



**Town of Clayton**  
**Regular Town Council Meeting Agenda**  
**Monday, February 1, 2021 @ 6:00 PM**

THE TOWN OF CLAYTON WILL FOLLOW GUIDELINES FROM THE CENTERS FOR DISEASE CONTROL AND THE NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES WITH REGARD TO SOCIAL DISTANCING.

BELOW PLEASE FIND CHANGES TO THE COUNCIL MEETING FORMAT:

THE CURRENT TOWN COUNCIL MEETING WILL BE HELD IN PERSON.

ANY MEMBER OF THE PUBLIC THAT WISHES TO ADDRESS THE COUNCIL, MAY DO SO IN PERSON, HOWEVER YOU ARE ASKED TO CONTACT THE TOWN CLERK IN ADVANCE OF THE MEETING.

IF YOU DO NOT WISH TO ATTEND THE MEETING IN PERSON BUT DO WISH TO SHARE ANY PUBLIC COMMENT WITH THE COUNCIL, PLEASE FORWARD YOUR COMMENT(S) TO THE TOWN CLERK NO LATER THAN NOON THE DAY OF THE MEETING. PLEASE INCLUDE YOUR NAME AND ADDRESS. PUBLIC COMMENT(S) RECEIVED WILL BE READ INTO THE RECORD BY THE TOWN CLERK.  
EMAIL: [KMOFFETT@TOWNOFCLAYTONNC.ORG](mailto:KMOFFETT@TOWNOFCLAYTONNC.ORG)

THE PUBLIC MAY VIEW THE LIVE COUNCIL MEETING ON THE TOWN'S YOU TUBE CHANNEL:  
[HTTP://YOUTUBE.COM/C/TOWNOFCLAYTON1869](http://youtube.com/c/TownofClayton1869)

BELOW PLEASE FIND ADDITIONAL INFORMATION REGARDING PROCEDURES FOR IN-PERSON MEETINGS:

- ALL persons attending must wear a mask.
- We will be following proper social distancing at all times.
- We will have a separate entrance door and separate exit door.
- Entrance and Exit will be main door on Second Street.
- Any member of the public attending will be asked to wait in the lobby until item they wish to address is ready for discussion and asked to leave the Chambers once the item is complete.
- Lobby will be set to encourage social distancing.
- Chairs will be at least 6' from each other.
- We will have TWO staff members attending the meeting(s) to ensure smooth transition with those attending the meeting.
- One person will serve as LOBBY staff and the other will serve as CHAMBER staff.
- The meeting will be shown on the monitor in the lobby. (YouTube)
- All council or board members will be socially distanced in the council chambers and wearing face masks.\*
- Staff will be socially distanced and seated within the council chambers. Face masks will be worn.\*
- Hand sanitizer will be available, both in the lobby and council chambers.
- Podium/microphone will be sanitized after each speaker.

*\*Masks may be lowered when speaking.*

## 1. CALL TO ORDER

Pledge of Allegiance and Invocation

## 2. ADJUSTMENT OF THE AGENDA

## 3. CONSENT AGENDA

*(Items on the consent agenda are considered routine in nature or have been thoroughly discussed at previous meetings. Any member of the Council may request to have an item removed from the consent agenda for further discussion.)*

a. DRAFT Minutes

- December 21, 2020 - Closed Session
- January 4, 2021 - Regular Session

[January 4 2021 DRAFT Minutes](#)

b. Warranty Acceptance

- Academy Point, Phase 4

[Academy Pointe, Phase 4](#)

c. Student Art Month Proclamation

[Proclamation - Student Art Month](#)

d. Recognition of 150th Anniversary of First Missionary Baptist Church

[Recognition - First Missionary Baptist Church](#)

e. 2020-142- ANX - Resolution Directing Clerk to Certify Sufficiency

[Resolution Directing Clerk to Investigate](#)

**POTENTIAL ACTION:**

Adoption of Consent Agenda as Presented

## 4. ADMINISTRATIVE ITEMS

## 5. INTRODUCTIONS AND SPECIAL PRESENTATIONS

a. Development Agreements Informational Update

*Presenters:* Chad Essick, Poyner Spruill & Russell Kileen, Parker Poe

**POTENTIAL ACTION:**

None - Informational Only

## 6. PUBLIC HEARINGS

a. 2020-113-PDD - Ashcroft 2

*Presenter:* Planning Department

**POTENTIAL ACTION:**

Continue to February 15, 2021 Council Meeting

b. 2020-114-SD - Ashcroft 2

*Presenter:* Planning Department

**POTENTIAL ACTION:**

Continue to February 15, 2021 Council Meeting

c. Development Agreement - Ashcroft 2

*Presenter:* Planning Department

**POTENTIAL ACTION:**

Continue to February 15, 2021 Council Meeting

- d. 2021-07-OA - Chapter 160D  
*Presenter:* Planning Department  
[Cover Sheet - 2021-07-OA - 160D Ordinance Amendment](#)  
[Application 2021-07-OA Chapter 160D](#)  
[CLEAN Article 1 - Gen Prov B1 20210115](#)  
[CLEAN Article 2 B1 20210115](#)  
[CLEAN Article 3- Specific Use Standard 20210120](#)  
[CLEAN Article 4 B1 20210115](#)  
[CLEAN Article 5 - Nat Res B1 20210115](#)  
[CLEAN Article 6 - Subdiv Stds B1 20210115](#)  
[CLEAN Article 7 - ReviewProcedures B1 20210115](#)  
[CLEAN Article 8 Definitions B1 20210115](#)  
[SU Article 1 - Gen Prov B1 20210115](#)  
[SU Article 2 B1 20210115](#)  
[SU Article 3 - Specific Use Standards B1 20210120](#)  
[SU Article 4 B1 20210115](#)  
[SU Article 5 - Nat Res B1 20210115](#)  
[SU Article 6 - Subdiv Stds B1 20210115](#)  
[SU Article 7 - ReviewProcedures B1 20210115](#)  
[SU Article 8 Definitions B1 20210115](#)  
[Newspaper Ad- 2021-07-OA - 160D Ordinance Amendment](#)  
[Consistency Statement - 2021-07-OA - 160D Ordinance Amendment](#)  
[Ordinance](#)  
[Motion Form](#)
- POTENTIAL ACTION:** Adoption of Ordinance #2021-02-01
- e. Update to Comprehensive List of Fees & Charges - Planning Dept.  
*Presenter:* Samantha Wullenwaber, Planning Director  
[Cover](#)  
[Newspaper Ad](#)  
[Ordinance](#)
- POTENTIAL ACTION:** Adoption of Ordinance 2021-02-02

## 7. OLD BUSINESS

- a. Creation of Position of Assistant Town Engineer  
*Presenter:* Rich Cappola, Deputy Town Manager  
[Cover](#)
- POTENTIAL ACTION:** Approval of Position Creation
- b. Wastewater Allocation Update  
*Presenter:* Rich Cappola, Deputy Town Manager
- POTENTIAL ACTION:** None - Informational Only
- c. Wastewater Reclamation Facility Program Update  
*Presenter:* JD Solomon, Town Manager  
[Cover](#)

**POTENTIAL ACTION:**

None - Informational Only

**8. NEW BUSINESS**

- a. Special Rescue Operations Partnership with Archer Lodge Fire Department and Cleveland Fire Department

*Presenter:* Deputy Chief Matthew Sutphin, Fire Department

[Cover](#)

**POTENTIAL ACTION:**

Informational Only

**9. STAFF REPORTS**

- a. Town Manager
- b. Town Attorney
- c. Town Clerk
- d. Other Staff

**10. OTHER BUSINESS**

- a. Informal Discussion & Public Comment
- b. Council Comments

**11. ADJOURNMENT**

Quasi-Judicial (evidentiary) – These hearings are different from other public hearings in that they resemble a court hearing where testimony is presented and the Town Council acts like a court of law. During evidentiary hearings, the Town Council receives only sworn testimony and other credible evidence. In addition, the Town Council must make findings of fact based upon the evidence presented. Citizens may give testimony in an evidentiary hearing after they have taken an oath.





**Town of Clayton  
Regular Town Council Meeting Minutes  
Monday, January 4, 2021 @ 6:00 PM  
Council Chambers**

**COUNCIL PRESENT:**

Mayor McLeod  
Mayor Pro Tem Thompson  
Council Member Grannis  
Council Member Holder  
Council Member Bunn  
Council Member Everett

**STAFF PRESENT:**

JD Solomon, Interim Town Manager  
Rich Cappola, Deputy Town Manager  
Jim Cauley, Town Attorney  
Kimberly Moffett, Town Clerk  
Jennifer Proctor, Senior Administrative Asst.  
Robert McKie, Finance Director  
Joy Garretson, Library Director  
Samantha Wullenwaber, Planning Director  
Lee Barbee, Fire Chief

**COUNCIL ABSENT:**

**1 CALL TO ORDER**

Pledge of Allegiance and Invocation

- a) Mayor McLeod called the meeting to order at 6:17 p.m. He led everyone in the Pledge of Allegiance and offered the Invocation.

**2 APPOINTMENT OF TOWN ATTORNEY**

- a) Appointment of James P. Cauley III - Cauley Pridgen Lawyers

**ACTION:** Appointment of Town Attorney

Motion: Council Member Holder  
Second: Council Member Grannis  
Vote: Unanimous

**3 APPOINTMENT OF TOWN MANAGER**

- a) Consideration to Retain Interim Town Manager as Town Manager

Mr. Solomon offered a few words and stated he had given much consideration to this and had approached council about becoming the permanent town manager. He felt this was the best decision as he stated there were many important items and issues currently being worked on. He felt we might move backward by bringing in a new manager at this time. Council Member Everett shared his concerns about how this item was being handled. He stated he felt we should continue down the path of what had been agreed upon. Council Member Holder shared his opinion and why he felt it very important to retain Mr. Solomon as our permanent Town Manager.

Council Member Everett motioned that this item be removed from the agenda. With there being no second, the motion died.

Conversations continued and Mayor McLeod asked if there would be any issues that would be detrimental to the Wastewater Treatment Facility that would hold us up if Mr. Solomon were not appointed. Council Member Holder stated he felt strongly that Mr. Solomon's support was vitally important to the Wastewater Treatment Facility and does not want him to disappear. Mayor McLeod stated it was his belief that Mr. Solomon was not the only person capable to handle the Wastewater Treatment Plant. Mayor McLeod stated we do not have a contract with Mr. Solomon as the consultant for the Wastewater Treatment Facility. Mayor McLeod stated there has not been full transparency nor does he feel due diligence had been done with hiring a town manager. He stated he strongly felt Mr. Solomon should have applied, even though Mr. Solomon did not feel the same. Mayor McLeod stated that while he agreed Mr. Solomon had been doing an outstanding job for the past 120 days, he had not been evaluating Mr. Solomon as a permanent town manager. Mayor McLeod stated he is not in favor of appointing Mr. Solomon as he feels this is wasting money. He further stated again he felt strongly that Mr. Solomon should have applied and further he believed that Mr. Solomon would have most likely risen to the top. Mayor McLeod stated he feels this would set a very bad example for other town employees.

Mayor Pro Tem Thompson stated he reviewed candidates as provided by the consultant. He stated he did not feel there was anyone strong enough to look at. Further, he stated Mr. Solomon has been town manager for 120 days, has led the wastewater project for the last year and also has a long history with the town. He feels comfortable in the decision to appoint Mr. Solomon.

Council Member Grannis stated he appreciated all the comments. He stated he had reflected a great deal on this and spoke with numerous people in the community. He reviewed the applicants and agreed with Mayor Pro Tem Thompson with regard to quality. He felt there was one person that might be qualified. He stated he researched a total of 4 candidates that might be in the running. He stated he felt that the performance of Mr. Solomon to date has been exceptional. At the end of the day, he tried to make the best decision for this community. He stated it has nothing to do with anything personal but in the best interest of the town, council should move forward as selecting Mr. Solomon as the town manager.

Mayor McLeod stated that two weeks ago council did not care what the candidate pool looked like.

Council Member Everett stated had concerns how this item wound up on the agenda and concerns how the change took place after previous full council discussions in closed session. He stated it felt shady in how this had taken place and did know why he was not included in any additional discussions.

Mayor McLeod stated he believed the lack of transparency was evident.

There was no further discussion.

**ACTION:** Terminate existing employment contract for interim manager, JD Solomon, effective January 31, 2021 and that the Town employ Mr. Solomon as its permanent manager effective February 1, 2021. Subject to legal review, the employment contract will be on the same terms as the Town's contract for the previous Town Manager with the following exceptions:

- The salary will be \$196,000 per year
- Mr. Solomon will receive 20 days of paid vacation per year
- The town residency requirement will be modified

Motion: Mayor Pro Tem Thompson  
Second: Council Member Bunn  
Vote: 4-1; Everett Opposed

Mayor McLeod stated our current ordinance stated it was a requirement that the Town Manager live in town limits. He shared his concerns about breaking an ordinance to meet the needs of residency of a candidate. He further stated that we require developers to follow our Code of Ordinance. He stated living within town limits is best practice and that nearly 90% of municipalities require the same.

**ACTION:** Town to instruct Mercer Group to terminate search process for new Town Manager.

Motion: Council Member Holder  
Second: Council Member Grannis  
Vote: 4-1; Everett Opposed

#### **4 ADJUSTMENT OF THE AGENDA**

- a) Mr. Solomon requested an adjustment to the agenda regarding the removal of Item 5a under Consent Agenda, the Draft Minutes, December 21, 2020 Closed Session.

#### **5 CONSENT AGENDA**

*(Items on the consent agenda are considered routine in nature or have been thoroughly discussed at previous meetings. Any member of the Council may request to have an item removed from the consent agenda for further discussion.)*

- a) ~~DRAFT Minutes~~  
• ~~December 21, 2020 Closed Session~~

#### **6 ADMINISTRATIVE ITEMS**

- a) Recommendation for Appointment to Johnston County Economic Development Advisory Board  
*Presenter:* Kimberly Moffett, Town Clerk

**ACTION:** Recommendation of Appointment of Patrick Pierce

Motion: Council Member Holder  
Second: Council Member Grannis  
Vote: Unanimous

## **7 INTRODUCTIONS AND SPECIAL PRESENTATIONS**

## **8 PUBLIC HEARINGS**

- a) 2020-153-RZ - Southern Village Vet Clinic - Rezoning  
*Presenter:* Planning Department

Ms. Wullenwaber provided details regarding the request for a rezoning. The property was zoned as B-3, then rezoned to I-1 and are now requesting to rezone back to B-3. This location will be a veterinary clinic. The site is located along Highway 70 Business to the South of an existing commercial development called Southern Village and is currently vacant.

She stated this request is consistent with other uses in the area. The Applicant has addressed criteria and the Planning Board and staff recommend approval.

There were no questions for staff.

Applicant, Shawn Rainey of Blue Frog, LLC was present. He stated a neighborhood meeting was held and no concerns were raised. He provided background history of the architectural firm. He shared information about general issues with the vet clinic to include sound and smell. He stated extra sound and odor reducing installation would be in place. He spoke about the privacy fence in the back of the building so animals can't see out and folks can't see in. He stated it is not a boarding facility, it would be just one animal at a time outside. He further stated that all droppings in the fenced in area would be picked up immediately, disposed of and the area sprayed down.

There were no questions or comments.

Town Attorney advised that council needs to remember that this rezoning did not pertain to just this use but that anything could be allowed in a B-3 zone.

**ACTION:** Adoption of Ordinance #2021-01-01

Motion: Mayor Pro Tem Thompson  
Second: Council Member Grannis  
Vote: Unanimous

- b) 2020-166-RZ - Wake Med - Rezoning  
*Presenter:* Planning Department

Ms. Wullenwaber presented this item. She stated the request is to rezone from Highway Business Special Use District (B-3 SUD) to Highway Business (B-3). She stated the removal of SUD removes burden and time of having to come

before council for every use. She stated everything in the area currently is zoned B-3. The Planning Board and staff recommend approval.

There were no questions for staff.

Mayor McLeod opened the public hearing and asked if anyone wished to speak on this matter. Applicant Graham Smith stated he was happy to answer any questions. With no one wishing to speak, the public hearing was closed and turned over to council for deliberation.

**ACTION:** Adoption of Ordinance #2021-01-02

Motion: Council Member Grannis  
Second: Council Member Everett  
Vote: Unanimous

## **9 OLD BUSINESS**

- a) No Parking / Loading Zone - Portion of Second Street  
*Presenter:* Rich Cappola, Deputy Town Manager

Mr. Cappola provided additional details about this item that was discussed at the December 21, 2020 meeting. He shared details about potential alternatives to include no parking from 8-5 M-F, a loading zone, etc. The Town is proposing to eliminate parking along the west side of Second Street by signing and striping it as a "No Parking Zone" from the end of the angled parking along the frontage of Town Hall, down to the Church Street intersection. He shared two alternatives to this project. Staff stated their preferred choice is alternative #A. He stated there have been conversations with Horne Memorial which have been positive. The church asked for use of the loading zone for times of weddings and funerals.

Council Member Bunn asked about parking in front of the hair salon, My Girlfriends Place. Mr. Cappola stated there would be parking in front of that business. He understands safety is first. Council Member Bunn further stated he works for a church and has to deal with some of the same issues. He stated they stagger their pickups and drop offs to make it work. Mr. Solomon stated that things will look differently in 3-4 months and suggested we not make changes to the other side of the street at this time. If necessary, we would come back to a different approach in the future. There was discussion about a handicap spot by the church. Council Member Grannis asked if the church concerns were addressed in these options. Mr. Cappola stated the parking space request was not addressed, but other concerns were. There were no further questions.

Mr. Paul Black, owner of My Girlfriends Place, was present and stated his concerns were about the previous meeting and no parking being allowed in front of his business. He shared his concerns about how this would affect his business and clients not being able to park close by. He stated not allowing parking would be an economic destruction and further his business did not

create this issue. He stated the problem was created by the expansion of The Clayton Center parking lot and the daycare pick up at church. He stated they want to work with the town and church to find reasonable answers other than what was suggested this evening. He stated this would never happen on Main Street and it shouldn't happen on Second Street. He reminded council that his business had to be closed for almost 4 months due to the pandemic and state regulations. He stated he could not stress enough the damage this would do to his business. He stated he is terrified that this would be supported by anyone in this room. He further stated he wants to be included in any dialogue. Mr. Solomon stated we are trying to get the parking lot project completed within next 3-4 months. Council Member Bunn confirmed there would be no changes to side of the street of My Girlfriends Place in option Alternate A. There were questions about church queuing. Mr. Black stated he appreciated the opportunity to share his concerns and again stated he did not want the burden of this problem to be placed on the back of one small business. Mr. Solomon stated Mr. Pierce was sent over to discuss this item. Mayor McLeod stated Mr. Black did a great job representing himself. He further stated he is not sure there is not a better way for the church to que the daycare and feels it has not been explored thoroughly. Mayor McLeod shared concerns with loading etc. for the Yellow House. Mr. Black thanked council for their time.

Mr. Blake, of Horne Memorial Church, stated he didn't feel the issue was a church issue but rather due to narrow streets which was compounded due to the parking lot construction. He stated not all church visitors can park at the front door and they park at many locations throughout the town. He stated the church has been a good partner with the constructed parking lot and land donation. He shared details about the service of many years to the community regarding daycare services, etc. He shared suggestions/changes the church would make regarding pick up and drop off, etc. He asked the church be able to use the loading zone for parking on weekends. He also addressed one handicap space be re-established onto Church Street. He stated he understood that might not be possible due to criteria.

Council Member Bunn asked how many children were enrolled in pre-school. Mr. Blake stated the total is 130 but they are staggered on different days with a maximum of 90 in any one day. Council Member Bunn shared staggering drop off times every 10 minutes. He stated it worked very well at the church he works at in Raleigh. He suggested to que on Church Street and not Second Street.

Council Member Thompson asked if we could designate an additional handicap spot inside the parking lot. Mr. Cappola shared concerns. Fire Chief Barbee stated currently Fire Department personnel are aware not to use Second Street as their route unless absolutely necessary.

Mr. Black stated after listening this is just a temporary issue. He asked if the town would consider making Church Street a one way street. Mr. Solomon shared his concerns about history and folks being used to it being a two way, not realizing the change, and turning onto the street. Mr. Cappola shared

information and stated it is preferred Alternative A being used on a temporary basis and then to re-address the situation.

Council Member Holder stated he felt this needs additional studying and feels it need to be tabled to another meeting.

Council Member Grannis agreed and asked if all the parties have been in the room to discuss. He feels it would be a good idea to have everyone together and come to some sort of conclusion. Mr. Solomon stated they have not, as staff saw this as an emergency response decision. Council Member Grannis stated he is all about safety but requests that all affected parties meet and come back to next meeting.

**ACTION:** Direct Staff to Meet with All Parties and Return to January 19, 2021 Council Meeting

- b) Water Reclamation Facility Update  
*Presenter:* JD Solomon, Interim Town Manager

Mr. Solomon provided an update and stated the closing date on the comment period was December 23, 2020. He offered thanks to Cathy Marraccini for all her assistance. The environmental assessment should be heard sometime later in the week, there are no findings of significant impact. The public hearing process has been completed on the discharge permit. He stated he thinks we are on the other side of our comment period process. There will be a meeting with the LGC in January to follow up on funding and the bid on the early grading package is ready to go. He stated things are moving at a good pace.

## 10 NEW BUSINESS

- a) Acquisition of Real Property  
*Presenter:* Lee Barbee, Fire Chief

Chief Barbee provided details regarding real property acquisition that is located next to Fire Station 1. The property is now empty due to the death of the owner and the property is now for sale by the estate. He stated we have outgrown the current facility and this is an opportunity to use the facility for an administrative office. This would allow space to open up in the fire station for the firefighters.

Mr. McKie was present and shared details regarding the budget ordinance.

**ACTION:** Adoption of Ordinance #2021-01-04

Motion: Council Member Grannis  
Second: Council Member Bunn  
Vote: Unanimous

**ACTION:** Authorize Staff to Enter Into Any Necessary Contracts Related to Property Acquisition

Motion: Mayor Pro Tem Thompson  
Second: Council Member Grannis  
Vote: Unanimous

- b) COVID Policy Suggested Modifications  
*Presenter:* JD Solomon, Interim Town Manager

Mr. Solomon provided details about proposed Paid Annual Leave that would allow any eligible employee who had exhausted their paid leave, due to COVID, would be eligible to borrow up to 5 days of paid annual leave. These days would then be coded as vacation and would reflect a negative balance in the employee's accrual balance.

Council Member Everett asked if there was anything we could do to assist the employee rather than seeing people go into the negative due to COVID.

Mr. Solomon stated council could grant additional time off if they wished to. However, he shared details about concerns, vaccines, etc.

Mayor Pro Tem Thompson agreed with Council Member Everett and felt this was a good first step and could definitely revisit this whenever needed. He stated we need to do what is right by our employees.

Council Member Grannis concurred with both Council Member Everett and Mayor Pro Tem Thompson and further stated this is the first step. He stated we need to look further into what could happen.

Mayor McLeod asked if Human Resources had offered any input. Mr. Solomon stated yes it was discussed with Human Resources.

Council Member Holder stated he supports this resolution and we need to keep with revenue and costs and monitor the economic impact, as it is not over yet.

**ACTION:** Adoption of Resolution #2021-01

Motion: Mayor Pro Tem Thompson  
Second: Council Member Holder  
Vote: Unanimous

## 11 STAFF REPORTS

- a) Town Manager

Mr. Solomon discussed the Collection System Permit. Our lines need to be clean 10% of the year, we have cleaned 28.56% this year which is 36.27 miles of pipeline and have videoed about 17.3 miles. He offered sincere appreciation to staff who were all involved, he stated staff went above and beyond!



He stated the two Police Department investigations are wrapping up. He expects to have information on both later this week or next.

He discussed the two mega projects, Lumen Property and Ashcroft 2 Property. Between the two they will account for approximately 650,000 gallons of wastewater capacity. The numbers would be bigger for Lumen than Ashcroft. Developers are estimating \$400-\$500 million of tax based. He stated these are significant projects and are slated for the first meeting in February.

He discussed the AMI completion is slated for later this month.

The Parks & Recreation Bond moving is moving forward and will come back with additional information soon. Staff is working with Clayton High School to increase field utilization and partnership. This would be back before council late January or early February.

Chief Barbee rode the trails and this is a massive transportation network. Trail system security will be up and running shortly. He spoke with Chief Tart and within two weeks there should be security back on the trails.

Council Member Grannis asked about time period for the wastewater for Lumen and Ashcroft projects. Mr. Solomon believes it is between an 8-10 year build out. He hopes to bring to council the total build out of what the developers need in the short term. He stated the immediate needs will be brought forward shortly and he believed this to be approximately 250-300,000 gallons.

b) Town Attorney

Stated he looked forward to working with the town and staff. Mayor McLeod offered his welcome and extended their support.

c) Town Clerk

d) Other Staff

- Assistance to Firefighter Grant (AFG) Opening & SAFER Grant  
*Presenter:* Lee Barbee, Fire Chief

Chief Barbee provided a heads up regarding a grant opportunity for AFG, and was currently qualified last year and was awarded this grant. This year said project will be completed. Also, the SAFER grant, which was also awarded last year. This was the largest grant awarded in North Carolina last year which was for 15 firefighters.

AFG opened today and will close on February 12. He stated he would be coming back at the next meeting with additional details and a request. To bring both stations up to code, Chief Barbee would be requesting sprinkler systems in both fire stations. Also with the ladder truck on order, staffing is needed to complete this process. He stated more details will be forthcoming.

Mayor Pro Tem Thompson offered his thanks to Chief Barbee for everything he does for the department.

**12 OTHER BUSINESS**

- a) Informal Discussion & Public Comment
- b) Council Comments

Council Member Grannis offered his thanks to Cathy Marraccini for Employee of the Year being in paper, etc.

Mayor McLeod stated he felt it was important for residents to contact council members especially regarding modification to ordinance and regarding the residency requirement for town manager.

**13 ADJOURNMENT**

Duly adopted this the 1<sup>st</sup> day of February, 2021 while in regular session.

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Jody L. McLeod  
Mayor

ATTEST:

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Kimberly A. Moffett, CMC, NCCMC  
Town Clerk

January 4, 2021  
Minutes

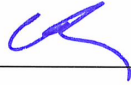


**TOWN OF CLAYTON**  
Engineering & Inspections  
111 E. Second St., P.O. Box 879  
Clayton, NC 27528  
Phone: 919-553-5002  
Fax: 919-553-1720

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*MEMORANDUM*

To: Kimberly Moffett, Town Clerk

From: Chris Rowland, Construction Project Administrator 

Copy: Donnie Adams, Adams & Hodge Engineering  
Karen Durham, Engineering & Inspection Coordinator  
Joshua Baird, Town Engineer  
Dave DeYoung, River Wild

Date: January 26, 2021

Subject: Academy Pointe, Phase 4

Please place a warranty acceptance request for the subject public water, sewer, storm drainage utilities, and all pertinent easements on the next available agenda. Record drawings have been reviewed and accepted. Following acceptance, the aforementioned will be subject to a one-year warranty period. Following the warranty, a final inspection will be done and all deficient items corrected by the developer prior to final acceptance.

# roclamation

## Student Art Month

**WHEREAS**, the arts, in its many forms, constitute an important part of the community and contribute to the development of our youth; and,

**WHEREAS**, participation in and enjoyment of the arts can take many forms, including the visual arts, fine arts and performing arts; and,

**WHEREAS**, the Woman's Club of Clayton has sought to promote the involvement of our youth in various art projects to the betterment of their minds and the community as a whole.

**NOW, THEREFORE, LET IT BE PROCLAIMED** by the Honorable Mayor and Town Council of the Town of Clayton that the month of February each year, be recognized as:

TUDENT ART MONTH

Let it also be proclaimed that all businesses, industries and citizens in the Clayton community are urged to support and encourage the school aged children of Clayton to participate in the arts.

Duly proclaimed by the Clayton Town Council this the 1<sup>st</sup> day of February 2021, while in regular session.

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Jody L. McLeod  
Mayor

*Recognition*  
*Of The 150<sup>th</sup> Anniversary*  
*First Missionary Baptist Church of Clayton*

The First Missionary Baptist Church of Clayton was organized by The Reverend Essie Blake in 1870; and

The church, then known as Amelia Baptist, was located off Highway 70 near the east end of Clayton. The church moved to the corner of Lombard and Stalling Street and the brick structure was completed in 1943; and

On September 30, 1972, the church received Articles of Incorporation as a non-profit corporation; and

On June 30, 2000, the church filed Articles of Amendment Nonprofit Corporation to change its name from First Baptist Church of Clayton to First Missionary Baptist Church of Clayton; and

First Missionary Baptist Church of Clayton has been instrumental in spreading the Gospel and has been a pillar of support for the community. The church continues to advance evangelism and discipleship; and

God has blessed First Missionary Baptist Church Clayton for 150 years, as a beacon of light on the corner of Lombard and Stalling Streets to be a witness, to walk, to worship and work to the glory of God; and

Therefore on behalf of the Town of Clayton, The Clayton Town Council wishes to recognize and commemorate the 150<sup>th</sup> Anniversary of First Missionary Baptist Church of Clayton on this joyous and memorable anniversary on this the 1<sup>st</sup> of February, 2021.

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Jody L. McLeod  
Mayor

**ANNEXATION PETITION 2020-142-ANX**

**Buckhorn Branch**

**Parcel:** 166800-64-8874, 166811-55-8386, and 166800-54-8289

**Owners:** Buckhorn Branch Developers, LLC

**Contiguous;** 83.433 +/- acres

**TOWN OF CLAYTON  
RESOLUTION DIRECTING THE CLERK TO INVESTIGATE  
A PETITION RECEIVED UNDER G.S. 160A-31**

**WHEREAS**, a petition requesting annexation of an area described in said petition was received on January 5, 2021 by the Town of Clayton; and

**WHEREAS**, G.S. 160A-31 provides that the sufficiency of the petition shall be investigated by the Town Clerk before further annexation proceedings may take place; and

**WHEREAS**, the Town Council of the Town of Clayton deems it advisable to proceed in response to this request for annexation:

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Clayton that:

The Town Clerk is hereby directed to investigate the sufficiency of the above-described petition and to certify as soon as possible to the Town Council the results of her investigation.

Duly adopted this 1<sup>st</sup> day of February, 2021 while in regular session.

\_\_\_\_\_  
Jody L. McLeod,  
Mayor

ATTEST:

\_\_\_\_\_  
Kimberly A. Moffett, CMC, NCCMC  
Town Clerk



## Town Council Agenda Cover Sheet

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**Meeting Date**

February 1, 2021

**Agenda Location**

Public Hearings

**Item Title**

2021-07-OA 160D Ordinance Amendment

**Presenter**

Samantha Wullenwaber, Planning Director  
Chad Sary, Stewart Engineering

**Summary/Description**

Ordinance amendment proposed to align the Town of Clayton Unified Development Code with the upcoming Chapter 160D requirements and best practices.

**Requested Action**

Approval

**Funding Source (If Applicable):**

N/A

**Cost:** N/A   Yes ☐   No ☒

**Additional Documents to be Included in Agenda Packet**

Application  
Staff Report  
Strikethrough Copy – Articles 1-8  
Clean Copy- Articles 1-8  
Newspaper Ad

**Meeting Timeline**

January 25, 2021 – Planning Board  
February 1, 2021- Town Council



Town of Clayton  
Planning Department  
111 E. Second Street, Clayton, NC 27520  
P.O. Box 879, Clayton, NC 27528  
Phone: 919-553-5002  
Fax: 919-553-1720

## ORDINANCE AMENDMENT APPLICATION

Pursuant to Article 7, Section 155.703 of the Unified Development Code, the Town Council, Board of Adjustment, Planning Board, Planning Director, or the general public may petition the Town Council to amend the Code of Ordinances.

**Application Fee: TBD**

**Advertisement Fee: \$100.00**

*All fees are due when the application is submitted.*

### AMENDMENT INFORMATION

**Project Name:** 160D update

**Existing title of Code Section(s):** General Provisions, Zoning districts, specific use standards, General Dev. Standards, Natural Resource Protection, Subdivision standards, Administration, Definition

**Code Section Number(s):** 155.100 to 155.800 (All articles of chapter 155)

### APPLICANT/CONTACT INFORMATION

**Applicant:** Town of Clayton

**Mailing Address:** PO Box 879

**Phone Number:** 919-553-5002

**Fax:** \_\_\_\_\_

**Contact Person:** Samantha Wullenwaber & Haley Hogg

**Email Address:** Swullenwaber@toc.org & hhogg@toc.org

### DESCRIPTION OF REQUESTED CHANGES

*Please provide a general justification of the requested ordinance amendment. Attach additional sheets if necessary.*

Amending the UDC due to legislative updates known as 160D. Additional changes to align with required changes & best practices are also proposed.

### FOR OFFICE USE ONLY

Date Received: \_\_\_\_\_

Amount Paid: \_\_\_\_\_

File Number: 2021-07-0A

July 2018

Page 1 of 2



## REQUIRED INFORMATION (to be submitted with the application)

The following items must accompany this application for it to be deemed complete.

| To be completed by the applicant:                                                    | For staff use only:                 |     |     |    |     |
|--------------------------------------------------------------------------------------|-------------------------------------|-----|-----|----|-----|
| Submit 9 copies of all materials unless otherwise noted or directed by staff         | Yes                                 | N/A | Yes | No | N/A |
| 1. A pre-application conference was held with Town of Clayton staff. Date: _____     | <input checked="" type="checkbox"/> |     |     |    |     |
| 2. Review Fee and Advertisement Fee                                                  | <input checked="" type="checkbox"/> |     |     |    |     |
| 3. Completed application                                                             | <input checked="" type="checkbox"/> |     |     |    |     |
| 4. A bound strikethrough/underline copy of the Code section(s) proposed for revision | <input checked="" type="checkbox"/> |     |     |    |     |
| 5. A bound "clean" copy of the Code section(s) proposed for revision                 | <input checked="" type="checkbox"/> |     |     |    |     |

## APPROVAL CRITERIA

All applications for Ordinance Amendment must address the following criteria:

1. The extent to which the proposed text amendment is consistent with the remainder of the chapter, including specifically, any purpose and intent statements.

The proposed amendment is consistent with the remainder of the chapter.

2. The extent to which the proposed text amendment represents a new idea not considered in the existing chapter, or represents a revision necessitated by changing circumstances over time.

The amendment is proposed to modify language + process for compliance with 160D.

3. Whether or not the proposed text amendment corrects an error in the chapter.

The amendment does not correct an error in the chapter but does prepare it for compliance with 160D.

4. Whether or not the proposed text amendment revises the chapter to comply with state or federal statutes or case law.

The code amendment is proposed to comply with the new 160D of state statutes.

## APPLICANT AFFIDAVIT

I/We, the undersigned, do hereby make application and petition to the Town Council of the Town of Clayton to amend the Code of Ordinances as requested. I hereby certify that I have full legal right to request such action and that the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the Planning Department of the Town of Clayton, North Carolina, and will not be returned.

Haley Hogg  
Print Name

[Signature]  
Signature of Applicant

11/7/21  
Date

## ARTICLE 1: GENERAL PROVISIONS

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### § 155.100 TITLE

This Chapter shall be known and may be cited as the Unified Development Code of the Town of Clayton, North Carolina, and may be referred to as “this Chapter,” “this Code,” “this Ordinance”, “this UDC,” or “the UDC.”

(Ord. 2005-11-02, passed 11-21-05)

### § 155.101 AUTHORITY AND ENACTMENT

The Town Council, pursuant to the authority conferred by the General Assembly of the State of North Carolina in G.S. § 160D generally, and more specifically § 160D-702 and -103, does hereby ordain and enact into laws these articles and sections.

(Ord. 2005-11-02, passed 11-21-05)

### § 155.102 PURPOSE

#### (A) GENERAL

For the purpose of promoting the health, safety, morals, and general welfare, this Chapter is adopted by the governing body to regulate and restrict 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, general design, appearance and use of buildings, structures and land for trade, industry, residence, or other purposes.

(B) **ZONING**

The zoning regulations in this Chapter are in accordance with a comprehensive plan and are designed 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 preserve and improve the character of development in the Town and its neighborhoods; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. The regulations have been made with reasonable consideration, among other things, as to the character of the jurisdiction and its areas and their peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdiction.

(C) **SUBDIVISION**

The purpose of this Chapter is also to provide for the orderly development of the Town and its environs through the regulation of the subdivision of land. The regulations contained herein are intended to coordinate proposed development with existing development and with officially adopted plans for the future development of the Town; to ensure the provision of adequate facilities for transportation, water, sewerage, and other public facilities in subdivisions; to ensure the proper legal description, monumentation, and recording of subdivided land; and to promote the public health, safety, and general welfare of the Town.

(Ord. 2005-11-02, passed 11-21-05)

## **§ 155.103 EFFECTIVE DATE**

This Chapter was adopted on February 01, 2021, becoming effective on **EFFECTIVE DATE**. From time to time this chapter or sections herein may be amended by the Town Council.

(Ord. 2005-11-02, passed 11-21-05; Ord. 2017-04-06, approved 04/03/2017)

## **§ 155.104 JURISDICTION**

(A) **ZONING DISTRICTS**

- (1) The boundaries of the zoning districts, including but not limited to Conventional Districts, Conditional Zoning Districts (some of which are formerly-approved Special Use Districts), and Overlay Districts, are shown upon the map accompanying this Chapter, and made a part hereof, entitled "Town of Clayton Official Zoning Map" (also known as "zoning map"), as amended from time to time. The zoning map and all the notations, references and all amendments thereto, and other information shown thereon is hereby made a part of this Chapter the same as if such information set forth on the map were all fully described and set out herein. The most current and updated version of the Official Zoning Map properly attested is maintained by the Planning Department, and is on file in the Planning Department and the Office of the Town Clerk, and is available for inspection by the public. When duly adopted by the Town Council, these regulations shall also govern each and every subdivision

of land within the corporate limits of the Town, as now or hereafter established, and within the extraterritorial jurisdiction adopted by the Town.

**(B) FUTURE LAND USE DISTRICTS**

- (1) Certain Future Land Use Designations are established and incorporated by reference on the "Town of Clayton Future Land Use Map" (as part of the most current, adopted comprehensive plan, and also known as "future land use map"), which is hereby made a portion of this Ordinance. The future land use map shall guide and govern changes to the Official Zoning Map and the districts therein. The most current and updated version of the Future Land Use Map properly attested is maintained by the Planning Department, is on file in the Planning Department and the Office of the Town Clerk, and is available for inspection by the public.

**(C) OTHER MAPS AND ORDINANCES**

- (1) The most recent officially adopted version of other maps adopted by the state or federal government, including regulatory language, as necessary to accomplish the purpose of this UDC, are hereby incorporated by reference. This includes but is not limited to maps of floodplains, soils, watersheds, water supply protection areas, and United States Geological Survey (USGS) maps depicting streams or other water courses.

(Ord. 2005-11-02, passed 11-21-05; Ord. 2017-04-06, approved 04/03/2017)

## **§ 155.105 LEGAL STATUS PROVISIONS**

**(A) LEGAL STATUS PROVISIONS**

- (1) In its interpretation and application, the provisions of this Chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Whenever the requirements of lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants are at variance with the requirements of this Chapter, the most restrictive, or that imposing the highest standards, shall govern.
- (2) This Chapter and various parts, sections, subsections, and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Chapter shall not be affected thereby. Whenever any condition or limitation is included in an order authorizing a special use permit, conditional zoning, variance, certificate of occupancy, or site plan approval or is offered by an applicant in an application or public hearing for such permit or approval, it shall be conclusively presumed that the authorizing officer or body considered such condition or limitation necessary to carry out the spirit and purpose of this Chapter or the requirements of some provisions hereof, and to protect the public health, safety, and welfare, and that the officer or body would not have granted the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful. All conditions proposed to be attached to a Special Use Permit or a Conditional Zoning must be voluntarily agreed to in writing by all owners of the property to which those regulations may be applied.

**(B) STATUTE OF LIMITATIONS**

In accordance with G.S. § 160D-1405, a cause of action as to the validity of this Chapter, or amendment thereto, shall accrue upon the adoption of this Chapter or amendment thereto, and shall be brought within the time period specified therein.

(C) **REPEAL OF CONFLICTING ORDINANCE**

All ordinances or parts of ordinances of the Town which are in conflict or inconsistent with this Chapter are repealed and superseded to the extent necessary to give this Chapter full force and effect.

(D) **ADMINISTRATOR**

(1) The Planning Director is appointed to serve as administrator of this Chapter. If this position should at any time be vacant, then the Town Manager shall designate another Town official to act as administrator until the office is filled.

(2) Delegation of Authority

The Planning Director may designate any staff member to represent the Planning Director in any function assigned by this Chapter but shall remain responsible for any final action.

(E) **EXAMPLES AND ILLUSTRATIONS**

The examples, illustrations, and any other commentaries used in this Chapter are for informational purposes only and are not intended for the purpose of construing the substantive or procedural provisions of this Chapter or the Town's intent in adopting specific provisions in this Chapter. In instances with contradictions, the text always supersedes illustrations or graphics.

(Ord. 2005-11-02, passed 11-21-05)

## **§ 155.106 APPLICATION OF REGULATIONS**

The regulations set forth in this Chapter shall affect all land, every structure, and every use of land or structure, and shall apply as follows:

(A) **COMPLIANCE REQUIRED**

No structure or land shall hereafter be used, occupied, or modified, and no structure or part thereof shall be erected, moved onto, or structurally altered, except in compliance with the regulations of this Chapter, for the district in which it is located. This definition shall include all forms of development as defined in GS 160D-102(12).

(B) **ZONING PERMIT REQUIRED**

No building, sign, structure, or land-disturbing activities, or any part thereof shall be erected, structurally altered, moved, or changed in use until a zoning permit has been issued by the Planning Director, as set forth in § 155.709 "Zoning Permit".

(Ord. 2005-11-02, passed 11-21-05; Ord. 2017-04-06, approved 04/03/2017)

## **§ 155.107 INTERPRETATION OF REGULATIONS**

The regulations in this Chapter shall be enforced and interpreted according to the following rules:

(A) **MINIMUM REQUIREMENTS**

Regulations set forth by this Chapter shall be minimum regulations. If the requirements set forth in this Chapter are inconsistent with the requirements of any other lawfully adopted uses, regulations, or ordinances, the more restrictive or higher standard shall govern, unless otherwise specified.

(B) **RESTRICTIVE COVENANTS**

Unless restrictions established by covenants with the land are prohibited by or contrary to the provisions of this Chapter, nothing contained within this Chapter shall be construed to render such covenants inoperative.

(Ord. 2005-11-02, passed 11-21-05)

## **§ 155.108 COMPLIANCE WITH PLANS**

(A) **APPROVED PLANS**

Permits or certificates issued on the basis of plans and applications shall authorize only the use, arrangement, and construction as set forth in such approved plans and applications and no other use, arrangement, or construction.

(B) **ADOPTED PLANS AND POLICIES**

All proposed subdivisions, structures, developments, and associated infrastructure shall be placed and designed in a manner consistent with the adopted plans and policies of the Town.

(Ord. 2005-11-02, passed 11-21-05; Ord. 2017-04-06, approved 04/03/2017)

## **§ 155.109 TRANSITIONAL PROVISIONS**

(A) **CONFORMING USES AND STRUCTURES**

- (1) Any use or structure existing prior to the effective date of this Chapter that conforms to the regulations of this Chapter for permitted uses, and satisfies the dimensional requirements and any other applicable regulations of the district in which it is located, may be continued, provided any use, structural, or other changes shall comply with the provisions of this Chapter.
- (2) Any use or structure existing prior to the effective date of this Chapter that would be permitted by this Chapter as a special use (or previously as a conditional use) in the district in which it is located, may be continued as if a special or conditional use permit had been issued,

provided that any use, structural, or other changes shall comply with the provisions of this Chapter.

(B) **EFFECT OF AMENDMENT**

If subsequent amendments to this Chapter or the zoning map result in the creation of additional nonconformities or conformities, such nonconformities or conformities shall be governed by the provisions of this Chapter, unless otherwise stated in the amendment.

(C) **APPLICATIONS AND PRIOR APPROVALS**

(1) **Projects Under Construction Prior to Effective Date**

- (a) Any building or development for which a permit was issued before the effective date of this Chapter may be completed in conformance with the issued permit and other applicable permits and conditions, even if such building or development does not fully comply with provisions of this Chapter.
- (b) Nothing in this Chapter shall require a change to a phasing plan approved prior to the adoption of this Chapter, provided construction is consistent with the terms and conditions of the phasing plan and proceeds to completion in a timely manner. The applicant shall ensure that a period of no more than two years without an active building permit occurs in order to continue a project under a previous phasing plan.
- (c) If construction is not completed according to the applicable permit terms, the Town Council may, for good cause shown, grant an extension of up to one year for such construction. If the building is not completed within the time allowed under the original permit or any extension granted, then the building may be constructed, completed, or occupied only in compliance with this Chapter.

(2) **Applications Submitted Prior to Effective Date**

- (a) Pursuant to G.S. §160D-108, any complete application submitted before the effective date of this Chapter or sections herein may be completed in conformance with applicable permits and conditions of the regulations in effect at the time of submission of the application, even if such application does not fully comply with provisions of this Chapter.
- (b) If construction is not commenced or completed according to the applicable terms of the application, the Town Council may, for good cause shown, grant an extension of up to one year for such construction. If the building or improvements are not completed within the time allowed under the original application or any extension granted, then the building or improvements may be constructed, completed, or occupied only in compliance with this Chapter.

(3) **Prior Approvals**

- (a) Where a planned development, special use district, special use, or conditional use was approved prior to the effective date of this Chapter, the provisions of this Chapter shall apply to the extent that they do not conflict with the original conditions of approval.
- (b) Pursuant to Section 2.9(b) of S.L. 2019-111, any Conditional Use Permit approved prior to the adoption of this subsection that is valid and legal as of the effective date of this Ordinance is hereby transformed into an identical Special Use Permit immediately, subject to all established conditions and applicable standards of this Chapter.
- (c) Pursuant to Section 2.9(b) of S.L. 2019-111, any special use district, conditional use district, or Planned Development districts (formerly identified as PD-R, PD-C, PD-I, or PD-MU) that is valid and legal as of the effective date of this Ordinance hereby transformed into an identical Conditional Zoning District immediately, subject to all established conditions and applicable standards of this Chapter.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07, Am. Ord. 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)



## **§ 155.110 NONCONFORMITIES**

### **(A) PURPOSE AND INTENT**

The purpose of this Section is to establish regulations to address lots, structures, uses and site elements that were lawfully established before this Chapter was adopted or amended, but do not conform to the terms and current requirements of this Chapter, or were required as part of an approval but do not exist. It is the intent of this Section to regulate and limit the continued existence of such nonconformities; and, where possible, bring them into conformance with this Chapter.

