied to cloth,

paper, vinyl, fabric, plastic, or like kind of malleable material with or without frame. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

**Building Front** - The linear length of building facing a street right-of-way or in the case of a planned unit development, a legal private access road.

**Business or Building Identification Sign** - A pedestrian oriented sign attached to a building, which bears only the name, number(s) and/or logo of the building and/or the tenant.

**Canopy** - A protective cover over a door, entrance, window, or outdoor service area which is attached to or cantilevered from a building. Also known as an awning. Permanent marquees and porticoes which are designed as a continuous or integral part of the structure shall not be considered canopies.

**Canopy Sign** - A sign that is suspended from, attached to, supported from, applied to, or constructed as part of a canopy or awning.

**Changeable Copy Sign** - A sign on which message copy is changed manually in the field through attachment of letters, numbers, symbols and other similar characters of changeable pictorial panels. Also known as a reader-board sign.

**Combined Development** - Two or more establishments or businesses occupying a common building or adjoining buildings which are designed and developed in a coordinated manner and which share parking, driveways and other common facilities.

**Commercial Message** - Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

**Electronic Message Board** - A sign which displays messages, such as time and temperature, in alternating light cycles.

**Facade** - The entire building walls, including wall faces, parapets, fascia, windows, doors, canopy and visible roof structures of one complete elevation.

**Facsimile Sign** - An oversized, three-dimensional object, such as a chicken bucket, automobile (or automobile part), or human figure, which may or may

not contain advertising matter, and may or may not contain information about products sold on the premises, and is located in such a manner as to attract attention.

**Fence Sign** - A sign mounted on, attached to, or constructed as part of a fence or similar structure.

**Festoon Lighting** - A string of outdoor lights suspended between two or more points.

**Flag** - Any fabric, banner or bunting containing distinctive colors, patterns, or symbols, used as a symbol of government, political subdivision, or other entity.

**Gasoline Pump Signs** - Signs attached to gasoline and motor vehicle fuel pumps, which display material incidental to the operation of the pumps, such as price, fuel type and self-service instructions.

**Grade** - The uppermost surface directly below the sign or immediately adjacent to the support. Where the uppermost surface has been artificially raised for landscaping or other purposes, grade shall be measured from the level of the nearest city or state street curb.

**Ground Sign** - A free-standing sign with its base or its supports mounted directly to the ground. For the purposes of this ordinance, a ground sign shall be defined as one of the following: (1) two sign faces that are located back-to-back on a single structure or (2) as an option only for entrances to subdivisions (residential and non-residential), two separate single-faced signs. The maximum sign area as set forth in this Article 12 shall be applied to each of the sign faces independently.

**Historic Building** - Any building 50 years old or more with distinctive architectural features characteristic of the period of history during which it was originally constructed.

**Holiday Decorations** - Displays erected on a seasonal basis in observance of religious, national or state holidays, which are not intended to be permanent in nature, and which contain no advertising material or commercial message.

**Illumination, Indirect** - Illumination which reflects light from an artificial light source intentionally directed upon a surface. This shall also include



silhouettes of letters or symbols placed before a background of reflected light.

**Illumination, Internal** - Illumination provided from a source located inside or within the face of the sign.

**Individual Establishment or Business** - A single establishment or business occupying one or more buildings designed to function as a single enterprise which does not share off-street parking, driveways, or other common facilities with an adjacent establishment or development.

**Inflatable Signs** - A three-dimensional object, filled with air or gas, and located in such a manner as to attract attention.

**Mansard** - A steeply pitched roof, pitched at such an angle as to resemble a building wall.

**Monument Sign** – A freestanding sign supported primarily by an internal structural framework or integrated into landscaping or other solid structural features other than vertical posts. The base of the sign structure shall be on the ground or a maximum of thirty-six (36) inches above the adjacent grade. The width of the top of the sign shall not be greater than the width of the bottom of the sign.

**Off-Premise Sign** - A sign identifying/advertising and/or directing the public to a business, or merchandise, or service, or institution, or residential area, or entertainment which is located, sold, rented, leased, produced, manufactured and/or furnished at a place other than the real property on which said sign is located. However, this definition shall include Outdoor Advertising or “Billboard” signs.

**On-Premise Sign** - A sign or display that identifies or communicates a message related to the activity conducted, the service offered, or the commodity sold on the premises where the sign is located.

**Outdoor Advertising (Billboard) Signs** - A permanently installed sign identifying/advertising and/or directing the public to a business, or merchandise, or service, or institution, or residential area, or entertainment which is located, sold, rented, leased, produced, manufactured and/or furnished at a place other than the real property on which said sign is located.

**Panel** - The primary surface of a sign that carries the identifying/advertising message.

**Pennant** - Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

**Pole Sign** – A freestanding, ground mounted sign attached to one or more vertical posts, with the base of the actual sign at least 48 inches above grade.

**Political Sign** - A sign advertising a candidate or issue to be voted upon on a specific election day, which is attached to the ground by a stake or stakes, but which excludes any other sign defined as a portable sign.

**Portable Sign** - Any sign designed or intended to be readily relocated whether or not it is permanently attached to a building, structure or on the ground. Portable signs also include signs on wheels or on portable structures such as trailers, tent signs, A-frame or T-shaped signs and normal advertising placed on motor vehicles which are not used regularly and are placed in such a manner as to attract attention.

**Projecting Sign** - A sign which projects from a structure into a vehicular or pedestrian access way, more than one foot from the surface on which it is mounted, and is mounted usually, but not always, at right angles to the building.

**Roof Sign** – Any sign erected, constructed, and/or painted wholly or partially on or above the roof of a building. Signs which are mounted flush against a parapet roof and do not extend above the roofline are permitted in accordance with the regulations for wall signs.

**Sign** - Any display of letters, words, numbers, symbols, emblems, objects, pictures, or any combination thereof made visible for the purpose of attracting attention or of making something known, whether such display be made on, attached to, or constructed as part of a building, structure, vehicle, or object.

**Spinner** - A wind activated, propeller-type device, which may or may not be attached to advertising copy.

**Streamer** - A string or strip of miniature or full size pennants or flags which may or may not be suspended between two points.

**T-Shaped Sign** - A portable sign comprised of one or

more panels or faces joined at the bottom to a perpendicular base on which the sign stands.

**Temporary Sign** - A sign advertising a special event and not intended to be displayed on a permanent basis.

**Valance** - A short apron which is designed and installed as part of a canopy/awning and is usually, but not necessarily vertical.

**Vehicle Sign** – See Portable Sign.

**Wall Sign** - A sign affixed on and parallel to the exterior wall of any building and projecting not more than 12 inches from the wall. Signs mounted on porticoes shall be considered as wall signs.

**Window Sign** - A sign which is applied to the building glass area located such that the identifying/advertising message, symbol, insignia, visual representation, logotype or any other form which communicates information can be read from off-premise.

## 12.2. SIGN PERMIT.

### 12.2.1. SIGNAGE PLAN REQUIRED.

For any lot on which the owner proposes to erect one or more signs requiring a permit the owner shall submit to the Administrator a Signage Plan containing the following. For a combined development or other multi-tenant development, a master signage plan shall be required.

- An accurate Plot Plan of the lot or parcel, at such scale as the Administrator may reasonably require;
- Location of buildings, parking lots, driveways, and landscaped areas on such lot or parcel;
- Computation of the maximum total sign area, the maximum area for individual signs, the height of signs and the number of freestanding signs allowed on the lot(s) or parcel(s) included in the plan under this Ordinance; and
- An accurate indication on the plot plan of the proposed location of each present and future sign of any type, whether requiring a permit or not. Incidental signs need not be shown.
- The Administrator shall review the application in accordance with the criteria established in this Ordinance. The Administrator shall solicit review comments in accordance with general review procedures.
- Permanent signs for planned unit developments, Traditional Neighborhood Developments and special uses shall be reviewed as part of the site plan.

### 12.2.2. SIGN AREA COMPUTATIONS.

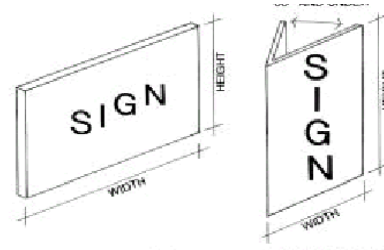
The following principles shall control the computation of sign area and sign height:

#### 12.2.2.1. Computation of Area of Single-faced Signs.

The area of a sign face shall be computed by means of the smallest square or rectangle, that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.

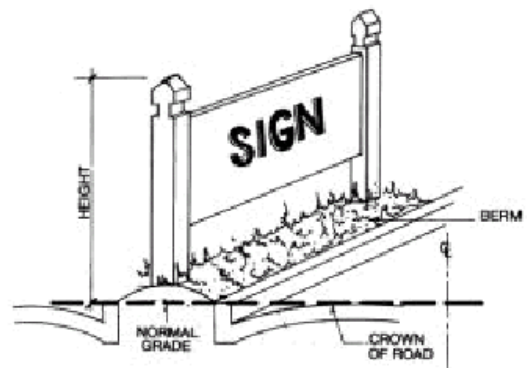
#### 12.2.2.2. Computation of Area of Multi-faced Signs.

The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.



Single-faced sign

Double-faced sign



Sign Height Computation

**12.2.2.3. Computation of Height.** The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be either of (1) existing grade prior to construction or (2) newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign

is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the Principal Structure on the lot or parcel, whichever is lower.

**12.2.3. DESIGN, CONSTRUCTION, AND MAINTENANCE.**

All signs shall be designed, constructed, and sign maintenance shall occur, in accordance with the following standards:

**12.2.3.1.** All signs shall be constructed and maintained to retain sound structural condition, and shall comply with all applicable provision of the State Building Code, all applicable electrical codes, and this Ordinance, at all times.

**12.2.3.2.** Except for banners, flags, temporary signs, and window signs conforming in all respects with the requirements of this Ordinance, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.

## 12.3. PROHIBITED SIGNS.

**12.3.1. Applicability.** The following signs are prohibited within the City of Kannapolis and its extraterritorial jurisdiction:

- Signs which approximate official highway signs, warning signs or regulatory devices.
  - Signs displaying blinking, flashing or intermittent lights, animation, and moving parts, except as provided for in §§ 12.5.2.2 and 12.5.4.1.
  - Portable signs as regulated by this Ordinance.
  - “Wrap-around” signs or other continuous wall signs that extend around building corners or radii.
  - Off-Premise signs except as specifically permitted herein.
  - Outdoor Advertising Signs
  - Facsimile Signs.
  - Signs placed within any required sight triangle.
  - Signs attached to or painted on utility poles, telephone poles, trees, parking meters, bridges and overpasses, rocks, other signs, benches and refuse container, except that the latter two may contain a logotype.
  - Roof signs.
  - Pavement markings for purposes other than traffic control.
  - Signs placed within or extending into the right-of-way of city and state maintained streets and roads, except those signs erected by a duly constituted government body and certain signs permitted in the CC, TND, PUD, and TOD districts. (See § 12.1.4)
  - Signs that contain language and/or pictures obscene to the general public in accordance with NCGS 14-190.1.
  - Signs that advertise an activity or business no longer conducted on the property on which the sign is located.
  - Indirect illumination, such as floodlights, erected in such a manner as to cause glare that impairs driver vision on streets or roadways or that causes a nuisance to adjoining property.
  - Signs that obstruct fire escapes, windows, doors or other openings used as means of egress or as required legal ventilation.
  - Signs containing or consisting of pennants, ribbons, streamers, festoon lighting, balloons (or inflatable signs), or spinners.
- Signs that do not conform to the provisions of these regulations.

## 12.4. SIGNS THAT DO NOT REQUIRE A PERMIT.

### 12.4.1. Applicability.

No permit is required for the following signs, provided they are not prohibited as defined in § 12.3, and provided they comply with the conditions set forth. Signs permissible in this section shall not be considered in determining the total sign area, however, if a sign exceeds the size or in any other way does not comply with these limitations, it shall be considered as a prohibited sign and/or shall be subject to all other provisions in Article 12.

### 12.4.2. Building Marker Signs.

A building marker sign may include only the building name, date of construction, or historical data on historic buildings or sites; and shall be cut or etched into masonry, bronze, or similar material.

### 12.4.3. Business Identification Sign.

A pedestrian oriented sign attached to a building to identify the tenant within. Such sign shall contain no advertising other than trade name and/or logotype. One sign is permitted per entrance. MAXIMUM SIZE IS SIX SQUARE FEET.

### 12.4.4. Special Event Signs for Public, Quasi-Public or Non-Profit organizations.

A sign may be erected by public, quasi-public, or non-profit organizations such as schools and churches for promoting:

- scheduled sales events such as rummage and bake sales. Such signs shall remain in place no more than 72 hours. Additionally, such signs shall be limited to one on-premise sign per street frontage.
- public events such as charity benefits, fairs, fund drives, revivals and sporting events. Such sign shall not be illuminated nor be located within a street right-of-way or required sight triangle. Such signs may be displayed for a period of 30 days and may be allowed on- or off-premise.
- special seasonal events, such as parades, fairs and festivals. Such signs may be erected (on- or off-premise) within 14 days of the event and shall be removed 72 hours after the end of an event.

Such signs shall not be illuminated and MAXIMUM SIZE IS 30 SQUARE FEET.

### 12.4.5. Construction/Contractor's and Subdivision Project Signs.

Such signs shall be non-illuminated and may be located in any district to identify future tenants, home builders, contractors, and architectural or engineering designers during the period of construction. These signs shall be removed no later than seven days after the completion of a project. MAXIMUM SIZE IS 32 SQUARE FEET.

### 12.4.6. Flags.

Flags of the United States of America, the State of North Carolina, Cabarrus or Rowan County, the City, or foreign nations having diplomatic relations with the United States, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction, provided that such flag shall not be flown from a pole the top of which is more than 40 feet in height. Such flags shall be flown in accordance with protocol established by the Congress of the United States for the Stars and Stripes. Any flag not meeting these conditions, except where stated in 12.4.6.1 shall be considered a banner sign and shall be subject to regulation as such. MAXIMUM SIZE IS 60 SQUARE FEET.

#### 12.4.6.1 Other flags.

- a. Seasonal or promotional flags that do not include any advertising text. MAXIMUM SIZE IS 24 SQUARE FEET.
- b. One corporate flag is allowed per site; a corporate flag shall be defined as one that includes a company logo, insignia, symbol or name. MAXIMUM SIZE IS 24 SQUARE FEET.

### 12.4.7. Governmental Signs.

Signs posted by various local, state, and federal agencies such as regulatory signs, welcome signs, and traffic control signs.

### 12.4.8. Incidental Signs.

Signs indicating vehicular entrances and exits, parking areas, one-way traffic, no trespassing, dumping, loitering, etc. Such signs shall not exceed three feet in height, shall not obstruct any vehicular sight triangle, and shall be located no farther than 15 feet away from the edge of the entrance or exit which it delineates. No more than two signs per entrance or exit shall be permitted. Such signs may be illuminated and shall

contain no sign copy other than directional information. MAXIMUM SIZE IS FOUR SQUARE FEET.

**12.4.9. Occupant/Street Number Signs.**

Non-illuminated signs affixed to structures, mailboxes, decorative light posts, driveway entrances, etc., which serve to identify the address of the structure or occupant. All such signs are required to be placed in such a manner as to be visible from the street.

**12.4.10. Off-Premise Directional Signs for Churches.**

Non-illuminated ground-mounted signs located outside of the street right-of-way. A maximum of three directional signs per church shall be permitted within the City's zoning jurisdiction. MAXIMUM SIZE IS SIX SQUARE FEET.

**12.4.11. Political Signs.**

Political signs shall not be illuminated, shall not be located within a public street right-of-way or located closer than 10 feet to the edge of street pavement or within a required sight triangle, shall not be attached to trees or utility poles, and shall be no taller than four feet. Political Signs may be displayed during a period beginning 45 days prior to an election and concluding 48 hours after the election. In the event of a runoff election, political signs for the candidates involved may remain on display until 48 hours after the runoff election. All portable and roof-mounted signs for political advertisement are prohibited. All signs that violate the above provisions and/or political signs that remain more than 48 hours after the election shall be removed for disposal by the City. MAXIMUM SIZE IS SIX SQUARE FEET.

**12.4.12. Public Service Signs.**

Signs displayed for the convenience of the general public, such as signs for public rest rooms, automobile inspection, hours of operation, freight entrances, credit cards accepted, etc. Such signs may be illuminated and shall contain no sign copy other than service information and trade names and/or logos for the business. MAXIMUM SIZE IS SIX SQUARE FEET.

**12.4.13. Real Estate Signs (Off-Premise).**

Off-premise signs which advertise the sale of residential property. Such sign shall not be illuminated or located within a sight triangle or public right-of-way. Signs may only be displayed on weekends and shall not be erected before 5 p.m. on

Friday and shall be removed by 7:00 a.m. on Monday. Off-premise real estate signs may also be displayed on legal holidays. MAXIMUM SIZE IS SIX SQUARE FEET.

**12.4.14. Real Estate Signs – Residential Properties (On-Premise).**

Signs which advertise the sale or lease of the property on which said sign is located. Such signs may not be illuminated or located within a sight triangle or public right-of-way and shall be removed no later than seven days after the sale or lease of the property. Signs are limited to one per street frontage. MAXIMUM SIZE IS SIX SQUARE FEET.

**12.4.15. Real Estate Signs – Non-Residential Properties (On-Premise).**

Signs which advertise the sale or lease of the property on which said sign is located. Such signs may not be illuminated or located within a sight triangle or public right-of-way and shall be removed no later than seven days after the sale or lease of the property. Signs are limited to one per street frontage. MAXIMUM SIZE IS 32 SQUARE FEET.

**12.4.16. Suspended Canopy Signs.**

Signs attached to the underside of canopy/awnings in all districts. Such sign shall not be illuminated, shall contain no advertising other than the trade name and/or logotype. One sign is permitted per business, and such signs shall meet the provisions for clearance as described in the latest edition of The North Carolina State Building Code. MAXIMUM SIZE IS FOUR SQUARE FEET.

**12.4.17. Window Signs.**

Signs placed or painted on the interior or exterior of glass windows or doors provided that such signs cover no more than 30 percent of the glass area of the entire storefront. Window signs that cover more than 30 percent of the glass shall be considered as wall signs and shall meet requirements for wall signs within the appropriate zoning district.

**12.4.18. Yard Sale Signs.**

A total of one (1) on-premises sign and three (3) off-premises signs that are no greater than six (6) square feet each may be displayed for the yard sale provided that the signs are not located in a site triangle or street right-of-way, nor placed on any tree, street signs, or on utility pole. Such signs may not be illuminated and may not be displayed more than 24 hours before the

yard sale and shall be taken down no more than 24 hours after the yard sale. MAXIMUM SIZE IS SIX (6) SQUARE FEET.

**12.4.19. For-profit Temporary Signs** - Businesses advertising special sales, special events and promotions, may display one temporary sign (banner) per establishment in addition to the permitted signs, provided that such sign is not illuminated. Such temporary sign is allowed for a period of 60 days and must be maintained in good condition. The sign must be removed or replaced upon becoming worn, faded, or torn. The banner must be located on the property of the business for which it is advertising and shall only be attached to the frontage wall of a principal structure. No banner may be attached to a roof structure, located within a public right-of-way or sight triangle, or attached to any existing signs.

**12.4.19.1** Businesses with more than 300 feet of street frontage on a designated major thoroughfare may have one (1) additional banner for every 300 feet of street frontage. A maximum of three (3) banners is allowed.

**12.4.19.2** Combined developments are permitted to have one temporary sign per establishment/tenant as stated in this section; however, the sign(s) must be mounted flush against the building wall of the advertised business.

**12.4.19.3** Use of portable signs as temporary signs is not permitted.

**12.4.20 Itinerant Merchants** - Itinerant merchants may erect one temporary (banner) sign per establishment for the period of operation provided such sign is not located within a street right-of-way or required sight triangle and is not illuminated. MAXIMUM SIZE IS 24 SQUARE FEET.

**12.4.20 Fence Wraps** - Fence wraps displaying signage when affixed to perimeter fencing at a construction site are permitted in accordance with N.C.G.S. § 160D-908.



## 12.5. PERMANENT SIGNS THAT REQUIRE A PERMIT.

**12.5.1. Applicability.** The Section shall govern regulations for signs permanently installed on a site and which are required to obtain a sign permit in accordance with § 12.2 of this Ordinance.

### 12.5.2. WALL SIGNS.

**12.5.2.1.** The maximum permitted sign area, location, characteristics, and number of Wall Signs shall be determined in accordance with Tables 12.1-1 through 12.1-5 and as outlined in this § 12.5.2.

**12.5.2.2.** The following additional regulations shall apply to on-premise wall mounted signs:

- **Signs on Building Walls Which Do Not Face Public Streets** - The permitted wall sign may be placed on a wall that does not face a public street. The maximum allowable size shall be calculated as if the wall faces a public street. The maximum allowable size for a sign on one wall is not transferable to a wall with less frontage.
- **Additional Wall Sign or Canopy Sign Permitted on Corner or Double Frontage Lots** - Lots with more than one street frontage shall be allowed to erect one additional wall or canopy sign on the secondary street frontage, provided that the secondary frontage is at least 100 feet in width at the street right-of-way. The secondary wall sign may not be placed on the same building wall as the primary sign.
- **Additional Wall Sign or Canopy Sign Permitted to Face Side or Rear Parking Lot** - Lots with parking to the side or rear of a building shall be allowed to erect one additional wall or canopy sign facing the parking lot, provided that at least 50 percent of the required parking for the establishment is located to the side or rear of the building and an entrance to the establishment faces the parking lot. The secondary wall sign may not be placed on the same building wall as the primary sign.
- **Location Requirements for Wall Signs** - No wall sign may extend more than one foot from the exterior of the wall and no portion of a sign shall extend above the wall on which it is mounted.
- **Wall Signs on Historic Buildings** - Wall

signs on historic buildings shall be placed within the sign frieze, or distinct place within which a wall sign was intended to be located, if the building was designed for such. No wall sign shall extend beyond such space. If there is no sign frieze, the wall sign shall be placed below the typical second floor window area. The design and coloration of such signs shall be compatible with the character of the building.

- **Changeable Copy.** Changeable copy or “reader board” area and electronic message board area are permitted as wall signs provided that the changeable copy or electronic message board area does not exceed 50 percent of the total area of the sign. Electronic message board area is included in the calculation of the total sign area unless the board displays only time and temperature information, in which case the message area is allowed in addition to the maximum area of the sign.

### 12.5.3. CANOPY/AWNING SIGNS.

**12.5.3.1.** The maximum permitted sign area, location, characteristics, and number of Canopy/Awning Signs shall be determined in accordance with Tables 12.1-1 through 12.1-5 and as outlined in this § 12.5.3. The following additional regulations shall apply to canopy/awning signs:

- **Valance and Copy Size for Canopy/Awning Signs** - The valance, or apron, for any canopy shall in no case exceed 12 inches in height. Individual letters or symbols on these valances shall not exceed nine inches in height. This provision shall apply only to valances to which sign copy is affixed.
- **Illumination for Canopy/Awning Signs** - Canopy/awning signs that may be illuminated shall have no bare bulbs present on or around the sign face.
- **Canopy/Awning Signs on Historic Buildings** - No canopy/awning sign shall be permitted on a historic building unless documentation indicates that such a sign was used on the building when originally constructed and occupied. The design and coloration of such signs shall be compatible

with the character of the building.

- **Clearance Requirements for Canopy/Awning Signs and Suspended Canopy Signs** - All canopy/awning signs attached to the underside of a canopy/awning shall maintain the minimum clearance above the ground level of any sidewalk or vehicular access area as specified in the most recent edition of the North Carolina State Building Code.
- **Canopy/Awning Signs and Wall Mounted Signs for Combined Developments** - All establishments within combined developments shall use as individual identification signs, exclusively, canopy/awning or wall signs. No mixing of sign types within a combined development shall be permitted, except that canopies/awnings containing no advertising copy, may be used in combination with wall mounted signs

#### 12.5.4. ON-PREMISE GROUND SIGNS.

**12.5.4.1.** The maximum permitted sign area, location, characteristics, and number of On-Premise Ground-Mounted Signs shall be determined in accordance with Table 12.1-1 through 12.1-5 and as outlined in this § 12.5.4. The following additional regulations shall apply to on-premise ground-mounted signs:

- **Base Landscaping for Ground-Mounted Signs** - All ground-mounted signs located within parking or vehicular use areas, and not in yard areas, shall stand in a bed of landscaping at least 30 square feet in area. This area shall contain low growing materials such as ground covers, perennials, and shrubs, and shall be bordered by acceptable curbing materials as specified in Article 8 of this Ordinance.
- **Distance Requirements from Existing Ground Signs** - No proposed ground-mounted sign shall be placed within 50 feet of an existing ground-mounted sign.
- **Ground-Mounted Signs for Combined Developments** – All uses within a combined development (includes more than one establishment or business on a common parcel) shall share the permitted ground-mounted sign(s) that is (are) permitted in accordance with Table 12.1-1 through 12.1-4. These regulations shall not apply to outparcels

of the development, as outparcels are separate parcels of land.

- **Changeable Copy.** Changeable copy or “reader board” area and electronic message board area are permitted as on-premise ground signs provided that the changeable copy or electronic message board area does not exceed 50 percent of the total area of the sign. Electronic message board area is included in the calculation of the total sign area unless the board displays only time and temperature information, in which case the message area is allowed in addition to the maximum area of the sign.
- **Drive-Through Menu Signs** – Drive-through menu signs shall be limited to a maximum size of 32 square feet.
- **Additional Ground Signs** - Lots with more than one street frontage shall be allowed to erect one ground sign per frontage, provided that each frontage is at least 100 feet in width at the street right-of-way. No two ground signs shall be placed on the same street frontage.

#### 12.5.5. PROJECTING OR SUSPENDED SIGNS.

**12.5.5.1.** The maximum permitted sign area, location, characteristics, and number of Projecting or Suspended Signs shall be determined in accordance with Table 12.1-1 through 12.1-5 and as outlined in this § 12.5.5. The following additional regulations shall apply to projecting or suspended signs:

- An identification, projecting or suspended sign shall include only the address and name of occupant.

A projecting or suspended sign shall not extend more than five (5) feet into the public right-of-way. In no case shall this category of sign be permitted to encroach over a motorized vehicle travel way such a public or private street, alley, or driveway. If such a sign is suspended or projects above a public right-of-way, the issuance and continuation of a sign permit shall be conditioned on the sign owner obtaining, and maintaining in force, liability insurance in an amount of not less than \$500,000 per occurrence per sign.

## 12.6 COMPREHENSIVE SIGN PACKAGES

### 12.6.1. PURPOSE.

The purpose of the Comprehensive Sign Package is to encourage innovative, creative, and effective signage by providing an alternative to the general permanent signage criteria in this Chapter.

### 12.6.2. APPLICABILITY.

As an option to the permanent signage standards set forth in this Chapter, freestanding structures in excess of twenty-five thousand (25,000) square feet and/or master planned developments in excess of 10 acres shall be allowed to submit an application for a Comprehensive Sign Package. All Comprehensive Sign Packages shall be reviewed as a Special Use Permit in accordance with the procedures set forth in Section 3.5 of this Ordinance.

Any signage not specifically identified in the Comprehensive Sign Package shall conform to the minimum signage criteria contained in this Chapter.

### 12.6.3. ARCHITECTURAL THEME.

The design, character, location and/or materials of all freestanding and attached signs proposed in a Comprehensive Sign Package shall be demonstrably more attractive than signs otherwise permitted on the parcel proposed for development under the minimum sign standards of this Chapter.

All signs must be architecturally integrated into/with the design of the building and/or site using similar and coordinated design features, materials, colors, etc.

### 12.6.4. PLAN REQUIRED.

The Comprehensive Sign Package shall include a master signage plan including the following:

- Site plan in accordance with Appendix B of the Unified Development Ordinance, identifying locations of freestanding, multi-tenant, and directional signs;
- List of each type of sign to be permitted in the development with accompanying allowances. At a minimum, the following information shall be provided:
- Freestanding sign regulations to include dimensions of support structures, dimensions of

sign face, permitted sign copy area (maximum individual and aggregate sign area per establishment), and maximum height of sign;

- Wall sign allowances to include permitted sign copy area (maximum individual and aggregate sign area per establishment), heights (in relation to storefront height) and area (in relation to storefront area);
- Directional sign allowances to include height and sign area;
- Illumination guidelines describing the type(s) allowed, placement, intensity, and hours of illumination;
- Changeable copy guidelines ;
- Temporary signage guidelines;
- Theme and/or color guidelines – Provide graphic depictions of sign designs, color palettes, font style and letter size, illumination, materials, and sample sign copy areas; and
- Demonstrate that all freestanding signage meets the site triangle requirements established in Appendix C.4.2.4.

## **12.7 OUTDOOR ADVERTISING (BILLBOARD) SIGNS.**

### **12.7.1 PROHIBITION.**

No new Outdoor Advertising Signs shall be permitted to be constructed in the City of Kannapolis jurisdiction.

**Table 12.1-1 Standards for Permanent Signs in C-2 Zoning Districts**

<b>Sign Type</b>	<b>Number Allowed</b>	<b>Max. Sign Area</b>	<b>Max. Height</b>	<b>Sign Location</b>
<b>GROUND SIGNS*</b>				
Individual Business	1 per frontage per section 12.5.4.1	64 sf – Pole Sign 64 sf – Monument Sign 9 sf – Arm Sign	15 ft. – Pole Sign 15 ft. – Monument Sign 6 ft. – Arm Sign	Outside of street right-of-way and site triangle
Combined Development	1 per frontage per section 12.5.4.1	64 sf plus 10 sf per additional tenant up to a maximum of 100 sf 9 sf – Arm Sign	20 ft. – Pole Sign 20 ft. – Monument Sign 6 ft. – Arm Sign	Outside of street right-of-way and site triangle
Commercial Subdivision Entrance Sign	1 per entrance road 1 per frontage	64 sf ft. plus 32 sq. ft.	20 ft. 6 ft.	Outside of street right-of-way and site triangle
Institutional and Civic Uses	1 per frontage per section 12.5.4.1	64 sf – Pole Sign 64 sf – Monument Sign 9 sf – Arm Sign	15 ft. – Pole Sign 15 ft. – Monument Sign 6 ft. – Arm Sign	Outside of street right-of-way and site triangle
<b>WALL SIGN</b>				
Individual Business and Combined Developments	1 per frontage Per section 12.5.2.2	1.0 sf per lineal ft. of the building wall sign is attached to, up to 120 sq. ft. maximum sign area	Not to extend above the vertical wall	n/a
<b>CANOPY / AWNING SIGNS</b>				
Individual Business and Combined Developments	May be substituted for allowed wall signs	12 sf	n/a	n/a
<b>PROJECTING / SUSPENDED SIGNS</b>				
Individual Business and Combined Developments	May be substituted for allowed wall sign	Projecting Sign – 6 sf or Suspended Sign – 4 sf	n/a	No portion of a projecting or suspended sign shall extend more than 5 ft. from building wall

\*Ground signs may include Pole, Monument, or Arm style signs

**Table 12.1-2 Standards for Permanent Signage in O-I, C-1, CD, I-1 and I-2 Zoning Districts**

Sign Type	Number Allowed	Area	Height	Location
<b>GROUND SIGNS*</b>				
Individual Business	1 per frontage per section 12.5.4.1	64 sf – Monument Sign 9 sf Arm Sign for principal structures with 25,000 GFA or greater building area	6 ft. – Monument Sign for principal structures with 25,000 GFA or more:	Outside of street right-of-way and site triangle
		32 sf – Monument Sign 9 sf – Arm sign for principal structures with less than 25,000 GFA	4 ft. – Monument Sign 6 ft. – Arm Sign for principal structures with less than 25,000 GFA	
Combined Development	1 per frontage per section 12.5.4.1	32 sf plus 8 sf per additional tenant up to a maximum of 64 sf 9 sf – Arm Sign	6 ft. – Monument Sign 6 ft. – Arm Sign	Outside of street right-of-way and site triangle
Subdivision Entrance Sign	1 per entrance road	32 sf – Monument Sign 9 sf – Arm Sign	6 ft. – Monument Sign 6 ft. – Arm Sign	Outside of street right-of-way and site triangle
Institutional and Civic Uses	1 per frontage per section 12.5.4.1	64 sf – Monument Sign 9 sf – Arm Sign	8 ft. – Monument Sign 6 ft. – Arm Sign	Outside of street right-of-way and site triangle
<b>WALL SIGNS</b>				
Individual Business and Combined Developments	1 per frontage per sections 12.5.2.2	1.0 sf per lineal ft. of bldg. wall attached to, up to 64 sf. in O-I, 120 sf in C-1, CD, I-1, and I-2 districts	not to extend above the vertical wall	n/a
<b>CANOPY / AWNING SIGNS</b>				
Individual and/or Combined Developments	May be substituted for allowed wall signs	12 sf	n/a	n/a
<b>PROJECTED / SUSPENDED SIGNS</b>				
Individual and/or Combined Developments	May be substituted for allowed wall sign	6 sf – Projecting Sign 4 sf – Suspended Sign	n/a	No portion of a projecting or suspended sign shall extend more than 5 ft. from building wall

\*Ground signs may be Monument or Arm style only. Pole signs are prohibited

**Table 12.1-3 Standards for Permanent Signage in B-1, CC, TND, and PUD Zoning Districts**

Sign Type	Number Allowed	Area	Height	Location
<b>GROUND SIGNS*</b>				
Individual Business	1 per frontage per section 12.5.4.1	32 sf – Monument Sign 9 sf Arm Sign for principal structures with 10,000 GFA or greater building area <hr/> 16 sf – Monument Sign 9 sf – Arm Sign for principal structures with less than 10,000 GFA	4 ft. – Monument Sign 6 ft. – Arm Sign	Outside of street right-of-way and site triangle
Combined Development	1 per frontage per section 12.5.4.1	32 sf – Monument Sign plus 8 sf per additional tenant up to a maximum of 64 sf 9 sf – Arm Sign	4 ft. – Monument Sign 6 ft. – Arm Sign	Outside of street right-of-way and site triangle
Subdivision Entrance Sign	2 per entrance road along major thoroughfares	16 sf – Monument Sign 32 sf – Monument Sign (on major thoroughfares) 9 sf – Arm Sign	6 ft. – Monument Sign 8ft. – Monument (on major thoroughfares) 6 ft. – Arm Sign	Outside of street right-of-way and site triangle
Institutional and Civic Uses	1 per frontage per section 12.5.4.1	64 sf – Monument Sign 9 sf – Arm Sign	8 ft. – Monument Sign 6 ft. – Arm Sign	Outside of street right-of-way and site triangle
<b>WALL SIGNS</b>				
Individual Business and Combined Developments	1 per frontage per sections 12.5.2.2	1.0 sf per lineal ft. of bldg. wall attached to, up to 32 sf. In CC**, 64 sf in B-1, TND, and PUD districts	not to extend above the vertical wall	n/a
<b>CANOPY / AWNING SIGNS</b>				
Individual Business and Combined Developments	May be substituted for allowed wall signs	12 sf	n/a	n/a
<b>PROJECTED / SUSPENDED SIGNS</b>				
Individual Business and Combined Developments	1 per frontage per section 12.5.2.2	6 sf – Projecting Sign 4 sf – Suspended Sign	n/a	No portion of a projecting or suspended sign shall extend more than 5 ft. from building wall

\*Ground signs may be Monument or Arm style only. Pole signs are prohibited

\*\*For businesses located in the CC District with frontage on a major thoroughfare, except properties located along Main Street between 1<sup>st</sup> Street and Dale Earnhardt Boulevard, and Institutional and Civic Uses, total signage may be increased up to 120 sf.

**Table 12.1-4 Standards for Permanent Signage in Residential Districts (AG, RE, RL, RM-1, RM-2, RV, RC, PUD, and TND)**

Sign Type	Number Allowed	Max. Sign Area	Max. Height	Sign Location
<b>GROUND SIGNS*</b>				
Entrance signs for Apartments, Condominiums, Residential Subdivisions, and Manuf. Home Parks	2 per entrance road along major thoroughfares	16 sf – Monument Sign 32 sf – Monument Sign on major thoroughfares 9 sf – Arm Sign	6 ft. – Monument Sign 8 ft. – Monument Sign on major thoroughfares 6 ft. – Arm Sign	Outside of street right-of-way and site triangle
Home Occupation	not permitted	n/a	n/a	n/a
Group Care Facilities, Rooming or Boarding Houses, Bed and Breakfast Inns, and Similar Uses	1 per premises	16 sf – Monument Sign 9 sf – Arm Sign	4 ft. – Monument Sign 6 ft. – Arm Sign	Outside of street right-of-way and site triangle
Institutional & Civic Uses	1 per premises	16 sf – Monument sign (less than 1 acre site) 24 sf – Monument Sign (1 to 2 acre site) 32 sf – Monument Sign (2 to 5 acre site) 48 sf – Monument Sign (greater than 5 acre site)	8 ft. – Monument Sign	Outside of street right-of-way and site triangle Outside of required sideyard setback established in Table 4.7-1
Other Uses	1 per premises	16 sf – Monument Sign 9 sf – Arm Sign	4 ft. – Monument Sign 6 ft. – Arm Sign	Outside of street right-of-way and site triangle
<b>WALL SIGNS</b>				
Apartments, Condominiums, Residential Subdivisions, and Manuf. Home Parks	not permitted	n/a	n/a	n/a
Home Occupation	1 per premises	4 sf 8 sf for rural home occupation only	n/a	n/a
Group Care Facilities, Rooming or Boarding Houses, Bed and Breakfast Inns, and Similar Uses	1 per premises* *as a substitute for a ground sign	5 sf	n/a	n/a
Institutional & Civic Uses	1 per frontage per section 12.5.2.2	32 sq. ft for principle structures with 10,000 GFA or greater building area. 16 sq. ft. for principle structures with less than 10,000 GFA	n/a	n/a
Other Uses	1 per premises	16 sq. ft.	n/a	n/a

\*Ground signs may be Monument or Arm style only. Pole signs are prohibited



Table 12.1-5 Standards for Sign Characteristics									
	AG	RE, RL, RM-1, RM-2, RV, RC, PUD, TND, TOD	CC, CD	O-1	B-1	I-1	I-2	C-1	C-2
<b>P = Permitted</b>									
Animated	–	–	–	–	–	–	–	–	--
Changeable Copy	P*	P*	P	P	P	P	P	P	P
Illumination, Internal	P*	P*	P	P	P	P	P	P	P
Illumination, Indirect	–	–	P	P	P	P	P	P	P
Illumination, Indirect, Exposed Bulbs or neon	–	–	P	–	–	–	–	–	–
Illumination, External Low Voltage**	P	P	P	P	–	–	–	–	–

\*Permitted for non-residential uses only

\*\*Permitted for residential uses

**ARTICLE 13  
NONCONFORMING USES AND STRUCTURES  
AND VESTED RIGHTS.**

*TABLE OF CONTENTS*

<b>SECTION</b>	<b>PAGE</b>
13.1 NONCONFORMING USES AND LOTS .....	13-2
13.2 VESTED RIGHTS .....	13-5
13.3 EXPIRATION OF DEVELOPMENT APPROVALS .....	13-10
13.4 NONCONFORMING MANUFACTURED HOME PARKS .....	13-13

### 13.1. NONCONFORMING USES AND LOTS

#### 13.1.1. CONTINUATION OF NONCONFORMING USES AND NONCONFORMING STRUCTURES.

Any nonconforming uses or structures in existence at the time of the adoption of this Zoning Ordinance may be continued and shall not be subject to this Ordinance to the extent that the regulations, restrictions and requirements of this Ordinance would prohibit that use, or to the extent that such structure would not be permitted to remain. Any Nonconforming Use or Nonconforming Structure which, at any time, is not in use for a continuous six (6) month period following the adoption of these regulations shall be considered to have discontinued operations and, therefore, regardless of the reason or intent of such discontinuance, will no longer be permitted. The initial decision as to whether an existing Nonconforming Use or Nonconforming Structure has been abandoned shall be made by the Administrator, subject to said decision being appealed to the Board of Adjustment by the affected property owner within thirty (30) days of the ruling by the Administrator.

#### 13.1.2. NONCONFORMING LOTS OF RECORD.

##### 13.1.2.1. Single Lot of Record.

13.1.2.1.1. Permitted uses in any district may be allowed on any single lot of record existing at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, generally applicable in the zoning district.

13.1.2.1.2. Any existing lot of record which does not conform with lot area, depth, or width requirements may be used for any permitted use in that zoning district so long as the parcel is not reduced in any manner or diminished so as to cause yards, lot coverage, or other open spaces to be less than required, except as provided in subsection 13.1.2.1.3.

13.1.2.1.3. Dimensional requirements other

than those applying to lot area, depth, or width shall be met.

#### 13.1.3. EXPANSION OR ENLARGEMENT OF NONCONFORMING USES OR CHANGE TO ANOTHER NONCONFORMING USE.

13.1.3.1. A Nonconforming Use shall not be expanded, enlarged or changed to another Nonconforming Use except as provided in this section 13.1.3.

13.1.3.2. No structural alterations shall be made to a Building or other Structure substantially occupied by a Nonconforming Use except as necessary:

13.1.3.2.1. to comply with the requirements of a federal or state laws or regulations, or local ordinance of general applicability;

13.1.3.2.2. to accommodate a Conforming Use; or

13.1.3.2.3. to make such structure conform to the applicable dimensional regulations.

13.1.3.3. A Nonconforming Use may be changed to any Conforming Use. The applicable zoning district dimensional regulations of Table 4.7-1 shall not apply to such change of Use. However, all other design standards of this Ordinance (such as parking, landscaping, etc.) shall apply. Nonconforming Uses shall not be expanded or enlarged unless such expansion or enlargement shall comply with all applicable zoning district dimensional regulations.

13.1.3.4. A Nonconforming Use may be changed to another Nonconforming Use which more closely approximates permitted Uses in the Zoning District, with respect to scale and intensity of use, upon issuance of a Certificate of Nonconformity Adjustment.

13.1.3.5. Nothing herein shall prevent the maintenance, repair, and expansion of a single-family dwelling that is nonconforming as to use, provided that such is done in conformance with the dimensional requirements for the RV Residential Village zoning district as set forth in Table 4.7-1.

**13.1.4. NONCONFORMING STRUCTURES.**

**13.1.4.1.** Expansions or additions to structural parts of a Nonconforming Building or other Structure shall be permitted with the issuance of a Certificate of Nonconformity Adjustment. Repairs to existing Nonconforming Buildings or Structures that do not include an expansion or addition shall not require a Certificate of Nonconformity Adjustment.

**13.1.4.2.** Nonconforming Buildings or other Structures shall not be expanded or enlarged unless such expansion or enlargement shall comply with all applicable zoning district dimensional regulations.

**13.1.4.3.** Multiple ground signs will be allowed for existing combined developments with the issuance of a Certificate of Non-conformity Adjustment.

**13.1.5. CONTINUED NONCONFORMANCE AFTER DAMAGE OR DESTRUCTION.**

**13.1.5.1.** When a Nonconforming Building or Structure or a Building containing a Nonconforming Use is damaged or destroyed by fire, storm or other casualty, such Building may be rebuilt, reconstructed and/or reoccupied only in accordance with the provisions of this § 13.1.5.

**13.1.5.2.** Where a Building or other Structure substantially occupied by a Nonconforming Use is damaged or destroyed as a result of fire or other natural/uncontrollable factor, such Building or Structure may be reconstructed and such Nonconforming Use may be continued, provided that any such reconstruction does not increase the degree of any Nonconformance, and only upon receipt of a Zoning Clearance Permit. However, if a Building or other Structure substantially occupied by a Nonconforming Use is voluntarily removed or altered, such structure and site shall be subject to all applicable design standards of this Ordinance, and shall be permitted only upon the issuance of a Certificate of Nonconformity as set forth in Section 13.1.6, below.

**13.1.6. CERTIFICATE OF NONCONFORMITY ADJUSTMENT REQUIRED.**

**13.1.6.1.** A Certificate of Nonconformity Adjustment shall be required to enlarge, expand or

otherwise alter any Nonconforming Use or Structure as set forth in this Section 13.1. A Certificate of Nonconformity Adjustment shall be issued by the Board of Adjustment subject to the requirements of this section.

**13.1.6.2.** Application for a Certificate of Nonconformity Adjustment shall be submitted on a form prescribed by the Administrator. An applicant for a Certificate of Nonconformity Adjustment shall submit a detailed plan of the existing site, showing, the degree of Nonconformity with respect to the dimensional and design regulations of this Ordinance. In the case of a Nonconforming Use the application shall include a detailed explanation of the current Use including documentation of traffic generated by the current use.

**13.1.6.3.** A Certificate of Nonconforming Adjustment may be granted by the Board of Adjustment in accordance with the provisions of this section. Steps in the nonconformity adjustment process are:

- **Step 1 - Application.** An application for a nonconformity adjustment will be considered by the Board of Adjustment upon the filing of a form entitled "Request for Nonconformity Adjustment", available within the Office of the Administrator.
- **Step 2 - Notification of neighboring landowners and hearing.** The Board of Adjustment shall conduct a hearing on the application pursuant to the procedures established in NCGS § 160D-406 and § 3.1.7 of this Ordinance. All landowners adjoining to any degree (including lying across roadways) the site of the nonconformity will receive notification of the filing of the request for a Certificate of Nonconformity Adjustment and the hearing.
- **Step 3 - Decision by Board of Adjustment.** After the hearing for a nonconformity adjustment, the Board of Adjustment will either approve or deny the request. The Board's decision to approve may be based upon the applicant agreeing to site changes. The decision to approve or deny will be made based on the following criteria:
  - Noise. Does the nonconformity create noise above and beyond levels considered normal to the area?
  - Traffic. Does the nonconformity generate or have the potential to generate a

significantly higher volume of traffic than surrounding land use?

- Other measurable, physical effects. Does the nonconformity generate any other negative effects including but not limited to: dust, air pollution, foul smell, etc.?
- Surrounding property values. Does the nonconformity detract from the prevailing property values?
- Aesthetics. Does the nonconformity compliment or detract from the overall aesthetic character of the area?
- **Step 4 - Changes to the nonconformity.** The Board of Adjustment will determine what the nonconformity operator/owner must do to the property for certification. For example, landscaping or fencing may be required or a shift of operations away from adjoining properties may be stipulated.

**13.1.6.4. Denial by Board of Adjustment.** If the Board of Adjustment, after an analysis of the facts of the situation, finds the nonconformity cannot be adjusted, it will be handled as such and subject to those provisions of this Ordinance which deal with unreformable nonconformities. Appeals from the Board of Adjustment shall be filed with the Clerk of the Cabarrus or Rowan County Superior Court within 30 days of the final decision of the Board. The Board of Adjustment's decision shall be considered a final decision after the Board approves the official minutes containing such during an official meeting.

**13.1.6.5. Approval by Board of Adjustment.** Certificates of Nonconformity Adjustment may be issued with or without conditions. Such conditions shall "run with the land" and subject all future property owners with the same restrictions.

### **13.1.7. REPLACEMENT OF NONCONFORMING MANUFACTURED HOMES ON INDIVIDUAL LOTS.**

**13.1.7.1.** Nonconforming manufactured homes on individual lots not zoned with an appropriate Manufactured Home Overlay district may be removed and replaced only as provided by Section 3.1.5 or 3.1.6 of this Ordinance. Any replacement must conform to the design and installation standards of Section 4.17.8.2 of this Ordinance.