### **(B) APPLICABILITY**

This Section applies to nonconforming lots, structures, uses, and site elements. In determining whether such nonconformities will be regulated by the provisions of this Section, the following shall apply:

- (1) Nonconforming status shall not be provided for any lot, structure, use, or site element which was illegally created, commenced, constructed, or unlawfully continued.
- (2) Nonconforming status shall only be authorized upon demonstration by the applicant that a lot, structure, use or site element was lawfully approved, created, commenced or constructed, and not merely contemplated.
  - (a) To obtain nonconforming status, the applicant must demonstrate that the use was in continuous operation during business hours and not an occasional use of the property.
- (3) An accessory nonconforming use shall not become the principal use.

### **(C) NONCONFORMING LOT**

A nonconforming lot is a lot that was lawfully created before this Chapter was adopted or amended, but does not conform to the minimum lot acreage and dimensional criteria as set forth in Article 2, Zoning Districts of this Chapter.

- (1) Where the owner of a residential lot that was lawfully created before this Chapter was adopted or amended, or any successor in title does not own sufficient land to conform to the standards provided in Section 155.203, District Standards, such a lot may be used as a building site for a single-family residence in a district in which residences are permitted, provided that the required standards are not more than 20 percent below the minimum specified in this Chapter, or within five percent of the average deviation on lots adjacent to or within the same subdivision. The County Health Department's approval of the reduction is required if on-site water or wastewater facilities are involved. In cases where the criteria above cannot be met, the Board of Adjustment may grant a Variance, subject to the required findings set forth in Section 155.716, Variance.

- (2) Nonconforming, substandard lots may be granted a Variance for development, subject to approval by the Board of Adjustment and the required findings set forth in Section 155.716, Variance.
- (3) If two or more adjoining and vacant lots are in one ownership when this Chapter is adopted, or at any time after the adoption of this Chapter, and either or both lots do not meet the dimensional requirements of this Chapter for the district in which such lots are located, then such group of lots shall be considered as a single lot.

(D) **NONCONFORMING USE**

A nonconforming use is the use of land, buildings, or structures that was lawfully established on a property prior before this Chapter was adopted or amended, but does not conform to the use regulations of his Chapter.

(1) **Continuation**

No nonconforming use may be enlarged, expanded, or extended, or moved to occupy a different or greater area of land, buildings or structures than was occupied by the use at the time it became nonconforming.

(2) **Change in Use**

A nonconforming use shall not be changed to any other use, unless the new use conforms to this Chapter. A nonconforming use physically replaced by a permitted use shall not be re-established.

(3) **Maintenance**

Maintenance and repair of a building occupied by a nonconforming use is permitted, provided it does not extend the nonconforming use.

(4) **Discontinuance or Cessation**

- (a) A nonconforming use that is discontinued, abandoned, or changed to an accessory use for a period of more than 90 consecutive days, or for a total of 180 calendar days during any twelve month period, shall lose its nonconforming status and shall not be reestablished or resumed. Any subsequent use in the same location shall be consistent with this Chapter.

(E) **NONCONFORMING STRUCTURE**

A nonconforming structure is a structure that was lawfully established on a property prior to this Chapter being adopted or amended, but does not conform with the square footage, density, yard, dimensional, height, lot coverage or other structural provision of this Chapter.

- (1) The nonconforming features of a structure shall not be changed or increased in such a way as to intensify the nonconformity or increase the degree to which the structure is nonconforming. A nonconforming structure can be changed if the area of the improvement will reduce the nonconformity.
- (2) Changes to or expansion of a nonconforming structure shall not result in the intensification or expansion of a nonconforming use.
- (3) Substandard structures which are damaged or destroyed by fire, wind, flood or other natural causes may be reconstructed and shall comply with the applicable provisions of this Chapter, unless the structure is situated on a substandard lot of record, in which case the provisions concerning nonconforming lots shall apply.

(F) **NONCONFORMING SITE ELEMENT**

A nonconforming site element is a site improvement that is required as part of an approval but does not exist, or was existing or lawfully established prior to this Chapter being adopted or amended. Site elements include, but are not limited to access, parking, landscaping, signage and lighting.

- (1) No nonconforming site element shall be erected, replaced, or modified except to reduce or eliminate the nonconformity. Repair and maintenance of nonconforming site elements is permitted.
- (2) When improvements or major external renovations are proposed to an existing conforming structure, the associated non-conforming site elements must also be improved to comply with the current requirements of this Chapter.
- (3) If all site elements cannot be brought into compliance with the current requirements of this Chapter for reasons which include, but are not limited to site layout, space limitations, tree preservation, or other natural features, the Planning Director may approve a deviation from site element requirements so long as the modifications to the elements are moving in the direction of conformity with the provisions of this Chapter.

(G) **NONCONFORMITIES IN THE WATER PROTECTION OVERLAY (WPO)**

Nonconforming lots, buildings, and structures located within the WPO may be continued and maintained. Expansions to nonconformities must meet the requirements of § 155.501.

(Ord. 2013-10-03, passed 10-7-13)

## ARTICLE 2: ZONING DISTRICTS

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### § 155.200 DISTRICTS ESTABLISHED

To carry out the provisions of this Chapter, within the jurisdiction of the Town, the following zoning districts are established.

#### (A) INTERPRETATION OF ZONING DISTRICT BOUNDARIES

##### (1) **Defined**

District boundaries are as shown upon the Official Zoning Map and Future Land Use Map as set forth in § 155.104, and as adopted by Town Council. The provisions of this chapter are hereby established and declared to be in effect upon all land included within the boundaries as shown on the maps.

##### (2) **Rules for Interpretation**

- (a) The Planning Director shall be responsible for interpretations of the Official Zoning Map and Future Land Use Map in accordance with the standards set forth in this Section. Where uncertainty exists as to the boundaries of any district shown on the Official Zoning Map, the following rules shall apply:
  1. Boundaries indicated as approximately following the centerlines of streets, alleys, highways, streams or railroads shall be construed to follow such centerlines.
  2. Boundaries indicated as approximately following lot lines, Town limits or extraterritorial jurisdiction boundary lines, shall be construed as following such lines, limits or boundaries; and
  3. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as following such changed shorelines.

4. Where a district boundary divides a lot or where distances are not specifically indicated on the zoning map, the boundary shall be determined by measurement, using the scale of the zoning map.
5. Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.

- (b) Any person or party aggrieved by the Planning Director's interpretation of the Official Zoning Map may file an Administrative Appeal application to the Board of Adjustment, as provided in §155.717 of this ordinance. The application shall contain sufficient information to enable the Board of Adjustment to make the necessary interpretation.

(B) **CONVENTIONAL DISTRICTS**

(1) **Residential Districts**

- (a) ***R-E / Residential-Estate.*** The R-E district is comprised of low density, single-family dwellings, and other selected uses which are compatible with the open and rural character of the area. The established regulations for this district are designed to promote and encourage an environment for family life and agriculture. To encourage higher quality development and to ensure greater environmental protection, open space (cluster) subdivisions are permitted.
- (b) ***R-10 / Single-Family Residential-10.*** The R-10 district is established to provide for orderly suburban residential development and redevelopment and is intended to maintain residential areas at relatively low densities characterized predominantly by single-family detached units. The district requirements protect existing neighborhoods from undesirable or incompatible uses. To encourage higher quality development and to ensure greater environmental protection, open space (cluster) subdivisions are permitted. A special permit process for higher intensity development is also allowed, using discretion to balance issues of higher density with improved amenities.
- (c) ***R-8 / Single-Family Residential-8.*** The R-8 district is established to provide for orderly suburban residential development and redevelopment and is intended to maintain residential areas at suburban densities characterized predominantly by single-family detached units. To encourage higher quality development and to ensure greater environmental protection, open space (cluster) subdivisions are permitted. A special permit process for higher intensity development is also allowed, using discretion to balance issues of higher density with improved amenities.
- (d) ***R-6 / Single-Family Residential-6.*** The R-6 district is established to provide for orderly suburban residential development and redevelopment. Intended to protect, preserve and enhance existing residential areas of higher density, which includes multi-family dwellings mixed with other housing types. A special permit process for higher intensity development is also allowed, using discretion to balance issues of higher density with improved amenities.

(2) **Nonresidential Districts**

- (a) **O-R | Office-Residential.** The O-R district is intended to accommodate modest-scale professional occupations, along with single-family and multi-family residential units, to serve as a neighborhood activity center and as a transition between residential and more intense commercial uses.
- (b) **O-I | Office-Institutional.** The O-I district is intended to permit offices, institutions, and associated administrative, executive, professional and research uses in new and existing structures and limited retail uses. Such offices and institutional uses are generally located along or proximate to major roadways or adjacent to commercial uses and may act as a buffer between such areas and residential uses.
- (c) **B-1 | Central-Business.** The B-1 district is intended to foster a vibrant, safe, central business district and town center by encouraging dense residential development while retaining and further developing a broad range of commercial, retail, service, office, institutional, public, cultural, and entertainment uses and activities. The district is intended to define and promote the town center as a desirable place to live, work, shop, and recreate.
- (d) **B-2 | Neighborhood-Business.** The B-2 district provides opportunities for small-scale commercial uses offering primarily convenience shopping and services for adjacent residential areas. Proximity to residences requires that commercial operations are low intensity, unobtrusive, and conducted at a scale and density compatible with the surrounding neighborhood. There is a relatively low demand on public services, transportation, and utilities.
- (e) **B-3 | Highway-Business.** The B-3 district provides opportunities for offices, service uses, and businesses retailing durable and convenience goods for the community as a whole. Located on major and minor thoroughfares, this district is accessible to and serves the entire community. Site design and buffering mitigate impacts of traffic, operations, and scale on adjacent businesses and residential neighborhoods.
- (f) **I-1 | Industrial-Light.** The I-1 district fosters the retention and growth of employment opportunities by providing areas where a broad range of industrial uses may locate and where options for complementary uses exist. Industries should be operated in a relatively clean and quiet manner, and should not be obnoxious to nearby residential or business districts, warehousing and wholesaling activities, and research facilities. The regulations of this district are intended to prohibit the use of land for industries that by their nature may create very minor nuisance to surrounding properties.
- (g) **I-2 | Industrial-Heavy.** The I-2 district fosters the retention and growth of employment opportunities by providing areas where a broad range of industrial uses may locate and where options for complementary uses exist. Intended for heavy industries that, by their nature, may create some nuisance, and which are not properly associated with or are compatible with nearby residential or business districts, warehousing and wholesaling activities, and research facilities.
- (h) **PF | Public Facilities.** The PF district is established to provide a coordinated land planning approach to the sale, rent, lease, purchase, management, or alteration of publicly owned or operated lands. Notwithstanding those public uses permitted elsewhere in this Code, the PF district is primarily intended for, although not limited to,

public parks and recreation areas, public buildings and facilities, and other capital improvements of a significant nature. (*Ord. 2015-09-03, adopted 09/28/2015*)

(C) **CONDITIONAL ZONING DISTRICTS**

- (1) Pursuant to G.S. § 160D-703(B), the Town Council may establish by ordinance conditional districts (§ 155.705) upon request by or on behalf of all owners. A conditional zoning is a legislative map amendment with site-specific conditions incorporated into the zoning map amendment. Conditional districts provide the opportunity for developments that do not fit easily into existing zoning district(s) even when divided into component parts, and that also demonstrate excellence in site design, circulation, use coordination, and compatibility with neighboring properties such that it is in the public interest to create a new and novel zoning district to accommodate them. Conditional districts shall be designated by adding “-CZ” followed by the ordinance or project number establishing the district. Novel conditional zoning districts shall be designated by adding “CZ” followed by the ordinance number creating the district.
- (2) If for any reason a condition imposed pursuant to these regulations is found to be illegal or invalid, it is the intent of this chapter that the authorization of such conditional district shall be null and void and of no effect and that proceedings be instituted to rezone the property to its previous zoning classification. All conditions on conditional zonings must be voluntarily agreed to in writing by all owners of property to which the conditions apply.

(D) **OVERLAY DISTRICTS**

(1) **Thoroughfare Overlay District (TOD)**

The Thoroughfare Overlay District is established for the purpose of maintaining a safe, efficient, and functional development pattern adjacent to major thoroughfares, while maintaining an aesthetic streetscape environment. It is recognized that an enhanced development quality in areas of high visibility promotes economic development and stability in the entire community. The standards established in § 155.204(A) shall be applied to properties which adjoin major thoroughfares, as designated on the Town's Overlay Zoning Map.

(2) **Watershed Protection Overlay (WPO)**

- (a) The Watershed Protection Overlay (WPO) is hereby established as a district that overlays the designated water supply watershed. The designated water supply watershed under this district is defined and established by the overlay district "Watershed Protection Overlay" on the zoning map. Land use and development within the WPO must comply with all the requirements of both the underlying zoning district and the watershed overlay.
- (b) The designated water supply watershed within the Town is designated by the state as a Class IV watershed protected area (WS-IV PA) and is referred to as the Neuse River (Smithfield) watershed within the Neuse River basin. Only new development activities that require an erosion/sedimentation control plan under state law or approved local government program are required to meet the provisions of this program. See § 155.501 for watershed protection standards.

**(3) Downtown Overlay District (DOD)**

The Downtown Overlay District is established for the purpose of fostering the economic vitality of the area within the district's boundaries, as well as the aesthetics and character of the district as further described in this Article, specifically in §155.204.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2009-08-02, passed 8-3-09, Am. Ord. 2012-04-02, passed 4-2-12; Am. Ord. 2012-12-02, passed 12-3-12; Am. Ord. 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)



**§ 155.201 MEASUREMENTS AND EXCEPTIONS****(A) GENERAL**

No lot, even though it may consist of one or more adjacent lots of record in single ownership, shall be reduced in size so that the lot area per dwelling unit, lot width, yard and lot coverage requirements, and other requirements of this chapter are not maintained. This prohibition shall not be construed to prevent the purchase or condemnation of narrow strips of land for public utilities or street right-of-way purposes.

**(B) GROSS FLOOR AREA**

The gross floor area of a building shall be measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings.

**(C) HEIGHT**

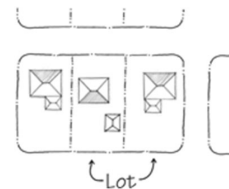
- (1) Height shall be determined by the vertical distance from the average of the finished ground level to the highest finished roof surface.
- (2) No structure shall be erected or altered so as to exceed the height limit or density regulations of this article for the district in which it is located, except that in an Industrial district the maximum height may be exceeded by 1 vertical foot for every additional horizontal foot of setback provided for all sides, up to a maximum 100' of structure height. Structures may be stepped in order to meet this performance standard.
- (3) The Board of Adjustment may grant a Variance in accordance with § 155.716 for structures exceeding the maximum height limits of any district.

**(D) AREA**

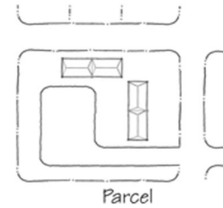
Area shall be measured in gross square feet or acres.

**(1) Lot**

- (a) Lot area shall be that area included in a single, undivided piece of land.
- (b) Minimum lot areas shall be exclusive of existing or proposed public or private right-of-way, resource conservation areas (see § 155.500), and required recreation and open space (see § 155.203(H)).

**(2) Parcel**

- (a) A parcel may contain multiple buildings or uses.
- (b) Parcel area shall be that area required for each individual building in a multi-building project. A parcel may include multiple lots.

**(E) WIDTH****(1) Building Width**

Building width shall be measured by the distance along the front plane of any building (as determined by the location of an entrance fronting on a street).

**(2) Parcel or Lot Width**

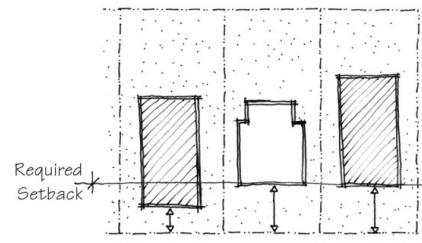
Parcel or lot width shall be measured by the distance between the side lot lines (generally running perpendicular to a street), measured at the rear edge of the front setback (also commonly known as the street yard) along a straight line parallel to the front of the property line or if the front property line is not straight, parallel to the chord of the front property line.

**(F) DENSITY**

- (1) The maximum possible density on any parcel of land shall be as follows:
  - (a) One hundred percent of the district density for the area outside of resource conservation areas; and
  - (b) Fifty percent of the district density for any resource conservation areas (see Article 5).
- (2) Maximum allowable density for residential development shall be calculated by dividing the acreage of land (in square feet) by the minimum lot area (in square feet) for the district, and then rounding down to the nearest whole number.

**(G) YARDS AND SETBACKS****(1) General**

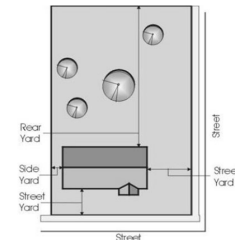
- (a) All front yard and side street yard setbacks shall be measured from the edge of the right-of-way.
- (b) The minimum front yard requirements of this article for residential dwellings shall not apply on any lot where the average front yard of existing dwellings located on either side of the lot in question within the same block and zoning district and fronting on the same side of the street is less than the minimum required front yard. In such cases, the front yard on such lots may be less than the required front yard, but not less than the adjacent dwelling with the greatest front yard depth.



- (c) Every part of every required yard shall be open and unobstructed above the general ground level of the graded lot upward to the sky except as provided or as otherwise permitted in this section.
- (d) No part of a yard or other open space required about any structure or use for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another structure or use.

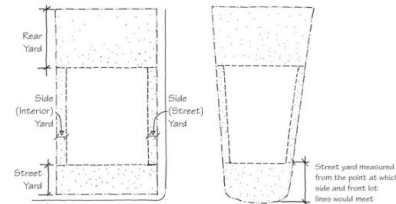
(2) **Types of Yards**

- (a) There are four types of yards – front, side street (also commonly known as street side), side interior, and rear.



(3) **Measurement of Yards**

- (a) Depth of a required front yard shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot lines, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding.
- (b) Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line.
- (c) Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line.



(4) **Yard Encroachments**

The following encroachment standards shall apply to all required yards, so long as they do not extend into any easements:

- (a) Parking structures may extend into the rear yard of a dwelling unit.
- (b) Chimneys, pre-fabricated chimneys, flues, or smokestacks may extend a maximum of four feet into a required yard.
- (c) Building eave or roof overhang may extend up to 24 inches into a required yard; provided that such extension is at least three feet from the property line, its lower edge is at least seven and one-half feet above the ground elevation, and it is located at least five feet from any other building or eave.
- (d) Sills and ornamental features may project up to 24 inches into any required yard.
- (e) Except in the B-1 District, fire escapes may project up to eight feet into any required yard.

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- (f) Signs may extend into required yards in conformance with standards found in § 155.403.
  - (g) Pedestrian bridges, breezeways, building connections, and supports of these structures may extend into required yards upon findings by the approving authority that the connecting feature is necessary to provide safe pedestrian access or to improve transit access.
  - (h) Security gates and guard stations may be located within any required yard.
  - (i) Unenclosed patios, decks or terraces, including lighting structures, may extend up to four feet into any required side yard, or up to eight feet into any required rear yard.
  - (j) Covered porches may encroach a maximum of 20% of the required front yard setback depth.
  - (k) Mechanical equipment for residential uses, such as HVAC units and security lighting, may extend into any required side yard but shall remain at least four feet from the property line.
  - (l) Bay windows, entrances, balconies, and similar features that are less than ten feet wide may extend up to 18 inches into any required yard, but shall remain at least six feet from the property line.
  - (m) Structures below and covered by the ground may extend into any required yard.
  - (n) Driveways may extend into any required yard, provided that, to the extent practicable, they extend across rather than along the setback area and may be no closer than two feet from the property line.
  - (o) Planters, retaining walls, fences, hedges, and other landscaping structures may encroach into any required yard subject to visibility restrictions.
  - (p) Utility lines located underground and minor structures accessory to utility lines (such as hydrants, manholes, and transformers and other cabinet structures) may encroach into any required yard.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2012-04-02, passed 4-2-12; Am. Ord. 2012-12-02, passed 12-3-12; Am. Ord. 2014-03-01, passed 3-17-14; Am. Ord 2016-04-04, passed 04-04-2016)

## § 155.202 LAND USE REGULATIONS

### (A) USE REGULATIONS TABLE

The use regulations table is subject to the explanation as set forth below.

#### (1) Key to Types of Use

- (a) **Permitted.** A "P" indicates that a use is permitted in the respective district subject to the specific use standards in §§ 155.300 through 155.311. Such uses are also subject to all other applicable requirements of this chapter.
- (b) **Special Use Review.** An "S" indicates a use that may be permitted in the respective general use district only where approved by the Town Council upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards, and in accordance with § 155.711. Special uses are subject to all other applicable requirements of this chapter, including the specific use standards contained in §§ 155.300 through 155.311, except where such use standards are expressly modified by the Town Council as part of the special use approval.
- (c) **Specific Use Section.** The "Specific Use Section" column on the table is a cross-reference to any specific use standard listed in §§ 155.300 through 155.311. Where no cross-reference is shown, no additional use standard shall apply.
- (d) **Uses Not Permitted.** A blank cell in the use table indicates that a use is not permitted in the respective district. Except as pursuant to §155.110 and §155.300, the following uses are entirely prohibited within the jurisdiction of the Town, although such enumeration shall not necessarily be deemed exclusive or all-inclusive:
  1. Open dump;
  2. Outdoor gun range; and
  3. Any use prohibited by an applicable overlay zoning district.

#### (2) Uses

Table 2-1 "Use Regulations" lists the principal uses regulated by this chapter for conventional districts. For conditional zoning districts see § 155.200(C), for overlay districts see § 155.200(D), and for accessory structures and uses see § 155.308. In all cases, additional clarification and/or restrictions may be found in the Specific Use Standards (Article 3 of this chapter).

§ 155.202 - Table 2-1 Use Regulations

| Use Type         | Zoning Districts |      |     |     |                |     |     |     |     |     |     |    | Specific Use Section |
|------------------|------------------|------|-----|-----|----------------|-----|-----|-----|-----|-----|-----|----|----------------------|
|                  | Residential      |      |     |     | Nonresidential |     |     |     |     |     |     |    |                      |
|                  | R-E              | R-10 | R-8 | R-6 | O-R            | O-I | B-1 | B-2 | B-3 | I-1 | I-2 | PF |                      |
| Residential Uses |                  |      |     |     |                |     |     |     |     |     |     |    |                      |

| Use Type                                  | Zoning Districts |      |     |     |                |     |     |     |     |     |     |    |              | Specific Use Section |
|-------------------------------------------|------------------|------|-----|-----|----------------|-----|-----|-----|-----|-----|-----|----|--------------|----------------------|
|                                           | Residential      |      |     |     | Nonresidential |     |     |     |     |     |     |    |              |                      |
|                                           | R-E              | R-10 | R-8 | R-6 | O-R            | O-I | B-1 | B-2 | B-3 | I-1 | I-2 | PF |              |                      |
| Group Care Home (2-6 residents)           | P                | P    | P   | P   |                |     |     |     |     |     |     |    | \$155.301(A) |                      |
| Group Care Home (7-12 Residents)          | S                | S    | S   | S   | S              | S   |     | S   |     |     |     |    | \$155.301(A) |                      |
| Group Care Home (13+ Residents)           |                  |      |     |     |                | S   |     | S   |     |     |     |    | \$155.301(A) |                      |
| Apartments                                |                  | S    | S   | S   | S              | S   | S   | S   | S   |     |     |    | \$155.301(B) |                      |
| Boarding House                            |                  |      |     | S   |                | S   |     | S   |     |     |     |    | \$155.301(C) |                      |
|                                           |                  |      |     |     |                |     |     |     |     |     |     |    |              |                      |
| Duplex                                    |                  | S    | S   | S   | S              |     |     |     |     |     |     |    | \$155.301(G) |                      |
| Manufactured Home                         | P                |      |     |     |                |     |     |     |     |     |     |    | \$155.301(D) |                      |
| Manufactured Home Park                    | S                |      |     |     |                |     |     |     |     |     |     |    | \$155.301(E) |                      |
| Nursing Home (Congregate Living Facility) | P                |      |     |     |                | P   |     | P   | P   |     |     |    | \$155.301(F) |                      |
| Townhouse                                 |                  | S    | S   | S   | S              | S   |     | S   | S   |     |     |    | \$155.301(H) |                      |
| Security/Caretaker Quarters               | P                |      |     |     |                |     |     |     | S   |     |     | S  | \$155.301(I) |                      |
| Single Family House                       | P                | P    | P   | P   | P              |     |     |     |     |     |     |    | \$155.301(J) |                      |
| Upper-story Residence                     |                  |      |     |     | P              | P   | P   | P   | P   |     |     |    | \$155.301(K) |                      |
| Zero Lot Line House                       |                  | P    | P   | P   |                |     |     |     |     |     |     |    | \$155.301(L) |                      |
| Public and Civic Uses                     |                  |      |     |     |                |     |     |     |     |     |     |    |              |                      |
| Assembly                                  | S                |      |     |     |                | P   | S   | S   | P   |     |     | P  | \$155.302(A) |                      |
| Cemetery                                  | P                |      |     |     |                |     |     |     | S   |     |     | P  | \$155.302(B) |                      |
| Church or Place of Worship                | S                | S    | S   | S   |                | P   |     | P   | S   |     |     |    | \$155.302(C) |                      |
| College or University                     |                  |      |     |     |                | P   |     |     |     |     |     | P  | \$155.302(D) |                      |
| Day Care Facility                         | S                | S    | S   | S   | S              | P   |     | P   | P   |     |     |    | \$155.302(E) |                      |
| Government Service                        | S                | S    | S   | S   | P              | P   | P   | P   | P   | P   | P   | P  | \$155.302(F) |                      |
| Hospital or Medical Center                |                  |      |     |     |                | P   |     |     | P   |     |     | P  | \$155.302(G) |                      |
| School (Elementary or Secondary)          | S                | S    | S   | S   |                | P   |     |     |     |     |     | P  | \$155.302(H) |                      |
| School (Technical, Trade or Business)     | S                | S    | S   | S   |                | P   |     |     | P   | P   | P   | P  | \$155.302(I) |                      |
| Recreational Uses                         |                  |      |     |     |                |     |     |     |     |     |     |    |              |                      |
| Entertainment, Indoor                     |                  |      |     |     |                | P   | S   | P   | P   | P   |     | P  | \$155.303(A) |                      |
| Entertainment, Outdoor                    |                  |      |     |     |                |     |     |     | S   | P   |     | P  | \$155.303(B) |                      |
| Fitness/Recreation Center                 |                  |      |     |     |                | P   | S   | P   | P   | P   |     | P  | \$155.303(C) |                      |
| Golf Course                               | P                | P    | P   | P   |                |     |     |     |     |     |     | P  | \$155.303(D) |                      |
| Gun Range                                 |                  |      |     |     |                |     | S   |     | S   | S   | S   | S  | \$155.303(E) |                      |
| Park                                      | P                | P    | P   | P   | P              | P   | S   | P   |     |     |     | P  | \$155.303(F) |                      |
| Stable, Private                           | P                |      |     |     |                |     |     |     |     |     |     |    | \$155.303(G) |                      |
| Agricultural Uses                         |                  |      |     |     |                |     |     |     |     |     |     |    |              |                      |
| Agriculture, Livestock                    | S                |      |     |     |                |     |     |     |     |     |     |    | \$155.304(A) |                      |
| Agriculture, Sales and Service            | P                |      |     |     |                |     |     |     |     |     | S   |    | \$155.304(B) |                      |
| Nursery                                   | P                |      |     |     |                | P   | S   | P   | P   |     |     | P  | \$155.304(C) |                      |
| Commercial Uses                           |                  |      |     |     |                |     |     |     |     |     |     |    |              |                      |
| Adult Oriented Business                   |                  |      |     |     |                |     |     |     |     | S   |     |    | \$155.305(A) |                      |
| Bed and Breakfast                         | P                |      |     | S   | S              |     | S   |     |     |     |     |    | \$155.305(B) |                      |
| Car Wash/Auto Detailing                   |                  |      |     |     |                |     |     | P   | P   |     |     |    | \$155.305(C) |                      |
| Contractor Office                         |                  |      |     |     |                | P   |     |     | P   | P   | P   |    | \$155.305(D) |                      |
| Convenience Store with Gas Sales          |                  |      |     |     |                |     |     | P   | P   | P   |     |    | \$155.305(E) |                      |
| Creative Studio                           |                  |      |     |     | P              | P   | P   | P   | P   |     |     |    | \$155.305(F) |                      |
| Financial Institution                     |                  |      |     |     |                | P   | S   | P   | P   |     |     |    | \$155.305(G) |                      |
| Funeral Home                              | S                |      |     |     | P              | P   |     |     |     |     |     |    | \$155.305(H) |                      |
| Hotel/Motel                               |                  |      |     |     |                | P   | S   | P   | P   |     |     |    | \$155.305(I) |                      |
| Kennel                                    | S                |      |     |     |                |     |     | P   | P   |     |     |    | \$155.305(J) |                      |
| Laundry Services                          |                  |      |     |     |                |     |     | P   | P   | P   | P   |    | \$155.305(K) |                      |
| Lounge, Cocktail                          |                  |      |     |     |                |     | S   | S   | S   | S   |     |    | \$155.305(L) |                      |
| Microbrewery                              |                  |      |     |     |                |     | P   | S   | P   | P   | P   |    | \$155.305(M) |                      |
| Publisher                                 |                  |      |     |     |                | P   |     |     | P   | P   | P   |    | \$155.305(N) |                      |
| Office, General                           |                  |      |     |     | P              | P   | P   | P   | P   | P   |     | P  | \$155.305(O) |                      |
| Office, Medical                           |                  |      |     |     | P              | P   | P   | P   | P   |     |     |    | \$155.305(P) |                      |
| Outdoor Seating/Sidewalk Cafe             |                  |      |     |     |                | P   | P   | P   | P   |     |     |    | \$155.305(Q) |                      |
| Parking Lot                               |                  |      |     |     |                | S   | S   | S   | S   | S   | S   | S  | \$155.305(R) |                      |
| Pawn Shop                                 |                  |      |     |     |                |     |     |     | P   | P   |     |    | \$155.305(S) |                      |
| Radio or Television Studio                |                  |      |     |     |                |     |     |     | P   | P   | P   |    | \$155.305(T) |                      |
| Restaurant                                |                  |      |     |     |                | P   | P   | P   | P   |     |     |    | \$155.305(U) |                      |
| Retail Sales                              |                  |      |     |     |                |     | P   | P   | P   | P   |     |    | \$155.305(V) |                      |

| Use Type                     | Zoning Districts                                                                                              |      |     |     |                |     |     |     |     |     |     |    |               | Specific Use Section |
|------------------------------|---------------------------------------------------------------------------------------------------------------|------|-----|-----|----------------|-----|-----|-----|-----|-----|-----|----|---------------|----------------------|
|                              | Residential                                                                                                   |      |     |     | Nonresidential |     |     |     |     |     |     |    |               |                      |
|                              | R-E                                                                                                           | R-10 | R-8 | R-6 | O-R            | O-I | B-1 | B-2 | B-3 | I-1 | I-2 | PF |               |                      |
| Self-storage Facility        |                                                                                                               |      |     |     |                |     |     |     | S   | P   |     |    | \$155.305(W)  |                      |
| Service                      |                                                                                                               |      |     |     | P              | P   | P   | P   | P   |     |     |    | \$155.305(X)  |                      |
|                              |                                                                                                               |      |     |     |                |     |     |     |     |     |     |    |               |                      |
| Tattoo Parlor                |                                                                                                               |      |     |     |                |     |     |     | P   |     |     |    | \$155.305(Y)  |                      |
| Towing Service and Storage   |                                                                                                               |      |     |     |                |     |     |     | S   | S   | P   |    | \$155.305(Z)  |                      |
| Vehicle Repair or Service    |                                                                                                               |      |     |     |                |     |     |     | S   | P   | P   |    | \$155.305(AA) |                      |
| Vehicle Sales and Rental     |                                                                                                               |      |     |     |                |     |     |     | S   | P   | P   |    | \$155.305(BB) |                      |
| Veterinary Clinic            |                                                                                                               |      |     |     |                | P   |     | P   | P   |     |     |    | \$155.305(CC) |                      |
|                              |                                                                                                               |      |     |     |                |     |     |     |     |     |     |    |               |                      |
| Industrial Uses              |                                                                                                               |      |     |     |                |     |     |     |     |     |     |    |               |                      |
| Building Supplies, Wholesale |                                                                                                               |      |     |     |                |     |     |     |     | P   | P   |    | \$155.306(A)  |                      |
| Crematorium                  |                                                                                                               |      |     |     |                |     |     |     |     | P   | P   |    | \$155.306(B)  |                      |
| Gas and Fuel, Wholesale      |                                                                                                               |      |     |     |                |     |     |     |     | P   | P   | P  | \$155.306(C)  |                      |
| Laboratory, Research         |                                                                                                               |      |     |     |                | P   |     |     |     | P   | P   |    | \$155.306(D)  |                      |
| Manufacturing, Light         |                                                                                                               |      |     |     |                |     |     |     |     | P   | P   |    | \$155.306(E)  |                      |
| Manufacturing, Heavy         |                                                                                                               |      |     |     |                |     |     |     |     |     | P   |    | \$155.306(F)  |                      |
| Research and Development     |                                                                                                               |      |     |     |                | P   |     |     |     | P   | P   |    | \$155.306(G)  |                      |
| Warehouse, Freight Movement  |                                                                                                               |      |     |     |                |     |     |     | S   | P   | P   |    | \$155.306(H)  |                      |
| Utilities                    |                                                                                                               |      |     |     |                |     |     |     |     |     |     |    |               |                      |
| Recycling Center             |                                                                                                               |      |     |     |                |     |     |     |     | S   | P   | P  | \$155.307(A)  |                      |
| Renewable Energy Facility    | S                                                                                                             |      |     |     |                |     |     |     |     | S   | S   | S  | \$155.307(B)  |                      |
| Telecommunication Facility   | S                                                                                                             | S    | S   | S   | S              | S   | S   | S   | S   | S   | S   | S  | \$155.307(C)  |                      |
| Utility, Minor               | P                                                                                                             | P    | P   | P   | P              | P   | P   | P   | P   | P   | P   | P  | \$155.307(D)  |                      |
| Utility, Major               |                                                                                                               |      |     |     |                |     |     |     |     | P   | P   | P  | \$155.307(E)  |                      |
| Waste Service                |                                                                                                               |      |     |     |                |     |     |     |     | S   | P   | P  | \$155.307(F)  |                      |
| Accessory Uses               |                                                                                                               |      |     |     |                |     |     |     |     |     |     |    |               |                      |
| Accessory Dwelling Unit      | S                                                                                                             | S    | S   | S   |                |     |     |     |     |     |     |    | 155.308(C)(1) |                      |
| Food Truck                   |                                                                                                               |      |     |     |                | P   | P   | P   | P   | P   | P   | P  | 155.308(D)(2) |                      |
| Day Care Facility            | S                                                                                                             | S    | S   | S   |                | P   |     | P   | P   | P   | P   | P  | 155.308(D)(3) |                      |
| In-Home Daycare              | P                                                                                                             | P    | P   | P   | P              |     |     |     |     |     |     |    | 155.308(C)(3) |                      |
| Park                         |                                                                                                               |      |     |     |                |     |     |     | P   |     |     | P  | 155.308(D)(4) |                      |
| Outdoor Display/Sales        |                                                                                                               |      |     |     |                |     | P   | P   | P   |     |     |    | 155.308(D)(5) |                      |
| Outdoor Dining               |                                                                                                               |      |     |     |                | P   | P   | P   | P   |     |     |    | 155.308(D)(6) |                      |
| Outdoor Storage, Limited     |                                                                                                               |      |     |     |                |     |     |     | S   | P   | P   | P  | 155.308(D)(7) |                      |
| Outdoor Storage, General     |                                                                                                               |      |     |     |                |     |     |     |     | P   | P   | P  | 155.308(D)(8) |                      |
|                              |                                                                                                               |      |     |     |                |     |     |     |     |     |     |    |               |                      |
|                              | Key:                                                                                                          |      |     |     |                |     |     |     |     |     |     |    |               |                      |
|                              | P – Permitted                                                                                                 |      |     |     |                |     |     |     |     |     |     |    |               |                      |
|                              | S – Special Use Permit required in the zoning district only if approved by the Town Council (TC) ( § 155.711) |      |     |     |                |     |     |     |     |     |     |    |               |                      |

(Ord. 2005-11-02, adopted 11/21/2005; Am. Ord. 2006-06-01, adopted 06/19/2006; Am. Ord. 2007-04-05, adopted 04/02/2007; Am. Ord. 2007-05-02, adopted 05/07/2007; Am. Ord. 2009-06-06, adopted 06/01/2009; Am. Ord. 2009-08-03, adopted 08/03/2009; Am. Ord. 2012-01-04, adopted 01/03/2012; Am. Ord. 2012-04-02, adopted 04/02/2012; Am. Ord. 2012-12-02, adopted 12/03/2012; Am. Ord. 2014-12-02, adopted 12/01/2014; Ord. 2015-09-03, adopted 09/28/2015; Am. Ord 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)

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## § 155.203 GENERAL USE DISTRICT STANDARDS

### (A) INTENT

The conventional district development standards establish lot sizes and certain restrictions for residential and nonresidential development. These standards allow for variety in housing types while maintaining the overall character of neighborhoods and commercial areas of the town. Separate standards are established to regulate development in each conventional district. This approach to district development standards benefits the public by:

- (1) Allowing for development that is more sensitive to the environment and encourages the preservation of open and natural areas.
- (2) Promoting quality site design and energy-efficient development.
- (3) Promoting affordable and life-cycle housing.
- (4) Promoting development intensities that maximize existing and proposed infrastructure investments.

### (B) RESOURCE CONSERVATION AREAS

See Article 5 for restrictions on the use of resource conservation areas.

### (C) CLAYTON GENERAL DESIGN GUIDELINES

The town has established a manual to guide the future growth of development. The design guidelines provide a basis for making decisions about the appropriate treatment of new construction and land development. Property owners, real estate agents, developers, tenants, architects and decision makers shall use the guidelines contained in the document when considering a project. This will help establish an appropriate direction for its design. For any project subject to review, the applicant shall refer to the guidelines at the outset, to avoid planning efforts that later may prove to be inappropriate.

### (D) HOW TO USE THIS SECTION

This section is divided into the following:

|                                                                                                                         |                                   |
|-------------------------------------------------------------------------------------------------------------------------|-----------------------------------|
| <b>Part 1. Residential Districts.</b> This Part sets forth specific standards for development in residential districts. | § 155.203(E) through § 155.203(J) |
|-------------------------------------------------------------------------------------------------------------------------|-----------------------------------|

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|                                                                                                                               |              |
|-------------------------------------------------------------------------------------------------------------------------------|--------------|
| <b>Part 2. Nonresidential Districts.</b> This Part sets forth specific standards for development in nonresidential districts. | § 155.203(K) |
|-------------------------------------------------------------------------------------------------------------------------------|--------------|

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|--------------------------------------------------------------------------------------------------------------------------------|--------------|
| <b>Part 3. Conditional Zoning Districts.</b> This Part sets forth specific standards for development in conditional districts. | § 155.203(L) |
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## **PART 1. RESIDENTIAL DISTRICTS**

### **(E) PURPOSE AND INTENT**

The purpose and intent of the residential districts is to provide a safe and healthy living environment for residents, protect the town's existing neighborhoods from incompatible uses, maintain natural areas and open spaces within neighborhoods, encourage connectivity and interconnectivity for multiple modes of transportation, and ensure adequate public facilities and services are available to meet the needs of current and future residents.

### **(F) RESIDENTIAL SUBDIVISION TYPES**

Development within the residential districts allows a variety of housing types. To further the purpose of residential districts, two types of residential subdivisions are permitted, as follows.

#### **(1) Conventional Residential Subdivision**

A conventional residential subdivision is a pattern of residential development that provides a majority of property owners with substantial yards on their own property. A recreation and open space dedication or payment of a fee-in-lieu is required for conventional residential subdivisions.

#### **(2) Open Space Residential Subdivision**

An open space residential subdivision trades conventional minimum lot size and dimensions for additional common recreation and open space. An open space residential subdivision shall be a sufficient size to ensure adequate common recreation and open space can be incorporated into the subdivision design. An open space residential subdivision may allow additional density provided certain enhancements are incorporated into the design of the subdivision.

### **(G) CONVENTIONAL SUBDIVISION STANDARDS**

#### **(1) Applicability**

A conventional residential subdivision is permitted in all residential districts subject to the following standards.

#### **(2) Density**

In the R-10 and R-8 Districts, townhouse parcels, apartment parcels and upper-story residential units shall not exceed a density of ten units per acre. In the R-6 District, townhouse parcels, apartment parcels and upper-story residential units shall not exceed a density of 12 units per acre.

(3) **Development Standards**

Applicants utilizing the conventional residential subdivision option shall meet all applicable development standards as set forth in § 155.400 through § 155.405 and § 155.500 through § 155.502. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

(4) **Lots Not Served by Public Water and Sewer**

No permit to install a septic tank system shall be issued until the County Health Director has determined by a field investigation of the area that the site is acceptable for a septic tank system and that such a system can be installed at the site in compliance with these rules and regulations. The field investigations shall include evaluation of such factors as size and shape of the lot or lots, character and porosity of soil, percolation rate, topography, depth of the water table, rock or other impervious formations, location or proposed location of any water supply wells, and the success or failure history of any other septic tank systems in the area. The County Health Director shall not issue a permit if he determines that the site is not acceptable for septic tank systems.

(5) **Dimensional Standards**

Applicants utilizing the conventional residential subdivision option shall meet the dimensional standards provided in Table 2-2. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

Table 2-2 Conventional Subdivision Regulations

| Conventional Subdivision Standards |                                                          |                        |                            |                                             |                               |                                    |                      |                            |                                 |                        |               |             |      |                    |              |                      |
|------------------------------------|----------------------------------------------------------|------------------------|----------------------------|---------------------------------------------|-------------------------------|------------------------------------|----------------------|----------------------------|---------------------------------|------------------------|---------------|-------------|------|--------------------|--------------|----------------------|
| Zoning District                    | Unit Type                                                | Lot Standards          |                            |                                             |                               |                                    |                      |                            | Density (dwelling units / acre) | Minimum Setbacks (ft.) |               |             |      | Building Standards |              |                      |
|                                    |                                                          | Min. Site Area (Acres) | Min. Parcel Size (sq. ft.) | Min. Lot Area (sq. ft.)                     | Lot Width (ft.) <sup>10</sup> | Min. Lot Width (ft.) <sup>10</sup> | Max Lot Coverage (%) | Max Impervious Surface (%) |                                 | Front <sup>9</sup>     | Side Interior | Side Street | Rear | Max. Height (ft.)  |              | Accessory Structures |
| R-E                                | Single Family with water and sewer                       | --                     | --                         | 20,000                                      | 80                            | 35                                 | 50                   | 2.1                        | 35                              | 15                     | 25            | 30          | 35   | --                 | See §155.308 |                      |
|                                    | Single Family with well and septic                       | --                     | --                         | 40,000                                      | 100                           | 35                                 | 50                   | 1.0                        | 35                              | 15                     | 25            | 30          | 35   | --                 |              |                      |
|                                    | Single Family with public water and septic               | --                     | --                         | 25,000                                      | 80                            | 35                                 | 50                   | 1.7                        | 35                              | 15                     | 25            | 30          | 35   | --                 |              |                      |
| R-10                               | Single Family                                            | --                     | --                         | 10,000                                      | 70                            | 35                                 | 50                   | 4                          | 30                              | 10                     | 20            | 25          | 35   | --                 | See §155.308 |                      |
|                                    | Zero Lot Line                                            | --                     | --                         | 10,000                                      | 70                            | 35                                 | 50                   | 4                          | 30                              | 0                      | 20            | 25          | 35   | --                 |              |                      |
|                                    | Alley Loaded <sup>10</sup>                               | --                     | --                         | 10,000                                      | 70                            | 35                                 | 50                   | 4                          | 30                              | 10                     | 10            | 25          | 35   | --                 |              |                      |
|                                    | Two Family                                               |                        | 12,000                     | Set by Special Use Process <sup>9, 10</sup> |                               |                                    |                      |                            |                                 |                        |               |             |      | --                 |              |                      |
|                                    | Townhouse (2 units)                                      |                        | 12,000                     |                                             |                               |                                    |                      |                            |                                 |                        |               |             |      | --                 |              |                      |
|                                    | Townhouse (3+ units)                                     |                        | 20,000                     |                                             |                               |                                    |                      |                            |                                 |                        |               |             |      | --                 |              |                      |
|                                    | Apartments                                               |                        | 20,000                     |                                             |                               |                                    |                      |                            |                                 |                        |               |             |      |                    |              |                      |
| R-8                                | Single Family                                            | --                     | --                         | 8,000                                       | 60                            | 35                                 | 55                   | 5                          | 25                              | 10                     | 15            | 25          | 35   | --                 | See §155.308 |                      |
|                                    | Zero Lot Line                                            | --                     | --                         | 8,000                                       | 60                            | 35                                 | 55                   | 5                          | 25                              | 0                      | 15            | 25          | 35   | --                 |              |                      |
|                                    | Alley Loaded <sup>10</sup>                               | --                     | --                         | 8,000                                       | 60                            | 35                                 | 55                   | 5                          | 15                              | 10                     | 15            | 25          | 35   | --                 |              |                      |
|                                    | Two Family                                               |                        | 10,000                     | Set by Special Use Process <sup>9, 10</sup> |                               |                                    |                      |                            |                                 |                        |               |             |      | --                 |              |                      |
|                                    | Townhouse (2 units)                                      |                        | 10,000                     |                                             |                               |                                    |                      |                            |                                 |                        |               |             |      | --                 |              |                      |
|                                    | Townhouse (3+ units)                                     |                        | 20,000                     |                                             |                               |                                    |                      |                            |                                 |                        |               |             |      | --                 |              |                      |
|                                    | Apartments                                               |                        | 20,000                     |                                             |                               |                                    |                      |                            |                                 |                        |               |             |      |                    |              |                      |
| R-6                                | Single Family                                            | --                     | --                         | 6,000                                       | 50                            | 35                                 | 60                   | 7                          | 25                              | 6                      | 10            | 20          | 35   | --                 | See §155.308 |                      |
|                                    | Zero Lot Line                                            | --                     | --                         | 6,000                                       | 50                            | 35                                 | 60                   | 7                          | 20                              | 0                      | 10            | 25          | 35   | --                 |              |                      |
|                                    | Alley Loaded <sup>10</sup>                               | --                     | --                         | 6,000                                       | 50                            | 35                                 | 60                   | 7                          | 10                              | 6                      | 10            | 25          | 35   | --                 |              |                      |
|                                    | Two Family                                               |                        | 8,000                      | Set by Special Use Process <sup>9, 10</sup> |                               |                                    |                      |                            |                                 |                        |               |             |      | --                 |              |                      |
|                                    | Townhouse (2 units)                                      |                        | 8,000                      |                                             |                               |                                    |                      |                            |                                 |                        |               |             |      | --                 |              |                      |
|                                    | Townhouse (3+ units)                                     |                        | 20,000                     |                                             |                               |                                    |                      |                            |                                 |                        |               |             |      | --                 |              |                      |
|                                    | Apartments                                               |                        | 20,000                     |                                             |                               |                                    |                      |                            |                                 |                        |               |             |      |                    |              |                      |
| Notes                              |                                                          |                        |                            |                                             |                               |                                    |                      |                            |                                 |                        |               |             |      |                    |              |                      |
| 1                                  | Minimum dwelling unit size = total heated square footage |                        |                            |                                             |                               |                                    |                      |                            |                                 |                        |               |             |      |                    |              |                      |

Article 2 / Zoning Districts  
§155.203 General Use District Standards

|    |                                                                                                                                                                                                                                                                                                                                                             |
|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2  | Manufactured homes and manufactured home parks shall meet the minimum requirements set forth in UDC §155.301 (F) and (G)                                                                                                                                                                                                                                    |
| 3  | In no instance shall the area of a residential lot be less than the size determined to be adequate by the County Health Department after soil and ground water table investigations have been made.                                                                                                                                                         |
| 4  | A minimum of 1,245 square feet of Recreation and Open Space is required per unit for Single Family, Zero Lot Line and Alley Loaded units.                                                                                                                                                                                                                   |
| 5  | Public water and sewer is required in the R-10, R-8 and R-6 Zoning Districts. Within Town limits, connection to public water and sewer is also required for lots contiguous to existing service.                                                                                                                                                            |
| 6  | Lots using a zero side interior setback for one lot line are required to double the side interior setback requirement established for a single family unit for the opposite lot line.                                                                                                                                                                       |
| 7  | In the R-10 and R-8 Zoning Districts, townhouse parcels, apartment parcels, and upper story residential shall not exceed a density of 10 dwelling units per acre.                                                                                                                                                                                           |
| 8  | In the R-6 Zoning District, townhouse parcels, apartment parcels, and upper story residential shall not exceed a density of 12 dwelling units per acre.                                                                                                                                                                                                     |
| 9  | When dwelling units are front-loaded or accessed from the front or side, a minimum 25' setback is required from the right-of-way providing access.                                                                                                                                                                                                          |
| 10 | Where lot width is less than 42' (except in existing in-fill lots), the lot must be alley-loaded or have parking accessed from the rear of the lot. Alley-loaded units are permitted only if at least 60% of the dwellings on that side of the block are also alley-loaded and formal on-street parking is required in the front of all alley-loaded units. |

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**(H) OPEN SPACE SUBDIVISION STANDARDS****(1) Intent**

The intent of an open space residential subdivision is to provide a development alternative to a conventional subdivision. An open space residential subdivision involves clustering home sites within a portion of the development site and allowing housing units on smaller lots than those permitted in a conventional residential subdivision. Open space subdivisions promote the preservation of environmentally sensitive land and allows for efficient use of the land to provide additional common open space. Open space subdivision development is encouraged by the Town in the form of these flexible design and maximum density provisions. Other purposes of an open space residential subdivision include the following:

- (a) To preserve in perpetuity unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes, woodlands and wildlife habitat.
- (b) To preserve important historic and archaeological sites.
- (c) To permit clustering of houses and structures in a manner that will reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development.
- (d) To reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development.
- (e) To promote interconnected greenways and corridors throughout the community.
- (f) To create contiguous greenspace within and adjacent to the development site.
- (g) To protect scenic views.
- (h) To protect prime agricultural land and preserve farming as an economic activity.

**(2) Applicability**

An open space residential subdivision is permitted in the R-E, R-10, and R-8 Zoning Districts subject to the following standards.

**(3) Mix of Housing Types**

Two-family, townhouse, apartment, and upper-story residential units may comprise no more than 50percent of the total dwelling units of a proposed open space residential subdivision. In no case shall the density allowance be exceeded for the overall site. In the R-10 and R-8 Districts, townhouse parcels, apartment parcels, and upper-story residential units shall not exceed a density of ten units per acre.

(4) **Development Standards**

Applicants utilizing the open space residential subdivision option shall meet all applicable development standards as set forth in §§ 155.400 through 155.405 and §§ 155.500 through 155.502. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

(5) **Dimensional Standards**

Applicants utilizing the open space residential subdivision option shall meet the dimensional standards provided in Table 2-3. Applicants shall comply with all other provisions this chapter and all other applicable laws.

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Table 2-3 Open Space Subdivision Regulations

| Open Space Subdivision Standards |                                                                                                                                                                                                     |                              |                                     |                               |                                             |                                |                               |                                           |                        |                      |                    |      |                         |    |                                 |
|----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|-------------------------------------|-------------------------------|---------------------------------------------|--------------------------------|-------------------------------|-------------------------------------------|------------------------|----------------------|--------------------|------|-------------------------|----|---------------------------------|
| Zonin<br>g<br>Distric<br>t       | Unit Type                                                                                                                                                                                           | Lot Standards                |                                     |                               |                                             |                                |                               | Density<br>(dwellin<br>g units /<br>acre) | Minimum Setbacks (ft.) |                      |                    |      | Building Standards      |    |                                 |
|                                  |                                                                                                                                                                                                     | Min. Site<br>Area<br>(Acres) | Min.<br>Parcel<br>Size<br>(sq. ft.) | Min. Lot<br>Area<br>(sq. ft.) | Min.<br>Lot<br>Width<br>(ft.) <sup>12</sup> | Max Lot<br>Coverag<br>e<br>(%) | Max Impervious<br>Surface (%) |                                           | Front <sup>1</sup>     | Side<br>Interio<br>r | Side<br>Stree<br>t | Rear | Max.<br>Height<br>(ft.) |    | Accessor<br>Y<br>Structur<br>es |
| R-E                              | Single Family                                                                                                                                                                                       | 10                           | --                                  | 12,000                        | 48                                          | 35                             | 50                            | 3.7                                       | 25                     | 9                    | 15                 | 18   | 35                      | -- | See<br>§155.308                 |
| R-10                             | Single Family                                                                                                                                                                                       | 10                           | --                                  | 8,000                         | 50                                          | 35                             | 50                            | 5                                         | 25                     | 6                    | 15                 | 15   | 35                      | -- | See<br>§155.308                 |
|                                  | Zero Lot Line                                                                                                                                                                                       | 10                           | --                                  | 8,000                         | 50                                          | 35                             | 50                            | 5                                         | 25                     | 0                    | 15                 | 15   | 35                      | -- |                                 |
|                                  | Alley<br>Loaded <sup>12</sup>                                                                                                                                                                       | 10                           | --                                  | 6,000                         | 42                                          | 35                             | 50                            | 7                                         | 15                     | 5                    | 10                 | 15   | 35                      | -- |                                 |
|                                  | Two Family                                                                                                                                                                                          | 10                           | 12,000                              | 12,000                        | 75                                          | 35                             | 50                            | 3                                         | 25                     | 6                    | 15                 | 15   | 35                      | -- | See<br>§155.308                 |
|                                  | Townhouse<br>(2 units)                                                                                                                                                                              | 10                           | 12,000                              | 6,000                         | 42                                          | 35                             | 50                            | 3                                         | 25                     | 6                    | 15                 | 15   | 35                      | -- |                                 |
|                                  | Townhouse<br>(3+ units)                                                                                                                                                                             | 10                           | 20,000                              | 4,000                         | 25                                          | 35                             | 50                            | 10                                        | 25                     | 15                   | 15                 | 15   | 35                      | -- |                                 |
|                                  | Apartments                                                                                                                                                                                          | 10                           | 20,000                              | --                            | --                                          | 35                             | 50                            | 10                                        | 25                     | 15                   | 15                 | 15   | 35                      | -- |                                 |
| R-8                              | Single Family                                                                                                                                                                                       | 10                           | --                                  | 6,000                         | 42                                          | 35                             | 55                            | 7                                         | 25                     | 6                    | 10                 | 15   | 35                      | -- | See<br>§155.308                 |
|                                  | Zero Lot Line                                                                                                                                                                                       | 10                           | --                                  | 6,000                         | 42                                          | 35                             | 55                            | 7                                         | 25                     | 0                    | 10                 | 15   | 35                      | -- |                                 |
|                                  | Alley<br>Loaded <sup>12</sup>                                                                                                                                                                       | 10                           | --                                  | 4,800                         | 40                                          | 40                             | 55                            | 9                                         | 10                     | 5                    | 10                 | 15   | 35                      | -- |                                 |
|                                  | Two Family                                                                                                                                                                                          | 10                           | 10,000                              | 9,000                         | 65                                          | 40                             | 55                            | 4                                         | 25                     | 6                    | 10                 | 15   | 35                      | -- |                                 |
|                                  | Townhouse<br>(2 units)                                                                                                                                                                              | 10                           | 10,000                              | 4,800                         | 40                                          | 40                             | 55                            | 9                                         | 25                     | 6                    | 10                 | 15   | 35                      | -- |                                 |
|                                  | Townhouse<br>(3+ units)                                                                                                                                                                             | 10                           | 20,000                              | 3,000                         | 21                                          | 40                             | 55                            | 10                                        | 25                     | --                   | 10                 | 15   | 35                      | -- |                                 |
|                                  | Apartments                                                                                                                                                                                          | 10                           | 20,000                              | --                            | --                                          | 40                             | 55                            | 10                                        | 15                     | 10                   | 15                 | 20   | 35                      | -- |                                 |
| Notes                            |                                                                                                                                                                                                     |                              |                                     |                               |                                             |                                |                               |                                           |                        |                      |                    |      |                         |    |                                 |
| 1                                | Minimum dwelling unit size = total heated square footage                                                                                                                                            |                              |                                     |                               |                                             |                                |                               |                                           |                        |                      |                    |      |                         |    |                                 |
| 2                                | Minimum dwelling unit size for multi-family is a per unit minimum                                                                                                                                   |                              |                                     |                               |                                             |                                |                               |                                           |                        |                      |                    |      |                         |    |                                 |
| 3                                | Manufactured homes and manufactured home parks shall meet the minimum requirements set forth in UDC §155.301 (F) and (G)                                                                            |                              |                                     |                               |                                             |                                |                               |                                           |                        |                      |                    |      |                         |    |                                 |
| 4                                | In no instance shall the area of a residential lot be less than the size determined to be adequate by the County Health Department after soil and ground water table investigations have been made. |                              |                                     |                               |                                             |                                |                               |                                           |                        |                      |                    |      |                         |    |                                 |
| 5                                | A minimum of 1,245 square feet per unit of public Recreation and Open Space is required in the R-E Zoning District                                                                                  |                              |                                     |                               |                                             |                                |                               |                                           |                        |                      |                    |      |                         |    |                                 |
| 6                                | A minimum of 12.5% of the total site acreage is required to be Recreation and Open Space in all Open Space Subdivisions.                                                                            |                              |                                     |                               |                                             |                                |                               |                                           |                        |                      |                    |      |                         |    |                                 |
| 7                                | Public water and sewer is required in all residential Zoning Districts.                                                                                                                             |                              |                                     |                               |                                             |                                |                               |                                           |                        |                      |                    |      |                         |    |                                 |
| 8                                | Lots using a zero side interior setback for one lot line are required to double the side interior setback requirement established for a single family unit for the opposite lot line.               |                              |                                     |                               |                                             |                                |                               |                                           |                        |                      |                    |      |                         |    |                                 |
| 9                                | In the R-10 and R-8 Zoning Districts, townhouse parcels, apartment parcels, and upper story residential shall not exceed a density of 10 dwelling units per acre.                                   |                              |                                     |                               |                                             |                                |                               |                                           |                        |                      |                    |      |                         |    |                                 |

Adopted 12-3-2012, amended 3-17-14 (155.201(J)(4)), amended 6-16-14 (155.203(G) Table; 155.204(A)(5)(b)6; 155.204(C)(9)(b) table 2-8)

|    |                                                                                                                                                                                                                                                                                                                                                             |
|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10 | The minimum building separation for townhouse parcels and apartment parcels is 20 feet.                                                                                                                                                                                                                                                                     |
| 11 | When dwelling units are front-loaded or accessed from the front or side, a minimum 25' setback is required from the right-of-way providing access.                                                                                                                                                                                                          |
| 12 | Where lot width is less than 42' (except in existing in-fill lots), the lot must be alley-loaded or have parking accessed from the rear of the lot. Alley-loaded units are permitted only if at least 60% of the dwellings on that side of the block are also alley-loaded and formal on-street parking is required in the front of all alley-loaded units. |



(6) **Utilities**

To the maximum extent feasible, utilities in open space residential subdivisions shall be placed underground.

(7) **Project Boundary Buffer**

- (a) No buffer is required where the width of the project's perimeter lots is equal to or greater than the minimum lot width of the adjoining development or the minimum lot width required by the zoning district applied to any adjoining undeveloped parcel.
- (b) Where narrower lot widths are provided, a Class C buffer shall be provided (see § 155.402) along all project boundaries of an open space subdivision.

(I) **RECREATION AND OPEN SPACE REQUIREMENTS**

(1) **Applicability**

Recreation and open space is an integral part of both conventional and open space residential subdivisions. The minimum recreation and open space requirement for each subdivision type is set forth below. No additional recreation or open space shall be required on the site, except where otherwise required by state or federal law. In the case that a subdivision is being developed in phases, the amount of recreation and open space shall be computed separately for each phase, but may be combined with existing recreation and open space in earlier phases to create a larger uniform area.

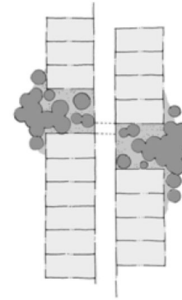
(2) **All Residential Subdivisions**

- (a) All residential development shall be required to either dedicate a portion of the land in the subdivision, or land in another location if approved by Town Council for recreation or open space use, or make a payment-in-lieu of dedication at a rate as set forth in the Town's Comprehensive List of Fees and Charges per lot or dwelling unit. If a development is approved which provides private recreation and open space, to be maintained by a homeowner or property management organization, and meeting the minimum standards of this section, the required fee-in-lieu payment shall be as set forth in the Town's Comprehensive List of Fees and Charges per lot or dwelling unit. A combination of dedication and payment-in-lieu may be used to meet these requirements.
- (b) At least 1,245 square feet of land shall be required for each proposed dwelling unit. Such land shall not include resource conservation areas (see § 155.500). The Town Council reserves the right to refuse to accept dedication of parcels for subdivisions, in which case the applicant shall pay the fee-in-lieu of dedication. The Town shall use fee-in-lieu payments for the acquisition or development of recreation and open space sites.
- (c) The location of the proposed recreation and open space areas, its suitability for recreational use, and any recreational plans adopted by the Town shall be considered

in determining whether to accept dedication or payment-in-lieu. The decision shall be made by the Town Council as a component of preliminary subdivision plans or special use permits, or by the Planning Director as a component of site plans. Any decision of the Planning Director relative to this section may be appealed to the Town Council.

**(3) Open Space Residential Subdivision**

- (a) All development utilizing the open space residential subdivision option shall provide recreation and open space equal to 12.5% of the net site area as public or private recreation and open space.
- (b) Where the Town Council accepts dedication of a portion or all of this recreation and open space, the dedicated portion shall receive 100% credit toward the requirement for recreation and open space in (1)(2) of this section. The Town Council reserves the right to refuse to accept dedication. If dedication is not accepted by the Town Council, the development shall pay 100% of the required fee-in-lieu payment as set forth in the Town's Comprehensive List of Fees and Charges per lot or dwelling unit.



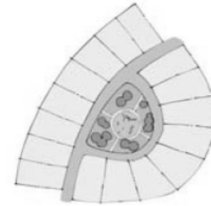
**(4) Configuration of Recreation and Open Space**

- (a) The minimum width for any required recreation and open space shall be 50 feet. Exceptions may be granted by the Town Council for items such as trail easements, mid-block crossings, linear parks/medians, when their purpose meets the intent of this section.
- (b) At least 60% of the required recreation and open space shall be in a contiguous parcel. For the purposes of this section, contiguous shall include any recreation and open space bisected by a residential street (including a residential collector), provided that:
  - 1. A pedestrian crosswalk is constructed to provide access to the recreation and open space on both sides of the street; and
  - 2. The right-of-way area is not included in the calculation of minimum recreation and open space required.
- (c) The recreation and open space shall adjoin any neighboring areas of recreation and open space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future area of protected recreation and open space.
- (d) The required recreation and open space shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjoining lots shall be provided with safe, convenient access to the open space (i.e. mid-block connections in logical locations). No lot within the subdivision should be further than a one-quarter-mile radius from the required recreation and open space. This radius shall be measured in a straight line, without regard for street, sidewalk or trail connections to the open space.

- (e) Access to the recreation and open space shall be provided either by an abutting street or easement. Such easement shall be not less than 30 feet wide.
- (f) At least 25% of the recreation and open space shall be improved. Trails may be developed in accordance with the Clayton General Design Guidelines. Other improved recreation and open space areas shall be developed as set forth below. The shape, topography, and subsoils shall be appropriate to the improvements proposed. Where recreation or open space consists of prime agricultural land, this improvement requirement shall not apply.

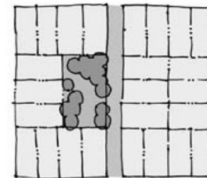
**Tot Lot & Playgrounds (Private Only).** *Playgrounds provide play areas for children as well as open shelter and benches. Playgrounds may be built within squares, greens, mini-parks and neighborhood parks or may stand alone within a residential block.*

Playgrounds shall be designed with commercial grade play equipment for two age groups: tot lot for children ages one to five; and separate play equipment for children ages six to ten. May include picnic units and shelters. Minimum requirements include two park benches and one trash receptacle. Must have shock absorbing surface with a maximum 2% slope. Playgrounds must meet all federal, state and local regulations and be compliant with the Americans with Disabilities Act. Due to the continuing maintenance obligations, the Town does not accept dedication of tot lots and playgrounds.



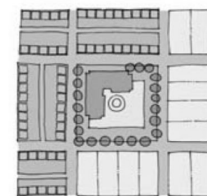
**Mini-Park (Private Only).** *The mini-park provides active recreational facilities for the use by the residents of the immediate surrounding neighborhood within the development.*

Size is from 2,500 sq. ft to one acre. May include: tennis courts, basketball courts, playgrounds and seating accommodations. Each mini-park shall be centrally located and easily accessible so that it can be conveniently and safely reached and used by those persons in the surrounding neighborhood it is designed to serve. Rear facing lots are allowed. Mini-parks shall be attractively landscaped and be provided with sufficient natural or man-made screening or buffer areas to minimize any negative impacts upon adjacent residences. Due to the continuing maintenance obligations, the Town does not accept dedication of mini-parks.



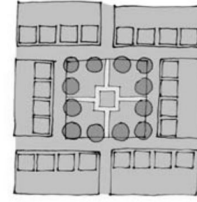
**Plaza.** *Plazas are for passive recreation use adjacent to a civic or commercial building. Plazas are paved in brick or another type of imperious surface.*

Plazas shall be level, stepped or gently sloping. At no time shall a plaza's horizontal length or width be greater than three times the height of surrounding buildings. Size is from 2,000 to 30,000 sq. ft.



**Squares.** *Squares are formal areas for passive recreation use bound by streets or front facing lots.*

Squares shall be bound by streets on a minimum of three sides or 75% of their perimeter and may be bound by front facing lots on one side or 25% of their perimeter. No rear facing lots allowed adjacent to a square. Trees plantings are encouraged parallel to the street right-of-way. Geometrical tree planting layouts for internal plantings are encouraged. Minimum size is 500 sq. ft. to one acre.



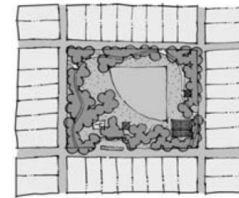
**Green.** *The green is an informal area for passive use bound by streets or front facing lots.*

A green shall be bound by streets on a minimum of three sides or 75% of their perimeter and may be bound by front facing lots on one side or 25% of their perimeter. No rear facing lots allowed adjacent to a green. Tree plantings can be informal and the topography irregular. Greens may be used to preserve specimen trees. Size is 500 sq. ft. to one acre.



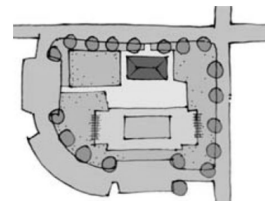
**Neighborhood Park.** *Neighborhood parks are designed for active or passive recreation use. Maximum park size can exceed five acres if the neighborhood park creates an open space that services an entire neighborhood or a group of neighborhoods; or incorporates physical features which are an asset to the community (i.e. lake or river frontage, high ground, or significant stands of trees).*

Minimum size from one to five acres. Neighborhood parks shall be bound by streets on a minimum of 50% of their perimeter. Front facing lots are encouraged around the perimeter. Neighborhood parks shall include benches and walking paths. Neighborhood parks may include but are not limited to: tennis courts, racquet ball courts, basketball courts, volley ball courts, ball fields, swings, slides, playgrounds, dog parks, benches, restrooms, picnic units, shelters, walking paths and parking areas.



**Clubhouse/Pool Amenity Area.** *Clubhouse/pool areas can be found in a neighborhood park, mini-park or alone as an amenity area for the residents of a developed community. Clubhouse/pool areas can include: swimming pools, group activity room, gazebos, outdoor eating areas, and exercise stations.*

Pools should be a minimum size of 1,000 sq. ft. Clubhouses and swimming pools must meet all applicable building and health codes for the Town and the state.



**Greenway.** *Greenways typically follow natural or constructed features such as streams or roads and are designed to incorporate natural settings such as creeks and significant stands of trees within neighborhoods, and are used for transportation, recreation, and environmental protection. Greenways differ from parks; plazas and squares in that their detailing is natural (i.e. informally planted) except along rights-of-way, and may contain irregular topography.*

Design of the greenway should incorporate conservation of existing mature tree canopy and landscape, protection of existing natural drainage ways and creeks. Improvements shall include paved walks/trails and benches, and trash receptacles.



**(5) Adopted Municipal and County Plans**

Adopted municipal and County plans shall be taken into consideration when evaluating land proposals.

**(6) Permitted Uses of Recreation and Open Space**

Uses of recreation and open space may include the following:

- (a) Conservation areas for natural, archeological or historical resources;
- (b) Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
- (c) Pedestrian or multipurpose trails;
- (d) Passive recreation areas;
- (e) Active recreation areas, provided that impervious area is limited to no more than 50% of the total recreation and open space;
- (f) Golf courses (excluding clubhouse areas and maintenance facilities), provided the area does not exceed 50% of the required recreation and open space, and further provided that impervious area is limited to no more than 10% of the total recreation and open space;
- (g) Above-ground utility rights-of-way, provided the area does not exceed 50% of the required recreation and open space;
- (h) Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts;
- (i) Landscaped stormwater management facilities;
- (j) Easements for drainage, access, and underground utility lines; and

- (k) Other conservation-oriented uses compatible with the purposes of this chapter.

(7) **Prohibited Uses of Recreation and Open Space**

Recreation and open space shall not include the following:

- (a) Community or individual wastewater disposal systems;
- (b) Streets (except for street crossings as expressly provided above) and parking areas; and
- (c) Other activities as determined by the applicant and recorded on the legal instrument providing for permanent protection.

(8) **Ownership and Management of Recreation and Open Space**

(a) ***Ownership***

Recreation and open space shall be accepted and owned by one of the following entities:

- 1) Town of Clayton. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by the Town.
- 2) Land conservancy or land trust. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by a land conservancy or land trust.
- 3) Homeowners association. A homeowners association representing residents of the subdivision shall own the recreation and open space. Membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. The homeowners' association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by the homeowner's association.
- 4) Private landowner. A private landowner may retain ownership of recreation and open space. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by the private landowner.

(b) ***Management***

Applicants shall submit a plan for the management of recreation and open space and other common facilities that:

- 1) Allocates responsibility and guidelines for the maintenance and operation of the recreation and open space, and any facilities located thereon, including provisions for ongoing maintenance and for long-term capital improvements;

- 2) Estimates the costs and staffing requirements needed for maintenance and operation of, and insurance for, the recreation and open space and outlines the means by which such funding will be obtained or provided;
- 3) Provides that any changes to the plan be approved by the Town; and
- 4) Provides for enforcement of the plan.

(c) ***Maintenance***

- 1) Passive recreation and 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.
- 2) No specific maintenance is required for agricultural uses.
- 3) Active recreation and 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.

(d) ***Failure to Maintain***

In the event the party responsible for maintenance of the recreation and open space fails to maintain all or any portion in reasonable order and condition, the Town may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to the homeowner's association, or to the individual property owners that make up the homeowner's association, and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties.

(9) **Legal Instrument for Permanent Protection**

- (a) The recreation and open space shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument shall be one of the following:
  - 1) A permanent conservation easement in favor of either:
    - A. A land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for re-transfer in the event the organization becomes unable to carry out its functions; or
    - B. A governmental entity with an interest in pursuing goals compatible with the purposes of this chapter. If the entity accepting the easement is not the

Town, then a third right of enforcement favoring the Town shall be included in the easement.

- 2) A permanent restrictive covenant for conservation purposes in favor of a governmental entity.
- 3) An equivalent legal tool that provides permanent protection, if approved by the Town.

- (b) The instrument for permanent protection shall include clear restrictions on the use of the recreation and open space. These restrictions shall include all restrictions contained in this chapter, as well as any further restrictions the applicant chooses to place on the use of the recreation and open space. Where appropriate, the instrument shall allow for stream or habitat restoration within the easement area.

(J) **NONRESIDENTIAL DEVELOPMENT IN RESIDENTIAL DISTRICTS**

As set forth in the Use Regulation Table (Table 2-1 § 155.202(B)) certain nonresidential uses are permitted in residential districts. Permitted nonresidential uses shall meet the dimensional standards provided in table 2-4. Applicants shall comply with all other provisions of this chapter and all other applicable laws.

**Table 2-4 Nonresidential Development Standards for Residential Districts**

| Zoning District | Lot Standards          |                      |                      | Minimum Setbacks |               |             |      | Building Standards                        |                   |                    |
|-----------------|------------------------|----------------------|----------------------|------------------|---------------|-------------|------|-------------------------------------------|-------------------|--------------------|
|                 | Min. Lot Area (sq.ft.) | Min. Lot Width (ft.) | Public Water & Sewer | Street (Front)   | Side Interior | Side Street | Rear | Max. Building Height (ft.) <sup>(1)</sup> | Building Coverage | Impervious Surface |
| <b>R-E</b>      | 20,000                 | 80                   | Required             | 35               | 15            | 25          | 30   | 35                                        | 35%               | 50%                |
| <b>R-10</b>     | 10,000                 | 70                   | Required             | 30               | 10            | 20          | 25   | 35                                        | 35%               | 50%                |
| <b>R-8</b>      | 8,000                  | 60                   | Required             | 25               | 10            | 15          | 25   | 35                                        | 35%               | 55%                |
| <b>R-6</b>      | 6,000                  | 50                   | Required             | 20               | 6             | 10          | 20   | 35                                        | 35%               | 60%                |
| <b>Notes</b>    |                        |                      |                      |                  |               |             |      |                                           |                   |                    |
| (1)             |                        |                      |                      |                  |               |             |      |                                           |                   |                    |

## PART 2. NONRESIDENTIAL DISTRICTS

(K) **NONRESIDENTIAL DISTRICT STANDARDS**

(1) **Development Standards**



Applicants shall meet all applicable development standards as set forth in §§ 155.400 through 155.405 and §§ 155.500 through 155.502. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

(2) **Nonresidential Dimensional Standards**

- (a) As set forth in the Use Regulations Table (Table 2-1 § 155.202(B)) certain uses are allowed in nonresidential districts. Allowed uses shall meet the dimensional standards provided in Table 2-5. Applicants shall comply with all other provisions of this chapter and all other applicable laws.

**§ 155.203, PART 2. Table 2-5 Nonresidential Dimensional Standards**

| Zoning District          | Lot Standards                                                                                                                   |                      |                      | Minimum Setbacks (ft.) |                                      |             |                             | Building Standards <sup>(3)</sup>         |                   |                    |
|--------------------------|---------------------------------------------------------------------------------------------------------------------------------|----------------------|----------------------|------------------------|--------------------------------------|-------------|-----------------------------|-------------------------------------------|-------------------|--------------------|
|                          | Min. Lot Area (sq.ft.)                                                                                                          | Min. Lot Width (ft.) | Public Water & Sewer | Street / Front (Max.)  | Side Interior (abutting residential) | Side Street | Rear (abutting residential) | Max. Building Height (ft.) <sup>(1)</sup> | Building Coverage | Impervious Surface |
| <b>O-R</b>               | 6,000                                                                                                                           | 50                   | Required             | 20                     | 6 (6)                                | 10          | 20 (20)                     | 35                                        | 50%               | 75%                |
| <b>O-I</b>               | 6,000                                                                                                                           | 60                   | Required             | 30                     | 10 (30)                              | 20          | 20 (30)                     | 60                                        | 50%               | 75%                |
| <b>B-1<sup>(1)</sup></b> | None                                                                                                                            | None                 | Required             | 0 <sup>(2)</sup>       | 0 (30)                               | 0           | 0 (30)                      | 50                                        | --                | --                 |
| <b>B-2</b>               | 6,000                                                                                                                           | 50                   | Required             | 20                     | 10 (30)                              | 10          | 20 (30)                     | 35                                        | 50%               | 75%                |
| <b>B-3</b>               | 8,000                                                                                                                           | 60                   | Required             | 25                     | 15 (30)                              | 30          | 30 (30)                     | 60                                        | 50%               | 75%                |
| <b>I-1</b>               | 20,000                                                                                                                          | 100                  | Required             | 50                     | 20 (30)                              | 30          | 40 (40)                     | 50                                        | 50%               | 75%                |
| <b>I-2</b>               | 20,000                                                                                                                          | 100                  | Required             | 50                     | 20 (30)                              | 30          | 40 (40)                     | 50                                        | 50%               | 75%                |
| <b>PF</b>                | --                                                                                                                              | --                   | --                   | --                     | --                                   | --          | --                          | --                                        | --                | --                 |
| <b>Notes:</b>            |                                                                                                                                 |                      |                      |                        |                                      |             |                             |                                           |                   |                    |
| (1)                      | No maximum building coverage or impervious surface limits in the B-1 Zoning District                                            |                      |                      |                        |                                      |             |                             |                                           |                   |                    |
| (2)                      | Maximum 10 foot street yard setback in B-1 Zoning District                                                                      |                      |                      |                        |                                      |             |                             |                                           |                   |                    |
| (3)                      | Minimum Building Separation in all Zoning Districts is 20 feet                                                                  |                      |                      |                        |                                      |             |                             |                                           |                   |                    |
| (4)                      | The Town Council may grant a special use permit in accordance with § 155.711 for structures exceeding the maximum height limits |                      |                      |                        |                                      |             |                             |                                           |                   |                    |

- (b) More than one building may be permitted be on a single lot.
- (c) In the B-1 District, no rear yard shall be less than that of the nearest building facing on the same side of the street with the least rear yard depth. In no case shall the required rear yard setback exceed ten feet from the rear property line.
- (d) The Town Council may grant a special use permit in accordance with § 155.711, allowing specified nonresidential buildings to exceed the maximum height limits of the district.

(3) **Residential Dimensional Standards**

- (a) As set forth in the Use Regulations Table (Table 2-1 § 155.202(B)) certain residential uses are permitted in nonresidential districts. Dimensional standards for townhouses and apartments are established through the special use process (see § 155.711). Within

the B-1 District, no townhouse or apartment shall be established on a parcel less than 20,000 square feet in area.

- (b) Upper-story residential is permitted on the upper floors of a nonresidential building and shall conform to the lot, yard and bulk requirements of the principal building.
- (c) Except in the B-1 District, townhouse and apartment parcels and upper-story residential units shall not exceed a density of 12 units per acre in a standard residential district.

## **PART 3. CONDITIONAL ZONING DISTRICTS**

### **(L) CONDITIONAL ZONING DISTRICT STANDARDS**

#### **(1) General Provisions for all Conditional Zoning Districts**

##### **(a) *Rezoning Criteria***

In approving a rezoning for a conditional district, the Town Council shall find the district designation and master plan comply with the general standards of this section and the specific criteria of (§ 155.705).

##### **(b) *Master Plan***

The development proposed in the master plan is compatible with the character of surrounding land uses and maintains and enhances the value of surrounding properties. The master plan shall be prepared by a professionally certified landscape architect, engineer or architect.

##### **(c) *Design Guidelines and Dimensional Standards***

Each master plan shall provide a comprehensive set of design guidelines that demonstrate the project will be appropriate within the context of the surrounding properties and the larger community. All bulk, area, and dimensional standards shall be established by the Town Council at the time of approval.

##### **(d) *General Development Standards***

Unless granted Variance by the Board of Adjustment, all standards specified in §§ 155.400 through 155.405 shall apply.

##### **(e) *Resource Conservation Areas***

See Article 5 for restrictions on the use of resource conservation areas.

##### **(f) *Recreation and Open Space***

The master plan shall meet or exceed the recreation and open space requirements of an open space residential subdivision (see § 155.203(H)).

(g) ***Stormwater Management***

The master plan shall contain a comprehensive stormwater management plan prepared by a professional engineer licensed in the state.

(h) ***Phasing***

If development is proposed to occur in phases, the master plan shall include a phasing plan for the development, and if appropriate, with specific build-out dates. Guarantees shall be provided that project improvements and amenities that are necessary and desirable for residents and tenants of the project, or that are of benefit to the Town, are constructed with the first phase of the project, or, if this is not possible, then as early in the project as is technically feasible.

(i) ***Landscaping, Buffering, and Screening***

As otherwise required by Article 4, with a minimum requirement of a 15' wide buffer meeting Class "C" perimeter buffer planting requirements.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2012-04-02, passed 4-2-12; Am. Ord. 2012-12-02, passed 12-3-12; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord. 2017-08-05, adopted 8/7/2017)

**§ 155.204 OVERLAY DISTRICT STANDARDS****(A) THOROUGHFARE OVERLAY DISTRICT****(1) Established**

The thoroughfare overlay district (TOD) is established for the purpose of maintaining a safe, efficient, and functional development pattern adjacent to major thoroughfares while maintaining an aesthetic streetscape environment. It is recognized that an enhanced development quality in areas of high visibility promotes economic development and stability in the entire community. The standards established in this section shall be applied, at the discretion of the town council, to nonresidential properties which adjoin major thoroughfares.

**(2) Designation**

Properties subject to these regulations shall be adjacent to, or have immediate access to a major thoroughfare. The boundaries follow the major thoroughfares both within the corporate limits and extraterritorial jurisdiction, and in no case extend more than 150 feet from the outer edge of the right-of-way of a thoroughfare.

**(3) Permitted Uses**

All permitted and special uses of the underlying zoning district are allowed subject to the specific requirements and procedures for each classification and any standards listed herein.

**(4) Dimensional Requirements**

The dimensional requirements of this overlay district shall be the same as the underlying zoning district.

**(5) Street Yard Requirements**

- (a) All new developments or major expansions of existing development (25% increase in building area, lot area, or parking requirement) shall provide a landscaped street yard as provided in Table 2-6.

**Table 2-6 TOD Street Yard Requirements**

|                | Street Yard Width (feet) |         |         |
|----------------|--------------------------|---------|---------|
|                | Average                  | Minimum | Maximum |
| TOD Commercial | 20                       | 10      | 40      |
| TOD Industrial | 40                       | 20      | 80      |

- (b) For purposes of this section, the street yard area is determined by multiplying the lot frontage, less driveways, times the average required width to determine the required

street yard area. There shall be no structures allowed in this street yard, except as follows:

- 1) Landscaping;
- 2) Drainage features designed to mimic the natural environment;
- 3) Public utilities and facilities;
- 4) Driveways and streets;
- 5) Sidewalks, pedestrian ways, or bikeways;
- 6) Other than a Development Identification Sign described in §155.403, freestanding signs may not exceed six feet in height and 24 square feet per sign face.

**(6) Landscape Requirements**

- (a) All required street yard areas shall be covered by lawn, ground cover, trees, shrubs, or mulch, except as noted above. Maintenance shall be the responsibility of the property owner. Landscaping shall be required according to Table 2-7 below.

**Table 2-7 TOD Landscape Requirements**

|                | Min. Landscape Requirements              |                                           |
|----------------|------------------------------------------|-------------------------------------------|
|                | Trees (per 1,000 sq. ft. of street yard) | Shrubs (per 1,000 sq. ft. of street yard) |
| TOD Commercial | 1                                        | 5                                         |
| TOD Industrial | 2                                        | 10                                        |

- (b) The preservation of existing trees shall be required when practical, utilizing recognized professional standards. The species and size of all plant material shall be specified on the site plan, and at least 50% of the total shall be evergreen. Trees shall have a minimum height of six feet and shrubs must have a minimum height of 18 inches at planting and reach 30 inches within two years. Additional trees may substitute for shrubs on a one-for-one basis. The requirements set forth in this section may be used to fulfill up to 67% (two-thirds) of the landscaping required under § 155.402(D), except that landscaping within all parking areas for vehicles, as set forth in § 155.401(C)(3)(d)2., and buffers, as set forth in § 155.402(E)(2)(c) shall be provided completely, as required, in addition to these requirements.

**(7) Access Regulations**

All driveways and public street intersections in a Thoroughfare Overlay District shall be subject to NCDOT and the town standards and permitting processes, whichever is applicable. Any parcel of land with less than 400 feet of frontage on a thoroughfare may have no more than one point of access to the thoroughfare. One additional driveway for each additional 400 feet

of thoroughfare frontage shall be allowed, and one per 400 feet of additional frontage. Where medians are provided which prohibit turns into oncoming traffic, access points may be provided every 200 linear feet. No driveway shall be allowed within 300 feet of the intersection of two thoroughfares or within 200 feet of an intersection of any other public street on the thoroughfare. Driveways shall be a minimum of 200 feet apart (measured from center line to center line) on thoroughfares, and shall align with opposing drives, where possible. Shared driveways or parallel access roads shall be used when deemed necessary, and the appropriate legal documents may be required by the town prior to driveway permit issuance. If access to a lot or legally created parcel of land is physically unobtainable under these provisions, an access point may be approved which is located the greatest distance possible from an existing access point and in the safest possible location to be approved by NCDOT and/or the town. For the purpose of this section, adjacent lots in common ownership fronting on a thoroughfare in a Thoroughfare Overlay District shall be considered as one lot when determining permitted driveways.

**(8) Alternative Means of Compliance**

It is recognized that strict interpretation and application of these standards may create particular hardships in areas of unusual topographic condition, or in retrofitting existing developed properties which are expanded. The Board of Adjustment may grant a Variance for any proposed development which proposes to meet any specific standard of this section via an alternate means of compliance, subject to making the following findings (in addition to those of a Variance):

- (a) The proposed development attempts to meet the intent of the Thoroughfare Overlay District.
- (b) There are physical conditions, not only economic considerations, which prevent the proposed development from meeting the specific standards of this chapter.
- (c) The proposed development will be designed to meet the standards of this section to the fullest extent possible.
- (d) In determining alternative means of compliance, the Board may consider various features such as width in relation to opacity of landscaping in street yard, number of required parking spaces, and driveway locations and/or distances from nearby intersections.

**(B) WATERSHED PROTECTION OVERLAY (-WP)**

The use and development standards for the Watershed Protection Overlay (-WP) are found in § 155.501.

**(C) DOWNTOWN OVERLAY DISTRICT**

The Downtown Overlay District is established for the purpose of fostering the economic vitality of the area within the district's boundaries. It is recognized that an attractive and vibrant downtown promotes the economic development and stability of the entire community. The uses, character,

and design of the public and private realm all contribute to the success of the downtown. The standards established herein shall be applied to all properties which are located within the district's boundaries.

**(1) Designation of Downtown Overlay District**

This district shall be an overlay district and shall include all properties located wholly or partially (20 percent or more) within the Downtown Overlay District of the Town Zoning Map.

**(2) Permitted Uses**

- (a) All permitted and special uses of the underlying zoning district are allowed subject to the specific requirements and procedures for each classification, subject to site plan approval and the additional requirements of this section.
- (b) All nonresidential tenants, businesses, uses, and activities on the ground (first) floor of a building which fronts on Main Street shall be responsive to and provide services, goods, or otherwise engage in business with pedestrians and the general public. More specifically, the following use types are prohibited on the first floor (street level) of Main Street:
  - 1. Businesses which exclusively engage in “by appointment only” clientele or do not have active reception areas which accept walk-in customers;
  - 2. Residential uses. This does not include ancillary facilities, such as lobbies which serve upper story residential uses;
  - 3. Drive-thru facilities;

**(3) Sign Regulations**

The following criteria modifies, but does not replace, the text of §155.403 “Signs”, and may be either more or less restrictive.

- (a) All signs allowed in the Downtown Overlay District, with the exception of Window / Door Signs, Awning / Marquee / Canopy Signs, and Flags, shall have at least one distinguishing architectural or design feature, including but not limited to one of the following:
  - 1. Exterior illumination with decorative lighting fixture;
  - 2. Decorative or architectural mounting bracket;
  - 3. Decorative border design that deviates from a standard rectangle;
  - 4. Or some other design feature or embellishment that distinguishes the sign as high quality and enhancing of the downtown streetscape.
- (b) **Illumination**

Illumination of sign shall not be restricted based on proximity to residential uses, but rather by the business hours of the use.

(c) **Clearance**

1. The minimum required clearance for any overhead sign, awning, or canopy is seven feet – six inches.
2. In order to ensure adequate pedestrian movement on the sidewalk (including the opening and closing of vehicular doors), no overhead sign, awning, or canopy shall be supported through the use of columns or other measure which requires it to be anchored to the ground



(d) **Prohibited Signs**

Except for “Historic Signs”, the following additional signs shall be prohibited in the Downtown Overlay District:

1. All signs designated in §155.403(E) “Signs Prohibited”;
2. Electronic Changeable Copy Signs;
3. Freestanding Signs that cannot meet the setback criteria;
4. Billboards;
5. Manual Changeable Copy Signs, unless associated with a theater, assembly, or a church;
6. Drive-Thru Menu Boards;

(e) **Promotional Banners and Seasonal Displays**

1. Small window posters advertising upcoming special events, sales events, or other such seasonal information are allowed on ground-floor storefront windows without requirement for a sign permit. A maximum of one 24 inchesx36 inches poster, or two 18 inches x24 inches posters are allowed per storefront, and these posters must be relevant and current.



(f) **Easels / Sandwich Boards / A-Frame Signs**

1. Easels / Sandwich Boards / A-Frames Signs shall be permitted provided that there is a minimum of five feet of sidewalk clearance.
2. Easels / Sandwich Boards / A-Frames Signs shall be a maximum of six square feet in area (per side).
3. Easels / Sandwich Boards / A-Frames Signs shall only be displayed during business hours, and may not be attached to anything else.
4. Easels / Sandwich Boards / A-Frames Signs shall be constructed of quality frame materials, such as decorative metal or wood; plastic shall not be allowed.

(g) **Wall / Fascia Signs**

1. All tenants not on the ground floor and located within the same building with units accessed internally may only utilize a Tenant Identification Sign (§155.403(G)(9)).
2. A wall sign designed and functioning as a larger version of a tenant identification sign (advertising for some or all on-site tenants) may be permitted provided that it:
3. Adheres to the dimensional requirements of a wall sign, and
4. Each tenant may not be advertised more than once per façade, if they are included on the modified wall sign.

(h) **Flags**

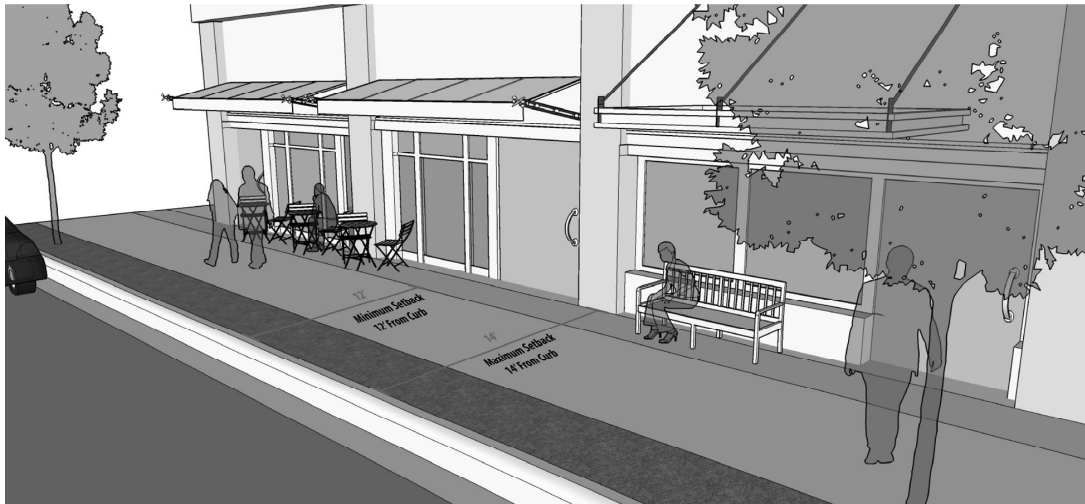
1. Angled- or horizontally-projecting flagpoles may encroach into the right-of-way with an approved sign permit, although they must remain three feet from the back of curb. Permission from NCDOT may be required, depending on ownership of the right-of-way.
2. Only one flagpole per building or site is allowed, with a minimum required frontage as follows:
  - A. One angled- or horizontally-projecting flagpole allowed for buildings with 25 feet of building frontage.
3. An exemption to the maximum number of flags and clearance requirements is that each ground floor entrance may have one small flag (two square feet per side) projecting from adjacent to the door.