### **13.1.8. RESERVED.**

## 13.2. VESTED RIGHTS.

### 13.2.1. PURPOSE AND INTENT.

The purpose and intent of this Section is:

- To provide detailed administrative rules, regulations and procedures in order to guide officials in the administration, interpretation and implementation of the Unified Development Ordinance, and/or any other ordinances, regulations and or administrative rules adopted by the City in order to implement a comprehensive plan for development.
- To establish predictability and fairness for affected landowners;
- To recognize that development projects for which vested rights have been obtained must be accounted for in the *Comprehensive Plan*, the Unified Development Ordinance, capital improvements programs, and other land development regulations.
- To provide a method for determining and quantifying the number of projects, development projects, and land uses, which do not now comply with this Ordinance, or which may in the future fail to comply with this Ordinance due to subsequent amendments to this Ordinance but which are vested, so that such projects, development projects and land uses can be accounted for in the existing and future general plans and this Ordinance.
- To establish uniform and non-burdensome procedures and specific criteria for the determination of vested rights and claims of equitable estoppel in order to aid in the accomplishment of sound and orderly planning;
- To define the scope of vested rights that have been obtained by virtue of prior development approvals, including the expiration of development permits;
- To protect legitimate investment-backed expectations;
- To protect the planning and implementation process;
- To settle potential disputes and to minimize protracted and costly litigation;
- To facilitate implementation of the goals, objectives and policies set forth in the *Comprehensive Plan*; and
- To ensure that all applicable legal standards and criteria are utilized in the determinations to be made hereunder.
- To implement the provisions of NCGS § 160D-108.1.

### 13.2.2. APPLICABILITY.

This § 13.2 shall apply to any person(s) desiring to obtain a right to develop land beyond the time limitations as set forth in other sections of this Ordinance.

### 13.2.3. AUTHORIZATION.

The provisions of this Section 13.2 are authorized by NCGS § 160D-108.1.

### 13.2.4. DEFINITIONS.

The following terms shall have the definitions provided in this Section 13.2.3. If a contrary definition appears in NCGS Chapter 160D, the term shall have the meaning set forth in that section. Any terms not defined herein shall have the meaning assigned in Appendix A to this Ordinance.

**CITY** - The City of Kannapolis, North Carolina.

**PROPERTY** - All real property subject to zoning regulations and restrictions and zoning boundaries by the City.

### 13.2.5. ESTABLISHMENT OF VESTED RIGHTS.

**13.2.5.1.** A Vested Right shall be deemed established for any property upon the approval (with or without conditions) of a Site-Specific Vesting Plan by the appropriate City decision-making agency in accordance with the provisions of this section 13.2.

**13.2.5.2.** Notwithstanding the provisions of this § 13.2.5, the approval of a Site-Specific Vesting Plan with the condition that a Variance be obtained shall not establish or be deemed to establish a Vested Right unless and until the Variance is obtained.

### 13.2.6. DURATION.

**13.2.6.1.** An amendment or modification of a Site-Specific Vesting Plan shall not extend the Vested Rights period unless the approval shall specifically provide for such extension.

**13.2.6.2.** A Building Permit which is issued for a development for which Vested Rights have been established shall not expire or be revoked because of

the time limitations on validity of permits under NCGS § 160A-418 prior to the expiration of the Vested Rights period.

**13.2.6.3.** Where a Variance is required as a condition of the approval of a Site-Specific Vesting Plan, the effective date of the approval which commenced the period for development shall be the date on which the Variance is granted.

**13.2.6.4.** A right to develop a Building or Structure or Use which has been vested as provided in this section 13.2 shall terminate at the end of the applicable vesting period for all Buildings or Structures and Uses for which no valid application for a Building Permit has been filed.

**13.2.6.5. Voluntary Annexation.** In accordance with NCGS § 160A-31(h) and 160A-58.1(d), petitioners filing for voluntary annexation shall also submit a statement declaring whether or not vested rights with respect to the properties subject to the petition have been established. Whenever the City acquires jurisdiction over a territory that theretofore has been subject to the jurisdiction of another local government, any person who has acquired vested rights under a permit, certificate, or other evidence of compliance issued by the local government surrendering jurisdiction may exercise those rights as if no change of jurisdiction had occurred. The City may take any action regarding such a permit, certificate, or other evidence of compliance that could have been taken by the local government surrendering jurisdiction pursuant to its ordinances and regulations.

**13.2.7. PROCEDURE FOR APPROVAL OF A VESTED RIGHT.**

**13.2.7.1.** The procedures for approval of a Site-Specific Vesting Plan are set forth in § 13.2.9, below.

**13.2.7.2.** Upon approval of a Site-Specific Vesting Plan, each and every map, plat, site plan or other document prepared or used for the Development shall contain the following notation:

- “Approval of this Site-Specific Vesting Plan establishes a Vested Right under North Carolina General Statutes § 160D-108.1. Unless terminated at an earlier date, the Vested Right shall be valid until [date approved by City].”

**13.2.8. SCOPE OF VESTED RIGHTS.**

**13.2.8.1.** Following approval or conditional approval of a site specific vesting plan, nothing in this section shall exempt such a plan from subsequent reviews and approvals by the City to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with said original approval. Nothing in this section shall prohibit the City from revoking the zoning clearance permit for failure to comply with applicable terms and conditions of the approval or this Ordinance as set forth in Section 1.6.

**13.2.8.2.** A vested right, once established as provided for in this section, precludes any zoning action by the City which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site specific vesting plan, except:

**13.2.8.2.1.** With the written consent of the affected landowner;

**13.2.8.2.2.** Upon findings, by ordinance after notice and a public hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific vesting plan;

**13.2.8.2.3.** To the extent that the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval by the City, together with interest as provided by NCGS § 160D-106. Compensation shall not include any diminution in the value of the property which is caused by such action;

**13.2.8.2.4.** Upon findings, by ordinance after notice and a hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the City of the site-specific vesting plan; or

**13.2.8.2.5.** Upon the enactment or promulgation of a State or federal law or regulation which precludes development as contemplated in the site specific vesting plan, in which case the City may

modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the plan, by ordinance after notice and a hearing.

**13.2.8.3.** The establishment of a vested right shall not preclude the application of overlay zoning which imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations which are general in nature and are applicable to all property subject to land-use regulation by the City, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new regulations shall become effective with respect to property which is subject to a site-specific vesting plan upon the expiration or termination of the vesting rights period provided for in this section.

**13.2.8.4.** Notwithstanding any provision of this section, the establishment of a vested right shall not preclude, change or impair the authority of the City to adopt and enforce zoning ordinance provisions governing nonconforming situations or uses. (See § 13.1 of this Ordinance).

**13.2.8.5.** A vested right obtained under this section is not a personal right, but shall attach to and run with the applicable property. After approval of a site-specific vesting plan, all successors to the original landowner shall be entitled to exercise such rights.

**13.2.8.6.** Nothing in this section shall preclude judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

### **13.2.9. SITE-SPECIFIC VESTING PLANS (SSVPs).**

**13.2.9.1. General.** The City Council or the Planning and Zoning Commission (for preliminary subdivision plats) may, but under no circumstances is it required, to approve a Site-Specific Vesting Plan (SSVP). The SSVP shall bind the Vesting and the City Council (the "parties") and shall contain those terms and conditions agreed to by the parties and those required by this Section. The Administrator and the City Attorney, or their designees, are authorized to negotiate Development Agreements on behalf of the

City Council to enforce a SSVP.

**13.2.9.2. Applicability.** The City Council or the Planning and Zoning Commission may approve a SSVP pursuant to this Section only if the proposed development to which the SSVP pertains is in conformity with the then adopted *Comprehensive Plan* and capital improvements program, zoning regulations, and other applicable requirements of this Ordinance. The SSVP shall be used solely as a means to enforce compliance with the terms of this Ordinance and shall not be considered an inducement for the approval of any application for development approval.

### **13.2.9.3. Duration.**

**13.2.9.3.1.** Upon approval of a Site-Specific Vesting Plan, the right to develop such Development or Use shall continue for period of two (2) years from the date of approval of such Site-Specific Vesting Plan.

**13.2.9.3.2.** Notwithstanding the foregoing, the City, in its approval, may authorize a Vested Rights development period of longer than two (2) years, but in no event longer than five (5) years, if, in the City's sole discretion, such longer period is necessary because of the size and phasing of the Development, the investment in the Development, the need for the Development, economic cycles, and such other conditions as the City may consider relevant.

### **13.2.9.4. Procedure for Approval of an SSVP.**

**13.2.9.4.1.** An application for an SSVP may be made to the Administrator in accordance with the procedures set forth herein. Application may be made by the landowner. If made by the holder of an equitable interest, the application shall be accompanied by a verified title report and by a notarized statement of consent to proceed with the proposed SSVP executed by the landowner. Application may be made by the Planning Commission or the City Council. If made by the Planning Commission or the City Council, the applicant shall obtain and attach a notarized statement of consent to proceed with the proposed SSVP executed by the owner of the subject property.

### **13.2.9.4.2. Coordination of SSVP Application**



**with other Discretionary Approvals.**

If combined with an application for rezoning, subdivision and plat approval, planned development or special use permit, the application for a SSVP shall be submitted with said application and shall be processed, to the maximum extent possible, jointly to avoid duplication of hearings and repetition of information. A SSVP is not a substitute for, nor an alternative to, any other required permit or approval, and the applicant must comply with all other required procedures for development approval.

**13.2.9.4.3. Contents of a SSVP.** No SSVP shall be approved by the City Council or Planning and Zoning Commission, nor shall any such SSVP or any provision of such SSVP have any legal force and effect, unless the application contains the following minimum provisions:

- The approximate boundaries of the site;
- Significant topographical and other natural features effecting development of the site;
- The approximate location on the site of the proposed buildings, structures, and other improvements;
- The approximate dimensions, including height, of the proposed buildings and other structures;
- The approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways; and
- The provisions of this Section supplement, but do not replace, any additional information required by Appendix B for any site plan, Planned Unit Development plan, a TND Greenfield application, a subdivision plat, a special use permit, a conditional zoning district zoning plan, or any other application for development approval required for the proposed development.

**13.2.9.4.4. Approval of City Council or Planning and Zoning Commission.**

No SSVP shall become effective until approved by the City Council or Planning and Zoning Commission. What constitutes a site-specific vesting plan under this section that would trigger a vested right shall be finally determined by the document that triggers such vesting shall be so identified at the time of its approval. The City Council or Planning and Zoning Commission shall

consider the proposed SSVP consistent with any procedures established in this Ordinance. The City Council or Planning and Zoning Commission may:

- Approve the SSVP;
- Approve the SSVP with conditions; or
- Reject the SSVP, in whole or in part, and take such further action as it deems to be in the public interest.
- The City Council or Planning and Zoning Commission, in approving an SSVP, shall expressly find that the agreement meets those criteria in this Ordinance for approval of the Applications for Development Approval.

**13.2.9.5. Recordation of SSVP.** No later than ten (10) days after the City Council or Planning and Zoning Commission approves an SSVP, the Administrator shall record a copy of the SSVP with the county register of deeds, and the recordation constitutes notice of the SSVP to all persons. The burdens of the SSVP are binding on, and the benefits of the SSVP inure to, the parties to the agreement and to all their successors in interest and assigns.

**13.2.9.6. Covenants.** Unless otherwise provided in the SSVP, any covenant by the City Council or Planning and Zoning Commission contained in the SSVP to refrain from exercising any legislative, quasi-legislative, quasi-judicial or other discretionary power, including rezoning or the adoption of any rule or regulation that would affect the proposed subdivision, shall be limited to a period not exceeding that specified in NCGS § 160D-108.1(e)(1). The covenant shall also contain a proviso that the City Council or Planning and Zoning Commission may, without incurring any liability, engage in action that otherwise would constitute a breach of the covenant if it makes a determination on the record that the action is necessary to avoid a substantial risk of injury to public health, safety and general welfare. The covenant shall contain the additional proviso that the City Council or Planning and Zoning Commission may, without incurring any liability, engage in action that otherwise would constitute a breach of the covenant if the action is required by federal or state law.

**13.2.9.7. Notice of Decision.** Within ten (10) days following a decision of an SSVP, the Administrator shall give notice of such action to the applicant.

**13.2.9.8. Third Party Rights.** Except as otherwise

expressly provided in the SSVP, the SSVP shall create no rights enforceable by any party who/which is not a party to the SSVP.

**13.2.9.9. Amendment or Cancellation.** An SSVP may be amended, or cancelled in whole or in part, by mutual consent of the parties to the SSVP or by their successors in interest or assigns.

## 13.3. EXPIRATION OF DEVELOPMENT APPROVALS.

### 13.3.1. TIME OF EXPIRATION.

Unless otherwise specifically provided for in this Ordinance, development approvals shall automatically expire and become null and void, and all activities taken pursuant to such development approvals shall cease and become null and void, and all activities pursuant to such approval thereafter shall be deemed in violation of this Ordinance, when: 1) the applicant fails to satisfy any condition that was imposed as part of the original or revised approval of the application for development approval, or that was made pursuant to the terms of any development agreement, including the failure to abide by specified time limits established therein; or 2) the applicant fails to present a subsequent development application as required by this title within the time so required or as may be required by Table 13.3-1 or 13.3-2 this Ordinance or North Carolina law. If no time limit for satisfaction of conditions is specified in the original or revised approval of the development application, the time shall be presumed to be twelve (12) months from the date of approval. If development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months and the exceptions of NCGS § 160D-108(d) do not apply, any period of statutory vesting shall expire.

### 13.3.2. DATE FROM WHICH TIME LIMIT IS MEASURED.

**13.3.2.1.** Each time period referenced on Table 13.3-1 and Table 13.3-2 shall run from the final action of the appropriate official, officer, board, commission or the governing body with valid and legal jurisdiction to take such action or to approve such plans or to issue such permits. Except as may be otherwise indicated herein, the date of final action shall be the date such action was taken or such approval was granted or such permit was issued, as set forth on such action, approval or permit.

**13.3.2.2.** In order to assure that all applicants for actions, approvals or permits are informed of the applicable time limit, the date of final action and the expiration date shall be shown on each such action, permit or approval; but provided, however, that the Administrator's failure to include either the date of final action or the expiration date shall not be deemed to be a waiver of such dates nor shall it be

the basis of any action by the applicant to challenge the applicable expiration date. The burden is on the applicant to know the date of issuance and the expiration date. If either or both of such dates are not shown, the applicant may request, and the Administrator shall promptly supply such date or dates.

**13.3.2.3.** All actions, approvals or permits shall expire on the expiration date unless a valid extension has been granted on or before the expiration date pursuant to section 13.3.3 herein.

### 13.3.3. EXTENSIONS OF TIME LIMITS.

**13.3.3.1. First Extension.** Unless otherwise prohibited by North Carolina law or this Ordinance, the Administrator may extend the time for expiration of a development permit or approval for a period not to exceed one (1) year from the date of the original decision granting approval, if the application for extension is made in writing within the original period of validity. Subsequent extensions may be made by the final approval body upon finding that conditions at the time of approval have not changed.

**13.3.3.2. Additional Extensions.** There shall be no additional extensions of any time limits for actions, approvals or permits set forth herein, as of right. Any extensions must be expressly requested by the applicant, in writing, and approved by the appropriate official, officer, board, commission or the governing body which originally took the action, approved the plan or issued the permit.

**13.3.3.3.** A request for an extension of an expiration date shall be made on a form provided by the Administrator and shall include, but shall not necessarily be limited to, the following:

- the current date of expiration;
- the extension period requested, which shall be no longer than the original period of time granted; and
- the reason(s) that the applicant has been unable to proceed within the period of the original expiration date.

**13.3.3.4.** Before granting an extension, the official, officer, board, commission or the governing

body shall determine whether any applicable changes in land use regulations have occurred which would impose new requirements with respect to such action, approval or permit, if an extension were denied, and the applicant were compelled to re-file for an original action, approval or permit. If changes have occurred, the official, officer, board, commission or the governing body shall balance the burden imposed on the applicant if required to re-file for an original action, approval or permit against the benefit accruing to the public by requiring the applicant to comply with the new regulation.

**Table 13.3-1  
TIME LIMITS FOR USE OF ZONING APPROVALS AND PERMITS \***

Action/Permit/Approval	Time Limit
Special Use Permit under the current or a former ordinance (or a Special Use Permit under a former Ordinance)	One year to obtain a building permit and commence construction of the primary use authorized by the permit or, in the case of home occupations, to complete any necessary alterations, adjustments, modifications, or other activities authorized by the permit.
Zoning Permit	One year to obtain a building permit and to commence construction of the primary use authorized by the Permit.
Preliminary Site Plan	The approval of a preliminary site plan shall be effective for a period of one (1) year from the date of approval, at the end of which time the applicant must have submitted a complete final site plan for approval. If a final site plan is not submitted for final approval within the one (1) year period, the preliminary approval shall be null and void, and the applicant shall be required to submit a new preliminary site plan for review.
Final Site Plan	The approval of a final site plan shall be effective for a period of one (1) year from the date that the final site plan is approved by the Administrator at the end of which time, substantial construction shall have commenced and shall continue without interruption, or a complete building permit application shall be submitted and reviewed by the Administrator. Failing same, the final approval shall be null and void, and the applicant shall be required to submit a new preliminary site plan subject to the then existing provisions of this Ordinance.

\* Where Vested Rights have been established in accordance with Section 13.2 of this Ordinance, the time limits as set forth in Section 13.2 shall apply.

**Table 13.3-2  
TIME LIMITS FOR USE OF SUBDIVISION APPROVALS**

Plan/Plat Approval	Time Limit
Sketch Plan	Not applicable (not approved or rejected)
Preliminary Plat (for Major Subdivision)	Two years to obtain final plat approval.
Final Plat	Thirty (30) days to record plat.

## 13.4 NON CONFORMING MANUFACTURED HOME PARKS

### 13.4.1 GENERAL PROVISIONS

The development of land for the purpose of Manufactured Home Parks is prohibited in all Zoning Districts except as otherwise allowed in the Manufactured Home Overlay (MHOD) District (§ 4.17). The provisions of this Section shall apply to all existing Manufactured Home Parks in the jurisdiction of Kannapolis including those parks annexed into the City and those within an expanded Extraterritorial Jurisdiction.

The non-conforming use provisions of Section 13.1 shall not apply to manufactured home parks.

Existing Non-conforming Manufactured Home Parks which have been issued a Zoning Compliance Permit as having met the standards of the former Kannapolis Zoning Ordinance (Subsection 6:15.1 Manufactured Home Park Standards for New Construction) may continue to operate under that Permit as a Continuation Permit subject to remaining in compliance with the provisions of the former Kannapolis Zoning Ordinance (Subsection 6:15.1) as described in Section 13.4.2 below.

Existing Non-conforming Manufactured Home Parks which have been issued a Continuation Permit as having met the standards of the former Kannapolis Zoning Ordinance (Subsection 6:15.2 Manufactured Home Park Standards for Manufactured Home Exempted From Compliance with Section 5:1.6) may continue to operate under that Permit subject to remaining in compliance with the provisions of the former Kannapolis Zoning Ordinance (Subsection 6:15.2) as described in Section 13.4.3 below.

All manufactured home parks operating under one of the permits described above may continue. However, the originally approved arrangement of spaces is not to be altered nor the number of spaces increased. Manufactured homes within such parks may be removed and replaced provided that the replacement manufactured home is no older than 1976 and must conform to the design and installation standards of Section 4.17.8.2 of this Ordinance.

### 13.4.2 THE PROVISIONS OF FORMER KANNAPOLIS ZONING ORDINANCE SUBSECTION 6:15.1

1. Minimum site area in acres: 4

2. Minimum number of Manufactured Home Spaces: 15
3. Maximum number of Manufactured Home Spaces per acre: 8
4. Minimum Lot and/or parcel width at front Building Line in linear feet: 100
5. Minimum area per Manufactured Home Space:
  - Type I Manufactured Home (sq. ft.): 4000
  - Type II Manufactured Home (sq. ft.): 6000
6. Minimum Manufactured Home Space width:
  - Type I Manufactured Home (linear ft.): 45
  - Type II Manufactured Home (linear ft.): 60
7. Maximum number of Manufactured Homes per Manufactured Home Space: 1
8. Minimum number of Parking Spaces per Manufactured Home Space (located on each space): 2
9. Minimum number of landings/patios per Manufactured Home Space (located on each space): 1
10. Minimum area of landing/patio per Manufactured Home Space (sq. ft.): 32
11. Hard surface walk required to connect each patio to Parking Space (minimum three (3) ft. width)
12. Street paving required in conformance with DOT standards for Minor Street
13. Maximum slope permitted on site: 3:1
14. Maximum number of driveways connecting to Streets (other than Private Street): 0
15. Maximum number of Private Street connections to Street per Manufactured Home Park: 2
16. Minimum distance between Private Street connections to Street (linear ft.): 150
17. Maximum length of dead end and/or cul-de-sac Private Street (linear ft.): 800
18. Minimum turning circle (paved) diameter at end of each dead end and/or cul-de-sac Private Street (linear ft.): 70
19. Manufactured Home Park identification Sign required
20. Minimum Display Surface Area per identification Sign (sq. ft.): 4
21. Maximum Display Surface Area per identification sign (sq. ft.): 20
22. Maximum number of identification Signs per Manufactured Home Park: 2
23. Illumination of identification Sign not permitted
24. Minimum separation between entrance/exit point of Private Street to Street and nearest Street

- intersection (linear ft.): 150
25. Street light required at all Private Street intersections
  26. Water supply and sewage disposal facilities required
  27. Minimum Open Space required per Manufactured Home Space (in acres): 0.04
  28. (reserved)
  29. Private Street names required (subject to approval)
  30. Maximum number of Manufactured Home Spaces with vehicular access from one-way Private Streets: 20
  31. Garbage collection and disposal by owner/operator in accordance with applicable codes required
  32. Heating oil and/or LP gas tanks with foundation permitted
  33. Minimum capacity of heating fuel tanks (gallons): 150
  34. Wood burning heat sources permitted
  35. Screening of fire wood required (no minimum height)
  36. Minimum separation between each unit (linear ft.): 24
  37. Vehicle Speed Control devices required

**13.4.3 THE PROVISIONS OF THE FORMER ZONING ORDINANCE SUBSECTION 6:15.2**

1. Minimum site area (in acres): 1.5
2. Minimum number of Manufactured Home Spaces per park: 6
3. Maximum number of Manufactured Home Spaces per acre: 12
4. Maximum number of driveways connecting to Streets : 0 (other than Private Street)
5. Minimum area per Manufactured Home Space:
  - Type I Manufactured Home (sq. ft.): 3500
  - Type II Manufactured Home (sq. ft.): 4200
6. Minimum Manufactured Home Space width:
  - Type I Manufactured Home (linear ft.): 38
  - Type II Manufactured Home (linear ft.): 50
7. Maximum number of Manufactured Homes per Manufactured Home Space: 1
8. Minimum number of Parking Spaces per Manufactured Home Space (located on each space): 2
9. Minimum area of landing/patio per Manufactured Home Space (located on each space) (sq. ft.): 32
10. Minimum width of paved street (linear ft.): 16
11. Minimum percentage of streets paved: 100

12. Minimum percentage of Manufactured Home Spaces with approved water supply and sewage disposal facilities: 100
13. Maximum number of Manufactured Home Spaces with vehicular access from one-way Private Streets: 4
14. Minimum percentage Manufactured Home Spaces with garbage collection/disposal services provided by owner/operator: 100
15. Minimum separation between each unit (linear ft.): 20
16. Identification Sign conforming to Sub-section 6:15.1, items 19-23 required
17. Vehicle speed control devices required.

**13.4.4 CESSATION OF NON-CONFORMING MOBILE HOME PARKS NOT OPERATING UNDER A CONTINUATION PERMIT**

All existing Non-conforming Manufactured Home Parks which are not operating under a Continuation Permit shall cease to operate and all mobile homes and related structures in the mobile home park shall be removed not later than five (5) years after the date that the mobile home park owner is notified by the Administrator that the manufactured home park is non-conforming. Such notification shall be in writing by the Administrator and shall be by one of the following methods:

- a. Certified or registered mail;
- b. Personal service; or
- c. If the name or whereabouts of the owner cannot, after due diligence be discovered, the notice shall be considered properly served if a copy thereof is posted in a prominent location on the property and the notice is published once in a newspaper having general circulation in the City.

The date the notice is mailed, served or posted and published, whichever is the effective notice, shall constitute the date of notification. Certification of notice by the Administrator shall be deemed conclusive evidence of notification in the absence of fraud. No other notice shall be required in this cessation process.

Notwithstanding the cessation requirements for mobile home parks as set forth above a non-conforming mobile home park may be permitted to continue to operate provided the mobile home park is reconstructed to meet all of the minimum standards of the former Kannapolis Zoning Ordinance (Subsection 6:15.2) as set forth as Subsection 13.4.3 of this Ordinance. This reconstruction may be done by any

non-conforming mobile home park without regard to zoning classification but shall be done without extension or enlargement of the nonconforming situation. This condition must be met no later than eighteen (18) months after the date of notification by the Administrator. If this condition is met, the Manufactured Home Park will be issued a Continuation Permit by the Administrator that will allow it to continue as a non-conforming situation. If this condition is not met by that date, the Manufactured Home Park shall cease to operate and all mobile homes and related structures must be removed by the cessation date as set forth in this Subsection. In the reconstruction or cessation process, no mobile homes shall be permitted to remain or be replaced as mobile homes on individual lots except where permitted in the Zoning District where located and unless all the requirements of this Ordinance are met.

To receive a Continuation Permit from the Administrator in accordance with this condition, a Site Plan for review by the Planning and Zoning Commission shall be submitted in the form as specified in Section 3.5 of this Ordinance and shall depict how the mobile home park is to be reconstructed to meet the minimum standards. Prior to receiving a Continuation Permit, the Manufactured Home Park shall have been reconstructed to meet the minimum standards of the former Kannapolis Zoning Ordinance (Subsection 6:15.2).

Existing Non-conforming Manufactured Home Parks which have not been issued a Continuation Permit shall, during the interim, comply with the following provisions:

1. The total number of Manufactured home spaces shall not be increased above that existing at the time of non-conformity and which spaces were manifestly designed and arranged as Manufactured Home spaces.
2. Existing Manufactured Homes may be replaced on a one-to-one ratio without regard to size provided that the replacement unit bears the HUD seal. No Manufactured Home which does not bear the HUD seal shall be located or relocated anywhere within the jurisdiction of this Ordinance



**ARTICLE 14**  
**ADEQUATE PUBLIC FACILITIES (APF) STANDARDS.**

*TABLE OF CONTENTS*

<b>SECTION</b>	<b>PAGE</b>
<b>14.1 GENERAL STANDARDS .....</b>	<b>14-2</b>
<b>14.2 APF PROCESSING PROCEDURES.....</b>	<b>14-4</b>
<b>14.3 CRITERIA FOR DETERMINATION OF ADEQUACY .....</b>	<b>14-7</b>

## 14.1. GENERAL STANDARDS.

### 14.1.1. PURPOSE AND INTENT.

The purpose and intent of this Section is:

- To ensure that Public Facilities needed to support new development meet or exceed the Level of Service standards established herein.
- To ensure that no applications for development approval are approved which would cause a reduction in the levels of service for any Public Facilities below the Adopted Level of Service established in this Section;
- To ensure that adequate Public Facilities needed to support new development are available concurrent with the impacts of such development;
- To encourage development in areas where public services are available and underutilized.
- To establish uniform procedures for the review of development applications subject to the standards and requirements of this Section;
- To facilitate implementation of goals and policies set forth in the *Comprehensive Plan* and any applicable *Area Plan* relating to adequacy of Public Facilities and Level of Service standards; and
- To ensure that all applicable legal standards and criteria are properly incorporated in these procedures and requirements.

### 14.1.2. DEFINITIONS.

The words, terms and phrases set forth herein shall have the meanings prescribed below provided, however, that any words, terms or phrases not included below shall have the meanings prescribed by Appendix A to this Ordinance.

**ADOPTED LEVEL OF SERVICE.** A measurement quantifying a specific amount, frequency, capacity, or response time of a service which has been established by the governing board. For purposes of determining adequacy, this shall not exceed the actual level of service.

**AVAILABLE CAPACITY.** Existing Capacity and Planned Capacity less Existing Demand and demand that will be generated by Committed Development.

**CAPACITY.** The maximum demand that can be accommodated by a Public Facility without exceeding the Adopted Level of Service.

**CAPITAL IMPROVEMENT.** A public facility with a life expectancy of three or more years, to be owned and operated by or on behalf of the City, County, special district, or a private service provider.

**CAPITAL IMPROVEMENT, PLANNED.** A Capital Improvement designed for construction within a period not to exceed six (6) years in a Capital Improvements Program.

**CAPITAL IMPROVEMENTS PROGRAM.** A plan setting forth, by category of public facilities, those capital improvements that will be provided over a period of specified years. "Capital Improvements Program" may refer either to the plan for a particular service area or to the aggregation of capital improvements and the associated costs programmed for all service areas for a particular category of public facilities.

**COMMITTED DEVELOPMENT.** Committed Development includes: development with an approved determination of concurrency; or developments which are approved, but which are unbuilt such as unbuilt preliminary subdivision plans, or minor development final plats; or final plats or building permits approved without a determination of concurrency.

**COMMON OWNERSHIP.** Ownership by the same person, corporation, firm, entity, partnerships, entities, or unincorporated associations, in which a stock owner, partner, or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity or unincorporated association, but excluding ownership of less than 1% of any stock traded on the New York, American or Pacific Stock Exchanges or traded over-the-counter where the price is listed at least weekly in the Wall Street Journal.

**CONSENT AGREEMENT.** The executed contract between the local jurisdiction and developer that formally sets forth development approval and requirements to achieve adequacy.

**CURRENTLY AVAILABLE REVENUE SOURCES.** An existing source or amount of revenue presently available to the City or the entity providing a Public Facility and that may be allocated towards capital expenses and which has been budgeted for the capital disbursements or debt service account

applicable to a planned capital improvement; provided, however, that this term shall not refer to a mere intent to increase the future level or amount of a revenue source, nor to a revenue source which is contingent on ratification by a public referendum.

**EXISTING DEMAND.** The demand for Public Facilities from existing (built) Development.

**EQUIVALENT RESIDENTIAL UNIT OR “ERU”.** For purposes of § 14.1 of this Ordinance, the demand for public facilities generated by a proposed development which is equivalent to the demand for public facilities generated by one (1) residential dwelling unit. [ERU table found in Table 14-3].

**IMPACT AREA.** The area in which a proposed residential development is presumed to create a demand for Public Facilities and which area, therefore, will be evaluated to determine whether the Capacity of Public Facilities is adequate to accommodate the demand created by existing residential development, Committed Development and the proposed residential development pursuant to § 6.1 of this Ordinance.

**LEVEL OF SERVICE.** Level of Service indicates the capacity per unit of demand for each public facility. It is an indicator of the extent or degree of service provided by a facility based upon and related to the operational characteristics of the facility.

**PLANNED CAPACITY.** The Capacity to be added by Planned Capital Improvements included in adopted capital improvement plans. Projects must be definitively scheduled to be considered as planned capacity with the effective date of that capacity the expected completion of the improvement.

**PUBLIC FACILITIES.** Capital Improvements including Water Facilities, Wastewater Facilities, and Streets.

**14.1.3. APPLICABILITY.**

**14.1.3.1.** The provisions of this Article 14 shall apply as follows:

- Water APF review per Section 14.3.3 - Any application for development approval (Conditional Zoning Rezoning, Special Use Permit, Major/Minor Site Plan Approval, Preliminary Subdivision Plat Approval) regardless of number of trips generated.
- Sewer APF Review per Section 14.3.4 and

Roads/Streets APF review per Section 14.3.5 - Application for Conditional Zoning Rezoning that generates 1,000 or more trips per day or 100 trips during peak hour.

- Sewer APF Review per Section 14.3.4 and Roads/Streets APF review per Section 14.3.5 - Application for a Special Use Permit/Major Site Plan approval that generates 1,000 or more trips per day or 100 trips during peak hour;
- Sewer APF Review per Section 14.3.4 and Roads/Streets APF review per Section 14.3.5 - Application for Minor Site Plan approval that generates 1,000 or more trips per day or 100 trips during peak hour;
- Sewer APF Review per Section 14.3.4 and Roads/Streets APF review per Section 14.3.5 - Application for Preliminary Subdivision Plat approval of any project that generates 1,000 or more trips per day or 100 trips during peak hour. Subdivision plats that qualify as Minor Subdivisions shall not be subject to this article.

**14.1.3.1.1.** For a conditional zoning rezoning, the most intensive use that could be developed under the proposed list of uses shall be used as the basis for determining trip generation.

**14.1.3.1.2.** The provisions of this Ordinance shall apply to Final Plats or Final Site Plans (Major Site Plans) to the extent that the availability of a Public Facility is made a condition of preliminary plat or preliminary site plan approval.

**14.1.3.1.3.** No application for development approval subject to this Section shall be accepted, approved, granted or issued unless it is accompanied by an application which provides sufficient information to determine whether the capacity of Public Facilities is adequate to support the proposed development.

**14.1.3.2.** This Section shall not apply to any use, development, project, structure, fence, sign or activity which does not result in a new equivalent dwelling unit.

## 14.2. APF PROCESSING PROCEDURES.

**14.2.3. SUBMISSION REQUIREMENTS.** It is the intent of this Section that no application for development approval shall be approved unless accompanied by a positive determination, or a positive determination subject to conditions, relating to adequacy of public facilities as provided herein. Each application, in addition to other applicable and required processing fees, shall be submitted to the Department and shall be accompanied by all required administrative fees.

**14.2.3.1.** A proposed rezoning which could result in a range of potential impacts shall be reviewed as if the greatest impact would result. The review of adequacy of public facilities for the application for a rezoning shall compare the Capacity of Public Facilities to the maximum projected demand which may result from the proposed rezoning based upon the potential density of the affected area pursuant to the rezoning. Nothing herein shall authorize a rezoning or the issuance of a special use permit that would otherwise be inconsistent with the *Comprehensive Plan*

### 14.2.4. PROCEDURES FOR DETERMINATION.

**14.2.4.1.** The Administrator shall determine whether the application is complete and complies with the submission requirements set forth in this subsection and Appendix B. If the application is incomplete or the submission requirements have not been complied with, the Administrator shall so notify the Applicant, specifying the deficiencies. If the application is complete and the submission requirements have been complied with, the Administrator shall evaluate the proposed development for compliance with the Adopted Level of Service and shall submit a recommendation pursuant to subsection 14.2.4.2, below.

**14.2.4.2.** If the Administrator concludes that each Public Facility will be available concurrent with the impacts of the proposed development at the Adopted Levels of Service, the Administrator shall make a positive recommendation in its staff report. If the Administrator determines that any Public Facility will not be available concurrent with the impacts of the proposed development at the Adopted Level of Service based upon available capacity, the

Administrator shall make a negative recommendation in the staff report or, in the alternative, shall make a positive recommendation with appropriate conditions consistent with the criteria set forth in subsection 14.3.1 of this Section. If the Administrator recommends that the application be conditionally approved, the staff report shall recommend conditions or stipulations that may be included regarding the density of the proposed development, the timing and phasing of the proposed development, the provision of Public Facilities by the Applicant or any other reasonable conditions to ensure that all Public Facilities will be adequate and available concurrent with the impacts of the proposed development. The staff report shall, at a minimum, include the following, based upon staff and referral agency recommendations:

- the number of equivalent dwelling units proposed by the Applicant, by type, for each Public Facility;
- the timing and phasing of the proposed development, if applicable;
- the specific Public Facilities impacted by the proposed development;
- the extent of the impact of the proposed development in the applicable Impact Areas;
- the Capacity of existing Public Facilities in the Impact Areas which will be impacted by the proposed development;
- the demand on existing Public Facilities in the Impact Areas from existing and approved development;
- the availability of Existing Capacity to accommodate the proposed development; and
- if Existing Capacity is not available, Planned Capacity and the year in which such Planned Capacity is projected to be available.

### 14.2.5. WITHDRAWAL OF APPLICATION.

The Applicant may withdraw the Application at any time by submitting a written request to the Administrator. Withdrawal will result in the forfeiture of all administrative fees paid by the Applicant for the processing of the application.

### 14.2.6. DETERMINATION.

**14.2.6.1.** Upon receipt of the staff report, and subject to compliance with all other applicable

standards of approval for a Development Approval, the decision-making body confirm:

- that the application for development approval shall be approved because public facilities and services are available at the adopted level of service; or
- that the application for development approval shall be denied because public facilities and services are not available at the adopted level of service; or
- that the application for development approval shall be approved subject to one or more of the following conditions as agreed to between the applicant and the City Council:
  - deferral of further Development Orders (as defined in Appendix A) until all Public Facilities are available and adequate if Public Facilities in the Impact Area are not adequate to meet the Adopted Level of Service for the entire development proposal, consistent with the requirements of this article;
  - reduction of the density or intensity of the proposed development to a level consistent with the Available Capacity of Public Facilities;
  - provision by the Applicant of the Public Facilities necessary to provide Capacity to accommodate the proposed development at the Adopted Level of Service and at the time that the impact of the development will occur; or
  - conditions agreed upon by the applicant to advance, or partially advance the Public Facilities necessary to provide capacity to accommodate the proposed development at the Adopted Level of Service and at the time that the impact of the development will occur. Provisions for advancement of capacity are included in Subsection 14.2.9.

#### **14.2.7. EXPIRATION OF DETERMINATION.**

**14.2.7.1.** A determination pursuant to subsection 14.2.6.1, above, shall be deemed to expire when the Development Order to which it is attached expires, lapses or is waived or revoked, or if the Applicant has not complied with conditions attached to its issuance.

**14.2.7.2.** If a determination of adequacy of public

facilities attached to a rezoning expires, the Planning Commission or City Council may initiate proceedings to rezone the property to its original zoning classification.

#### **14.2.8. EFFECT OF DETERMINATION OF ADEQUACY OF PUBLIC FACILITIES.**

**14.2.8.1.** A determination of adequacy of public facilities for a Development Order shall be deemed to indicate that:

- Public Facilities are available at the time of issuance of the determination; and
- For subdivision plats and site plans only, that Public Facilities will be considered to be available at all subsequent stages of the development approval process up to the date of expiration of the preliminary plat or final site plan provided, however, that the determination of adequacy of public facilities shall expire and become null and void upon the expiration of: (1) the Development Order to which it is attached, or (2) the time frame for submitting a subsequent application for approval, recordation of a subdivision plat, or issuance of a certificate of occupancy unless an application for a subsequent Development Order is submitted within the time frames set forth in this document. If no expiration date is provided in the UDO, the conditions attached to the determination of adequacy of public facilities, or in the conditions of permit approval, the determination shall expire within two (2) years after approval of the Development Order.

**14.2.8.2.** The provisions of §14.2.8.1, above shall not apply to any rezoning except a Site-Specific Development Plan or Phased Development Plan.

**14.2.8.3.** A determination of adequacy of public facilities shall not affect the need for the Applicant to meet all other requirements as set forth in this Ordinance.

#### **14.2.9. ADVANCEMENT OF CAPACITY**

**14.2.9.1.** No advancement of Capacity for Public Facilities needed to avoid a deterioration in the adopted levels of service shall be accepted by the City Council unless the proposed Public Facility is a Planned Capital Improvement or appropriate conditions are included to ensure that the Applicant

will obtain necessary approvals prior to or concurrent with the issuance of a final subdivision plat or final site plan or, if subdivision or site plan approval is not required, a building permit. The commitment to construction of Public Facilities prior to the issuance of a building permit shall be included as a condition of the determination and shall contain, at a minimum, the following:

- For Planned Capital Improvements, a finding that the Planned Capital Improvement is included within the Capital Improvements Program of the applicable service provider;
- an estimate of the total financial resources needed to construct the Planned Capital Improvement and a description of the cost participation associated therewith;
- a schedule for commencement and completion of construction of the Planned Capital Improvement with specific target dates for multi-phase or large-scale Capital Improvement projects;
- a statement, based on analysis, that the Planned Capital Improvement is consistent with the applicable *Area Plan* and, if applicable, the *Comprehensive Plan*; and
- at the option of the City Council and only if the Planned Capital Improvement will provide Capacity exceeding the demand generated by the proposed development, reimbursement, or a method to affect reimbursement, to the Applicant for the pro rata cost of the excess Capacity.

## 14.3. CRITERIA FOR DETERMINATION OF ADEQUACY.

### 14.3.1. METHODOLOGY AND CRITERIA FOR DETERMINING AVAILABILITY AND ADEQUACY OF PUBLIC FACILITIES

No determination as to compliance with this Section shall be recommended by the Administrator or rendered by the approving agency unless Public Facilities within the Impact Areas set forth in Column (C) of Table 14-2 are:

- adequate, as measured by the adopted level of service (“LOS”), as set forth in this § 14.3 and Column (B) of Table 14-2; and
- available, as set forth in this § 14.3 and Column (D) of Table 14-2.

### 14.3.2. ADOPTED LEVEL OF SERVICE (“LOS”) STANDARDS (ADEQUACY OF PUBLIC FACILITIES).

Compliance with Level of Service (“LOS”) standards shall be measured for each Public Facility set forth in Column (A) of Table 14-2 in accordance with the corresponding standards set forth in Column (B) of Table 14-2. The LOS for each application for development approval shall be measured within the impact area set forth in Column (C) of Table 14-2 for each corresponding facility in Column (A). Column (D) of Table 14-2 indicates whether Programmed Capital Improvements may be included in determining whether the improvements are available. Rules for interpretation of Table 14-2 are set forth in this § 14.3.

### 14.3.3. WATER.

Water requirements shall not apply to agricultural uses. The water standard applies to raw water supply, treated water supply, and water treatment needed to accommodate the gallons per capita per day (gpcd) generated by residential and non-residential uses. Usage figures for residential and non-residential usage are taken from the current Water & Sewer Authority of Cabarrus County Master Plan. This document identifies six (6) pressure zones in the WSACC service area. Flow rates used to estimate the demand produced by the proposed development shall comply with 15A NCAC § 18C.0409, which is hereby incorporated by reference and made a part of this Ordinance, unless a different standard is identified in any Local Water Supply Plan for the service area adopted pursuant to NCGS § 143-55(1), in which case the flow rates identified for the particular use in the Water Supply Plan may be used. If the category of development proposed in the application is not identified in the

above-referenced regulations, the professional engineer shall use the applicable industry and manufacturer’s standards to calculate average and peak daily flows and demands, in gallons per day. The capacity for elevated storage and distribution systems shall comply with 15A NCAC § 18C.0805 to 18C.0901, which regulations are hereby incorporated by reference. Approval through the Adequate Facilities Process outlined in this section shall in no manner imply approval of required distribution systems.

### 14.3.4. WASTEWATER.

The wastewater standard applies to wastewater treatment plants (WWTPs), interceptor sewers, and pumping stations. The standard for source facilities applies only to treatment capacity legally reserved for usage by WSACC. The figures for gallons per capita per day (gpcd) are taken from Boyle Engineering Corporation, WSACC Wastewater and Water Master Plan, Volume 1 (1995). Flow rates used to estimate the demand produced by the proposed development shall be consistent with the assumptions set forth in § 14.1.8.1 of this Ordinance and 15A NCAC 18A.1949 (Sewage Flow Rates for Design Units), as said section may be revised from time to time. If the category of development proposed in the application is not identified in 15A NCAC 18A.1949, the professional engineer shall use the applicable industry and manufacturer’s standards to calculate average and peak daily flows and demands, in gallons per day. Approval through the Adequate Facilities Process outlined in this section shall in no manner imply approval of required interceptor and collection systems.

### 14.3.5. ROADS/STREETS.

**14.3.5.1.** A Traffic Impact Study shall be required for any conditional zoning rezoning, major subdivision, major/minor site plan, or special use permit that is subject to the APF Roads/Streets provisions as set forth in Section 14.1.3.1 of this Article.

**14.3.5.2.** The LOS for each zoning district tier shall be as listed in Table 14-1, below.

**Table 14-1  
ZONING DISTRICT TIER**

	Rural	Suburban	Urban
Freeway/Expressway	C	D	n/a
Major thoroughfare	C	D	n/a
Minor thoroughfare	C	D	E
Minor arterial	C	D	E
Major collectors	C	D	E
Minor collector	B	D	E
Local roads	B	C	E
Local streets	B	C	E

Zoning districts shall be classified into three development tiers (Tier 1 - Urban, Tier 2 - Suburban, and Tier 3 - Rural). The classifications are as follows:

- Tier 1 (Urban) includes the CC and B-1 District where the development pattern is established, and which public policy favors relatively high levels of human activity.
- Tier 2 (Suburban) districts are suburban or urbanizing in nature and are as follows: RL, RM-1 and RM-2, RV, RC, O-I, C-1, C-2, CD, I-1, and I-2.
- Tier 3 (Rural) zoning districts are characterized by agricultural and/or rural service levels and are as follows: AG Agricultural; RE Rural Estate. Land within these zoning districts shall be protected in order to avoid the unnecessary conversion of agricultural land to suburban or urban development. These zoning districts are characterized by lands which do not have public facilities and services at urban service levels.

**14.3.5.3.** Transportation LOS shall be based upon the volume-to-capacity ratios as established by the Transportation Research Board, *Highway Capacity Manual* (Washington, D.C.: National Research Council, 3d ed. 1998), which document is hereby incorporated by this reference. The traffic analysis shall be consistent with the assumptions and guidelines of the following documents, which are hereby incorporated by reference: Cabarrus/South Rowan Thoroughfare Plan, Appendix H; Institute of Transportation Engineers, *Trip Generation* (5th ed. 1991). For uses generating less than ten (10) trips per day, the directional split of traffic leaving the site shall be deemed to be 50% in either direction. For all other applications, the directional split shall be based upon the traffic Impact Study.

**14.3.5.4.** The City Council finds and determines that I-85 experiences significant pass-through

traffic, and that the ability to expand I-85 is limited due to jurisdictional, funding, and physical constraints. Accordingly, I-85 shall not be included in the Impact Area for any Application for Development Approval.

**14.3.5.5.** The LOS standard for Planned Unit Developments and Traditional Neighborhood Development shall correspond to the zoning classification at the time of application for development approval.

**14.3.5.6. Waiver.** The requirements of this section for a Traffic Impact Study may be waived by the Director of Transportation when it is determined that such report is not necessary to determine needed road improvements or that no unsafe or hazardous conditions will be created by the development as proposed.

**14.3.6. RESERVED.**

**14.3.7. PUBLIC FACILITIES AFFECTING AREAS OUTSIDE OF INCORPORATED AREA OF CITY.**

**14.3.7.1. GENERALLY.** Availability and adequacy of Public Facilities shall be determined only with respect to Public Facilities located within Cabarrus County, including any incorporated areas of the County. If part of the applicable service area or traffic Impact Area lies in an adjacent municipality or an unincorporated area of Mecklenburg, Union, or Rowan County, absent an intergovernmental agreement with the County or municipality, availability and adequacy shall be determined only with respect to Public Facilities located within the County, including its incorporated and unincorporated areas.