(4) **Dimensional Requirements**

- (a) The purpose of modified setbacks on Main Street in the Downtown Overlay District is to provide adequate room for outdoor seating and dining, display of wares, an enhanced pedestrian realm, and create space for an active street life, while also continuing a unified visual building frontage along the street. This is in addition to the standard purpose for enforcing setbacks in the Town.
- (b) Setbacks and build-to lines for nonresidential and mixed use zoning districts:
  1. The dimensional requirements of this Overlay District are the same as the underlying zoning district, with the following modifications to setbacks and

dimensional standards on that portion of Main Street that is within the Downtown Overlay District.

- A. Minimum and maximum setbacks are established on properties that front on roads, sidewalks, or public rights-of-way:
- i. A minimum setback line is established at 12 feet from back of curb.
  - ii. A maximum setback line is established at 14 feet from back of curb.



- iii. The Board of Adjustment may grant a Variance to allow an alternate building setback that pulls the building or a portion thereof closer to the street to provide consistency with adjacent properties and continue an established streetscape rhythm.
  - iv. The Board of Adjustment may grant a Variance to vary the maximum setback requirement in order to preserve the historic character or landmark status of an existing building, to preserve the character of a park or public square, or to ensure the Americans with Disabilities Act (ADA) requirements are met.
  - v. Architectural, landscaping, or other site elements may still be required as part of the site plan to continue the appearance of a unified frontage with neighboring buildings.
- B. The Street-facing façades of a building are permitted to exceed the minimum and maximum setback lines established above to allow for decorative, recessed or projected entries, balconies, or window treatments that are in accordance with other parts of this Section.
- C. If a building is set back further than neighboring buildings, some design element shall be incorporated in front of the first floor façade, such as knee wall, first floor

roof projection designating outdoor seating area, or other architectural element or design feature that continues the streetscape rhythm of neighboring buildings.

**(5) Development Standards**

The following criteria modifies, but does not replace, the text of §155.400 “Access”, §155.401 “Off-Street Parking and Loading”, §155.402 “Landscaping, Screening, and Buffering”.

- (a) Widths of access ways, as described in Table 4-1 “Dimensional Standards of Access Ways”, may be reduced to match the dimensions of existing streets in the Downtown Overlay District, with approval by the Planning Director, Engineering Director, and Fire Marshal as part of the standard review of individual development projects.

**(b) Parking Requirements**

**1. General:**

- A. Cross access shall be provided between adjacent parking lots to minimize the number of access points along streets. The Board of Adjustment may grant a Variance to this requirement if cross access is not feasible due to natural features or site layout restrictions. Cross access shall be accompanied by a cross access easement or agreement, recorded with the Clerk of Court. Single family residential and duplexes are exempt from this requirement.
- B. Any new construction in the Downtown Overlay District with frontage on a public right-of-way shall be required to formalize on-street, parallel parking, along the frontage(s) of the property, including landscaped bump-outs at intersections. Adjacent on-street parking spaces may count toward meeting the parking requirement for a site.
- C. All parking spaces within the Downtown Overlay District shall be paved. Permeable paving that is dustless and meeting the load-bearing standards required for its use and meeting any other engineering standards of the town may be allowed if approved by the Town Engineer. No grass, gravel, dirt, or other non-engineered surfaces are allowed.
- D. Multi-story parking structures/decks:
  - i. If visible from the street, multi-story parking structures/decks shall place the shortest dimension along the street, if possible.
  - ii. On Main Street, multi-story parking structures/decks shall incorporate usable spaces for nonresidential uses (i.e. – storefronts and/or tenant spaces) along the entirety of first floor facades that front on public rights-of-way, excepting entrances and exits.
  - iii. Multi-story parking structures/decks shall be architecturally consistent with surrounding buildings and shall meet all other criteria of this section.

**2. Residential off-street parking**

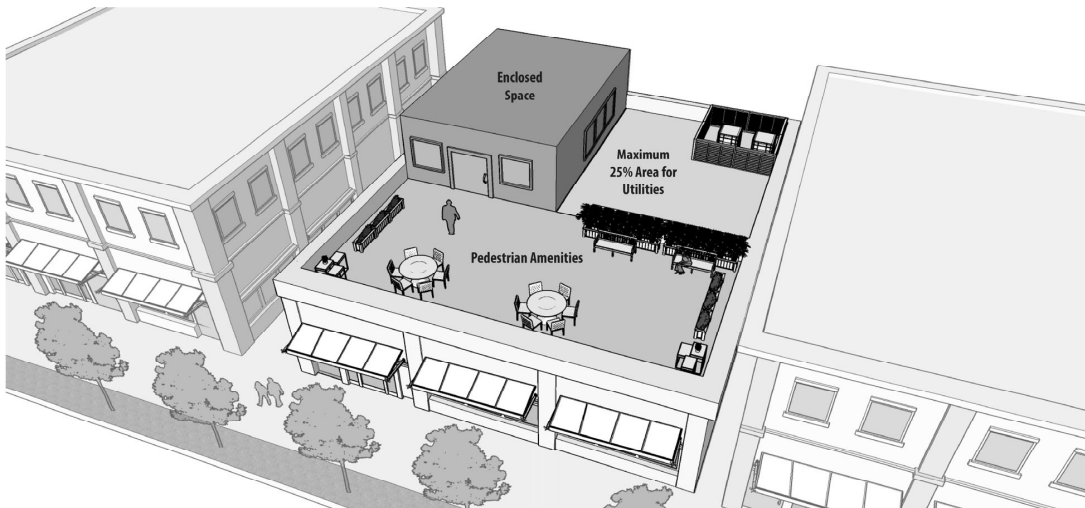
- A. Residential off-street parking requirements may be satisfied with off-site parking provided the following are met:

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- i. The off-site parking area is in proximity to the parcel on which the residential dwellings are located;
    - ii. The off-site parking spaces are designated as reserved for the residential units which they serve;
    - iii. Required handicap parking spaces are located as close as possible to the residential dwellings;
    - iv. Required guest spaces may utilize adjacent on-street parking, to the extent that it is feasible and that those spaces remain publicly accessible.
    - v. All other relevant conditions of §155.401(C)(3)(c), “Off-Site Parking”, are met.
  - 3. Nonresidential development and uses:
    - A. All nonresidential and mixed use developments shall utilize alley loaded and/or parking to the rear of the building.
    - B. The Board of Adjustment may grant Variance to the parking and loading requirements of Section 155.401 for business or structure expansions provided that as much off-street parking and loading as can reasonably be provided is provided, and no foreseeable traffic congestion problems will be created.
    - C. New construction shall provide bicycle rack(s) on site or pay fee-in-lieu. The fee-in-lieu shall be calculated using an average purchase price for the bicycle rack(s) plus installation cost, and will be used to provide appropriate bicycle infrastructure and parking facilities in the public right-of-way or on public property in downtown.
  - (c) Landscaping, Screening, and Buffering Requirements
    - 1. The Board of Adjustment may grant Variance to the landscaping, screening, and buffering requirements provided that as much landscaping, screening, and buffering as can be reasonably provided is provided.
    - 2. All landscaping shall be designed to reduce unsafe areas of limited visibility.
    - 3. Berms may not be used for required screening.
    - 4. Landscape buffers or opaque visual screening, except that used for screening parking areas to a maximum height of three feet, shall not be required along any public right-of-way.
    - 5. Fences or walls not used for required screening or for providing security for a parking area shall be limited to four feet in height. This requirement does not apply to single family residential, duplexes, or townhomes. Chain link fencing is prohibited.
    - 6. Plastic, vinyl, and similar low quality materials are prohibited for planters and window boxes.
    - 7. Street trees:

- A. At the discretion of the Planning Director, street trees shall be required at appropriate, coordinated locations along all public rights-of-way at an interval that mimics the existing tree placement in that area.
- 8. The following are considered minor administrative modifications:
  - A. In zoning districts where the maximum allowed impervious area infringes on site area available for landscaping, the number of site interior landscaping materials may be reduced up to 25% as a minor administrative modification.
  - B. Understory tree species may be substituted for canopy trees. This includes trees required as part of overlay districts, site interior landscaping requirements, parking lot landscaping, street trees, and incompatibility buffers.
  - C. High-quality, raised landscaping planters may be substituted for required plantings provided that the planters match the existing streetscape materials and design palette if adjacent to a public right-of-way, or that of the primary structure. Plastic, vinyl, and similar low quality materials are prohibited.

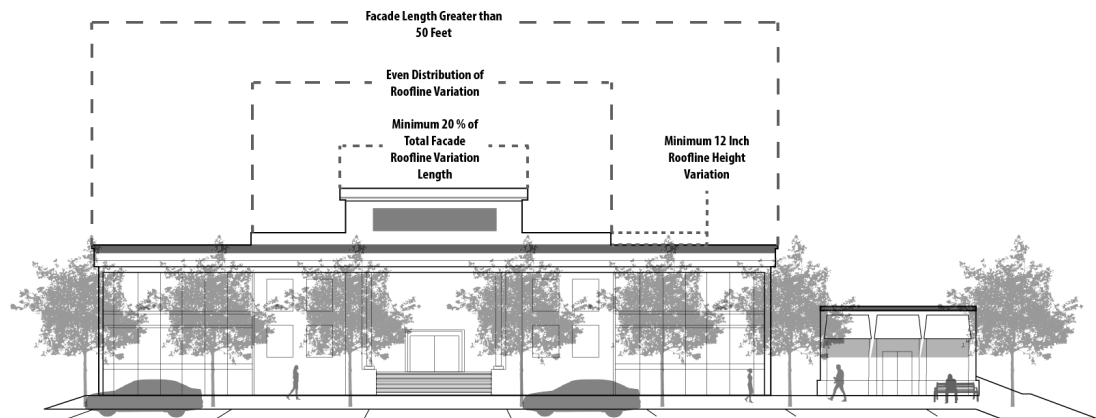
(6) **Neighborhood Character, Appearance, and Architectural Design**

- (a) General requirements applicable to all properties:
  - 1. Right-of-way shall be dedicated (if necessary) to allow for two-way traffic and on-street parking (both sides) along public streets.
  - 2. In new construction, a minimum of eight feet of mostly-unobstructed walking surface (from back of curb) shall be provided for pedestrian traffic on Main Street. Some of this area may be used for public display of wares or outdoor seating, pursuant to the relevant portions of this Chapter, so long as a minimum of five feet of fully unobstructed clearance remains for pedestrian traffic.
  - 3. Structures shall be oriented so that their primary façade faces and is parallel with the principal street on which they are located.
  - 4. Nonresidential and mixed use infill development shall occupy the full width of the lot width to create a continuous streetscape. Allowances may be made for required vehicular and pedestrian ingress/egress points, courtyards, or other pedestrian friendly points of interest.
  - 5. The following shall apply to properties on Main Street:
    - A. New and infill development shall be a minimum of two stories, with the uppermost story being enclosed space, space for pedestrian amenities, or a combination thereof. A maximum of 25 percent of the uppermost story may be set aside to allow room for mechanical equipment. .



- B. Buildings shall not have a single tenant space which exceeds 10,000 square feet in area on the first floor, unless at least one external, storefront entrance is provided for every 5,000 square feet, and the internal space is designed to be able to be partitioned.
- 6. Corner Lots on Main Street:
  - A. Corner buildings shall match or exceed the height of adjacent buildings, with a minimum height of two stories.
  - B. Façades shall be oriented so that they face and are parallel with adjoining streets.
  - C. Where practicable, vehicular access shall be located on the side street and as far as possible from the intersection.
- 7. Materials:
  - A. Quality building materials shall be used on the exterior facades of new construction, replacement, renovation, or covering of an existing façade. The following materials are prohibited from use: stucco; metal panels; corrugated metal; fiberglass; metal screening; horizontal lap siding made of plastic, vinyl, or aluminum; concrete block (flat or textured); and concrete panels.
- 8. Windows:
  - A. Opaque windows shall be limited to a maximum of 10 percent of the total window requirement of a building. In this instance, “opaque” is defined as any window material or glazing (glass block, frosted or smoked windows, wraps, etc.) that inhibits view from the outside to the inside of the building.
  - B. False windows or faux windows are not permitted on the first floor on any façade that is visible from a public right-of-way.
  - C. Security bars or similar theft prevention devices of high visual impact shall not be allowed on any window that is visible to the public. Any security measures shall be of low visual impact or seamlessly integrated into the design of the window, building, or façade.

- D. Nonresidential and mixed use zoning districts, and conforming nonresidential buildings in residential zoning districts:
  - i. For the purpose of calculating the window percentages required below, a building floor shall be measured from two feet above finished floor to a height of 10 feet.
  - ii. The ground floor of a building shall provide a minimum window coverage of 60 percent on the primary façade. Corner buildings may reduce the ground floor window coverage to 30 percent on the side street façade.
  - iii. Upper floors shall provide a minimum of 30 percent window coverage of the façade, and simple patterns shall be used to subdivide the windows to add character to the buildings. Horizontal massing of upper floor windows is prohibited.
  - iv. Buildings shall not be altered as to reduce the amount or area of first (ground) floor storefront windows to less than the amount specified in this Section.
  - v. Ground floor windows and translucent doors within 20 feet of the back of curb along a road frontage shall not be covered or screened with window coverings, so as to obstruct visibility over more than 25 percent of the surface area, for more than one half of business hours. Existing violations shall be removed no later than December 31, 2019.
  - vi. Ground floor storefront windows shall incorporate at least one architectural design element to enhance the visual appeal of the district. Elements may include but are not limited to soldier courses, brick patterns, columns, knee walls, recessed entrances, peaked or arched windows, or decorative window frames. Large windows that open and provide a direct connection to the street, such as roll-up, accordion, or retracting windows are permitted, so long as they blend into the character of the street and district.
- 9. Roofs:
  - A. Parapet style roofs are required for all new development that is not single family residential or duplexes.
  - B. Peaked roofs are prohibited on new or infill development on of Main Street.
  - C. Façades with rooflines greater than 50 feet in length shall incorporate a change in height. This roofline variation shall be minimum 12 inches, for a minimum of 20 percent of the total length of the façade. Roofline variations shall be evenly distributed along the façade to balance the overall appearance of the building.



10. Utilities:

- A. New or replacement of existing utilities shall be undergrounded where practicable.
- B. New utilities shall be consolidated with existing utilities to reduce the proliferation of overhead wires and cables.
- C. All mechanical equipment shall be completely screened from view and located on the roof, where practicable, or an alternate location (for instance underground) that achieves the same screening performance standard..

11. Entrances

The following shall apply to entrances in nonresidential and mixed use zoning districts, and in conforming nonresidential buildings in residential zoning districts.

- A. Existing entrances with features such as recessed or angled entries shall not be removed, except to restore the storefront to a more historically accurate design.
- B. Entrance doors shall be a minimum of 25 percent translucent.
- C. Shingled or plastic awnings are prohibited.

(7) **Incentives and disincentives:**

- (a) The Town encourages the use, re-use, renovation, and other creative endeavors that preserve historic structures, create new structures, or otherwise enhance the private or public realm, and which add value and enhance or promote the character of downtown Clayton. To that purpose, the following incentives and disincentives are established in the Downtown Overlay District.
- (b) Incentives:
  1. Outdoor seating and dining areas and outdoor display areas, on private property and in public rights-of-way, shall be allowed with approval of a Zoning Compliance Permit and accompanying dimensioned site drawing complying with §155.311(B) "Outdoor Dining". In this instance and within this Overlay District, the Zoning Compliance Permit expressly replaces any other requirement for a Site Plan application..



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- A. Outdoor seating and dining areas and site elements shall be constructed of high-quality materials. Plastic or unfinished wood are not allowed for tables, chairs, planters, window boxes, benches, or similar.
  - B. All outdoor seating and dining and site elements shall be kept in good working order and appearance and shall not fall into disrepair or they shall be removed immediately.
  - C. All accoutrements associated with outdoor seating and dining (tables, chairs, benches, planters, bollards, dividers, umbrellas, space heaters, lighting, entrance menus, etc.) shall be maintained to a high standard which demonstrates appreciation of the special character of the district.
2. Properties in the Downtown Overlay District may be developed at densities and intensities that are consistent with the Town's adopted Future Land Use Map, subject to the approval of a Special Use Permit.
  3. Downtown properties that meet other eligibility requirements may apply for:
    - A. The Façade and Site Element Improvement Grant;
    - B. The Clayton Downtown Redevelopment Incentive Grant (CDRIG).
- (c) Disincentives:
1. Any demolition of a historically-contributing building or structure in the Downtown Overlay District shall result in a one year waiting period between application for a demolition permit and the time that the demolition occurs, and a one year moratorium (following demolition) of development applications and buildings permits upon that lot. The Town Council can waive the waiting period and the moratorium by a majority vote if the proposed new development is determined to be in the best interest of adjacent property owners and the Town.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2012-01-04, passed 1-3-12; Am. Ord. 2012-04-02, passed 4-2-12; Am. Ord. 2012-12-02, passed 12-3-12; Am. Ord. 2012-12-04, passed 12-3-12; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord. 2016-04-04, passed 04-04-2016)

## ARTICLE 3: SPECIFIC USE STANDARDS

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### § 155.300 USE INTERPRETATION

#### (A) USES

- (A) The list of uses included in the Use Regulations Table (Table 2-1 in §155.202) and defined in this subsection is intended to classify uses on the basis of common functional characteristics (activity, type of customers, goods or services) and land use compatibility. Other uses not specifically listed in the Use Table, but exhibiting similar characteristics to a listed use, shall be so classified by the interpretation of the Planning Director pursuant to the procedures and standards set forth in 155.300(B) below.

#### (B) USES NOT SPECIFICALLY LISTED

- (1) Any use not specifically listed in this chapter is expressly prohibited, unless the Planning Director determines in accordance with § 155.715, that the use is similar to a use or uses listed in this chapter. Where an unlisted use is similar to a use listed in Table 2-1 (§ 155.202), the unlisted use shall also be subject to the similar uses standards and approval process. The Planning Director shall not amend this chapter by adding to or eliminating any use standard for the unlisted use.
- (2) Where an unlisted use is found by the Planning Director not to be similar to any other use listed in Table 2-1 (§ 155.202), the use shall be permitted only following a text amendment in accordance with § 155.703. The decision of the Planning Director may be appealed to the Board of Adjustment.

- (3) When considering the appropriate districts for a use not listed in the Use Regulations Table, the district intent statements (see §155.200) shall be taken into consideration.
- (4) Determination of an appropriate category for a proposed use not currently listed shall be made by applying the following criteria.
  - (a) The actual or projected characteristics of the activity in relationship to the stated characteristics of each use category.
  - (b) The relative amount of site area or floor space and equipment devoted to the activity.
  - (c) Relative amounts of sales from each activity.
  - (d) The customer type for each activity.
  - (e) The relative number of employees in each activity.
  - (f) Hours of operation.
  - (g) Building and site arrangement.
  - (h) Types of vehicles used and their parking requirements.
  - (i) The relative number of vehicle trips generated.
  - (j) Signs.
  - (k) How the use is advertised.
  - (l) The likely impact on surrounding properties.
  - (m) Whether the activity is likely to be found independent of the other activities on the site.
- (C) **DEVELOPMENTS WITH MULTIPLE USES**
  - (1) Nonresidential, townhouse, and apartment complexes may be established on a single unified parcel, provided that the following requirements are met. Except as set forth above, no more than one principal building or use may be erected on a single lot of record.
  - (2) Development with multiple uses shall meet all applicable development standards as set forth in §§ 155.200 through 155.204, §§ 155.400 through 155.404 and §§ 155.500 through 155.502. Applicants shall comply with all other provisions in this Chapter and all other applicable laws.
  - (3) When the principal uses of a development fall within different group of uses or no group of uses, each principal use shall be classified in the applicable group of uses or treated as an individual use and each use shall be subject to all applicable regulations for that group of uses or individual use.

- (4) A development comprised of uses regulated by separate rows on the Use Regulations Table shall be reviewed using the most restrictive process from among the proposed uses. If a proposed development on a single parcel includes a special use review, then the entire development requires special use review.
- (5) Where a use requiring approval as a special use lies on a separate legal parcel, only the building containing the use and its separate parcel shall be subject to review, not the entire project. However, where the separate legal parcel is an outparcel, the application shall describe the relationship of the outparcel to the remaining site.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2006-06-01, passed 6-19-06; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Ord. 2017-04-06, approved 04/03/2017)

## **§ 155.301 RESIDENTIAL USE STANDARDS**

The following standards shall apply to all permitted uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

### **(A) GROUP CARE HOME**

- (1) An assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to residents, either directly or, for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed group 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.
- (2) In the R-E District, a group care home shall provide at least 150 square feet of gross floor area per occupant.
- (3) In the R-10 District, a group care home shall provide least 150 square feet of gross floor area per occupant.
- (4) In the R-8 District, a group care home shall provide least 150 square feet of gross floor area per occupant.
- (5) In the R-6 District, a group care home shall provide at least 150 square feet of gross floor area per occupant.
- (6) Pursuant to N.C. General Statutes 168-22, a Group Care Home shall not be located within a ½-mile radius of an existing Group Care Home.

### **(B) APARTMENTS**

Three or more attached dwelling units in a single structure on a single lot, although individual units may be owned by a single or many different entities. Apartments are usually multi-story, and individual units can be mixed vertically and/or horizontally.

- (1) No parking space shall be located in a required yard, except for the rear yard.
- (2) No off-street parking space shall be located closer than ten feet to any residential building wall.
- (3) For developments of 40 or more dwelling units, a divided ingress-egress driveway with a landscaped median is required at the main entrance to the community.
- (4) 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.

(C) **BOARDING HOUSE**

A building, other than a hotel/motel or bed and breakfast, containing not more than nine guest rooms. At least one meal is provided to guests. Individual guest rooms may not contain kitchens and personal services are not provided.

- (1) Boarding houses shall meet the standards of § 152.25 of the Town Code of Ordinances.
- (2) Each boarding house shall have a full-time resident manager.
- (3) Fifteen square feet of common living area other than kitchens, hallways and bathrooms shall be provided per occupant.
- (4) A boarding house shall not be located within 1,000 feet, as measured in any direction from property line to property line, of another boarding house.

(D) **MANUFACTURED HOME**

A structure, transportable in one or more sections, 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 definition and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the Manufactured Home Act.

Except as set forth in division (F)(1)(a) of this section, all manufactured homes shall meet or exceed the following criteria:

- (1) The manufactured home shall be set up and tied down in accordance with the standards set by the North Carolina Department of Insurance.
- (2) The manufactured home shall have a length not exceeding four times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis.
- (3) The manufactured home shall have a minimum of 960 square feet of enclosed and heated living area per dwelling area.
- (4) Screening of the foundation area shall be by a continuous, permanent masonry foundation or masonry curtain wall with a finished surface and constructed in accordance with North Carolina Building Code regulations. The foundation shall be unbroken except for required ventilation and access, and installed under the perimeter of the manufactured home.
- (5) Stairs, porches, entrance platforms, ramps, and other means of entrance and exit to and from the manufactured home shall be installed or constructed in accordance with the standards set by the North Carolina Building Code, free standing or attached firmly to the primary structure and anchored securely to the ground.

- (6) The exterior siding shall consist predominantly of vinyl or aluminum horizontal siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.
- (7) The moving hitch, wheels and axles, and transporting lights shall be have been removed.
- (8) At least two off-street parking spaces shall be provided.
- (9) The lot shall be cleared of all excess growth and graded to provide adequate drainage.
- (10) All areas not used for parking, manufactured homes, or required porches, shall be grassed or otherwise suitably landscaped to prevent erosion.
- (11) All standards must be met prior to issuance of a certificate of occupancy.

(E) **MANUFACTURED HOME PARKS**

Any plat of ground upon which two or more manufactured homes, occupied for dwelling purposes, are located, regardless of whether a charge is made for such accommodations. Includes a recreation vehicle park.

(1) **General Requirements**

- (a) Notwithstanding the criteria set forth in division (E) above, manufactured homes located within manufactured home parks shall be in accordance with all of the requirements of division (E) above, except divisions (E)(2), (E)(3) and (E)(4) shall not apply to manufactured homes located in manufactured home parks. All new or replacement manufactured homes located in manufactured home parks shall be a minimum of 12 feet in width, measured at the narrowest part of the shortest axis of the home, and shall contain a minimum of 480 square feet of enclosed and heated living area. The foundation area of the manufactured home shall be at a minimum, completely screened with faux skirting panels constructed from durable vinyl, or panels simulating a faux brick, rock or stone finish. The skirting shall be completely framed including a bottom track. The foundation screening must be kept in a well maintained condition.
- (b) All manufactured home parks shall be a minimum of three acres in size.
- (c) No living compartment or structure, other than a Florida Room or other prefabricated structure, specifically designed for manufactured home use or extension, shall be added to any manufactured home. Porches covered with a roof and open on three sides may be permitted if yard space requirements of this chapter are not violated, and if such addition complies with the North Carolina Building Code.
- (d) Up to two manufactured home park identification signs may be utilized, but the sum of the areas of one side of these signs shall not exceed 40 square feet. Only external, non-

flashing lighting shall be used for illumination. The top portion of any sign shall not exceed 12 feet in height.

- (e) Within a manufactured home park, one manufactured home may be used as an administrative office.

**(2) Streets and Parking**

- (a) Each manufactured home shall abut upon an improved street or driveway, which shall have unobstructed access to a Town or state maintained road.
- (b) Streets shall have a minimum paved width of 20 feet. In addition, every such street shall lie within a cleared right-of-way having a minimum width of 40 feet.
- (c) Maintenance of such streets shall be provided by the owner or operator of the park.
- (d) Permanent dead-end streets or cul-de-sacs shall not exceed 500 feet in length and shall be provided with a turnaround of at least 70 feet in diameter.
- (e) Streets or drives within the manufactured home park shall intersect as nearly as possible at right angles, and no street shall intersect at less than 75 degrees. Where a street intersects a public street or road, the design standards of the North Carolina Highway Commission shall apply.
- (f) New street names or manufactured home park names shall not duplicate nor be similar to existing street names or manufactured home park names in the area.
- (g) A minimum of two paved parking spaces shall be provided adjacent to each manufactured home space, but shall not be located within any public right-of-way or within any street in the park.
- (h) No manufactured home lots shall be located within the 100-year floodway area, as shown on the latest National Flood Insurance Program map for the Town.

**(3) Lot Size and Lot Width Requirements**

- (a) Lots served by community or public water and sewer shall have a minimum lot size of 6,000 square feet and have a minimum lot width of 50 feet at the front building line. The maximum coverage of the lot by the unit and any accessory structures shall not exceed 40% of the lot area.
- (b) Lots served by individual septic tank and individual well shall have a minimum lot size of 25,000 square feet and have a minimum lot width of 75 feet at the front building line. The maximum coverage of the lot by the unit and any accessory structures shall not exceed 40% of the lot area.
- (c) Lots served by community or public water and individual septic tank or public sewer and individual well shall have a minimum lot size of 15,000 square feet and have a



minimum lot width of 75 feet at the front building line. The maximum coverage of the lot by the unit shall not exceed 40% of the lot area.

(4) **Project Boundary Buffer**

A Class C buffer shall be provided (see § 155.402) along all project boundaries of a manufactured home park.

(5) **Yard Requirements**

(a) The following yard requirements shall pertain to every manufactured home in the manufactured home park:

1. Minimum depth of street yard, measured from front lot line: 20 feet.

2. Minimum width of side yard, measured from side lot line:

A. Ten feet.

B. Six feet, if served by public water and sewer.

(b) Minimum depth of rear yard, measured from rear lot line: 20 feet.

(c) Detached garages and accessory buildings may be erected on manufactured home lots as permitted in § 155.308.

(6) **Utility Requirements**

(a) ***Water***

An accessible, adequate, safe supply of water shall be provided in each manufactured home park. When a municipal water supply is not available, a community water supply shall be developed and its supply used exclusively in accordance with the standards of the Sanitary Engineering Division of the North Carolina Division of Health Services and the County Health Department.

(b) ***Sewer***

Adequate and safe sewage disposal facilities shall be provided in all manufactured home parks. Collection systems and sewage treatment complying with the requirements of the North Carolina Department of Natural Resources and Community Development and the County Health Department shall be provided.

(c) ***Solid Waste***

1. The storage, collection, and disposal of solid waste in the manufactured home park shall be so constructed as to create no health hazards, rodent harborage,

insect breeding area, accident or fire hazard, or pollution, and shall be maintained at least 100 feet from a well site.

2. All solid waste containing garbage shall be stored in a standard fly-tight, watertight, rodent-proof container, which shall be located at each manufactured home space, or an approved bulk container site. The manufactured home park management shall be responsible for the proper storage, collection, and disposal of solid waste as specified by the County Health Department.
3. Grounds, buildings, and structures shall be maintained free of insect and rodent harborage and infestation.
4. No junked or abandoned vehicles shall be allowed in the park.

**(7) Street Lights**

All streets in the manufactured home park shall be adequately illuminated. The minimum size street light shall be a 175-watt mercury vapor, approximately 7,000-lumen class or its equivalent, spaced at intervals of not more than 400 feet. Equivalent illumination LED lights are also allowed. Streetlights shall be at each intersection.

**(8) Telephone and Power Lines**

All telephone lines and power lines are to be located underground. Utility easements shall not be less than ten feet in width.

**(9) Recreation Areas and Facilities**

- (a) Adequate and suitable recreation areas to serve the anticipated population shall be provided and shall consist of at least 10,000 square feet for each 25 manufactured home lots. All manufactured home parks having five or more lots shall have a minimum size recreational area of 10,000 square feet. Manufactured home parks having more than 25 manufactured home lots shall provide 400 square feet of recreation space per lot in excess of 25.
- (b) No recreational facilities shall be placed in an area utilized for septic tank filter fields.

**(10) Mobile Home Parks with Prior Approval**

All mobile home parks approved for development by the Town, County, or State prior May 4, 1987 are hereby granted special use status under the terms of [§ 155.109\(A\)\(2\)](#), and the number of units contained therein may be maintained and replaced with other units, provided that:

- (a) A copy of the mobile home park plan bearing proof of approval by the responsible governmental agency shall be filed in the Planning Department no later than 90 days after the approval of this revision.

- (b) All replacement units shall obtain an approved zoning compliance permit and inspection by the Town Inspections Department prior to occupancy.
- (c) All replacement units shall meet the requirements of (F) of this section.
- (d) No replacement unit may increase any nonconforming standard of the existing unit, and in no case may any replacement unit be located nearer than ten feet to a public street right-of-way or periphery property line.
- (e) Any expansion of a mobile home park shall be in full accordance with the current standards of this chapter.
- (f) If a mobile home park which does not conform to current standards has been discontinued, or if 80% of the number of spaces are vacated for a period of 180 days, the mobile home park shall not be re-established, and all future use of the land therein shall comply fully with the provisions of this chapter.

**(F) NURSING HOME (CONGREGATE LIVING FACILITY)**

This term includes assisted living facilities, extended congregate care facilities, transitional living facilities, rehabilitative home care services, or home for the aged or any other residential structure, whether or not operated for profit, which undertakes for a period exceeding 24 hours: care, housing, food service, and one or more personal services for persons not related to the owner or administrator by blood or marriage. In addition, this term shall include other residential uses such as dormitories, group homes with a central dining facility, and similar bed-based uses.

(1) A nursing home/congregate living facility located in the Residential-Estate (R-E) zoning district shall provide a Class "C" landscape buffer along all property lines in accordance with the standards of this chapter.

**(G) DUPLEX (also known as "TWO FAMILY HOUSE")**

Two attached dwelling units in a single structure on a single lot. The two units can be located on separate floors or side-by-side.

**(H) TOWNHOUSE (also known as townhome or rowhouse)**

Two or more attached dwelling units located on separately owned lots or on a single lot where the units are lined up in a row and share side walls, individual units can be mixed vertically. Each unit has direct access to the outside, with front and rear walls exposed, to be used for access, light, and/or ventilation.

- (1) Side yards are not required for interior townhouses, but street and rear yards shall be provided for all townhouses, and building separation requirements shall be maintained for all townhouse structures.

**(2) Parking Options**

***(a) Rear-Loaded Garage***

1. Garage is placed entirely to the rear of the townhouse and is rear-accessed or alley loaded. Garage can be attached or detached.
2. Garage doors must face the alley or rear access drive.

(b) ***Front-Loaded Garage***

1. Garage doors may constitute no more than 50% of the width of the individual townhouse unit.
2. The driveway must be aligned with the garage and shall not exceed the width of the garage entrance/door.
3. Any parking in the front setback must have sufficient depth so that parked cars do not encroach on the adjacent sidewalk. The garage doors must be set back at least twenty-five feet (25') from the sidewalk.
4. Garage doors must be recessed at least one foot behind the front wall plane, or a second story element over the garage doors must be provided that extends at least one foot beyond the front wall plane.
5. Front-loaded garages shall be prohibited on one-story townhome units.

(c) **Shared Parking Area/Shared Parking Lot**

1. The minimum parking requirement shall be calculated as for an apartment or multi-family development.
- (2) The maximum number of units allowed in a single building is eight.
- (3) The first floor shall be located from ground level to a maximum of three feet above grade.

**(I) SECURITY OR CARETAKER QUARTERS**

A dwelling unit, which may be a mobile home, a manufactured home, or a modular home, located on a site for occupancy by a caretaker or security guard. If located on the same parcel as a primary dwelling, this use shall be considered an "Accessory Dwelling Unit" and shall be subject to the requirements outlined in 155.308(C)(1).

(J) **SINGLE FAMILY HOUSE**

A detached dwelling unit located on a single lot with private yards on all four sides.

- (1) For alley-loaded houses, an alley shall be provided to the rear of the house. All vehicular access shall take place from the alley. No parking shall be permitted in the required street yard.

(K) **UPPER-STORY RESIDENTIAL**

A dwelling unit located on a floor above a nonresidential use.

- (1) An upper-story residential unit shall adhere to all dimensional standards of the nonresidential zoning district in which it is located.

(L) **ZERO LOT LINE**

A detached dwelling unit located on a single lot with private yards on three sides. The unit has a single side yard on one side comprising the equivalent of two side yards of a single-family detached house.

- (1) A single side yard shall be provided comprising the equivalent of two side yards of a conventional detached house. This reduction shall not be allowed on the street yard or to the side yard adjacent to lots that are not part of the zero lot line project.
- (2) An easement between the two property owners to allow for maintenance or repair of the house shall be required when the roof overhang or side wall of the house are within four feet of the adjacent property line (no roof overhang shall be permitted to extend across the property line). The easement on the adjacent property must provide at least five feet of unobstructed space. The easement shall be recorded on the subdivision plat.
- (3) If the sidewall of the house is on the property line, or within three feet of the property line, windows or other openings that allow for visibility into the side yard of the adjacent lot shall not be allowed. Windows that do not allow visibility into the side yard of the adjacent lot, such as a clerestory window or a translucent window, shall be allowed.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-06-02, passed 6-4-07; Am. Ord. 2012-01-04, passed 1-3-12; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord. 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)

## **§ 155.302 PUBLIC AND CIVIC USE STANDARDS**

The following standards shall apply to all permitted uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(A) **ASSEMBLY**

A site or facility open to the public or membership groups for social, civic, political, educational, or recreational purposes. Typical uses include museums, cultural centers, recreational facilities, botanical gardens and community services such as after school care or tutorial services, medical services, employment services, and may also include uses such as cultural organizations and union halls.

(B) **CEMETERY**

A place used or to be used and dedicated or designated for interments of human remains or pet animal remains. A cemetery may include an office, chapel, mausoleum, columbarium or crematory.

(C) **CHURCH OR PLACE OF WORSHIP**

A sanctuary which may include a retreat, convent, seminary or other similar use, owned or operated by a tax-exempt religious group that is used periodically, primarily or exclusively for religious worship, activities and related services.

- (1) Where a church or place of worship requires a Special Use Permit, following the initial approval of places of worship through the special use permit process (see § 155.7110), expansions of up to 20% of the area originally approved through the special use permit process may be approved administratively. Any administrative approvals of expansion shall not waive any conditions of approval of the special use permit.

- (2) Accessory uses standards for a place of worship are set forth in § 155.308(E).

(D) **COLLEGE OR UNIVERSITY**

An institution of higher learning offering undergraduate or graduate degrees, and including the buildings required for educational or support services, such as classrooms, laboratories, dormitories and the like.

(E) **DAY CARE FACILITY**

A non-residential day care facility licensed by the state, if applicable; providing care for children or adults who do not reside in the facility, are present primarily during daytime hours, and do not regularly stay overnight. all daycares shall be subject to the following:

- (1) An off-street passenger drop-off and passenger loading area shall be provided for any day care. Such area shall not be located in the street yard.

- (2) Where abutting a residential use, a Class “C” landscape buffer shall be provided so as to shield all parking areas, play areas and outdoor activity from abutting property.

(F) **GOVERNMENT SERVICE**

Buildings or facilities owned or operated by a government entity and providing services for the public, excluding utility and recreational services. Typical uses include administrative offices for government agencies, public libraries, police and fire stations, and resource centers.

(G) **HOSPITAL OR MEDICAL CENTER**

A facility licensed by the State of North Carolina which maintains and operates organized facilities for medical or surgical diagnosis, overnight and outpatient care, and treatment of human illness. A hospital may include related support facilities such as a helipad, laboratories, out-patient departments, staff offices, food services, and a gift shop.

(H) **SCHOOL (ELEMENTARY OR SECONDARY)**

A public or private institution offering a curriculum of education authorized by the state giving regular instruction at the primary, secondary level, or a school for the mentally or physically handicapped. Included in this definition are preschool programs. However, this definition does not include day care facilities, individual instruction, or classes in a specialized subject.

- (1) Following the initial approval of a school through the special use permit process (see § 155.711), expansions of up to 20% of the area originally approved through the special use permit process may be approved administratively.
- (2) Administrative approvals of expansions of schools shall not waive any conditions of approval of the special use permit.

(I) **SCHOOL (TECHNICAL, TRADE OR BUSINESS)**

An institution offering instruction beyond high school level with a course of study in vocational, technical or other special subjects.

- (1) Following the initial approval of a school through the special use permit process (see § 155.711), expansions of up to 20% of the area originally approved through the special use permit process may be approved administratively.
- (2) Administrative approvals of expansions of schools shall not waive any conditions of approval of the special use permit.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2009-08-02, passed 8-3-09; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)

## **§ 155.303 RECREATIONAL USE STANDARDS**

The following standards shall apply to all permitted uses, conditional zoning district uses, and uses requiring a special use permit, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

### **(A) INDOOR ENTERTAINMENT**

Amusement activities carried on wholly within a building. Typical uses include bowling alleys, billiard parlors, theaters, escape rooms, video game arcades, laser tag, indoor paint ball, skating rink, and activities of a similar nature. This does not include an adult-oriented business or adult-oriented amusement center.

### **(B) OUTDOOR ENTERTAINMENT**

Amusement activities where any portion of the activity takes place outside or in the open, excluding recreation centers and parks. Typical uses include batting cages, golf driving ranges, go-cart tracks, outdoor paint ball, drive-in theater, outdoor skating rink, and miniature golf courses.

### **(C) FITNESS/RECREATION CENTER**

A facility for conducting recreational activities, either indoors or outdoors, including but not limited to raquetball, handball, swimming, running, weight lifting, athletic fields, tennis courts, and aerobic exercises. THIS FACILITY MAY also INCLUDE classrooms, BABYSITTING, AND LIMITED FOOD SERVICE FOR THE facility.

### **(D) GOLF COURSE**

A facility providing a golf recreation area designed for executive or regulation play along with accessory support facilities, excluding miniature golf.

### **(E) GUN RANGE**

An enclosed facility used for the discharge of firearms or projectiles at targets.

### **(F) PARK**

An outdoor recreation area relying on a natural resource base or man-made recreation amenity and developed with a low to medium intensity of impact on the land. Typical uses include greenway (non-equestrian multi-use trail) systems, community gardens, wildlife management, playground, dog park, other small-scale recreational amenities, such as sand volleyball, basketball, or tennis court, or other active recreational opportunities, as well as demonstration areas for historical, cultural, scientific, educational, or other purposes that relate to the natural qualities of the area, and support facilities for such activities. commercial amusement facilities, such as water slides, minature golf, or go-cart tracks, are not considered parks (see “Outdoor entertainment”).

### **(G) STABLE, PRIVATE**

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The breeding, boarding, training, or raising and care of horses owned by the occupants or owners of the premises. Property used for Private Stables shall be a minimum of five (5) acres in size.

(Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Ord. 2017-04-06, approved 04/03/2017)

## **§ 155.304 AGRICULTURAL USE STANDARDS**

The following standards shall apply to all permitted uses, conditional zoning district uses, and uses requiring a special use permit, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

### **(A) AGRICULTURE, LIVESTOCK**

The breeding, raising and caring for domestic animals including horses (excluding private stables).

- (1) Property used for livestock shall be a minimum of five acres in size.
- (2) All accessory uses and structures, such as troughs, feed mechanisms and storage, shall be setback a minimum of 100 feet from any property line.
- (3) The maximum number of large animals permitted for each acre shall not exceed five. Large animals shall include horses, swine, cattle, goats, and sheep. An enclosed structure with one stall for each large animal is required when the total number of large animals exceeds three per acre.
- (4) The maximum number of small animals permitted for each acre shall not exceed 100. Small animals shall include rabbits and fowl, excluding peafowl. Small animals shall be permitted in addition to large animals.
- (5) The use shall assure that there is no incompatibility with surrounding land uses. In the event that an incompatibility exists, the applicant shall satisfactorily mitigate the incompatibility prior to receiving final approval.

### **(B) AGRICULTURE, SALES AND SERVICE**

An establishment primarily engaged in the sale or rental of farm tools, small implements and farming equipment such as pickers, mowers, livestock, feed, grain, tack, riding attire, animal care products, and farm supplies.

- (1) Outdoor storage of materials shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)).

### **(C) NURSERY**

The sale of horticultural specialties such as flowers, shrubs, sod, trees, mulch and accessory hardscape materials such as decorative stones intended for ornamental or landscaping purposes.

- (1) Outdoor storage of materials shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)).

(Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12)

## **§ 155.305 COMMERCIAL USE STANDARDS**

The following standards shall apply to all permitted uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

### **(A) ADULT ORIENTED BUSINESS**

Any place defined as an "adult establishment" as defined by G.S. § 14-202.10, as such statute may be amended from time to time, including adult cabarets, and except the definition of "massage business" shall not include any establishment or business where massage is practiced that is a health club, exercise studio, hospital, physical therapy business or other similar health-related business. Adult-oriented business specifically includes, however, any massage business where massages are rendered by any person exhibiting "specified anatomical areas" and/or where massages are performed on any client's "specified anatomical areas." "Specified anatomical areas" are those defined by G.S. § 14-202.10 as such statute may be amended from time to time.

- (1) No such use shall be located within 1,000 feet of a church, primary, elementary or secondary school, residence or residentially zoned property, any establishment serving on-premises beverages requiring an ABC license, or any other adult-oriented business.
- (2) There shall be no more than one such use on the same property or in the same building or structure.
- (3) Except for permanent signage as permitted in § 155.403, there shall be no advertisement, promotional materials, displays, or temporary signs visible to the public from public rights-of-way.

### **(B) BED & BREAKFAST**

A building containing one or more guest rooms for an overnight stay which are rented at a daily rate and where breakfast is the only meal served to guests.

- (1) An owner shall reside on site.
- (2) There shall be no substantial modifications to the exterior appearance of the structure; however, fire escapes, handicapped entrances and other features may be added to protect public safety.
- (3) Meals shall be served on the premises only for guests and employees. Rooms may not be equipped with cooking facilities.
- (4) Parking shall not be allowed in any street yard.

(C) **CAR WASH/AUTO DETAILING**

A permanent establishment engaged in washing or detailing motor vehicles which may use production line methods with a conveyor, blower, or other mechanical devices, and which may employ some hand labor. Detailing includes hand washing and waxing, striping, and interior cleaning.

(D) **CONTRACTOR OFFICE**

A facility for a building, heating, plumbing, electrical, landscape, janitorial or similar contractor.

- (1) All activity shall be conducted entirely within a fully enclosed building. The temporary loading and off-loading of vehicles shall be permitted outside.
- (2) The overnight storage of fleet vehicles shall be considered an accessory use of "Limited Outdoor Storage" and shall be permitted only as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).

(E) **CONVENIENCE STORE WITH GAS SALES**

A convenience store which includes accessory gasoline retail sales to the general public.

(1) **General Standards**

- (a) Vehicle repair or service shall not be permitted.
- (b) The primary building, including any attached canopy, shall conform to all setback requirements.
- (c) Gasoline pumps, tanks and pump islands shall be located no closer than 20 feet to any side or rear property line or right-of-way.
- (d) No sign of any type or any gasoline pump or tank shall be located within 20 feet of a residential use.
- (e) A Class C buffer (see § 155.402) shall be established along any side of the property where the gas station abuts a residential use, provided such buffer shall not restrict clear sight at any intersection or driveway.
- (f) Freestanding vents shall not be permitted.

(2) **Fuel Canopies**

- (a) The canopy shall be located no closer than 15 feet to any side or rear property line or right-of-way.
- (b) The canopy shall not exceed the height of the principal building, but in no case shall the canopy height exceed 20 feet.

(3) **Single-Bay Automatic Car Wash**

(4) An accessory single-bay automatic (not self-service) car wash completely enclosed except for openings necessary to allow entry and exit of vehicles shall be permitted subject to the following:

- (a) The car wash structure shall be located no closer than 20 feet to any side or rear property line or right-of-way.
- (b) The car wash structure shall not exceed a height of 20 feet or exceed an overall building dimension of 25 feet in width and 50 feet in length.
- (c) The car wash structure shall be located behind the rear building line of the principal building.
- (d) All car wash structures shall meet all applicable yard requirements.