**14.3.7.2. INTERGOVERNMENTAL AGREEMENT.** If the City Council has entered into an intergovernmental agreement with an adjacent county or with a municipality to evaluate Public Facilities in such areas, an Applicant will be subject to the evaluation of the Level of Service standard for the facility as adopted by the adjacent county or municipality. Prior to the determination of adequacy of public facilities, the Administrator shall require that the adjacent county or municipality certify that issuance of a Development Order for the proposed development will not cause a reduction in the Level of Service standards for those facilities lying within the adjacent county or the municipality.



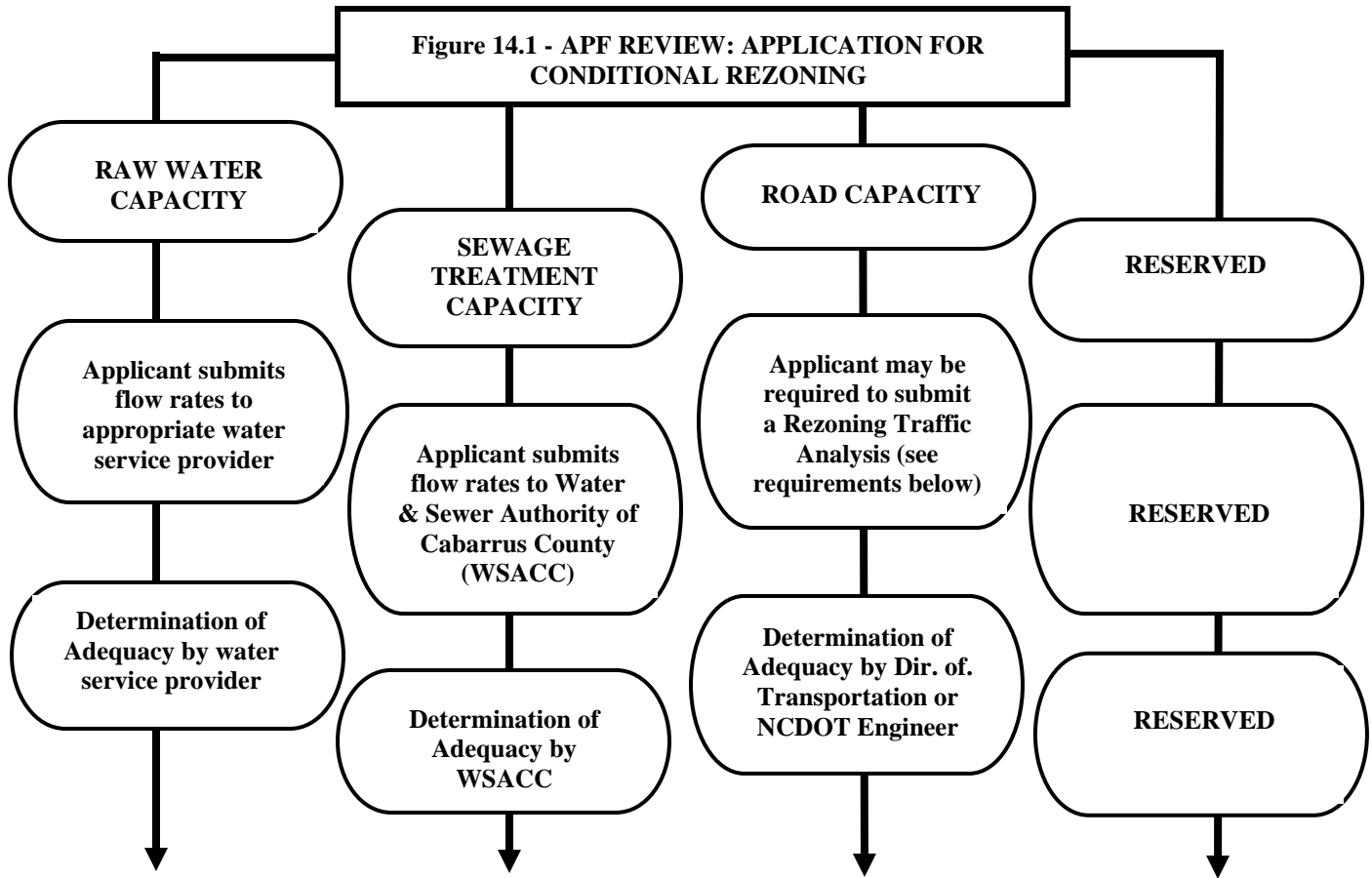
**Table 14-2  
APF LEVEL OF SERVICE (LOS) STANDARDS**

<b>(A) Public Facility</b>	<b>(B) Adopted LOS Standard Criteria</b>	<b>(C) Impact Area</b>	<b>(D) Availability</b>
<b>Water</b>	215 gpd per ERU*  *see Table 14-3	<u>Water Treatment Plants (WTPs)</u> – the service area of each treatment plant as defined by the operators.	Programmed capital improvements may be considered for approval of a rezoning or issuance of a preliminary subdivision plat or preliminary site plan. Only existing capital improvements may be considered for issuance of approval for a final site plan or final subdivision plat.
<b>Sewer</b>	250 gpd per ERU*  *see Table 14-3	The service area of each public treatment plant as defined by WSACC, any package treatment plant or other wastewater system serving a proposed development	Programmed capital improvements may be considered for approval of a rezoning or issuance of a preliminary subdivision plat or preliminary site plan. Only existing capital improvements may be considered for issuance of approval for a final site plan or final subdivision plat.
<b>Streets/ Roads</b>	see Table 14-1	The street lying between the proposed development and the first collector/collector or collector/arterial intersections, within which a proposed development generates traffic of more than 10 trips per day. Some roads may be excluded (see § 14.3.5).	Any programmed capital improvements may be considered for approval of a rezoning. Programmed capital improvements within the first three (3) years of the Capital Improvements Program and guaranteed by currently available revenue sources may be considered for subdivision plat or site plan approval.
<b>(Reserved)</b>			

**Table 14-3  
Equivalent Residential Units**

<i>Land Use</i>	<i>Variable</i>	<i>Factor</i>	<i>ERU</i>
Residential Single-family	dwelling unit	9.55	1.00
General Light Industrial	1,000 square feet	6.97	0.73
Industrial Park	1,000 square feet	6.97	0.73
Manufacturing	1,000 square feet	3.85	0.40
Warehousing	1,000 square feet	4.88	0.51
Mini-warehouse	1,000 square feet	2.61	0.27
Apartments (post-1973)	dwelling unit	6.28	0.66
Low-rise apartment	dwelling unit	6.59	0.69
High-rise apartment	dwelling unit	4.2	0.44
Condo/Townhouse	dwelling unit	5.86	0.61
High-rise condo	dwelling unit	4.18	0.44
Mobile homes	dwelling unit	4.81	0.50
Hotel	room	8.7	0.91
Elementary school	1,000 square feet	10.72	1.12
High school	1,000 square feet	10.9	1.14
Church	1,000 square feet	9.32	0.98
Day care center	1,000 square feet	79.26	8.30
Hospital	1,000 square feet	16.78	1.76
General office (<10,000 sf)	1,000 square feet	24.6	2.58
General office (10-25,000 sf)	1,000 square feet	19.72	2.06
General office (25-50,000 sf)	1,000 square feet	16.58	1.74
General office (50-100,000 sf)	1,000 square feet	14.03	1.47
General office (100-200,000 sf)	1,000 square feet	11.85	1.24
General office (200-300,000 sf)	1,000 square feet	10.77	1.13
General office (300-400,000 sf)	1,000 square feet	9.96	1.04
General office (400-500,000 sf)	1,000 square feet	9.45	0.99
General office (600-700,000 sf)	1,000 square feet	9.05	0.95
General office (700-800,000 sf)	1,000 square feet	8.75	0.92
General office (>800,000 sf)	1,000 square feet	8.46	0.89
Corporate headquarters	1,000 square feet	6.27	0.66
Single tenant office	1,000 square feet	11.5	1.20
Office park	1,000 square feet	11.42	1.20
Research and development center	1,000 square feet	7.7	0.81
Business park	1,000 square feet	14.37	1.50
Building materials store	1,000 square feet	30.56	3.20
Specialty retail	1,000 square feet	40.67	4.26
Discount store	1,000 square feet	70.13	7.34
Hardware store	1,000 square feet	51.29	5.37
Nursery	1,000 square feet	36.08	3.78
Shopping center (<10,000 sf GLA)	1,000 square feet	167.59	17.55
Shopping center (10-50,000 sf GLA)	1,000 square feet	91.65	9.60
Shopping center (50-100,000 sf GLA)	1,000 square feet	70.67	7.40
Shopping center (100-200,000 sf GLA)	1,000 square feet	54.5	5.71
Shopping center (200-300,000 sf GLA)	1,000 square feet	46.81	4.90
Shopping center (300-400,000 sf GLA)	1,000 square feet	42.02	4.40
Shopping center (400-500,000 sf GLA)	1,000 square feet	38.65	4.05
Shopping center (500-600,000 sf GLA)	1,000 square feet	36.35	3.81
Shopping center (600-800,000 sf GLA)	1,000 square feet	33.88	3.55
Shopping center (800-1,000,000 sf GLA)	1,000 square feet	32.09	3.36
Shopping center (1M-1,200,000 sf GLA)	1,000 square feet	30.69	3.21
Shopping center (1.2M-1,400,000 sf GLA)	1,000 square feet	29.56	3.10
Shopping center (1.4M-1,600,000 sf GLA)	1,000 square feet	28.61	3.00
Sit-down restaurant	1,000 square feet	205.36	21.50
Fast food without drive-through	1,000 square feet	786.22	82.33
Fast food with drive-through	1,000 square feet	632.12	66.19
New car sales	1,000 square feet	47.91	5.02
Convenience market	1,000 square feet	737.99	77.28
Furniture store	1,000 square feet	4.34	0.45

Source: Freilich, Leitner, Carlisle

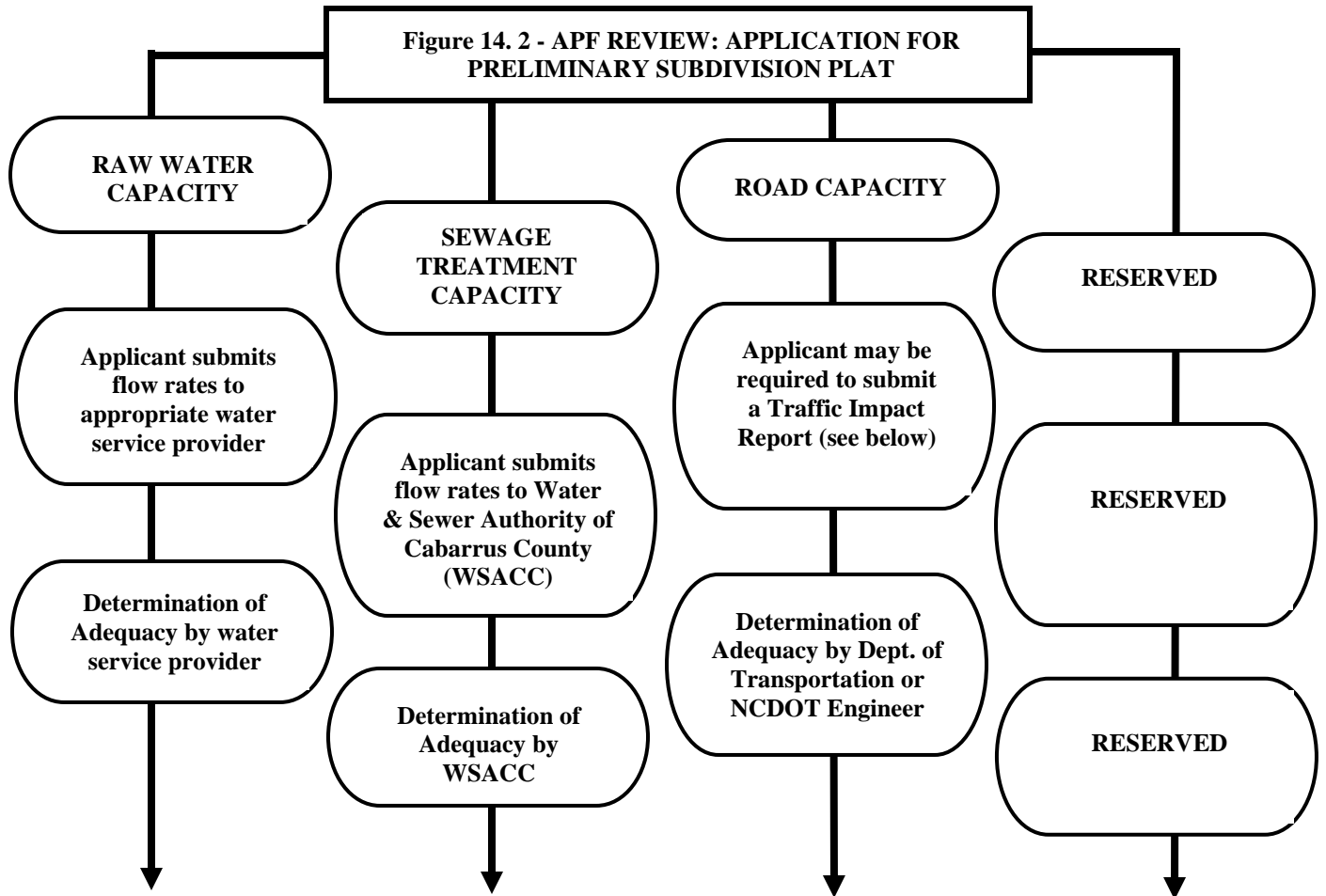


**Rezoning Decision by Planning and Zoning Commission (or City Council)**  
**Planning Commission shall review APF determinations and decide:**

- to approve the rezoning if all four service determinations are positive
- to deny the rezoning if any of the four service determinations are negative
- to approve the rezoning if any of the four service determinations are negative, subject to the following conditions as listed in Section 14.2.6.1

A Rezoning Traffic Analysis shall be required for:

- A proposed rezoning that could generate 100 or more directional trips during the peak hour or at least 1000 more trips per day for the most intensive use that could be developed under existing zoning;
- A proposed rezoning on a site located along or which has the potential to take access within 500 feet of a corridor identified as a freeway or expressway on the Thoroughfare Plan;
- A proposed amendment to the Comprehensive Plan involving more than one acre which would permit uses generating higher traffic than the existing Comprehensive Plan designation
- Where a Rezoning Traffic Analysis is required, the acceptance of the rezoning application for the purposes of beginning the mandatory 60 day time limit applicable to city action on a rezoning request shall not commence until the Rezoning Traffic Analysis has been reviewed for completeness and has been accepted by the Administrator as meeting the content requirements of the ordinance.

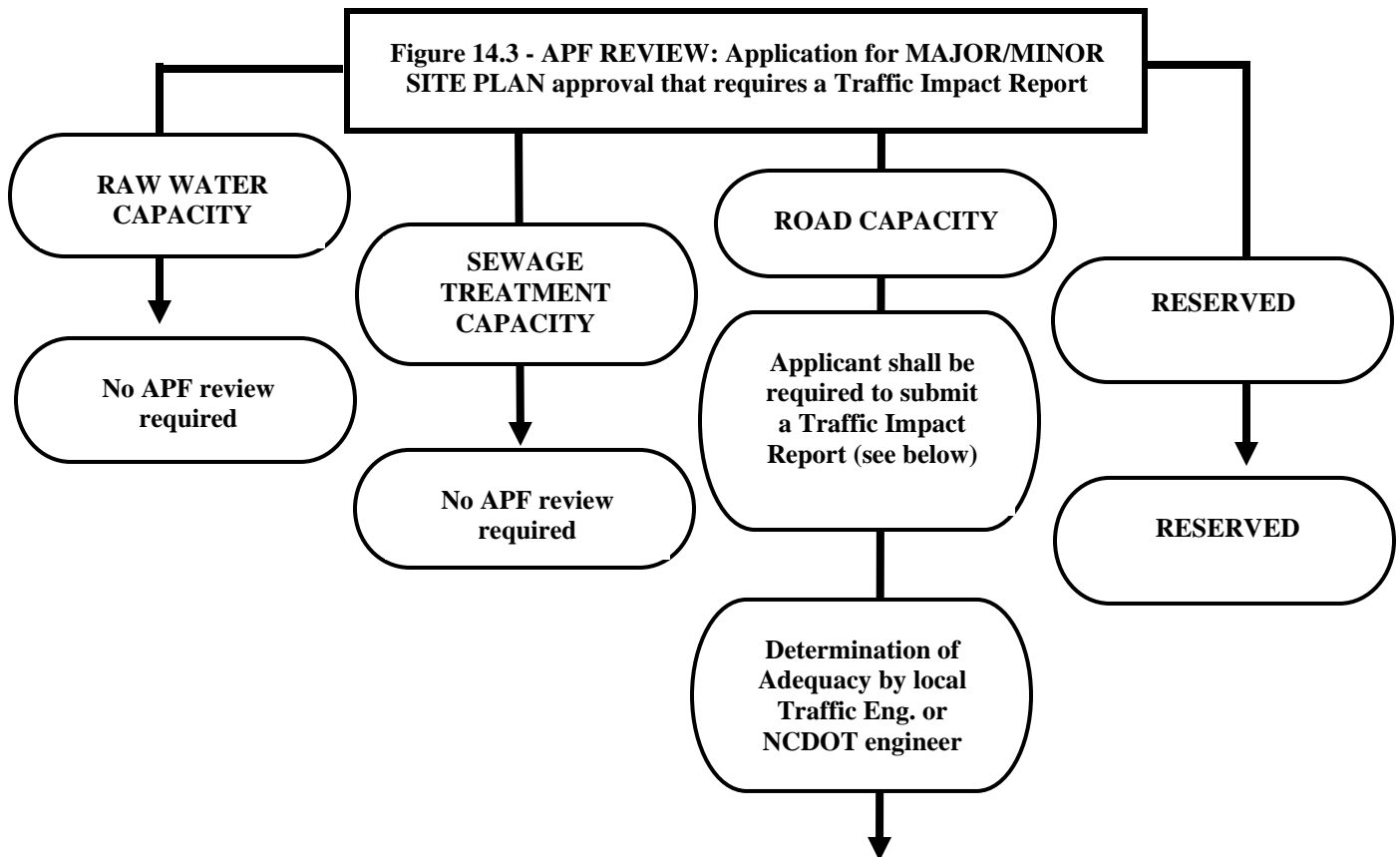


**Final Decision by Planning and Zoning Commission**  
 Planning Commission shall review APF determinations and decide:

- approve the application if all four service determinations are positive
- deny the application if any of the four service determinations are negative
- to approve the application if any of the four service determinations are negative, subject to the following conditions as listed in Section 14.2.6.1

A Traffic Impact Report shall be required for:

- a land use type which has an average trip generation rate of 2,000 trips per day or greater, according to most current versions of the ITE Trip Generation Informational Report or comparable research data published by a public agency or institution.



**Final Decision by Administrator**  
 Administrator shall review APF determinations and decide:

- to approve the minor site plan if all four service determinations are positive
- to deny the minor site plan if any of the four service determinations are negative
- to approve the minor site plan if any of the four service determinations are negative, subject to the following conditions as listed in Section 14.2.6.1

A Traffic Impact Report shall be required for:

- a land use type which has an average trip generation rate of 2,000 trips per day or greater, according to most current versions of the ITE Trip Generation Informational Report or comparable research data published by a public agency or institution.

**Figure 14-4 - Final Determination for an APF review:  
Options for approving body (as summarized from Sect. 14.2.6.1)**

Upon receipt of the staff report, and subject to compliance with all other applicable standards of approval for a Development Approval, the decision-making body may determine:

- that the application for development approval shall be approved because public facilities and services are available at the adopted level of service; or
- that the application for development approval shall be denied because public facilities and services are not available at the adopted level of service; or
- that the application for development approval shall be approved subject to one or more of the following conditions as agreed to between the applicant and the City Council:
  - deferral of further Development Orders (as defined in Appendix A) until all Public Facilities are available and adequate if Public Facilities in the Impact Area are not adequate to meet the Adopted Level of Service for the entire development proposal, consistent with the requirements of this article;
  - reduction of the density or intensity of the proposed development to a level consistent with the Available Capacity of Public Facilities;
  - provision by the Applicant of the Public Facilities necessary to provide Capacity to accommodate the proposed development at the Adopted Level of Service and at the time that the impact of the development will occur; or
  - conditions agreed upon by the applicant to advance, or partially advance the Public Facilities necessary to provide capacity to accommodate the proposed development at the Adopted Level of Service and at the time that the impact of the development will occur. Provisions for advancement of capacity are included in Subsection 14.2.9.

**ARTICLE 15  
CORRIDOR AND THOROUGHFARE PROTECTION  
OVERLAY DISTRICTS.**

*TABLE OF CONTENTS*

<b>SECTION</b>	<b>PAGE</b>
<b>15.1 CODDLE CREEK THOROUGHFARE PROTECTION (CCTP) OVERLAY DISTRICT .....</b>	<b>15-2</b>
<b>15.2 DALE EARNHARDT BLVD. THOROUGHFARE PROTECTION (DEBTP) OVERLAY DISTRICT .....</b>	<b>15-5</b>

## 15.1. CODDLE CREEK THOROUGHFARE PROTECTION (CCTP) OVERLAY DISTRICT

### 15.1.3. PURPOSE.

The Coddle Creek Thoroughfare Protection Overlay District is established to enhance the economic and aesthetic appeal and orderly development of properties adjacent to major transportation corridors in the Coddle Creek area of Kannapolis. Certain thoroughfares streets, parkways and expressways in this area are of critical importance to the City of Kannapolis. Rights-of-way carrying high volumes of traffic are image-makers of their communities. They act as entryways for visitors and residents and also serve as an indicator of the quality of life found in the area. Standards are provided to ensure that thoroughfares in this district develop with improved traffic efficiency and safety by reducing visual clutter and avoiding inappropriate site design and building construction.

### 15.1.4. DISTRICT BOUNDARIES AND APPLICABILITY.

**15.1.4.1.** The CCTP Overlay District is hereby established for properties (or parts of properties) parallel to both sides of the rights-of-way of certain major or minor thoroughfares (or segments thereof). In all cases, the widths of the District shall be 200 feet on both sides of the road or highway within the City's jurisdiction. The district is measured perpendicular to the to the existing road right-of-way. The location of the CCTP Overlay District is shown on the Official Zoning Map. All projects requiring Site Plan or Subdivision approval shall meet the standards of this section. Each segment shall include a "Corridor Preservation Area" within which no building or parking areas may be constructed. The Corridor Preservation Areas are measured in the same manner as the entire District. Single-family and duplex dwellings on individual lots shall be exempt from the requirements of this Section 15.1 except for the Corridor Preservation Areas. The following road/highway segments are established as CCTP Overlay Districts.

**15.1.4.2.** North side of Davidson Highway (NC 73) from Coddle Creek to the Mecklenburg County line (within Kannapolis city limits).

*Corridor Preservation Area: 55 feet.*

**15.1.4.3.** Both sides of Trinity Church Road from Orphanage Road to Barr Road and the east side of Trinity Church Road from Barr Road to Stirewalt Road.

*Corridor Preservation Area: 55 feet from Orphanage Road to the Westside Bypass (existing Boy Scout Camp Road); 40 feet from Westside Bypass to Stirewalt Road.*

**15.1.4.4.** Both sides of the Kannapolis Parkway (Westside Bypass, including the existing Crisco Road and the existing Boy Scout Camp Road) from Interstate 85 to Mooresville Road (NC 3).

*Corridor Preservation Area: None.*

**15.1.4.5.** Both sides of Davidson Highway (NC73) from Interstate 85 to the westernmost Coddle Creek Annexation Area (Area I) boundary line which intersects on the north side of Davidson Highway (NC 73); and on the south side of Davidson Highway (NC 73) from this point to Coddle Creek.

*Corridor Preservation Area: 55 feet.*

**15.1.4.6.** South side of Mooresville Road (NC 3) from the easternmost edge of the Coddle Creek Annexation Area (Area I) which intersects on the south side of Mooresville Road (NC 3) to Stirewalt Road.

*Corridor Preservation Area: 40 feet.*

### 15.1.5. PERMITTED USES.

**15.1.5.1.** Permitted uses and/or Special Uses shall be those within the underlying zoning districts and is listed in Table 4.6-1, except that the following uses shall be prohibited within the CCTP Overlay District:

Institutional/Civic, Professional Office/Business Service, Transportation/Warehousing/Utilities and Retail Trade Uses

Animal Shelter  
Amusement Park



Automobile Repair, major and minor  
 Automobile Rental and Leasing  
 Automotive, Parts, Tires and Accessories (with outdoor storage)  
 Automobile Sales, New and Used  
 Building Material Supply (with outdoor storage)  
 Car Wash (as a principle use)  
 Charter Bus Services  
 Equipment Rental and Leasing (with outdoor storage)  
 Manufactured Home Sales  
 Mini-Warehousing/Self Storage Leasing  
 Motion Picture Theaters, Drive-in  
 Motorcycle, Boat and RV Dealers, new and used  
 Sign and Letter Painting  
 Taxi Services  
 Truck Stop, Travel Plaza

Wholesale Trade

Any uses with outdoor storage

Manufacturing and Industrial Uses

Any uses with outdoor storage or outdoor processing

**15.1.5.2.** Accessory Uses shall be those permitted in the underlying zoning districts as set forth in Section 5.2 of this Ordinance.

**15.1.6. DIMENSIONAL REGULATIONS.**

**15.1.6.1.** All dimensional regulations (except for building setbacks as regulated in the Corridor Preservation Areas described in Section 15.1.2) shall be governed by the underlying zoning district as set forth in Table 4.7-1 of this Ordinance.

**15.1.7. OFF-STREET PARKING/LOADING AND VEHICULAR ACCESS.**

Standards for off-street parking/loading spaces and vehicular access areas shall be determined by the minimum requirements as set forth in Article 8 of this Ordinance.

**15.1.8. SIGN REGULATIONS.**

Sign shall be regulated in accordance with the standards set forth in Article 12 of this Ordinance.

**15.1.9. LANDSCAPING AND BUFFERING.**

Standards for landscaping and buffering areas shall be determined by the minimum requirements as set forth in Article 7 of this Ordinance.

**15.1.10. BUILDING DESIGN.**

**15.1.10.1. General Form** - New buildings shall have generally complex exterior form, including design components such as windows, doors, and changes in roof and facade orientation. Large flat expanses of featureless exterior wall shall be avoided. Roof designs for new buildings, particularly those with less than 10,000 square feet of gross floor area, should be pitched with a slope of 6:12 or greater. Mansard roofs and parapet walls may be considered to conceal roofs with pitches of less than 6:12. Flat roofs are discouraged. To avoid the visual monotony created by large, blank building elevations, the elevation must be separated by a projection or structural relief such as:

- Constructing a porch with a roof,
- Incorporating fascia's, canopies, arcades, or other multidimensional design features to break up large wall surfaces on their street facing elevations,
- Setting part of the facade back at least three feet from the rest of the facade,
- Creating a visually distinct ground floor,
- Providing for changes in material or texture,
- Installing a row of windows on the building's street facing elevation.

**15.1.10.2. Exterior Building Materials** -

Building materials shall be of a high quality. No building elevation may be covered (exposed) with sheet or corrugated aluminum, iron or steel, plain concrete, plain concrete block, exterior panelized plywood, including foundation materials. Except, however, such materials may be used as secondary exterior finish materials if they cover no more than 10 percent of the surface area. The buildings may consist of any of the following materials: utility brick, standard brick, stucco, synthetic stucco, colored split-faced block, glass stone, tile or other similar high-quality materials. Awnings should be constructed of canvas or a similar material.

**15.1.10.3. Mechanical and Service Equipment** -

HVAC and similar types of incidental machinery or equipment shall be screened from view or located in such a manner as to not be visible from the street. Trash receptacles, dumpsters, utility meters, aboveground tanks, satellite dishes and antennas shall be similarly screened.

All roof-mounted equipment, including HVAC systems, satellite dishes and other communication equipment, must be screened from adjacent street or parking area views in one of the following ways (solar heating panels are exempt from this standard):

- A parapet as tall as the tallest part of the equipment;
- A screen around the equipment that is as tall as the tallest part of the equipment; or
- The equipment is set back from the street-facing perimeters of the building three feet for each foot of height of the equipment.

**15.1.11. EXPANSION TO EXISTING STRUCTURES.** Existing development, constructed prior to the adoption of the Coddle Creek Thoroughfare Protection (CCTP) Overlay District, may enlarge by up to 50 percent of the existing floor area and shall be exempt from the design requirements. Additions and improvements to parking areas for existing developments shall also be exempt from the design requirements but shall be subject to standard design requirements within the Ordinance.

**15.1.12. SITE PLAN SUBMISSION.**

**15.1.12.1.** Site plans and architectural plans for construction within the CCTP Overlay District shall be prepared by one or more of the following:

- a landscape architect registered by the State of North Carolina;
- a professional land planner or planning consultant;
- an architect registered by the State of North Carolina; or
- a professional engineer or registered land surveyor licensed by the State of North Carolina.

**15.1.12.2. Review and Approval** - Submission requirements to obtain complete review and approval for development (excluding single-family residences) in the CCTP Overlay District shall include:

- Site Plan prepared in accordance with Article 3;
- Landscaping Plan prepared in accordance with Article 7;
- Tree Retention Plan prepared in accordance with Article 7;
- Grading Plan prepared in accordance with

Article 3; and

- Architectural Plans prepared in accordance with the standards of Section 15.1.10.3, below.

**15.1.12.3. Architectural Plans** - The architectural plans shall depict architectural details of the proposed development and shall consist of:

- preliminary renderings of building elevations plus typical cross sections to clearly define the character of the project; and
- exterior building materials inventory to indicate compliance with Section 15.1.8.

**15.1.12.4.** Approval shall be by the Administrator. Certification of such approval shall include the signatures of the Planning Director. The City staff shall have the option of referring any project, which, in their opinion, does not meet the Building Design Requirements of Section 15.1.8 to the Board of Adjustment for review. Such referral shall be in the form of an Administrative Review, and application fees shall not apply. All items for Commission action shall be referred at least 28 days prior to a regular meeting of the Board of Adjustment. In the event that the applicant wishes review of the project prior to the next available meeting and a specially scheduled meeting is called by the Chair of the Board of Adjustment, application fees shall apply.

**15.1.13. CHANGE/RESUMPTION OF USE.**

When the permitted use of an existing building or structure with nonconforming site improvements is changed, or is resumed after ceasing for more than six consecutive months, the site improvements shall be made to conform to the general requirements as prescribed under Article 13 of the Ordinance, except that such improvements shall not include the standards of the CCTP Overlay District.

## 15.2. DALE EARNHARDT BOULEVARD THOROUGHFARE PROTECTION (DEBTP) OVERLAY DISTRICT

### 15.2.1. PURPOSE.

The Dale Earnhardt Blvd. Thoroughfare Protection Overlay District is established to enhance the economic and aesthetic appeal and orderly development of properties adjacent to the Dale Earnhardt Boulevard. It is recognized that this thoroughfare is a major gateway into the City as it extends westward from Interstate 85 and forms the southern portion of the City's "loop" system. These standards, when applied, are intended to assist with defining development along this corridor to provide improved traffic efficiency and safety by reducing visual clutter and avoiding inappropriate site design and building construction.

### 15.2.2. DISTRICT BOUNDARIES AND APPLICABILITY.

The location of the DEBTP Overlay District is shown on the Official Zoning Map for the City of Kannapolis. The DEBTP Overlay District includes properties (or parts of properties) parallel to both sides of the Dale Earnhardt Blvd. rights-of-way to a maximum depth of 300 feet. The district is measured perpendicular to the existing road right-of-way. All projects requiring Site Plan or Subdivision approval shall meet the standards of this section as well as all other applicable sections of this UDO. Single-family and duplex dwellings on individual lots shall be exempt from the requirements of this Section 15.2.

### 15.2.3. PERMITTED USES.

**15.2.3.1.** Permitted uses and/or Special Uses shall be those within the underlying zoning districts and is listed in Table 4.6-1, except that the following uses shall be prohibited within the DEBTP Overlay District:

Institutional/Civic, Professional Office/Business Service, Transportation/Warehousing/Utilities and Retail Trade Uses

Animal Shelter  
Amusement Park  
Automobile Repair, major  
Automobile Sales, used vehicles  
Automotive, Parts, Tires and Accessories (with outdoor storage)  
Charter Bus Services

Equipment Rental and Leasing (with outdoor storage)  
Manufactured Home Sales  
Mini-Warehousing/Self Storage Leasing  
Motion Picture Theaters, Drive-in  
Motorcycle, Boat and RV Dealers, new and used  
Taxi Services  
Truck Stop, Travel Plaza

#### Wholesale Trade

Any uses with outdoor storage

#### Manufacturing and Industrial Uses

Any uses with outdoor storage or outdoor processing

**15.2.3.2.** Accessory Uses shall be those permitted in the underlying zoning districts as set forth in Section 5.2 of this Ordinance.

### 15.2.4. DIMENSIONAL REGULATIONS.

**15.2.4.1.** All dimensional regulations shall be governed by the underlying zoning district as set forth in Table 4.7-1 of this Ordinance.

### 15.2.5. OFF-STREET PARKING/LOADING AND VEHICULAR ACCESS.

Standards for off-street parking/loading spaces and vehicular access areas shall be determined by the minimum requirements as set forth in Article 8 of this Ordinance.

### 15.2.6. SIGN REGULATIONS.

Sign shall be regulated in accordance with the standards set forth in Article 12 of this Ordinance.

### 15.2.7. LANDSCAPING AND BUFFERING.

Standards for landscaping and buffering areas shall be determined by the minimum requirements as set forth in Article 7 of this Ordinance except for the following. Within the required Street Yards as set forth in Section 7.7 of this Ordinance, only Yoshino Cherry trees shall be planted. Installation of such trees shall comply with all applicable standards as set forth in Section 7.8 of this Ordinance. This requirement shall apply only to street yards fronting along the Dale Earnhardt Boulevard.

**15.2.8. BUILDING DESIGN.**

**15.2.8.1. General Form** - New buildings shall have generally complex exterior form, including design components such as windows, doors, and changes in roof and facade orientation. Large flat expanses of featureless exterior wall shall be avoided. Roof designs for new buildings, particularly those with less than 10,000 square feet of gross floor area, should be pitched with a slope of 6:12 or greater. Mansard roofs and parapet walls may be considered to conceal roofs with pitches of less than 6:12. Flat roofs are discouraged. To avoid the visual monotony created by large, blank building elevations, the elevation must be separated by a projection or structural relief such as:

- Constructing a porch with a roof,
- Incorporating fascia's, canopies, arcades, or other multidimensional design features to break up large wall surfaces on their street facing elevations,
- Setting part of the facade back at least three feet from the rest of the facade,
- Creating a visually distinct ground floor,
- Providing for changes in material or texture,
- Installing a row of windows on the building's street facing elevation.

**15.2.8.2. Exterior Building Materials** - Building materials shall be of a high quality. No building elevation may be covered (exposed) with sheet or corrugated aluminum, iron or steel, plain concrete, plain concrete block, exterior panelized plywood, including foundation materials. Except, however, such materials may be used as secondary exterior finish materials if they cover no more than 10 percent of the surface area. The buildings may consist of any of the following materials: utility brick, standard brick, stucco, synthetic stucco, colored split-faced block, glass stone, tile or other similar high-quality materials. Awnings should be constructed of canvas or a similar material.

**15.2.8.3. Mechanical and Service Equipment** - HVAC and similar types of incidental machinery or equipment shall be screened from view or located in such a manner as to not be visible from the street. Trash receptacles, dumpsters, utility meters, aboveground tanks, satellite dishes and antennas shall be similarly screened. All roof-mounted equipment, including HVAC systems, satellite dishes and other communication equipment, must

be screened from adjacent street or parking area views in one of the following ways (solar heating panels are exempt from this standard):

- A parapet as tall as the tallest part of the equipment;
- A screen around the equipment that is as tall as the tallest part of the equipment; or
- The equipment is set back from the street-facing perimeters of the building three feet for each foot of height of the equipment.

**15.2.9. EXPANSION TO EXISTING STRUCTURES.** Existing development, constructed prior to the adoption of the Dale Earnhardt Blvd. Thoroughfare Protection (DEBTP) Overlay District, may enlarge by up to 50 percent of the existing floor area and shall be exempt from the design requirements. Additions and improvements to parking areas for existing developments shall also be exempt from the design requirements but shall be subject to standard design requirements within the Ordinance.

**15.2.10. SITE PLAN SUBMISSION.**

**15.2.10.1.** Site plans and architectural plans for construction within the DEBTP Overlay District shall be prepared by one or more of the following:

- a landscape architect registered by the State of North Carolina;
- a professional land planner or planning consultant;
- an architect registered by the State of North Carolina; or
- a professional engineer or registered land surveyor licensed by the State of North Carolina.

**15.2.10.2. Review and Approval** - Submission requirements to obtain complete review and approval for development (excluding single-family residences) in the DEBTP Overlay District shall include:

- Site Plan prepared in accordance with Article 3;
- Landscaping Plan prepared in accordance with Article 7;
- Grading Plan prepared in accordance with Article 3; and
- Architectural Plans prepared in accordance with the standards of Section 15.2.10.3, below.

**15.2.10.3. Architectural Plans** - The architectural plans shall depict architectural details of the proposed development and shall consist of:

- preliminary renderings of building elevations plus typical cross sections to clearly define the character of the project; and
- exterior building materials inventory to indicate compliance with Section 15.2.8.

**15.2.10.4.** Approval shall be by the Administrator. However, the Administrator shall have the option of referring any project, which, in their opinion, does not meet the Building Design Requirements of Section 15.2.8 to the Board of Adjustment for review. Such referral shall be in the form of an Administrative Review, and application fees shall not apply. All items for Commission action shall be referred at least 28 days prior to a regular meeting of the Board of Adjustment. In the event that the applicant wishes review of the project prior to the next available meeting and a specially scheduled meeting is called by the Chair of the Board of Adjustment, application fees shall apply.

**15.2.11. CHANGE/RESUMPTION OF USE.**

When the permitted use of an existing building or structure with nonconforming site improvements is changed, or is resumed after ceasing for more than six consecutive months, the site improvements shall be made to conform to the general requirements as prescribed under Article 13 of the Ordinance, except that such improvements shall not include the standards of the DEBTP Overlay District.

# **APPENDIX A**

## **Definitions**

1. **Terms Defined.** Words contained in this Appendix A are those having a special meaning relative to the purposes of this Ordinance. Words not listed in this section shall be defined by reference to: (1) Chapter 2 of the State Building Code (Standard Building Code, 1997) or, if not defined therein, in (2) the Webster's Third New International Dictionary, unabridged, 1993, which documents are hereby incorporated by reference as if set forth in their entirety herein. Words and terms not defined in this Appendix but defined elsewhere in the Unified Development Ordinance shall be given the meanings set forth therein. Particular uses not defined herein shall have the meaning assigned in the Use Matrix and the NAICS Manual (see § 4.6 of this Ordinance).
  
2. **Word Usage.** In the interpretation of this ordinance, the provisions and rules of this section shall be observed and applied, except when the context clearly requires otherwise:
  - Words used or defined in one tense or form shall include other tenses and derivative forms.
  - Words in the singular number shall include the plural number, and words in the plural number shall include the singular number.
  - The masculine gender shall include the feminine, and the feminine gender shall include the masculine.
  - The word "shall" is mandatory.
  - The word "may" is permissive.
  - The word "person" includes individuals, firms, corporations, associations, trusts and any other similar entities.
  - The word "City" shall refer to the City of Kannapolis.
  - The word "Board" shall mean the Board of Adjustment.
  - The words "Planning Commission" shall mean the City Planning Commission.
  - The words "Recorder" and "Recorder of Deeds" shall mean the County Register of Deeds.
  - In case of any difference of meaning or implication between the text of this ordinance and any caption, illustration, or table, the text shall control.
  - All provisions of this ordinance shall be construed to be in addition to all other applicable laws, ordinances and rules of the federal government, the State of North Carolina or the City; and in case of any conflict between this ordinance and any such other law, ordinance or rule, the more restrictive shall prevail.
  - The words "include" and "including" mean include or including by way of illustration and not by way of limitation.

**ABANDONMENT** - The relinquishment of property, or cessation of the use of property, by the owner or lessee without any intention of transferring rights to the property to another owner or of resuming the use of the property.

**ABUT-** Having property or District lines in common.

**ABUTTING PARCELS** - Parcels which are directly touching and have common parcel boundaries. (Parcels across a public right-of-way shall not be considered abutting.)

**ACCESSIBLE** - Having access to, but which first may require the removal of a panel, door or similar covering of the item described. See Accessible, Readily. (Source: North Carolina State Building Code, Vol. 1, § 202 and Vol. VII, § 202).

**ACCESSIBLE, READILY** - Having direct access without the need of removing any panel, door or similar covering of the item described, and without requiring the use of portable ladders, chairs, etc. See Accessible. (Source: North Carolina State Building Code, Vol. 1, § 202 and Vol. VII, § 202).

ACCESSORY – see Accessory Use.

ACCESSORY APARTMENT – see Accessory Dwelling.

ACCESSORY DWELLING - A Dwelling Unit that is accessory, supplementary, and secondary to the principal Dwelling Unit that may be constructed as an addition to the principal structure or as an accessory to the principal structure. An Accessory Dwelling is detached from the principal Dwelling Unit. See § 5.3 of this Ordinance.

ACCESSORY STRUCTURE (Appurtenant Structure)- A building or other structure, the use of which is incidental to that of the main building and which is located on the same parcel of property and is customarily used in connection with the main building or other structure. Accessory structures are subordinate in size to the principal (main) building. Garages, carports, and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms and may or may not be located on the same parcel as the farm dwelling or shop building.

ACCESSORY USE - A subordinate Use of a Building or other Structure, or Use of land which is:

1. conducted on the same Lot as the principal Use to which it is related, and
2. clearly incidental to, and customarily found in connection with, such principal Use.

(See § 5.2 of this Ordinance.)

ADDITION (to an existing building) - An extension or increase in Floor Area or height of a Building or Structure. (Source: North Carolina State Building Code, Vol. 1, § 202)

ADEQUATE EROSION CONTROL MEASURE, STRUCTURE, OR DEVICE - See Sedimentation Control Standards in Article 9.

ADJACENT - All properties immediately contiguous to a development site, including those which are separated from the site only by a road or other right-of-way or easement.

ADJOIN - Touching at some point.

ADMINISTRATIVE DECISION - Any decision on a development application made by an authorized employee or official pursuant to § 3.2 of this Ordinance.

ADMINISTRATOR - The officer charged with the authority and duty to administer this Ordinance pursuant to § 2.1 herein.

ADT - AVERAGE DAILY TRAFFIC

ADULT CARE HOME - An assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to two or more residents, either directly or, for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to persons with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision. Medication in an adult care home may be administered by designated, trained staff. Adult care homes that provide care to two to six unrelated residents are commonly called family care homes. As distinguished from a nursing home, an "adult care home" means a facility operated as a part of a nursing home and which provides residential care for aged or disabled persons whose principal need is a home with the shelter or personal care their age or disability requires. Medical care in an adult care home is usually occasional or incidental, such as may be required in the home of any individual or family, but the administration of medication is supervised. Continuing planned medical and nursing care to meet the resident's needs may be provided under the direct supervision of a physician, nurse, or home health agency. Adult care homes are to be distinguished from nursing homes. Adult care homes and family care homes are subject to licensure by the Division of Facility Services. Includes any "Adult Care Home" as defined by NCGS § 131D-2, NCGS § 131D-20, NCGS § 131E-76, § 131E- 101 (including any "combination home").

**ADVANCEMENT OF CAPACITY** - The provision, by an Applicant for development approval or any other entity or person, of a Public Facility, or funding sufficient to ensure the acquisition of any necessary right-of-way and construction of a Public Facility, prior to the scheduled date of construction of the Public Facility in the Capital Improvements Program.

**AFFILIATE** - A person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of, another person.

**AGGRIEVED PERSON** - The City Council, the Planning Commission, or the Administrator; a county or municipality within an area designated as a joint planning area; applicants, and persons, businesses, corporations, institutions, governments or other entities owning property or residing within one thousand (1,000) feet from the exterior boundaries of a proposed development; and any other person having standing to challenge a development order pursuant to North Carolina law.

**AGRICULTURE** - The commercial production, storage, processing, marketing, distribution or export of any agronomic, floricultural, horticultural, viticultural, silvicultural or aquacultural crop including, but not limited to, farm products, livestock and livestock products, poultry and poultry products, milk and dairy products, fruit and other horticultural products, and seafood and aquacultural products. (Source: the "North Carolina Agricultural Finance Act, NCGS § 122D-3)

**AGRICULTURAL ANIMALS** - The following animals are considered accessory agricultural animals to an agricultural use, whether used for personal enjoyment or for commercial purposes: horses, mules, burros, sheep, cattle, rabbits, chickens, ducks, geese, pigs, goats, ostrich, emu or rhea.

**AGRICULTURAL CONSERVATION EASEMENT** - A negative easement in gross restricting residential, commercial, and industrial development of land for the purpose of maintaining its agricultural production capability. Such easement: (1) May permit the creation of not more than three lots that meet applicable county zoning and subdivision regulations; and (2) Shall be perpetual in duration, provided that, at least 20 years after the purchase of an easement, a county may agree to reconvey the easement to the owner of the land for consideration, if the landowner can demonstrate to the satisfaction of the county that commercial agriculture is no longer practicable on the land in question. (Source: NCGS § 106- 744, The Farmland Preservation Enabling Act)

**AGRICULTURAL LAND** - Land that is a part of a farm unit that is actively engaged in the commercial production or growing of crops, plants, or animals under a sound management program. Agricultural land includes woodland and wasteland that is a part of the farm unit, but the woodland and wasteland included in the unit shall be appraised under the use-value schedules as woodland or wasteland. A farm unit may consist of more than one tract of agricultural land, but at least one of the tracts must meet the requirements in NCGS 105-277.3(a)(1), and each tract must be under a sound management program. Sound management program. -- A program of production designed to obtain the greatest net return from the land consistent with its conservation and long-term improvement. (Source: NCGS § 105-277.2).

**AGRICULTURAL PRODUCE** - Fruit, vegetables, eggs, and honey prior to processing of any kind other than washing. Canned fruits or vegetables, preserves, wine, meat, and dairy products shall not be considered agricultural produce for the purposes of this Ordinance.

**AIRPORT AND RELATED USES** - Any public or private airport including terminal buildings, towers, runways, and other facilities directly pertaining to the operation of the airport.

**ALLEY** - Any public space or thoroughfare 20 feet (6096 mm) or less wide which has been dedicated or deeded for public use. (Source: North Carolina State Building Code, Vol. 1, § 202)

**ALTER or ALTERATION** - Any change or modification in construction or occupancy. (Source: North Carolina State Building Code, Vol. 1, § 202)



**ALTERATION OF A WATERCOURSE** – A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

**AMBULATORY SURGICAL FACILITY** - A facility designed for the provision of an ambulatory surgical program. An ambulatory surgical facility serves patients who require local, regional, or general anesthesia and a period of post-operative observation. An ambulatory surgical facility may only admit patients for a period of less than 24 hours and must provide at least one designated operating room and at least one designated recovery room, have available the necessary equipment and trained personnel to handle emergencies, provide adequate quality assurance and assessment by an evaluation and review committee, and maintain adequate medical records for each patient. An ambulatory surgical facility may be operated as a part of a physician or dentist's office, provided the facility is licensed under NCGS Chapter 131E, Article 6, Part D, but the performance of incidental, limited ambulatory surgical procedures which do not constitute an ambulatory surgical program and which are performed in a physician or dentist's office does not make that office an ambulatory surgical facility. Includes any "ambulatory surgical facility" as defined in NCGS § 131E-146 or NCGS § 131E-176.