(F) **CREATIVE STUDIO**

A facility involved in the display and/or instruction of the arts, such as individually crafted artwork, jewelry, furniture, sculpture, pottery, leathercraft, hand-woven articles, and related items; art classroom; music studio or classroom; dance studio or classroom; martial arts instruction; or similar use. This definition does not include any adult entertainment establishment.

(G) **FINANCIAL INSTITUTION**

An establishment engaged in deposit banking. Typical uses include commercial banks, savings institutions, and credit unions, including outdoor automated teller machines and drive-thru only facilities.

- (1) Freestanding automated teller machines require site plan approval.
- (2) Drive-through service is only permitted as an accessory use in the B-3, O-I, and B-2 zoning districts. In the O-I and B-2 zoning districts, drive-through lanes/services shall not be located along any residentially zoned property.

(H) **FUNERAL HOME**

- (1) An establishment which arranges and manages funeral and prepares the human deceased for burial.
- (2) A funeral home may include a crematorium located within the principal building.

(I) **HOTEL/MOTEL**

A building containing one or more guest rooms, for overnight guests, and containing registration facilities, on-site management, cleaning services and combined utilities.

- (1) All hotel and motel buildings and parking shall be located at least 50 feet from any property line adjoining a residential district or use.
- (2) Any accessory commercial activities such as restaurants shall not be located along the side of the property adjacent to a residential district or use.
- (3) Any outdoor recreation facilities, such as swimming pools, shall not be located along the side of the property adjacent to a residential district or use. If the outdoor recreation facility is a swimming pool, it shall meet the standards of § 155.308(D)(3) "Swimming Pools".

(J) **KENNEL**

Any building or land used, designed or arranged to facilitate the care of four or more domestic animals, such as dogs and cats.

- (1) All animal boarding shall occur indoors. All kennels and runs shall be located in an enclosed structure.
- (2) An outdoor pen may be provided only for exercise/relief areas for the animals. This area shall be located to the side or rear of the building, and shall not be located closer than 50' from any residentially zoned properties. The area shall be securely fenced by a minimum 6' opaque fence.
- (3) Animal waste shall not be stored within 50' of any adjacent property.
- (4) Outdoor runs may be permitted subject to Town Council approval of a Special Use Permit (see § 155.711)

(K) **LAUNDRY SERVICES**

An establishment that provides washing, drying, dry-cleaning, or ironing machines for hire to be used by customers on the premises, or that is engaged in providing laundry and dry cleaning services with customer drop-off and pick-up.

(L) **LOUNGE, COCKTAIL**

A use or facility engaged primarily in the preparation and retail sale of alcoholic beverages (with food sales an allowed accessory use) for consumption on the premises. this use is also known as tavern, bar, nightclub, or similar use other than restaurant or alcohol sales for off-premises consumption.

- (1) Except in the B-1 zoning district, a cocktail lounge shall not be located within 250 feet of a residential district and shall be separated a minimum of 750 feet from another cocktail lounge.
- (2) Outdoor seating and open lounge areas shall meet the criteria set forth in § 155.305(R)

(M) **MICROBREWERY**

A facility for the production and packaging of beer and other malt beverages for distribution, retail, or wholesale, on or off premise, with a capacity of not more than 15,000 barrels per year. Areas for

demonstration, education, retail sale, or tasting are included in this definition as incidental to the primary use of producing beverages.

(N) **PUBLISHER**

A building used for the production and distribution of newspapers, magazines, books, and other related materials.

(O) **OFFICE, GENERAL**

A facility generally focusing on business, government, or professional services. General office shall include advertising offices; business management consulting, data processing, collection agency; real estate or insurance agents, and professional services such as lawyer, accountant, bookkeeper, engineer, or architect, sales office, travel agency or any similar use.

(P) **OFFICE, MEDICAL**

A facility in which a doctor, dentist, psychiatrist, physician's assistant, nurse practitioner, or similar medical provider treats or counsels patients.

(Q) **OUTDOOR SEATING AND SIDEWALK CAFES**

A restaurant which provides as a primary component of its business, an open area outside of the principal structure for seating including areas adjacent to sidewalks or pedestrian circulation areas.

(1) **Application**

Any restaurant or cocktail lounge seeking to operate a sidewalk cafe shall, in addition to acquiring all necessary health and sanitation permits and inspection and applicable ABC and other business licenses, prepare and file an application for outdoor seating with the Planning Director.

(2) **Site Plan Requirement**

A drawing or site plan showing the section of sidewalk or pedestrian way to be used for the sidewalk cafe, and the section to be kept clear for pedestrian use, and depicting the proposed placement of tables, chairs, barriers, and other furnishings on the sidewalk or pedestrian way.

(3) **Insurance and Indemnification**

Applicants must show proof of meeting minimum criteria for general liability insurance and must execute an indemnification statement in favor of the Town, each as approved by the Town Attorney.

(4) **Issuance of Permit**

No permit for outdoor seating may be issued unless the application is complete and unless the following requirements are met.

- (a) The sidewalk cafe must be associated with an operating restaurant or business such that it is under the same management and shares the same food preparation facilities, restroom facilities and other customer convenience facilities as the restaurant and does not exceed 50% of the interior seating for the associated restaurant or business.
- (b) The sidewalk cafe must be operated under the same name as the restaurant and may not be opened or operated at any time when the restaurant or business is not open for business.
- (c) The operation of the sidewalk cafe must be clearly incidental to the associated restaurant business.
- (d) The placement of tables, chairs and other furnishings, as shown in the site plan, must be done in such a manner not to extend more than five feet from the property line, provided that at least four feet of unobstructed space (as measured from the street-side edge of curb or sidewalk) remains for the passage of pedestrians. Trees, poles, signs, sandwich board signs, planters, benches, hydrants, trash receptacles, and the like are all considered obstructions.
- (e) The restaurant seeking to operate the sidewalk cafe must front on and open onto the sidewalk or pedestrian way proposed for the sidewalk cafe. The placement of tables, chairs, and other furnishings may not extend in front of other businesses or across other public rights-of-way.
- (f) The tables, chairs, and other furnishings used in the sidewalk cafe shall be of a type that is easily removed from the public right-of-way. Tables, chairs, and other furnishings used in the operation of the sidewalk cafe must be removed within 24 hours' notice from the Town. If such items are not removed upon 24 hours' notice, the Town shall have the right to remove and dispose of these items and may assess the property owner for the cost of such removal and disposal. The Town shall also have the right to remove such items immediately in an emergency situation. The Town shall not be responsible for damage to the public sidewalk cafe barricades and furnishings under any circumstances.
- (g) Except as elsewhere permitted, the operation or furnishing of the sidewalk cafe shall not involve any permanent alteration to or encroachment upon any street, sidewalk or pedestrian way or to the exterior of the associated restaurant. The owner of the sidewalk cafe shall be responsible for repairing any incidental damage to public sidewalks resulting from the operation of the sidewalk cafe.
- (h) The sidewalk cafe shall only be open when the restaurant is open. No person shall consume alcoholic beverages in a sidewalk cafe after such hours.
- (i) **Alcoholic Beverages.** Alcoholic beverages may be served and consumed at sidewalk cafes providing the following requirements are met:



1. The sidewalk cafe shall be part of a standard restaurant or business and shall otherwise be authorized, permitted or licensed under the state law and Town codes to serve and sell alcoholic beverages for on-premises consumption.
  2. The portion of the sidewalk cafe where alcohol is or may be served shall be enclosed by clearly visible barricades and shall have not more than two points of ingress or egress.
  3. The sidewalk cafe must be included as part of the premises for which an ABC permit is issued pursuant to G.S. § 18B-1001 for the purposes of applying and enforcing state laws regarding the sale or consumption of alcoholic beverages.
  4. Signs shall be posted, visible at all exit points from the sidewalk cafe, that it is unlawful to remove alcoholic beverages in open and unsealed containers from the premises.
  5. The business operator shall not have violated any law, regulation or ordinance relating to the possession, sale, transportation or consumption of intoxicating beverages or controlled substances for the five years preceding the commencement of the sale of alcoholic beverages at the sidewalk cafe.
- (j) **Denial.** A permit may be denied if it is found that the granting of the permit would not be in the public interest. Any applicant denied a permit to operate a sidewalk cafe shall receive a written statement, outlining the grounds on which the denial is based. The applicant may appeal the denial of the permit to the Town Council within 30 working days after the date of the written denial and the Town Council may take such corrective action as it shall find necessary. The findings and determination of the Town Council shall be final.
- (k) **Permit Revocation.** The Town Manager or his designee may revoke a permit issued pursuant to this section, if he finds that the restaurant operator has:
1. Deliberately misrepresented or provided false information in the permit application;
  2. Violated any provision of this code;
  3. Violated any law, regulation or ordinance regarding the possession, sale, transportation or consumption of intoxicating beverages or controlled substances;
  4. Operate the sidewalk cafe in such a manner as to create a public nuisance or to constitute a hazard to the public health, safety or welfare, specifically including failure to keep the sidewalk cafe area clean and free of refuse; and/or
  5. Failed to maintain any health, business or other permit or license required by law for the operation of a restaurant business. Before the revocation of a permit, the

Town Manager shall notify the permit holder of his intent to revoke the permit and the reasons therefor and shall afford the permit holder a reasonable opportunity to appear and be heard on the question of such revocation. After the hearing, the Town Manager shall notify permit holder in writing of the decision and the reasons therefor. A decision of the Town Manager to revoke permit may be appealed to the Town Council in accordance with the provision of this section.

(I) **Term, Transfer, Renewal, and the Like.** Permits issued in accordance with the provisions of this section shall:

1. Be renewed automatically on an annual basis unless notice is otherwise given to the applicant or business; and
2. Not be transferable or assignable.

(5) **Definitions**

For purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Pedestrian Way. An improved walk or passageway intended for use by pedestrians, but not adjacent to any Town street.

Restaurant. An establishment engaged in the business of regularly and customarily selling food, primarily to be eaten on the premises, including businesses that are referred to as restaurants, cafeterias, cafes, lunch stands, grills, snack bars, fast food businesses and other establishments, such as drug stores, which have a lunch counter or other section where food is sold to be eaten on the premises. This definition does not include food vendors selling food as part of a festival or nonprofit event.

Restaurant Operator or Business Operator. The person, firm or corporation operating a restaurant and associated sidewalk cafe. As used in this section, this definition includes the owner and manager, if different from the owner of the restaurant and associated sidewalk cafe.

Sidewalk. That portion of a public street between the curb line, or the lateral lines of the roadway if there is no curb and the adjacent property line that is intended for the use of pedestrians.

(R) **PARKING LOT**

An area provided for self-parking or valet parking of operable passenger automobiles or commercial vehicles by employees, visitors, and/or patrons of any office of government, public accommodations, commercial or industrial establishments, institutions, or any other business open to the general public. Parking lots may be further defined as being available for compensation, free, or as an accommodation to clients or customers, and are generally only utilized during regular business hours. For short-term or long-term vehicle storage, see "Self-Storage Facility".

(S) **PAWN SHOP**

Any establishment engaged in the loaning of money on the security of personal property pledged in the keeping of the pawnbroker, and the sale of such property.

- (1) Outdoor storage shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).

(T) **RADIO OR TELEVISION STUDIO**

An establishment primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Excluded are facilities classified as major utility services, broadcasting or telecommunication facilities.

(U) **RESTAURANT**

A use, facility, or establishment whose primary purpose is the preparation and sale of food for on- or off-premise consumption. this use may or may not include the accessory sale of alcoholic beverages.

**(V) RETAIL SALES**

A facility involved in the wholesale or retail sale, lease, or rental of new or used products. retail shall include the selling, leasing or renting of the following goods: antiques; art; art supplies; bicycles; books; building supplies; cameras; carpet and floor coverings; crafts; clothing; computers; dry goods; electronic equipment; fabric; furniture; garden supplies; hardware; health and beauty products; household products; jewelry; medical supplies; musical instruments; music; pets; pet supplies; photo finishing; printed materials; crafts; flowers; gifts or souvenirs; groceries; plants; picture frames; produce; sporting goods; stationery; tobacco; videos, or any similar use. Also includes preparation and sale of baked goods, coffee, ice cream, fountain drinks, confections, and similar products whose preparation does not require installation of an exhaust hood. The retail sale of automobile parts is allowed provided that no on-site automobile service or repair is provided. This definition does not include any adult-oriented business or adult-entertainment establishment.

- (1) Outdoor display and sales and outdoor seating and dining may be allowed subject to § 155.308.
- (2) Outdoor storage of shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).
- (3) Uses that are strictly wholesale and not available to the general public shall not be allowed in the B-1,B-2, or B-3 zoning districts.

(W) **SELF STORAGE FACILITY**

A facility consisting of individual, self-contained units that are leased for the storage of business or personal goods.

- (1) All storage shall be contained within a fully enclosed building. Outdoor storage shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).
- (2) A Class C buffer (see § 155.402) shall be established along any side of the property where the self-storage facility abuts or is across the street from a residential use or a public right-of-way.
- (3) Where the end wall of the self-storage facility is visible from a public right-of-way, the wall shall be buffered by a hedge that has a mature height of at least four feet.
- (4) The following activities shall be prohibited on the premises:
  - (a) Commercial, wholesale or retail sales, flea markets or peddling, or miscellaneous or garage sales. However, once a month, the management of the self-storage facility may conduct a one-day auction or sale of abandoned or stored materials to settle unpaid storage bills in accordance with state regulations.
  - (b) Servicing, repair, or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances, or other similar equipment.
  - (c) Operation of a transfer-and-storage business.
  - (d) Operation of power tools, spray painting equipment, table saws, lathes, compressors, welding equipment, kilns, or other similar equipment except when needed for maintenance of the use.
  - (e) Any activity that is noxious or offensive because of odors, dust, noise, fumes, or vibrations.
  - (f) Storage of hazardous chemicals, flammable liquids, or combustible and explosive materials.
  - (g) Habitation of storage units by humans or animals.

**(X) SERVICE**

A facility involved in providing personal or repair services to through traffic as well as the surrounding neighborhood. General services shall include the following personal services: beauty, hair, nail, or tanning salon, massage therapy, pack-and-ship facility, animal grooming; photographic; photography, blueprint, quick-sign service; psychic or medium; security service; taxidermist; catering service or any similar use. General services shall also include the following repair services: bicycles; moped, canvas products; clocks; computers; jewelry; musical instruments; office equipment; radios; shoes; televisions; furniture; watches or any similar use. Also includes a tailor, milliner, upholsterer or locksmith. This definition does not include any adult-oriented business or adult entertainment establishment. All activity shall be conducted entirely within a fully-enclosed building, except for the following:

- (1) Outdoor storage of shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).
- (2) Outdoor display and sales shall be considered an accessory use and only permitted as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).

**(Y) TATTOO PARLOR**

An establishment whose principal business activity is the practice of one or more of the following:

- (2) Placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin.
- (3) Piercing of the body of a person (other than the ear) for the purpose of inserting jewelry or other decoration.

**(Z) TOWING SERVICE AND STORAGE**

The use of a lot for the temporary storage of operable or inoperable vehicles in conjunction with a commercial towing service, with no sales or repair or salvage activity occurring on the lot and subject to the following standards:

- (1) Outdoor storage shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).

**(AA) VEHICLE REPAIR OR SERVICE**

An establishment engaged in the repair of new or used motorized vehicles, equipment.

- (1) No vehicle sales shall be permitted.
- (2) A Class C buffer (see § 155.402) shall be established along any side of the property adjacent to a residential use.
- (3) If the facility has more than one service bay, the additional service bay doors shall not be oriented toward any residential use, or the service bays shall be screened from view from adjacent property using landscaping.
- (4) All repair or service operations, excluding washing, shall be conducted entirely within a fully enclosed building. The term fully enclosed building shall not be construed to limit open bay doors during hours of operation.
- (5) Operable vehicles may be parked on-site during business hours. All vehicle parking shall be accomplished on the site, and in no case shall a parked vehicle encroach into the right-of-way.
- (6) Overnight outdoor storage of vehicles shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).

- (7) There shall be no dismantling of vehicles for salvage.
- (8) The storage of impounded vehicles shall not be permitted.

**(BB) VEHICLE SALES AND RENTAL**

An establishment engaged in the sale, rental, or lease of new or used motorized vehicles, equipment, or mobile homes as defined by the Department of Motor Vehicles. Typical uses include auto and truck rental, lease and sales; boat rental and sales; mobile home and recreational vehicle sales; construction equipment rental yards; moving trailer rental, and large implement sales or rental.

- (1) A Class C buffer (see § 155.402) shall be established along any side of the property adjacent to a residential use.
- (2) Operable vehicles for sale/rental may be parked on-site.. All vehicle parking shall be accomplished on the site, and in no case shall a parked vehicle for sale/rental encroach into the right-of-way or utilize required off-street parking spaces for the business.
- (3) Overnight outdoor storage of inoperable vehicles or vehicles under repair shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).
- (4) Vehicle sales displayed for rental or sale visible from the public right-of-way shall provide a parking buffer as set forth in § 155.402(E)(2)(b).

**(CC) VETERINARY CLINIC**

An establishment engaged in providing medical care, treatment and temporary boarding for animals.

- (1) Animal boarding may be permitted but shall occur entirely indoors.
- (2) An outdoor pen may be provided only for exercise/relief areas for the animals. This area shall be located to the side or rear of the building, and shall not be located closer than 50' from any residentially zoned properties. The area shall be securely fenced by a minimum 6' opaque fence.
- (3) Animal waste shall not be stored within 50' of any adjacent property.
- (4) Outdoor runs may be permitted subject to Town Council approval of a Special Use Permit (see § 155.711)
- (5)

(Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)

## **§ 155.306 INDUSTRIAL USE STANDARDS**

The following standards shall apply to all permitted uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(A) **BUILDING SUPPLIES, WHOLESALE**

An establishment engaged in the sale or fabrication and allied products to contractors for the construction, maintenance, repair and improvement of real property.

- (1) Retail sales of lumber and allied products to the consumer may be conducted, but must be clearly accessory to the primary use.

(B) **CREMATORIUM**

A place used and dedicated to the cremation of human remains or pet animal remains.

(C) **GAS AND FUEL, WHOLESALE**

The use of land for bulk storage and wholesale distribution of 2,500 gallons or more of flammable liquid, or 2,000 gallons water capacity or more of flammable gas, excluding below-ground storage which is clearly accessory to the principal use on the site.

(D) **LABORATORY, RESEARCH**

An establishment engaged in industrial, scientific or medical research, bio-manufacturing, testing, and analysis, including support services and structures. Typical uses include natural science/manufacturing research facilities and product testing/quality control facilities.

- (1) Outdoor manufacturing, processing or testing shall be limited to industrial districts only.

(E) **MANUFACTURING, LIGHT**

A facility conducting medium and light manufacturing operations, primarily involving the creation of finished products or parts from previously prepared materials and the manufacturing of products and materials from extracted raw materials. The processing, fabrication, assembly, treatment, packaging, and storage of such products is also included. All activities shall occur within a fully enclosed building and no manufacturing involved shall produce noise, vibration, air pollution, fire hazard, or noxious emission which may disturb or endanger neighboring properties.

- (1) All manufacturing activity shall be conducted entirely within a fully enclosed building.
- (2) Overnight outdoor storage and display shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)).
- (3) Uses shall not emit smoke, odor, objectionable waste materials or excessive noise.

- (4) No vibration shall be produced that is transmitted through the ground (and is discernible without the aid of instruments) at or beyond the lot line.
- (5) No direct glare from high temperature processes such as combustion or welding visible from the street shall be permitted.

(F) **MANUFACTURING, HEAVY**

A facility conducting assembly heavy manufacturing with operation conducted indoors and outdoors. Heavy manufacturing shall include the following: heavy factory production; industrial yards; any use that is potentially dangerous, noxious or offensive to neighboring uses or those who pass on public ways by reason of smoke, odor, noise, glare, fumes, gas, vibration, threat of fire or explosion, emission of particulate matter, interference with radio, television reception, radiation or any other likely cause; animal processing, packing, treating, and storage; livestock or poultry slaughtering; citrus concentrate plant; processing of food and related products; production of chemical, rubber, leather, clay, bone, paper, pulp, plastic, stone, or glass materials or products, production or fabrication of metals or metal products including enameling and galvanizing, sawmill; bulk storage of flammable liquids; commercial feed lot; concrete batching and asphalt processing and manufacture; wrecking, junk or salvage yard; bottling plant; or any similar use.

(G) **RESEARCH AND DEVELOPMENT**

A facility focused primarily on the research and development of new products. Research and development shall include: offices, and other facilities used for research and development by or for any individual, organization, or concern, whether public or private; prototype production facilities that manufacture a limited amount of a product in order to fully investigate the merits of such a product; pilot plants used to test manufacturing processes planned for use in production elsewhere; production facilities and operations with a high degree of scientific input; facilities and operations in which the input of science, technology, research, and other forms of concepts or ideas constitute a major element of the value added by manufacture per unit of product.

(H) **WAREHOUSE AND FREIGHT MOVEMENT**

A facility involved in the storage or movement of goods for themselves or other firms. Goods are delivered to other firms or the final consumer with little on-site sales activity to customers. Warehouse and freight movement shall include the following: bulk storage, including nonflammable liquids, feed and grain storage; cold storage plants, including frozen food lockers; household moving and general freight storage; separate warehouse used by retail store such as furniture or appliance store; bus barn; parcel services, mail order facility; stockpiling of sand, gravel, or other aggregate materials; transfer and storage business where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred; or any similar use.

(Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Ord. 2017-04-06, approved 04/03/2017)



## **§ 155.307 UTILITIES USE STANDARDS**

The following standards shall apply to all permitted uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(A) **RECYCLING CENTER**

A permanent facility designed and used for receiving, separating, storing, converting, baling or processing of non-hazardous recyclable materials that are not intended for disposal. The use may include construction debris recycling or other intensive recycling processes such as chipping and mulching.

- (1) To ensure compatibility with surrounding uses, screening and buffering around the perimeter of the proposed recycling plant shall be required at the time the facility is constructed.

(B) **RENEWABLE ENERGY FACILITY**

A facility that generates renewable energy from sources such as solar, wind, or other systems with a principal use of producing electric, thermal power, or mechanical power.

(C) **TELECOMMUNICATION FACILITY**

Any tower, site, building, structure, or other facility whose principal use is to facilitate transmissions for AM/FM radio, television, microwave, and cellular telephone transmission towers, antennae, and accessory equipment and buildings. Specific standards for communication towers are set forth in § 155.310.

- (1) Facilities in the B-1, B-2, or B-3 districts are only permitted if they are attached to a habitable structure and are completely screened or camouflaged from view. This does not apply to pre-existing and unrelated utility structures, such as water towers.

(D) **UTILITY, MAJOR**

A large-scale utility such as a water or wastewater treatment plant, water tower, electrical generation plant, or transmission facility or any similar use.

(E) **UTILITY, MINOR**

All utility facilities not considered major, including, but not limited to neighborhood-serving facilities such as pump stations, telephone exchanges, lift stations, and stormwater detention facilities, or any similar use.

(F) **WASTE SERVICE**

A facility that generally receives solid or liquid wastes from others for transfer to another location, collects sanitary waste, or manufactures a product from the composting of organic material. Waste-

related service shall include the following: animal waste processing; landfill, incinerator; manufacture and production of goods from composting organic material; outdoor recycle processing center; outdoor storage of recyclable material, including construction material; transfer station; or any similar use.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-05-02, passed 5-7-07; Am. Ord. 2007-05-03, passed 5-7-07; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)

## **§ 155.308 ACCESSORY STRUCTURES AND USES.**

### **(A) GENERAL**

Accessory structures and uses shall be consistent with all standards in the district for the principal use, except as expressly set forth below. Additional design considerations may be outlined in the Clayton General Design Guidelines.

- (1) Accessory structures and uses shall be accessory and clearly incidental and subordinate to a permitted principal uses. An accessory use shall only be allowed when a principal use exists.
- (2) Accessory structures and uses shall be located on the same lot as the permitted use or structure, or on a contiguous lot in the same ownership.
- (3) Accessory structures and uses shall not involve operations or structures not in keeping with the character of the primary use or principal structure served.
- (4) Accessory structures and uses shall not be of a nature likely to attract visitors in larger numbers than would normally be expected, where applicable.
- (5) An accessory use shall contribute to the comfort, convenience, or necessity of occupants of the primary use served.
- (6) An accessory use shall be located within the same district as the principal use.
- (7) Tractor-trailers are prohibited as storage buildings or structures except as permitted on an active construction site.

### **(B) ACCESSORY STRUCTURES**

Accessory structures, not including accessory dwelling units (see (C)(1) of this section) or in-ground pools, shall be subject to the following requirements:

#### **(1) Zoning Permit Required**

It shall be unlawful to begin moving, constructing, altering, or repairing, except ordinary repairs, of an accessory structure, until the Planning Department has issued a zoning permit for such work (see § 155.709).

#### **(2) Setbacks**

- (a) No accessory structure shall be located closer than ten feet to any other building or manufactured home.
- (a) No accessory structure shall extend in front of the front line of the principal structure, except in the B-1 zoning district where the Planning Board may approve a Variance for an accessory use or structure to be placed in any yard other than the rear yard.

- (b) No accessory structure may extend within five feet of any lot line in R-6 and R-8 Districts, and within ten feet in all other zoning districts. No accessory structure shall be located within 20 feet of any street right-of-way.

(3) **Height**

The height of an accessory structure shall not exceed the height of the principal structure or 25 feet, whichever is lesser, unless approved in accordance with the requirements outlined in §155.201(C) Measurements and Exceptions.

(4) **Number**

- (a) Up to two accessory structures may be permitted on the same lot, subject to meeting the criteria elsewhere in this section.
- (b) No more than one shed is permitted in the R-6 and R-8 zoning districts.
- (c) Two or more accessory structures may not be joined together by adding a roofline, such as a breezeway or covered walkway, to give the appearance of a lesser number of structures.

(5) **Size**

An accessory structure may not exceed the gross floor area of the primary structure on the site. This restriction does not apply to in-ground pools.

(6) **Architectural consistency**

On non-residential or mixed use sites, the architecture of accessory structures shall be consistent with the primary structure.

(C) **ACCESSORY USES IN RESIDENTIAL DISTRICTS**

(1) **Accessory Dwelling Units**

- (a) One accessory dwelling may be permitted as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).
- (b) The living area of the accessory dwelling shall not exceed the living area of the principal structure. In no case shall the total floor area of the accessory dwelling unit exceed 600 square feet.
- (c) The accessory dwelling shall not have a separate electrical meter.
- (d) The owner of the property shall occupy either the primary structure or the accessory dwelling.

- (e) The principal dwelling and accessory dwelling unit together shall not exceed the maximum building coverage and impervious surface requirements for the district.
- (f) All principal structure setbacks and yard requirements shall be met.
- (g) One additional parking space on the same premises shall be required for the accessory dwelling unit.
- (h) A subdivision with accessory dwelling units shall not exceed the maximum district density requirements, counting all principal dwelling units and any accessory dwelling units.
- (i) An accessory dwelling shall either be located within the principal structure; or meet the following standards:
  - 1. The accessory dwelling shall be located on the same lot as the principal structure.
  - 2. The accessory dwelling shall be separated by at least ten feet from the principal structure.
  - 3. The accessory dwelling shall be located in the rear or side yard of the principal structure. The rear and side setback shall be equal to those of all accessory structures.
  - 4. Total building coverage and impervious surface area shall not exceed that permitted in the district.
  - 5. The height of a principal structure shall not be exceeded by any accessory dwelling.
  - 6. The accessory dwelling unit shall be architecturally consistent with the principal structure.

(2) **Home Occupations**

(a) **Prohibited Home Occupations**

The following uses are not permitted as home occupations:

- 1. Vehicle and/or body and fender repair.
- 2. Outdoor repair or outdoor storage.
- 3. Commercial nursery or truck farming.
- 4. Food handling, processing or packing, other than services that utilize standard home kitchen equipment.

5. Medical or dental lab.
6. Restaurant.
7. Sale or repair of firearms.
8. Bulk storage of flammable liquids.
9. Funeral homes and mortuaries.
10. Animal hospitals and kennels.

(b) ***Class A Home Occupations***

The intent of a Class A Home Occupation is to permit very limited activities in a residential dwelling, provided such activities do not impact or detract from the residential character of the neighborhood. A Class A Home Occupation shall be deemed an accessory use and no further approval shall be required, provided the use meets the standards of this chapter.

1. The use of the dwelling unit for Class A Home Occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and shall under no circumstances change the residential character of the structure.
2. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of a home occupation.
3. No business, storage or warehousing of material, supplies or equipment shall be permitted outside of the primary dwelling unit.
4. No equipment or process shall be used that creates excessive noise, vibration, glare, fumes, odors, or electrical interference.
5. No display of products shall be visible from the street.
6. A Class A Home Occupation shall be subject to all applicable licenses and business taxes.
7. No persons other than members of the family residing on the premises shall be engaged in the home occupation.
8. Storage space and the operation of the business inside the dwelling unit shall not exceed 25% of the first floor area of the residence.
9. Customers and employees coming to the residence to conduct business shall not be permitted.

10. No signage shall be permitted.

(c) ***Class B Home Occupations***

A Class B Home Occupations is a business, profession, occupation or trade conducted for gain or support within a residential dwelling or its accessory buildings that requires employees, customers, clients or patrons to visit the home. This use does not include “In-Home Daycares” which are subject to separate requirements as outlined in this Chapter. A Class B Home Occupation may be permitted as a special use permit provided that the Town Council shall determine in its judgment that:

1. It is carried on by a person residing on the premises and employs no more than two employees not living on the premises.
2. No more than 20% of the total actual floor area of the dwelling shall be in the conduct of the home occupation.
3. No more than two vehicles are used in the conduct of the home occupation, and such vehicles are parked off the street.
4. No merchandise or commodity is sold on the premises, except what is incidental to the home occupation.
5. No mechanical equipment is installed or used except such that is normally used for domestic or professional purposes.
6. No expansion shall be permitted outside the principal structure that houses the home occupation, except that which is necessary to house vehicles used in the conduct of home occupation.
7. It is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.
8. The use will not create undue traffic congestion or create a traffic hazard.
9. Advertising signs shall be limited to one unlighted wall sign no larger than three square feet in area, attached to the structure housing the home occupation, or one yard sign of the same size not to exceed three feet in height.

(3) **In-Home Daycare**

The operation of a day care within a residential dwelling unit by a person that is a resident of the dwelling. All in-home daycares shall obtain proper licensing from the State of North Carolina. In-Home daycares shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).

- (a) A Zoning Compliance Permit shall be obtained from the Town to operate an in-home daycare. A site layout and floor plan shall be submitted with the permit application to ensure the following requirements are met:
    - 1. No more than five (5) children may be supervised at a time. This includes any resident children that may be on the premises during hours of operation.
    - 2. The day care shall be carried on by a person residing on the premises and employ no additional employees. If additional employees are proposed, the day care shall be subject to the requirements of a Class "B" Home Occupation.
    - 3. No more than 20% of the total actual floor area of the dwelling shall be in the conduct of the home occupation.
    - 4. No expansion shall be permitted outside the principal structure that houses the home occupation.
    - 5. An off-street drop off and passenger loading area shall be provided. This may be provided within a residential driveway.
    - 6. Hours of operation shall be limited to Monday-Friday, 7 am- 6 pm.
    - 7. Visual buffers shall be provided to shield all play areas and outdoor activity from abutting residentially zoned properties. This shall be done in the form of 6' tall opaque fencing and/or landscaping that is 6' in height at the time of planting.
  - (b) Advertising signs shall be limited to one unlighted wall sign no larger than three (3) square feet in area, attached to the structure housing the in-home daycare, or one yard sign of the same size not to exceed 3 feet in height. All signage is subject to review and approval of a Permanent Sign Permit application.
- (4) **Swimming Pools**

When allowed, in-ground and aboveground swimming pools that have a water depth over 24 inches and or have a surface area of at least 100 square feet shall be subject to the following requirements (see Chapter 154, Swimming Pools, of the Town Code of Ordinances for additional standards).

(a) **Private Pools**

Private swimming pools (including any associated decking, pool house, pool chemical storage shed, or equipment associated with the pool) on single-family detached, zero lot lines, alley-loaded, and two-family lots shall not be located in the street yard and shall not be closer than five feet to any property line.

(b) **Outdoor Community Pools, Private Club Pools, or Pools in Multi-Family Complexes**

- 1. Outdoor pools (including any associated decking, pool house, pool chemical storage shed, or equipment associated with the pool) shall be located at least 50 feet from any property line adjacent to a residential district or use, and at least 25 feet from any property line adjacent to any other district or use.



2. When the pool is adjacent to off-site residences, the playing of music detectable off-site on a public address system is prohibited. Informational announcements shall be permitted. This requirement is waived if a permit has been issued for a special event.

(5) **Vehicle Repair**

Up to two vehicles may be repaired simultaneously on a residential property if the vehicles are registered to an occupant of the residence.

(6) **Vehicle Sales**

Vehicle sales shall be prohibited within a residential district or on property devoted to residential use, except that the sale of a private vehicle registered to the occupant of the residence shall be allowed. No more than one such vehicle shall be displayed at a time.

(D) **ACCESSORY USES IN NONRESIDENTIAL DISTRICTS**

(1) **Drive-Thru (aka Drive-Through)**

Drive-thru facilities shall be subject to the following requirements:

- (a) A drive-thru shall only be permitted in conjunction with a permitted nonresidential use.
- (b) Drive-thru windows and lanes shall be screened in accordance with § 155.402(G).

(2) **Food Truck**

(a) ***Permits Required***

1. Food truck vendors must provide documentation of approval from the Health Department of the County in which the food truck's associated restaurant or commissary is located.
2. The County Health Permit must be displayed during hours of operation.

(b) ***Public Safety***

1. Temporary connections to potable water are prohibited. All plumbing and electrical connections shall be in accordance with the State Building Code.
2. Grease and wastewater must be contained and disposed of in an approved grease receptacle located at the associated restaurant or commissary.
3. If the food truck is operating after dark, the food truck vendor shall provide appropriate lighting.
4. A food truck vendor shall not operate the food truck as a drive-in window.

5. The Planning Director may engage in zoning enforcement or prohibit/suspend a food truck vendor's operations if are causing parking, traffic congestion, or litter problems either on or off the property where the use is located or such use is otherwise creating a danger to the public health or safety.

(c) **General Location Requirements**

1. Food trucks must be located on private property with written permission from property owner.
2. Food trucks shall be positioned at least 400 feet from the customer entrance of an existing restaurant during hours of operation, unless the vendor provides documentation that the restaurant owner supports a closer proximity.
3. Food trucks shall not block parking spaces, drive aisles, access to loading/service areas, or emergency access and fire lanes. Food truck vending must also be positioned at least 15 feet away from fire hydrants, any fire department connection, and driveway entrances.
4. No more than two food trucks are permitted as an accessory use, unless at an approved special event, market, festival, or an active construction site.

(d) **Hours of Operation**

Food trucks must cease operations between the hours of 12 a.m. and 7 a.m., and are not permitted to remain on site overnight.

(e) **Signage**

No signage shall be allowed other than signs permanently attached to the motor vehicle. An easel sign no more than 12 square feet per sign face in display area may be placed within the customer waiting area.

(3) **Day Care Facility**

- (a) A non-residential accessory day care facility shall only be permitted as an accessory to the following uses
  1. Hospital or Medical Center (§155.302(G))
  2. School (Elementary or Secondary) (§155.302(H))
  3. School (Technical, Trade, or Business) (§155.302(I))
  4. Entertainment, Indoor (§155.303(A))
  5. Entertainment, Outdoor (§155.303(B))
  6. Fitness/Recreation Center (§155.303(C))
  7. Creative Studio, (§155.305(G))
  8. Office, General, (§155.305(P))
  9. Office, Medical, (§155.305(Q))

- 10. Research & Development, (§155.306(G))
- 11. Church or Place of Worship, (§155.302(C))

- (b) All accessory daycare facilities shall be subject to the same requirements for Day Care Facilities, outlined in §155.302(E). This shall not include in-home daycares which are governed by separate requirements outlined in 155.

(4) **Park**

- (a) An accessory park shall be permitted in the forms of community gardens, playgrounds, or other small-scale recreational amenities that are secondary in nature to the primary use of the property.
- (b) Accessory park uses shall be subject to site plan review in accordance with §155.707, illustrating the proposed boundaries of the park, amenities, and any other applicable elements.
- (c) Additional parking to accommodate the accessory park shall be required in accordance with §155.401.

(5) **Outdoor Display & Sales**

- (a) Outdoor display and sales shall be generally defined as the display and sales of goods, wares or merchandise outside of a permanent structure on property owned or leased by the person, firm or corporation. Outdoor display and sales must be secondary and incidental to the principal use or structure on the property, unless authorized pursuant to § 155.309, Temporary Use.
- (b) Outdoor display and sale areas greater than 50 square feet shall only be permitted following review of a site plan in accordance with § 155.707, illustrating the extent of the permitted area for outdoor display and sales subject to the standards below. Outdoor display and sale areas 50 square feet or less do not require site plan approval, but are still subject to the standards below.
- (c) The location of outdoor merchandise must be on the same property as the principal use, and not within the right-of-way, except that in the B-1 zoning district it may be displayed in the right-of-way, provided that clearance requirements are maintained for pedestrian passage.
- (d) No outdoor merchandise displayed shall exceed five (5) feet in height. Wholesale of materials and any display that exceeds this height limitation shall be considered accessory outdoor storage and shall be permitted only in districts as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)).
- (e) Merchandise shall be displayed to allow pedestrians use of the adjacent sidewalk or parking areas, and shall meet ADA accessibility requirements.

1. Any merchant desiring to display and sell merchandise along a public sidewalk or right-of-way must also comply with the following stipulations:
  - A. Merchandise must be removed from the sidewalk within 24 hours of notice from the Town. If such items are not removed following notice, the Town has the right to remove and dispose of these items and may assess the property owner for the cost of removal and disposal. The Town has the right to remove such items immediately in emergency situation. The Town is not responsible for damage to the merchandise under any circumstances.
  - C. The owner of the business displaying or selling merchandise within a public sidewalk is responsible for repairing any incidental damage to public sidewalk resulting from the display of merchandise.
  - D. Merchandise must be removed from the sidewalk when the business is closed.

(6) **Outdoor Dining**

- (a) Outdoor dining shall be defined as the placement of tables and chairs for dining outside of a permanent structure.
- (b) **General Requirements**
  1. Outdoor dining shall be permitted with a zoning compliance permit for 8 or fewer seats. More than 8 seats is subject to site plan approval, illustrating the extent of the outdoor dining area, the maximum seating capacity, and subject to the standards below. The impact of outdoor dining areas on adjacent churches, hospitals, public schools, and residential uses shall be mitigated to minimize potential impacts related to glare, light, loitering, and noise.
  2. Patron tables and other outdoor dining area components shall be clearly defined and located on the same site as the other facilities of the restaurant or on the adjacent public right-of-way. Separation between the seating and vehicular or pedestrian traffic by a physical barrier may be required, with the design to be approved by the Planning Director.
  3. Separation may be achieved through the use of materials which include, but are not limited to landscape planters, walls, railings or a combination thereof. Only barriers composed of landscape planters or masonry walls may be solid.
- (c) The additional parking necessary to accommodate seating created in the outdoor dining area shall comply with the parking requirements set forth in § 155.401 of this Chapter.
- (d) Outdoor dining areas and associated structural elements, such as awnings, covers, umbrellas, or other physical elements shall be compatible with the overall design of the

main structure and must maintain a height clearance of eight feet and meet ADA accessibility requirements. Dining equipment (including, but not limited to tables, chairs, space heaters, barriers) may remain in place.

- (e) The Town may revoke the outdoor dining area if it is determined that its operation is causing litter problems either on or off the property where the dining is located or that such use is otherwise creating a danger to the public health or safety.
- (f) In addition to the requirements set forth above, if any portion of the outdoor dining area is to be located within a public right-of-way (sidewalks only), the dining area must also comply with the following stipulations. Outdoor dining within right-of-way owned and operated by the State of North Carolina, must also meet the requirements of G.S. 136-27.4 listed below.
  - 1. Tables, chairs, and other furnishings shall be placed a minimum of six feet from any travel lane.
  - 2. Tables, chairs, and other furnishings shall be placed in such a manner that at least five feet of unobstructed paved space of the sidewalk, measured from any permanent or semi-permanent object, remains clear for the passage of pedestrians and provides adequate passing space that complies with the Americans with Disabilities Act.
  - 3. Tables, chairs, and other furnishings shall not obstruct any driveway, alleyway, building entrance or exit, emergency entrance or exit, fire hydrant or standpipe, utility access, ventilations areas, or ramps necessary to meet accessibility requirements under the Americans with Disabilities Act.
  - 4. The maximum posted speed permitted on the roadway adjacent to the right-of-way to be used for sidewalk dining activities shall not be greater than 45 miles per hour.
  - 5. The restaurant operator shall provide evidence of adequate liability insurance specified by the Town under G.S. 160A-485 as the limit of the Town's waiver of immunity or the amount of Tort Claim liability specified in G.S. 143-299.2, whichever is greater. The insurance shall protect and name NCDOT and the Town as additional insured on any policies covering the business and the sidewalk activities.
  - 6. The restaurant operator shall provide an agreement to indemnify and hold harmless NCDOT and the Town from any claim resulting from the operation of sidewalk dining activities.
  - 7. The restaurant operator shall provide a copy of all permits and licenses issued by the State, County or Town, including health and ABC permits, if any, necessary for the operation of the restaurant or business, or a copy of the application for the permit if no permit has been issued. This requirement includes any permits

or certificates issued by the Town for exterior alterations or improvements to the restaurant.

8. The restaurant operator shall cease part or all sidewalk dining activities in order to allow construction, maintenance, or repair of any street, sidewalk, utility, or public building, by NCDOT, the Town, its agents or employees, or by any other governmental entity or public utility.

9. Any other requirements deemed necessary by the NCDOT, either for a particular Town or a particular component of the State highway system.

(g) The Town reserves the right to terminate the use of outdoor dining within the public right-of-way at any time. Upon notice, all furnishings must be removed from the sidewalk within 24 hours of notice from the Town. If furnishings are not removed within the time specified, the Town has the right to remove and dispose of these items and may assess the property owner for the cost of removal and disposal. The Town has the right to remove such items immediately in emergency situations. The Town is not responsible for damage to the furnishings under any circumstances.

(h) The owner of the business utilizing a dining area within a public sidewalk is responsible for repairing any incidental damage to public sidewalk resulting from outdoor dining furnishings.

**(7) Accessory Limited Outdoor Storage**

(a) Accessory Limited outdoor storage shall be defined as the overnight outdoor storage of vehicles (not associated with outdoor sales and display including vehicle sales, vehicle repair or car rental), merchandise or material in boxes, crates, on pallets or other kinds of containers, shopping carts, or other similar merchandise, material or equipment.

(b) Limited outdoor storage shall only be considered an accessory use and permitted in districts as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)). Limited outdoor storage areas shall meet the standards below:

1. Limited outdoor storage shall not be more than 12 feet in height and shall be fully screened from view from the public right-of-way, public parking areas, or adjacent residential development by a 100% opaque visual barrier or screen.

2. All limited outdoor storage shall be located at least 15 feet from the public right-of-way and any abutting residential use or residentially-zoned district.

3. Limited outdoor storage shall not be permitted in a street yard or otherwise forward of the front building line.

**(8) Accessory General Outdoor Storage**

- (a) General outdoor storage shall be defined as salvage yards, vehicle junk yards, overnight outdoor storage of shipping containers, lumber, pipe, steel, junk and other similar merchandise, material or equipment.
  - (b) General outdoor storage shall only be considered an accessory use and permitted in districts as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)). General outdoor storage areas shall meet the standards below:
    - 1. General outdoor storage shall be screened by 100% opaque, eight foot high visual barrier or screen. When located abutting or across the street from a residential use or residentially-zoned property such screening shall be high enough to completely conceal all outdoor storage from view.
    - 2. All general outdoor storage shall be located at least 15 feet from the public right-of-way and any abutting residential use or residential district.
    - 3. No general outdoor storage shall be permitted in a street yard or otherwise forward of the front building line.
    - 4. General outdoor storage may be located in the side or rear yard.
- (9) **Swimming Pools**
- (a) Outdoor pools shall meet the standards of Chapter 154, Swimming Pools, of the Town Code of Ordinances.
  - (b) Outdoor pools including decking shall be located at least 50 feet from any property line adjacent to a residential district or use, and at least 25 feet from any property line adjacent to any other district or use.
  - (c) When the pool is adjacent to residences, the playing of music detectable off-site on a public address system is prohibited. Informational announcements shall be permitted. This requirement may be waived if a permit has been issued for a special event.

(E) **ACCESSORY USES FOR PLACES OF WORSHIP**

Accessory uses are permitted for a place of worship in accordance with the following standards.

The following facilities may be considered accessory to a place of worship. Additional buffering may be required through the review and approval of a site plan to address the intensity of the proposed place of worship and the proposed accessory uses.

- (a) Offices for the place of worship;
- (b) Rooms for religious instruction or counseling;
- (c) Meeting rooms for intermittent community meetings or instruction;

- (d) Fellowship hall;
  - (e) Kitchen facilities;
  - (f) Senior center, neighborhood arts center or other community center;
  - (g) Temporary child care during religious services or events;
  - (h) Outdoor play area;
  - (i) Columbarium;
  - (j) “Meals on Wheels” or other similar programs using the kitchen in the place of worship but delivering food elsewhere; and
  - (k) Residence for clergy employed by the place of worship.
- (2) The following accessory uses are subject to approval of a site plan (see § 155.707).
- (a) Gymnasium or similar indoor recreational facility;
  - (b) Cemetery;
  - (c) Overnight accommodation for visiting clergy and non-paying guests of clergy employed by the place of worship;
  - (d) Child care center;
  - (e) School;
  - (f) Soup kitchen or other social service facility; and
  - (g) Athletic field or similar facility.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-05-02, passed 5-7-07; Am. Ord. 2007-05-03, passed 5-7-07; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Ord. 2017-04-06, approved 04/03/2017)



## **§ 155.309 TEMPORARY USES**

### **(B) GENERAL REQUIREMENTS**

Certain uses are temporary in character. They vary in type and degree, as well as length of time involved. Such uses may have little impact on surrounding and nearby properties or they may present questions involving potential incompatibility of the temporary use with existing uses. Unless otherwise specified in this chapter, the following regulations shall govern temporary uses.

### **(F) TEMPORARY USES EXEMPT FROM PERMIT**

The following permitted temporary uses are exempt from these requirements.

- (1) Christmas tree sales lots.
- (2) Garage or yard sales are permitted only by the property owner on their property and are allowed once every four months at any given location. The sale may not exceed three consecutive days in length. Advertising signs may not be placed on any rights-of-way or off-site locations without the owners' permission.
- (3) Storage pods for off-site storage of household or other goods located in any street yard are permitted for a maximum of seven consecutive days, and any side or rear yard for a maximum of 30 consecutive days.

### **(G) TEMPORARY USE PERMIT REQUIRED**

The following temporary uses are allowed in the frequency stated below, except that no property shall have more than four of the events listed below in one calendar year.

#### **(1) Commercial Circuses, Carnivals or Fairs**

Commercial circuses, carnivals or fairs, for not more than two consecutive weeks in any calendar year.

#### **(2) Temporary Religious or Revival Activities**

Temporary religious or revival activities in tents in association with a place of worship, for not more than two consecutive weeks in any calendar year.

#### **(3) Non-profit Special Events**

Special events run by non-profit, charitable organizations occurring no longer than seven consecutive days once every three months.

#### **(4) Tent Sales**

Tent sales by merchants occupying the premises on which the sale is conducted and having a valid certificate of occupancy, and occurring no longer than seven consecutive days once every six months.

(5) **Grand Opening Sales**

Grand opening sales, including outside food and beverage vending, for three consecutive days, once per certificate of occupancy.

(6) **Outdoor Vehicle Show or Sale**

Outdoor motor vehicle or recreational vehicle show or sale, for three consecutive days, twice per calendar year.

(7) **Other Temporary Uses**

Other temporary uses similar in nature to the ones listed above, with corresponding limitations, as determined by the Planning Director.

(H) **TEMPORARY OUTDOOR DISPLAY OF MERCHANDISE**

(1) Outdoor display of merchandise in nonresidential districts by merchants occupying the premises and having a valid certificate of occupancy, occurring no longer than nine consecutive days up to four times per year, is allowed subject to issuance of a temporary use permit and all of the following conditions.

- (a) Merchandise shall only be displayed in front of the premises occupied by the merchant.
- (b) Merchandise shall not be displayed closer than five feet to any entrance to the premises.
- (c) Merchandise shall only be displayed in a manner that does not obstruct pedestrian or vehicular circulation or traffic.
- (d) The display of merchandise shall not exceed eight feet in height.
- (e) Merchandise shall only be displayed during the merchant's hours of operation, and must be taken inside the premises at closing.
- (f) Merchandise shall only be displayed in an area not wider than 50% of the total linear foot frontage of the building occupied by the merchant.
- (g) The required temporary use permit must be visibly displayed at the main entrance of the associated merchant.
- (h) A violation of any conditions set out in this section shall constitute a violation of the temporary use permit and cause said temporary use permit to be revoked. Once

revoked, a temporary use permit shall not be issued for the same temporary use for a period of one year.

- (2) Any temporary use permit issued under (C)(1) through (7) of this section shall be counted in the maximum number of temporary use permits allowed for the temporary outdoor display of merchandise.
- (3) The requirements of this section do not supersede the permanent outdoor storage or display requirements of §155.308. Permanent outdoor display/sales of merchandise shall be considered an accessory use and permitted in districts as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)). This use shall be subject to site plan approval.

(I) **MANUFACTURED HOME OR TRAILER FOR TEMPORARY USE**

One manufactured home or trailer may be used as a temporary office, security shelter, or shelter for materials or tools (but not for residential purposes or sales offices) incident to construction on or development of the premises upon which the manufactured home or trailer is located. Such use shall be strictly limited to the time construction or development is actively underway. The temporary use may continue more than six months upon finding that actual construction is continuing.

(J) **TEMPORARY USE IN CONJUNCTION WITH SPECIAL EVENT PERMIT**

Where a valid permit has been issued by the Town for use of adjacent right-of-way that makes the street unavailable to vehicular traffic, a temporary use permit may be issued in accordance for events on the grounds or in the parking lot of any adjacent parcel during the period of the special event permit.

(K) **REAL ESTATE DEVELOPMENT PROJECTS**

- (1) A developer may request a temporary use permit for necessary commercial promotional, storage, or fabrication activities at the development site which occur during construction of that developer's project.
- (2) When the request is for a temporary sales office, model home, or apartment, the application shall list the lots, apartment units, or dwelling units to be initially sold.
- (3) The temporary use permit shall be restricted to only those activities and properties listed on the petition. Such activities shall not include any sale of properties outside the development site or any resale of properties.
- (4) The following uses in connection with such a project require a temporary use permit:
  - (a) Offices for sale of real estate or for persons engaged in the development.
  - (b) Construction materials storage, general contractor's business office, processing, or fabrication.

- (c) Equipment storage.
- (d) Model homes or sample apartments.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-05-02, passed 5-7-07; Am. Ord. 2007-05-03, passed 5-7-07; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12)

## **§ 155.310 TELECOMMUNICATION FACILITIES**

### **(A) PURPOSE AND LEGISLATIVE INTENT**

The purpose of this Section is to establish general guidelines for the locating, collocating, modifying or upgrading of telecommunications towers, antenna, ground equipment and related accessory structures. It is the intent of this Section to:

- (1) Promote the health, safety, and general welfare of the public by regulating the locating of telecommunication facilities.
- (2) Minimize the impacts of wireless communication facilities on surrounding land uses by establishing standards for location, structural integrity, and compatibility.
- (3) Encourage the location and collocation of telecommunication equipment on existing structures thereby minimizing new visual, aesthetic, and public safety impacts, effects upon the natural environment and wildlife, and to reduce the need for additional towers.
- (4) Accommodate the growing need and demand for new and upgraded telecommunication services.
- (5) Encourage coordination between suppliers and providers of personal telecommunication services.
- (6) Establish predictable and balanced codes governing the construction and location of telecommunications facilities within the confines of permissible local regulations.
- (7) Establish review procedures to ensure that applications for telecommunications facilities are reviewed and acted upon within a reasonable period of time as required by applicable state and federal regulations.
- (8) Respond to the policies embodied in the Telecommunications Act of 1996 so that no discrimination between providers of functionally equivalent personal wireless services occurs, or to prohibit or have the effect of prohibiting personal wireless services.
- (9) Respond to the policies in Section 6409 of the Tax Relief and Job Creation Act of 2012 (47 USC §1445(a)).
- (10) Protect the character of the Town while meeting the needs of its citizens to enjoy the benefits of telecommunication services.
- (11) Encourage the use of public lands, buildings, and structures as locations for telecommunications infrastructure demonstrating concealed technologies and revenue generating methodologies.

### **(B) AUTHORITY**

The provisions of this Section are permitted under authority granted by the General Assembly of the State of North Carolina with particular reference to Article 9, Part 3, of Chapter 160D of the North Carolina General Statutes.

(C) **SPECIFIC WIRELESS COMMUNICATION DEFINITIONS**

- (1) **Alternative Structure**  
A structure that is not primarily constructed for the purpose of holding Antennas but on which one or more antennas may be mounted, including, but not limited to buildings, water tanks, pole signs, billboards, church steeples, and electric power transmission towers.
- (2) **Amateur Radio Tower**  
Any tower used for amateur radio transmissions consistent with the “Complete FCC U.S. Amateur Part 97 Rules and Regulations” for amateur radio towers.
- (3) **Ancillary Structure**  
Any form of development associated with a Wireless Communications Facility, including, but not limited to foundations, concrete slabs on grade, guy anchors, generators, and transmission cable supports, but excluding equipment cabinets.
- (4) **Anti-Climbing Device**  
A piece or pieces of equipment designed to prevent people from climbing the structure.
- (5) **Antenna**  
Any apparatus designed for the transmitting and/or receiving of communication signals, including, but not limited to telephonic, radio and television communications.
- (6) **Antenna Array**  
A single or group of antenna elements and associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support structure for the sole purpose of transmitting or receiving communication signals.
- (7) **Antenna Element**  
Any antenna or antenna array.
- (8) **ASR**  
The Antenna Structure Registration Number as required by the FAA and FCC.
- (9) **Base Station**  
The electronic equipment utilized at the base of a Wireless Communication Facility for the transmission and reception of communication signals.
- (10) **Breakpoint Technology**  
The engineering design of a tower wherein a specified point on the tower is designed to have stresses concentrated so that the point is at least five percent (5%) more susceptible to failure

than any other point. In the event of a structural failure, the failure will occur at the breakpoint rather than at the base plate, anchor bolts, or any other point on the tower.

(11) **Broadcast Facilities**

Towers, antennas, and/or antenna arrays for AM/FM/TV/HDTV broadcasting transmission facilities that are licensed by the Federal Communications Commission.

(12) **Collocation**

The practice of installing and operating multiple wireless carriers, service providers, and/or radio common carrier licensees on the same tower or alternative structure using different and separate antenna, feed lines, and radio frequency generating equipment.

(13) **Combined Antenna**

An antenna or an antenna array designed and utilized to provide services for more than one wireless provider, or a single wireless provider utilizing more than one frequency band or spectrum, for the same or similar type of services.

(14) **Concealed**

A Wireless Communication Facility is not readily identifiable as such, and is designed to be aesthetically compatible with the natural environment or existing and proposed building(s) and uses on a site. There are two types of concealed facilities:

(a) **Attached.** Attachment to an alternative structure in a manner that blends with the alternative structure, which may include painted antenna and feed lines to match the color of a building or structure, faux windows, dormers or other architectural features that blend with an existing or proposed building or structure.

(b) **Freestanding.** Freestanding concealed tower, usually having a secondary, obvious function which may include church steeple, windmill, bell tower, clock tower, light standard, flagpole with or without a flag, or tree.

(15) **Development Area**

The area occupied by a Wireless Communication Facility including areas inside or under an antenna-support structure's framework, equipment cabinets, ancillary structures, and/or access ways.

(16) **Discontinued**

Any tower without any mounted transmitting and/or receiving antennas in continued use for a period of 180 consecutive days.

(17) **Distributed Antenna System (DAS)**

A network of smaller, spatially separated antenna nodes and typically installed on either existing or new utility poles and connected to a communications network. A DAS network splits the transmitted signal among several smaller antennas.

(18) **Eligible Facilities Request.**

Modification of an existing tower, or alternative structure supporting a Wireless Communication Facility, that involves collocation of new transmission equipment or removal or replacement of transmission equipment, including structural enhancement of the support structure, but does not include a Substantial Modification.

- (19) **Equipment Compound**  
The fenced-in area surrounding the base station equipment including the areas inside or under a structure's framework and ancillary structures such as equipment necessary to operate the antenna on the structure including cabinets, shelters, pedestals, and other similar structures.
- (20) **Equipment Cabinet**  
Any structure including cabinets, shelters, pedestals, and other similar structures and used exclusively to contain radio or other equipment necessary for the transmission or reception of communication signals.
- (21) **FAA**  
The Federal Aviation Administration.
- (22) **FCC**  
The Federal Communications Commission.
- (23) **Feed Lines**  
Cables used as the interconnecting media between the transmission/receiving base station and the antenna.
- (24) **Flush-Mounted**  
Any antenna or antenna array attached directly to the face of the support structure or building such that no portion of the antenna extends above the height of the support structure or building. Where a maximum flush-mounting distance is given, that distance shall be measured from the outside edge of the support structure or building to the inside edge of the antenna.
- (25) **Geographic Search Ring**  
An area designated by a wireless provider or operator for a new Wireless Communication Facility, produced in accordance with generally accepted principles of wireless engineering.
- (26) **Handoff Candidate**  
A Wireless Communication Facility that receives call transference from another Wireless Communication Facility.
- (27) **Least Visually Obtrusive Profile**  
The design of a Wireless Communication Facility to present a visual profile that is the minimum profile necessary for the facility to properly function.
- (28) **Non-concealed**



A Wireless Communication Facility that is readily identifiable as such and can be either supported by a freestanding Tower or attached to an Alternative Structure.

(29) **Personal Wireless Service**

Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services as defined in the Telecommunications Act of 1996.

(30) **Public Safety Communications Equipment**

All communications equipment utilized by a public entity for the purpose of ensuring the safety its citizens and operating within the frequency range of 700 MHz and 1,000 MHz and any future spectrum allocations at the direction of the FCC.

(31) **Radio Frequency Emissions**

Any electromagnetic radiation or other communications signal emitted from an antenna or antenna-related equipment on the ground, tower, or alternative structure.

(32) **Satellite Earth Station**

A single or group of parabolic or dish antennas mounted to a support device that may be a pole or truss assembly attached to a foundation in the ground, or in some other configuration, including the associated separate equipment cabinets necessary for the transmission or reception of communications signals with satellites.

(33) **Structure**

Anything constructed or erected, the use of which required permanent location on the ground, or attachment to something having a permanent location on the ground, including advertising signs.

(34) **Substantial Modification**

Modification of an existing tower, or alternative structure supporting a wireless communication facility, that substantially changes the physical dimensions of the support structure. A modification is presumed to be a Substantial Modification if it meets any one or more of the following criteria:

(a) Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional Antenna array with separation from the nearest existing Antenna not to exceed 20 feet.

(b) Except where necessary to shelter the Antenna from inclement weather or to connect the Antenna to the structure via cable, adding an appurtenance to the body of the structure that protrudes horizontally from the edge of the structure the greater of (i) more than 20 feet or (ii) more than the width of the structure at the level of the appurtenance.

(c) Excavation or deployment of transmission equipment outside of the current site by more than 30 feet in any direction, excluding any access or utility easements currently related to the site. The boundaries of the current site for existing Towers are the boundaries of the leased or owned property surrounding the Tower and any access or utility easements

currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground. The current boundaries of the site are the boundaries that existed as of the date that the original support structure or a modification to that structure was last reviewed and approved by the Town or other local government.

(d) Involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets.

(e) The modification will not comply with applicable regulations, restrictions, and/or conditions, if any, associated with the prior approval of construction or modification of the tower or alternative structure, unless non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the thresholds of a Substantial Modification.

(35) **Tower**

A new or existing structure that is primarily designed to support or capable of supporting Wireless Communication Facilities. Types of tower structures include the following:

- (a) **Guyed.** A style of tower consisting of a single truss assembly composed of sections with bracing incorporated. The sections are attached to each other, and the assembly is attached to a foundation and supported by a series of wires that are connected to anchors placed in the ground or on a building.
- (b) **Lattice.** A tapered style of tower that consists of vertical and horizontal supports with multiple legs and cross bracing, and metal crossed strips or bars to support Antennas.
- (c) **Monopole.** A style of freestanding tower consisting of a single shaft usually composed of two or more hollow sections that are in turn attached to a foundation. This type of tower is designed to support itself without the use of guy wires or other stabilization devices. These facilities are mounted to a foundation that rests on or in the ground or on a building's roof. All feed lines shall be installed within the shaft of the structure.

Towers do not include any structure used to attach antennas to an existing building, unless the device extends above the highest point of the building by more than twenty feet.

(36) **Tower Base**

The foundation, usually concrete, on which the Tower and other support equipment are situated. For measurement calculations, the Tower Base is that point on the foundation reached by dropping a perpendicular line from the geometric center of the Tower.

(37) **Tower Height**

The vertical distance measured from finished grade to the highest point of the Tower, including any antenna, lighting or other equipment affixed thereto.

(38) **Tower Site**

The land area that contains, or will contain, a proposed Tower, support structures and other related buildings and improvements.

(40) **Wireless Communication Facility**

Equipment at a fixed location for the transmission and/or reception of radio frequency signals or other wireless communications between user equipment and a communications network, and usually consisting of an antenna or group of antennas, transmission cables and equipment cabinets. The following developments shall be deemed a wireless communication facility: new, mitigated, or existing towers, public towers, replacement towers, collocation on existing towers, attached wireless communications facilities, concealed wireless communication facilities, and non-concealed wireless communication facilities.

(D) **EXEMPTIONS**

The following items are exempt from the provisions of this Section:

- (1) Any amateur radio tower less than 50 feet in height or communications towers existing or permitted prior to the adoption of this Section.
- (2) Satellite earth stations that are one meter (39.37 inches) or less in diameter in all residential zoning districts and two meters or less in all other zoning districts.
- (3) A government-owned communications facility, upon the declaration of a state of emergency by federal, state, or local government, and a written determination of public necessity by the Town designee; except that such facility must comply with all federal and state requirements. No communications facility shall be exempt from this Section beyond the duration of the state of emergency.
- (4) A government-owned communications facility erected for the purposes of installing antenna(s) and ancillary equipment necessary to provide communications for public health and safety.
- (5) A temporary, commercial communications facility, for the purposes of providing coverage of a special event such as news coverage or sporting event, subject to approval by the Town, except that such facility must comply with all federal and state requirements. Said communications facility may be exempt from this Section for up to one week following the special event.

(E) **APPLICABILITY**

Unless specifically exempted above, this Section applies to development activity involving the installation, construction, or modification of all Wireless Communication Facilities. This includes but is not limited to:

- (1) Non-commercial, amateur radio station antennas.
- (2) Existing towers.
- (3) Proposed towers.

- (4) Public towers.
- (5) Replacement or consolidation of towers.
- (6) Collocation on existing towers.
- (7) Attached wireless communication facilities.
- (8) Concealed wireless communication facilities.
- (9) Non-concealed towers.
- (10) Broadcast facilities.

(F) **ABANDONMENT (DISCONTINUED USE)**

- (1) Towers, antennas, and the equipment compound shall be removed at the owner's expense should the facility/tower not have active antennas in use for a period of 180 days.
- (2) An owner wishing to extend the time for removal or reactivation shall submit an application stating the reason for such extension. The Town may extend the time for removal or reactivation up to 60 additional days upon a showing of good cause. If the tower or antenna is not removed within this time, the Town may give notice that it will contract for removal within 30 days following written notice to the owner. Thereafter, the Town may cause removal of the tower with costs being borne by the owner.
- (3) Upon removal of the tower, antenna, and equipment compound, the development area shall be returned to its natural state and topography and vegetated consistent with the natural surroundings or consistent with the current uses of the surrounding or adjacent land at the time of removal, excluding the foundation, which does not have to be removed.

(G) **CONFLICT WITH OTHER LAWS OR REGULATIONS**

When the requirements of this Section conflict with the requirements of other lawfully adopted rules, regulations, or ordinances of the Town, State or Federal Government, or deeds restrictions imposed by the developer or subdivider, the more stringent requirements shall govern, except to the extent pre-empted by State or Federal law.

(H) **INTERFERENCE WITH PUBLIC SAFETY COMMUNICATIONS**

In order to facilitate the regulation, placement, and construction of Wireless Communication Facilities, and to ensure that all parties are complying to the fullest extent possible with the rules, regulations, and/or guidelines of the FCC, each owner of a Wireless Communication Facility or applicant for a collocation shall agree in a written statement to the following:

- (1) Compliance with "Good Engineering Practices" as defined by the FCC in its rules and regulations.

- (2) Compliance with FCC regulations regarding susceptibility to radio frequency interference, frequency coordination requirements, general technical standards for power, antenna, bandwidth limitations, frequency stability, transmitter measurements, operating requirements, and any and all other federal statutory and regulatory requirements relating to radio frequency interference (RFI).
- (3) In the case of an application for co-located Wireless Communication Facilities, the applicant, together with the owner of the subject site, shall use their best efforts to provide a composite analysis of all users of the site to determine that the applicant's proposed facilities will not cause radio frequency interference with the Town's public safety communications equipment and will implement appropriate technical measures, as described in antenna element replacements, to attempt to prevent such interference.
- (4) Whenever the Town has encountered radio frequency interference with its public safety communications equipment, and it believes that such interference has been or is being caused by one or more antenna arrays, the following steps shall be taken:
  - (a) The Town shall provide notification to all wireless service providers operating in the Town of possible interference with the public safety communications equipment, and upon such notifications, the owners shall use their best efforts to cooperate and coordinate with the Town and among themselves to investigate and mitigate the interference, if any, utilizing the procedures set forth in the joint wireless industry-public safety "Best Practices Guide," released by the FCC in February 2001, including the "Good Engineering Practices," as may be amended or revised by the FCC from time to time.
  - (b) If any equipment owner fails to cooperate with the Town in complying with the owner's obligations under this section or if the FCC makes a determination of radio frequency interference with the Town public safety communications equipment, the owner who failed to cooperate and/or the owner of the equipment which caused the interference shall be responsible, upon FCC determination of radio frequency interference, for reimbursing the Town for all costs associated with ascertaining and resolving the interference, including but not limited to any engineering studies obtained by the Town to determine the source of the interference. For the purposes of this subsection, failure to cooperate shall include failure to initiate any response or action as described in the "Best Practices Guide" within 24 hours of Town's notification.

(I) **BUILDING CODE REQUIREMENTS**

Towers shall be constructed and maintained in conformance with all applicable building code requirements.

(J) **ZONING PROCESS LEVELS**

Table 3-1 below indicates the zoning process for the different types of tower projects.

**Table 3-1 Process**

| PROCESS LEVEL                                                                                                                                                            | APPROVAL AUTHORITY  | PROCESS TYPE <sup>1</sup> | USE                                                                                                                                                                    |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| I                                                                                                                                                                        | Planning Department | P                         | Amateur radio no greater than fifty (50) feet in height                                                                                                                |
| II                                                                                                                                                                       | Planning Department | TRC                       | DAS network equipment, concealed towers, collocation and Eligible Facilities Requests, attached Wireless Communication Facilities                                      |
| III                                                                                                                                                                      | Town Council        | TC                        | New towers other than those defined as concealed; Collocation or other modifications to existing towers or alternative structures involving a Substantial Modification |
| IV                                                                                                                                                                       | Town Council        | TC                        | Broadcast facilities                                                                                                                                                   |
| Notes:<br>1. P - Permitted by right<br>TRC - Subject to Technical Review Committee approval (staff level)<br>TC - Subject to Special Use Permit approval by Town Council |                     |                           |                                                                                                                                                                        |

(1) **Process Level I**

The Zoning Compliance Permit issued by the Planning Department to an individual, corporation, partnership, or other entity to engage in the creation of amateur radio tower

(2) **Process Level II**

The Zoning Compliance Permit issued by the Planning Department (after Technical Review Committee approval) to an individual, corporation, partnership, or other entity to engage in the installation of DAS network equipment or concealed towers and collocation not qualifying as an Eligible Facilities Request, or attached antennas, base station equipment or antenna element replacements that do not qualify as an Eligible Facilities Request.

(3) **Process Level III**

The Special Use Permit issued by the Planning Department (after public hearing and approval by Town Council) to an individual, corporation, partnership, or other entity to engage in the creation of new towers, excluding amateur radio towers.

(4) **Process Level IV**

The Special Use Permit issued by the Planning Department (after public hearing and approval by Town Council) to an individual, corporation, partnership, or other entity to engage in the creation of new towers, specifically broadcast facilities.

(K) **LOCATING ALTERNATIVES ORDER**

(1) **Locating of New Wireless Communication Facilities & New Towers**

Locating of a new Wireless Communication Facilities and new towers shall be in accordance with the preferred location hierarchy provided in Table 3-2 below.

**Table 3-2 Preferred Location Hierarchy**

| Ranking | Type                                                                                                                                                |
|---------|-----------------------------------------------------------------------------------------------------------------------------------------------------|
| 1       | Concealed or camouflaged attached Wireless Communication Facilities                                                                                 |
| 2       | Collocation on existing tower or Alternative Structure supporting one or more Wireless Communication Facilities, or use of DAS or Combined Antennas |
| 3       | Replacement of existing tower                                                                                                                       |
| 4       | Non-concealed attached Wireless Communication Facilities                                                                                            |
| 5       | Concealed freestanding tower                                                                                                                        |
| 6       | Non-concealed freestanding tower                                                                                                                    |

Where a lower ranked alternative is proposed, the applicant must file relevant information as required including, but not limited to, an affidavit by a radio frequency engineer demonstrating that despite diligent efforts to adhere to the established hierarchy within the geographic search area, higher ranked options are not technically feasible, practical or justified given the location of the proposed Wireless Communication Facility.

(L) **APPLICATION REQUIREMENTS**

All new tower applications shall contain the following:

- (1) Completion of the Town of Clayton's Site Plan and Tower Application.
- (2) Proof that a property and/or tower owner's agent has appropriate authorization to act upon the owner's behalf, if applicable.
- (3) Application Fee.
- (4) Site Plan.

- (5) Written statement indicating that the criteria set forth in Section 155.310 (H) are met.
- (6) Valid FCC license / approval, as applicable.

(M) **GENERAL DEVELOPMENT STANDARDS**

(1) **Visibility**

- (a) New towers shall be configured and located in a manner that shall minimize adverse effects including visual impacts on the landscape and adjacent properties.
- (b) New freestanding towers shall be designed to match adjacent structures and landscapes with specific design considerations such as architectural designs, height, scale, color, and texture.
- (c) A balloon test shall be required in order to demonstrate the proposed height of the new tower. The applicant shall arrange to raise a colored balloon no less than three feet in diameter at the maximum height of the proposed tower, and within fifty horizontal feet of the center of the proposed tower. The applicant shall provide photo simulations of the proposed tower based on the balloon test pursuant to Section 7(n).
- (d) The applicant shall meet the following for the required balloon test:
  - 1. Applicant must inform the Planning Department and abutting property owners in writing of the date and times, including alternative date and times, of the test at least 14 days in advance.
  - 2. The date, time, and location, including alternative date, time and location, of the balloon test shall be advertised in a locally distributed paper by the applicant at least seven but no more than 14 days in advance of the test date.
  - 3. The balloon shall be flown for at least four consecutive hours during daylight hours on the date chosen. The applicant shall record the weather during the balloon test.
  - 4. Re-advertisement will not be required if inclement weather occurs.
- (e) New antenna mounts shall be flush-mounted or camouflaged, unless the applicant's engineer seals and signs an attestation that flush-mounted antennas are not technically feasible for the proposed Tower.
- (f) In residential zoning districts, new towers shall only be considered on lots whose principal use is not residential.

(2) **Construction**

- (a) Grading shall be minimized and limited only to the area necessary for the new Tower and equipment.



- (b) Towers shall be constructed to accommodate antenna arrays as follows:
  - 1. All freestanding towers up to 120 feet in height shall be engineered and constructed to accommodate no less than four antenna arrays.
  - 2. All towers between 121 feet and 150 feet shall be engineered and constructed to accommodate no less than five antenna arrays.
  - 3. All towers between 151 feet and taller shall be engineered and constructed to accommodate no less than six antenna arrays.
- (c) Freestanding non-concealed tower shall be limited to monopole type towers, unless the applicant demonstrates that such design is not feasible to accommodate the intended uses.

(3) **Setbacks**

Freestanding towers and equipment compounds shall be subject to the setbacks described below:

- (a) If the tower has been constructed using breakpoint technology (see 'Definitions'), the minimum setback distance shall be equal to 110 percent (110%) of the distance from the top of the structure to the breakpoint level of the structure, or the minimum side and rear yard requirements, whichever is greater. Certification by a registered professional engineer licensed by the State of North Carolina of the breakpoint design and the design's fall radius must be provided together with the other information required herein from an applicant. (For example, on a 100-foot tall monopole with a breakpoint at 80 feet, the minimum setback distance would be 22 feet (110 percent of 20 feet, the distance from the top of the monopole to the breakpoint) plus the minimum side or rear yard setback requirements for that zoning district.)
- (b) If the tower is not constructed using breakpoint design technology, the minimum setback distance shall be equal to the height of the proposed tower.

(4) **Height**

- (a) Height calculations shall include above ground foundations, including lightning rods or lights required by the FAA that do not provide any support for antennas or communications operations. It is intended that all new non-broadcasting towers be 150 feet or less in height. However, should a Tower be required in excess of 151 feet, under no circumstance shall any tower exceed 300 feet. All new towers in excess of 151 feet shall be subject to the following additional requirements:
  - 1. Evidence that the proposed height is necessary to provide the applicant's designed service.

2. The tower shall be designed to allow for a future reduction of elevation to no more than 150 feet, or the replacement of the tower with a monopole type structure at such time as the wireless network had developed to the point that such heights can be justified.

- (b) New concealed towers shall be limited to 150 feet or less in height. Height calculations shall include above ground foundations and include exclude lightning rods or lights required by the FAA that do not provide any support for antennas.

(5) **Equipment Compound**

- (b) Equipment compounds shall be completely screened from view and shall not be used for the storage of any excess equipment or hazardous materials. No outdoor storage yards shall be allowed in a tower equipment compound. The compound shall not be used as habitable space.

1. Equipment cabinets shall be screened in accordance with Section 155.402(G)(4). Cabinets may be provided within the principal building, behind a screen on a rooftop, or on the ground within the fenced-in and screened equipment compound.

(6) **Parking**

Parking shall be required in accordance Section 155.401(C) of the UDC.

(7) **Fencing**

All equipment compounds shall be screened from view and enclosed with an opaque fence, masonry wall, landscaping, or combination thereof. Alternative equivalent screening may be approved through the site plan approval process described in Section 155.402 of the UDC.

(8) **Buffer**

The equipment compound shall be landscaped with a minimum 10 foot wide perimeter buffer containing the following planting standards:

- (a) All plants and trees shall be indigenous to eastern North Carolina.
- (b) Existing trees and shrubs on the site should be preserved and may be used in lieu of required landscaping with approval from the Planning Department.
- (c) One row of evergreen trees with a minimum two inch caliper, 25 foot on center.
- (d) Evergreen shrubs capable of creating a continuous hedge and obtaining a height of at least five feet shall be planted, minimum three gallon or 24 inches tall at the time of planting, five foot on center.

- (e) Alternative landscaping plans which provide for the same average canopy and understory trees but propose alternative locating on the entire subject property may be considered and approved by the Planning Department, provided the proposed alternative maximizes screening as provided above, and is otherwise consistent with the requirements of Section 155.402 of the UDC.

**(9) Signage**

Commercial messages shall not be displayed on any tower. Required noncommercial signage shall be limited to the following:

- (a) The only signage that is permitted upon a tower, equipment cabinets, or fence shall be informational, and for the purpose of identifying the tower (such as ASR registration number), as well as the party responsible for the operation and maintenance of the facility, and any additional security and/or safety signs as applicable.
- (b) If 220 volts or more is necessary for the operation of the facility and is present in a ground grid or in the tower, signs located every 20 feet and attached to the fence or wall shall display in large, bold, high contrast letters, minimum height of each letter four inches, the following: "HIGH VOLTAGE - DANGER."
- (c) Name plate signage shall be provided, in an easily visible location, including the address and telephone number of the contact to reach in the event of an emergency or equipment malfunction, including property manager signs as applicable.

**(10) Lighting**

Lighting on towers shall not exceed the Federal Aviation Administration (FAA) minimum standards. All other lighting shall be subject to the following.

- (a) Any lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) allowable by the FAA. Dual lighting standards are required and strobe light standards are prohibited unless required by the FAA.
- (b) Lights shall be oriented so as not to project directly onto surrounding property or rights-of-way, consistent with FAA requirements.

**(N) ADDITIONAL REQUIREMENTS FOR LEVEL II and LEVEL III FACILITIES**

**(1) Requirements for all Level II Facilities:**

- (a) Compliance with American National Standards Institute (ANSI) standards for electromagnetic radiation: In order to protect the public from excessive exposure to electromagnetic radiation, the facility applicant shall certify through a written

statement that the facility meets or exceeds current ANSI standards as adopted by the FCC.

- (b) Certification furnished by a registered professional engineer licensed in the State of North Carolina that the structure has sufficient structural integrity to support the proposed antenna and feed lines in addition to all other equipment located or mounted on the structure.
- (c) One original and two copies of a survey of the property completed by a registered professional surveyor, licensed in the State of North Carolina showing all existing uses, structures, and improvements.
- (d) Any applicant for facilities under this section shall certify that such proposed facility shall comply with all applicable federal regulations regarding interference protection, including but not limited to federal regulations regarding adjacent channel receiver (blanket) overload and intermodulation distortion.

**(2) Collocation & Combination (Level II)**

The Town requires collocation and combining of antennas on existing communications towers as a first priority where collocation is possible. Collocations are subject to the following additional requirements:

- (a) A collocated or combined antenna or antenna array shall not increase the height of an existing tower by more than 10 percent or 20 feet, whichever is greater.
- (b) New antenna mounts shall be flush-mounted or camouflaged onto existing structures, unless the applicant's engineer seals and signs an attestation that flush-mounted antennas are not technically feasible for the proposed collocation .
- (c) The equipment cabinet shall be subject to the setback requirements of the underlying zoning district.
- (d) When a collocated or combined antenna is to be located on a nonconforming building or structure, then the existing permitted nonconforming setback shall prevail.
- (e) Collocation and eligible facilities requests of wireless support structures described in Section 160D-934 North Carolina General Statutes, shall meet all the following requirements:
  - 1. Shall not involve installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets.
  - 2. The proposed collocation shall not increase the overall height of the tower or alternative structure to which the proposed infrastructure is to be attached by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.

3. Excavation or deployment of transmission equipment outside of the current site by more than 30 feet in any direction, excluding any access or utility easements currently related to the site.
  4. The collocation shall not, except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, add an appurtenance to the body of a communications tower that protrudes horizontally from the edge of the tower the greater of (i) more than 20 feet or (ii) more than the width of the tower at the level of the appurtenance increase.
  5. The existing tower on which the collocation will attach shall comply with applicable regulations, restrictions, and/or conditions, if any, associated with the prior approval of construction or modification of the tower or alternative structure, unless non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the thresholds of a Substantial Modification.
  6. The proposed additional collocation and tower shall comply with all federal, state, and local safety requirements.
  7. The proposed collocation and ancillary equipment shall not exceed the applicable weight limits for the tower.
- (f) Applications for collocation entitled to processing pursuant to Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 USC §1445(a)) shall be approved provided they meet the following requirements:
1. A collocation on an existing antenna-supporting structure shall not increase the overall height of the antenna-supporting structure, antenna and/or antenna array more than 10% or 20 feet, whichever is greater, and shall not cause the width (girth) of the structure to be increased more than 20 feet or the existing girth of the structure, whichever is greater.
  2. Any collocation on an existing antenna-supporting structure shall meet current building code requirements (including windloading).
  3. A collocation shall not add more than four additional equipment cabinets.
  4. A collocation shall not require excavation more than 30 feet outside of the existing leased or owned parcel.
  5. Proposed collocations that do not meet these standards shall be processed as a Level III application.
- (g) Collocation approvals entitled to processing pursuant to Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 USC §1445(a)) are subject to the following:

1. A collocation application shall be deemed complete unless the Town notifies the applicant within 45 days of submission (or within some other mutually agreed upon timeframe) that the submission is incomplete. Notices of application incompleteness shall identify the deficiencies in the application which, if cured, would make the application complete. Approval or denial of a complete application shall be in writing and shall be postmarked to the applicant by the 45<sup>th</sup> day after the submission is deemed complete.
2. Upon resubmitting of the revised application the Town shall follow the process identified in this section, above, until all deficiencies identified are deemed cured.
3. If the Town does not respond in writing to the applicant within the specified timeframe detailed above, then the application shall be deemed approved.
4. Applications subject to this review process shall not be subject to design or placement requirement, or public hearing review. All applications shall be initially submitted to the Planning Department for review and processing.

- (h) New concealed and non-concealed towers shall be reviewed and have a decision rendered within 150 days of receipt of the application.

**(3) Attachment: Concealed & Non-Concealed (Level II)**

Antennas may be mounted onto a structure which is not primarily constructed for the purpose of holding attachment antennas but on which one or more antennas may be mounted. Attached antenna shall be subject to the following:

- (a) The top of the attached antenna shall not be more than 20 feet above the existing or proposed building or structure
- (b) Non-concealed attachments shall only be allowed on electrical transmission towers and existing light stanchions subject to approval by the Technical Review Committee and utility company.
- (c) When an attached antenna is to be located on a nonconforming building or structure, the existing permitted nonconforming setback shall prevail.
- (d) Except for non-concealed attached antennas, feed lines and antennas shall be designed to architecturally match the façade, roof, wall, and/or structure on which they are affixed so that they blend with the existing structural design, color, and texture.

**(4) Antenna Element Replacement (Level II)**

For any replacement of an existing antenna element on an antenna, the applicant must, prior to making such modifications, submit the following:

- (a) A description of the proposed modifications to the antenna, including modifications to antenna element design, type and number, as well as changes in the number and/or size of any feed lines, from the base of the equipment cabinet to such antenna elements.
  - (b) A signed statement from a qualified person, together with their qualifications, shall be included representing the tower's owner or owner's agent that the radio frequency emissions comply with FCC standards for such emissions. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the replacement antenna complies with FCC standards.
  - (c) A stamped or sealed structural analysis of the existing structure prepared by a registered professional engineer licensed by the State of North Carolina indicating that the existing tower as well as all existing and proposed appurtenances meets North Carolina Uniform Statewide Building Code (USBC) requirements, including wind loading, for the antenna support structure.
- (5) **DAS Equipment and Small Cell (as applicable) (Level II)**

(c) ***System Design Review***

A DAS applicant, prior to its initial application for a DAS facility, shall furnish an overall system design application to the Planning Department for review and approval by the Technical Review Committee. The system design application shall include the following information:

1. A statement of the identity and number of wireless services providers that will utilize the DAS systems;
2. A statement that the DAS system will be capable of accommodating at least eight (8) wireless service providers on the proposed system
3. A graphic depiction of the conceptual plan for the proposed total area of service coverage by the DAS system;
4. A statement of the number of handoff facilities for the DAS system;
5. A proposed build-out timeline and graphic depiction of the build-out phases through completion.

(b) ***Equipment Design Review***

A DAS applicant, prior to its initial application for a DAS facility, shall furnish an equipment design application to the Planning Department for review and approval by the Technical Review Committee. The equipment design application shall include the following information for each proposed design:

1. Elevation of the antenna and/or antenna support structure to include the following proposed dimensions: height, width and breadth. Height shall include the base, the antenna support structure, and lightning rod.
2. Elevation views of any security barrier or equipment compound, indicating architectural design, exterior appearance and materials, including color.
3. Mounting location on antenna support structure or building, including height AGL).
4. Identification of all mounting frames, arms, brackets or other devices or equipment used to hold antennas and other equipment in place.
5. Equipment brochures or drawings for the proposed facility, shall be provided for antennas, support structures/mounts, equipment shelters, feed lines and security barrier, if any.
6. Photo-simulated post-construction renderings of a sampling of completed proposed DAS facilities, equipment compound and/or equipment cabinets, ancillary structures, and landscaping, if any, from locations determined at the pre-application conference. The views shall incorporate before and after scenarios, a scaled color image of the proposed type of facility, an aerial map with the location of the selected views, and a description of the technical approach used to create the photo simulations. The simulations shall include a minimum of four vantage points (north, south, east, and west).
7. Individual sample site plan (no larger than 24 inches by 36 inches with an 8½ inch by 11 inch reduced copy) prepared and certified by a North Carolina-licensed professional engineer shall include all information listed on the DAS application checklist, and including existing or proposed public rights-of-ways, private roads and/or access easements through, on, or adjacent to the subject property.
8. Applicants should submit the information required by subsections (1) through (7) above for each design, if multiple designs are proposed.

(c) ***Individual Component Application and Approval***

Following approval of the DAS system design and DAS equipment design by the Technical Review Committee, a DAS applicant shall submit applications for individual DAS installations to the Planning Department for administrative approval provided the individual application provides documentation certifying it is consistent with the system design and equipment design standards previously approved in subsections (a) and (b) above.

(6) **Replacement of Existing Towers**



For a replacement of an existing tower with a new structure, the applicant must submit the following items outlined in subsection (7) below for new towers, including items (c) through (h), (k) through (p) and (r).

- (a) The height of a tower approved for replacement shall not exceed one hundred and fifteen percent (115%) of the height of the tallest tower that is being replaced or consolidated.

(b) ***Level III***

The height of a tower may exceed one hundred and fifteen percent (115%) of the height of the tallest tower that is being replaced or consolidated with evidence that the Tower height is necessary to provide the applicant's designed service. Under no circumstance shall any mitigated tower exceed a height of 300 feet.

2. Height & Setbacks

A new tower approved for replacement of an existing tower shall not exceed one hundred and fifteen percent (115%) of the height of the existing tower and shall not be required to meet new setback standards so long as the new tower and its equipment compound are no closer to any property lines or dwelling units as the tower and equipment co

mpound being replaced. The intent is to encourage the replacement process, not penalize the tower owner for the change out of the old facility.

1. Buffers

At the time of replacement, the tower equipment compound shall be brought into compliance with any applicable buffer requirements.

2. Visibility

Replacement towers shall be configured and located in a manner that minimizes adverse effects on the landscape and adjacent properties, with specific design considerations as to height, scale, color, texture, and architectural design of the buildings on the same and adjacent zoned lots.

(7) **New Towers (Level III)**

All new towers shall submit the following addition information as a part of a complete application:

- (d) A report and supporting technical data shall be submitted, demonstrating the following:

1. All antenna attachments and collocations, including all potentially useable cross country utility distribution towers and other elevated structures within the Geographic Search Ring have been examined, and found unacceptable.
2. Reasoning as to why existing facilities such as cross country utility distribution and other elevated structures are not acceptable alternatives to a new freestanding tower.
3. Reasoning as to why the adequacy of alternative existing facilities or the mitigation of existing facilities are not technically or commercially feasible and that no existing communications facility could accommodate the applicant's proposed facility shall consist of any of the following:
  - B. No existing towers located within the Geographic Search Ring meet the applicant's engineering requirements, and why.
  - C. Existing towers are not of sufficient height to meet the applicant's engineering requirements, and cannot be mitigated to increase in height.
  - D. Existing towers do not have sufficient structural integrity to support the applicant's proposed wireless communications facilities and related equipment, and the existing facility cannot be sufficiently improved.
  - E. Other limiting factors that render collocation technically or commercially impractical, or the owner of the existing structure is unwilling to enter into a contract for such use at fair market value.
- (b) Signed statement from a qualified person, together with their qualifications, shall be included that warrants radio frequency emissions from the antenna array(s) comply with FCC standards. The statement shall also certify that both individually and cumulatively the replacement antenna complies with FCC standards.
- (c) A stamped or sealed structural analysis of the proposed tower prepared by a registered professional engineer licensed by the State of North Carolina indicating the proposed and future loading capacity of the tower is compliant with EIA/TIA-222-G (as amended) for either Johnston or Wake County, North Carolina, as appropriate.
- (d) An affidavit by a radio frequency engineer demonstrating compliance with 'Locating Alternatives Order' located in Section 155.310(K) above. If a lower ranking alternative is proposed the affidavit must address why higher ranked options are not technically feasible, practical, and/or justified given the location of the proposed communications facility.
- (e) Statement as to the potential visual and aesthetic impacts of the proposed tower and equipment on all adjacent residential zoning districts.
- (f) Written statement by a registered professional engineer licensed by the State of North Carolina specifying the design structural failure modes of the proposed facility.

- (g) Statement certifying that sound levels shall not exceed seventy decibels (70 db) at the related property line.
- (h) A map showing the Geographic Search Ring.
- (i) Signed and sealed certification from the applicant's radio frequency (RF) engineer that the proposed facility cannot be achieved by any higher ranked alternative such as a concealed facility, attached facility, replacement facility, collocation, or new tower.
- (j) One original and two copies of a survey of the property completed by a registered professional engineer, licensed in the State of North Carolina showing all existing uses, structures, and improvements.
- (k) Signed and sealed site plans shall include the following:
  - 1. Name of project and date.
  - 2. Deed Book, and Page and Map Book and Page Reference.
  - 3. Scale, north arrow, and vicinity map.
  - 4. Subject property information including zoning, watershed classification, and percent coverage of lot to be impervious surface (if located in a designated watershed area).
  - 5. Adjacent property information, including land owners, land uses, height of principal building, size of lots, zoning, and land use designation.
  - 6. Tower elevations.
  - 7. Landscape buffering plans.
  - 8. Maximum height of the proposed Tower and proposed and future mounting elevations of future antenna, including individual measurement of the base, the tower, and lightning rod.
  - 9. Location, classification, and size of all major public or private streets and rights-of-way.
  - 10. Identify adjacent features within 500 feet of property boundary including driveways, public parking areas, pedestrian ways, trails, and any other pertinent features.
  - 11. Two reduced copies (8½"×11"), of the foregoing preliminary grading plans may be included on site plans or separately submitted in equal quantities.
- (e) Title report or American Land Title Association (A.L.T.A.) survey showing all easements on the subject property, together with a full legal description of the property.

- (l) List of adjacent property owners and keyed to the map. The list must be from the most current ownership information supplied by the appropriate County Tax Department, together with two sets of mailing labels for such property owners. Applicant will also provide a notarized Certification Letter stating the ownership list referenced herein is accurate to the best of the applicant's ability.
- (m) Simulated photographic evidence of the proposed tower and antenna appearance from any and all residential areas within 1,500 feet and vantage points approved by the Planning Department including the facility types the applicant has considered and the impact on adjacent properties. The simulations shall include depictions of:
  - 1. Overall height
  - 2. Configuration
  - 3. Physical location
  - 4. Mass and scale
  - 5. Materials and color
  - 6. Illumination
  - 7. Architectural design
- (n) All other documentation, evidence, or materials necessary to demonstrate compliance with the applicable approval criteria set forth in this Section.
- (o) A pre-application conference will be required for any new tower. The applicant shall demonstrate that the following notice was mailed (via certified mail) to all other wireless service providers licensed to provide service within the Town as indicated on the list of wireless service providers provided by the Town:

"Pursuant to the requirements set forth in Section 155.310 of the Town of Clayton Unified Development Code, [TOWER PROVIDER] is hereby providing you with notice of our intent to meet with the Town Staff in a pre-application conference to discuss the location of a free-standing wireless communication facility that would be located at \_\_\_\_\_ (physical address, latitude and longitude (NAD-83)). In general, we plan to construct a tower of \_\_\_\_\_ feet in height for the purpose of providing \_\_\_\_\_ (type of wireless service) \_\_\_\_\_. Please inform the Town staff if you have any desire for placing additional Wireless Communication Facilities or equipment within two miles of our proposed Tower. Please provide us with this information within 20 business days after the date of this letter. Your cooperation is sincerely appreciated.