**AMENDMENT** - An amendment to the Unified Development Ordinance or a new Unified Development Ordinance.

**AMERICAN STANDARD FOR NURSERY STOCK** - The publication entitled "American Standard for Nursery Stock" (ANSI Z60.1-1996), approved November 6, 1996, published by the American Nursery and Landscape Association ("ANLA")(formerly the American Association of Nurserymen), which document is hereby incorporated by reference as if set forth in its entirety herein. Said document may be obtained by contacting ANLA at 1250 I Street NW, Suite 500, Washington, D.C. 20005 (202/789-2900).

**AMPLITUDE** - The maximum displacement of the surface of the earth from its normal resting position. Amplitude is generally measured in inches or miles.

**AMUSEMENT ARCADE** - A primarily indoor structure, open to the public, that contains coin-operated games, rides, shows, and similar entertainment facilities and devices.

**AMUSEMENT PARK** - A primarily outdoor or open facility, that may include structures and buildings, where there are various devices for entertainment, including rides, booths for the conduct of games or sale of items, buildings for shows and entertainment, and restaurants and souvenir sales.

**ANIMAL UNIT ("AU")** - A unit of measurement to compare various animal types based upon equivalent waste generation. One animal unit equals the following: 1.0 beef feeder or slaughter animal; 0.5 horse; 0.7 dairy cow; 2.5 swine weighing over 55 pounds; 15 swine under 55 pounds; 10 sheep; 30 laying hens; 55 turkeys; 100 broiler chickens or an equivalent animal unit. The total animal units located on a given parcel or Animal Operation shall be determined by adding the Animal Units for each animal type. (Sources: 40 C.F.R. 122.23; 15A NCAC 2H.0217(a)(1)(A))

**ANIMAL CLINIC** - Facility for the medical care and treatment of animals under the supervision of a licensed veterinarian with no outdoor accommodations for the temporary boarding of animals.

**ANIMAL HOSPITAL** – see Animal Clinic.

**ANIMAL OPERATION** - Any agricultural farming activity involving 250 or more swine, 100 or more confined cattle, 75 or more horses, 1,000 or more sheep, or 30,000 or more confined poultry with a liquid animal waste management system. Public livestock markets or sales regulated under Articles 35 and 35A of Chapter 106 of the NCGS shall not be considered animal operations for purposes of this Ordinance. (Source: NCGS § 143- 215.10B)

**ANIMAL REGULATIONS** - See § 5.4 of this Ordinance.

**ANIMAL SHELTER** - A facility which is used to house or contain animals and which is owned, operated, or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection and humane treatment of animals. (Source: NCGS § 19A-23)

**ANIMAL WASTE** - Livestock or poultry excreta or a mixture of excreta with feed, bedding, litter, or other materials from an animal operation. (Source: NCGS § 143-215.10B) includes Liquid residuals resulting from an animal operation that are collected, treated, stored, or applied to the land through an animal waste management system. (Source: NCGS § 90A-47.1)

**ANIMAL WASTE MANAGEMENT SYSTEM** - A combination of structures and nonstructural practices serving a feedlot that provide for the collection, treatment, storage, or land application of animal waste. (Source: NCGS § 143-215.10B)

**APARTMENT HOUSE** - Any Building or portion thereof used as a Multiple Dwelling for the purpose of providing three or more separate Dwelling Units which may share means of egress and other essential facilities. (Source: North Carolina State Building Code, Vol. 1, § 202)

**APIARY** - Bees, comb, hives, appliances, or colonies, wherever they are kept, located, or found. (Source: NCGS § 106-635)

**APPEAL** - A request for a review of the Administrator's interpretation of any provisions of this Ordinance or a request for a determination that there is error in an order, requirement or decision made by the Administrator pursuant to this Ordinance.

**APPLICANT** - Any person, firm, partnership, joint venture, association, corporation, group, or organization applying for an Application for Development Approval.

**APPLICATION FOR DEVELOPMENT APPROVAL OR "APPLICATION"** - A written request for any approval, permit, or action required by this Ordinance, including any written request for approval or issuance of a development order or development permit. This includes such terms as "proposals" and "requests."

**ARCHITECT** - A person who is duly licensed to practice architecture by the North Carolina Board of Architecture. (Source: NCGS § 83A-1)

**ARCHITECTURAL TRIM** - The ornamental or protective framing or edging around openings or at corners or eaves and other architectural elements attached to the exterior walls of buildings, usually of a color and material different from that of the adjacent wall surface, and serving no structural purpose. (Source: North Carolina State Building Code, Vol. 1, § 202)

**AREA, BUILDING** - The area included within surrounding exterior walls, or exterior walls and fire walls, exclusive of courts. The area of a building or portion of a building without surrounding walls shall be the usable area under the horizontal projection of the roof or floor above. (Source: North Carolina State Building Code, Vol. 1, § 202)

**AREA, GROSS FLOOR** - The area within the inside perimeter of the exterior walls with no deduction for corridors, stairs, closets, thickness of walls, columns, or other features, exclusive of areas open and unobstructed to the sky. (Source: North Carolina State Building Code, Vol. 1, § 202)

**AREA, NET FLOOR** - The area actually occupied or intended to be occupied even though at any given time a portion of such floor area may be unoccupied, not including accessory unoccupied areas such as corridors, stairs, closets, thickness of walls, columns, toilet room, mechanical area or other features. (See: North Carolina State Building Code, Vol. 1, § 202)

AREA OF FUTURE-CONDITIONS FLOOD HAZARD – The land area that would be inundated by the 1-percent-annual-chance (100 year) flood based on future-conditions hydrology.

AREA OF SHALLOW FLOODING – A designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

AREA OF SPECIAL FLOOD HAZARD - see SPECIAL FLOOD HAZARD AREA (SFHA)

ASSISTED LIVING RESIDENCE - Any group housing and services program for two or more unrelated adults, by whatever name it is called, that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies. "Assisted Living Residence" includes any nursing service exceptions authorized by the North Carolina Department of Human Resources on a case-by-case basis. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. Assisted living residences are to be distinguished from nursing homes subject to provisions of NCGS 131E-102. There are three types of assisted living residences: Adult Care Homes, Group Homes (for developmentally disabled adults), and Multi-Unit Assisted Housing with services. (Source: NCGS § 131D-2). Includes any "Assisted Living Residence" as defined by NCGS § 131D-2 or NCGS § 131D-20.

ATRIUM - A space, intended to occupancy within a building, extending vertically through the building and enclosed at the top. (Source: North Carolina State Building Code, Vol. 1, § 202)

AUCTION SALES ESTABLISHMENT - Any place where items are sold at auction to the highest bidder.

AUDITORIUM - A room, hall, or building, that is a part of a church, theater, school, recreation building, or other building assigned to the gathering of people as an audience to hear lectures, plays and other presentations. See also "Places of Public Assembly."

AUTHORIZED AGENT - Any person with valid authority provided by the Owner, as evidenced by a notarized document authorizing the Agent to represent the Owner and acting on behalf of the Owner of land seeking a development order or development permit approval.

AUTOMOBILE GRAVEYARD - See "Junkyard."

AUTOMOBILE REPAIR, MAJOR - An establishment engaged in engine rebuilding or reconditioning of automobiles, the removal from any vehicle of a major portion thereof including, but not limited to, the differential, transmission, head, engine block, or oil pan, worn or damaged motor vehicles or trailers, including body, frame or fender straightening or repair, and/or the painting of vehicles.

AUTOMOBILE REPAIR, MINOR - An establishment engaged in the sale of automotive fuels or oils, and the incidental repair and replacement of parts and motor services to automobiles, including oil change, tire sales, and alignment, but not including any operation specified under "Automobile Repair, Major."

AUTOMOBILE SALES ESTABLISHMENT - An open area used for the display, sale, or rental of new and/or used motor vehicles.

AVIGATION EASEMENTS - A document acknowledging airport proximity, limiting the height of structures, and granting permission for the conditions arising from the overflight of aircraft in connection with the operation of an airport.

AWNING - An architectural projection that provides weather protection, identity and/or decoration and is wholly supported by the building to which it is attached. An awning is comprised of a lightweight, rigid, or retractable skeleton structure over which an approved cover is attached. (Source: North Carolina State Building Code, Vol. 1, § 202)

**BALCONY, ASSEMBLY ROOM** - That portion of the seating space of an assembly room, the lowest part of which is raised 4 ft (1219 mm) or more above the level of the main floor. (Source: North Carolina State Building Code, Vol. 1, § 202)

**BALCONY (EXTERIOR)** - An exterior floor system projecting from a structure and supported by that structure, with no additional independent supports. (Source: North Carolina State Building Code, Vol. VII, § 202).

**BAR/NIGHTCLUB** - Premises used primarily for the sale or dispensing of alcoholic beverages by the drink for on-site consumption and where food may be available for consumption as an accessory use.

**BASE COURSE** - The layer of material that lies immediately below the wearing surface of a street pavement.

**BASE FLOOD** - The flood having a one (1) percent chance of being equaled or exceeded in any given year.

**BASE FLOOD ELEVATION (BFE)** – A determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a SPECIAL FLOOD HAZARD AREA, it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the FREEBOARD, establishes the REGULATORY FLOOD PROTECTION ELEVATION.

**BASEMENT** - That portion of a building which is partly or completely, or having a floor, below grade on all sides (see "Story above grade"). (Source: North Carolina State Building Code, Vol. 1, § 201.2 and Vol. VII, § 202).

**BEACON** - Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

**BED AND BREAKFAST INN** - A business of not more than 12 guest rooms that offers bed and breakfast accommodations to at least nine but not more than 23 persons per night for a period of less than one week, and that:

- a. Does not serve food or drink to the general public for pay;
- b. Serves only the breakfast meal, and that meal is served only to overnight guests of the business;
- c. Includes the price of breakfast in the room rate; and is the permanent residence of the owner or the manager of the business.

(Source: NCGS § 130A-247). See § 5.7 of this Ordinance.

**BERM** - A mound of earth designed so that slope drainage is directed away from a paved area and sidewalks which serves as a screen or bufferyard with landscaping.

**BEST MANAGEMENT PRACTICES (BMPs)** - Methods, measures, practices, schedules of activities, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. With regard to construction these may include structural devices or nonstructural practices that are designed to prevent pollutants from entering water or to direct the flow of water. Economic, institutional, and technical factors shall be considered in developing best management practices.

**BICYCLE** - A device propelled by human power upon which any person may ride, having two tandem wheels either of which is more than sixteen (16) inches in diameter or having three wheels in contact with the ground any of which is more than sixteen (16) inches in diameter.

**BICYCLE FACILITIES** - A general term denoting improvements and provisions made or approved by public agencies to accommodate or encourage bicycling, including parking facilities, mapping, and bikeways, and shared roadways not specifically designated for bicycle use.

**BICYCLE LANE (BIKE LANE)** - A portion of a roadway which has been designated by striping, signing and pavement markings for the preferential or exclusive use of bicyclists.

**BICYCLE PATH** - A hard surfaced path for bicycles. This bikeway is physically separated from motorized vehicular traffic by an open space barrier and either within the highway right-of-way or within an independent right-of-way.

**BIG BOX RETAIL** – see “Superstore”.

**BLOCK** - That property abutting one side of a street and lying between the two nearest intersecting streets, or nearest intersecting street and railroad right-of-way, un-subdivided acreage, waterways, but not an alley, of such size as to interrupt the continuity of development on both sides thereof.

**BLOCK FRONTAGE** - All property fronting on one side of a street between intersecting or intercepting streets, or between a street and a street right-of-way, water way (wider than thirty feet, 30'), or end of a dead-end street. An intercepting street shall determine only the boundary of the frontage of the side of the street which it intercepts.

**BOARD** - Unless otherwise indicated in the text, Board shall refer to the City of Kannapolis Board of Adjustment.

**BOARDING HOUSE OR ROOMING HOUSE** - A building containing a single dwelling unit and three (3) or more rooms where lodging is provided, with or without meals, for compensation. "Compensation" may include money, services, or other things of value.

**BOARDING KENNEL** - A facility or establishment which regularly offers to the public the service of boarding dogs or cats or both for a fee. Such a facility or establishment may, in addition to providing shelter, food and water, offer grooming or other services for dogs and/or cats. (Source: NCGS § 19A-23)

**BORROW PIT** - An area from which soil or other unconsolidated materials are removed to be used, without further processing, for highway construction and maintenance. (Source: The Mining Act of 1971, NCGS § 74-49)

**BUFFERYARD** - A strip of land established to protect one type of land use from another land use or to provide screening. Normally, a bufferyard is landscaped and developed in open space areas. See Article 7 of this Ordinance.

**BUFFER, EXTERNAL** - A Bufferyard along the exterior boundaries of a development which is maintained as open space in order to eliminate or minimize conflicts between such development and adjacent land uses.

**BUILDABLE AREA** - The portion of a lot which is within the envelope formed by the required yards. See "Yard, Required."

**BUILDING** - Any structure that encloses a space used for sheltering any occupancy. Each portion of a building separated from other portions by a fire wall shall be considered as a separate building. (Source: North Carolina State Building Code, Vol. 1, § 201.3)

**BUILDING AREA** - The total areas taken on a horizontal plane at the mean grade level of the principal buildings and all accessory buildings, exclusive of uncovered porches, terraces, steps, roof overhangs, and balconies.

**BUILDING ENVELOPE** - The three-dimensional space occupied by a building, including all eaves, covered porches, breezeways, and other portions of the building, but excluding attached decorative walls which are less than or equal to three feet in height.

**BUILDING FAÇADE** - That exterior side of a building which faces, and is most nearly parallel to, a public or private street. The Façade shall include the entire building walls, including wall faces, parapets, fascia, windows, doors, canopy, and visible roof structures of one complete elevation.

**BUILDING HEIGHT** - A vertical distance from the highest point of a building to grade, measured in accordance with § 4.7 of this Ordinance.

**BUILDING LINE** – A line as determined by meeting the respective front, side, and rear yard setbacks or, in the case of irregular-shaped lots with less than the minimum lot width at the front setback line (such as cul-de-sac lots), the building line shall be established at the point of the lot where the minimum lot width is met. The Building Line shall be measured with a line perpendicular to the street or property line in front of which no structure may be erected.

**BUILDING, MAIN OR PRINCIPAL** - A building, or buildings, in which the dominant use of the lot on which it is situated is conducted. In any Residential Zoning District, any dwelling other than an Accessory Building shall be deemed to be the main building of the lot on which it is situated.

**BUILDING, MIXED USE** - A Building which contains Dwellings located above the ground floor of an institutional, civic, office, commercial or retail use. Mixed Use Buildings are a common feature of traditional town centers where shop owners lived above ground-floor businesses and are sometimes referred to as "Live-Work Units." Where a Mixed-Use Dwelling is permitted by this Ordinance within a particular district, the ground-floor retail uses are also permitted. See § 4.10 (Traditional Neighborhood Development - TND Infill Uses).

**BUILDING PERMIT** - An authorization to construct a structure as issued by the Cabarrus or Rowan County Building Inspections Department.

**BUILDING, TEMPORARY** - A structure designed, built, created or occupied for short and/or intermittent periods of time, including tents, lunch wagons, dining cars, trailers and other roofed structures on wheels or other supports used for residential business, mercantile, storage, commercial, industrial, institutional, assembly, educational or recreational purposes. For the purpose of this definition, "roof" shall include an awning or other similar covering whether or not it is permanent in nature.

**BUILT-UPON AREA** - That portion of a development that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads and parking areas, recreation facilities, etc. (Note: wooden slatted decks and the water area of a swimming pool are considered pervious.) (Source: 15A NCAC 2H.1002).

**BULK** - The size and shape of buildings, structures, and non-building uses; and the physical relationship of their exterior walls or construction or their location to lot lines and other buildings or structures or other walls or construction of the same building or structure; and all open spaces required in connection with a building or structure. Bulk regulations include regulations dealing with lot area, lot area per dwelling unit, lot frontage, lot width, building height, required yards, courts, usable open space, the ratio of aggregate gross floor area to the area of the lot, spacing between buildings on a single lot, and the length of buildings in a row.

**CALIPER** - A standard trunk diameter measurement for trees taken six inches above ground for up to and including four-inch caliper size and twelve inches above ground for larger sizes. (See Article 7 of this Ordinance.)

**CAMP, THERAPEUTIC** - A residential treatment facility provided in a camping environment which is designed to assist individuals to develop behavioral control, coping skills, self-esteem, and interpersonal skills. (Source: 10 NCAC 14V.5201, 10 NCAC 44E.0002).

**CAMPGROUND** - A plot, parcel, or tract of land upon which two (2) or more Campsites are located, established, or maintained for occupancy by Camping Units as temporary living quarters for recreation, education, or vacation purposes. A Campground includes any Summer Camp or any other land area which is consistent with this definition. A Therapeutic Camp is not considered a "Campground." See § 5.8 of this Ordinance.

**CAMPING UNIT** - Any tent, trailer, cabin, lean-to, Recreational Vehicle, or similar structure established or maintained and operated in a campground as temporary living quarters for recreation, education, or vacation purposes.

**CAMPSITE** - Any plot, parcel, or tract, or portion thereof, intended for exclusive occupancy by a Camping Unit.

**CANOPY** - A protective cover over a door, entrance, window, or outdoor service area which is attached to or cantilevered from a building. Also known as awning. Permanent marquees and porticoes which are designed as a continuous or integral part of the structure shall not be considered canopies. (See Sign Regulations.)

**CAPACITY** - The maximum demand that can be accommodated by a Public Facility without exceeding the Adopted Level of Service.

**CAPITAL IMPROVEMENT** - A public facility with a life expectancy of three or more years, to be owned and operated by or on behalf of the City, a special district, or a private service provider.

**CAPITAL IMPROVEMENT, PLANNED** - A Capital Improvement designed for construction within a period not to exceed six (6) years in a Capital Improvements Program.

**CAPITAL IMPROVEMENTS PROGRAM** - A plan setting forth, by category of public facilities, those capital improvements and that portion of their costs which are attributable to serving new development within designated service areas for such public facilities over a period of specified years. "Capital improvements program" may refer either to the plan for a particular service area or to the aggregation of capital improvements and the associated costs programmed for all service areas for a particular category of public facilities.

**CARNIVAL** - See "Outdoor Event, Temporary."

**CARPORIT** - A roofed structure which may be attached or unattached to the principal structure providing space for the storage of one or more motor vehicles and enclosed on not more than three (3) sides by walls.

**CAR WASH** - An establishment that provides washing and cleaning of passenger or recreational vehicles by hand, by use of automated equipment operated by one (1) or more attendants, or by self-service facilities.

**CARRY-OUT FOOD SERVICE** - A business whose principal purpose is the preparation and sale of food or beverages for consumption off-site, such as delicatessens, ice cream stores and hot dog stands, but shall not include liquor stores, restaurants, and drive-through commercial establishments.

**CELLAR** - That portion of a building between floor and ceiling which is partly below and partly above grade, but so located that the vertical distance from grade to floor below is greater than the vertical distance from grade to ceiling.

**CEMETERY** - Any one or a combination of more than one of the following in a place used or to be used and dedicated or designated for cemetery purposes:

- a. A burial park, for earth interment.
- b. A mausoleum.
- c. A columbarium. (Source: NCGS § 65-48. See § 5.9)

**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. See § 5.9 of this Ordinance.

**CEMETERY, UNLICENSED** - Land and facilities used for the burial of the dead, including municipal, private family, farm, church or animal cemeteries, which have not been licensed and do not meet the licensing requirements of a perpetual care cemetery under State law. See § 5.9 of this Ordinance.

**CENTERLINE** - The true centerline of a street right-of-way that has been fully dedicated to the required width.

**CENTERLINE OFFSET OF ADJACENT INTERSECTIONS** - The gap between the centerline of streets adjoining a common road from opposite or same sides.

CENTRAL WATER SYSTEM - See public Water System.

CERTIFICATE OF COMPLIANCE - The certificate issued by the Administrator, indicating that the use or occupancy of, or the connection or provision of utilities to any building or land hereafter created, erected, changed, converted, altered or enlarged in its use or structure is in compliance with all regulation of this Unified Development Ordinance.

CERTIFICATE OF OCCUPANCY - The certificate issued by the North Carolina Department of Buildings, indicating that all required building and service systems shall have been inspected for compliance with the Building Code and other applicable laws and ordinances and that the Building, or portion of the Building, may be occupied or used.

CERTIFICATE OF STORMWATER COMPLIANCE - The approval for activities that meet the requirements for coverage under a stormwater general permit for development activities regulated by the Stormwater Management provisions of the North Carolina Administrative Code. (Source: 15A NCAC 2H.1002).

CERTIFY - A certification by an agency or official, pursuant to this Ordinance, of the existence of some fact or circumstance, whether made in oral or written form, which provides reasonable assurance of the accuracy of the certification.

CHANGE IN USE - A change from one principal use of a building or land to another principal use of the building or land whether or not there is an increase in the size of the existing building or extent of the use of the land.

CHANNEL - A natural or artificial low-lying area with definite bed and banks, which confines and conducts continuous or periodic flows of water.

CHEMICAL STORAGE FACILITY – A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products

CHILD CARE - A program or arrangement where three or more children less than 13 years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption. Childcare does not include the following:

- a) Arrangements operated in the home of any child receiving care if all of the children in care are related to each other and no more than two additional children are in care;
- b) Recreational programs operated for less than four consecutive months in a year;
- c) Specialized activities or instruction such as athletics, dance, art, music lessons, horseback riding, gymnastics, or organized clubs for children, such as Boy Scouts, Girl Scouts, 4-H groups, or boys' and girls' clubs;
- d) Drop-in or short-term care provided while parents participate in activities that are not employment related and where the parents are on the premises or otherwise easily accessible, such as drop-in or short-term care provided in health spas, bowling alleys, shopping malls, resort hotels, or churches;
- e) Public schools;
- f) Nonpublic schools described in Part 2 of Article 39 of Chapter 115C of the General Statutes that are accredited by the Southern Association of Colleges and Schools and that operate a child care facility as defined in subdivision (3) of this section for less than six and one-half hours per day either on or off the school site;
- g) Bible schools conducted during vacation periods;
- h) Care provided by facilities licensed under Article 2 of Chapter 122C of the General Statutes;
- i) Cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment; and
- j) Any childcare program or arrangement consisting of two or more separate components, each of which operates for four hours or less per day with different children attending each component.

(Source: NCGS § 110-86).



**CHILD CARE CENTER** - An arrangement where, at any one time, there are three or more preschool-age children or nine or more school-age children receiving Child Care. Includes family childcare homes and any other childcare arrangement not excluded by NCGS § 110-86(2), that provides Child Care, regardless of the time of day, wherever operated, and whether or not operated for profit. (Source: NCGS § 110-86. See § 5.16).

**CHILD CARE HOME, FAMILY** - A childcare arrangement located in a residence where, at any one time, more than two children, but less than nine children, receive childcare. (Source: NCGS § 110-86).

**CHILDREN'S CAMP** - A residential child-care facility which provides foster care at either a permanent camp site or in a wilderness setting. (Source: NCGS § 131D-10.2)

**CHURCH** - See "Religious Institutions."

**CITY COUNCIL** - City Council of Kannapolis, North Carolina.

**CLEANING OR PROCESSING ESTABLISHMENT** - A business that primarily involves the on-site cleaning, treatment, or chemical processing of goods or materials, or the storage of chemicals, used in off-site cleaning, treatment, or processing. This includes, but is not limited to, carpet cleaners, dry-cleaning plants, exterminating services, and taxidermists. This term does not include Dry Cleaning, and Laundry.

**CLINIC OR HEALTH CARE FACILITY** - A building containing an association or group of physicians, dentists, clinical psychologists, and similar professional health care practitioners, including allied professional assistants who are assembled for the purpose of carrying on their professions. The health care facility may include apothecary, dental and medical laboratories, tissue labs, and/or X-ray facilities, but shall not include inpatient care or operating rooms for major surgery.

**CLUSTER DEVELOPMENT OR CLUSTER OPTION DEVELOPMENT** - A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and preservation of sensitive and open space areas. See § 4.8 of this Ordinance.

**COLLECTOR STREET** - Streets accessing neighborhoods and routes serving intra-city rather than intra-state travel. A minor amount of through traffic may be carried by a collector street, but the system primarily carries local traffic. Average trip lengths and travel speeds are less than for arterial routes. A collector street includes any street classified as a Major Collector or Minor Collector pursuant to Article 10 and Appendix C of this ordinance.

**COLLEGE OR UNIVERSITY** - An institution providing full-time or part-time education beyond the high school level, including any lodging rooms or housing for students or faculty.

**COMMERCIAL AMUSEMENT, INDOOR** - An establishment offering sports, game playing or similar amusements to the public, including, but not limited to: skating rinks, bowling alleys, billiards, ping pong, mechanical or electronic games, but not gambling or card playing, within a fully enclosed structure. Indoor commercial amusement does not include non-commercial or charitable events.

**COMMERCIAL AMUSEMENT, OUTDOOR** - An establishment that offers games, rides, or other similar activities on a commercial basis in a fixed location, including but not limited to: miniature golf, amusement parks, water slides, amphitheaters, stadia, tracks, and drive-in theaters.

**COMMERCIAL PARKING LOT** - See "Parking Lot."

**COMMERCIAL PARKING STRUCTURE** - See "Parking Structure."

**COMMERCIAL STABLE** - See "Stable, Commercial."

**COMMERCIAL VEHICLE** - See "Vehicle, Commercial."

COMMISSION - Unless otherwise indicated in the text, Commission shall refer to the City of Kannapolis Planning and Zoning Commission.

COMMON OWNERSHIP - Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stock owner, partner, or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association, but excluding ownership of less than 1% of any stock traded on the New York, American or Pacific Stock Exchanges or traded over-the-counter where the price is listed at least weekly in the Wall Street Journal.

COMMUNITY WATER SYSTEM - See definition of "Public Water System."

COMPREHENSIVE PLAN - The Comprehensive Plan adopted by City Council to address growth and development in and around Kannapolis. For purposes of this Ordinance, the Comprehensive Plan includes the various functional and small area plans adopted by City Council.

CONCEPT PLAN - A generalized plan indicating the boundaries of a tract or tracts under common ownership, and identifying proposed land use, land use intensity and thoroughfare alignment.

CONDITIONAL USE - A "conditional use" means a use which, because of its unique or varying characteristics, cannot be properly classified as a permitted use in a particular district. A use is considered a conditional use if designated as such by the Use Matrix of Table 4.6-1.

CONDOMINIUM - The ownership of single units in a multi-unit structure with common areas and facilities. (Source: Unit Ownership Act, NCGS § 47A-3), real estate portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners. (Source: North Carolina Condominium Act, NCGS § 47C-1-103)

CONFERENCE AND BANQUET FACILITIES - See "Places of Public Assembly, Indoors."

CONFORMING USE - A use that is permitted within the applicable zoning district (see Use Matrix in Table 4.6-1).

CONNECTIVITY INDEX - The index of the connectivity of a street system prescribed by the Street Improvement Standards of Article 10.

CONSENT AGREEMENT - A regulatory document containing specific conditions of development approval designed to implement the policies and criteria contained in the Unified Development Ordinance and, where the denial or deferral of development approval is disputed by the applicant, to effectuate the public policy favoring the settlement of disputes, which document contains an integrated development scheme for a particular phase or phases of development approval, and contains maps, diagrams and other appropriate materials showing future conditions consistent with the provisions of this Ordinance.

CONSERVE AND CONSERVATION - To use, and the use of, all methods and procedures for the purposes of increasing the number of individuals of resident species of plants up to adequate levels to assure their continuity in their ecosystems. These methods and procedures include all activities associated with scientific resource conservation such as research, census, law enforcement, habitat protection, acquisition and maintenance, propagation, and transplantation into unoccupied parts of historic range. With respect to endangered and threatened species, the terms mean to use, and the use of, methods and procedures to bring any endangered or threatened species to the point at which the measures provided for the species are no longer necessary. (Source: NCGS § 106-202.12)

CONSERVATION EASEMENT - A non-possessory interest of a holder in real property imposing limitations or affirmative obligations for conservation purposes or to preserve the historical, architectural, archaeological, or cultural aspects of real property.

**CONSTRUCTION PLAN** - The maps or drawings accompanying a subdivision plat showing the specific location and design of improvements to be installed in the subdivision as a condition of the approval of the plat.

**CONTIGUOUS** - Bordering or adjoining, meeting, or joining at the border or surface.

**CONTROLLED-ACCESS FACILITY** - A State highway, or section of State highway, especially designed for through traffic, and over, from or to which highway owners or occupants of abutting property, or others, shall have only a controlled right or easement of access. (Source: NCGS § 136- 89.49)

**CONVENIENCE STORE** - A store offering for sale a limited selection and quantity of groceries and other articles normally found in grocery stores, and which may also offer delicatessen or fast-food items, and whose business is mostly dependent on quick stops by its customers. A convenience store operation may also include self-service gasoline sales. See § 5.10 of this Ordinance.

**CONVENTIONAL OPTION DEVELOPMENT** - Any application requesting approval of a development or use within a zoning district other than a PUD, TND or TOD district, and a Cluster development.

**CONVEY** - To transfer all or a part of a title or equitable interest in land; to lease or assign an interest in land; or to transfer any other land interest.

**CORNER LOT** - See "Lot, Corner."

**CORRAL** - A pen or enclosure for confining animals.

**CORRIDOR (building)** - A passageway into which compartments, or rooms open, and which is enclosed by partitions, other than partial partitions, and/or walls and a ceiling or a floor/roof deck above. (Source: North Carolina State Building Code, Vol. 1, § 202)

**CORRIDOR (road)** - A street or roadway identified as a principal link or gateway within the community.

**COUNTY** - Cabarrus County or Rowan County, North Carolina.

**COURTYARD** - A space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three or more sides by walls or a building. (Source: North Carolina State Building Code, Vol. VII, § 202).

**CRITICAL AREAS** - Any lot, parcel or property, or portion thereof, located within the Floodplain Overlay District, the River/Stream Overlay District, or any Watershed Protection Overlay District.

**CROSSWALK** - A public right-of-way used primarily for pedestrians' travel through or across any portion of a block.

**COUNTRY CLUB** - A private club, including country clubs, that provides one (1) or more of the following: indoor and/or outdoor golf, tennis, or swimming facilities, indoor exercise or recreational rooms and equipment; and which may include a clubhouse with dining and banquet facilities; operated on a private membership basis and restricted to use by members and their guests.

**CUL-DE-SAC** - A short, dead-end street terminating in a vehicular turn-around area.

**CURB FACE** - The vertical or shaped portion of a curb, facing the roadway, and designed to direct storm waters.

**CURB** - A stone, concrete, or other improved boundary marking the edge of the roadway or paved area.

**CURB OUTLET SYSTEM** - Curb and gutter installed in connection with Stormwater Management, as more particularly defined in 15A NCAC 2H.1002, which is hereby incorporated by this reference.

**CUSTOM MANUFACTURING** - An establishment primarily engaged in the on-site production of goods by hand manufacturing that involves only the use of hand tools or domestic mechanical equipment not exceeding two (2) horsepower or a single kiln not exceeding eight (8) kilowatts, and the incidental direct sale to customers of goods produced on the site. Typical custom manufacturing uses include ceramic studios and custom jewelry manufacturing.

**CUT, LAND** - Land surface which is shaped through the removal of soil, rock, or other materials.

**DAY CARE** - See "Child Care."

**DAYS** - When used to establish time limits on various processes in this Ordinance, days shall mean business days.

**DECISIONMAKER** - The agency, official or entity authorized to render a final decision which approves, approves with conditions, or denies an application for development approval.

**DECLARATION** - An instrument, duly recorded, by which the property is submitted to Chapter 47A of the North Carolina General Statutes, and such declaration as from time to time may be lawfully amended. (Source: Unit Ownership Act, NCGS § 47A-3); and any instruments, however denominated, which create a condominium, and any amendments to those instruments. (Source: North Carolina Condominium Act, NCGS § 47C-1-103)

**DEDICATION** - A gift, by the owner, of his property to another party without any consideration being given for the transfer. The dedication is made by written instrument and is completed with an acceptance.

**DE NOVO HEARING** - A new hearing. In a de novo hearing, the reviewing agency considers the application as if it originated before it, but may consider the findings of fact, conclusions of law, or recommendations of the agency which previously considered the case.

**DENSITY** - The total number of dwelling units per acre, computed in accordance with § 4.7 of this Ordinance.

**DENSITY, NET** - The number of dwelling units divided by the net acreage remaining after subtracting all critical areas and streets.

**DEPARTMENT** Unless otherwise noted in the text, Department shall refer to the City of Kannapolis Planning and Community Development Department.

**DESIGN FLOOD** – See “Regulatory Flood Protection Elevation”

**DEVELOPER** - A person, firm, partnership, joint venture, association, corporation, groups, or organization who shall participate as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale, or lease of a development. The owner of land proposed to be subdivided or developed or its authorized agent who is responsible for any undertaking that requires review and/or approval under this Ordinance.

**DEVELOPMENT** - The division of a parcel of land into two or more parcels; the construction, reconstruction conversion, structural alteration, relocation or enlargement of any structure; any mining, drilling, dredging, filling, excavation, clearing of roadways or building sites, landfill or land disturbance and any use or extension of the use of land. This definition excludes normal earth working associated with crop farming or landscaping of an individual single-family residential lot. The term "development" includes all of the activities listed in the definition of "development" in 15A NCAC 2H.1002, which definition is hereby incorporated by this reference, and any of the following activities:

- a) Change in use.
- b) Construction, clearing, filling, excavating, grading, paving, dredging, mining, drilling or otherwise significantly disturbing the soil of a site.
- c) Building, installing, enlarging, replacing, or substantially restoring a structure, impervious surface, or central water system and including the long-term storage of materials.

- d) Erection of a permanent sign.
- e) Any activity increasing the need for parking.
- f) Construction, elimination, or alteration of a driveway onto a public street.

**DEVELOPMENT ACTIVITY** – Any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

**DEVELOPMENT ORDER** - Any action granting, denying, or granting with conditions, an application for a development permit.

**DEVELOPMENT PARCEL** - Any quantity of land capable of being described with such definiteness that its location and boundaries may be established, which is designated by its owner or developer as land to be used or developed as a unit or which has been used or developed as a unit.

**DEVELOPMENT PERMIT** - Any zoning clearance; building permit; home occupation permit; sign permit; temporary use permit; certificate of occupancy; conditional use permit; preliminary subdivision plat; final subdivision plat or other plat approval; preliminary site plan; final site plan; rezoning (change of zone); Comprehensive Plan amendment; specific plan; or any other official action of the City or any other state or local government commission, board, agency, department or official having the effect of permitting development of land located within the geographic area subject to the provisions of this Ordinance.

**DEVELOPMENT RIGHT** - The potential for the improvement of a parcel of real property, measured in dwelling units for residential uses or equivalent dwelling units for non-residential uses, which exists because of the zoning classification of the parcel.

**DEVELOPMENT SERVICES DEPARTMENT** - The Cabarrus County Development Services Department.

**DIAGNOSTIC CENTER** - A freestanding facility, program, or provider, including but not limited to, physicians' offices, clinical laboratories, radiology centers, and mobile diagnostic programs.

**DIGITAL FLOOD INSURANCE RATE MAP (DFIRM)** – The digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

**DIMENSIONAL REGULATIONS** - See § 4.7 of this Ordinance.

**DISPOSAL** - As defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

**DISPOSITION** - A transfer of all or part of a title or equitable interest in land; a lease or an assignment of an interest in land; or any other transfer or conveyance of an interest in land.

**DORMITORY** - A space in a building where group sleeping accommodations are provided with or without meals for persons not members of the same family group, in one room or in a series of closely associated rooms under joint occupancy and single management, as in college dormitories, fraternity houses, military barracks and ski lodges. (Source: North Carolina State Building Code, Vol. 1, § 201.3).

**DOWN-ZONING** - A amendment to the Official Zoning Map or the text of this Ordinance that affects an area of land by decreasing the permitted development density of the land to be less dense than was allowed under its previous usage, or that reduces the permitted uses of the land under this Ordinance to fewer uses than were allowed under its previous usage.

**DRAINAGE AREA OR WATERSHED** - The entire area contributing surface runoff to a single point. (Source: 15A NCAC 2H.1002).

**DRIVE-THROUGH COMMERCIAL ESTABLISHMENT** - A commercial retail or personal service establishment designed or intended to enable a customer in a motor vehicle parked on or moving through the premises to transact business with a person outside the motor vehicle. Such establishments include but are not necessarily limited to branch banks and fast-food restaurants.

**DRIVEWAY** - A private, vehicular access connecting a house, carport, parking area, garage, or other buildings with the street. A driveway is not a road, street, boulevard, highway, or parkway.

**DUPLEX** - A building containing two single-family dwelling units totally separated from each other by an unpierced wall extending from ground to roof. A duplex may include: (1) a semidetached dwelling, which is a building containing two dwelling units attached horizontally (see illustration), or (2) a building with two units attached vertically, with one dwelling unit located on top of the other.

**DUST-FREE** - A land surface that is paved in one of the following methods: (1) asphaltic concrete, (2) cement concrete, (3) penetration treatment of bituminous material and a seal coat of bituminous binder and a mineral aggregate or (4) the equivalent of the above.

**DWELLING** - Any building which contains one or more "Dwelling Units" used, intended, or designed to be built, used, rented, leased, let, or hired out to be occupied, or which are occupied for living purposes.

**DWELLING, ATTACHED** - A building containing two (2) or more residential units, attached along and sharing one (1) or more common walls between any two (2) units, or stacked one (1) above the other, or attached to a non-residential use. An Attached Dwelling includes any Duplex, Triplex, Quadruplex, Townhouse or Rowhouse.

**DWELLING, MIXED USE** - See "Building, Mixed Use."

**DWELLING, MULTIPLE** - A building or portion thereof designed for or occupied as three (3) or more dwelling units.

**DWELLING, SINGLE-FAMILY** - A building designed for occupancy by one (1) family.

**DWELLING, SINGLE-FAMILY DETACHED** - A Single-Family Dwelling Unit that is not attached to any other Dwelling Unit by any means and is surrounded by yards.

**DWELLING UNIT** - A dwelling unit is a single unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation. (Source: North Carolina State Building Code, Vol. 1, § 202 and Vol. VII, § 202).

**EASEMENT** - A grant by the property owner for use by the public, a corporation or person(s) of a strip of land for a specific purpose.

**EASEMENT, NON-ACCESS** - An easement prohibiting vehicular access from a public street.

**EFFECTIVE DATE OF THIS ORDINANCE** - The effective date of this Ordinance determined in accordance with Article 1 of this Ordinance.

**ELECTRIC GENERATING FACILITY** - Any plant facilities and equipment for the purposes of producing, generating, transmitting, delivering, or furnishing electricity for the production of power. (Source: NCGS § 75A-2)

**ELECTRONIC GAMING OPERATIONS** - Any business enterprise, whether as a principal or an accessory use, where persons utilize electronic devices, including, but not limited to computers and gaming terminals, to conduct games of skill or chance, including sweepstakes, and where cash, merchandise, or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. This term includes, but is not limited to internet sweepstakes, internet sweepstakes, internet sweepstakes café, video sweepstakes, or cybercafés, which have a finite pool of winners. This does not include any lottery endorsed by the State of North Carolina.

**ELEMENTARY SCHOOL** - A school which embraces a part or all of the eight elementary grades and which may have a kindergarten or other early childhood program. (Source: NCGS § 115C-75)

**ELEVATED BUILDING** -A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

**ENCLOSURE RATIO** (Note: this definition is used in § 4.10 TND District only) - The ratio of building height to spaces in front of the building. Buildings serve to spatially define streets. Proper spatial definition is achieved with buildings or other architectural elements (including certain tree plantings) that make up the street edges aligned in a disciplined manner with an appropriate ratio of height to width. The condition of alignment occurs when the facades of buildings cooperate to delineate the public space, as walls form a room. Building articulation must take place primarily in the vertical plane or facade. Appendages such as porches, balconies, and bay windows are encouraged to promote the visual transition. The condition of enclosure generated by the height-width ratio of the space is related to the physiology of the human eye. If the width of a public space is such that the cone of vision encompasses less street walls than the opening to the sky, then the degree of spatial enclosure is slight. Ratios not exceeding 1:4 are considered optimal, while a 1:6 height-to-width ratio is the absolute minimum required for appropriate urban spatial definition. See P. Craighead, ed., *The Hidden Design in Land Use Ordinances* (University of Southern Maine, 1991), at 45; R. Arendt, *Rural by Design* (American Planning Association, 1994), at 10-11. An appropriate average ratio is 1:3. As a general rule, the tighter the ratio, the stronger the sense of place. Spatial enclosure is particularly important for shopping streets, which must compete with malls which provide very effective spatial definition. In the absence of spatial definition by facades, disciplined tree planting is an alternative. Trees aligned for spatial enclosure are necessary along thoroughfares with substantial front yards. If *Streetscape Landscaping* is provided in accordance with the *Landscaping Standards* of this Ordinance, the Enclosure Ratio shall be measured from the height of the trees at maturity rather than the height of the buildings. For the internal streets or circulation systems of subdivision plats or site plans, the Enclosure Ratio shall be computed by dividing the height of the shortest facing structure by the spaces between the buildings. For development on individual tracts adjoining a public right-of-way and not under Common Ownership with tracts or parcels facing across the right-of-way, the Enclosure Ratio shall apply only to the tract or parcel subject to the Application for Development Approval. Example: A building (Building A) is 15 feet in height and faces a building (Building B) 24 feet in height across a street with a 40-foot right-of-way. Building A is located 15 feet and Building B is located 20 feet from the edge of the right-of-way, producing a building-to-building space of 75 feet. The enclosure ratio is 1:5 ( $15 \div 75 = 1:5$ ). See first "Village Scale" example (illustration). Source: P. Craighead, ed., *The Hidden Design in Land Use Ordinances*. (University of Southern Maine, 1991).

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

**ENGINEER** - An Engineer licensed by the State of North Carolina.

**ENGINEER, CITY** – The City of Kannapolis Public Works Director or his designee.

**ENHANCEMENT** - Improvement of the functions or an existing wetland system. Enhancement may include improved flood control capacity, increased groundwater recharge capability, increased density and diversity of native wildlife and vegetation, and improved aesthetic values (e.g., by removing non-native impediments, structures, impervious surfaces).

**ENLARGEMENT OR "TO ENLARGE"** - An increase in size or addition to the Floor Area of a Building or Structure, or an increase in the portion of a Building, Structure, or land area occupied by an existing Use.

**ENTRANCE ROAD** - A Street which: (1) leads into a Subdivision, Planned Unit Development, or a Traditional Neighborhood Development, and (2) intersects with a higher order Street.

**EQUIPMENT** - Rolling stock or movable personal property except that, for the purpose of this Ordinance, it shall not include those items defined as Heavy Equipment.

**EQUIVALENT DWELLING UNIT OR "EDU"** - See "Equivalent Residential Unit."

**EQUIVALENT RESIDENTIAL UNIT OR "ERU"** - See Art. 14 "Adequate Public Facilities Standards".

**ERECT** - To build, construct, attach, hang, place, suspend, affix and/or apply.

**EROSION CONTROL** - See Article 9 of this Ordinance.

**EVIDENCE** - Any map, table, chart, contract or other document or testimony prepared or certified that is offered by a person to establish a claim, condition, or assertion.

**EXCAVATION** - The removal of soil, rock, or other matter from a land area.

**EXISTING BUILDING AND EXISTING STRUCTURE** – Any building and/or structure for which the “start of construction” commenced before date the community’s first floodplain management ordinance was adopted.

**EXISTING CAPACITY** - The Capacity of the existing built and operational Public Facilities, as determined by the service provider.

**EXISTING DEMAND** - See "Public Facilities Standards" of this Ordinance.

**EXOTIC ANIMALS** - See Other Animals.

**EXOTIC SPECIES (PLANT)** - A species or higher taxon of plant not native or naturalized in North Carolina but appearing in the Federal Endangered and Threatened Species List or in the appendices to the International Treaty on Endangered and Threatened Species. (Source: NCGS § 106-202.12)

**EXTENDED STAY LODGING FACILITY** - Any building containing six or more units intended or designed to be used, rented, or hired out to be occupied, or which are occupied for sleeping purposes for guests, and which units contain kitchen facilities for food preparation including, but not limited to, such facilities as refrigerators, stoves and ovens. Extended Stay Lodging Facilities may contain lobbies, conference rooms, meeting rooms, child play areas, and/or restaurants.

**EXTRACTIVE USES** - Surface and/or subsurface natural resources which may be extracted from the land. This includes exploratory drilling or mining but excludes individual water well drilling.

**FAÇADE** – See “Building Façade”.

**FAMILY** - An individual, or two or more persons related by blood, marriage or law, or a group of not more than any five persons living together in a dwelling unit. Servants having common housekeeping facilities with a family consisting of an individual, or two or persons related by blood, marriage, or law, are a part of the family for this code. (Source: North Carolina State Building Code, Vol. 1, § 201.2 and Vol. VII, § 202).



**FAMILY CARE HOME** - An adult care home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for not more than six resident handicapped persons. (Source: NCGS § 160D-907)

**FARM, BONAFIDE** - A farm whose purposes include the production of, and activities relating or incidental to the production of, crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry and all other forms of agricultural products having a domestic or foreign market.

**FARM BUILDINGS** - Structures, other than residences and structures appurtenant thereto, for on-farm use (barns, sheds, poultry houses, etc.). (Source: North Carolina State Building Code, Vol. 1, § 201.3)

**FARM OPERATION** - Any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support. (Source: NCGS § 133-7)

**FARM RELATED BUSINESS** - A business and/or commercial use operated primarily for the support of agricultural needs. It may consist of products, materials, and equipment servicing and sales; storage and/or processing of agricultural products and/or animals; medical and/or technical support services.

**FARMERS MARKET** - A structure or place where agricultural produce is brought for the purposes of retail sales. (Note: A farmers market differs from a produce stand in that there may be more than one (1) seller per parcel of land and the structure from which produce is sold at a farmers market need not be portable or capable of being dismantled or removed from the site.)

**FEED LOT** - A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and either specifically designed as a confinement area in which animal waste may accumulate or where the concentration of animals is such that an established vegetative cover cannot be maintained. A building or lot is not a feedlot unless animals are confined for 45 or more days, which may or may not be consecutive, in a 12-month period. Pastures shall not be considered feedlots for purposes of this Ordinance. (Source: NCGS § 143-215.10B)

**FENCE** - A barrier of man-made construction, regardless of the material used, including walls but not retaining walls. ("material" does not include vegetation.)

**FENCE, LIVING** - A hedge of vegetation used as a screening device or a fence with vegetation growing to it or on it which at the time of maturity would prevent an "open" effect and would block the normal line of sight.

**FENCE, OPEN** - A fence constructed of material which does not interrupt the line of sight, such as split rail, pipe or chain-link fencing and shall not include a living fence.

**FILL** - Deposit of soil, rock, or other material which creates an obstruction or increases surface elevation.

**FINAL PLAT** - A survey map of record which indicates the boundaries for streets, blocks, lots, and other property divisions which is prepared pursuant to Article 6 of this Ordinance.