Sincerely, (pre-application applicant, wireless provider)"

- (p) Prior to issuance of a building permit, proof of FAA compliance with Subpart C of the Federal Aviation Regulations, Part 77, and "Objects Affecting Navigable Airspace," if applicable.

(O) **ADDITIONAL REQUIREMENTS FOR LEVEL IV (BROADCAST) FACILITIES**

(2) **Broadcast Facilities**

All new broadcast facilities shall submit the following addition information as a part of a complete application:

- (a) Technical data included in the report shall include the purpose of the proposed facility as described in the FCC Construction Permit Application.
- (b) Signed statement from a qualified person, together with their qualifications, shall be included that warrants radio frequency emissions from the antenna array(s) comply with FCC standards regarding interference to other radio services. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the replacement antenna complies with FCC standards regarding human exposure to RF energy.
- (c) A stamped or sealed structural analysis of the proposed tower prepared by a registered professional engineer licensed by the State of North Carolina indicating the proposed and future loading capacity of the tower is compliant with EIA/TIA-222-G (as amended) for either Johnston or Wake County, North Carolina, as appropriate.
- (d) Statement certifying that no unusual sound emissions such as alarms, bells, buzzers, or the like are permitted. Emergency Generators are permitted. Sound levels shall not exceed seventy decibels (70 db).
- (e) One original and two copies of a survey of the property completed by a registered professional engineer, licensed in the State of North Carolina showing all existing uses, structures, and improvements.
- (f) Six sets (24"×36") of signed and sealed site plans shall include the following:
  - 1. Name of project and date
  - 2. Deed Book, and Page and Map Book and Page Reference
  - 3. Scale, north arrow, and vicinity map
  - 4. Subject property information including zoning, watershed classification, percent coverage of lot to be impervious surface (if located in a designated watershed area)
  - 5. Adjacent property information including land owners, land uses, height of principal building, size of lots, and existing zoning and land use

6. Landscape buffering plans
  7. Maximum height of the proposed tower and/or antenna, including individual measurements of the base, tower, and lightning rod
  8. Location, classification, and size of all major public or private streets and rights-of-way
  9. Identify adjacent features within 500 feet of property boundary including driveways, public parking areas, pedestrian ways, trails, and any other pertinent features
  10. Two reduced copies (8½"×11"), of the foregoing preliminary grading plans may be included on site plans or separately submitted in equal quantities.
  11. Structure elevations
- (g) Title report or American Land Title Association (A.L.T.A.) survey showing all easements on the subject property, together with a full legal description of the property.
- (h) List of property owners within 1,000 feet in residential zoning districts and 500 feet in all other zoning districts and keyed to the map. The list must be from the most current ownership information supplied by the appropriate County Tax Department, together with two sets of mailing labels for such property owners. Applicant will also provide a notarized Certification Letter stating the ownership list referenced herein is accurate to the best of the applicant's ability.
- (i) A pre-application conference will be required for any new broadcast facility.
- (j) Prior to issuance of a building permit, proof of FAA compliance with Subpart C of the Federal Aviation Regulations, Part 77, and "Objects Affecting Navigable Airspace," if applicable.
- (2) **Supplemental Requirements for Broadcast Facilities**

All new broadcast facilities shall meet the following supplemental requirements:

(a) ***Determination of Need***

No new broadcast facilities shall be permitted unless the applicant demonstrates that no existing broadcast tower can accommodate the applicant's proposed use.

(b) ***Height***

Height for broadcast facilities shall be evaluated on a case by case basis. The determination of height contained in the applicant's FCC Form 351/352 Construction Permit or application for Construction Permit and an FAA Determination of No Hazard

(FAA Form 7460/2) shall be considered prima facie evidence of the tower height required for such broadcast facilities.

(c) ***Setbacks***

New broadcast facilities and anchors shall be subject to the setbacks described below:

1. Minimum of 500 feet from any single-family dwelling unit on same lot.
1. Minimum of one foot for every one feet of tower height from all adjacent lots of record.

(d) ***Equipment Cabinets***

Except for AM broadcast facilities, cabinets shall not be visible from pedestrian and right-of-way views.

(e) ***Fencing***

All broadcast facility towers, AM antenna(s) towers, and guy anchors shall each be surrounded with an anti-climbing fence compliant with applicable FCC regulations.

(f) ***Buffer***

Except for AM broadcast facilities, it is the intent that all pedestrian views from public rights-of-way and adjacent residential land uses be screened from proposed broadcast facilities using existing vegetation or be landscaped with a minimum 10 foot wide perimeter buffer containing the following planting standards:

1. All plants and trees shall be indigenous to this part of North Carolina.
2. Existing trees and shrubs on the site should be preserved and may be used in lieu of required landscaping where approved by the Planning Department.
3. One Row of evergreen trees with a minimum two inches caliper, 25 foot on center.
4. Evergreen shrubs capable of creating a continuous hedge and obtaining a height of at least five feet shall be planted, minimum three gallon or 24 inches tall at the time of planting, five foot on center.
5. Alternative landscaping plans which provide for the same average canopy and understory trees but propose alternative locating on the entire subject property may be considered and approved by the Planning Department, provided the proposed alternative maximizes screening as provided above, and is otherwise consistent with the requirements of this section.

(P) **ADMINISTRATION, ENFORCEMENT, AND PENALTIES**

(1) **Administration**

This Section shall be administered and enforced by the Planning Director or designee. The Town may, through contract, secure the professional services of telecommunications consultants to assist Town staff in the implementation of this Section. Such professional services include, but are not limited to, review and evaluation of permit applications, determination of compliance with existing and proposed Federal regulations, minimization of the aesthetic impact, review of the technical data and expert testimony as needed.

(2) **Enforcement and Penalties**

If the Planning Director or designee shall find that any of the provisions of this Section are being violated, it shall notify in writing the person responsible for the violation, specifying the nature of the violation and what corrective measures must be taken. The Planning Director or designee shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by law to insure compliance with or to prevent violation of the provisions of this Section.

(3) **Penalties**

Any person failing to take corrective action within a reasonable time after receiving written notice from the Planning Department and any person operating a communications Tower without a valid permit shall be guilty of a misdemeanor and subject to the enforcement provisions listed in Section 155.720 of the Unified Development Code.

(4) **Fees**

The Town Council shall set a fee, payable to the Town to cover the necessary processing cost of all Communications Tower Permits. The set fee shall be posted in the Town's Comprehensive List of Fees and Charges.

(5) **Supplemental Review**

The Town reserves the right to require a supplemental review for any Process Level (I, II, III, or IV) subject to the following:

- (a) Where due to the complexity of the methodology or analysis required to review an application for a Process Level (I, II, III or IV), the Town may require the applicant to pay for a technical review by a third party expert, the costs of which shall be borne by the applicant and be in addition to other applicable fees. Schedules of current fees are listed in the Town Fee Schedule.
- (b) Based on the results of the expert review, the approving authority may require changes to the applicant's application or submittals.
- (c) The supplemental review may address any or all of the following:



1. The accuracy and completeness of the application and any accompanying documentation.
2. The applicability of analysis techniques and methodologies.
3. The validity of conclusions reached.
4. Whether the proposed Wireless Communication Facility complies with the applicable approval criteria set forth in these codes.
5. Other items deemed by the Town to be relevant to determining whether a proposed communications facility complies with the provisions of these codes.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-05-02, passed 5-7-07; Am. Ord. 2007-05-03, passed 5-7-07; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12)

(Ord. 2013-10-02, passed 10-7-13; Ord. 2017-04-06, approved 04/03/2017)

## ARTICLE 4: GENERAL DEVELOPMENT STANDARDS

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### § 155.400 ACCESS

#### (A) PURPOSE AND INTENT

It is the intent of this Section to establish procedures and design standards for driveways and access points to promote efficiency and safety of the connecting street system, support operations of the surrounding pedestrian and bicycle network, ensure safe roadway access to all parcels and lots, and promote a vibrant and attractive streetscape character. These procedures and standards are intended to preserve and enhance the character of the community, and protect the health, safety and general welfare of Clayton's residents.

#### (B) ACCESS

For the purposes of this Section, access means the point or points of ingress and egress from a development or parcel to the existing right-of-way network.

**(C) ACCESS REQUIRED**

- (1) Except as provided in paragraph(c)(2) below, no principal building, structure, or use may be erected or established on any lot which does not abut at least 30 feet on a street that is publicly-dedicated and maintained by the Town or the North Carolina Department Of Transportation (NCDOT).
- (2) The Board of Adjustment may authorize, as a Variance, alternative driveway access when:
  - (a) The effect of such application would be to deprive the parcel of reasonable access; or
  - (b) The size, configuration, or lack of frontage makes alternatives infeasible.
  - (c) At a minimum, entrances and exits, except those associated with a single-family residential use, shall be subject to the dimensional standards provided in Table 4-1 below.

**TABLE 4-1 –DIMENSIONAL STANDARDS OF ACCESS WAYS**

| Min. Entrance/Exit Width                                                                                                                                                                                                                                | Feet <sup>(1)</sup> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| One-Way                                                                                                                                                                                                                                                 | 15                  |
| Two-Way without median                                                                                                                                                                                                                                  | 25 (35 maximum)     |
| Two-way with median                                                                                                                                                                                                                                     | 40 <sup>(2)</sup>   |
| <b>Right Turn Radius <sup>(3)</sup></b>                                                                                                                                                                                                                 |                     |
| Minimum                                                                                                                                                                                                                                                 | 25                  |
| Maximum                                                                                                                                                                                                                                                 | 30                  |
| <b>Notes:</b>                                                                                                                                                                                                                                           |                     |
| 1. All entrances and exits are subject to approval by the Town of Clayton and/or NCDOT. Widths exceeding these standards by up to 20% may be approved by the Planning Director or Town Engineer, depending on the use. Elsewise a Variance is required. |                     |
| 2. Width excludes median. 20 foot unobstructed pavement required on both sides of median, excluding landscape islands.                                                                                                                                  |                     |

**(D) COMPLIANCE WITH LOCAL AND STATE REQUIREMENTS**

- (1) Prior to beginning any construction, permits necessary to connect to the right-of-way network of the Town or State shall be secured. Driveway connections to individual residences are generally excluded from this requirement, but may be necessary if a safety concern is identified.
- (2) Failure to secure necessary permits prior to construction may result in the removal of the driveways and/or denial of access at that location.
- (3) A Certificate of Occupancy shall not be issued until the access requirements of this Chapter have been met.

(E) **ACCESS TO RESIDENTIAL SUBDIVISIONS**

- (1) When a residential subdivision borders on or contains a major thoroughfare, direct driveway access from lots within the subdivision onto the thoroughfare shall not be permitted.
- (2) In order to accommodate emergency and service vehicles, the following standards shall apply:
  - (a) Any residential subdivision of greater than 30 lots shall include at least two separate and constructed access points.
  - (b) Residential subdivisions of 300 or more lots shall provide at least three separate and constructed access points. Where three or more access points are required, the Town Council may waive the requirement for immediate construction of more than two access points, provided that subdivision phasing and design illustrates the additional required connections. Street stub-outs to adjacent undeveloped properties shall be provided as deemed appropriate. Stub-outs to adjacent undeveloped properties shall not count towards the minimum number of required access points. All stub-outs shall be constructed to the property line.
  - (c) Street connections shall be made to existing stub-outs on adjacent developed properties. These street connections may count towards the minimum number of required access points.
  - (d) All required access points outlined in this section shall be constructed prior to plat recordation of the phase in which the access points are located.
  - (e) A waiver of the standards of this subsection may be allowed by the Town Council pursuant to the standards of §155.706(1)(6) only in instances where limited frontage, natural features (slope, topography), or similar circumstances preclude the required connections and there is no substantial impact noted regarding emergency service delivery.

(F) **MULTI-FAMILY RESIDENTIAL DEVELOPMENTS**

- (a) Multi-Family projects having more than 100 dwelling units shall provide at least two separate and constructed access points. Required access points shall be constructed prior to issuance of the first Certificate of Occupancy for the phase in which they are located.

(G) **RESIDENTIAL DRIVEWAY STANDARDS**

Residential driveway access to and from streets shall be constructed in accordance with Town standards as outlined below:

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(1) **Design**

The standard residential driveway access for the Town shall be a "ramp" type driveway section. Ramp-type driveways shall be constructed in accordance with Town standards and specifications as outlined in the Town's *Engineering Design Manual*.

(2) **Width**

The width of a residential driveway shall be no less than ten feet and no more than 24 feet. When two residential driveways coincide along a property line, the maximum width of both driveways combined shall not exceed 24 feet.

(3) **Number**

The number of driveway access points servicing a residential lot should be limited to one. In no instance shall there be more than two residential driveway access points servicing the lot.

(4) **Setbacks**

- (a) Residential driveways shall be spaced at least 20 feet from any other driveway on the same lot.
- (b) Driveways shall be no closer than three and one-half feet to any lot line, except where two residential driveways coincide along the same lot line.
- (c) The minimum corner clearance from the curb line or edge of pavement of intersecting streets shall be at least 20 feet from the point of tangency of the radius curvature, or 20 feet from the intersection of right-of-way lines, whichever is greater.
- (d) The radius of the driveway shall not encroach on the minimum corner clearance.

(H) **NON-RESIDENTIAL DRIVEWAY STANDARDS**

(1) **Design**

Non-residential driveway access to and from streets shall be constructed in accordance with the standards and specifications provided in the manual, *Policy on Street and Driveway Access to North Carolina Highways*, as adopted and amended by NCDOT.

(2) **Number**

- (a) For any development, the number of driveway access points may be restricted where it is necessary for purposes of decreasing traffic congestion or hazards. These restrictions may include required common access points.
- (b) Approval of driveway access between a lot and the right-of-way at an interval less than those specified by the *Policy on Street and Driveway Access to North Carolina Highways*

manual, as adopted and amended by NCDOT, may be granted only by review and recommendation of the Town Engineer and NCDOT.

(3) **Outparcels**

Outparcels shall take access from within the development, where possible.

(I) **CROSS ACCESS CONNECTIONS**

- (1) Internal driveway connections to adjacent existing or future development shall be provided for residential and commercial development, and clearly identified. All driveway connections shall be constructed and stubbed to the property line, and future development of adjacent property shall complete a connection to any existing stub.
- (2) Access easements may be required to ensure outparcels or adjacent developments have adequate access if ownership patterns change.

(J) **SHARED ACCESS**

A shared access easement may be required between adjacent lots fronting on a thoroughfare in order to minimize the total number of access points along those streets and to facilitate traffic flow between lots.

(K) **CLOSURE OR RELOCATION OF EXISTING ACCESS POINTS**

- (1) The Planning Board or Town Council, in conjunction with NCDOT, shall have the authority to require the closure or relocation of existing access points where multiple access points to the site are available.
- (2) The Planning Board or Town Council may approve the closure of driveway access in those cases where adjoining parcels are subsequently developed with a residential use.

(L) **VISIBILITY AT INTERSECTIONS**

- (1) On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of 30 inches and ten feet in a triangular area formed by a diagonal line between two points on the right-of-way lines, 20 feet from where they intersect.
- (2) Adequate sight distance should be provided at all driveway access points and shall be in accordance with the standards provided in the manual, *Policy on Street and Driveway Access to North Carolina Highways*, as adopted and amended by the NCDOT.

(M) **THOROUGHFARE OVERLAY DISTRICT**

In addition to the standards set forth in this Section, driveways to be constructed within a Thoroughfare Overlay District are subject to the additional standards set forth in § 155.204(A).

(N) **SIDEWALKS**

- (1) All sidewalks associated with a residential subdivision shall be required as outlined in Article 6 of this chapter.
- (2) All residential and non-residential development projects not associated with a residential subdivision shall be required to install sidewalks and curb-and-gutter along all property lines with road frontage. If there is no existing sidewalk within 300' of the proposed development project, a fee-in-lieu of sidewalk may be accepted.
- (3) If fee-in-lieu of sidewalk is made, an Engineer's estimate for fee-in-lieu shall be provided to the Town's Engineering department for review. Fee-in-lieu shall be paid for sidewalks prior to issuance of building permits.
- (4) Sidewalks shall be installed prior to issuance of a Certificate of Occupancy for the development.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2013-09-03, passed 9-3-13)



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## § 155.401 OFF-STREET PARKING AND LOADING

### (A) PURPOSE AND INTENT

The purpose of this Section is to ensure the provision of off-street parking, loading, queuing and on-site circulation is in proportion to the demand created by each use. By requiring such facilities, it is the intent of the Town to ensure the provision of functional and safe off-street parking, loading, queuing, and on-site circulation.

### (B) APPLICABILITY

The standards of this Section shall apply to all new development or existing development that is modified to the extent that it includes uses or site design features that were not specifically shown on previously approved plans. All off-street parking areas shall be maintained in accordance with this Section. No Certificate of Occupancy shall be issued until the requirements of this Section are met.

- (1) All required off-street parking shall be provided on the same lot as the principal use, except developments with common parking lots and as provided in §155.401(C)(4)(d), Shared Parking. The location of required off-street parking spaces shall not interfere with normal vehicular, bicycle and pedestrian traffic flow or with the operation of queuing and backup areas. Loading areas shall not obstruct pedestrian pathways.
- (2) With the exception of the restriping of a parking area or other vehicular use area which does not result in a reconfiguration of the parking spaces, any modification to existing off-street parking and loading facilities shall conform to the requirements of this Section.
- (3) No land shall be developed as a parking area or parking garage without an approved site plan issued in accordance with § 155.707 or a Zoning Permit in accordance with § 155.709.
- (4) Buildings and uses lawfully existing as of the effective date of this chapter may be redeveloped, renovated or repaired without providing additional off-street parking and loading facilities, provided there is no increase in gross floor area or change in use of existing floor area that would increase parking demands.
- (5) Where a vehicular use area existed as of the effective date of this Chapter, and such building is enlarged in gross floor area or impervious area by less than 10% or 2,000 square feet, whichever is less, the off-street parking and loading requirements as specified in this Section shall only be required for the enlarged area.
- (6) A change in use of a building or of a use existing as of the effective date of this Chapter shall require additional off-street parking and loading facilities to comply with the requirements of this Section for the new use unless the new use has the same parking requirement or a lesser requirement than the previous use.

- (7) Parking required within an Overlay District is subject to the provisions of this Section, except that regulations within § 155.204 (Overlay Districts) shall supersede and may be either more or less restrictive than the regulations for parking contained in this Section.
- (8) In the Downtown Overlay District, the Planning Director may allow a new use to be established, or existing structure expansion even if off-street parking and loading requirements of this Section cannot be met for the new use, provided that as much off-street parking and loading as can reasonably be provided is provided, and no foreseeable traffic congestion problems will be created.

## **PART 1. PARKING STANDARDS**

### **(C) OFF-STREET PARKING REQUIREMENTS**

#### **(1) Computing Parking Standards**

- (a) Developments containing more than one use shall provide parking spaces in an amount equal to the total of the requirements for all uses.
- (b) Off-street parking requirements that are based on square footage shall be computed using Gross Floor Area (GFA), unless another measurement is specifically called for in this Section.
- (c) Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.
- (d) The parking space requirements for a use not specifically listed in the Table 4-2 below shall be the same as for the listed use deemed most similar to the proposed use by the Planning Director.
- (e) In residential districts in which garage space is provided, the garage space may be considered in determining whether required parking has been met.

#### **(2) Minimum Parking Requirements**

Off-street vehicular and bicycle parking spaces shall be provided in accordance with Table 4-2, Minimum Off-Street Parking Requirements. An alternative parking plan with data submitted in support of higher or lower ratios in accordance with § 155.401(C)(4) may be submitted to support variations to the requirements below. 1. For bicycle parking, the minimum required parking shall be two bicycle parking spaces (or one rack) unless “no requirement” is listed in the table.

**TABLE 4-2 MINIMUM OFF-STREET PARKING REQUIREMENTS**

| Use Type                                                                                | Parking Ratio                                                                                                                                               | Bicycle Parking Ratio                         |
|-----------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|
| <b>Residential Uses</b>                                                                 |                                                                                                                                                             |                                               |
| Accessory Dwelling                                                                      | 1 space per unit                                                                                                                                            | None                                          |
| Farm Residence                                                                          | 2 spaces per unit                                                                                                                                           | None                                          |
| Farm Worker Quarters                                                                    | 1 space per 4 units or                                                                                                                                      | None                                          |
| Guest Cottage                                                                           | 1 space per cottage                                                                                                                                         | None                                          |
| Home Occupation                                                                         | N/A                                                                                                                                                         | None                                          |
| Multi-Family (including Apartments and Manufactured Home Parks)                         | 1 space per studio or 1 bedroom unit;<br>2 spaces per unit (two bedrooms or more);<br>plus 1 guest parking space per 4 units                                | 1 rack per building or 1 per 50 units*        |
| Nursing Home (Congregate Living Facility)                                               | 1 space per unit or 2 beds (whichever is greater)<br>plus 1 space per 200 sq. ft. of office space                                                           | 1 rack per building                           |
| Security or Caretaker Quarters                                                          | 1 space per unit                                                                                                                                            | No requirement                                |
| Senior Apartments                                                                       | 1.3 spaces per unit                                                                                                                                         | 1 rack per building                           |
| Single-family, Zero Lot Line, Alley Loaded, Two-Family, Townhouse, or Manufactured Home | 2 spaces per unit                                                                                                                                           | No requirement                                |
| <b>Public and Civic Uses</b>                                                            |                                                                                                                                                             |                                               |
| Assembly, Not For Profit                                                                | 1 space per 3 seats or 200 sq. ft. for the principal place of assembly, whichever is greater.                                                               | 1 rack, or 1 rack per 100 auto spaces*        |
| Cemetery                                                                                | 1 space per 200 sq. ft. of office space; plus 1 space per 500 sq. ft. of maintenance area; plus a minimum of 5 public spaces.                               | No requirement                                |
| Church or Place of Worship                                                              | 1 space per 3 seats or 200 sq. ft. for the principal place of worship, whichever is greater.                                                                | 1 rack, or 1 rack per 100 auto spaces*        |
| Civic Club                                                                              | 1 space per 500 sq. ft.                                                                                                                                     | 1 rack, or 1 rack per 100 auto spaces*        |
| College or University                                                                   | 1 space per 2 students; plus 1 space per 5 seats in gymnasiums and auditoriums; plus 1 space per 200 sq. ft. of administrative and educational office space | 1 rack per 40 students and employees          |
| Day Care                                                                                | 1 space per 5 persons plus drop off stall                                                                                                                   | No requirement                                |
| Government Services                                                                     | 1 space per 500 sq. ft.; or 1 space per 3 seats, whichever is greater                                                                                       | 1 rack                                        |
| Homeless Resource Centers                                                               | 1 space per 200 sq. ft. of accessory service delivery areas                                                                                                 | 1 rack, or 1 rack per 100 auto spaces*        |
| Hospital or Medical Center                                                              | 1 space per 2 beds; plus 1 space per 200 sq. ft. of outpatient treatment area                                                                               | 1 rack per building, or 1 rack per 50,000 sf* |

| Use Type                                     | Parking Ratio                                                                                                                                                      | Bicycle Parking Ratio                                                |
|----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------|
| School: Elementary or Secondary              | 1 space per employee, 1 visitor space for every 50 students, 1 space for every 5.5 students in 10th thru 12th grade;<br>Auditorium or stadium- 1 space per 3 seats | 1 rack per 40 students above 2 <sup>nd</sup> grade and all employees |
| School: Technical, Trade or Business         | 1 space per classroom; plus 1 space per 5 students; plus 1 space per 200 sq. ft. of administration, and assembly areas                                             | 1 rack per 40 students and employees                                 |
| <b>Recreational Uses</b>                     |                                                                                                                                                                    |                                                                      |
| Arena, Auditorium or Stadium                 | 1 space per 3 seats                                                                                                                                                | 3 racks, or 1 rack per 50 auto spaces*                               |
| Bowling Alley                                | 3 spaces per lane                                                                                                                                                  | 3 racks, or 1 rack per 100 auto spaces*                              |
| Campground                                   | 1 space per campsite                                                                                                                                               | 1 rack                                                               |
| Community Clubhouse                          | 1 space per 300 sq. ft.                                                                                                                                            | 3 racks, or 1 rack per 50 auto spaces*                               |
| Entertainment, Indoor (except Bowling Alley) | 1 space per 200 sq. ft. or 1 space per 3 seats, whichever is greater                                                                                               | 3 racks, or 1 rack per 100 auto spaces*                              |
| Entertainment, Outdoor                       | 1 space per 3 seats; or 10 spaces per acre occupied by amusements, whichever is greater                                                                            | 3 racks, or 1 rack per 100 auto spaces*                              |
| Fitness Center                               | 1 space per 200 sq. ft.                                                                                                                                            | 3 racks, or 1 rack per 100 auto spaces*                              |
| Golf Course                                  | 4 spaces per hole; plus 1 space per 300 sq. ft. of clubhouse                                                                                                       | 3 racks, or 1 rack per 100 auto spaces*                              |
| Gun Club or Gun Range                        | 1 space per target area                                                                                                                                            | 1 rack, or 1 rack per 100 auto spaces*                               |
| Park, Passive                                | 2 spaces for the first acre plus 1 space for each additional 2 acres; accessory uses shall be parked as required                                                   | 3 racks, or 1 rack per 50 auto spaces*                               |
| Special Event                                | 1 space per 3 seats; or 10 spaces per acre occupied by amusements, whichever is greater                                                                            | No requirement                                                       |
| Stable, Commercial or Private                | 1 space per 500 sq. ft.; plus 1 space per 4 animal stalls                                                                                                          | 1 rack, or 1 rack per 100 auto spaces*                               |
| Swimming pool                                | 1 space per 200 sq. ft. of pool area                                                                                                                               | 3 racks, or 1 rack per 100 auto spaces*                              |
| Tennis and Basketball Courts                 | 1.5 spaces per court                                                                                                                                               | 3 racks, or 1 rack per 100 auto spaces*                              |
| <b>Agricultural Uses</b>                     |                                                                                                                                                                    |                                                                      |
| Agriculture Use (Unless Otherwise Specified) | 1 space per 1,000 sq. ft. or 1 space per employee on maximum shift                                                                                                 | No requirement                                                       |
| Agriculture, Sales and Service               | 1 space per 250 sq. ft.                                                                                                                                            | No requirement                                                       |
| Agriculture, Storage                         | 1 space per 1,000 sq. ft.                                                                                                                                          | No requirement                                                       |
| Agriculture, Accessory Use                   | 5 spaces or 1 space per employee, whichever is greater                                                                                                             | No requirement                                                       |
| Community Garden                             | 4 spaces per garden                                                                                                                                                | 3 racks, or 1 rack per 50 auto spaces*                               |

| Use Type                                     | Parking Ratio                                                                                                                                                                                    | Bicycle Parking Ratio                  |
|----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|
| Nursery, retail                              | 1 space per 500 sq. ft. of indoor or covered retail and office areas plus 1 space per 4 acres if the nursery is 20 acres or less, or 1 space per 5 acres if the nursery is greater than 20 acres | No requirement                         |
| Nursery, wholesale                           | 1 space per 4 acres if the nursery is 20 acres or less, or 1 space per 5 acres if the nursery is greater than 20 acres                                                                           | No requirement                         |
| Produce Stand                                | 1 space per 200 sq. ft. including outdoor sales display area                                                                                                                                     | No requirement                         |
| <b>Commercial Uses</b>                       |                                                                                                                                                                                                  |                                        |
| Adult Oriented Business                      | 1 space per 200 sq. ft.                                                                                                                                                                          | 1 rack, or 1 rack per 100 auto spaces* |
| Bed and Breakfast                            | 2 spaces for the primary dwelling unit plus 1 space per guest room                                                                                                                               | No requirement                         |
| Car Wash / Auto Detailing                    | 1 space per 200 sq. ft. of office, retail, or indoor seating area                                                                                                                                | No requirement                         |
| Contractor Office                            | 1 space per 200 sq. ft.                                                                                                                                                                          | No requirement                         |
| Contractor Storage Yard                      | 1 space per 5,000 sq. ft. of outdoor storage area                                                                                                                                                | No requirement                         |
| Convenience Store, with or without Gas Sales | 1 space per 200 sq. ft.                                                                                                                                                                          | 1 space per 20 auto spaces provided    |
| Creative Studio                              | 1 space per 400 sq. ft.                                                                                                                                                                          | 1 rack, or 1 rack per 100 auto spaces* |
| Dispatching Office                           | 1 space per 250 sq. ft.                                                                                                                                                                          | 1 rack                                 |
| Financial Institution                        | 1 space per 250 sq. ft.                                                                                                                                                                          | 1 rack, or 1 rack per 100 auto spaces* |
| Funeral Home                                 | 1 space per 4 seats                                                                                                                                                                              | 1 rack                                 |
| Hotel/Motel                                  | 1.25 spaces per room (convention areas, restaurants, etc. over 2,000 sq. ft. to be calculated separately)                                                                                        | 1 space per 20 auto spaces provided    |
| Kennel                                       | 1 space per employee; and, 1 space for each 200 sq. ft. of sale, grooming or office area.                                                                                                        | 1 rack                                 |
| Kiosk                                        | N/A                                                                                                                                                                                              | No requirement                         |
| Laundry Services                             | 1 space per 200 sq. ft.                                                                                                                                                                          | 1 rack                                 |
| Lounge, Cocktail                             | 1 space per 3 seats                                                                                                                                                                              | 1 rack, or 1 rack per 100 auto spaces* |
| Microbrewery                                 | 1 space per 1,000 sq. ft. (accessory uses calculated separately)                                                                                                                                 | 1 rack, or 1 rack per 100 auto spaces* |
| Newspaper Publisher                          | 1 space per 1,000 sq. ft.                                                                                                                                                                        | 1 rack                                 |
| Office, General                              | 1 space per 300 sq. ft.                                                                                                                                                                          | 1 rack, or 1 rack per 100 auto spaces* |
| Office, Medical                              | 1 space per 200 sq. ft.                                                                                                                                                                          | 1 rack, or 1 rack per 100 auto spaces* |
| Outdoor Seating / Sidewalk Cafe              | 1 space per 3 seats                                                                                                                                                                              | 1 rack, or 1 rack per 100 auto spaces* |
| Pawn Shop                                    | 1 space per 200 sq. ft.                                                                                                                                                                          | 1 rack, or 1 rack per 100 auto spaces* |
| Personal services                            | 1 space per 200 sq. ft.                                                                                                                                                                          | 1 rack, or 1 rack per 100 auto spaces* |
| Radio or Television Studio                   | 1 space per 300 sq. ft.                                                                                                                                                                          | 1 rack, or 1 rack per 100 auto spaces* |

| Use Type                                    | Parking Ratio                                                                                                                                     | Bicycle Parking Ratio                  |
|---------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|
| Restaurant                                  | 1 space per 3 seats including outdoor seating area                                                                                                | 1 rack, or 1 rack per 100 auto spaces* |
| Retail Sales, General                       | 1 space per 200 sq. ft.                                                                                                                           | 1 rack, or 1 rack per 100 auto spaces* |
| Retail Sales, Neighborhood                  | 1 space per 200 sq. ft.                                                                                                                           | 1 rack, or 1 rack per 100 auto spaces* |
| Self-Service Storage                        | 1 space per 100 storage bays; minimum of 5 customer spaces (security quarters calculated separately)                                              | No requirement                         |
| Service, General                            | 1 space per 200 sq. ft.                                                                                                                           | 1 rack, or 1 rack per 100 auto spaces* |
| Service, Neighborhood                       | 1 space per 200 sq. ft.                                                                                                                           | 1 rack, or 1 rack per 100 auto spaces* |
| Theater, indoor                             | 1 space per 3 seats                                                                                                                               | 1 space per 20 auto spaces provided    |
| Vehicle Repair or Service                   | 1 space per 250 sq. ft.                                                                                                                           | No requirement                         |
| Vehicle Sales or Rental                     | 1 space per 250 sq. ft. of enclosed area; plus 1 space per 5,000 sq. ft. of outdoor sales, rental and display area; plus 2 spaces per service bay | 1 rack                                 |
| Veterinary Clinic                           | 1 space per 250 sq. ft. of floor area                                                                                                             | 1 rack, or 1 rack per 100 auto spaces* |
| Video Sweepstakes Operation / Internet Cafe | 1 space per 200 sq. ft. or 1 space per 3 seats, whichever is greater                                                                              | 1 rack, or 1 rack per 100 auto spaces* |
| <b>Industrial Uses</b>                      |                                                                                                                                                   |                                        |
| Building Supplies, Wholesale                | 1 space per 1,000 sq. ft.                                                                                                                         | No requirement                         |
| Crematorium                                 | 1 space per 4 seats or 100 square feet of chapel area, whichever is greater                                                                       | No requirement                         |
| Gas and Fuel, Wholesale                     | 1 space per 250 sq. ft.                                                                                                                           | No requirement                         |
| Laboratory, Research                        | 1.5 spaces per 1,000 sq. ft.                                                                                                                      | 1 rack                                 |
| Manufacturing and Processing                | 1.5 spaces per 1,000 sq. ft.                                                                                                                      | 1 rack                                 |
| Research and Development                    | 1.5 spaces per 1,000 sq. ft.                                                                                                                      | 1 rack                                 |
| Salvage or Junk Yard                        | 1 space per 200 sq. ft. of office space; plus 1 space per employee                                                                                | No requirement                         |
| Transportation Facility                     | 1 space per 200 sq. ft. of office space                                                                                                           | 1 rack                                 |
| Warehouse                                   | 1 space per 1,000 sq. ft.; plus 1 space per 200 sq. ft. of office space                                                                           | 1 rack                                 |
| Wholesaling, General                        | 1 space per 1,000 sq. ft.                                                                                                                         | 1 rack                                 |
| <b>Utilities</b>                            |                                                                                                                                                   |                                        |
| Electric Power Facility                     | 1 space per 200 sq. ft. of office space; plus 1 space per 10,000 sq. ft.                                                                          | No requirement                         |
| Recycling Center                            | 1 space per 200 sq. ft. of office space; plus one space per 250 sq. ft. of warehouse and maintenance area; plus 1 space per 10,000 sq. ft.        | No requirement                         |
| Recycling Drop-Off Bin                      | 1 space per bin                                                                                                                                   | No requirement                         |
| Renewable Energy Facility                   | 1 space per site and 1 space per 200 sq. ft. of office space                                                                                      | No requirement                         |
| Sanitary Landfill                           | 1 space per 200 sq. ft. of office space; plus 1 space per employee                                                                                | No requirement                         |

| Use Type                     | Parking Ratio                                                                                                     | Bicycle Parking Ratio |
|------------------------------|-------------------------------------------------------------------------------------------------------------------|-----------------------|
| Solid Waste Transfer Station | 1 space per 1,000 sq. ft.                                                                                         | No requirement        |
| Telecommunication Facility   | Exempt from parking regulations except that standalone cell towers require a minimum of 2 spaces and a turnaround | No requirement        |
| Utility                      | 1 space per 200 sq. ft. of office space plus 1 space per employee                                                 | No requirement        |

**Notes:**

1. The provision of parking spaces and passenger loading areas for persons who have disabilities shall be governed by the Americans with Disabilities Act (ADA) Standards for Accessible Design.
2. In addition to the parking requirements of Table 4.2, Minimum Off-Street Parking Requirements, uses with company vehicles shall provide 1 space per company vehicle.
3. The Planning Director may reduce the required number of parking spaces by up to 10% for reasons of topography, tree preservation, mixes of uses, ride sharing programs, availability of transit, or other conditions specific to the site, provided that the reduction in the required number of parking spaces satisfies the intent of this chapter.
4. Upon written request, the Planning Director shall reduce the required number of bike racks by 10% or one 2-bike rack (whichever is greater), provided that the reduction in the required number of spaces satisfies the intent of this chapter and that a minimum of one 2-bike rack is still provided.

**(3) Design Standards****(a) Landscaping**

1. Vehicular area landscaping, including interior, terminal and median islands, shall be designed in accordance with the requirements set forth in § 155.402(D)(2) of this Chapter.

**(b) Dimensions**

1. Parking space sizes shall be governed by the dimensions indicated in Table 4-3, Minimum Parking Dimensions for Nonresidential Uses and Residential Uses with Shared Parking Lots:

**TABLE 4-3 MINIMUM PARKING DIMENSIONS FOR NONRESIDENTIAL USES AND RESIDENTIAL USES WITH SHARED PARKING LOTS**

| Angle | Type        | Space Width (feet) | Space Depth (feet) | Aisle Width (feet) |
|-------|-------------|--------------------|--------------------|--------------------|
| 0     | General     | 10.0               | 23                 | 12.0               |
|       | Handicapped | 10.0               | 23                 | 12.0               |
| 45    | General     | 9.0                | 19.0               | 13.0               |
|       | Handicapped | 12.5               | 19.0               | 13.0               |
| 60    | General     | 9.0                | 19.0               | 18.0               |
|       | Handicapped | 12.5               | 19.0               | 18.0               |
| 70    | General     | 9.0                | 19.0               | 18.0               |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |             |      |      |      |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|------|------|------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Handicapped | 12.5 | 19.0 | 18.0 |
| 75                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | General     | 9.0  | 19.0 | 24.0 |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Handicapped | 12.5 | 19.0 | 24.0 |
| 80                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | General     | 9.0  | 19.0 | 24.0 |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Handicapped | 12.5 | 19.0 | 24.0 |
| 90                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | General     | 9.0  | 19.0 | 24.0 |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Handicapped | 12.5 | 19.0 | 24.0 |
| <b>Notes:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |             |      |      |      |
| <ol style="list-style-type: none"> <li>0 angle parking represents parallel parking</li> <li>Angled parking with two-way traffic movement shall be a minimum of 24 feet wide</li> <li>The maximum grade permitted for any required parking shall not exceed 8%.</li> <li>Parking spaces using geometric standards other than those specified above may be approved if developed and sealed by a registered engineer subject to a determination by the Town Engineer that the proposed facility will satisfy off-street parking requirements as adequately as would a facility using those specified above.</li> <li>Handicap parking spaces are required to have a minimum five foot wide access aisle for loading and unloading. Access aisle may be shared between two spaces.</li> </ol> |             |      |      |      |

**(c) Bicycle Parking Facilities**

When required pursuant to Table 4-2, bicycle parking facilities shall meet the following requirements:

- Each bicycle rack shall accommodate two bicycle parking spaces. Where a bike can be locked on both sides of a rack without conflict, each side can be counted as a required space.
- Bicycle racks shall be securely anchored, easily usable with both U-locks and cable locks and support a bicycle at two points of contact to prevent damage to the bicycle wheels and frame.
- Spacing of the racks shall provide clear and maneuverable access. Each required bicycle parking space must have at least two by six feet of clearance and be located no closer than three feet from a wall.
- Bicycle racks may be placed on private property or within the public right-of-way. Facilities in the right-of-way must be approved by the Public Works Director or NCDOT, as applicable.
- Bicycle rack location shall not impede pedestrian and vehicular traffic.
- Bicycle racks must be publicly accessible and be located no more than 100 feet from the building entrance the bicycle rack is intended to serve.



7. Bicycle racks shall be separated from automobile parking by a physical barrier or by at least 6 feet where automobile parking is prohibited.

(d) ***Circulation Standards***

1. A safe arrangement of pedestrian pathways, bikeways, roads, driveways, and off-street parking and loading spaces within parking areas shall be provided.
2. Streets, pedestrian walks, parking areas, and open space shall be designed as integral parts of an overall site design and shall be properly related to existing and proposed buildings, adjacent uses and landscaped areas.
3. Structures, vehicular circulation lanes, parking spaces, driveways, and open spaces shall be designed to provide logical, impediment free pedestrian movement. The site shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic.
4. Where off-street parking directly abuts a walkway or sidewalk, the parking area shall be separated from the walkway or sidewalk by concrete wheel stops or continuous curbing. Walkways or sidewalks shall be a minimum of five feet wide, exclusive of vehicle overhang. Single family residential uses are exempt from this requirement.
5. A continuous internal pedestrian walkway shall be provided from each adjacent perimeter public sidewalk to all customer entrances.

(e) ***Surfacing Material***

1. Unless provided below, all off-street facilities provided for parking or any other vehicular use area shall be surfaced with asphalt or concrete and shall be maintained in a smooth, well-graded condition. Alternative surfaces may be reviewed and approved by the Town Engineer.
2. Grass Parking
  - A. Grass or other pervious parking surfaces may be permitted for specific uses as set forth below, subject to TRC approval. Where provided, such alternative parking surfaces shall be maintained in a smooth, well-graded condition. If parking demand is such that the grass is damaged or destroyed to the extent that it ceases to grow and is not repaired or replaced, then paving in accordance with this Section will be required.
  - B. All driveways, access aisles and parking spaces (excluding handicapped) may be surfaced with grass for the following:
    - i. Uses which require parking on an average of less than five days per week during a month;

ii. Schools and churches; and

iii. Parks, trailheads, playgrounds, ballfields, football and baseball stadiums, fairgrounds, and other similar outdoor recreation areas.

(f) ***Pavement Markings***

All pavement markings shall be maintained to be distinguishable.

(g) ***Lighting***

Where off-street facilities are provided for parking or any other vehicular use area adequate outdoor lighting shall be provided. Lighting shall be so arranged as to direct the light and glare away from streets and adjacent property in accordance with the requirements set forth in § 155.404.

(h) ***Drainage***

Parking lots shall not drain onto or across public sidewalks or into adjacent property, except into a natural watercourse or a drainage easement. In already developed areas where this condition would be impossible to meet, the Town Engineer may exempt the applicant from this requirement, provided that provisions are made for drainage.

(i) ***Entrances and Exits***

Entrances and exits, except those associated with a single-family residential use, are subject to the dimensional standards provided in § 155.400, Table 4-1.

(4) ***Alternative Parking Plans***

(a) ***General***

To modify the parking ratios set forth in Table 4-2 of this Section where applicant-submitted parking data, prepared and sealed by a registered engineer in the State North of Carolina, illustrates that the standards of this Section do not accurately apply to a specific development, the applicant must apply for a variance. The variance request shall include:

1. The size and type of the proposed development;
2. The mix of uses;
3. The anticipated peak parking need;
4. The proposed parking rate; and
5. The data necessary to support the request.

---

(b) ***On-Street Parking***

On-street parking spaces may count toward meeting off-street parking requirements. To be considered, the on-street spaces shall be located immediately abutting the subject parcel, entirely within the extension of the side lot lines into the roadway, and not within any required clear sight triangle.

(c) ***Off-Site Parking***

Required off-street parking spaces may be located on a separate lot from the lot on which the principal use is located if the off-site parking complies with all of the following standards.

1. Ineligible Activities

Off-site parking may not be used to satisfy the off-street parking requirements for residential uses (except for guest parking), as well as convenience stores or other convenience-oriented uses. Required parking spaces reserved for persons with disabilities may not be located off-site.

2. Location

Off-site parking spaces shall be located within 750 feet from the primary entrance of the use served unless shuttle bus service is approved via a Variance. Off-site parking may not be separated from the use that it serves by a street right-of-way with a width of more than 80 feet unless a grade-separated pedestrian walkway is provided, or other traffic control or Variance-approved shuttle bus service is provided to the off-site parking area.

3. Zoning Classification

Off-site parking areas serving non-residential uses shall be located in nonresidential districts.

4. Agreement

Off-site parking shall be enforced by an off-site parking agreement, subject to review by, and in a form acceptable to the Town Attorney.

(d) ***Shared Parking***

The Planning Director may authorize up to a 20% reduction in the number of required parking spaces for multiple and mixed-use projects and for uses that are in close proximity to one another and which have different peak parking demands and operating hours. Shared parking shall be subject to the following standards:

1. Application

A shared parking study shall be submitted in writing to the Planning Director.

2. Location

All uses which participate in a shared parking plan shall be located on the same lot or on contiguous lots. The shared parking lot shall have access as though the uses were a single project.

3. Shared Parking Study

The shared parking study, shall clearly establish the uses that will use the shared spaces at different times of the day, week, month or year. The study shall:

- A. Be based on a generally accepted methodology for determining shared parking;
- B. Define the size and type of activities, the composition of tenants, the rate of turnover for proposed shared spaces, and the anticipated peak parking and traffic demands; and
- C. Provide for no reduction in the number of required handicapped spaces.

4. Shared Parking Agreement

A shared parking plan will be enforced through written agreement among all owners of record, subject to review by, and in a form acceptable to the Town Attorney.

5. Change in Use

Should any of the uses in the shared parking study change, or if any of the conditions described in the approved shared parking study or agreement no longer exist, the owner of record shall have the option of submitting a revised shared parking study in accordance with the standards of this Section or of providing the number of spaces required for each use as if computed separately.

(e) ***Valet Parking***

The Planning Director shall approve valet parking as a means of satisfying off-street parking requirements. Valet parking shall not cause customers or patrons who do not use the valet service to park off site or in the right-of-way or cause queuing in a street, driveway, or drive aisle. The following additional standards shall apply to valet parking:

- 1. Adequate assurance of the continued operation of the valet parking is provided, such as a contractual agreement for valet services or the tenant's affidavit agreeing to provide such services;

2. The maximum number of spaces reserved for valet parking shall not exceed 25 percent of the minimum number of required off-street parking spaces.
3. Valet parking area shall not be located within 200 feet of a public entrance to a building. Areas designated for valet parking shall not interfere with vehicular circulation or emergency access and shall not cause customers who do not use the valet service to park off-premise or cause queuing in the right-of-way.

## PART 2. QUEUING STANDARDS

### (D) OFF-STREET QUEUING REQUIREMENTS

Queuing shall be provided for all drive-thru establishments. Each queuing space shall be a minimum of eight feet by 20 feet, clearly defined and designed so as not to conflict or interfere with other traffic using the site. Unless otherwise indicated below, queuing shall be measured from the front of the stopped vehicle located at the point of service to the rear of the queuing lane. One additional queuing space shall also be provided after the point of service for all uses.

#### (1) Minimum Number Of Spaces

Queuing spaces shall be provided as indicated in Table 4-4 below.