**FINAL SITE PLAN OR FINAL PLAN** - The map of a proposed development to be filed after approval by the decision-making authority and any accompanying material as described in this Ordinance.

**FINANCIAL INSTITUTION** - Any trust company, savings bank, industrial bank, savings and loan association, building and loan association, commercial bank, credit union, federal association, investment company, or other business association, which is chartered under federal or State law, solicits, receives or accepts money or its equivalent on deposit and loans money as a regular business. (Source: NCGS § 116B-10)

**FIRE FLOW SURVEY** - A testing of fire hydrants to determine capacity by volume and pressure for firefighting purposes.

**FIRE PROTECTION FACILITIES** - Fire stations and major pieces of firefighting apparatus, including, but not limited to pumpers, quick response vehicles, hook and ladder trucks, and similar equipment, owned and operated by the City of Kannapolis Fire Department or other duly authorized volunteer fire districts.

**FLAG** - Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity. Flags are regulated in accordance with the standards of Article 12 "Sign Regulations".

**FLAG LOT** - See "Lot, Flag."

**FLEA MARKETS** - A flea market, swap shop, or similar activity by whatever name, where the use involves the setting up of two or more booths, tables, platforms, racks, or similar display areas for the purpose of selling, buying, or trading merchandise, goods, materials, products, or other items offered for sale outside an enclosed building. Flea markets shall not include any of the following activities which occur at the same location four or fewer days in any calendar year: garage sales, produce stands, or fund-raising activities done by a non-profit organization.

**FLOOD or FLOODING** - A general and temporary condition of partial or complete inundation of normally dry land area from:

- a. The overflow of inland or tidal waters; and/or
- b. The unusual and rapid accumulation of runoff of surface waters from any source

**FLOOD BOUNDARY AND FLOODWAY MAP (FBFM)** – An official map of a community, issued by the Federal Emergency Management Agency, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

**FLOOD HAZARD BOUNDARY MAP (FHBM)** – An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

**FLOOD INSURANCE** – The insurance coverage provided under the National Flood Insurance Program.

**FLOOD INSURANCE RATE MAP (FIRM)** – An official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. (see also DFIRM)

**FLOOD INSURANCE STUDY (FIS)** – The examination, evaluation, and determination of flood hazards, corresponding water surface elevations (where appropriate), flood hazard risk zones, and other flood data in a community issued by FEMA. The FIS Report includes Flood Insurance Rate Maps (FIRMS) and Flood Boundary and Floodway Maps, if published.

**FLOOD PRONE AREA** – see FLOODPLAIN

**FLOODPLAIN** – Any land area susceptible to being inundated by water from any source.

**FLOODPLAIN ADMINISTRATOR** – The individual appointed to administer and enforce the floodplain management regulations.

**FLOODPLAIN DEVELOPMENT PERMIT** – Any type of permit that is required in conformance with the provisions of Section 4.14, prior to the commencement of any development activity.

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

**FLOODPLAIN MANAGEMENT REGULATIONS** – Section 4.14, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applicable applications of police power. This term describes Federal, State, or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

**FLOODPLAIN VIOLATION** – The failure of a structure or other development to be fully compliant with the Community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance is presumed to be in violation until such time as that documentation is provided.

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

**FLOOD-RESISTANT MATERIAL** – Any building product [material, component, or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbars are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood resistant. Please refer to Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*, and available from the FEMA, Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

**FLOODWAY** – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

**FLOODWAY ENCROACHMENT ANALYSIS** – An engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

**FLOOD ZONE** – A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

**FLOOR AREA** -The sum of the gross horizontal areas of the several stories of the building measured from the exterior faces of the exterior walls or from the center line of party walls. It shall exclude any basement floor, interior balconies and mezzanines, elevator shafts and stair wells and enclosed porches. The floor area of accessory uses and of accessory buildings on the same lot shall be included.

**FLOOR AREA RATIO (FAR)** - The ratio of the gross floor area of all structures on a parcel to the gross area of the parcel on which such structures are located.

**FORESTLAND** - Land that is a part of a forest unit that is actively engaged in the commercial growing of trees under a sound management program. Forestland includes wasteland that is a part of the forest unit, but the wasteland included in the unit shall be appraised under the use-value schedules as wasteland. A forest unit may consist of more than one tract of forestland, but at least one of the tracts must meet the requirements in NCGS 105-277.3(a)(3), and each tract must be under a sound management program.

**FREEBOARD** – The height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The Base Flood Elevation plus the freeboard established the REGULATORY FLOOD PROTECTION ELEVATION.

**FRONT** - Any public street frontage, not including alleys.

**FRONTAGE** - The frontage of a parcel of land is that distance where a property line is common with a road right-of-way line.

**FRONTAGE, DOUBLE** - A lot which extends from one street frontage to another street.

**FRONTAGE, FULL** - Frontage which meets the requirements of § 4.7 of this Ordinance.

**FRONTAGE ROAD** - A way, road or street which is auxiliary to and located on the side of another highway, road or street for service to abutting property and adjacent areas and for the control of access to such other highway, road or street. (Source: NCGS § 136-89.49)

**FRONT SETBACK** - The minimum horizontal distance between any Building or Structure and the Front Lot Line.

**FULLY SHIELDED** - "Fully shielded" means that fixtures are shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted, as certified by photometric test report.

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

**FUNERAL HOME** - An establishment with facilities for the preparation of the dead for burial or cremation, for the viewing of the body, and for funerals.

**GARAGE, PRIVATE** - An accessory building or portion of a principal building designed or used for the parking or temporary storage of motor vehicles of occupants in the building to which such garage is accessory, but not including the parking or temporary storage of delivery or truck motor vehicles having a capacity in excess of one (1) ton.

**GAS STATION** - Buildings and/or surfaced area where motor vehicles may be refueled and/or serviced.

**GRADE** - A reference plane representing the average of finished ground level adjoining the building at all exterior walls. When the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or between the building and a point 6 feet (1829 millimeters) from the building, whichever is closer to the building. (Source: North Carolina State Building Code, Vol. 1, § 201.2 and Vol. VII, § 202). The term "grade" also includes a reference plan representing the average of finished ground level adjoining the building at all exterior walls. When the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or between the building and a point 6 ft. (1829 mm) from the building, whichever is closer to the building. (Source: North Carolina State Building Code, Vol. 1, § 201.3)

**GRADE, FINISHED** - The level of the soil after completion of site development.

**GRADE, NATURAL** - The undisturbed ground level which may be determined by on-site evidence (vegetation, ground level on adjacent land, elevation of adjacent streets and roads, soil types and locations, etc.)

**GREENBELT** - Greenbelts run along the perimeter of a subdivision, Planned Unit Development, or TND, and serve to (1) buffer a neighborhood from surrounding incompatible uses such as a highway corridor or industrial district, and/or (2) provide an edge for the neighborhood. Greenbelts differ from the other types of open spaces in that the natural vegetation and wildlife is undisturbed, or the area is actively cultivated for crops or the raising of Livestock (excluding Concentrated Animal Feeding Operations).

**GREENFIELD DEVELOPMENT** - Development on undeveloped parcels undeveloped parcels not surrounded by existing development, or on large parcels surrounding partially developed areas or undeveloped areas.

**GREENHOUSE** - An enclosed detached accessory structure consisting primarily of light-transmitting materials and used exclusively for growing plants. (Source: North Carolina State Building Code, Vol. VII, § 202).

**GREENWAY** - A linear area maintained as open space in order to conserve natural and/or cultural resources, and to provide recreational opportunities, aesthetic and design benefits, and linkages between open space and recreational facilities and between these facilities and their users.

**GROSS AREA OR GROSS ACREAGE** - The area of a lot or parcel, including all proposed or dedicated streets, alleys, private accessways, roadway and/or alley easements. Such boundaries shall extend to the center line of an existing abutting street or alley right-of-way. In the case of an existing partial dedication or easement, the gross area shall not extend beyond what would be the centerline of the full dedication.

**GROSS LEASABLE AREA (GLA)** - The total building area, expressed in square feet and designed for tenant occupancy and exclusive use, including any basements, mezzanines, or upper floors, as measured from exterior walls or the centerline of walls separating two abutting buildings, but excluding any space where floor-to-ceiling height is less than six feet and six inches (6'6").

**GROUND SUBSIDENCE** - A process characterized by the downward displacement of surface material caused by phenomena such as removal of underground fluids, natural consolidation, or dissolution of underground minerals or by manmade phenomena such as underground mining.

**GROUND WATER** - Subsurface water within and below the zone of continuous saturation.

**GROUP HOME** - An adult care home which has two to nine developmentally disabled adult residents. Includes any "Group home for developmentally disabled adults" as defined by NCGS § 131D-2 or NCGS § 131D-20. See § 5.17 of this Ordinance.

**GROUP RESIDENTIAL DEVELOPMENT** - A development where more than one principal residential building is permitted on a lot or any development where there are three (3) or more dwelling units in a building. A "Group Residential Development includes any (1) Apartment House/Multiple Dwelling, Quadruplex, Triplex, or Townhouse; and any Attached Dwelling (Duplex). or (2) any Mixed-Use Dwelling.

**GUEST** - Any transient person who rents or occupies a room for sleeping purposes.

**GUTTER** - A shallow channel, usually set along a curb or the pavement edge of a road or the edge of a building roof, for purposes of catching and carrying off water.

**HABITABLE ROOM** - Any room meeting the requirements of the North Carolina One and Two Family Dwelling Code for sleeping, living, cooking or dining purposes, excluding such enclosed places as closets, pantries, bath or toilet rooms, hallways, laundries, storage spaces, utility rooms and similar spaces. (Source: North Carolina State Building Code, Vol. VII, § 202).

**HAZARDOUS WASTE MANAGEMENT FACILITY** - A facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste, as defined in NCGS 130A, Article 9.

**HAZARD PRONE AREA** - An area which has not yet been designated by the State or federal government as a geological hazard area but where historical evidence, climatological data, surface or subsurface geological, topographical, vegetative, or other on-site naturally-occurring factors indicate a relatively greater risk of property damage than exists on other parcels in the County.

**HEALTH CARE PROVIDER** - Without limitation any person who pursuant to the provisions of NCGS Chapter 90 is licensed, or is otherwise registered or certified to engage in the practice of or otherwise performs duties associated with any of the following: medicine, surgery, dentistry, pharmacy, optometry, midwifery, osteopathy, podiatry, chiropractic, radiology, nursing, physiotherapy, pathology, anesthesiology, anesthesia, laboratory analysis, rendering assistance to a physician, dental hygiene, psychiatry, psychology; or a hospital or a nursing home; or any other person who is legally responsible for the negligence of such person, hospital or nursing home; or any other person acting at the direction or under the supervision of any of the foregoing persons, hospital, or nursing home. (Source: NCGS § 90-21.11)

**HEALTH SERVICE FACILITY** - A hospital; psychiatric facility; rehabilitation facility; long term care facility; kidney disease treatment center, including freestanding hemodialysis units; intermediate care facility for the mentally retarded; home health agency office; chemical dependency treatment facility; diagnostic center; oncology treatment center; hospice, hospice inpatient facility, hospice residential care facility; and ambulatory surgical facility. (Source: NCGS § 131E-176)

**HEALTH CLUB** - An establishment that provides facilities for exercise activities, such as running, jogging, aerobics, weightlifting, court sports and swimming, as well as locker rooms, showers, massage rooms, saunas and related accessory uses.

**HEAVY EQUIPMENT** - Large equipment including, but not limited to: trucks with greater than a one and one-half ton rating, cranes, crawler-type tractors, earth movers, dump trucks and other equipment of equal or greater size and weight.

**HEIGHT** -The vertical distance from the grade to the highest point of any portion of a structure, measured as set forth in § 4.7.5. of this Ordinance.

**HEIGHT, BUILDING** - The vertical distance from grade to the highest finished roof surface in the case of flat roofs or to a point at the average height of the highest roof having a pitch. Height of a building in stories includes basements, except as specifically provided for in § 503.2.4 of the North Carolina State Building Code. (Source: North Carolina State Building Code, Vol. 1, § 202)

**HEIGHT, STORY** - The vertical distance from top to top of two successive finished floor surfaces. (Source: North Carolina State Building Code, Vol. 1, § 202)

**HEIGHT, WALL** - The vertical distance to the top measured from the foundation wall, or from a girder or other intermediate support of such wall. (Source: North Carolina State Building Code, Vol. 1, § 202)

**HELIPAD** - A facility without the logistical support provided by a heliport (see Heliport definition) where helicopters take off and land. Helipads do not include facilities for maintenance, repair, fueling or storage of helicopters.

**HELIPORT**- An area providing for the take-off and landing of helicopters and fuel facilities (whether fixed or mobile) or appurtenant areas for parking, maintenance, and repair of helicopters.

**HIGHEST ADJACENT GRADE (HAG)** - The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of a structure.

HIGH QUALITY WATERS - See Sedimentation Control Standards.

HIGH QUALITY WATER ZONES - See Sedimentation Control Standards.

HIGH SCHOOL - A school which embraces a high school department above the elementary grades, and which offers at least the minimum high school course of study prescribed by the State Board of Education. (Source: NCGS § 115C-75)

HIGHWAY - A general term denoting a public way for purposes of vehicular travel including the entire area within the right-of-way.

HILLSIDE DISTURBANCE - Any and all areas of the building site disturbed during construction by grading or excavation and temporary or permanent construction for all buildings, parking areas, driveways, roads, sidewalks, and other areas of concrete, asphalt, or other construction materials.

HILL CREST - The highest point on a hill or slope as measured contiguously throughout the property. Any given property may have more than one hill crest.

HISTORIC STRUCTURE – Any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or district preliminarily determined by the Secretary to qualify as registered historic district;
- c. Individually listed on a local inventory of historic landmarks in communities with a Certified Local Government (CLG) Program; or
- d. Certified as contributing to the historical significance of a historic district designated by a community with a Certified Local Government (CLG) Program.

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Office as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

HOME OCCUPATION - Any occupation or profession or business activity customarily conducted entirely within a dwelling unit and carried on by a member of the family residing therein, and which occupation or profession is clearly incidental and subordinate to the use of the dwelling unit for dwelling purposes and does not change the character thereof, and contains no mechanical equipment except for that which is customarily used for domestic, hobby, or household purposes. A home occupation is an accessory use to a dwelling unit. See § 5.12 of this Ordinance.

HOME OWNERS ASSOCIATION - An association or organization, whether or not incorporated, which operates under and pursuant to recorded covenants for maintenance and ownership agreements through which each owner of a portion of a subdivision, be it a lot, property or any other interest, is automatically a member as a condition of ownership, and each such member is subject to charge or assessment for a pro-rated share of expenses of the association which may become a lien against the lot, property or other interest of the member.

HORSE - Any animal of the genus equus.

HORTICULTURAL LAND - Land that is a part of a horticultural unit that is actively engaged in the commercial production or growing of fruits or vegetables or nursery or floral products under a sound management program. Horticultural land includes woodland and wasteland that is a part of the horticultural unit, but the woodland and wasteland included in the unit shall be appraised under the use-value schedules as woodland or wasteland. A

horticultural unit may consist of more than one tract of horticultural land, but at least one of the tracts must meet the requirements in G.S. 105-277.3(a)(2), and each tract must be under a sound management program. (Source: NCGS § 105-277.2).

**HOSPICE** - Any coordinated program of home care with provision for inpatient care for terminally ill patients and their families. This care is provided by a medically directed interdisciplinary team, directly or through an agreement under the direction of an identifiable hospice administration. A hospice program of care provides palliative and supportive medical and other health services to meet the physical, psychological, social, spiritual, and special needs of patients and their families, which are experienced during the final stages of terminal illness and during dying and bereavement. (Source: NCGS § 131E-176, 131E-201)

**HOSPICE INPATIENT FACILITY** - A freestanding licensed hospice facility or a designated inpatient unit in an existing health service facility which provides palliative and supportive medical and other health services to meet the physical, psychological, social, spiritual, and special needs of terminally ill patients and their families in an inpatient setting. For purposes of this Article only, a hospital which has a contractual agreement with a licensed hospice to provide inpatient services to a hospice patient as defined in G.S. 131E-201(4) and provides those services in a licensed acute care bed is not a hospice inpatient facility and is not subject to the requirements in G.S. 131E-176(5)(ii) for hospice inpatient beds. (Source: NCGS § 131E-176, 131E-201)

**HOSPICE RESIDENTIAL CARE FACILITY** - A freestanding licensed hospice facility which provides palliative and supportive medical and other health services to meet the physical, psychological, social, spiritual, and special needs of terminally ill patients and their families in a group residential setting. (Source: NCGS § 131E-176)

**HOSPITAL** - A hospital licensed, accredited, or approved under the laws of any state and a hospital operated by the United States government, a state, or its subdivision, although not required to be licensed under state laws. (Source: NCGS § 130A-403) The term "hospital" also includes a public or private institution which is primarily engaged in providing to inpatients, by or under supervision of physicians, diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons. The term also includes all facilities licensed pursuant to G.S.131E-77 of the General Statutes. (Source: NCGS § 131E-176)

**HOTEL** - Any building containing six or more guest rooms intended or designed to be used, or which are used, rented, or hired out to be occupied or which are occupied for sleeping purposes by guests. (Source: North Carolina State Building Code, Vol. 1, § 201.3)

**HOUSEHOLD PETS** - Those animals which are commonly kept as pets: dogs, cats, fish, small birds (e.g. parakeets, parrots), rodents (e.g. mice, rats), and reptiles (non-poisonous snakes, lizards).

**HUD CODE** - The National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. §§ 5401 et seq., as amended) and the regulations promulgated by the United States Department of Housing and Urban Development thereto (24 C.F.R. part 3282), commonly known as the "HUD Code".

**HYDROLOGY** - The science of dealing with the properties, distribution, and circulation of water.

**HYDROPERIOD** - The period during which a soil area is saturated.

**IMPACT AREA** - See Adequate Public Facilities of this Ordinance.

**IMPERVIOUS SURFACE** - Includes all buildings or structures measured at their greatest extent and so as to include areas overhung by eaves, balconies, and other projecting features of the structure; also all paved or otherwise hard-surfaced areas such as buildings, pavement, gravel areas (e.g. roads, parking lots, paths), recreation facilities (e.g. tennis courts), and similar hard-surfaced areas. Wooden slatted decks and the water area of a swimming pool are considered pervious. Source: 15A NCAC 2B.0202(13) (defining "built-upon area").



**IMPROVED OPEN SPACE** - Landscaped areas, turf areas, parks, golf course and recreation areas constructed on the parcel, but shall not include associated buildings.

**IMPROVEMENTS** - Right-of-way pavements, curbs, gutters, sidewalks, paths, bikeways, sedimentation control facilities, re-vegetation, water mains, sanitary and storm sewers, drain ways, gas lines, electrical and telephone lines and appurtenances, street signs, trees and lights, lot pin monuments, range point boxes, and any other similar items required for compliance with the regulations of this Ordinance or the conditions of approval.

**INDUSTRIAL OR COMMERCIAL TREATMENT PLANT SEPTAGE** - Solid, semisolid, or liquid residue generated during the treatment of sewage that contains any waste resulting from any process of industry, manufacture, trade, or business in a treatment works where the designed disposal is subsurface. Industrial or commercial treatment plant septage includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes and a material derived from domestic treatment plant septage. Industrial or commercial treatment plant septage does not include ash generated during the firing of industrial or commercial treatment plant septage in an incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works. (Source: NCGS § 130A-290)

**INDUSTRIAL PARK** - A special or exclusive type of planned industrial area designed and equipped to accommodate a community of industries, providing them with all necessary facilities and services in attractive surroundings among compatible uses.

**INDUSTRIAL PROCESS WASTEWATER** - Any water-carried waste resulting from any process of industry, manufacture, trade, or business. (Source: NCGS § 130A-334)

**INDUSTRIAL USES** - Storage, processing, and shipping of agricultural or timber products; minerals extraction and production, storage, processing, shipping, or conversion to energy; fabrication, assembly, servicing, manufacture, storage, or warehousing of other products

**INDUSTRIAL WASTE** - Any liquid, solid, gaseous, or other waste substance or a combination thereof resulting from any process of industry, manufacture, trade, or business, or from the development of any natural resource. (Source: NCGS § 143-213)

**INFILL** - The development of new housing or other buildings on scattered vacant sites surrounded by developed areas.

**INFILTRATION SYSTEMS** - As defined in 15A NCAC 2H.1002, which is hereby incorporated by this reference.

**IN KIND** - For mitigation purposes, "in kind" means the restoration, replacement, or creation of a wetland or river stream system which provides functions, attributes, and characteristics closely approximating those of a specific wetland or river stream system that would be adversely affected by the proposed activities.

**INTEGRAL UNITS** - Items, equipment, or machinery which are assembled or constructed to function as a single unit, such as, but not limited to, large cranes, drilling rigs or other large vehicles, large diameter pipes or culverts, large scale motors or transformers, and the like.

**INTENSITY** - The number of square feet of development per acre by land use type with respect to non-residential land uses.

**INTERIOR LOT** - See "Lot, Interior."

**INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED** Facilities licensed pursuant to Article 2 of Chapter 122C of the North Carolina General Statutes for the purpose of providing health and habilitative services based on the developmental model and principles of normalization for persons with mental retardation, autism, cerebral palsy, epilepsy or related conditions. (Source: NCGS § 131E-176)

**JUNIOR HIGH SCHOOL** - A school which embraces not more than the first year of high school with not more than the upper two elementary grades. (Source: NCGS § 115C-75)

**JUNK** - Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material. (Source: Junkyard Control Act, NCGS § 136-143).

**JUNKYARD** - An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills. An establishment or place of business which stores or keeps for a period of 15 days or more materials within the meaning of "junk" as defined by subdivision (3) of NCGS § 136-143 which had been derived or created as a result of industrial activity shall be deemed to be a junkyard within the meaning of this definition. The term "Junkyard" includes any "Automobile Graveyard." An "Automobile Graveyard" is any establishment or place of business which is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts. Any establishment or place of business upon which six or more unlicensed, used motor vehicles which cannot be operated under their own power are kept or stored for a period of 15 days or more shall be deemed to be an "automobile graveyard" within the meaning of this definition. (Source: Junkyard Control Act, NCGS § 136-143). See § 5.13 of this Ordinance.

**LAGOON** - A confined body of water to hold animal byproducts including bodily waste from animals or a mixture of waste with feed, bedding, litter, or other agricultural materials. (Source: NCGS § 106-802, Swine Farm Siting Act)

**LAND CLEARING & INERT DEBRIS LANDFILL** - A facility for the land disposal of land clearing waste, concrete, brick, concrete block, uncontaminated soil, gravel and rock, untreated and unpainted wood, and yard trash. For purposes of this definition, "land clearing waste" means solid waste which is generated solely from land clearing activities such as stumps, trees, limbs, brush, grass, and other naturally occurring vegetative material. (Source: 15A NCAC § 13B.0101)

**LAND DISTURBING ACTIVITY** - Any use of the land by any person in residential, industrial, educational, institutional or commercial development, highways and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. (Source: NCGS § 113A-52)

**LANDFILL** - A disposal facility or part of a disposal facility where waste is placed in or on land and which is not a land treatment facility, a surface impoundment, an injection well, a hazardous waste long-term storage facility or a surface storage facility. (Source: NCGS § 130A-290)

**LANDFILL, DEMOLITION** - A landfill that is limited to receiving stumps, limbs, leaves, concrete, brick, wood, uncontaminated earth, or other solid wastes approved by the Director of the North Carolina Division of Solid Waste Management or the Director's authorized representative. (Source: 15A NCAC § 13B.0101).

**LANDLOCKED PARCEL** - A parcel of land without access of record with the County Register of Deeds.

**LANDOWNER** - The holder of the title in fee simple. Absent evidence to the contrary, the City may rely on the county tax records to determine who is a landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as the landowner's agent or representative for the purpose of making applications for development approvals, including a site-specific vesting plans, in the manner allowed by ordinance.

**LANDSCAPE** - An area set aside from structures and parking which is developed with natural materials (i.e. lawns, trees, shrubs, vines, hedges, bedding plants, rock) and decorative features, including paving materials, walls, fences, and street furniture.

**LANDSCAPE ARCHITECT** - A person who holds a current certificate entitling him or her to practice "landscape architecture" and to use the title "landscape architect" in North Carolina under the authority of NCGS, chapter 89A. (Source: NCGS § 89A-1).

**LANDSCAPE CONTRACTOR** - Within the meaning of this Chapter any person, partnership, association, or corporation which holds a certificate issued by the North Carolina Landscape Contractors' Registration Board. (Source: NCGS § 89D-1).

**LATERAL SEWER** - A sewer which discharges into a trunk line and has only collection lines tributary to it. A line from a structure or use which discharges into a collection line is not a lateral.

**LETTER OF CHANGE MAP (LOMC)** – An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (a) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the FBE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
- (d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

**LDSM** – Land Development Standards Manual, published by the Public Works Department.

**LIBRARY OR MUSEUM**- A room or building for exhibiting, or an institution in charge of, a collection of books; artistic, historical, or scientific objects.

**LICENSED GEOLOGIST**- A person who is licensed as a geologist under the provisions of the North Carolina Geologists Licensing Act, NCGS, Chapter 89E.

**LICENSED SOIL SCIENTIST** - A person who is licensed as a soil scientist under the North Carolina Soil Scientist Licensing Act, NCGS, Chapter 89F.

**LIGHT DUTY TRUCK** – Any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

- (a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle; or
- (b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (c) Available with special features enabling off-street or off-highway operation and use.

**LIQUOR STORE** - A store which sells or offers to sell alcoholic beverages, as defined in NCGS § 18B-101.

**LIVESTOCK** - "Livestock" shall include, but shall not be limited to, equine animals, bovine animals, sheep, goats, llamas, and swine. (Source: Livestock Law, NCGS § 68-15)

**LIVESTOCK DEALER** - Any person who buys livestock (i) for his own account for purposes of resale, or (ii) for the account of others. (Source: NCGS § 106-418.8)

**LOADING AND UNLOADING SPACES** - A permanently maintained space on the same lot as the principal building accessible to a street or alley and not less than ten (10) feet in width, twenty (20) feet in length, and fourteen (14) feet in height.

**LOADING SPACE** - An off-street portion of a parcel for the temporary parking of commercial vehicles while loading or unloading materials for use or sale on the parcel. This space shall open onto a street or alley, and any use of the space shall not obstruct pedestrian or vehicular traffic upon the street or alley.

**LOCAL ROAD OR LOCAL STREET** - Provides direct access to adjacent land and access to higher street classifications. All streets or roads not otherwise classified are local.

**LOT** - A parcel of land described by metes and bounds and held or intended to be held in separate lease or ownership, or shown as a lot or parcel on a recorded subdivision, or shown on a plat used in the lease or sale or offer of lease or sale of land resulting from the division of a larger lot, parcel, or tract into two (2) or more smaller lots or units. A "lot" includes any piece or parcel of land or a portion of a subdivision, the boundaries of which have been established by some legal instrument of record, that is recognized and intended as a unit for the purpose of transfer of ownership.

**LOT AREA** -The area of a horizontal plane within the lot lines of a lot.

**LOT, CORNER** - A lot having frontage on two (2) intersecting streets, or upon two sides of the same street, the adjacent sides of which street or streets contain an angle of not more than one hundred and thirty-five degrees (135). In the case of a curved corner, the corner of the lot shall be that point on the Lot Line adjoining the street or Right-of-Way nearest to the point of intersection of the said tangents.

**LOT COVERAGE** - The percentage of the area of a lot which is occupied by all buildings or other covered structures using the roof outline for all outer dimensions.

**LOT DEPTH (LENGTH)** - The length (or depth) of a lot shall be:

1. If the front and rear lines are parallel, the shortest distance between such lines.
2. If the front and rear lines are not parallel, the shortest distance between the midpoint of the front lot line and the midpoint of the rear lot line.
3. If the lot is triangular, the shortest distance between the front lot line and a line parallel to the front lot line, not less than ten feet long, lying wholly within the lot.

**LOT, DOUBLE FRONTAGE (THROUGH LOT)** - An interior lot having frontage on two (2) non-intersecting streets.

**LOT, FLAG** - A lot having no frontage or access to a street or place except by a narrow strip of land.

**LOT FRONTAGE** - The distance for which a lot abuts on a street.

**LOT, INTERIOR** - A lot other than a corner lot or a through lot.

**LOT, KEY** - A lot adjacent to a corner lot having its side lot line in common with the rear lot line of the corner lot and fronting on the street which forms the side boundary of the corner lot.

**LOT LINE** - Any boundary or boundary line which provides the legally defined limits of a lot, parcel tract, or plot.

**LOT LINE, FRONT** - In the case of an interior lot, a line separating the lot from the street right-of-way. In the case of a corner lot, the narrower of the two lot lines adjoining a street right-of-way. If said lot lines for a corner lot are of the same length, then both lot lines shall be considered a Front Lot Line for purposes of this Ordinance.

**LOT LINE, REAR** - A lot line which is opposite and most distant from, the front lot line; except that in the absence of a rear lot line as is the case of the triangular shaped lot, the rear lot line may be considered as a line within the lot, parallel to and at a maximum distance from the front lot line, having a length of not less than ten (10) feet.

**LOT LINE, SIDE** - The boundary of a lot which is not a front lot line or a rear lot line.

**LOT THROUGH** - A lot having a part of opposite lot lines abutting two (2) streets, and which is not a corner lot. (Also known as a "double frontage lot"). On such lot, both lot lines are front, except that where a non-access easement has been established on such a lot, the front lot line shall be considered as that lot line most distant front the lot line containing the non- access easement.

**LOT WIDTH** - For rectangular lots, lots having side lot lines not parallel, and lots on the outside of the curve of a street, the distance between side lot lines measured at the required Minimum front yard line on a line parallel to the street or street chord; and for lots on the inside of the curve of a street, the distance between side lot lines measured 30 feet behind the front property line on a line parallel to the street or street chord.

**LOW INCOME HOUSING** - Housing reserved for occupancy or ownership by persons or households whose annual gross income does not exceed eighty percent (80%) of the area median household gross income for households of the same size in the Charlotte metropolitan statistical area, as defined by the U.S. Department of Housing and Urban Development in 24 C.F.R., Part 813.

**LOWEST ADJACENT GRADE (LAG)** – The elevation of the ground, sidewalk, or patio slab immediately next to the building, deck support, after completion of the building.

**LOWEST FLOOR** - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage, in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.

**MAINTENANCE** - The replacing or repairing of a minor part or parts of a building or structure which have degraded by ordinary wear or tear or by the weather.

**MAJOR SITE PLAN** - See § 3.6 of this Ordinance.

**MAJOR SUBDIVISION** - All land subdivisions that are not exempted by state statute or previously described under the minor subdivision procedures shall be processed as a major subdivision.

**MAJOR THOROUGHFARE** - A Major Thoroughfare as designated on the Cabarrus-South Rowan MPO Thoroughfare Plan.

**MANUFACTURED HOME** - A structure, used or intended to be used as a Dwelling Unit, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. §5401, et seq. (Source: The Uniform Standards Code for Manufactured Homes Act," NCGS § 143-145). For manufactured homes built before June 15, 1976, "manufactured home" means a portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width. "Manufactured home" also means a double-wide manufactured home, which is two or

more portable manufactured housing units designed for transportation on their own chassis that connect on site for placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width.

MANUFACTURED HOME, SINGLE SECTION – See MANUFACTURED HOME, TYPE I.

MANUFACTURED HOME, MULT-SECTION - A manufactured home assembled in two (2) or more sections. Also, see MANUFACTURED HOME, TYPE II.

MANUFACTURED HOME, TYPE I - See "MANUFACTURED HOME, SINGLE SECTION." A manufactured home assembled in one section not exceeding seventeen (17) feet in width.

MANUFACTURED HOME, TYPE II - A multi-section manufactured home greater than or equal to seventeen (17) feet in width. Width for MANUFACTURED HOMES - TYPE II shall be determined by mean width when all sections are in a final assembly arrangement.

MANUFACTURED HOME PARK - Any area, lot, parcel, or tract held in common ownership, and on which individual portions of said area, lot, parcel, or tract are leased for the placement of manufactured homes as a primary residence. A manufactured home land lease community does not include manufactured home subdivisions or property zoned for manufactured home subdivisions.

MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION, EXISTING – A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the initial effective date of the floodplain management regulations adopted by the community.

MANUFACTURED HOME SPACE - The portion of land area allotted and/or designated to be allotted to any one manufactured home. The term "manufactured home space" shall include the term "mobile home space."

MANUFACTURED HOME SUBDIVISION - A parcel or contiguous parcels of land subdivided into two (2) or more lots configured for development of manufactured housing.

MANUFACTURED HOUSING - See Manufactured Home.

MANUFACTURING, HEAVY - An establishment and/or activity primarily engaged in manufacturing, production and/or assembly which involves specialized processes on the premises.

MANUFACTURING, LIGHT - An establishment and/or activity primarily engaged in manufacturing, production and/or assembly which does not involve, on the premises, the use of heat, noise and/or odor generating/producing processes, which are detectable off-site.

MARKET VALUE – The building value, no including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of the building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

MARQUEE - Any 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.

MARQUEE SIGN - Any sign attached to, in any manner, or made a part of a marquee.

MASSAGE - The manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping, by hand or mechanical device. (Source: NCGS § 14-202.10)

MASSAGE BUSINESS - Any establishment or business wherein massage is practiced, including establishments

commonly known as health clubs, physical culture studios, massage studios, or massage parlors. (Source: NCGS § 14-202.10)

**MATERIAL** - Relative to sexually oriented businesses, "material" shall mean and include, but not be limited to, accessories, books, magazines, photographs, prints, drawings, paintings, motion pictures, pamphlets, videos, slides, tapes, or electronically generated images or devices including computer software, or any combination thereof.

**MATERIALS RECOVERY FACILITY** - Any site used for the separation of recyclable materials from nonhazardous waste streams, or where commingled recyclable materials are sorted into distinct categories. For purposes of this definition, the phrase "recyclable materials" shall be defined as set forth in NCGS § 130A-290, which is incorporated herein by this reference.

**MEDICAL CLINIC** - An office occupied and used for a Health Care Provider or Chiropractor.

**MEDICAL WASTE** – Any solid waste which is generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biological matter, but does not include any hazardous waste identified or listed pursuant to the most current North Carolina General Statutes, radioactive waste, household waste as defined in Federal Regulations or those substances excluded from the definition of “Solid Waste” in the latest General Statutes. In the event that the definition of “Medical Waste” as defined therein is amended to include additional wastes within the definition of “Medical Waste”, this definition shall be automatically amended to include said additional wastes.

**MEDICAL WASTE (DISPOSAL) FACILITY** – Is a building, structure or use of land devoted, or intended to be devoted, or intended to be devoted, to the storage, treatment or disposal of medical waste and that contains process equipment for the treatment of medical waste.

**MENTAL HEALTH FACILITY** - Any individual, association, group or other entity at one location whose primary purpose is to provide services for the care, treatment, habilitation, or rehabilitation of the mentally ill, the developmentally disabled, or substance abusers, and includes any "area facility," "licensable facility," "private facility," "residential facility," "State facility," "24-hour facility," Veterans Administration facility as defined in NCGS § 122C-3. (Source: NCGS § 122C-3).

**MEZZANINE** - One or more intermediate levels between the floor and ceiling of a story, meeting the requirements of § 503.2.3 of the North Carolina State Building Code. (Source: North Carolina State Building Code, Vol. 1, § 201.3)

**MICRO-BREWERY** – An establishment where beer and malt beverages are manufactured on premise and then sold, to consumers at the brewery, to wholesalers, to retailers, and to exporters in accordance with state statutes. (Source: Authorization of Brewery Permit, NCGS § 18B-1104). See § 5.37 of this Ordinance.

**MINE** - An area of land and all private ways and roads appurtenant thereto, structures, facilities, machinery, tools, equipment, shafts, slopes, tunnels, excavations, and other property, real or personal, placed or constructed on, under, or above the surface of such land by any person, used in, or to be used in, or resulting from (including the reclamation of mined areas or the storage of materials in mined areas), or to facilitate the work of exploring for, developing of, or extracting by any means or method in such area all minerals, inorganic and organic, from their natural deposits. The term "mine" also includes all mineral processing and milling facilities except those used in the processing of source materials as defined in the Atomic Energy Act of 1954, as amended. (Source: Mine Safety and Health Act of North Carolina, NCGS § 74-24.2) See § 5.19 of this Ordinance.

**MINI-WAREHOUSE** - Buildings which are composed of contiguous individual rooms which are rented to the public for the storage of personal property and which have independent access and locks under the control of the tenant; but excluding the storage of explosive, corrosive or noxious materials, such as dust, fumes, or noise that could be dangerous, injurious, distasteful, pernicious or obnoxious to man, other organisms or properties; and further

excluding any other use otherwise permitted in the Zoning District in which the Mini Warehouse is located. See § 5.15 of this Ordinance.

**MINING** – Defined as: a.) The breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; or b.) Any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, soils, and other solid matter from their original location. The preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use. "Mining" does not include: (i) Those aspects of deep mining not having significant effect on the surface, where the affected land does not exceed one acre in area; (ii) Mining operations where the affected land does not exceed one acre in area; (iii) Plants engaged in processing minerals produced elsewhere and whose refuse does not affect more than one acre of land; (iv) Excavation or grading when conducted solely in aid of on-site farming or of on-site construction for purposes other than mining; (v) Removal of overburden and mining of limited amounts of any ores or mineral solids when done only for the purpose and to the extent necessary to determine the location, quantity, or quality of any natural deposit, provided that no ores or mineral solids removed during exploratory excavation or mining are sold, processed for sale, or consumed in the regular operation of a business, and provided further that the affected land resulting from any exploratory excavation does not exceed one acre in area. (Source: The Mining Act of 1971, NCGS § 74-49)

**MINOR THOROUGHFARE** - A Minor Thoroughfare as designated on the Cabarrus-South Rowan MPO Thoroughfare Plan.

**MITIGATION** - The minimization of impacts to existing vegetation and wildlife habitat as a result of development in the resource area, and that lost vegetation and wildlife habitat are restored or recreated.

**MIXED USE DWELLING** - See BUILDING, MIXED USE

**MIXED USE DEVELOPMENT OR MIXED-USE PROJECT** - A proposed development that includes primary non-residential and primary residential uses on the same development site.

**MOBILE FOOD VENDING** – A service establishment operated from a licensed and moveable vehicle (with or without an attached trailer), a portable vending cart, or mobile food stand that sells food and/or drink processed or prepared on-site to walk-up customers.

**MOBILE HOME** - A single-family dwelling, factory built and factory-assembled residence which does not comply with the National Manufactured Homes Construction Safety and Standards Act (42 U.S.C. § 5401, 1978, as amended) or the State Building Code.

**MODERATE INCOME HOUSING** - Housing reserved for occupancy or ownership by persons or households whose annual gross income does not exceed one hundred percent (100%) of the area median household gross income for households of the same size in the Charlotte metropolitan statistical area, as defined by the U.S. Department of Housing and Urban Development in 24 C.F.R., Part 813.

**MODULAR HOME** - A dwelling unit constructed in accordance with the standards set forth in the State Building Code applicable to site-built homes and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. A modular home may consist of one or more sections transported to the site in a manner similar to a mobile home or manufactured home, or a series of panels or room sections transported on a truck and erected or joined together on the site.

**MOTEL** - A building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space located on the lot and designed, used, or intended wholly or in part for the accommodation of automobile transients. Motel includes motor courts, motor lodges and tourist courts, but not mobile home parks or travel trailer parks.

**MOTOR HOME** - A vehicular-designed unit built on, or permanently attached to, a self-propelled vehicle chassis, van, or chassis cab, which is an integral part of the complete vehicle, to provide temporary living quarters for



recreational, camping, or travel use.

MOTOR VEHICLE - See VEHICLE, MOTOR

MOTOR VEHICLE REPAIR SHOP - See AUTOMOBILE REPAIR SHOP

MOTORSPORTS COMPLEX - A facility consisting of a racetrack, seating, concession areas, suites, and parking facilities, with accessory offices, residences, and/or retail facilities, and which is utilized primarily for the hosting of automobile racing events.

MULTI-FAMILY DWELLING - A structure arranged, designed, and intended to be the residence of more than one family, with each family having independent cooking and bathing facilities.

MULTI-PHASED DEVELOPMENT - A development containing 25 acres or more that is submitted for development permit approval to occur in more than one phase and that is subject to a master development plan through a PUD or conditional zoning district with committed elements showing the type and intensity of use of each phase. A multi-phased development is vested for a period of seven years from the time a site plan approval is granted for the development's initial phase, in accordance with NCGS § 160D-108(f).

MULTIPLE DWELLING - See APARTMENT HOUSE

MUNICIPALITY - An incorporated city or town.

MUNICIPAL STREET - A street or highway accepted by the City and which is not a State Highway. (Source: 19A NCAC § 20.0404).

MUNICIPAL SOLID WASTE MANAGEMENT FACILITY - Any publicly or privately owned solid waste management facility permitted by the Department that receives municipal solid waste for processing, treatment, or disposal. (Source: NCGS § 130A-290)

NAICS MANUAL - The North American Industry Classification System, 1997 edition (or most current version as amended), published by the Office of Improvement and Budget of the Executive Office of the President, which is hereby incorporated by this reference.

NATIONAL GEODETIC VERTICAL DATUM (NGVD) - A fixed reference adopted as a standard geodetic datum for elevations determined by leveling. Established in 1929. Also referred to as National Geodetic Vertical Datum of 1929 and Sea Level Datum of 1929. The NGVD is usually preferred as the primary datum for engineering design. NGVD is derived from a general adjustment of the first order level nets of both the United States and Canada. It was formerly called "Sea Level Datum of 1929" or "mean sea level". Although the datum was derived from the average sea level over a period of many years at 26 tide stations along the Atlantic, Gulf of Mexico, and Pacific Coasts, it does not necessarily represent local mean sea level at any particular place.

NATURAL EROSION - See Sedimentation Control Standards.

NATURAL HAZARD - A geologic, floodplain, or wildfire hazard as identified by a State or federal agency.

NATURAL RESOURCE - Existing natural elements relating to land, water, air, plant, and animal life, including, but not limited to soils, geology, topography, surface and subsurface waters, wetlands, vegetation, and animal habitats.

NET AREA - The area of a lot or parcel, excluding all dedicated streets or alleys and roadway or alley easements.

NET FLOOR AREA - The square footage of the primary use area of a building including restrooms, hallways and stairwells, but not including normally unoccupied areas such as garages, storage rooms, furnace areas, stairways, elevator shafts, elevator lobbies, rest rooms, mechanical areas, security areas or services areas.

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

**NODE** - An identifiable grouping of uses subsidiary and dependent upon a larger urban grouping of similar or related uses.

**NON-COMMUNITY WATER SYSTEM** - See definition of "Public Water System."

**NON-CONFORMING** - A legal use, structure, and/or development which existed prior to the adoption of this Ordinance or any amendment thereto, which does not presently conform to this Ordinance or its amendments.

**NONCONFORMING BUILDING OR STRUCTURE** - A Building or Structure that was lawfully developed, and legally existed prior to any change in, the applicable zoning district bulk regulations, but does not comply with one or more of the applicable district bulk regulations, either on the Effective Date of this Ordinance or as a result of any amendments to this Ordinance. See § 13.1 of this Ordinance.

**NONCONFORMING SIGN** - Any sign that does not conform to the requirements of this ordinance.

**NON-CONFORMING USE** - A use of land that:

1. legally existed before its current zoning or land use category designation; and
2. has been maintained continuously since the time the applicable regulations governing the land changed; and
3. because of subsequent changes, does not conform to the provisions of this Ordinance now governing such land.

See § 13.1 of this Ordinance.

**NON-CONVERSION AGREEMENT** – A document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is considered a violation of the ordinance and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement must show the clerk’s or recorder’s stamps and/or notations that the filing has been completed.

**NON-ENCROACHMENT AREA** – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

**NON-POINT SOURCE** - Generalized discharge of waste which cannot be located as to a specific source into a water body.

**NON-PROFIT** - Organizations which qualify for exemption from federal income taxes pursuant to Section 501(c)(3) of the Internal Revenue Code, and for which an application for exemption thereto has been approved by the federal Internal Revenue Service.

**NOTICE OF INTENT** - A written notification to the Division of Environmental Management, Department of Natural Resources and Community Development, that an activity or discharge is intended to be covered by a general permit, as more particular defined in 15A NCAC 2H.1002.

**NURSERY** - A place where plants are raised, acquired, and maintained for transplanting or sale. It may also include, either exclusively or in conjunction with the above activities, the sale of materials commonly used for landscaping purposes, such as soil, rock, bark, mulch, and other materials determined by the Director to be landscaping materials. Sale or rental of small landscaping tools and supplies may be an accessory use.

**NURSERY SCHOOL/PRE- SCHOOL/DAY CARE** - See "CHILD CARE."

**NURSING HOME** - A facility, however named, which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care for three or more persons unrelated to the licensee. A

"nursing home" is a home for chronic or convalescent patients, who, on admission, are not as a rule, acutely ill and who do not usually require special facilities such as an operating room, X-ray facilities, laboratory facilities, and obstetrical facilities. A 'nursing home' provides care for persons who have remedial ailments or other ailments, for which medical and nursing care are indicated; who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision. (Source: NCGS § 131E-101) See § 5.17 of this Ordinance.

**OBSTRUCTION** - A dam, wall, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, culvert, building, fence, stockpile, refuse, fill, structure or material, in, along, across, or projecting into any drain way, channel, or watercourse, which might impede, retard or change the direction of the flow of water, either by itself or by catching and collecting debris carried by the water, or which is placed where the 100-year flood may carry the debris downstream.

**OCCUPANCY** - The purpose for which a building, or part thereof, is used or intended to be used. (Source: North Carolina State Building Code, Vol. 1, § 201.3)

**OCCUPANT LOAD** - The calculated minimum number of persons for which the means of egress of a building or portion thereof is designed, based on Table 1003.1 of the North Carolina State Building Code. (Source: North Carolina State Building Code, Vol. 1, § 201.3).

**OCCUPIED RESIDENCE** - A dwelling actually inhabited by a person on a continuous basis as exemplified by a person living in his or her home.

**OCCUPIED SPACE** - The total area of all buildings or structures on any lot or parcel of ground projected on a horizontal plane, excluding permitted projections as allowed by the State Building Code. (Source: North Carolina State Building Code, Vol. VII, § 202).

**OFFICE** - A building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.

**OFF-SITE** - Any premises not located within the area of the property to be subdivided or developed, whether or not in the common ownership of the applicant for subdivision or development approval.

**OFF-SITE STORMWATER SYSTEMS** - Stormwater management systems that are located outside the boundaries of the specific project in question, as more particularly defined in 15A NCAC 2H.1002, which is hereby incorporated by this reference.

**ON-SITE** - With regard to mitigation, "on-site" means restoration or replacement of a wetland or river stream at or very near the site where a wetland or river stream has been or will be degraded by regulated activity.

**ON-SITE STORMWATER SYSTEMS** - The systems necessary to control stormwater within an individual development project and located within the project boundaries. (Source: 15A NCAC 2H.1002).

**OFF-STREET PARKING SPACE** - The space required to park one vehicle, exclusive of access drives, and not on a public right-of-way.

**ONE-HUNDRED-YEAR (100-YEAR) FLOODPLAIN** - The low land near a watercourse which has been, or may be, covered by water of a flood of 100-year frequency, as established by engineering practices of the U.S. Army Corps of Engineers. It shall also mean that a flood of this magnitude may have a one percent change of occurring in any given year.

**OPEN DUMP** - A solid waste disposal site which is not a sanitary landfill. (Source: NCGS § 130A- 290)

**OPEN MINING** - The mining of natural mineral deposits by removing the overburden lying above such deposits and mining directly from the deposits exposed. The term includes, but is not limited to, such practices as open cut mining, open pit mining, strip mining, quarrying, and dredging.

**OPEN SPACE** - Any space or area (i) characterized by great natural scenic beauty or (ii) whose existing openness, natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or surrounding urban development, or would maintain or enhance the conservation of natural or scenic resources. The term "open space land" includes any undeveloped or predominantly undeveloped land in an urban area that has value for one or more of the following purposes: (i) park and recreational purposes, (ii) conservation of land and other natural resources, or (iii) historic or scenic purposes. The term "open space uses" means any use of open space land for (i) park and recreational purposes, (ii) conservation of land and other natural resources, or (iii) historic or scenic purposes. (Source: NCGS § 160D-1307)

**OPEN SPACE STANDARDS** - See Parks and Open Space Standards.

**OPEN SPACE, COMMON** - Open space within or related to a development, not a part of individually owned lots or dedicated for general public use, but designed and intended for the common ownership, use and enjoyment of the residents of the development.

**ORDINANCE** - Unless otherwise specified, refers to this Unified Development Ordinance.

**OTHER ANIMALS** - Those animals not defined elsewhere in this Appendix as household pets or agricultural animals.

**OUTDOOR BANQUET FACILITIES** – An establishment which is rented by individuals or groups to accommodate private, by invitation only, functions including, but not limited to, weddings, catered receptions, rehearsal dinners, business meetings/retreats, where any portion of the event is held outside of the primary structure on the property.

**OUTDOOR CULTURAL EVENTS** - Entertainment, educational and cultural events generally involving the outdoor assembly of 50 or more people.

**OUTDOOR EVENT, TEMPORARY** - A temporary commercial amusement activity such as a carnival, circus, rodeo, or auction.

**OUTDOOR LIGHT FIXTURES** - "Outdoor light fixture" means outdoor artificial illuminating devices, lamps, and other devices, permanent or portable, used for illumination or advertisement. Such devices shall include, but are not limited to, search, spot or flood lights for buildings and structures, recreational areas, parking lot lighting, landscape lighting, billboards and other signage and street lighting.

**OUTDOOR RECREATIONAL FACILITY** - Any plot or tract of land on which there is located an outdoor swimming pool, tennis court, or golf course that is open to either the general public or to the members and guests of any organization having 50 or more members.

**OUTDOOR STORAGE, NON-VEHICULAR** - An establishment that provides for outdoor storage of machinery and equipment, not including vehicles.

**OVERBURDEN** - The earth, rock, and other materials that lie above the natural deposit of minerals.

**OWNER** - Any person, agent, firm, or corporation having a legal or equitable interest in the property. (Source: North Carolina State Building Code, Vol. 1, § 202).

**PARCEL** - An area of land defined by a legal description and recorded with the County Register of Deeds.

**PARENT** - A person that directly, or indirectly through one or more intermediaries, controls another person.

**PARK, COMMUNITY** - The community park is easily accessible to a single, or several neighborhoods, depending on local needs and population distribution at the time the park is developed. When possible, the park may be developed adjacent to a high or middle school. The community park provides recreational opportunities for the entire family and contains areas suited for intense recreational purposes such as a recreation center building, athletic fields, swimming, tennis, and walking/jogging. The park may also possess areas of natural quality for outdoor recreation such as viewing, sitting, and picnicking.

**PARK, DISTRICT** - A district park provides more diverse recreational opportunities than a regional park, only on a much smaller scale. The district park emphasizes passive recreational opportunities similar to a regional park, yet also includes limited active recreational facilities. A district park is easily accessible by the population it serves and is within a 20-mile service radius. The park contains a minimum of 5 acres per 1,000 population. A district park is typically at least 200 acres in size.

**PARK, LINEAR** - A linear park is an area developed for one or more varying modes of recreational travel such as hiking, biking, horseback riding and canoeing. Often times the linear park will be developed to connect recreational facilities, as well as schools and residential neighborhoods. The acreage and service area of a linear park is variable and subject to existing natural and man-made features, the existence of public right-of-way and the public demand for this type of park. In some cases, a linear park is developed within a large land area designated for protection and management of the natural environment, with the recreation use a secondary objective.

**PARK, NEIGHBORHOOD** - The neighborhood park is designed to serve a population of up to 5,000, but in many instances, even more are served. The park requires 2.5 acres per 1,000 population served and is typically at about 15-25 acres. The neighborhood park is typically characterized by recreational activities for each member of the family, such as field games, court games, crafts, playground apparatus, picnicking and space for quiet/passive activities. The service radius for a neighborhood park is 1/2 to one mile and is easily accessible to the neighborhood population through safe walking and biking access. Parking may or may not be required. Where feasible the activity areas are equally divided between quiet/passive activities and active play. This type of park may be developed as a school/park or community center facility.

**PARK, REGIONAL** - A regional park is a park within a fifty-mile service radius, which serves several communities or a multi-county region. Approximately 10 acres per 1,000 population served and generally 1,000 acres is required for developing a regional park. The regional park is an area of natural ornamental quality that provides diverse and unique natural resources for nature-oriented outdoor recreation including nature viewing and study, wildlife habitat conservation, hiking, camping, canoeing, and fishing. Generally, 80% of the land is reserved for conservation and natural resource management, with less than 20 % developed for recreation. The recreation areas consist of play areas and open fields/meadows for informal use.

**PARKING GARAGE** - An attached or detached building which is used for the parking or storing of motor and other vehicles, open to public use without charge or for a fee, and shall without limiting the foregoing, include all real and personal property, driveways, roads, approaches, structures, garages, meters, mechanical equipment, and all appurtenances and facilities either on, above or under the ground which are used or usable in connection with such parking or storing of such vehicles. (Adapted from: Parking Authority Law, NCGS § 160A-551)

**PARKING LOT** - Any lot, parcel, area or place for the parking or storing of motor and other vehicles, open to public use without charge or for a fee, and shall without limiting the foregoing, include all real and personal property, driveways, roads, approaches, structures, garages, meters, mechanical equipment, and all appurtenances and facilities either on, above or under the ground which are used or usable in connection with such parking or storing of such vehicles. (Adapted from: Parking Authority Law, NCGS § 160A-551)

**PARKING SPACE** - A space, enclosed or unenclosed, exclusive of driveways or aisles, for the temporary parking of one vehicle, which has adequate access to permit ingress and egress of a motor vehicle to a street.

**PARKING STRUCTURE** - A facility, partially or fully above ground, accessory to another facility or a primary use, at which a fee may be charged for the temporary storage of passenger vehicles.

**PARTIALLY SHIELDED**- "Partially shielded" means that fixtures are shielded in such a manner that the bottom edge of the shield is below the plane of the center line of the lamp reducing light above the horizontal, as certified by photometric test report.

**PATH, MULTI-USE** - A pathway, which may be paved or unpaved, and is physically separated from motorized vehicular traffic by an open space or barrier and is either within the highway right-of-way or within an independent tract, or easement. Multi-use path activities may include walking, hiking, jogging, horseback riding, bicycling, and roller skating.

**PAVEMENT** - The paved portion of a street, including paved shoulders and on-street parking areas, but not including sidewalks and driveways. (Source: 19A NCAC § 20.0404).

**PAWNSHOP** - The location at which, or premises in which, a pawnbroker, as defined in NCGS § 91A- 2, regularly conducts business. (Source: Pawnbrokers Modernization Act of 1989, NCGS § 91A-2)

**PEDESTRIAN PATH** - An improvement located within a public right-of-way or private area which is designed primarily for the use of pedestrians and/or bicyclists.

**PEDESTRIAN RIGHT-OF-WAY** - A right-of-way or easement dedicated for public pedestrian access.

**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.

**PERFORMER** - Any person who is an employee or independent contractor of the adult business, or any person who, with or without any compensation or other form of consideration, performs live entertainment for patrons of an adult business.

**PERMEABLE PAVEMENT** - A pavement system with traditional strength characteristics, but which allows rainfall to percolate through it rather than running off. A permeable pavement system utilizes either porous asphalt, pervious concrete, or plastic pavers interlaid in a running bond pattern and either pinned or interlocked in place. Porous asphalt consists of an open graded coarse aggregate held together by asphalt with sufficient interconnected voids to provide a high rate of permeability. Pervious concrete is a discontinuous mixture of Portland cement, coarse aggregate, admixtures, and water which allow for passage of runoff and air. Examples of permeable pavement systems include Grasspave2®, Gravelpave2®, Turfstone®, and UNI Eco-stone®. (See Watershed Management Institute, Inc. and U.S. Environmental Protection Agency, Office of Water, Operation, Maintenance & Management of Stormwater Management (Aug. 1997), at 2-32; Booth & Leavitt, Field Evaluation of Permeable Pavement Systems for Improved Stormwater Management, 65 J. Am. Planning Assn 314 (Summer 1999), at 314-325.

**PERSON** - Any individual or group of individuals, partnership, general or limited, firm, association, whether incorporated or unincorporated, corporation, company, firm, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or any governmental or quasi- governmental entity, or other legal entity.

**PERSONAL SERVICE ESTABLISHMENT** - A business that provides personal services directly to customers at the site of the business, or which receives goods from or returns good to the customer which have been treated or processed at another location. "Personal service establishment" includes, but is not limited to: travel agencies, dry-cleaning and laundry drop-off and pick-up stations, tailors, hair stylists, cosmeticians, toning or tanning salons, branch offices of financial institutions, photocopying services, postal substations, package delivery drop-off and pick-up stations, shoe repair shops, interior design studios, domestic pet grooming and care services, and art, music, dance and martial arts schools.

**PETITIONER** - An applicant.

**PET SHOP** - A person or establishment that acquires for the purposes of resale animals bred by others whether as owner, agent, or on consignment, and that sells, trades or offers to sell or trade such animals to the general public at retail or wholesale. (Source: NCGS § 19A-23)

PHARMACY - Any place where prescription drugs are dispensed or compounded. (Source: NCGS § 90-85.3)

PHASED SUBDIVISION APPLICATION OR PHASED SITE PLAN APPLICATION - An application for subdivision or site plan approval in which the applicant proposes not to immediately subdivide or develop the property but to develop the property in one or more individual phase(s) over a period of time. A phased subdivision application may include an application for approval of, or conversion to, horizontal or vertical condominiums, non-residential development projects, planned unit developments, mixed-use projects, and residential developments. A phased subdivision application or phased site plan application must be filed as part of an application for a specific plan or Master Preliminary Plan.

PHYSICIAN - An individual licensed to practice medicine pursuant to Article 1 of Chapter 90, NCGS.

PILINGS - Foundational structures placed into the earth to secure buildings and other structures.

PLACE OF PUBLIC ASSEMBLY - A fairground, auditorium, stadium, church, theater, or any other place where people assemble. (Source: NCGS § 130A-334)

PLANNED CAPACITY - See Adequate Public Facilities Standards of this Ordinance.

PLANNED CAPITAL IMPROVEMENT - See Adequate Public Facilities Standards of this Ordinance.

PLANNED DEVELOPMENT - A tract of land under single, corporation, partnership, or association ownership, planned and developed as an integral unit in a single development operation or a definitely programmed series of development operations and according to an approved development plan.

PLANNED UNIT DEVELOPMENT (PUD) - An area of land zoned and improved as a development for which the otherwise applicable bulk use and other requirements may be modified in order to allow for more flexible planning in conformance with the development approval process and developed in accordance with the provisions of section 4.9 of this Ordinance.

PLANNING COMMISSION - The City of Kannapolis Planning Commission. Also referred to as the "Commission."

PLANT - Any member of the plant kingdom, including seeds, roots and other parts or their propagules.

PLAT - The legal map of a subdivision.

POCKET NEIGHBORHOOD DEVELOPMENT – A clustered group of single-family dwellings oriented around a common open space.

POINT SOURCE - Any discernible, confined, and discrete conveyance, including, but specifically not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or concentrated animal-feeding operation from which wastes are or may be discharged to the waters of the State. (Source: NCGS § 143-213)

POSITIVE DRAINAGE - Clear, unobstructed flow of stormwater away from any building.

POST-FIRM – Construction or other development for which the START OF CONSTRUCTION occurred on or after the effective date of the initial Flood Insurance Rate Map.

PRACTICABLE ALTERNATIVE - Alternative to proposed project which is available and capable of being executed after taking into consideration cost, existing technology, and logistics in light of overall project purposed, and having less impacts to wetlands or river streams. It may involve using an alternative site in the general region that is available to the developer and may feasibly be used to accomplish the project.

PRELIMINARY PLAT - The preliminary drawing or drawings, described in Article 6 of this Ordinance, indicating the proposed manner or layout of the subdivision to be submitted to the platting authority for approval.

PRETREATMENT FACILITY - Any treatment works installed for the purpose of treating, equalizing, neutralizing or stabilizing waste from any source prior to discharge to any disposal system subject to effluent standards or limitations. (Source: NCGS § 143-213)

PRETREATMENT STANDARDS - Effluent standards or limitations applicable to waste discharged from a pretreatment facility. (Source: NCGS § 143-213)

PRE-FIRM – Construction or other development for which the START OF CONSTRUCTION occurred before the effective date of the initial Flood Insurance Rate Map.

PRINCIPAL BUILDING OR STRUCTURE - The building or structure in which is conducted the principal use of the zoning lot on which it is located. This shall include any buildings which are attached to the principal structure by a covered structure. Zoning lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages, and other clearly accessory uses shall not be considered principal buildings.

PRINCIPAL USE - The main or primary use of a parcel of land.

PRINCIPALLY ABOVE GROUND – At least 51% of the actual cash value of the structure is above ground.

PRIVATE - Anything not owned or operated by the federal government, state government, or any political subdivision.

PRIVATE CLUBS - An organization that maintains selective members, is operated by the membership, does not provide food or lodging for pay to anyone who is not a member or a member's guest, and is either incorporated as a nonprofit corporation in accordance with Chapter 55A of the General Statutes or is exempt from federal income tax under the Internal Revenue Code as defined in G.S. 105-130.2(1). (Source: NCGS § 130A-247)

PRIVATE USE - One which is restricted to the occupants of a lot or building together with their guests, where compensation for such use is not received, and where no business or commercial activity is associated with such use or building.

PRIVATE UTILITIES - Includes power, telephone, natural gas, cable television and private water supply service.

PRODUCE STAND - A temporary open-air stand or place for the seasonal selling of agricultural produce. A produce stand is portable and capable of being dismantled or removed from the sales site. (See also Farmers Market.)

PROFESSIONAL ENGINEER - A person who has been duly registered and licensed as a professional engineer by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. (Source: NCGS § 89C-3)

PROFESSIONAL OFFICE - An office of a member of a recognized profession maintained for the conduct of that profession and not including storage or sale of merchandise as a primary use.

PROPERTY LINE, COMMON - A line dividing one lot from another. (Source: North Carolina State Building Code, Vol. 1, § 202)

PROPERTY LINE - See "Lot Line."

PROTECTED PLANT - A species or higher taxon of plant adopted by the Board to protect, conserve, and/or enhance



the plant species and includes those the Board has designated as endangered, threatened, or of special concern. (Source: NCGS § 106-202.12)

**PUBLIC** - Anything owned or operated by the federal government, state government, or any political subdivision.

**PUBLIC OR COMMUNITY WASTEWATER SYSTEM** - A single system of wastewater collection, treatment and disposal owned and operated by a sanitary district, a metropolitan sewage district, a water and sewer authority, a county or municipality or a public utility. (Source: NCGS § 130A-334)

**PUBLIC ASSEMBLY, INDOORS** - Buildings or indoor facilities for the purpose of, but not necessarily limited to banquet halls, auditoria, private clubs and lodges, conference centers, and theaters, including kitchen for the preparation of food to be consumed at the premises.

**PUBLIC ASSEMBLY, OUTDOOR** - See "Commercial Amusement, Outdoor."

**PUBLIC FACILITIES** - See Adequate Public Facilities of this Ordinance.

**PUBLIC HEARING** - A public meeting for which public notice has been given and an opportunity for public testimony is provided.

**PUBLIC LAND FOR DEDICATION AND OWNERSHIP** - Parks, playgrounds, schools, drainage channels, trails, highways, roads and streets or other areas of land accepted by the City Council and dedicated for the public's use or benefit.

**PUBLIC MEETING** - A meeting of a Board, Planning Commission, City Council, or their representatives where the public may attend.

**PUBLIC NOTICE** - Notice to the public of a public hearing or meeting as required by state or local law.

**PUBLIC RIGHT-OF-WAY** - Any area on or adjoining a street, road, highway, alley, or pedestrian/bicycle way or other special purpose way or utility installation owned by, or reserved to, the public for present or future public use.

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

**PUBLIC SCHOOL OR PUBLIC-SCHOOL FACILITY** - Any education facility under the jurisdiction of a local board of education or local school district, whether termed an elementary school, middle school, junior high school, high school, or union school. (Source: NCGS § 115C-205). Includes charter schools.

**PUBLIC SPACE** -A legal open space on the premises, accessible to a public way or street, such as yards, courts or open spaces permanently devoted to public use, which abuts the premises and is permanently maintained accessible to the fire department and free of all encumbrances that might interfere with its use by the fire department. (Source: North Carolina State Building Code, Vol. 1, § 201.3)

**PUBLIC TRANSPORTATION** - Transportation of passengers whether or not for hire by any means of conveyance, including but not limited to a street railway, elevated railway or guideway, subway, motor vehicle or motor bus, either publicly or privately owned and operated, carpool or vanpool, holding itself out to the general public for the transportation of persons within the territorial jurisdiction of the authority, including charter service. (Source: North Carolina Public Transportation Authorities Act, § 160A-576; Regional Public Transportation Authority Act, NCGS § 160A-601)

**PUBLIC TRANSPORTATION SYSTEM** - Without limitation, a combination of real and personal property, structures, improvements, buildings, equipment, vehicle parking or other facilities, and rights-of-way, or any combination thereof, used, or useful for the purposes of public transportation. (Source: North Carolina Public Transportation Authorities Act, § 160A-576; Regional Public Transportation Authority Act, NCGS § 160A-601)

**PUBLIC USE** - A use which is owned by, and operated for, the public by a public entity.

**PUBLIC-USE HELIPORT** - A heliport or helipad that has been designed for use by the public and is available for such, whether owned or operated by a governmental agency or a private entity, provided that such entity has agreed, in writing, to that use of its property.

**PUBLIC WATER SYSTEM** - A system for the provision to the public of piped water for human consumption if the system serves 15 or more service connections or which regularly serves 25 or more individuals, including:

- a. Any collection, treatment, storage, or distribution facility under control of the operator of the system and used primarily in connection with the system; and
- b. Any collection or pretreatment storage facility not under the control of the operator of the system which is used primarily in connection with the system.

A public water system is either a "community water system" or a "noncommunity water system" as follows:

- a. "Community water system" means a public water system which serves 15 or more service connections, or which regularly serves at least 25 year-round residents.
- b. "Noncommunity water system" means a public water system which is not a community water system.  
(Source: NCGS § 130A-313)

The term "public water system" also includes a system for the provision of piped water for human consumption as defined in NCGS 130A-313(10). (Source: NCGS § 90A-20.1)

**QUADRUPLEX** - A building containing four (4) attached dwellings in one building in which each unit has two open space exposures and shares one or two walls with an adjoining unit or units.

**QUALIFIED LANDSCAPE ARCHITECT** - A person with at least a four-year degree in the field of landscape architecture from an accredited university offering such a degree.

**QUARRY**- See "MINE."

**RACETRACK, AUTOMOBILE** - A facility consisting of a paved roadway used primarily for the sport of automobile racing. A racetrack may include seating, concession areas, suites, and parking facilities, but does not include accessory offices, residences, or retail facilities. This definition shall also include any facility used for driving automobiles under simulated racing or driving conditions (test tracks, "shakedown" tracks or other similar facilities), but which does not include seating, concession areas, or retail facilities for the general public.

**RCRA** - The Resource Conservation and Recovery Act of 1976, Pub. L. 94-580, 90 Stat. 2795, 42 U.S.C. § 6901 et seq., as amended.

**REAL PROPERTY** - Lands, structures, franchises, and interest in lands, and any and all things usually included within the said term, and includes not only fees simple absolute but also any and all lesser interests, such as easements, rights-of-way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms of years, and liens thereon by way of judgments, mortgages or otherwise, and also claims for damage to real estate. (Source: Parking Authority Law, NCGS § 160A-551) The term "real property" also includes a building, structure, real estate, land, tenement, leasehold, interest in real estate cooperatives, condominium, and hereditament, corporeal and incorporeal, or any interest therein. (Source: NCGS § 41A-3)

REAR YARD - See "Yard, Rear."

REAR SETBACK - The minimum horizontal distance between any building and the rear property line.

RECEIVING AREA - An area designated by this Ordinance as appropriate for development beyond the target density through the transfer of development rights.

RECLAMATION - The reasonable rehabilitation of the affected land for useful purposes, and the protection of the natural resources of the surrounding area. Although both the need for and the practicability of reclamation will control the type and degree of reclamation in any specific instance, the basic objective will be to establish on a continuing basis the vegetative cover, soil stability, water conditions and safety conditions appropriate to the area. (Source: The Mining Act of 1971, NCGS § 74-49)

RECLAMATION PLAN - The operator's written proposal as required and approved by the Department for reclamation of the affected land, which shall include but not be limited to:

- a. Proposed practices to protect adjacent surface resources;
- b. Specifications for surface gradient restoration to a surface suitable for the proposed subsequent use of the land after reclamation is completed, and proposed method of accomplishment;
- c. Manner and type of revegetation or other surface treatment of the affected areas;
- d. Method of prevention or elimination of conditions that will be hazardous to animal or fish life in or adjacent to the area;
- e. Method of compliance with State air and water pollution laws;
- f. Method of rehabilitation of settling ponds;
- g. Method of control of contaminants and disposal of mining refuse;
- h. Method of restoration or establishment of stream channels and stream banks to a condition minimizing erosion, siltation, and other pollution;
- i. Maps and other supporting documents as may be reasonably required by the Department; and
- j. A time schedule that meets the requirements of G.S. 74-53. (Source: Mining Act of 1971, NCGS § 74-49)

RECORDED/RECORD - Document(s) being placed in the indexed or coded files and book(s) of the County Clerk and Register of Deeds.

RECREATIONAL VEHICLE (RV) - A vehicle mounted on a single chassis and wheels, which is primarily designed to provide temporary living quarters for recreational, camping, travel, or seasonal use and either has its own motive power or is mounted on, or drawn by, a motor vehicle. Examples are travel trailers, truck campers, camping trailers, and motor homes. For purposes of measuring length, the trailer hitch and/or trailer tongue shall be excluded.

REDEVELOPMENT - For purposes of Article 9, only, redevelopment means any rebuilding activity which has no net increase in built-upon area or which provides equal or greater stormwater control than the previous development, in accordance with the provisions of 15A NCAC 2H.100. (Source: 15A NCAC 2H.1002).

REFERENCE LEVEL – The top of the lowest floor for structures within Special Flood Hazard Areas designated as Zone A1-A30, AE, A, A99, or AO.

REFUSE - All waste soil, rock, mineral, scrap, tailings, slimes, and other material directly connected with the mining, cleaning, and preparation of substances mined and shall include all waste materials deposited on or in the permit area from other sources. (Source: The Mining Act of 1971, NCGS § 74-49)

REGISTERED LAND SURVEYOR - A person who, by reason of his special knowledge of mathematics, surveying principles and methods, and legal requirements which are acquired by education and/or practical experience, is qualified to engage in the practice of land surveying, as herein defined, as attested by his registration as a registered land surveyor by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. (Source: NCGS § 89C-3)

**REGULATION** - As used in this Ordinance, means an applicable provision of this Ordinance or any other requirement promulgated under this Ordinance.

**REGULATORY FLOOD PROTECTION ELEVATION** –The **BASE FLOOD ELEVATION** plus the **FREEBOARD**. In **SPECIAL FLOOD HAZARD AREAS** where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of **FREEBOARD**. In **SPECIAL FLOOD HAZARD AREAS** where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

**RELIGIOUS INSTITUTION** - A facility used primarily for religious assembly or worship and related religious activities.

**REMEDY A VIOLATION** – To bring the structure or other development into compliance with State and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance, or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

**RENDERER** - The business of rendering carcasses, or parts or products of the carcasses, of cattle, sheep, swine, goats, fallow deer, red deer, horses, mules, or other equines. (Source: § 106-549.15)

**REQUIRED SETBACK** - The distance required by Article 4 of this Ordinance between the building or other structure and the lot line or, for unsubdivided properties, the property line.

**RESEARCH FACILITY** - Any place, laboratory, or institution at which scientific tests, experiments, or investigations are carried out, conducted, or attempted. (Source: NCGS § 19A-23)

**RESERVATION** - Reservation of land does not involve any transfer of property rights. It constitutes an obligation to keep property free from development for a stated period of time.

**RESIDENTIAL CHILD-CARE FACILITY** - A staffed premise with paid or volunteer staff where children receive continuing full- time foster care. Residential child-care facility includes child-caring institutions, group homes, and children's camps which provide foster care. (Source: NCGS § 131D-10.2)

**RESIDENTIAL USE** - Includes all uses listed as residential in the Use Matrix.

**RESIDENT PLANT OR RESIDENT SPECIES** - A native species or higher taxon of plant growing in North Carolina. (Source: NCGS § 106-202.12)

**RESORT** - A building or group of buildings containing two (2) or more guest rooms, other than a boarding house, hotel or motel, and including outdoor recreational activities such as, but not limited to, horseback riding, golf course, swimming, tennis courts, shuffleboard courts, barbecue and picnic facilities, and dining facilities intended for the primary use of its guests, but not including bars and restaurants which cater primarily to other than guests of the guest ranch/resort.

**RESOURCE EXTRACTION** - The on-site extraction of surface or sub-surface mineral products or other natural resources, including but not necessarily limited to quarries, burrow pits, sand and gravel operations, oil and gas extraction, and mining operations.

**RESTAURANT** - An establishment serving food and beverages where all service takes place within an enclosed building or accessory outdoor eating or food dispensing areas.

**RE-SUBDIVISION** - The changing of an existing parcel created by a plat and recorded with the County Clerk and Register of Deeds.

**RETAIL** - The sale of any tangible personal property in any quantity or quantities for any use or purpose on the part of the purchaser other than for resale. (Source: North Carolina Sales and Use Tax Act, NCGS § 105-164.3).

**RETAILER** - Every person engaged in the business of making sales of tangible personal property at retail or peddling the same or soliciting or taking orders for sales, whether for immediate or future delivery, for storage, use or consumption. (Adapted from: North Carolina Sales and Use Tax Act, NCGS § 105-164.3)

**RETAINING WALL** - A manmade barrier constructed for the purpose of stabilizing soil, retarding erosion, or terracing a parcel or site.

**REVISION** - "Revision" means the changing and/or rescinding of zoning and other land use approvals following notice and an opportunity for objection. The status of the land use approvals, including zoning and/or subdivision approval(s) may be that which applied previously to the property or may be a new and/or different zoning or other land use status.

**REZONING** - An amendment to the Official Zoning Map as established and maintained according to § 4.4 and Appendix B to this Ordinance.

**RIDGE** - For purposes of any regulation or provision of this Ordinance applicable to mining, overburden removed from its natural position and deposited elsewhere in the shape of a long, narrow elevation. (Source: The Mining Act of 1971, NCGS § 74-49)

**RIGHT-OF-WAY** - A general term denoting land, property, or interest therein, usually in a strip, acquired for or devoted to transportation purposes; 2. The right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian. For purposes of this Ordinance, the "Right-of-Way" for streets shall mean and refer to the boundaries of any right-of-way certified and/or registered by the NCDOT pursuant to NCGS § 136-19.4, a right-of-way recorded by the City for roads or streets, or a right-of-way reserved in a recorded subdivision plat. If no such documentation exists, or if such documentation cannot be located, the "Right-of-Way" shall mean and refer to the edge of the paved surface of the street.

**RIPARIAN ECOSYSTEM** - Living organisms (plants and animals) and habitat that occur in association with any spring, lake, watercourse, river, stream, creek, or other body of water, either surface or subsurface.

**RIVER** - A flowing body of water or estuary or a section, portion, or tributary thereof, including rivers, streams, creeks, runs, kills, rills, and small lakes. (Source: NCGS § 113A-33)

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

**ROAD** - A public or private highway, hard-surface road, dirt road, or railroad. (Source: NCGS § 113A-33)

**ROADSIDE STAND** - An accessory structure for the seasonal retail sale of grown or produced food products on the lot.

**ROADWAY** - The improved portion of a street within a right-of-way and/or easement.

**ROOF LINE** - The highest edge of the roof or the top of parapet, whichever establishes the top line of the structure when viewed in a horizontal plane.

**ROWHOUSE** - See "Townhouse."

**SALVAGE YARD** - An establishment whose primary function is the storing, dismantling, salvaging, recycling, scraping, purchase, sale and/or collection of equipment or materials such as automobiles, appliances, metals,

glass, paper, wood products, petroleum products and/or machinery.

**SAFETY SERVICES** - Any of the following uses or activities classified under NAICS 922 (Justice, Public Order, and Safety Activities); NAICS 92212 (Police Protection), NAICS 92216 (Fire Protection), or NAICS 56162 (Security Systems Services); but not including NAICS 9221 (Justice, Public Order, and Safety Activities); 92211(Courts); 92213 (Legal Counsel and Prosecution); 92214 (Correctional Institutions); or 92215 (Parole Offices and Probation Offices, including Emergency Medical Services). "Safety Services" does not include any warehouse or facility devoted to the maintenance of police or fire equipment, or any gun range or shooting range.

**SANITARY LANDFILL** - A facility for disposal of solid waste on land in a sanitary manner in accordance with the rules concerning sanitary landfills adopted under this Article. (Source: NCGS § 130A-290)

**SAWMILL** - An operation or facility which has, as its predominant purpose, the sawing or planing of logs or trees into rough slabs. A "sawmill" is sometimes referred to as a "planing mill."

**SAWMILL, ACCESSORY** - A Sawmill which is operated as an incident to a construction site or another industrial or retail operation which is or will be established as a Primary Use on the same site.

**SCENIC EASEMENT** - A perpetual easement in land which (i) is held for the benefit of the people of North Carolina, (ii) is specifically enforceable by its holder or beneficiary, and (iii) limits or obligates the holder of the servient estate, his heirs, and assigns with respect to their use and management of the land and activities conducted thereon. The object of such limitations and obligations is the maintenance or enhancement of the natural beauty of the land in question or of the areas affected by it. (Source: NCGS § 113A-33). A "scenic easement" also includes a perpetual easement in land which

- a. is held for the benefit of the people of North Carolina,
- b. is specifically enforceable by its holder or beneficiary, and
- c. limits or obligates the holder of the servient estate, his heirs, and assigns with respect to their use and management of land and activities conducted thereon, the object of such limitations and obligations being the maintenance or enhancement of the natural beauty of the land in question or of areas affected by it.

(Source: North Carolina Trails System Act, NCGS § 113A-85)

**SCHOOL** - An institution of learning, such as elementary and secondary schools, colleges and universities, which offers instruction in several branches of learning and study, but not including business colleges, nursery schools, dancing schools, riding academies, or Business, Technical, Trade schools. Includes public, private, charter and community schools.

**SCHOOL, BOARDING** - An elementary school, middle-school, junior high school, or high school which provides lodging or dwelling for students or faculty on the same property.

**SCHOOL, BUSINESS OR TRADE** - A school, other than a college or university, which may be operated as a commercial venture, and which provides part-time or full-time education beyond the high school level and does not provide lodging or dwelling units for students or faculty. Includes technical and cosmetology schools. (See NAICS 611).

**SCHOOL DISTRICT** - Any school district as defined in NCGS § 115C-69.

**SCHOOL PROJECT** - Any one or more buildings, structures, improvements, additions, extensions, enlargements or other facilities for use primarily as a dormitory or other housing facility, including housing facilities for student nurses, a dining hall and other food preparation and food service facilities, student union, administration building, academic building, library, laboratory, research facility, classroom, athletic facility, health care facility, laundry facility, and maintenance, storage or utility facility and other structures or facilities related thereto or required or useful for the instruction of students or the conducting of research or the operation of an institution for higher education, including parking and other facilities or structures essential or convenient for the orderly conduct of

such institution for higher education, or any combination of the foregoing, and shall also include landscaping, site preparation, furniture, equipment and machinery and other similar items necessary or convenient for the operation of an institution for higher education or a particular facility, building or structure thereof in the manner for which its use is intended but shall not include such items as books, fuel, supplies or other items the costs of which are customarily deemed to result in a current operating charge, and shall not include any facility used or to be used for sectarian instruction or as a place of religious worship nor any facility which is used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination. (Source: Higher Educational Facilities Finance Act, NCGS § 115E-3)

**SCRAP AND SALVAGE SERVICES** - An establishment primarily engaged in the storage, sale, dismantling or other processing of used or waste materials which are not intended for reuse in their original forms, such as automotive wrecking yards, metal salvage yards, or paper salvage yards.

**SCREENING** - Shielding, concealing and effectively hiding from view of a person standing at ground level on an abutting site, or outside the area of the feature so screened by a wall, fence, hedge, berm or any combination of these methods, or any similar architectural or landscaped feature, such as a landscape perimeter strip or bufferyard. (See Landscape Standards).

**SEASONAL HIGH-WATER TABLE** - The highest level that groundwater, at atmospheric pressure, reaches in the soil in most years (see 15A NCAC 2H.1002, which is hereby incorporated by this reference).

**SEDIMENT** - Solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin. (Source: the "Sedimentation Pollution Control Act of 1973, NCGS § 113A-52)

**SEDIMENTATION** - The process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land disturbing activity or into a lake or natural watercourse.

**SEDIMENTATION ACT** - The North Carolina Sedimentation Pollution Control Act of 1973 and all rules and orders adopted pursuant thereto.

**SEDIMENT AND EROSION CONTROL DEVICES** - Sediment fences, sediment traps, or other devices necessary to reduce sedimentation as required by this section.

**SEISMIC EFFECTS** - Direct and indirect effects caused by an earthquake or man-made phenomena.

**SENDING AREA** - An area designated by this Ordinance as a sending area appropriate for the conveyance of transferable development rights from the area.

**SENIOR HIGH SCHOOL** - A school which embraces the tenth, eleventh and twelfth grades. (Source: NCGS § 115C-75)

**SENSITIVE AREAS** - Critical Areas, slopes exceeding 3:1 (pre-development), critical wildlife habitat, stream corridors, wetlands, ridge lines, and areas defined as visually vulnerable pursuant to the Environmental and Open Space Element of the Comprehensive Plan.

**SEPTAGE** - Solid waste that is a fluid mixture of untreated and partially treated sewage solids, liquids, and sludge of human or domestic origin, which is removed from a wastewater system, including:

- a. Domestic septage, which is either liquid or solid material removed from a septic tank, cesspool, portable toilet, Type III marine sanitation device, or similar treatment works receiving only domestic sewage. Domestic septage does not include liquid or solid material removed from a septic tank, cesspool, or similar treatment works receiving either commercial wastewater or industrial wastewater and does not include grease removed from a grease trap at a restaurant.
- b. Domestic treatment plant septage, which is solid, semisolid, or liquid residue generated during the treatment

of domestic sewage in a treatment works where the designed disposal is subsurface. Domestic treatment plant septage includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes and a material derived from domestic treatment plant septage. Domestic treatment plant septage does not include ash generated during the firing of domestic treatment plant septage in an incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.

- c. Grease septage, which is material pumped from grease interceptors, separators, traps, or other appurtenances used for the purpose of removing cooking oils, fats, grease, and food debris from the waste flow generated from food handling, preparation, and cleanup.
- d. Industrial or commercial septage, which is material pumped from septic tanks or other devices used in the collection, pretreatment, or treatment of any water- carried waste resulting from any process of industry, manufacture, trade, or business where the design disposal of the wastewater is subsurface. Domestic septage mixed with any industrial or commercial septage is considered industrial or commercial septage.  
(Source: NCGS § 130A-290)

**SEPTAGE MANAGEMENT FIRM** - A person engaged in the business of pumping, transporting, storing, treating, or disposing septage. The term does not include public or community wastewater systems that treat or dispose septage. (Source: NCGS § 130A-290)

**SEPTIC TANK SYSTEM** - A subsurface wastewater system consisting of a settling tank and a subsurface disposal field. (Source: NCGS § 130A-334)

**SERVICE LINES** - Electric, gas, communication, water, sewer, irrigation, and drainage lines providing local distribution or collection service.

**SERVICE STATION** - A building or use devoted to the retail sale of fuels, lubricants, and other supplies for motor vehicles, including minor repair activities which are subordinate to the sale of petroleum products.

**SERVICE YARD AND/OR ENTRANCE** - An area and/or entrance to a structure, which is used for pickup and delivery, especially in conjunction with retail and wholesale outlets

**SETBACK** - The distance from the street (in the case of a Front Setback) or property line to the nearest part of the applicable Building, Structure, measured perpendicular to the street or property line, in front of which no structure may be erected.

**SETBACK LINE** - A line measured from the property line or future right-of-way line of a street, as applicable.

**SEWAGE** - Water-carried human waste discharged, transmitted, and collected from residences, buildings, industrial establishments, or other places into a unified sewerage system or an arrangement for sewage disposal or a group of such sewerage arrangements or systems, together with such ground, surface, storm, or other water as may be present. (Source: NCGS § 143-213) The term "sewage" also means the liquid and solid human body waste and liquid waste generated by water-using fixtures and appliances, including those associated with flood handling. The term does not include industrial process wastewater or sewage that is combined with industrial process wastewater. (Source: NCGS § 130A-334)

**SEWAGE DISPOSAL SYSTEM** - Any plant, system, facility, or property used or useful or having the present capacity for future use in connection with the collection, treatment, purification or disposal of sewage (including industrial wastes resulting from any processes of industry, manufacture, trade or business or from the development of any natural resources), or any integral part thereof, including but not limited to septic tank systems or other on-site collection or disposal facilities or systems, treatment plants, pumping stations, intercepting sewers, trunk sewers, pressure lines, mains and all necessary appurtenances and equipment, and all property, rights, easements and franchises relating thereto and deemed necessary or convenient by the authority for the operation thereof. (Source: NCGS § 162A-2)

**SEWERS** - Mains, pipes, and laterals for the reception of sewage and carrying such sewage to an outfall or some part



of a sewage disposal system, including pumping stations where deemed necessary by the authority. (Source: NCGS § 162A-2)

**SEWER SYSTEM** - Pipelines or conduits, pumping stations, and force mains, and all other construction, devices, and appliances appurtenant thereto, used for conducting wastes to a point of ultimate disposal. (Source: NCGS § 143-213) The term "sewer system" shall also include both sewers and sewage disposal systems and all property, rights, easements, and franchises relating thereto. (Source: NCGS § 162A-2)

**SEXUALLY ORIENTED DEVICES** - Any artificial or simulated specified anatomical area or other device or paraphernalia that is designed principally for specified sexual activities but shall not mean any contraceptive device. (Source: NCGS § 14-202.10)

**SEXUALLY-ORIENTED BUSINESS** - Any businesses or enterprises that have as one of their principal business purposes or as a significant portion of their business an emphasis on matter and conduct depicting, describing, or related to anatomical areas and sexual activities specified in NCGS § 14-202.10. A "Sexually-Oriented Business" includes any Adult Establishment. (Source: NCGA §§ 160A-181.1; 14-190.13; 14-202.10). See § 7.36 of this Ordinance.

**SHOPPING CENTER** - A group of stores planned and designed for the site on which it is built, functioning as a unit, with off-street parking, landscaped areas, and pedestrian malls or plazas provided on the property as an integral part of the unit.

**SHOULDER** - The earthen soil, clay, or gravel or turf section of pavement support extending from the outer pavement edge to the bottom of a side ditch including shoulder sections which are paved. (Source: 19A NCAC § 20.0404).

**SIDEWALK** - The portion of a street or cross walkway, paved or otherwise surfaced, intended for pedestrian use only.

**SIDE SETBACK** - The minimum horizontal distance between any building and the side property line.

**SIGNIFICANT ADVERSE IMPACT** - Impacts from activities that result in or contribute to any of the following consequences:

1. Alteration of the wetland or river stream environment, including alteration which results from activities such as grading of slopes and banks, creation of impervious surfaces, removal of native vegetation, placement of fill within a wetland or river stream or associated riparian ecosystem;
2. Disturbance or taking of wildlife, aquatic life, or other natural resources or habitats;
3. Alteration of base flood elevations;
4. Alteration of existing hydrologic or aquatic systems;
5. Degradation of aesthetic, scenic or cultural values associated with the ecosystem;
6. Degradation of environmental quality, including water quality, plant and wildlife communities, and ecosystem functions and stability.

**SITE EVALUATION** - An investigation to determine if a site meets all federal and State standards as evidenced by the Waste Management Facility Site Evaluation Report on file with the Soil and Water Conservation District office or a comparable report certified by a professional engineer or a comparable report certified by a technical specialist approved by the North Carolina Soil and Water Conservation Commission. (Source: NCGS § 106-802, Swine Farm Siting Act)

**SILTATION** - Sediment resulting from accelerated erosion which is settleable or removable by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land disturbing activity; and which has been deposited, or is in suspension in water.

**SINGLE-FAMILY RESIDENTIAL COMPLEX** - A group of single-family dwellings designed for individual separate ownership with unified management that provides common services and outdoor recreational facilities, but not

including public bars, public restaurants, or any commercial activity in connection therewith.

**SINGLE-FAMILY RESIDENTIAL DWELLING** - A separately owned residence for use by one family as a housekeeping unit with space for eating, living, and permanent provisions for cooking and sanitation. See NCGS § 87-15.5).

**SITE-SPECIFIC VESTING PLAN (SSVP)** - A plan submitted to the City in which the applicant requests vesting pursuant to Sec. 13.2 of the UDO and describes with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. The plan shall be in the form of any of the following plans or approvals: a Planned Unit Development plan, a TND Greenfield plan, a subdivision plat, a special use permit, or a conditional zoning district zoning plan. The plan shall include the information set required by § 13.2.8. A variance shall not constitute a site-specific vesting plan, and approval of a site-specific vesting plan with the condition that a variance be obtained does not confer a vested right unless and until the necessary variance is obtained. If a sketch plan or other document fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property, it shall not constitute a site-specific vesting plan.

**SITE PLAN** - A development plan of one or more lots on which is shown (1) the existing and proposed conditions of the lot, including but not limited to topography, vegetation, drainage, flood plains, wetlands and waterways; (2) the location of all existing and proposed buildings, drives, parking spaces, walkways, means or ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting, screening devices; (3) the location of building pads for all residential and non-residential buildings; and (4) and location and extent of all external buffers from surrounding areas.

**SKETCH PLAN** - A sketch preparatory to the preliminary plat or site plan (or final plat or site plan in the case of minor subdivisions or conditional use permits) to enable the subdivider to save time and expense in reaching general agreement with the platting authority as to the form of the plat and the objectives of this Ordinance.

**SLAUGHTERHOUSE** - A building or structure where livestock is slaughtered and prepared for distribution to butcher shops or retail sales establishments such as grocery stores. A slaughterhouse is designed to accommodate the confinement and slaughtering of live animals and may include packing, treating, storage and/or sale of the product on the premises.

**SLOPE** - A vertical rise in feet measured over a horizontal distance, expressed as a percentage, measured generally at right angles to contour lines.

**SLUDGE** - Any solid, semisolid, or liquid waste generated from a municipal, commercial, institutional, or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility, or any other waste having similar characteristics and effects. (Source: NCGS § 130A-290)

**SOIL SURVEY** - The Soil Survey of Cabarrus County, North Carolina, published by the Soil Conservation Survey of the U.S. Department of Agriculture, dated September 1988, which document is hereby incorporated by this reference.

**SOLID MASONRY** - Load-bearing or non-load-bearing construction using masonry units where the net cross-sectional area of cored brick in any plane parallel to the surface containing the cores shall be not less than 75 percent of its gross cross-sectional area. No part of any hole shall be less than 3/4 inch (19.1 mm) from any edge of the brick. Solid masonry units shall conform to ASTM C 55, C 62, C 73, C 145, or C 216. (Source: North Carolina State Building Code, Vol. VII, § 202).

**SOLID WASTE** - Any hazardous or nonhazardous garbage, refuse or sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, domestic sewage and sludges generated by the treatment thereof in sanitary sewage collection, treatment and disposal systems, and other material that is either discarded or is being accumulated, stored or treated prior to being discarded, or has served its original intended use and is

generally discarded, including solid, liquid, semisolid or contained gaseous material resulting from industrial, institutional, commercial and agricultural operations, and from community activities. The term does not include:

- a. Fecal waste from fowls and animals other than humans.
- b. Solid or dissolved material in
  1. Domestic sewage and sludges generated by treatment thereof in sanitary sewage collection, treatment and disposal systems which are designed to discharge effluents to the surface waters.
  2. Irrigation return flows.
  3. Wastewater discharges and the sludges incidental to and generated by treatment which are point sources subject to permits granted under Section 402 of the Water Pollution Control Act, as amended (P.L. 92-500), and permits granted under G.S. 143-215.1 by the Environmental Management Commission. However, any sludges that meet the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this Article.
- c. Oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the General Statutes. However, any oils or other liquid hydrocarbons that meet the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this Article.
- d. Any source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. § 2011).
- e. Mining refuse covered by the North Carolina Mining Act, G.S. 74-46 through 74-68 and regulated by the North Carolina Mining Commission (as defined under G.S. 143B-290). However, any specific mining waste that meets the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this Article.

(Source: NCGS § 130A-290)

**SOLID WASTE DISPOSAL FACILITY** - A facility involved in the disposing of solid waste as defined in NCGS 130A-290(a)(35).

**SOLID WASTE DISPOSAL SITE** - Any place at which solid wastes are disposed of by incineration, sanitary landfill or any other method as defined in NCGS § 130A-290(a)(36).

**SOLID WASTE MANAGEMENT FACILITY** - Land, personnel and equipment used in the management of solid waste. (Source: NCGS § 130A-290)

**SOUND MANAGEMENT PROGRAM** - A program of production designed to obtain the greatest net return from the land consistent with its conservation and long-term improvement. (Source: NCGS § 105- 277.2).

**SPECIAL CONCERN SPECIES** - Any species of plant in North Carolina which requires monitoring, but which may be collected and sold under regulations adopted under the provisions of this Article. (Source: NCGS § 106-202.12)

**SPECIAL FLOOD HAZARD AREA (SFHA)** – The land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Section 4.14.5 of this Ordinance.

**SPECIFIC PLAN** - A document encompassing a specific geographic area of the Governing Agency which is prepared for the purpose of specifically implementing the Comprehensive Plan by (1) refining the policies of the Comprehensive Plan to a specific geographic area; and (2) containing specific recommendation as to the detailed policies and regulations applicable to a focused development scheme. The specific plan shall consist of goals, objectives and policies; requirements for capital improvements; the level of service required for public facilities; physical and environmental conditions; housing and land use characteristics of the area; and maps, diagrams and other appropriate materials showing existing and future conditions.

**SPECIFIED ANATOMICAL AREAS** - Means: 1.) Less than completely and opaquely covered: (i) human genitals, pubic region, (ii) buttock, or (iii) female breast below a point immediately above the top of the areola; or 2.) Human male genitals in a discernibly turgid state, even if completely and opaquely covered. (Source: NCGS §

14-202.10)

**SPECIFIED SEXUAL ACTIVITIES** - Means: 1.) Human genitals in a state of sexual stimulation or arousal; 2.) Acts of human masturbation, sexual intercourse, or sodomy; or 3.) Fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts. (Source: NCGS § 14-202.10)

**SPOIL BANK** - A deposit of excavated overburden or refuse. (Source: The Mining Act of 1971, NCGS § 74-49)

**SQUARE** - Open space that may encompass an entire block, is located at the intersection of important streets, and is set aside for civic purposes, with landscape consisting of paved walks, lawns, trees, and monuments or public art.

**STABLE, COMMERCIAL** - A stable of horses, mules, or ponies which are let, hired, used, or boarded on a commercial basis and for compensation. This facility may offer equestrian lessons and may include a show arena and viewing stands. See § 5.5 of this Ordinance.

**STABLE, PRIVATE** - A detached accessory building for the keeping of horses, mules, or ponies owned by the occupants of the premises and not kept for remuneration, hire or sale.

**STADIUM** – A structure or facility designed, intended, or used primarily for outside athletic events or other performances and containing seating for over one thousand (1,000) spectators of those events, but not including a racetrack, dragstrip, or any structure within a publicly owned park.

**STAFF** – Unless otherwise indicated, the staff of the Planning Department.

**START OF CONSTRUCTION** - Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvements was within one hundred eighty (180) days of the permit date. The actual start means the first placement of permanent-construction of a structure on a site, such as the pouring of slab or footings, the installation of pilings, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

**STATE HIGHWAY** - Street or highway on the State Highway System.

**STATE HIGHWAY SYSTEM** - The system of streets and highways as described in NCGS § 136-44.1. (Source: 19A NCAC § 20.0404).

**STORM DRAINAGE FACILITIES** - The system of inlets, conduits, channels, dikes, and appurtenances which serve to collect and convey stormwater through and from a given drainage area.

**STORMWATER** - The flow of water which results from precipitation and which occurs immediately following rainfall or a snowmelt. (Source: NCGS § 143-213)

**STORMWATER COLLECTION SYSTEM** - As defined in 15A NCAC 2H.1002, which is hereby incorporated by this reference.

**STORMWATER RUNOFF** - The direct runoff of water resulting from precipitation in any form. (Source: 15A NCAC § 4A.0005).

**STORY** - That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the surface of such floor and the ceiling or roof above it.

**STORY ABOVE GRADE** - Any story having its finished floor surface entirely above grade except that a basement shall be considered as a story above grade when the finished surface of the floor above the basement is: (1) More than 6 feet (1829 mm) above grade plane; (2) More than 6 feet (1829 mm) above the finished ground level for more than 50 percent of the total building perimeter; or (3) More than 12 feet (3658 mm) above the finished ground level at any point. (Source: North Carolina State Building Code, Vol. VII, § 202).

**STREAM** - A watercourse that collects surface runoff from an area of one square mile or greater. This does not include flooding due to tidal or storm surge on estuarine or ocean waters. (Source: NCGS § 143-215.52).

**STREET** - Any public thoroughfare, street, avenue, or boulevard which has been dedicated or deeded to the public for public use. (Source: North Carolina State Building Code, Vol. 1, § 201.3). Includes any Road.

**STREET FRONTAGE** - The distance for which a lot line of a lot adjoins a public street, from one lot line intersecting said street to the furthest distance lot line intersecting the same street.

**STREET LINE** - A lot line dividing a lot from a street. (Source: North Carolina State Building Code, Vol. 1, § 202).

**STRIP DEVELOPMENT** - A form of development characterized by the following:

- 1 the primary uses are commercial or retail in nature;
- 2 the development site takes direct access from an Arterial or Collector Road;
- 3 the site contains parking located above ground level and lying between the accessed roadway and the primary buildings; and
- 4 the site is characterized by substantial frontage along the road or roads from which it takes primary or secondary access, or by numerous access points along a roadway serving primarily retail and/or commercial uses.

**STRUCTURAL ALTERATION** - Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders or any complete rebuilding of the roof or exterior walls.

**STRUCTURE** - Anything constructed or erected which requires location on or in the ground or is attached to something having a location on the ground or anything as defined by the Building Code. Includes, but is not limited to gas, liquid, and liquefied storage tanks, modular homes, manufactured homes, or other building of any kind. Structures do not include ditches and their appurtenances, poles, lines, cables, or transmission or distribution facilities of public utilities, freestanding mailboxes, on-grade slabs, walks, driveways, landscaping materials or fences. Includes both permanent and temporary structures.

**STRUCTURE, MAIN OR PRINCIPAL** - See "Building, Main or Principal."

**STRUCTURE, PERMANENT** - Anything constructed or erected within a required location on the ground or which is attached to something having location on the ground, including a fence or free-standing wall.

**STRUCTURE, TEMPORARY** - A moveable structure not designed for human occupancy or for the protection of goods or chattel, and not forming an enclosure, and placed on a parcel of land for a period of time equal to one (1) year or less.

**STUB-OUT (STUB-STREET)** - A portion of a street or cross access drive used as an extension to an abutting property that may be developed in the future.

**SUBDIVIDE or "SUBDIVIDE LAND"** - The act or process of creating a Subdivision.

**SUBDIVIDER** - Any Person who (1) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision or who (2) directly or indirectly, sells, leases, or develops, or offers to sell, lease, or develop, or advertises to sell, lease, or develop, any interest, lot, parcel site, unit, or plat in a subdivision, or, who (3) engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or any interest, lot, parcel site, unit or plat in a subdivision, and who (4) is directly or indirectly controlled by, or under direct or indirect common control with any of the foregoing.

**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; but the following shall not be included within this definition nor be subject to the regulations authorized by this Part:

- 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 municipality as shown in its subdivision regulations;
- 2 The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;
- 3 The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors, and
- 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 municipality, as shown in its subdivision regulations.

**SUBGRADE** - The foundation layer of a street.

**SUBSIDIARY** - A person who is directly, or indirectly through one or more intermediaries, controlled by another person.

**SUBSTANTIAL DAMAGE** - Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred. Substantial damage also means flood-related damage sustained to a structure on tow separate occasions during a ten (10) year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent (25%) of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** - Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the **START OF CONSTRUCTION** of the improvement. This term includes structures which have incurred **SUBSTANTIAL DAMAGE**, regardless of the actual repair work performed. The term does not, however, include either:

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

**SUPERSTORE** - A retail structure or group of structures have a total of in excess of twenty-five thousand (25,000) square feet of Gross Floor Area.

**SURFACE, IMPERVIOUS** - See Impervious Surface.

**SURVEYOR** - A land surveyor registered by the State of North Carolina.

**SWALE** - An elongated depression in the land surface that is at least seasonally wet, is usually heavily vegetated, and is normally without flowing water. Swales direct storm water flows into primary drainage channels and allow some of the storm water to infiltrate into the ground surface.

**SWIMMING POOL, PRIVATE** - A pool established or maintained on any premises by an individual for use by his/her family or guests of his/her household.

**SWINE FARM** - A tract of land devoted to raising 250 or more animals of the porcine species. (Source: NCGS § 106-802, Swine Farm Siting Act)

**SWINE HOUSE** - A building that shelters porcine animals on a continuous basis. (Source: NCGS § 106-802, Swine Farm Siting Act)

**TECHNICAL BULLETIN AND TECHNICAL FACT SHEET** – A FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The Bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

**TELEVISION, RADIO AND FILM STATION**- A facility for the production of films and/or the production and broadcast of television and radio programs including but not necessarily limited to: offices, dressing rooms, studios, sound stages, file rooms, and set stage, but not including transmitting facilities.

**TEMPERATURE CONTROLLED** – Having the temperature regulated by a heating and/or cooling system, built-in or appliance.

**TEMPORARY** - Unless otherwise specified, for a period of time less than or equal to one (1) year.

**TEMPORARY FAMILY HEALTH CARE STRUCTURE** - A transportable residential structure providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and NCGS § 143-139.1(b).

**TEMPORARY USE** - See Use, Temporary.

**TEN-YEAR STORM** - The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in ten (10) years, and of a duration which will produce the maximum peak rate of runoff, for the watershed of interest under average antecedent wetness conditions. (Source: 15A NCAC 2H.1002; Sedimentation Control Standards).

**THOROUGHFARE** - A Major or Minor Thoroughfare or an arterial or collector street as identified on the Thoroughfare Plan.

**THOROUGHFARE PLAN** - The document entitled Cabarrus - South Rowan Urban Area Transportation Plan prepared by the Statewide Planning Branch, Division of Highways, North Carolina Department of Transportation and dated October 1997 (or newer edition as amended), which document is hereby incorporated by this reference.

**THREATENED SPECIES** - Any resident species of plant which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range, or one that is designated as threatened by the Federal Fish and Wildlife Service. (Source: NCGS § 106-202.12)

THROUGH LOT - See "Lot, Through."

TIME SHARE - A "time share" as defined in NCGS 93A-41(9).

TINY HOUSE DEVELOPMENT – A clustered group of single-family dwellings, not exceeding 600 square feet of gross floor area, oriented around a common open space.

TIRE COLLECTION SITE - A site used for the storage of scrap tires. (Source: NCGS § 130A-309.53)

TIRE PROCESSING SITE - A site actively used to produce or manufacture usable materials, including fuel, from scrap tires. (Source: NCGS § 130A-309.53)

TOTAL PERMISSIBLE DWELLING UNITS OR SQUARE FOOTAGE - The total density or intensity of a project computed pursuant to Section 4.7 of this Ordinance.

TOWNHOUSE - A single-family dwelling unit constructed in a series, group or row of attached units separated by property lines and with a yard on at least two sides. (Source: North Carolina State Building Code, Vol. 1, § 201.2 and Vol. VII, § 202). The term "townhouse" also includes a single-family dwelling constructed in a series or group of attached units with property lines separating each unit. (Source: North Carolina State Building Code, Vol. 1, § 201.3)

TOXIC WASTE - That waste, or combinations of wastes, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) or physical deformities, in such organisms or their offspring. (Source: NCGS § 143-213)

TRACT - All contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.

TRAIL - Any paved greenway, unpaved greenway, or wildlife/botanical greenway dedicated to public use. The term "trail" includes:

1. Park trail. -- A trail designated and managed as a unit of the North Carolina State Parks System under NCGS Chapter 113, Article 2C.
2. Designated trail. -- A trail designated by the Secretary pursuant to this Article as a component of the State trails system and that is managed by another governmental agency or by a corporation listed with the Secretary of State.
3. A State scenic trail, State recreation trail, or State connecting trail under NCGS 113A-86 when the intended primary use of the trail is to serve as a park trail or designated trail.
4. Any other trail that is open to the public and that the owner, lessee, occupant, or person otherwise in control of the land on which the trail is located allows to be used as a trail without compensation, including a trail that is not designated by the Secretary as a component of the State trails system

(Source: North Carolina Trails System Act, NCGS § 113A-85)

TRANSFER STATION, HAZARDOUS - A facility used for storage of non-hazardous waste for a period of less than ninety (90) days.

TRANSIENT - Housing or accommodations which are typically occupied by residents for periods of two (2) weeks or less, including, but not limited to, hotels, motels, and travel lodges.

TRANSIT SYSTEM - The property, equipment and improvements of whatever nature owned, used, constructed, maintained, controlled or operated to provide mass transportation for passengers or to provide for the movement of people, including park-and-ride stations, transfer stations, parking lots, malls, and skyways.



**TRANSIT STATION** - Any Structure or Transit Facility that is primarily used, as part of a Transit System, for the purpose of loading, unloading, or transferring passengers or accommodating the movement of passengers from one mode of transportation to another.

**TRANSIT FACILITY** - All real and personal property necessary or useful in rendering transit service by means of rail, bus, water and any other mode of travel including, without limitation, tracks, rights of way, bridges, tunnels, subways, rolling stock for rail, motor vehicles, stations, terminals, areas for parking and all equipment, fixtures, buildings and structures and services incidental to or required in connection with the performance of transit service.

**TRANSIT TERMINAL** - A commercial or public facility for the loading and unloading of passengers, luggage, and packages, including sales of fares, and which may include accessory restaurants, indoor commercial amusements, and retail sales, but not including airports.

**TRANSMISSION LINES** - Electric lines (115 KV and over) and appurtenant facilities, or pipelines/conveyors (ten (10) inches diameter or larger) and appurtenant facilities for transporting natural resources, chemicals, petroleum derivatives, or waste substances.

**TRAVEL TRAILER** - A vehicle or portable unit mounted on its own chassis and wheels which does not exceed eight feet (8') in width and/or forty feet (40') in length, is drawn by a motor vehicle, and provides temporary living quarters for recreational, camping or travel use.

**TREATMENT WORKS** - Any plant, septic tank disposal field, lagoon, pumping station, constructed drainage ditch or surface water intercepting ditch, incinerator, area devoted to sanitary landfill, or other works not specifically mentioned herein, installed for the purpose of treating, equalizing, neutralizing, stabilizing or disposing of waste. (Source: NCGS § 143-213).

**TRIPLEX** - A building which contains three dwelling units, each of which has direct access to the outside or to a common hall.

**TRUCK CAMPER** - A portable unit consisting of a roof, floor and sides designed to be loaded onto, and unloaded from, the bed of a pickup truck, and provides temporary living quarters for recreational, camping or travel use.

**TRUCK AND MULTI-MODAL TERMINAL** - A facility for truck loading and unloading and cargo storage.

**TRUCK PARKING AREA** - An area for the parking of trucks which are often left with either their motors running and/or their refrigerator unit motors operating.

**TWENTY-FIVE YEAR STORM** - The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in 25 years, and of a duration which will produce the maximum peak rate of runoff, from the watershed of interest under average antecedent wetness conditions.

**UNCOVERED** - The removal of ground cover from, on, or above the soil surface.

**UNDERGROUND PRESSURIZED IRRIGATION SYSTEM** - A watering system for landscaped areas, consisting of underground pressurized pipes connected to sprinkler heads, bubbler heads, or drip systems such that one hundred percent (100%) irrigation water coverage is provided.

**UNDERLYING DISTRICT or UNDERLYING ZONING DISTRICT** - A standard zoning district classification which is combined with an overlay district for purposes of development regulation specificity. The base (underlying) district regulations shall apply unless expressly superseded by overlay district provisions.

**UNIQUE OR SPECIAL AREAS PARKS** - Any unique or special area as defined in the Cabarrus County Parks and Recreation Master Plan.

**UNSUITABLE OR UNSTABLE SLOPE** - An area susceptible to a landslide, a mudflow, a rockfall or accelerated creep of slope-forming materials.

**UPZONING** - The reclassification of land from a Residential to a Non-residential Zoning District, or to a Zoning District which permits greater density or intensity than the current zoning classification of the property.

**USE** - The purpose or purposes for which land or a building is occupied, maintained, arranged, designed, or intended.

**USE, APPROVED** - Any use that is or may be lawfully established in a particular district or districts, provided that it conforms with all requirements of these regulations for the district in which such use is located.

**USE MATRIX** - The schedule of permitted uses, conditional uses and accessory uses within each zoning district set forth in Table 4.6-1 of this Ordinance.

**USE PERMITS** - Approval, with appropriate stipulations, by the Governing Agency after public hearing of a use, structure, condition or manner of operation in conjunction with an otherwise permitted use which, by ordinance, requires the property owner or applicant to obtain such a permit.

**USE, QUASI-PUBLIC** - Uses which are considered to be dedicated to public service or to culture. The uses include, for the purposes of this Code, public, schools, hospitals, universities, and churches.

**USE, TEMPORARY** - A use that is established for one (1) year or less, with the intent to discontinue such use upon the expiration of such time, and that does not involve the construction or alteration of any permanent structure. See § 5.22 of this Ordinance.

**USE, VARIANCE** - A variance as to the permissible use of land, including a variance that in effect grants a development permit. A use variance is not permitted under North Carolina law.

**USED OIL RECYCLING FACILITY** - Any facility that recycles more than 10,000 gallons of used oil annually. (Source: NCGS § 130A-290)

**UTILITY POLE** - Pole used to support essential services such as power, telephone, or cable TV lines; or used to support street or pedestrian way lighting, typically located in public rights-of-way.

**UTILITIES** - Services and facilities provided by public agencies and public monopolies such as electrical and gas service, water (domestic and irrigation), sewage disposal, drainage systems, and solid waste disposal.

**UTILITY FACILITIES** - Buildings, structures, or land used by a utility, railroad, or governmental agency for uses such as, but not necessarily limited to, water or sewage treatment plants or pumping stations, substations, telephone exchanges, and resource recovery facilities, but not including land, buildings, or structures used solely for storage and maintenance of equipment and materials.

**UTILITY SERVICE YARDS** - Buildings, structures or land used by a utility, railroad, or governmental agency solely for the purpose of storing and maintaining equipment and materials.

**VALANCE** - A short apron which is designed and installed as part of a canopy/awning and is usually, but not necessarily vertical.

**VARIANCE** - A grant of relief from the requirements of this Ordinance which permits development in a manner that would otherwise be prohibited by this Ordinance.

**VEGETATIVE BUFFER** - An area of natural or established vegetation directly adjacent to surface waters through which stormwater runoff flows in a diffuse manner to protect surface waters from degradation, as more defined in 15A NCAC 2H.1002, which is hereby incorporated by this reference.

**VEGETATIVE FILTER** - An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner, so that runoff does not become channelized, as more particularly defined in 15A NCAC 2H.1002, which is hereby incorporated by this reference.

**VEGETATIVE GROUND COVER** - Wood bark, shredded or chipped wood (installed over an adequate mat of fabric weed barrier), sod, or live plants.

**VEHICLE** - Any self-propelled device in, upon, or by which any person or property may be transported upon a public highway excepting devices moved by human power or used exclusively upon stationary rails or tracks.

**VEHICLE, ABANDONED OR JUNK** - A vehicle or any major portion thereof which is incapable of movement under its own power and will remain without major repair or reconstruction.

**VEHICLE, COMMERCIAL** - Any motor vehicle with a manufacturer's chassis rating greater than one ton.

**VEHICLE, MOTOR** - A device, in, upon or by which any person or property is or may be transported or drawn upon a road of highway, except devices moved by human power, devices used exclusively upon stationary rails or tracks and snowmobiles. For the purpose of these regulations "motor vehicles" are divided into two (2) divisions:

First Division: Those motor vehicles which are designed for the carrying of not more than ten (10) persons.

Second Division: Those motor vehicles which are designed for carrying more than ten (10) persons, those designed or used for living quarters, and those vehicles which are designed for pulling or carrying property, freight or cargo, those motor vehicles of the first division remodeled for use and used as motor vehicles of the second, and those motor vehicles of the first division used and registered as school buses. All trucks shall be classified as motor vehicles of the second division.

**VERY LOW INCOME HOUSING** - Dwelling units reserved for occupancy or ownership by persons or households whose annual gross income does not exceed fifty percent (50%) of the area median household gross income for households of the same size in the Charlotte metropolitan statistical area, as defined by the U.S. Department of Housing and Urban Development in 24 C.F.R., Part 813.

**VESTED RIGHT, COMMON LAW** - Any vested right established by the North Carolina courts under the common law.

**VESTED RIGHT, STATUTORY** - The right to undertake and complete the development and use of property under the terms and conditions of approval and the development regulations in effect at time of approval for:

- a. A site-specific vesting plan;
- b. A multi-phased development; or
- c. A development for which vested rights are established under a development agreement authorized in accordance with Article 10 of NCGS Chapter 160D.

**VETERINARIAN** - A facility or establishment rendering surgical and medical treatment to animals, which may include overnight accommodations for purposes of recovery or boarding. For the purpose of these regulations, small animals shall be deemed to be ordinary household pets, excluding horses, donkeys, or other such animals not normally housed or cared for entirely within the confines of a residence. Crematory facilities shall not be allowed in a veterinarian establishment.

**VIOLATION** - The failure of a structure or other development to be fully compliant with the Community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance is presumed to be in violation until such time as that documentation is provided.

**WALL, EXTERIOR** - A wall, bearing or nonbearing, which is used as an enclosing wall for a building, other than a party wall or fire wall. (Source: North Carolina State Building Code, Vol. 1, § 201.3)

**WAREHOUSING AND DISTRIBUTION, GENERAL** - An establishment offering indoor or open-air storage and distribution and handling of materials and equipment, such as vehicle storage, monument or stone yards, grain elevators, or open storage yards.

**WAREHOUSING AND STORAGE** - Buildings used for the rental of space to the public for the storage of merchandise, commodities or personal property and where access is under the control of the building management, but excluding the warehousing and storage of explosive, corrosive noxious materials, such as dust, fumes or noise that could be dangerous, injurious, distasteful, pernicious or obnoxious to man, other organisms or properties.

**WASTE-RELATED USE** - Any of the following, (see Use Matrix and this Appendix A for rules of interpretation: Concentrated Animal Feeding Operation or Animal Production; Demolition Landfill; Hazardous Waste facility; Land Clearing and Inert Debris Landfill; Materials Recovery Facility; Salvage Yard; Septic and Other Waste Management Service; Slaughter House; Solid Waste Disposal Facility (including any Landfill, Incinerator or Combustor); Hazardous Waste Collection facility; or Nonhazardous Waste Collection facility.

**WASTEWATER** - Any sewage or industrial process wastewater discharged, transmitted, or collected from a residence, place of business, place of public assembly, or other places into a wastewater system. (Source: NCGS § 130A-334).

**WASTEWATER COLLECTION SYSTEM** - A unified system of pipes, conduits, pumping stations, force mains, and appurtenances other than interceptor sewers, for collecting and transmitting water-carried human wastes and other wastewater from residences, industrial establishments or any other buildings, and owned by a local government unit. (Source: NCGS § 159G-3).

**WASTEWATER FACILITIES** - Structures or systems designed for the collection, transmission, treatment, or disposal of sewage and includes trunk mains, interceptors, and treatment plants, including package treatment plant and disposal systems, and on-site septic systems.

**WASTEWATER SYSTEM** - A system of wastewater collection, treatment, and disposal in single or multiple components, including a privy, septic tank system, public or community wastewater system, wastewater reuse or recycle system, mechanical or biological wastewater treatment system, any other similar system, and any chemical toilet used only for human waste. (Source: NCGS § 130A-334).

**WATER DEPENDENT STRUCTURES** - As defined in 15A NCAC 2H.1002, which is hereby incorporated by this reference.

**WATER FACILITIES** - Systems or structures designed to collect, treat, or distribute potable water, and includes water wells, treatment plants, storage facilities, and transmission and distribution mains.

**WATER POLLUTION** - The man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of the waters of the State, including, but specifically not limited to, alterations resulting from the concentration or increase of natural pollutants caused by man-related activities. (Source: NCGS § 143-213).

**WATER POLLUTION CONTROL FACILITY** - Any structure, equipment or other facility for, including any increment in the cost of any structure, equipment or facility attributable to, the purpose of treating, neutralizing or reducing liquid industrial waste and other water pollution, including collecting, testing, neutralizing, stabilizing, cooling, segregating, holding, recycling, or disposing of liquid industrial waste and other water pollution, including necessary collector, interceptor, and outfall lines and pumping stations, which shall have been certified by the agency exercising jurisdiction to be in furtherance of the purpose of abating or controlling water pollution. (Source: NCGS § 159C-3).

**WATER POLLUTION CONTROL SYSTEM** - A system for the collection, treatment, or disposal of waste for which

a permit is required under rules adopted by either the North Carolina Environmental Management Commission or the Commission for Health Services. (Source: NCGS § 90A-46).

**WATER SUPPLY SYSTEM** - A public water supply system consisting of facilities and works for supplying, treating and distributing potable water including, but not limited to, impoundments, reservoirs, wells, intakes, water filtration plants and other treatment facilities, tanks and other storage facilities, transmission mains, distribution piping, pipes connecting the system to other public water supply systems, pumping equipment and all other necessary appurtenances, equipment and structures. (Source: NCGS § 159G-3).

**WATER SURFACE ELEVATION (WSE)** – The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplain of coastal or riverine areas.

**WATER SYSTEM** - All plants, systems, facilities or properties used or useful or having the present capacity for future use in connection with the supply or distribution of water or the control and drainage of stormwater runoff and any integral part thereof, including but not limited to water supply systems, water distribution systems, structural and natural stormwater and drainage systems of all types, sources of water supply including lakes, reservoirs and wells, intakes, mains, laterals, aqueducts, pumping stations, standpipes, filtration plants, purification plants, hydrants, meters, valves, and all necessary appurtenances and equipment and all properties, rights, easements and franchises relating thereto and deemed necessary or convenient by the authority for the operation thereof. (Source: NCGS § 162A-2).

**WATER SYSTEM IMPROVEMENTS OR SEWER SYSTEM IMPROVEMENTS** - Such repairs, replacements, additions, extensions and betterments of and to a water system or a sewer system as are deemed necessary by the authority to place or to maintain such system in proper condition for its safe, efficient and economic operation or to meet requirements for service in areas which may be served by the authority and for which no existing service is being rendered. (Source: NCGS § 162A-2).

**WATER TREATMENT FACILITY** - Any facility or facilities used or available for use in the collection, treatment, testing, storage, pumping, or distribution of water for a public water system. (Source: NCGS § 90A-20.1).

**WATERCOURSE** - Any lake, river, stream, creek, wash, channel, or other topographic feature on or over water flows at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

**WATERS** - Any stream, river, brook, swamp, lake, sound, tidal estuary, bay, creek, reservoir, waterway, or other body or accumulation of water, whether surface or underground, public or private, or natural or artificial, that is contained in, flows through, or borders upon any portion of the City. (Source: NCGS § 143-212).

**WATERSHED** - A natural area of drainage, including all tributaries contributing to the supply of at least one major waterway within the State, the specific limits of each separate watershed to be designated by the North Carolina Environmental Management Commission. (Source: NCGS § 143-213).

**WATERSHED COMMISSION** - The Cabarrus County Watershed Improvement Commission.

**WET DETENTION POND** - As defined in 15A NCAC 2H.1002, which is hereby incorporated by this reference.

**WETLAND** - Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands shall be designated in accordance with the Corps of Engineers Wetlands Delineation Manual (United States Department of Commerce, National Technical Information Service, January 1987). Copies of the Wetland Delineation Manual may be obtained by contacting the National Technical Information Service.

**WIND-DRIVEN SIGN** - Consists of one (1) or more banners, flags, pennants, ribbons, spinners, streamers, captive balloons or other objects or materials designed or intended to move when subject to pressure by wind or breeze

and by that movement attract attention and function as a sign (see definition of SIGN).

**WOODLAND** - All forest areas, both timber and cut-over land, and all second growth stands on areas that have at one time been cultivated. (Source: NCGS § 113-57).

**YARD** - An open unoccupied space, other than a Court, unobstructed from the ground to the sky, on the Lot on which a Building is situated. (Source: North Carolina State Building Code, Vol. 1, § 202 and Vol. VII. § 202).

**YARD, FRONT** - A yard extending across the front width of a lot and being the minimum horizontal distance between the street line and the principal building or any projection thereof, other than steps, unenclosed balconies, and unenclosed porches. The front yard of a corner lot is the yard adjacent to the designated front lot line.

**YARD, REAR** - A yard extending between the side yards of a lot or between the side lot lines in the absence of side yards, and being the minimum horizontal distance between the rear lot line and the rear of the principal building or any projection thereof, other than steps, unenclosed balconies or unenclosed porches. On corner lots and interior lots, the rear yard is in all cases at the opposite end of the lot from the front yard.

**YARD, REQUIRED** - The minimum open space as specified by the regulations of this Ordinance for front, rear and side yards, as distinguished from any yard area in excess of the minimum required. See "Buildable Area."

**YARD, SIDE** - A yard extending from the front yard to the rear yard between the side lot line and the nearest line or point of the building. This side yard definition may apply for three sides of a flag lot if the flagpole portion of the lot exceeds the front yard setback. Where a lot has sufficient land area, the side yard may exceed the minimum side setback as specified in § 4.7 of this Ordinance. (See Figure in definition of "required setback.") An interior side yard is defined as the side yard adjacent to a common lot line.

**YARD SALE** - An outdoor sale of merchandise conducted entirely upon a residentially or institutionally developed lot by one (1) or more households or civic groups where goods are limited primarily to used merchandise donated by the yard sale participants.

**YARD SETBACK** - The minimum horizontal distance between any building and the property line.

**ZERO LOT LINE** - The location of a building on a lot in such a manner that one or more of the building's sides rests directly on a lot line.

**ZONING CLEARANCE** - The issuance of a permit or authorization by the Zoning Inspector indicating that a proposed building, structure or use of land meets all of the standards, criteria, procedures and requirements contained in this Ordinance.

**ZONING DISTRICT** - Any portion of the area of the City in which the same Zoning regulations apply.

**ZONING INSPECTOR** - The Administrator or his duty authorized representative.

# APPENDIX B APPLICATION REQUIREMENTS.

## TABLE OF CONTENTS

SECTION	PAGE
B.1 GENERAL PROVISIONS .....	B-2
B.2 MAJOR SUBDIVISION PLAT .....	B-3
B.3 MINOR SUBDIVISION PLAT .....	B-8
B.4 MAJOR SITE PLANS .....	B-12
B.5 MINOR SITE PLANS.....	B-13
B.6 LANDSCAPING AND MAINTENANCE PLAN.....	B-14
B.7 GRADING AND CONSERVATION PLAN.....	B-15
B.8 ARCHITECTURAL PLAN.....	B-16
B.9 FLOOD PREVENTION PLAN .....	B-17
B.10 WATERSHED VARIANCE .....	B-19
B.11 TRAFFIC IMPACT STUDY.....	B-20
B.12 PLOT PLAN .....	B-22
B.13 STORMWATER CONCEPT PLAN.....	B-23

## **B.1. GENERAL PROVISIONS.**

- The Administrator shall promulgate submittal requirements, instructions for completing forms, and internal procedures for acceptance and filing of applications. Additional information may be required for particular applications. Necessary forms for all applications for:
  - administrative permits;
  - applications for Board of Adjustment review;
  - applications for Planning Commission review; and
  - applications for City Council review.
  
- All such forms/applications shall be maintained at the office of the Administrator.



## B.2. MAJOR SUBDIVISION PLAT.

- ***General Requirements.***

- **Preliminary Plat** - The subdivider shall submit five (5) copies of a preliminary subdivision plat to the Planning Department for processing and referral to affected agencies along with the appropriate subdivision plat review fee and application. Fifteen (15) copies should be submitted for review by the Planning & Zoning Commission after being notified by the Administrator of item placement on the Commission agenda.
- **Final Plat** -The subdivider shall submit five (5) copies with the appropriate subdivision review fee and application (if updated information is necessary). If a Subdivision Improvement Agreement is required, the subdivider shall submit all required information with the application. Two (2) mylars should be submitted after approval has been granted, with one to be kept by the City. A digital copy of the final plat must be submitted with the mylar submittals.
- **Construction Plans** - The subdivider shall furnish the Planning Department with three (3) copies of all construction plans and specifications, prepared and endorsed by a certified professional engineer or landscape architect, licensed as such by the State of North Carolina to perform such work. The construction plans shall delineate and describe in complete detail all aspects of grading, clearing, drainage and physical improvements proposed both on and off-site, as required in relation to the proposed subdivision.

- ***Requirements for a Sketch Plan.***

- Sketch plans shall be drawn to a convenient scale of not more than one hundred (100) feet to an inch. Supporting information required by this section may allow for a larger scale.

- ***Contents required.***

- 1) Type of development.
- 2) Name, address, and telephone number of developer and designer.
- 3) Graphic and written scale.
- 4) Proposed name of subdivision.
- 5) Current Zoning and district lines.
- 6) Total acreage of the site.
- 7) Total number of proposed lots/units and the approximate location and dimensions of all proposed or existing lots.
- 9) The approximate location, dimensions, and area of all parcels of land proposed to be set aside for park or playground use or other public use, or for the use of property owners in the proposed subdivision.
- 10) Whenever the sketch plan covers only a part of an applicant's contiguous holdings, the applicant shall submit, the proposed subdivision or development area, together with its proposed utilities and street system, and an indication of the probable future street system, and an indication of the probable future utilities and street and drainage system of the remaining portion of the tract.
- 11) Approximate topography.
- 12) Existing utilities available to the site and preliminary proposals for connection with existing water supply and sanitary sewage systems, or alternative means of providing water supply and sanitary waste treatment and disposal; preliminary provisions for collecting and discharging surface water drainage.

- ***Requirements for Preliminary Plat***

- No specific size requirements apply to preliminary plats. Preliminary plats shall be prepared at a scale of one (1) inch equals one hundred (100) feet, or a scale for which one (1) inch equals a distance less than one hundred (100) feet. The preliminary plat shall be prepared by a registered land surveyor, professional engineer or professional landscape architect and shall depict or contain the information set forth below. Incomplete plans shall be returned to the subdivider without further review until revised and resubmitted, provided, however, that construction plans may be submitted after approval of a preliminary subdivision plat by the Planning and Zoning Commission when such approval is made subject to the submission of said construction plans and approval of same by the Public Works Director and City Engineer.
- *Contents required.*
  - 1) Legend--Title and revision number;
  - 2) Location map showing relationship of subdivision to the city and surrounding area;
  - 3) Tract boundaries shown by a heavy line including all bearings and distances;
  - 4) Existing and proposed property lines, any structures, water courses, railroads, bridges, culverts, and storm drains on the tract and on adjoining property within 100’;
  - 5) Lot lines and scaled dimensions, lot numbers;
  - 6) Proposed street names, right-of-way and pavement widths, and typical cross-sections;
  - 7) Existing streets on subject and adjoining properties including right-of-way and pavement width;
  - 8) Proposed easements or rights-of-way other than for streets (e.g. for drainage, storm water detention, utilities, pedestrian ways, buffers); location, width and purpose;
  - 9) Zoning classification and district lines on the tract and adjoining properties;
  - 10) Names and PIN numbers of adjoining property owners and subdivisions both proposed and of record;
  - 11) Site calculations, including:
    - (a) Total acreage,
    - (b) Number of lots in each phase,
    - (c) Total number of lots in the subdivision,
    - (d) Acreage in lots,
    - (e) Acreage in street rights-of-way,
    - (f) Linear feet of each individual street, and
    - (g) Anticipated date of final platting;
  - 12) The location and size of parks, school sites, open space areas, etc. and their ownership;
  - 13) Existing topography at a contour interval of two (2) feet;
  - 14) Boundaries of floodways and one hundred-year flood plains; and
  - 15) Building Setbacks (in table format).
  - 16) Proposed location of water and sanitary sewer systems.
  - 17) Deed reference, tax parcel number, and address of parent tract

- **Requirements for a Final Plat**

- *Contents required.*

- 1) Legend containing subdivision names, vicinity map, legal description including township, county and state, the date or dates of survey, the date of any revisions to plat, a north arrow and declaration, scale in feet per inch and bar graph, the name and address of the owner(s) and the name, address, registration number and seal of engineer and/or surveyor and/or landscape architect;
- 2) Exact boundary lines of tract in heavy line, full dimensions by lengths and bearings, and intersecting boundaries of adjoining lands;
- 3) A digital copy of the final plat must be submitted with the mylar submittal;
- 4) Street names, right-of-way lines, and the location and dimensions of all easements;
- 5) Accurate descriptions and locations of all monuments, markers, and control points;
- 6) Location, purpose, and dimensions of areas to be used for other than residential purposes;
- 7) Sufficient engineering data to determine readily and reproduce on the ground every straight or curved boundary, street, and setback line including dimensions, bearings, or deflection angles, radius, central angles, and tangent distances for the center line of curved streets and curved property lines that are not the boundary of curved streets. All dimensions shall be measured to the nearest tenth and angles to the nearest minute;
- 8) Boundaries of floodways and one hundred-year flood plains;
- 9) Lots numbered consecutively throughout the subdivision;
- 10) The names of owners of adjoining properties;
- 11) Building Setbacks (in table format).
- 12) Site calculations, including:
  - (a) Total acreage;
  - (b) Total number of lots;
  - (c) Acreage in lots;
  - (d) Acreage in street rights-of-way;
  - (e) Linear feet of each individual street;
- 13) The following certificates shall appear on all copies of the plat. Items (a) and (b) shall be signed when submitted. Items (c), (d), and (e), will be signed when the plat is approved:
  - (a) *Certificate of ownership and dedication.*

I hereby certify that I am owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the City of Kannapolis, and that I hereby submit this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate to public use all areas shown on this plat as streets, walks, parks, open space and easements, except those specifically indicated as private, and that I will maintain all such areas until accepted by the City of Kannapolis, and further that I hereby guarantee that I will correct defects or failure of improvements in such areas for a period of one year commencing after a certificate of approval has been executed by the city, or after final acceptance of required improvements, whichever occurs later.

\_\_\_\_\_  
Owner

(b) *Certificate of Survey and Accuracy.*

I, \_\_\_\_\_, certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description, etc.) (other); that the error of closure as calculated by latitudes and departures is 1: \_\_\_\_\_; that the boundaries not surveyed are shown as broken lines plotted from information found in Book \_\_\_\_\_, Page \_\_\_\_\_; that this map was prepared in accordance with General Statute 47-30, as amended.

Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_ A.D.

\_\_\_\_\_  
Surveyor or Engineer

\_\_\_\_\_  
License or Registration Number

(c) *Certificate of streets, water and sewer system approval and other improvements.*

I hereby certify that all streets, storm drainage systems, water and sewer systems and other improvements have been designed and installed, or their installation guaranteed, in an acceptable manner and according to specification and standards of Kannapolis and the State of North Carolina in the \_\_\_\_\_ Subdivision.

\_\_\_\_\_  
Date

\_\_\_\_\_  
City Engineer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Public Works Director

(d) *Certificate of final plat approval.*

It is hereby certified that this plat is in compliance with the Subdivision Regulations of the City of Kannapolis, and therefore this plat has been approved, subject to its being recorded with the Cabarrus (Rowan) County Register of Deeds within 30 days of the date below.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Planning Director

(e) *Plat Review Officer Certificate (as required by G.S. 47-30.2)*

State of North Carolina  
County of Cabarrus/Rowan

I, \_\_\_\_\_, Review Officer of the County of (Cabarrus)(Rowan), certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

\_\_\_\_\_  
Review Officer

*(f) Statement of Active Open Space (see Section 6.5.3.6.4 to determine if applicable)*

Active open space improvements, as defined in Section 6.5.3.1.2, shall be required for this plat and shall equal a total minimum financial investment of 200% of the pre-development tax value for the amount of dedicated land from the parcel from which the open space is being dedicated as required.

*(g) Easement Statement*

Encroachment of any structures or landscaping, including, but not limited to, driveways, pools, fences, trees, wells, reservoirs, or other obstructions, which would interfere with free, easy, and clear access to utilities on any easement, are prohibited. However, certain structures, filling, or grading may be permitted upon execution of an express Encroachment Agreement. The City of Kannapolis may authorize an Encroachment Agreement, but only after review and approval of detailed plans.

*(h) Public Utility Easement Statement*

All open space depicted or identified on this plat shall be subject to and encumbered by a general public utility easement in gross benefiting the City of Kannapolis. The City of Kannapolis, its agents, employees, successors, and assigns shall have the right of ingress, egress, and regress over and upon any property designated on this plat as open space for the purposes of locating, laying, constructing, reconstructing, inspecting, operating, extending, maintaining, and otherwise keeping open and in good repair any public municipal utility including, but not limited to, water systems, sanitary sewer systems, and public stormwater systems.

### B.3. MINOR SUBDIVISION PLAT.

- ***General Requirements.***
- **Final Plat** - The subdivider shall submit five (5) copies of a minor subdivision plat to the Administrator for processing, along with the appropriate subdivision plat review fee and application. If a Subdivision Improvement Agreement (letter of credit, cash escrow or surety bond) is required due to incomplete installation of utility extensions, the subdivider shall submit all required information with the application. A digital copy of the final plat must be submitted with the mylar submittals.
- **Construction Plans (if applicable)** - If utility extensions are required, the subdivider shall furnish the Planning Department with three (3) copies of all construction plans and specifications, prepared and endorsed by a certified professional engineer, licensed as such by the State of North Carolina. The construction plans shall delineate and describe in complete detail all aspects of grading, clearing, drainage and physical improvements proposed both on and off-site, as required in relation to the proposed subdivision.
- ***Requirements for a Sketch Plan.***
- Sketch plans shall be drawn to a convenient scale of not more than one hundred (100) feet to an inch. Supporting information required by this section may allow for a larger scale.
- ***Contents required.***
  - 1) Type of development.
  - 2) Name, address, and telephone number of developer and designer.
  - 3) Graphic and written scale.
  - 4) Proposed name of subdivision.
  - 5) Current Zoning and district lines.
  - 6) Total acreage of the site.
  - 7) Total number of proposed lots/units and the approximate location and dimensions of all proposed or existing lots.
  - 8) The approximate location, dimensions, and area of all parcels of land proposed to be set aside for park or playground use or other public use, or for the use of property owners in the proposed subdivision.
  - 9) Whenever the sketch plan covers only a part of an applicant's contiguous holdings, the applicant shall submit, the proposed subdivision or development area, together with its proposed utilities and street system, and an indication of the probable future street system, and an indication of the probable future utilities and street and drainage system of the remaining portion of the tract.
  - 10) Approximate topography.
  - 11) Existing utilities available to the site and preliminary proposals for connection with existing water supply and sanitary sewage systems, or alternative means of providing water supply and sanitary waste treatment and disposal; preliminary provisions for collecting and discharging surface water drainage.

- **Requirements for a Final Plat.**

- *Contents required.*

- 1) Legend containing subdivision names, vicinity map, legal description including township county and state, the date or dates of survey, the date of any revisions to plat, a north arrow and declaration, scale in feet per inch and bar graph, the name and address of the owner(s) and the name, address, registration number and seal of engineer and/or surveyor;
- 2) Exact boundary lines of tract in heavy line, full dimensions by lengths and bearings, and intersecting boundaries of adjoining lands;
- 3) A digital copy of the final plat must be submitted with the mylar submittal;
- 4) Street names, right-of-way lines and the location and dimensions of all easements, and show the location of public water and sewer lines on the final plat submittal;
- 5) Accurate descriptions and locations of all monuments, markers, and control points;
- 6) Sufficient engineering data to determine readily and reproduce on the ground every straight or curved boundary, street, and setback line including dimensions, bearings, or deflection angles, radius, central angles, and tangent distances for the centerline of curved streets and curved property lines that are not the boundary of curved streets. All dimensions shall be measured to the nearest tenth and angles to the nearest minute;
- 7) Boundaries of floodways and one-hundred-year (100-year) floodplains;
- 8) Lots numbered consecutively throughout the subdivision;
- 9) The names of owners of adjoining properties;
- 10) Building Setbacks (in table format).
- 11) Site calculations, including:
  - (a) Total acreage, and
  - (b) Total number of lots; and
- 12) The following certificates shall appear on the plat. Items (a), (b) and (c) shall be signed when submitted. Item will be signed when plat is approved.
  - (a) *Certificate of ownership and dedication.*

I hereby certify that I am owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the City of Kannapolis, and that I hereby submit this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate to public use all areas shown on this plat as streets, walks, parks, open space and easements, except those specifically indicated as private, and that I will maintain all such areas until accepted by the City of Kannapolis, and further that I hereby guarantee that I will correct defects or failure of improvements in such areas for a period of one year commencing after a certificate of approval has been executed by the city, or after final acceptance of required improvements, whichever occurs later.

\_\_\_\_\_  
Owner

(b) *Certificate of survey and accuracy.*

I, \_\_\_\_\_, certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book \_\_\_\_\_, Page \_\_\_\_\_, Book \_\_\_\_\_, Page \_\_\_\_\_, etc.) (other); is 1: \_\_\_\_\_; that the boundaries not surveyed are shown as broken lines plotted from information found in Book \_\_\_\_\_, Page \_\_\_\_\_, that this map was prepared in accordance with General Statute 47-30 as amended.

Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_ A.D.

\_\_\_\_\_  
Surveyor or Engineer

\_\_\_\_\_  
License or Registration Number

Upon approval of the minor subdivision final plat, by the planning director and appropriate public works officials, the following signed certificate shall be shown on each copy of the plat reflecting such approval:

(c) *Certificate of final plat approval.*

By authority of the City of Kannapolis Subdivision Regulations, this final plat for the \_\_\_\_\_ Subdivision is hereby approved.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Director of Planning

(the following signature lines are to be added for subdivisions without any improvements)

\_\_\_\_\_  
Date

\_\_\_\_\_  
City Engineer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Public Works Director

(d) *Certificate of water and sewer system approval and other improvements. (for subdivisions with improvements)*

I hereby certify that all streets, storm drainage systems, water and sewer systems and other improvements have been designed and installed, or their installation guaranteed, in an acceptable manner and according to specification and standards of Kannapolis and the State of North Carolina in the \_\_\_\_\_ Subdivision.

\_\_\_\_\_  
Date

\_\_\_\_\_  
City Engineer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Public Works Director



*(e) Plat Review Officer Certificate (as required by G.S. 47-30.2)*

State of North Carolina  
County of Cabarrus/Rowan

I, \_\_\_\_\_, Review Officer of the County of (Cabarrus)(Rowan), certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

\_\_\_\_\_  
Review Officer

*(f) Easement Statement*

Encroachment of any structures or landscaping, including, but not limited to, driveways, pools, fences, trees, wells, reservoirs, or other obstructions, which would interfere with free, easy, and clear access to utilities on any easement, are prohibited. However, certain structures, filling, or grading may be permitted upon execution of an express Encroachment Agreement. The City of Kannapolis may authorize an Encroachment Agreement, but only after review and approval of detailed plans.

*(g) Public Utility Easement Statement*

All open space depicted or identified on this plat shall be subject to and encumbered by a general public utility easement in gross benefiting the City of Kannapolis. The City of Kannapolis, its agents, employees, successors, and assigns shall have the right of ingress, egress, and regress over and upon any property designated on this plat as open space for the purposes of locating, laying, constructing, reconstructing, inspecting, operating, extending, maintaining, and otherwise keeping open and in good repair any public municipal utility including, but not limited to, water systems, sanitary sewer systems, and public stormwater systems.

**B.4. MAJOR SITE PLANS** (Conditional district rezonings/Special use permits).

*Contents required:*

- 1) A description of the proposed development including proposed uses and coverage.
- 2) The following data when such data is applicable to a given development plan:
  - Total number of dwelling units, by development phase;
  - Residential density and units per acre;
  - Total floor area and floor area ratio for each type of use;
  - Total area in open space;
  - Total area in developed recreational open space; and
  - Total number of off-street parking and loading spaces.
- 3) A Plot Plan as defined in this Appendix B, with the following additions:
  - Location and widths of existing and proposed streets, drives, entrances, sidewalks, paths and any other pedestrian and vehicular circulation systems.
  - Size and/or types of yards as required by Article 7
  - Location for all ground-mounted signs.
  - Location, acreage and category of passive and active (if required) open space.
  - Location of solid waste container(s) with type of screening noted.
  - General phasing information if the project is to be completed in phases.
  - Noted areas (if any) of undisturbed land which is to remain as is.
  - Delineation of all areas of special flood hazard as defined in Section 4.14 or wetlands as defined in Appendix A.
  - Location and size, in acres, of any proposed school sites.
- 4) Submission of an architectural plan consistent with the provisions of this Appendix B.
- 5) A preliminary Utility Plan and site plan shall be consistent with the Land Development Standards Manual (LDSM)

It is understood that the information provided above will be used by the Administrator to determine if adequate facilities are available to support the proposed development as set forth in Article 14 of this ordinance.

Number of copies to be submitted shall be specified on the application, as it may vary subject to the approving board(s) that may review plan.

## **B.5. MINOR SITE PLANS** (Administrative permits).

- *Contents required:*
  - A description of the proposed development including proposed uses and coverage.
  - The following data when such data is applicable to a given development plan:
    - Total number of dwelling units, by development phase;
    - Residential density and units per acre;
    - Total floor area and floor area ratio for each type of use;
    - Total area in open space;
    - Total area in developed recreational open space; and
  - Total number of off-street parking and loading spaces.
  - The location and arrangement of all proposed uses or lots. For uses other than single-family, the massing (height and width) and number of floors of all buildings shall be shown.
  - Location for all ground-mounted signs (and lighting).
  - Submission of an architectural plan consistent with the provisions of this Appendix B.
  - If a phased project, a development phasing schedule including the sequence for each phrase; approximate size in area of each phase; and, proposed phasing of construction of public improvements, recreation and common open space areas.
  - The approximate location and widths of proposed streets.
  - The location of all entrances onto adjacent roadways, whether existing or proposed.
  - The traffic and the pedestrian circulation system, including the location and width of all streets, driveways, entrances to parking areas and parking structures, walkways and bicycle paths.
  - Off-street parking and loading areas and structures, including the number of spaces; dimensions of spaces and aisles; and landscaping for parking areas.
  - Delineation of floodplain areas, wetlands, river/stream overlay areas, and watershed stream buffers and all other environmentally sensitive areas.
  - Preliminary proposals for connection with existing water supply and sanitary sewage systems, or alternative means of providing water supply and sanitary waste treatment and disposal; preliminary provisions for collecting and discharging surface water drainage.
  - The location of existing public utility easements, railroads, power lines, culverts, drainpipes, drainage channels, flood channels, water bodies, streams, swaps, parks, cemeteries, bridges, or irrigation ditches.
  - Location of proposed water and sewer lines.
  - Location of existing vegetative cover to be retained.
  - The proposed treatment of the perimeter of the development, including materials and techniques used, such as landscaped buffers, fences, berms or walls.
  - The location, acreage, category and type of improvements for passive and active (if required) open space.
  - Location of solid waste containers including proposed design provisions for screening.
  - Information relating to compliance with the adequate public facilities requirements of Article 14 of this Ordinance and consistent with the APF submission requirements as included in this Appendix B
  - Location and size in acres of school sites (if planned).
  - Grading plan and site plan shall be consistent with the requirements of this Appendix B and the Land Development Standards Manual (LDSM).
- The developer/applicant shall submit ten (10) folded copies of a minor site plan to the Planning Department for processing and referral to affected agencies along with the appropriate review fee and application.

## **B.6. LANDSCAPING AND MAINTENANCE PLAN.**

- *Contents Required:*
- A general landscaping delineation indicating the treatment of materials used for open space, landscaped buffers and common ownership (Minimum scale of 1" = 40').
- Planting areas drawn to scale with a list of the botanical and common names, and size of all plants designated for each area.
- Location, name, and size of all existing trees, shrubs, groundcover and other plant materials that are to be incorporated as part of the landscape plan.
- Location and width of landscaped buffer strips, including height of berms.
- Location and sizes of irrigation facilities adequate to maintain the planting areas. (Use of automatic watering systems is encouraged).

## **B.7. GRADING AND CONSERVATION PLAN.**

- *Contents Required:*
  - The plan shall have a minimum scale at 1" = 40' with 2' contour intervals.
  - The plan shall be on a separate plan sheet from the site plan and shall consist of one or more plan sheets showing:
    - topographic information showing existing features and conditions and proposed clearing and grading; and
    - the extent, location, and type of proposed fill materials.
    - proposed cuts and fills required by the location of all building structures and streets and roads.
  - The plan shall show the degree to which the proposed development will preserve existing features on the site. This shall include features such as healthy desirable trees, shrubs and other vegetation, waterways, vistas, and historic sites.
  - For the purposes of obtaining a Grading Permit (Section 3.2 of this Ordinance), Plan may also include information as required for a Flood Prevention Plan (see below).

**B.8. ARCHITECTURAL PLANS** (as required for this Ordinance\*).

\* This shall not include requirements for submission of a Building Permit.

- The architectural plans shall depict architectural details of the proposed development and shall consist of:
  - Preliminary renderings of building elevations plus typical cross sections to clearly define the character of the project;
  - A cross-section elevation plan depicting all buildings, structures, monuments, and other significant natural and man-made features of the proposed development;
  - An exterior building materials inventory; and
  - any covenant or dedication establishing an architectural review board.

## **B.9. FLOOD PREVENTION PLAN.**

The following items shall be presented to the Floodplain Administrator to apply for a Floodplain Development Permit:

1. A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
  - The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
  - The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 4.14.5, or a statement that the entire lot is within the Special Flood Hazard Area;
  - Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 4.14.5;
  - The boundary of the floodway(s) or non-encroachment area(s) as determined in Section 4.14.5;
  - The Base Flood Elevation (BFE) where provided as set forth in Section 4.14.5; 4.14.12; or 4.14.28;
  - The old and new location of any watercourse that will be altered or relocated as a result of proposed development;
  - Certification of the plot plan by a registered land surveyor or professional engineer.
2. Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
  - Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
  - Elevation in relation to mean sea level to which any non-residential the structure in Zone AE, A, or AO will be floodproofed; and
  - Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed;
3. If floodproofing a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data and an operations plans that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.
4. A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this Ordinance are met. These details include but are not limited to:
  1. The proposed method of elevation, if applicable (i.e. fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/ piers/piles/shear walls);

2. Opening to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with 4.14.19 of this Ordinance when solid foundation perimeter walls are used in Zones A, AO, AE, and AH and A99;
5. Usage details of any enclosed areas below the lowest floor.
6. Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
7. Certification that all other Local, State, and Federal permits required prior to floodplain development permit issuance have been received.
8. Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of 4.14.20 and 4.14.23 of this Ordinance are met.

A description of proposed watercourse alterations or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map ( if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.



## **B.10. WATERSHED VARIANCE.**

- A site plan, drawn to a scale of at least 1" = 40', indicating the property lines of the parcel upon which the use is proposed; any existing or proposed structures; parking areas and other built-upon areas; surface water drainage. The site plan shall be neatly drawn and indicate north arrow, name, and address of person who prepared the plan, date of the original drawing, and an accurate record of any later revisions.
- A complete and detailed description of the proposed variance, together with any other pertinent information which the applicant feels would be helpful to the Planning and Zoning Commission in considering the application.
- The Administrator shall notify in writing each local government having jurisdiction in the watershed and the entity using the water for consumption. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Zoning Administrator prior to a decision by the Planning and Zoning Commission. Such comments shall become a part of the record of proceedings of the Planning and Zoning Commission.

## **B.11. TRAFFIC IMPACT STUDIES.**

- A). **PREPARATION.** The applicant shall furnish the full rationale, from an engineer licensed by the State of North Carolina to perform such studies, to support the recommendations of this analysis. The submission shall include all pertinent traffic data and computations affecting the design proposal for the subdivision streets involved.
- B). **CONTENTS.** Traffic Rezoning Analysis or Traffic Impact Report shall contain information addressing the factors listed below.
- 1) **SITE DESCRIPTION:** the report shall contain illustrations and narrative that describe the characteristics of the site and adjacent land uses as well as expected development in the vicinity which will influence future traffic conditions. For a Rezoning Traffic Analysis, a description of potential uses to be evaluated shall be provided. For a Traffic Impact Report, a description of the proposed development including an access plans, staging plans and an indication of land use and intensity, shall be provided.
  - 2) **STUDY AREA:** The report shall identify the geographic area under study and identify the roadway segments, critical intersections and access points to be analyzed. The geographic area under study shall extend not less than one-half mile from the site.
  - 3) **EXISTING TRAFFIC CONDITIONS:** The report shall contain a summary of the data utilized in the study and an analysis of existing traffic conditions, including:
    - a) traffic count and turning movement information, including the source of and date when traffic count information was collected;
    - b) correction factors that were used to convert collected traffic data into representative average daily traffic volumes;
    - c) roadway characteristics, including the design configuration of existing or proposed roadways, existing traffic control measures (speed limits, traffic signals, or traffic calming measures) and existing driveways and turning movement conflicts in the vicinity of the site; and
    - d) identification of the existing Level of Service for roadways and intersections without project development traffic using methods documented in the Special Report 209: Highway Capacity Manual, published by the Transportation Research Board, or comparable accepted methods of evaluation. Level of Service should be calculated for the weekday peak hour and, in the case of uses generating high levels of weekend traffic, the Saturday peak hour.
  - 4) **HORIZON YEAR(S) AND BACKGROUND TRAFFIC GROWTH.** The report shall identify the horizon year(s) that were analyzed in the study, the background traffic growth factors for each horizon year, and the method and assumptions used to develop the background traffic growth. Unless otherwise approved by the Engineer, the impact of development shall be analyzed for the year after the development is completed and 10 years after the development is completed.
  - 5) **TRIP GENERATION, TRIP REDUCTION AND TRIP DISTRIBUTION.** The report shall summarize the projected a.m. and p.m. peak hour and average daily trip generation for the proposed development and illustrate the projected trip distribution of trips to and from the site and should identify the basis of the trip generation, trip reduction and trip distribution factors used in the study.
  - 6) **TRAFFIC ASSIGNMENT:** The report shall identify projected roadway segment, intersection or driveway traffic volumes, with and without the proposed development, for the horizon year(s) of the study;
  - 7) **IMPACT ANALYSIS:** The report shall address the impact of projected horizon year(s) traffic volumes relative to each of the applicable traffic service factors listed in paragraph 3 above and shall identify the

methodology utilized to evaluate the impact. The weekday peak hour impact shall be evaluated as well as the Saturday peak hour for those uses exhibiting high levels of weekend traffic generation.

- 8) MITIGATION /ALTERNATIVES: The report shall identify alternatives for achieving the traffic service standards listed in Article 14 and in addition shall:
- identify where additional right of way is needed to implement mitigation strategies;
  - identify suggested phasing of improvements where needed to maintain compliance with traffic service standards; and
  - identify the anticipated cost of recommended improvements.

C). PROCEDURES.

- 1) The applicant or his designated representative shall contact the Director of Transportation and the Administrator to establish whether a traffic study is needed and to define the parameters for the study. Following preparation of any traffic study, copies of the study report shall be submitted to the Administrator for distribution to staff of the roadway jurisdictions involved in the construction and maintenance of public roadways serving the development. A conference between the staff and applicant shall be held within 10 days to discuss the content and findings of the report and determine the need for any supplemental study or analysis.
- 2) When the Director of Transportation and the Administrator have determined that the content of the report adequately addresses the applicable Traffic Service Standards of Article 14 and purposes as listed in Article 14, a finding shall be made that the traffic impact study is complete and proceedings on any application that was stayed pending completion of a traffic analysis can resume.

D). REPORT FINDINGS.

- 1) When staff and the applicant concur that the technical analysis is complete, the report shall be forwarded to the platting authority at its next regular meeting. Negotiations with the platting authority, if needed, shall be held, and a Subdivision Improvement Agreement detailing the applicant's responsibilities and the City's responsibilities for implementing any mitigation measures shall be prepared, and what, if any, improvements may be assessed against other benefited properties.
- 2) If staff finds that the proposed development will not meet applicable service level standards, staff shall recommend one or more of the following actions on the associated development application, as may be needed:
  - Reduce the size, scale, scope or density of the development to reduce traffic generation;
  - Divide the project into phases and authorized only one phase at a time until traffic capacity is adequate for the next phase of development;
  - Dedicate right-of-way for street improvements;
  - Construct new streets;
  - Expand the capacity of existing streets;
  - Redesign ingress and egress to the project to reduce traffic conflicts;
  - Alter the use and type of development to reduce peak hour traffic;
  - Reduce background (existing) traffic;
  - Eliminate the potential for additional traffic generation from undeveloped properties in the vicinity of the proposed development;
  - Integrate non-vehicular design components (e.g., pedestrian and bicycle paths or transit improvements) to reduce trip generation; or
  - Recommend denial of the application for development for which the TIR is submitted.

## **B.12. PLOT PLAN**

- *Contents Required:*
  - Location of structure(s), including but not limited to all proposed decks, steps, or other similar structural improvements
  - Building setbacks

## **B.13. Stormwater Concept Plan**

- ***General Requirements.***

- The applicant shall submit three (3) copies of a Stormwater Concept Plan to the Administrator for processing, along with the appropriate review fee and application.
- The Concept Plan shall be drawn to a convenient scale of not more than one hundred (100) feet to an inch.

- ***Contents Required.***

- Proposed name and description of Project
- Total acreage of the site.
- Graphic and written scale.
- Current Zoning and district lines.
- Topographic information with 2-foot contour interval showing existing features and conditions.
- Existing tract boundaries including all bearings and distances.
- Existing property lines, any structures, water courses, railroads, bridges, culverts, and storm drains on the tract and on adjoining property with 100 feet.
- All streams and RSOD buffers clearly shown.
- FEMA flood information from the most recent available data.
- Preliminary locations of BMPs and storm drain easements.
- Location of off-street parking areas

**APPENDIX C**  
**Design Standards for Streets and Utilities.**

*TABLE OF CONTENTS*

<b>SECTION</b>	<b>PAGE</b>
<b>C.1 GENERAL PROVISIONS .....</b>	<b>C-2</b>
<b>C.2 RESERVED .....</b>	<b>C-5</b>
<b>C.3 FIRE PROTECTION.....</b>	<b>C-6</b>
<b>C.4 PUBLIC STREETS.....</b>	<b>C-8</b>

## **C.1. GENERAL PROVISIONS.**

### **C.1.1. Compliance.**

- Except as hereinafter provided, before any final plat of a subdivision shall be eligible for final approval, and before any street or utility shall be accepted for maintenance by the city, minimum improvements shall have been completed and approved in accordance with the Land Development Standards Manual (LDSM), or their completion shall have been guaranteed with an irrevocable letter of credit in accordance with Article 6 of this Ordinance.

### **C.1.2. Intent of specifications.**

- The intent of the specifications set out in the LDSM is to prescribe minimum requirements for storm drainage, water supply, sanitary sewerage, sidewalks and street improvements to be undertaken by the developer within the city or its extraterritorial jurisdiction. Satisfactory completion of these improvements attested by approval of the city engineer will qualify streets in the city and utilities in the city or its extraterritorial jurisdiction to be accepted for maintenance by the city.

### **C.1.3. Statement by owner.**

- The owner of land, or his authorized agent, shown on a subdivision plat submitted for approval by the City Council shall sign a statement on the plat stating whether or not any land shown thereon is within the subdivision regulation jurisdiction of the City of Kannapolis.

### **C.1.4. Effect of plat approval on dedications.**

- Pursuant to General Statutes 160D-413, the approval of a plat shall not be deemed to constitute or effect the acceptance by the city or public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat. However, the City Council may, by resolution, accept any dedication made to the public of lands or facilities for streets, parks, public utility lines, or other public purposes, when the lands or facilities are located within its subdivision regulation jurisdiction. Acceptance of dedication of lands or facilities located within the subdivision regulation jurisdiction but outside the corporate limits of the city shall not place on the city any duty to open, operate, repair, or maintain any street, utility line, or other land or facility, and the city shall in no event be held to answer in any civil action or proceeding for failure to open, repair, or maintain any street located outside its corporate limits.

### **C.1.5. Abrogation.**

- It is not intended that this ordinance repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law. However, where this ordinance imposed greater restrictions, the provisions of this ordinance shall govern.

### **C.1.6. RESERVED.**

### **C.1.7. Improvements variance.**

- The city engineer may grant a variance from the terms of these improvements regulations when such variance will not be contrary to the public interest and where, because of the existence of unusual physical conditions, strict compliance with the provisions of this chapter would cause an unusual and unnecessary hardship on the subdivider. Such variance shall not be granted if it has the effect of nullifying the intent and purpose of these regulations. Furthermore, such variance shall not be granted by the city engineer unless and until:
- A written application for an improvement's variance is submitted to the office of the city engineer on forms provided by that office demonstrating:
  1. That special conditions and circumstances exist which are peculiar to the land, structures or required subdivision improvements involved and which are not applicable to other lands, structures, or required subdivision improvements;

2. That a literal interpretation of the provisions of these regulations would deprive the applicant of rights commonly enjoyed by other properties with similar conditions;
  3. That the special conditions and circumstances do not result from the actions of the applicant;
  4. That the granting of the variance requested will not confer on the applicant any special privilege that is denied by these regulations to other lands, structures, or required subdivision improvements under similar conditions. No existing conditions on neighboring lands which are contrary to these regulations shall be considered grounds for the issuance of a variance.
- The city engineer shall make findings that the requirements of this section have been met.
  - The city engineer shall further make a finding that the reasons set forth in the application justify the granting of the variance that would make possible the reasonable use of the land, buildings, or other improvements.
  - The city engineer shall make further finding that the granting of the variance would be in harmony with the general purpose and intent of these regulations, will not be injurious to the surrounding territory, or otherwise be detrimental to the public welfare.
  - The city engineer shall make all findings required by this section within seven (7) days of the date of receipt of the written application.
  - An appeal from the finding of the city engineer may be taken to the City Council by any person aggrieved. An appeal is taken by filing with the zoning administrator a written notice requesting a subdivision variance and specifying the grounds therefore, as set forth in Article 6 of this Ordinance.
  - An appeal must be taken within seven (7) days after the date of the findings by the city engineer.
  - The City Council may reverse or affirm (wholly or partly) or may modify the findings appealed from and shall make any order, requirements, decision or determination that in its opinion ought to be made in the case before it.



**C.2. )RESERVED.**

## C.3. FIRE PROTECTION.

### C.3.1. Fire Hydrants.

- Applicants shall install fire hydrants in accordance with Kannapolis Fire Department specifications and requirements.
- The Kannapolis Public Works Department may contract with a developer to install fire hydrants as required, but in all cases, the full cost of providing for such hydrants shall be borne by the developer
- Any hydrant connected to the Kannapolis water system constructed pursuant this subsection, shall constitute dedication to the Kannapolis Public Works Department of such hydrant.
- All newly installed fire hydrants shall be 5-1/4-inch barrel hydrants. All foot valves shall be 5-1/4 inch in diameter. Only three-way hydrants shall be installed with steamer connections. All hydrants shall be delivered with a primer coat. After hydrant installation, the primer shall be touched up and then painted red with reflective top (2 coats).
- **Hydrant Spacing.** All newly installed fire hydrants shall be spaced at 800-foot intervals in residential zoning districts, except as provided herein. In Commercial, Industrial and Multi-family construction developments, hydrants shall be spaced at 400-foot intervals. No application for development approval shall be approved for any building unless a hydrant is installed within 400 feet of the most remote area of the building. Structures having sprinkler systems may provide yard hydrants to meet this requirement. Mains shall be sized to provide 500 gpm exterior hose streams.
  - **Testing and Acceptance.** All newly installed fire hydrants shall be tested by the Kannapolis Fire Department, or the fire department in whose jurisdiction it is located. The water authority shall notify the Kannapolis Fire Department, upon completion of the system and its availability for testing. No construction shall be allowed in the protected area until the water system has been tested and approved unless otherwise allowed by the authority having jurisdiction.

### C.3.2. Fire Protection Facilities.

- **Connections.** Connections for fire protection systems shall be made in compliance with the City of Kannapolis Backflow Prevention and Cross-Connection Control Policy. Fire protection water facilities installed upon the owner's private property are for the use of the owner, and Kannapolis Public Works Department assumes no responsibility for such facilities. No water service, other than fire protection, will be taken from water mains intended to provide fire protection only. Metering may be required of systems that are run periodically for testing with the water going to waste. Notification of testing shall be given a minimum of 48 hours prior to testing. Violation of this notification may require the installation of approved metering devices and appurtenances as specified by the City of Kannapolis Public works Department. The Kannapolis Public Works Department reserves the right to make necessary inspections to ensure compliance with these regulations. No pumps may be directly connected to the Kannapolis system.
- **Cold Water Meters – Fire Service Type Size 6", 8" AND 12".** All meters shall fully comply with the AWWA specification C-703-79. Fire service meters shall consist of a combination of main line meter of the proportional type, having an unobstructed waterway of essentially the full pipe size for measuring high rates of flow, and a by-pass meter of appropriate size for measuring low rates of flow. The meter shall have an automatic valve mechanism for diverting low rates of flow through the by-pass meter. Meters must be approved by the National Fire Protection Association and listed by the Underwriters Laboratories. Loss in head not to exceed for (4) psi.
- **Casing.** Main casing shall be either of copper alloy containing not less than seventy-five percent (75%) copper or of cast iron protected by a corrosion resistant coating or other anti-corrosion treatment. Main-case connections shall be flanged. Flanges shall be of the round type, faced and drilled, and shall conform to ANSI B16.1, Class 125. Companion flanges are not required.
- **Registers.** Registers shall be straight reading type and shall read in cubic feet. Registers will be provided with a center-sweep test hand. Registers will be perma-sealed.
- **Automatic Valves.** The automatic valve shall be of a type suitable for the purpose. It shall close by force. The weight of the valve and any supplemental force imposed on it shall offer sufficient resistance to the

incoming water to diver all small flows through the by-pass meter until such time as the rate of flow through the meter is great enough to ensure efficient operation of the main measuring section. Test plugs must be comparable to meter size.

- **Test Outlet.** A minimum 2-inch outlet shall be provided on the downstream side of the meter.
- **Piping Sizes.**
  - 3/4" - 2" piping shall be brass.
  - 3" - 10" piping shall be ductile iron (cement lined).

### C.3.3. Fire Service Requirements.

- **Requirements in Residential Zoning Districts.** The minimum size of fire service water mains in residential developments shall be 6 inches. All 6-inch mains must be looped. Dead end mains shall be 8 inches or greater. Exceptions: Mains installed may meet minimum performance specifications for the expected demand upon the system. Mains shall be designed to provide the following flow rates at 20 psi:
  - RE and RL zoning: 1,000 gpm
  - RM-1, RM-2, RV, and RC zoning: 1,000 gpm
- **Requirements in Non-Residential Zoning Districts.** The minimum size of fire service water mains in commercial and multi-family dwelling areas shall be 8 inches. All 8-inch mains shall be looped. Dead end mains shall be 12 inches. The minimum size of fire service water mains in industrial areas shall be 12 inches. All 12-inch mains shall be looped. Dead end mains shall provide the minimum fire flow as required in this subsection. Notwithstanding the foregoing, mains installed may meet minimum performance specifications for the expected demand upon the system in lieu of the minimum size requirement. Mains shall be designed to provide the following flows at 20 psi:
  - AG zoning: 1,000 gpm
  - B-1 and O-I zoning: 1,750 gpm
  - C-1, C-2, CD and I-1 zoning: 2,000 gpm
  - I-2 zoning: 2,500 gpm
  - All other districts: 1,500 gpm
- Individual large structures with life safety hazards or extra hazardous operations shall, where required, be provided with on-site hydrants and water mains designed to provide the required fire flow as determined by the ISO formula and the Kannapolis Fire Department.

## C.4. PUBLIC STREETS.

### C.4.1. RESERVED.

C.4.2 RESERVED.

C.4.2.1. RESERVED.

C.4.2.2. RESERVED.

C.4.2.3. RESERVED.

C.4.2.4. RESERVED.

C.4.2.5. RESERVED.

C.4.2.6. RESERVED.

C.4.2.7. RESERVED.

C.4.2.8. RESERVED.

C.4.2.9. RESERVED.

C.4.2.10. RESERVED.

### C.4.2.11. Sign Installation.

- **Standard street signs installed by the City of Kannapolis.** In all subdivisions which include public streets, except as provided for in below, standard street signs shall be installed by the City of Kannapolis. The developer shall reimburse the city for full costs of installation. Installation, maintenance and replacement shall be the responsibility of the city.
- **Custom street signs installed by the developer.** In nonresidential subdivisions with architectural standards, restrictive covenants, and a property owner's association, custom street signs may be installed by the developer with all costs of installation, maintenance and replacement paid by the developer and as set forth below.
  - Such street signs shall comply with the Manual on Uniform Traffic Control Devices published by the U.S. Department of Transportation and may be installed only after written approval by the City Director of Streets and Traffic Engineering. Submission requirements for consideration of custom street signs shall include detailed color drawings, plans and specifications of the proposed street signs and a written statement describing funding for installation, maintenance and replacement.
- Replacement of lost or damaged regulatory or warning signs, as defined by the Uniform Manual, shall be accomplished immediately by the city using standard street signs until the developer or property owner's association installs replacement custom street signs. If the developer or property owner's association fails to install replacement custom street signs for regulatory and warning signs within ninety (90) days, the replacement by the city shall be considered permanent and full costs shall be paid by the developer or property owner's association. Replacement of lost or damaged guide signs, as defined by the Uniform Manual, shall be accomplished by the developer or property owner's association within ninety (90) days or the city shall install standard street signs with full costs paid by the developer or property owner's association.

C.4.2.12. RESERVED.

**C.4.2.13. RESERVED.**

**C.4.2.14. Unopened dedicated streets.**

- Streets for which right-of-way has been dedicated by subdivision plat or deed to the North Carolina Department of Transportation or the City of Kannapolis recorded with the Cabarrus or Rowan County Register of Deeds, (but which have never been constructed) shall not be constructed or maintained by the city until the following conditions have been met:
  - Right-of-way shall be dedicated, and surveyed if necessary, sufficiently wide for the street and utilities, as determined by the city engineer.
  - Right-of-way shall be cleared and graded to meet city standards for slope and drainage.
  - Roadway shall be improved with a surface of crusher-run stone to a depth of not less than six (6) inches, two (2) inches of HB binder, and one and one-half (1½) inches of I-2 asphalt. Width of roadway shall be not less than eighteen (18) feet.
  - The city engineer or his authorized representative shall inspect all work.
  - The city engineer or his authorized representative shall issue a certificate of completion for the required improvements.

**C.4.2.15. Street names.**

- Proposed street names shall not duplicate nor too closely approximate phonetically the name of any street within the city and Cabarrus or Rowan County. Where proposed streets are extensions of existing streets, the existing street names shall be used except where a new name can reasonably be used to facilitate proper house numbering or to avoid further street name duplication.
- In addition to names to identify new streets, the following classifications shall apply:
  - North-south streets shall be designated as avenues;
  - East-west streets shall be designated as streets;
  - Streets changing direction shall be designated as drives, lanes or roads;
  - Streets changing direction which form a loop connected at both ends of the same street may also be designated as circles; and
- Cul-de-sacs or streets terminating in a similar dead-end shall be designated as courts if oriented east-west or places if oriented north-south.

**APPENDIX D**  
**Rights-of-Way Regulations and Design Standards for**  
**Driveways, Drainage, and Utility Construction.**

*TABLE OF CONTENTS*

<b>SECTION</b>	<b>PAGE</b>
D.1 PURPOSE OF THE DRIVEWAY ORDINANCE .....	D-2
D.2 DRIVEWAY PERMIT APPLICATION PROCEDURE .....	D-3
D.3 DEFINITIONS .....	D-4
D.4 PERMIT REQUIRED .....	D-6
D.5 PLAN SUBMISSION REQUIREMENTS .....	D-7
D.6 PERMIT FEE .....	D-8
D.7 INSPECTIONS.....	D-9
D.8 DRIVEWAY DESIGN STANDARDS.....	D-10
D.9 ROADSIDE DRAINAGE REQUIREMENTS .....	D-12
D.10 STREET AND UTILITY REPAIRS .....	D-14
D.11 USE AND PROTECTION OF PROPERTY .....	D-15

## D.1. PURPOSE OF DRIVEWAY ORDINANCE.

Applicability. This Appendix D shall apply to all driveways or access points planned to connect to a City maintained street. This provisions of this Appendix shall regulate only that portion of a private driveway that connects to a public and extends to the edge of a public right-of-way. The regulation of private driveways on private property is subject to the standards of Article 8 of this Ordinance <sup>(1)</sup>and the Land Development Standards Manual (LDSM).

- The safety and efficiency of a roadway is impacted by the amount and type of interference experienced by the vehicles moving on it. Some interference may result from other vehicles on the roadway, moving in either the same or the opposite direction. The major form of interference, however, is from vehicles entering, leaving, or crossing the roadway at intersecting streets and driveways. In order to reduce interference with traffic flow, minimize accidents and assure the best overall utilization of the roadway by the motoring public, it is necessary to regulate vehicles entering and leaving roadside developments and intersecting streets.
- The City of Kannapolis recognizes the legal rights of the abutting property owners to have access to their property. However, it must also consider the right of other roadway users to travel with relative safety and freedom interference. Since these rights are at times in conflict, it is the city's responsibility to reconcile and, to the extent feasible, satisfy the needs and desires of all roadway users.
- To accomplish this, the critical areas of driveway location, design and operation must be addressed. The City of Kannapolis has therefore adopted this driveway ordinance <sup>(1)</sup>and the LDSM to establish standards for the location and design of driveways providing access from public roadways to developments on abutting property. This ordinance has been established to meet the following objectives.
  - (a) To provide maximum safety and protection to the public through the regulation of vehicles entering and exiting public streets and,
  - (b) To provide a uniform ordinance for the design, location, operation and construction of driveways throughout the city, and,
  - (c) To provide owners of abutting property with the maximum service feasible, consistent with the safe and efficient use of city streets.
- The city's intent is to further increase safety and decrease congestion along specified major thoroughfares. In order to accomplish these objectives, certain goals have been identified. These goals are:
  - (a) To prohibit driveways within a certain distance of intersecting streets unless alternate access is not available,
  - (b) To decrease the number of driveways along major thoroughfares, and
  - (c) To increase the distance between adjacent driveways along major thoroughfares.
- This Appendix D <sup>(1)</sup>and the LDSM is to be administered by the City Engineer and/or his/her designee(s). The issuance of a Driveway permit as prescribed by this Appendix D <sup>(1)</sup>and the LDSM shall be issued by the Kannapolis Director of Traffic Engineering and/or his/her designee(s).

## **D.2. DRIVEWAY PERMIT APPLICATION PROCEDURE.**

- The procedure for driveway permit application differs according to the type of use of a particular parcel, tract or development.
- Driveway permits for “new” detached, single-family/<sup>(1)</sup>duplex residential construction are <sup>(1)</sup>required, <sup>(1)</sup>and must meet the standards of this ordinance. For existing single family residential development, modifications to the driveways will require a driveway permit. The Public Works Department will attempt to accommodate these applicants on a walk-in-basis.
- To apply for a driveway permit for a commercial, industrial or multi-family residential development, two (2) copies of an adequate site plan showing all required information must be submitted to the Director of Transportation. A minimum of three (3) working days is required for the initial review of the site plans.
- In that the permit issued under this ordinance is actually a permit for use of public rights-of-way, the permitting process also applies to any and all work or activity performed in the public right-of-way other than normal daily vehicular and pedestrian traffic. Such uses include but are not limited to street and sidewalk cuts, and private street intersections with public streets. Please consult the Director of Transportation for information about permit requirements for any of these activities.
- The North Carolina Department of Transportation (NCDOT) is required to review all connections to state system streets. This includes both driveway and street connections, with the exception of single family residential drives, which are exempt from state review requirements. State system streets are those streets within the city for which the state retains the ultimate responsibility. However, the more restrictive Driveway Ordinance (NCDOT or City of Kannapolis) shall apply.
- Driveway permits on state system streets, within the City limits of Kannapolis, should be submitted to NCDOT for the initial review. Upon NCDOT’s approval, the driveway permit will be forwarded to the City of Kannapolis for its approval.
- Any questions concerning the application procedure or the requirements of this ordinance should be directed to the City of Kannapolis Public Works Department.



### **D.3. DEFINITIONS.**

- For the purpose of this Appendix D, the following definitions shall apply;
  - **Access:** Ingress and egress to property bordering on public roadways.
  - **Apron:** The paved area between the gutter flow line of the roadway and the sidewalk section.
  - **Commercial driveway:** A driveway providing vehicular access to property used for purposes other than residential.
  - **Corner clearance:** The distance measured along the right-of-way line from the intersection of the projected right-of way lines to the nearest edge of the driveway approach.
  - **Curbline:** The inside face of curb and gutter.
  - **Curb return:** That section of radius or flare on a driveway between the gutter flow line and the abutting property.
  - **Driveway:** An area on private property providing access for motor vehicles to a public right-of-way.
  - **Driveway angle:** The acute angle between the driveway centerline and the curbline.
  - **Driveway approach:** The improved area between the roadway of a public street and private property intended to provide access for motor vehicles to a well-defined area on private property.
  - **Driveway width:** The width of the driveway measured at the right-of-way parallel with the roadway centerline.
  - **Frontage:** The length of property adjoining the street right-of-way of a single property, tract, or development area between the side property lines.
  - **Outside sidewalk line:** The line generally parallel to the right-of-way line and lying along the edge of the sidewalk section nearest the street right-of-way line.
  - **Residential driveway:** A driveway providing vehicular access to property used for residential purposes. This includes driveways for single family, duplex and triplex uses.

- **Right-of-way:**The land within legally defined property boundaries whose title rests with the city or state and is designated or intended for use as a public street or road way.
  - **Side clearance:** The distance measured along the street right-of-way line from the nearest side property corner to the nearest edge of the driveway approach.
  - **Sidewalk:** An area on public or private property where pedestrians walk or stand, generally parallel to the edge of the street, roadway or face of curb.
  - **Sidewalk section:** That portion of a driveway between the outside sidewalk line and the driveway apron.
  - **Spacing:** The closest distance between two driveways, measured along the right-of-way line from edge of drive to edge of drive.
- 
- **Conformance prerequisite to site plan approval.** Driveway approaches hereinafter constructed in the city on public streets and roadways shall be designed and constructed in conformance with this article. It shall be unlawful for any person to construct, cut, break out, or remove any curb along a street or alley except as authorized by the provisions of this article. Failure to construct any driveway approach(es) in conformance with the provisions of this article or failure to correct or remove any existing driveway approach(es) found to be nonconforming may result in the removal of the driveway approach(es) by the city, at the property owner's expense.

## D.4. PERMIT REQUIRED.

- (a) No person, firm, or corporation shall remove, alter, or construct any curb, driveway approach, gutter, pavement, or perform any other improvement in any public street or other property owned by or dedicated to the city without first obtaining a permit from the Director of Transportation authorizing such improvements <sup>(1)</sup>subject to the exceptions as listed in subsection (b).
- (b) <sup>(1)</sup>Single-family dwellings and duplex dwellings on individual lots are exempt from the requirement for a driveway permit, however, such uses are not exempt from the standards of this Appendix D <sup>(2)</sup>and the LDSM unless specifically indicated.
- (c) A driveway permit is required prior to the issuance of a building permit for new construction, additions, or changes in use.
- (d) Existing driveways shall not be altered within the right-of-way until a permit is obtained. The maintenance of driveways located in or on the right-of-way shall be the responsibility of the property owner.
- (e) Failure to secure a permit as described herein or failure to construct the driveway to city standards or failure to correct or remove existing nonconforming driveway approaches is a violation of this ordinance and subject to enforcement procedures set forth in Article 1 of this ordinance. If the driveway is not removed or brought into compliance within thirty (30) days of notification of violation, the person, firm or corporation doing the original work shall be denied further permits to work on public streets within the city limits of Kannapolis.
- (f) In unusual circumstances minor variations of the minimum requirements may be permitted, based on sound traffic engineering principles, after an engineering investigation by the Director of Transportation.
- (g) No variation in the number and/or width of driveways shall be permitted.

## **D.5. PLAN SUBMISSION REQUIREMENTS.**

- (a) No permit shall be issued until there is filed with the City Engineer for his approval <sup>(1)</sup>plans showing the location and dimensions of all proposed improvements.
- (b) <sup>(1)</sup>Six (6) copies of the plans will be required for driveway approaches to state highway system streets within the corporate limits, and six (6) NCDOT Driveway Permit forms.
- (c) Information that must be shown on plans submitted <sup>(1)</sup>shall be consistent with the Land Development Standards Manual (LDSM).

## **D.6. PERMIT FEE.**

- Fees for permits shall be fixed from time to time by the City Council. A copy of the fee schedule is on file in the office of the Administrator, the office of the City Clerk and in the Public Works Department

## **D.7. INSPECTIONS.**

- Once the permit is duly issued, the supervisor on the driveway construction site shall keep the permit available for on-the-job inspection by authorized personnel of the city.
- The applicant shall request an inspection by City Engineer <sup>(1)</sup>16 business hours in advance of any concrete pouring. The Director of Transportation or his authorized representative shall have the authority to require the immediate stoppage of work not performed under the requirements of this article <sup>(1)</sup>and the LDSM.
- In the event of failure to comply with the provisions of this article or the term of the permit or in the case of faulty workmanship or materials, the city may remove the non-complying driveway at the property owner's expense.

## D.8. DRIVEWAY DESIGN STANDARDS.

### <sup>(1)</sup>Specifications

- All work done and all materials used in the construction of driveway approaches shall conform to the current standards established by the City Engineer.

### Existing driveway approaches

- Existing driveway approaches shall not be relocated, altered, or reconstructed without a permit approving the relocation, alteration, or reconstruction and such driveway approaches shall be subject to the provisions of this article.
- When the use or layout of any property is changed, making any portion or all of the driveway approach unnecessary, or when the driveway is nonconforming, the owner of the abutting property shall, at his expense, replace all necessary curbs, gutters, and sidewalks, or correct all nonconforming features within thirty (30) days after written notice from the Director of Transportation. Failure to do so may result in a penalty being imposed as described in Section titled Permit Required.

### Turn lanes, tapers, deceleration lanes

- Turn lanes, tapers, and/or deceleration lanes may be required by the Director of Transportation where it is anticipated that the volume of traffic using the proposed driveway(s) or street(s) may significantly interfere with the flow of traffic on the abutting public street. Request for turn lanes, deceleration lanes and transition tapers shall be considered as part of the driveway permitting process and must be shown on the submitted site plans, in addition to the other required site plan elements.
- Dedication and construction of turning lanes to serve one or more entrances into a development shall be required in any conditional use, special use, or driveway permit or subdivision approval for a use or development which is adjacent to a two-lane public street with average daily traffic (AT) exceeding five thousand (5000) vehicles per day, or a four-lane or larger public street with AT exceeding ten thousand (10,000) vehicles per day, if any one of the following conditions are also present:
  - (a) The use of development requires Fifty (50) or more off-street parking spaces.
  - (b) The use of development will generate more than (100) trips during the peak hours of 7-9 AM, 11AM-1PM, and 4-6PM. Data shall be based on the Institute of Transportation Engineers Manual titled "Trip Generation" and based upon the highest land use permitted by the zoning classification as affected by any restrictions imposed by any conditional use permit, special use permit, or other legally enforceable restriction.
  - (c) The use of development, as it may be affected by such restrictions, is reasonably expected to generate more than twenty-five (25) truck ( more than 13,000 G.V.W.) trips per day through a single driveway.
  - (d) The use or development, as it may be affected by such restrictions, creates special safety or traffic conditions due to limited sight distance and/or posted speeds in excess of thirty-five (35) miles per hour along the adjacent public street. Such conditions shall be determined in writing by the Director of Transportation.
  - (e) The use of development consists of at least fifty (50) attached or detached residential dwelling units.
- The Director of Transportation may require additional side clearance to accommodate the required turn lanes, deceleration lanes and/or tapers.
- The cost of all required turn lanes, deceleration lanes and transition tapers shall be paid for by the property owners. Property owners shall not be entitled to any claims or reimbursement for expenditures involved in construction on public rights-of-way. All construction improvements required herein shall be the property of the City of Kannapolis

### Standards for Directional Signs and Pavement Markings for Designated Entrance and Exit Driveways

- The driveway ordinance imposes strict limitations on the number, location, and spacing of driveways on

designated major thoroughfares; however, it allows for two one-way driveway approaches to be considered as a single driveway approach provided that the approaches are clearly signed and marked using directional signs and pavement arrows. Other provisions of the ordinance require signs and markings where special pedestrian or vehicular hazards necessitate the one-way operation of driveways. The following standards apply to all instructional or directional signs and pavement markings used to designate private driveways as entrance and exists.



## D.9 ROADSIDE DRAINAGE REQUIREMENTS.

A well-functioning roadside drainage system is important to maintaining the structural integrity of the roadway and providing a safe driving surface during storm events. Roadside drainage is accomplished using either a ditch system including adequately sized and constructed driveway pipes, a curb and gutter system with well-designed curb inlets and drainpipe system, or some combination of both systems. Modifications to existing drainage systems must be evaluated and approved by the City of Kannapolis prior to construction, and are permitted as a part of the right-of-way construction permit system.

### Piping Existing Ditches

The design and cost for piping existing roadside ditches is the responsibility of the property owner unless it is included as part of a neighborhood capital improvement project funded by the City of Kannapolis. Piping ditches will only be allowed if the following criteria are achieved.

- The hydraulic capacity of the existing ditch system will not be reduced or diminished.
- The culvert pipe shall be of size adequate to carry the anticipated flow in the ditch as determined by the City of Kannapolis and shall not be smaller than 15-inches inside diameter.
- The flow from and to adjacent properties will not be inhibited.
- All pipe materials and installation meet City of Kannapolis and NCDOT standards. No pipe with broken joints or other defects is allowed.
- A swale can be maintained over the pipe to prohibit sheet flow of water from the property onto the road surface, and adequate inlet grates are included in the design and installation. In no case shall the construction cause water to flow across the pavement, or to pond on the shoulders or in the ditch, or result in erosion within the right-of-way.
- A minimum cover of 8-inches can be maintained over the top of the pipe. If vehicular traffic will cross the pipe, a minimum cover of 24-inches must be maintained, or Class IV reinforced concrete pipe must be utilized.
- Pipe installation must be inspected by the City prior to back-filling the pipe and inlet boxes.
- All grates and frames shall meet NCDOT standards for traffic bearing, and must be pre-approved by the City of Kannapolis.
- Drainage collected by ditches, gutters, or pipes on private property shall not be discharged into the road drainage system unless expressly approved by the City of Kannapolis. The applicant may be required to submit a drainage study to the City justifying the drainage system proposed and the pipe or sewer sizes to be used. Natural drainage laws and practices must be observed.

### Pipe Construction Options

All commercial or industrial sites are responsible for the design, construction and cost associated with all drainage improvements in accordance with these regulations. All residents have two options for construction of the ditch pipe, once a permit has been issued. The City will contract with a licensed contractor following payment of all estimated costs associated with the project to the City by the owner. The project will then be completed based upon the Contractor's schedule. The second option is for the resident to hire a licensed contractor who will complete the project according to the submitted plans. The contractor will be responsible to schedule inspection by the City prior to placing any backfill into the excavation, so that all pipe joints, bedding, and inlet construction can be inspected. Failure to obtain the proper permit and/or inspection may result in the pipe being removed at the owner's expense.

### Acceptable Piping Materials

All pipe located within the street right-of-way must be reinforced concrete pipe or high density polyethylene plastic pipe, double-walled corrugated pipe with a smooth interior, meeting ASHTO M294 Type S (smooth interior – corrugated interior) that has been approved by the NCDOT for use in secondary and subdivision road systems. No corrugated metal pipe is allowed. Approved HDPE pipe includes the following, but documentation on other manufactures will be reviewed for consideration.

1. Advanced Drainage System (ADS) N-12 HDPE pipe
2. Hancor Hi-Q HDPE pipe

**Acceptable Grates and Frames**

All grates and frames must be cast iron and must meet City of Kannapolis and NCDOT standards. Each casting shall be permanently imprinted with the image of a fish and the following statement: "Dump No Waste! Drains to Rivers."

## **D.10 STREET AND UTILITY REPAIRS.**

Operations requiring the cutting and removal of roadway and sidewalk surfaces or operations interfering with the normal flow of vehicular or pedestrian traffic shall be subject to the guidelines set forth in Part VI of the Manual of Uniform Traffic Control Devices Handbook.

Prior to cutting of the street, sidewalk or curb and gutter, a street cut permit is required to be obtained from the Director of Transportation or designee. The Public Works Department will be responsible for installing the final layer of asphalt or concrete for each cut. No street cut permits will be issued for streets that have been resurfaced within the last two years, unless there is an emergency situation or other physical constraints and approved by the Director of Transportation.

Cost of replacing the asphalt, concrete or other materials and other related costs such as street cleaning, sidewalk cleaning, etc. as a result of the above described work will be paid by the grantee of the permit. A copy of the permit must be kept at the job location.

Street cuts and sidewalks should be completely repaired in an expedient manner. Cuts must be filled with stable material (asphalt, concrete or approved equal) to within 1 ½ inches of finished grade within 3 days of initial work. Finished roadway surfaces, sidewalks and curbs must be restored within 30 days of initial work.

If circumstances justify, the Director of Transportation may grant an extension of these time requirements.

## D.11 USE AND PROTECTION OF PROPERTY.

### Use and protection of property

- Rights-of-way of streets may not be used for private or commercial purposes. The area to which the driveway provides access shall be sufficiently large to store any vehicles using the driveway completely off the right-of-way and must be of sufficient size to allow the necessary function to be carried out completely on private property.
- Except for driveway approaches to residences, a six (6) inch raised curb shall be constructed a minimum distance of three (3) feet behind the street right-of-way line in the vicinity of street corners, sidewalk safety zones, entrance driveways and other points in such a manner as to prevent vehicles from crossing sidewalks other than by means of a driveway as herein prescribed, to prevent vehicular overhang on the right-of-way and to provide for proper drainage and control of water on private property.
- Parking areas and loading areas shall be constructed and properly curbed so that all movements to park and un-park, and load and unload will take place back of or within property lines. In the central business area, the Director of Transportation is hereby granted the authority to waive requirements set forth in this subsection after all engineering investigation and provided the following conditions are present:
  - (a) The area is within the parking exempt area of the city;
  - (b) The waiver requested arises from peculiar physical conditions not ordinarily existing in other areas of the city;
  - (c) Due to the nature or operation of the business on the applicant's property the requirements of the above causes unnecessary hardship;
  - (d) The waiver requested is not against the public interest, safety, convenience, and general welfare; and
  - (e) The granting of the waiver will not adversely affect the rights of adjacent property owners.
- Except as may be provided for under the Kannapolis City Code, no part of the right-of-way or the area between the curb or edge of pavement and the property line shall be used to place private signs, fences, wall post lights, or any other item. All such items shall be placed on private property in such a manner as not to interfere with vehicular or pedestrian traffic or visibility.

### Protecting the public from injury

- Whenever any person or firm shall do or undertake any of the items set forth in this article it shall be the duty of such person(s) to protect from harm and damage all persons or vehicles which may be using any street, sidewalk, right-of-way or other public area where such work is in progress. To that end, all persons or firms shall erect and maintain suitable barricades, signs, lights, flares and other appropriate warning devices at the proper locations where such work is in progress in accordance with the current policy and regulations for street construction and maintenance operations within the City of Kannapolis, as established by the Director of Transportation and in accordance with the Manual on Uniform Traffic Control Devices for Street and Highways.