**TABLE 4-4 - MINIMUM QUEUING STANDARDS**

| Use                                                                                                                                                                                                                                                                                                                                                                                                      | Number of Spaces                              | Required By-Pass <sup>(1)</sup> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|---------------------------------|
| <b>Drive-Thru Financial Institution</b>                                                                                                                                                                                                                                                                                                                                                                  |                                               |                                 |
| Teller Lanes                                                                                                                                                                                                                                                                                                                                                                                             | 5                                             | Y                               |
| Automatic Teller Lanes                                                                                                                                                                                                                                                                                                                                                                                   | 3                                             | N                               |
| <b>Drive-Thru Restaurant</b>                                                                                                                                                                                                                                                                                                                                                                             | 6                                             |                                 |
| Minimum before Menu Board                                                                                                                                                                                                                                                                                                                                                                                | 4                                             | Y                               |
| <b>Drive-Thru Car Wash</b>                                                                                                                                                                                                                                                                                                                                                                               |                                               |                                 |
| Automatic                                                                                                                                                                                                                                                                                                                                                                                                | 5                                             | N                               |
| Self-Service                                                                                                                                                                                                                                                                                                                                                                                             | 3                                             | Y                               |
| <b>Drive-Thru Oil Change</b>                                                                                                                                                                                                                                                                                                                                                                             | 4                                             | Y                               |
| <b>Gasoline Pump Island</b>                                                                                                                                                                                                                                                                                                                                                                              | 20 feet of queuing at each end of pump island | N                               |
| <b>Drive-Thru Dry Cleaning or Laundry</b>                                                                                                                                                                                                                                                                                                                                                                | 3                                             | Y                               |
| <b>Drive-Thru General Retail</b>                                                                                                                                                                                                                                                                                                                                                                         | 4                                             | Y                               |
| <b>Notes:</b>                                                                                                                                                                                                                                                                                                                                                                                            |                                               |                                 |
| 1. All Uses: a by-pass lane shall be required if 5 or more queuing spaces are provided. A by-pass lane a minimum of ten feet wide shall be provided before or around the point of service. A by-pass lane is not be required if the queuing lane is adjacent to a vehicular use area which functions as a by-pass lane. The by-pass lane shall be clearly designated and distinct from the queuing area. |                                               |                                 |
| 2. Queuing spaces shall not impede traffic circulation or movements into or out of off-street parking spaces.                                                                                                                                                                                                                                                                                            |                                               |                                 |

## PART 3. LOADING STANDARDS

(E) **OFF-STREET LOADING REQUIREMENTS**

(1) **Loading Facilities Required**

- (a) Off-street loading facilities shall be required for uses that regularly handle large quantities of goods. Loading facilities shall be of sufficient quantity to adequately serve the proposed use.
- (b) Any vehicle sales or rental facility or similar use requiring delivery of vehicles by truck shall demonstrate adequate on-site area exists for the loading and unloading of such trucks.
- (c) Any convenience store or similar use requiring deliveries by truck shall demonstrate adequate on-site area exists for the loading and unloading of such trucks.

(2) **Design and Layout**

- (a) Loading and unloading activity shall not be permitted in any public right-of-way. In no case shall loading and unloading activity encroach on or interfere with the public use of streets, sidewalks, and lanes by automotive vehicles or pedestrians. Adequate space shall be made available for the unloading and loading of goods, materials, items or stock for delivery and shipping.
- (b) Where off-street loading facilities are provided, they shall be not less than 15 feet in width by 40 feet in length, with not less than 15 feet of vertical clearance.
- (c) Hours of loading and unloading operation adjacent to ground floor residential uses shall be limited between the hours of 6:30 a.m. and 10:00 p.m. Loading docks shall be signed to indicate "no idling."

(3) **Screening**

All loading areas shall be screened in accordance with § 155.402(G).

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2012-01-04, passed 1-3-12; Am. Ord. 2013-09-04, passed 9-3-13; Am. Ord. 2014-06-10, passed 6-16-14)

## **§ 155.402 LANDSCAPING, SCREENING AND BUFFERING**

### **(A) PURPOSE AND INTENT**

The purpose and intent of this Section is to establish minimum standards for the design, layout, installation, and continued maintenance of landscaping. It is the intent of this Section to encourage creativity in landscape design while providing general direction and criteria for the evaluation of landscaping.

### **(B) APPLICABILITY**

- (1) Unless specifically exempt, all development which requires site plan approval (see § 155.707) shall meet the provisions of this Section.
- (2) Buildings and structures lawfully existing as of the effective date of this Chapter may be redeveloped, renovated or repaired without providing or modifying landscaping, screening, and buffering in conformance with this Section, provided there is no increase in gross floor area in such building or structure or impervious area on the site.
- (3) The maintenance standards in (G)(2) of this Section shall apply as of the effective date of this Chapter to all existing development and new construction.
- (4) Where a building or structure existed as of the effective date of this Chapter, and such building or structure is enlarged in gross floor area or impervious area by 10% or 2,000 square feet, whichever is less, landscaping, screenings, and buffering as specified in this Section shall be provided.
- (5) Landscaping required within an Overlay District is subject to the provisions of this Section, except that regulations within § 155.204 (Overlay Districts) shall supersede and may be either more or less restrictive than the regulations for landscaping contained in this Section. In the Downtown Overlay District, a permitted use may be established, even if all landscaping, screening, and buffering requirements cannot be met for the new use, provided that as much landscaping, screening and buffering as can reasonably be provided is provided by the use.

### **(C) LANDSCAPE PLAN REQUIRED**

- (1) A landscape plan shall be submitted in conjunction with a required site plan (see § 155.707).
- (2) A registered landscape architect shall prepare all landscape plans, except where expressly exempted by the Planning Director. The landscape treatment shall adequately detail the requirements of this section and any additional considerations set forth in the Clayton General Design Guidelines.

## **PART 1. SITE INTERIOR LANDSCAPE REQUIREMENTS**

**(D) SITE INTERIOR LANDSCAPING**

All site plans requiring landscaping in accordance with this Section shall provide site interior landscaping. Perimeter Buffer requirements set forth in PART 2 and Street Yard Trees set forth in PART 3 of this Section shall be provided completely, as required, in addition to these requirements.

**(1) Interior Landscaping**

- (a) 20 percent of the total lot area shall be landscaped.
- (b) One canopy tree, one understory tree, and two shrubs shall be planted for each 1,000 square feet of landscape area required. Trees need to be evenly planted throughout the landscaped area, but may be staggered or clustered as necessary to maximize visual and screening objectives, and to meet the needs of the particular species of plants for root space, water, light, and air circulation.
  - 1. Landscaping provided within vehicular use areas may be counted toward the site interior landscape requirement.
  - 2. Resource conservation areas (see § 155.500) may be used to satisfy a maximum of 40% of the total required landscaped area.

**(2) Vehicular Use Areas**

All vehicular use areas shall observe a minimum front yard of not less than five feet, and a side yard on a corner lot of not less than five feet. Parking lots in residential districts shall have front yards of not less than 15 feet and side and rear yards of not less than five feet.

Parking areas in excess of 1,500 square feet or five spaces shall provide landscaped areas in accordance with the requirements set forth in this Section.

**(a) *Perimeter Screening***

- 1. The perimeter of all parking areas and other vehicular use areas adjacent to residentially-zoned property shall provide a Class C buffer as set forth in this Section.
- 2. The perimeter of all parking areas and other vehicular use areas with frontage on or visibility from any portion of a public right-of-way shall be screened to a height of 3 feet by either a berm, continuous landscaped hedge, decorative fence, decorative masonry wall or any combination thereof.
- 3. Any vegetative screen shall be maintained at a minimum height of 36 inches within two years of planting.
- 4. No such buffer shall be required along an alley.



**(b) Landscaping Islands****1. Interior Islands**

An interior landscape island shall be provided every ten spaces. Each island shall contain a minimum of 150 square feet of landscaped area with a minimum width of eight feet inside the curb. Each island shall include a minimum of one tree with a minimum caliper of two and one-half inches. Interior islands may be consolidated or intervals may be expanded in order to preserve existing trees of greater than 6" dbh.

**2. Terminal Islands**

All parking rows shall terminate in a curbed landscaped island. All terminal islands shall include a minimum of one tree with a minimum caliper of two and one-half inches.

**3. Median Islands**

A median island with a minimum width of eight feet inside the curb shall be sited between every six single parking rows and along primary internal and external access drives. Median intervals may be expanded in order to preserve existing trees of greater than 6" dbh.

**(c) Curbing**

1. All landscaping in or adjacent to a vehicular use area shall be protected from vehicular damage by a raised concrete curb six inches in height or equivalent barrier, however, the barrier need not be continuous.
2. Landscaped areas adjacent to parking areas shall be landscaped so that no plant material greater than 12 inches in height will be located within two feet of the curb or other protective barrier.

**PART 2. PERIMETER BUFFERS****(E) BUFFERS****(1) Buffer Defined**

A buffer is a specified land area, located parallel to and within the outer perimeter of a lot and extending to the lot line, together with the planting and landscaping required on the land. A buffer may also contain, or be required to contain, a barrier such as a berm or wall where such additional screening is necessary to achieve the desired level of buffering between various land use activities. A buffer is not intended to be commensurate with the term "yard" or "setback."

**(2) Buffer Types**

There are four types of required buffers that may occur on any given parcel, as described further in this section.

**(a) Street Buffers**

1. All new development with frontage on a commercial street or designated minor thoroughfare shall provide a Class A buffer as set forth in (E)(3) of this section.
2. Double frontage lots abutting a collector street or residential collector street shall provide a Class A buffer along the entire rear yard frontage.

**(b) Parking Buffers**

Parking buffer requirements are set forth in PART 1 of this Section.

**(c) Compatibility Buffers**

Perimeter compatibility is required along the boundaries of all incompatible zoning districts or existing uses, whichever is more restrictive. If the existing use of an adjacent property is nonconforming then the required buffer shall be determined by the zoning district instead of the existing use. Table 4-5 shall be used to determine the required buffer classification between adjacent districts.

**§155.402, PART 2. TABLE 4-5 COMPATIBILITY BUFFER REQUIREMENTS**

| Subject Property District | Adjacent Property District |      |     |     |     |     |     |     |     |     |     |    |
|---------------------------|----------------------------|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|----|
|                           | R-E                        | R-10 | R-8 | R-6 | O-R | O-I | B-1 | B-2 | B-3 | I-1 | I-2 | PF |
| R-E                       | --                         | --   | --  | --  | --  | --  | --  | --  | --  | --  | --  | -- |
| R-10                      | A                          | --   | --  | --  | --  | --  | --  | --  | --  | --  | --  | -- |
| R-8                       | B                          | A    | --  | --  | --  | --  | --  | --  | --  | --  | --  | -- |
| R-6                       | B                          | A    | A   | --  | --  | --  | --  | --  | --  | --  | --  | -- |
| O-R                       | B                          | A    | A   | A   | --  | --  | --  | --  | --  | --  | --  | -- |
| O-I                       | B                          | B    | B   | B   | A   | --  | --  | --  | --  | --  | --  | -- |
| B-1                       | B                          | B    | B   | B   | B   | B   | --  | B   | --  | --  | --  | -- |
| B-2                       | B                          | B    | B   | B   | B   | B   | --  | --  | --  | --  | --  | -- |
| B-3                       | C                          | C    | C   | C   | C   | B   | B   | B   | --  | --  | --  | B  |
| I-1                       | C                          | C    | C   | C   | C   | C   | C   | C   | B   | --  | --  | B  |
| I-2                       | C                          | C    | C   | C   | C   | C   | C   | C   | B   | --  | --  | B  |
| PF <sup>1</sup>           | --                         | --   | --  | --  | --  | --  | --  | --  | --  | --  | --  | -- |

<sup>1</sup> Where a use in a PF zoning district is generally found only in Industrial or Commercial districts, the use shall be buffered according to the more intensive buffer requirement found in that district.

(Ord. 2015-09-03, adopted 09-08-2015; Am. Ord. 2016-04-04, adopted 04-04-2016)

(d) ***Project Boundary Buffers***

Project boundary buffers are established to mitigate the effect of specific types of development on adjacent properties. Where project boundaries coincide with district boundaries the following project boundary buffers shall apply.

1. Open Space Residential Subdivision

A Class C buffer is required along all project boundaries of an open space subdivision (see § 155.203(H)(8)).

2. Planned Development

- A. A Class C buffer is required along all project boundaries of a planned development.
- B. The continuous visual barrier of Class C buffers is not required for the street-side of non-residential Planned Developments where they abut major or minor thoroughfares.
- C. A Class B buffer may be used when a Planned Development - Commercial (PD-C) abuts a non-residential district (see § 155.203(L)).

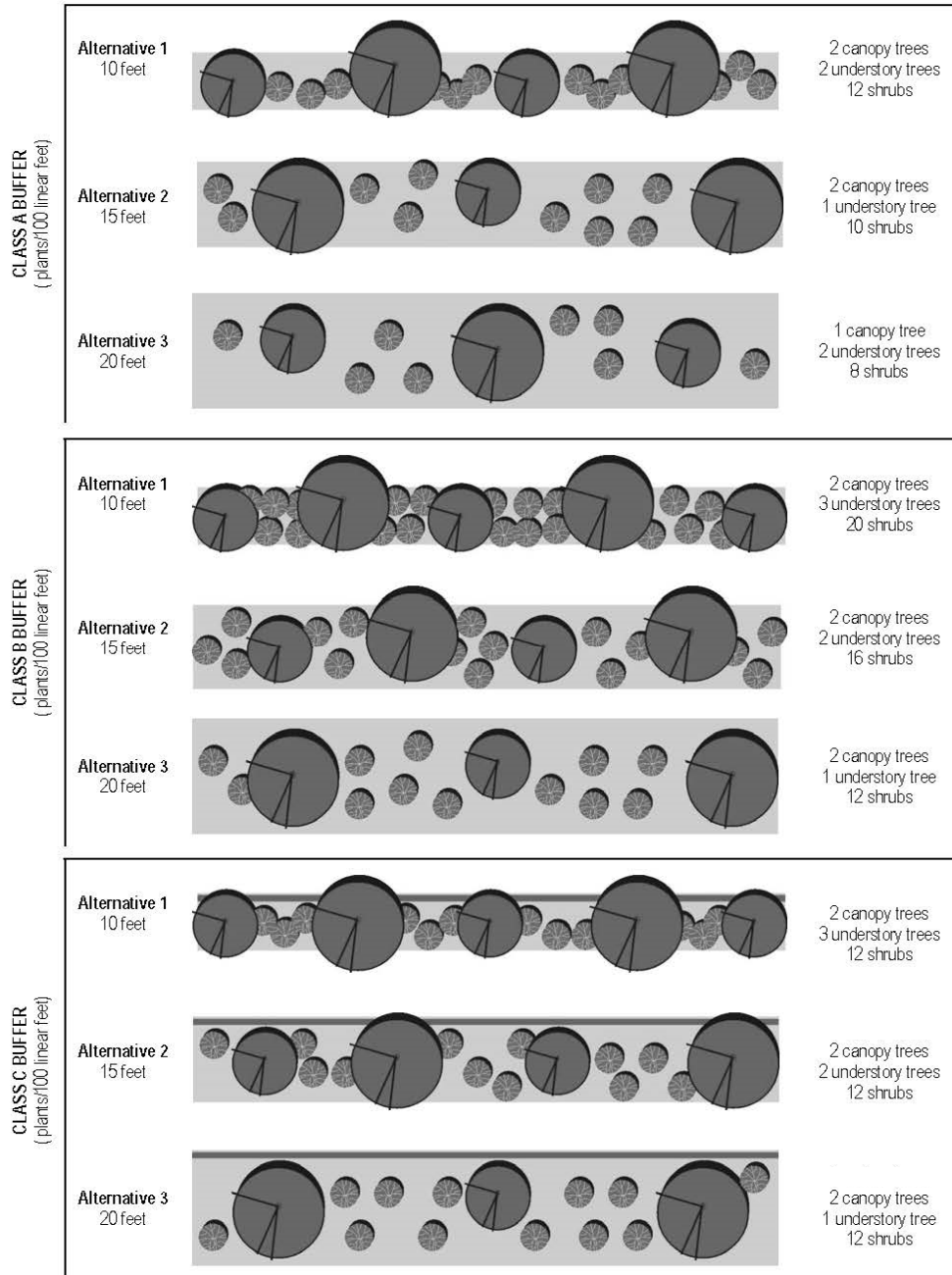
3. Manufactured Home Park

A Class C buffer is required along all project boundaries of a manufactured home park (see § 155.301(G)(4)).

(3) **Buffer Classification**

Figure 4-1 establishes the specific width and plant material for each buffer classification. The applicant may choose any alternative (1, 2, or 3) in the respective buffer classification. Buffers planted below overhead utility lines shall apply any of the allowed buffer alternatives, except that understory trees shall replace any canopy trees at a rate of two understory trees per required canopy tree.

**FIGURE 4-1 LANDSCAPE BUFFERS**



Class C buffer shall include a wall, opaque fence, evergreen hedge, berm, or combination thereof with a minimum height of six feet at installation.

**(4) Location of Buffer**

- (a) Buffers shall be located along the outer perimeter of a lot or parcel, parallel to and extending to the lot or parcel boundary line. Buffers shall not be located on any portion of an existing, dedicated or reserved public or private street or right-of-way.
- (b) Except as provided below, the required buffer shall be provided along the entire frontage abutting the existing, dedicated or reserved public or private street or right-of-way, district boundary, or project boundary, as applicable.
- (c) A buffer may be interrupted in order to provide access (pedestrian or vehicular) to adjacent parcels or public right-of-way.

**(5) Plant and Structure Location within Buffers**

The placement of required plants and structures shall be the decision of the applicant, except that the following requirements shall be satisfied:

- (a) Plant materials shall be located to achieve the maximum level of protection. Plant material shall meet the buffer requirements every 100 feet.
- (b) Canopy trees shall be located no closer than five feet from any structure. Understory trees shall be planted no closer than three feet from any structure.
- (c) Buffer areas not retained in native habitat shall be seeded or sodded with lawn, established with ground cover, or mulched with organic mulch. No turfgrass shall be planted under the dripline of trees. Inorganic ground cover shall not exceed 20% of the total required area of the buffer.

**(6) Planting in Easements**

- (a) Buffers may not be planted in wet retention ponds or drainage easements.
- (b) Trees and shrubs shall be installed no closer than five feet to the flow line of a swale.
- (c) Existing trees may remain in dry retention ponds provided that the natural grade is undisturbed to the tree line, the species that are planted are adapted to seasonal flooding and the pond is adequately maintained.
- (d) Trees may be planted within the boundaries of utility easements with Public Works Director approval, provided the root structure of the proposed tree is not anticipated to extend more than three feet below the ground. Shrubs may be planted, provided they are only within the outer three feet of the easement. Where such trees and shrubs are planted, the property owner shall be responsible for replacement of such required vegetation if maintenance or other utility requirements require their temporary removal.

- (e) A minimum buffer width of five feet or at least half the minimum required buffer width, whichever is greater, shall be provided outside of any required easements. The majority of buffer plantings and all structures shall be located outside the easements.

(7) **Permitted Structures in Buffer Areas**

(a) ***Walls***

Where walls are placed within a required buffer area, they shall meet the following requirements:

1. Walls shall have a minimum height of three feet and a maximum height of six feet. Additional height may be approved by the Planning Director after taking into account site topography, existing and proposed vegetative screening, setbacks, or unique site conditions, such that an overall 6' visual barrier is achieved.
2. Walls shall be constructed of one or a combination of the following materials: stucco over concrete block, brick, stone, split-faced block or glass block in a structurally safe and attractive condition. No walls of exposed concrete block are permitted, whether painted or not.
3. No wall shall be located within any required drainage, utility or similar easement.
4. The applicant shall be required to demonstrate provision for access and maintenance of landscaping and the wall structure at the time of landscape plan approval.
5. Breaks in the wall may be provided for pedestrian connections to adjacent developments.

(b) ***Berms***

Where berms are placed within any required buffer area, they shall meet the following requirements.

1. Berms shall have a minimum average height of 30 inches with side slopes not steeper than three feet horizontal for each one foot vertical.
2. Slopes steeper than three feet horizontal for each one-foot vertical may be permitted if sufficient erosion control methods are taken and deemed by the Town Engineer to be maintainable.

(c) ***Fences***

1. Fences may be constructed in a required buffer.

2. Fences shall have a minimum height of three feet and a maximum height of six feet. Additional height may be approved by the Planning Director after taking into account elements including, but not limited to, site topography, existing and proposed vegetative screening, setbacks, or unique site conditions, such that the maximum 6' height performance criteria is achieved.
3. Fences are subject to the requirements set forth in § 155.402 (G)(6) below.
4. Breaks in the fence may be provided for pedestrian connections to adjacent developments.
5. Fences shall be maintained in a structurally safe and attractive condition and with finished faces and required plantings located towards the adjacent property.
6. Any fence constructed in a buffer shall be capable of withstanding a 30 pound per square foot horizontal wind load from any direction.

**(8) Permitted Use of Buffer Area**

A buffer area shall not be used for any principal building or use, accessory building or use, vehicle use area or storage area except as specifically permitted below.

- (a) A buffer may be used for passive recreation and picnic facilities; and it may contain pedestrian or bike trails, provided that:
  1. Trails may be incorporated provided that adequate width (minimum 15 feet) is added to the required buffer width to accommodate both the trail and the required buffer plantings. Buffers with trails may also count toward the provision of recreation and open space for the development.
  2. Existing plant material, other than nuisance exotics, shall be preserved to the greatest extent possible; and
  3. All other requirements of this section shall be met.
- (b) Other appurtenances which require high visibility and easy access, such as fire hydrants, mail boxes and bus shelters or benches, are also permitted in a buffer. No screening of such appurtenances shall be required.
- (c) A buffer is encouraged to retain areas of native habitat and may incorporate water resources including stormwater detention or retention facilities. However a minimum 10-foot contiguous width of the buffer shall be preserved as a planting area without stormwater facilities.

**(9) Ownership of Buffers**

Buffers may remain in the ownership of the original applicant; they may be subjected to deed restrictions and subsequently be freely conveyed; or they may be transferred to any consenting grantees, such as the Town, a land conservancy or land trust, or homeowners association. Any such conveyance shall adequately guarantee the protection and maintenance of the buffer in perpetuity and in accordance with the provisions of this section.

**(10) Alternative Compliance**

- (a) Buffer requirements may be modified by the Planning Director upon finding that a modification would be consistent with the standards and purpose of this Chapter, this Section and the adopted plans and policies of the Town; that such modification would not adversely affect the land use compatibility or public interest; and that the subject parcel or modified buffer complies with one or more of the following criteria:
1. The buffer is parallel and adjacent to an existing utility or drainage easement of at least 100 feet in width;
  2. The buffer is between uses that are to be developed under a common development plan or series of development plans;
  3. The buffer is adjacent to a property that has a joint use agreement with the subject parcel under;
  4. The buffer is parallel and adjacent to an existing railroad right-of-way; or
  5. The topography of the parcel is such that buffering would not be effective.
- (b) Financial hardship due to meeting the requirements of this is Section shall not be sufficient justification for alternative compliance.

### **PART 3. STREET YARD TREES**

**(F) STREET YARD TREES**

- (1) Street yard trees shall be required along all rights of way at the rate of one canopy tree per lot or one canopy tree for every 40 linear feet (spaced a maximum of 50 feet part).
- (2) All street yard trees shall be a minimum of two and one-half caliper inches at time of planting and shall be planted no less than five feet or more than 15 feet from the back of the sidewalk.
- (3) Credit shall be given for any existing tree with a minimum dbh of six inches that is preserved within the planting strip at rate of one preserved tree for two required street yard trees.
- (4) Double frontage lots abutting a collector street or residential collector street shall provide a Class A buffer along the entire rear yard frontage.

### **PART 4. SCREENING**



(G) **SCREENING**

(1) **Drive-thru Facilities**

Drive-thru windows and lanes shall be designed to adhere to the following standards:

- (a) Drive-thru windows and lanes placed between the right-of-way and the associated building shall require landscape plantings installed and maintained along the entire length of the drive-thru lane, located between the drive-thru lane and the adjacent right-of-way.
- (b) Such screening shall be a compact evergreen hedge or other type of dense foliage. At the time of installation, such screening shall be at least 36 inches in height and be maintained at a minimum height of 48 inches within two years of planting.
- (c) Drive-thru windows are not permitted on the side of a building adjacent to any residential district.

(2) **Service Areas**

- (a) Trash collection, trash compaction, recycling collection and other similar service areas shall be located on the side or rear of the building and shall be effectively screened from view from adjacent properties or public rights-of-way.
- (b) Service areas shall be fully enclosed by opaque walls, gates, and/or fences at least eight feet high and shall be constructed of the same materials as the primary building.
- (c) All service areas are limited to the area shown on an approved site plan.
- (d) All service areas shall be located a minimum of 50 feet away from any residentially-zoned property line.

(3) **Loading Areas**

Loading areas shall be subject to the following screening requirements:

- (a) A 100% year-round screen of all loading areas visible from residential properties or public rights-of-way is required.
- (b) Screening shall consist of berms, walls, fences, plant material or combination thereof totaling eight feet in height at installation or completion of construction. Wall or fence materials shall be compatible with the primary structure.
- (c) Loading docks not in an I-1 or I-2 District shall be located at the side or rear of buildings a minimum of 50 feet away from any residentially-zoned property, unless the loading area is wholly within a closed building.

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**(4) Mechanical Equipment**

- (a) All roof, ground and wall mounted mechanical equipment including, but not limited to air handling equipment, vents, compressors, duct work, transformers and elevator equipment) shall be screened from view.
- (b) Roof-mounted mechanical equipment shall be shielded from view on all sides. Screening shall consist of materials consistent with the primary building materials, and may include metal screening or louvers which are painted to blend with the primary structure.
- (c) Wall or ground-mounted equipment screening shall be constructed of:
  - 1. Planting screens;
  - 2. Brick, stone, reinforced concrete, or other similar masonry materials; or
  - 3. Redwood, cedar, preservative pressure treated wood, or other similar materials.

**(5) Utilities**

Above-ground utilities and appurtenances to underground utilities which require above-ground installation shall be screened by a continuous planting of shrubs, with a minimum mature height equal to that of the utility structure. Required access to these utilities is exempt from the screening provisions.

**(6) Fencing and Walls**

- (a) A fence or wall not more than six feet in height may be installed along any side and rear lot line. A fence or wall in any required front yard shall not exceed four feet in height.
- (b) Fences and walls shall be constructed of high quality materials, such as decorative blocks, brick, stone, treated wood, wrought iron and black vinyl coated chain link fence . Black vinyl coated chain link fence is permitted subject to the following additional requirements:

- 1. Residential Uses

Black vinyl coated chain link fencing is permitted for individual lots from the front façade of the house in the side and/or rear. It may not be used forward of the front façade. It may be used along a side street or between the house and the side property line if screened from view by landscape materials maintained at the same height as the fence or higher. Shrubs shall be at least 30 inches in height at planting. Chain link fencing is not permitted for use by a developer for buffering and screening. Black vinyl coated fencing may be used for recreational uses including, but not limited to parks, playgrounds, swimming pools, tennis courts and basketball courts.

**2. Non-Residential Uses**

Black vinyl coated chain link fencing is permitted for the accessory enclosures of day care facilities, kennels or veterinary clinics. Black vinyl coated chain link fencing is permitted for industrial uses. Vinyl coating is not required for fences when not visible from adjacent property or right-of-way.

**3. Public Utilities**

Black vinyl coated chain link fencing is permitted for public utility purposes. Vinyl coating is not required for industrial fences when it is not visible from adjacent property or right-of-way.

**4. The use of black coated vinyl chain link fencing for uses not listed above is permitted if the use of such material is consistent with, and will not impact the aesthetic appearance of the surrounding area.**

- (c) Fences topped with razor, concertina, or barbed wire are limited to properties designated for industrial or utility use.
- (d) Breaks in the fence or wall may be provided for pedestrian connections to adjacent developments.
- (e) The maximum length of a continuous, unbroken and uninterrupted fence or wall plane shall be 100 feet. Breaks shall be provided through the use of columns, landscaped areas, transparent sections and a change in material.

## **PART 5. GENERAL LANDSCAPING, SCREENING AND BUFFERING PROVISIONS**

**(H) GENERAL PROVISIONS****(1) Design, Installation and Establishment****(a) *Plant Material***

- 1. Except as otherwise specified in this article, landscaping materials shall conform to the following minimum specifications:
  - A. Canopy trees shall have a 2.5 inch caliper and be 8 feet tall following installation.
  - B. Understory trees shall have a 2.0 inch caliper and be 6 feet tall following installation.
  - C. Shrubs not used for screening shall be a minimum height of 12 inches following installation.

D. Shrubs explicitly used for screening shall be a minimum height of 24 inches following installation

2. Plant material shall be chosen from the lists of recommended plant species contained in the Clayton General Design Guidelines. Plant materials that vary from this list may be used provided they meet the general size requirements and growth habits of the existing list of recommended plant species.

3. Selected plants should be predominately hardy species that are native to North Carolina.

(b) ***Cold Hardy and Drought Tolerant Plants***

Plantings shall be cold hardy for the specific location where they are to be planted. Trees and shrubs shall be salt tolerant and drought tolerant and able to survive on natural rainfall once established with no loss of health.

(c) ***Soils***

Planting areas shall have uncompacted coarse loam that is a minimum of 12 inches deep. Soils shall be appreciably free of gravel, stones, rubble or trash. All compacted soil, contaminated soil or roadbase fill shall be removed.

(d) ***Issuance of Certificate of Occupancy***

The Code Enforcement Officer may not issue a permanent Certificate of Occupancy for an approved site plan or part thereof, until all seeding, trees, and plant material have been placed in accordance with the approved site plan and requirements of this Section. A temporary Certificate of Occupancy may be issued for a period of 30 days under circumstances that would affect the seeding and planting of the site, or until the proper planting season is reached to complete the landscaping requirements, and may be extended up to 90 days upon request to the Code Enforcement Officer.

(2) **Requirements for Maintaining Planted Areas**

(a) ***Responsibility***

The responsibility for maintenance of a planted area shall remain with the owner, his or her successors, heirs, assignees or any consenting grantee. Maintenance is required in order to ensure the proper functioning of a planted area.

(b) ***Maintenance***

1. All plantings shall be maintained in an attractive and healthy condition. Maintenance shall include, but not be limited to, watering, mulching, fertilizing

and pest management, mowing, weeding, removal of litter and dead plant material, and necessary pruning and trimming.

2. Necessary pruning and trimming shall be in accordance with the American National Standards for Tree Care Operations: Tree Shrub and Other Woody Plant Maintenance - Standards Practices (Pruning), and shall not be interpreted to include topping of trees through removal of crown material or the central leader, or any other similarly severe procedures such as lollipopping or meatballing that cause irreparable harm to the natural form of the tree, except where such procedures are necessary to maintain public overhead utilities. Any such activity shall be a violation of this Chapter. Additional plant material shall be required to replace or supplement the damaged plant material.
3. Dead or diseased plantings shall be removed. Replacement plantings shall be provided for any required plants which die or are removed for any reason and shall meet all minimum standards and conform to these regulations.
4. Natural water courses shall be maintained in a natural condition.
5. A water source shall be supplied within 50 feet of any planting requiring continuing watering. Where non-*native* or non-drought tolerant native vegetation is incorporated an irrigation system shall be required. Irrigation systems shall meet the standards of the Town.
6. Landscape structural features such as walls, fences, berms or water features shall be maintained in a structurally safe and attractive condition.
7. Where other uses, including pedestrian, bike or other trails these uses shall be maintained to provide for their safe use.

(c) ***Failure to Maintain***

In the event that any owner of a planted area fails to maintain the planted area according to the standards of this section, the Town shall have the right to recover the cost of enforcement, including reasonable attorney fees. The Town may also, following a notice of violation and a demand that deficiency of maintenance be corrected, enter the planted area to take maintenance action. The cost of such maintenance shall be charged to the party having the primary responsibility for maintenance of the planted area.

(3) **Credit for Existing Plant Material**

- (a) With the exception of street yard tree credit, credit for existing plant material shall be allocated on a one-for-one basis for canopy trees, understory trees or shrubs. The size of material shall not be taken into account, except where such material is below the required minimum planting size.

- (b) Required planting areas shall incorporate existing natural vegetation to the maximum extent feasible. Prior to disturbance of a required planting area approval shall be obtained from the Town. Where existing vegetation is inadequate to meet the required planting standards, additional plant material shall be required.
  - (c) The retention of existing vegetation shall be maximized within proposed planting areas. Existing native habitat or vegetation located within planting area that meets the requirements of this section may be counted, provided such plant material meets the minimum standards of this section. If the existing vegetation has been credited and is subsequently removed or dies, it shall be replaced with the appropriate planting material.
  - (d) Credit may be permitted for existing plant material and walls on adjacent property, provided such items are in a permanently protected area, including, but not limited to:
    - 1. A conservation easement or preserve area on adjacent property; or
    - 2. An existing utility or drainage easement exceeding 100 feet in width.
- (4) **Tree Protection During Construction**

Existing trees specified on the landscape plan to remain on the site as a function of fulfilling the purpose of this Section shall be protected from vehicular movement and material storage over their root spaces during the following construction. An undisturbed area with a porous surface shall be reserved around a tree, based on dbh of the tree as provided in Table 4-7, and with no protective distance less than four feet from the base of the tree.

**TABLE 4-7: TREE PROTECTION**

| Trunk Diameter dbh | Area Required |
|--------------------|---------------|
| 4-10 inches        | 80 sq. ft.    |
| 11-16 inches       | 180 sq. ft.   |
| 17-20 inches       | 320 sq. ft.   |
| 21 inches plus     | 340 sq. ft.   |

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2012-01-04, passed 1-3-12; Am. Ord. 2013-06-01, passed 6-3-13; Am. Ord. 2013-08-02, passed 8-5-13; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord 2016-04-04, adopted 04-04-2016)

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## § 155.403 SIGNS

### (A) **PURPOSE AND INTENT**

Signs are herein regulated in the interest of promoting traffic safety, safeguarding the public health, facilitating police and fire protection, preventing adverse community appearance, over-crowding of the land, and protecting the character of the area in which they are located. This Section is intended to establish requirements for the concentration, placement, height, bulk, and area of signs, while preserving community scenic, economic, and aesthetic values.

### (B) **PERMIT REQUIRED**

Except as exempted in this Section and in accordance with §155.713, no sign may be erected, located, or altered in any manner until a sign permit (if necessary), and building permit if necessary, has been secured from the Planning Department.

### (C) **SIGN DEFINITIONS**

A sign is described as any visual device or representation designed or used for the purpose of communicating a message or identifying a product, service, person, organization, business, or event, with the use of words or characters, visible from outside the premises on which such device is located. "Sign" is further defined in section §155.802 Defined Terms. Specific sign types are described below in further detail.

#### (1) **Abandoned Sign**

A sign which has not identified or advertised a current business, service, owner, product, or activity for a period of at least 360 days.

#### (2) **Awning/Marquee/Canopy Sign**

A sign which is attached flat to an awning, marquee, or canopy.

#### (3) **Backlit Sign, (as it applies to Awnings, Marquees, and Canopies)**

A awning, either fabric, plastic, or other material that is partially or wholly translucent, and allows lighting from behind to illuminate the part or whole of the awning, marquee, or canopy at night.

#### (4) **Billboard**

A structure used for the permanent display of off-premise advertising.

#### (5) **Cabinet Sign**

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A sign in which a removable sign face (usually with translucent sign graphics which are illuminated from behind) is enclosed on all edges by a cabinet.

(6) **Clearance**

The distance above the walkway, or other surface if specified, to the bottom edge of a structure or sign. The term can also refer to a horizontal distance between two objects.

(7) **Changeable Copy Sign – Electronic**

A sign or portion thereof that displays non-pictorial, text information in which alphanumeric characters or symbols are defined by a small number of matrix elements using different combinations of light emitting diodes (LED's), fiber optics, light bulbs or other illumination devices within the display area. Electronic changeable copy signs include computer programmable, microprocessor controlled electronic displays. Electronic changeable copy signs include projected images or messages with these characteristics onto buildings or other objects.

(8) **Changeable Copy Sign – Manual**

A sign or portion thereof designed to accommodate frequent message changes composed of letters, characters, or illustrations and that can be changed or rearranged manually, without altering the face or surface of the sign.

(9) **Channel Letter Sign**

A sign consisting of fabricated or formed three-dimensional letters, individually applied to a wall or joined by a raceway. Channel letter signs are often internally illuminated. These signs may also include "bullets" or "taglines", which are smaller than and subordinate to the main sign letters, and function as small, irregularly shaped cabinets.

(10) **Deteriorated Sign**

Any sign which, together with its supports, braces, anchors, and other structural elements, is not maintained in accordance with the provisions of the North Carolina State Building Code, or where elements of the display area or panel are visibly cracked, broken, or discolored, or where the support structures or frame members are visibly corroded, bent, broken, torn, or dented, or where the message can no longer be read under normal viewing conditions.

(11) **Development Identification Sign – Non-residential**

A sign that identifies a non-residential development with multiple buildings. The sign may contain the name of the development, names of the tenants, or a combination of these components.

(12) **Development Identification Sign - Residential**



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A sign that identifies a residential development such as a single family residential subdivision, apartments, or multi-family development.

**(13) Drive-thru Menu Board**

A sign displaying the bill of fare for a drive-thru restaurant.

**(14) Easel / Sandwich Board / A-Frame Sign**

An upright “A”-frame or “H”-frame structure used for displaying promotional information to the public.

**(15) Electronic Sign: Electronic Graphic or Video Display**

A sign or portion thereof that displays either static or moving pictorial images or graphics, with or without text information, defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs or other electronic illumination devices within the display area. Electronic graphic or video display signs include computer programmable, microprocessor controlled electronic or digital displays, not including electronic changeable copy signs. Electronic graphic or video display signs include projected images or messages with these characteristics onto buildings or other objects.

**(16) Façade**

Generally known as the face of a building, especially the principal face. More specifically, this is that portion of any exterior elevation on the building extending from grade to top of the parapet, wall, or eaves, and the entire width of the building elevation. The primary façade is the side that includes the storefront and main entrance, or main public facing portion of a building.

**(17) Feather Sign, or Feather Flag**

A piece of cloth or similar material, typically elongated, oblong, and/or with a curved top or bottom edge, which is attached by two edges or one long, curving edge to a pole, and resembles a feather in shape. Generally, the sign is self-supporting (not attached to a building) and/or stuck into the ground in a temporary fashion, the flag is attached by a sleeve (and not by grommets or rope), and the entire sign is temporary in nature.

**18 Fence Wrap**

Fence wraps, as defined by G.S. 160D-908, are exempt from this Ordinance as provided by G.S. 160D-908.

**(18) Flag, or Flag Sign**

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A piece of cloth or similar material, typically rectangular, square, or triangular, which is attached by one edge to a pole or pole-mounted rope. More often than not, a flag is attached at distinct points, and not sleeved over the pole.

(19) **Flag Pole**

A straight pole used for flying a flag. A flag pole is a long, rigid structure, permanently mounted either vertically, horizontally, or angled, where one end is anchored and the other end displays one or more flags.

(20) **Flashing Sign**

Any sign whose artificial illumination is not kept constant in intensity at all times when in use and which exhibits changes in light, color, direction, or animation. This definition does not include Changeable Copy Signs or Electronic Signs which meet the requirements set forth herein.

(21) **Freestanding Sign**

A sign supported by a structure that is not itself part of a building.

(22) **Gas Balloon (or Balloon Sign)**

A lighter-than-air, gas-filled balloon, tethered in a fixed location, which may contain an advertisement message on its surface or attached to the balloon or its tether in any manner.

(23) **Hanging Sign**

A sign that is hanging from an awning, marquee or canopy.

(24) **Historic Sign**

A sign that is 50 years or older; particularly unique in character, design, or history; or part of the historic character of a business or building.

(25) **Illumination**

A source of artificial or reflected light, either directly illuminating a partially or wholly translucent material from a source of light incorporated inside a structure or sign, or indirectly from an artificial source outside of a structure or sign.

(26) **Illumination, Halo**

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A sign using a 3-dimensional message, logo, etc., which is lit in such a way as to produce a halo effect. For the purposes of regulating total sign face area, the entirety of the area covered by the sign and the halo illumination shall be considered.

(27) **Inflatable Sign**

Signs that are inflated using air pressure.

(28) **Monument Sign**

A freestanding sign where the base of the sign is on the ground and is supported primarily by an internal structural framework or solid structural features other than support posts.

(29) **Obsolete Sign**

A sign whose message describes the availability of goods or services at a location where such goods and services are no longer available and have ceased to be available for a period of at least 60 days or, in the alternative, any sign whose content pertains to a time, event or purpose which has elapsed or expired.

(30) **Off-Premises Sign**

A sign which conveys information about a business, product, service, owner, or other activity not sold or offered on the premises on which the sign is located.

(31) **On-Premises Sign**

A sign which conveys information about a business, product, service, or other activity offered or sold at the premises on which the sign is located.

(32) **Pan Sign**

A flat sign where vinyl or other adhesive graphics are applied to a metal sheet or some other type of flat backing plate. Often these signs are rectangular and used above storefronts, taking the place of areas that might otherwise be channel letter or cabinet signs. Pan signs are not made of translucent materials and are externally illuminated, if they have illumination at all.

(33) **Personal Expression Sign**

An on-premises sign that expresses an opinion, interest, position, or other non-commercial message.

(34) **Pole Sign**

A sign mounted on a freestanding pole attached to the ground by a support structure having a ratio of greater than four to one sign width to narrowest width of support structure.

(35) **Portable Sign**

A sign that is not directly attached to the ground and is designed to be easily transportable.

(36) **Post Sign**

A freestanding sign permanently affixed to the ground by support posts and does not have a solid base.

(37) **Post and Arm Sign**

A sign supported by a single upright post, with a horizontal arm from which a sign is suspended.

(38) **Primary Building Identification Sign**

A sign communicating the generic or specific name of an entire building without communicating or advertising for a specific business, service, owner, or product housed therein.

(39) **Primary Side (of a Building)**

The face or façade of a building that generally occurs in association with the main storefront entrance.

(40) **Primary Sign**

Any sign generally occurring on the primary building façade or above or in association with the main storefront entrance.

(41) **Projecting Sign**

A sign fastened directly to and extending out from a building face or wall, so that the sign face is perpendicular to or at an angle to the building face or wall.

(42) **Roof Sign**

A sign that is mounted to a roof with an angle less than 75 degrees or a sign displayed above the highest point of the roofline on a pitched roof or the parapet wall on a flat roof.

(43) **Secondary Sign**

Any sign not occurring on the primary side of a building.

(44) **Snipe Sign**

A sign tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, public benches, trash cans, streetlights, or other objects, or placed on any public property or in the public right of way or on any private property without the permission of the property owner. May also be known as a “bandit sign”.

(45) **String or Rope Lighting**

Lights, either constant, flashing, or intermittent, arranged in a line, string, or rope, generally lining a window, door, or other architectural or façade feature.

(46) **Tenant Identification Sign**

An exterior sign that identifies tenants of a single building, such as a multi-family residential building or a multi-tenant, non-residential commercial building, where access to each tenant is provided internally, via a shared external entrance. The sign may contain the name of the development, names of the tenants, suite number or address of each tenant, or a combination of these components. Tenant identification signs are designed to the pedestrian scale, located on or to the side of the shared external entrance, and are generally readable at a distance of less than 10-15 feet.

(47) **Temporary Signs**

A sign that is not intended or designed for permanent display.

(48) **Wall/Fascia Sign**

A sign adhered to, attached to or mounted away from but parallel to the building wall.

(49) **Windblown Sign**

Any sign composed of a banner, flag, pennant, or other objects, mounted and fastened in such a manner as to move upon being subjected to pressure by air pressure, wind, or breeze.

(50) **Window / Door Sign**

A sign attached to the inside or outside of a window or door, or displayed behind a window.

(D) **EXEMPTIONS**

The following signs (known as “Exempt Signs”) shall not be subject to a Sign Permit application per §155.713 “Sign Permit”, with regulation hereunder. Exempt Signs shall not count toward the total allowed sign face area on a site, unless otherwise noted below. Exempt Signs shall still be governed by the General Sign Regulations and Specific Sign Regulations, including dimensional standards of each individual sign type, except as otherwise noted below:

- (1) Signs erected by, on behalf of, or pursuant to the authorization of a governmental body.

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- (2) Personal expression signs of any sign type, including flags, provided that they do not exceed 4 square feet in area per side, are non-commercial in nature, and are non-illuminated. The maximum number of personal expression signs per lot is two.
  - (3) Flags, pennants, or insignia of any governmental or non-governmental organization, when not displayed in connection with a commercial promotion or as an advertising device provided that the following criteria are met:
    - (a) Flags and flagpoles are not located within any public right-of-way, and must meet the setback requirements of the zoning district, as well as the setbacks described in “Flags” (G)(15) of this Section;
    - (b) Flags and flagpoles do not extend more than 25’ above the ground;
    - (c) No more than 2 flags per lot in residential districts, and no more than 3 flags per lot in all other districts;
    - (d) Maximum size per flag is 24 square feet in residential districts and 40 square feet in all other districts;
    - (e) Illumination is permitted so long as it is not brighter than the light produced by a 100W incandescent bulb, and shines directly up at the flag.
    - (f) Only one exempt flag pole is permitted per lot; this counts toward the total number of permitted flag poles on a site.
    - (g) If the above criteria are not met, or if the flag contains commercial messaging, then the flag shall require a sign permit and shall be regulated according to the General Sign Regulations and Specific Sign Regulations for that sign type.
  - (4) Miscellaneous informational signs. The following types of miscellaneous informational signs shall be exempt from sign permit requirements:
    - (a) Informational signs appearing on gasoline pumps, such as the names of grades of fuel and prices and conditions relating to prices (i.e. full or self-service).
    - (b) Signs appearing on vending boxes, provided they do not project more than 12 inches above or past the sides of the vending box, and no more than a total of 80 square feet of signage exists on each vending box. Vending boxes that stand apart from the primary structure on a site shall be considered as accessory structures, and shall require sign permits as regulated by General and Specific Sign Regulations, of this Section.
    - (c) Directional signs less than 4 square feet appearing on or adjacent to entry doors such as PUSH, PULL, OPEN, and/or CLOSED, as regulated by (G)(3) “Window / Door Signs”, and a maximum of two signs are allowed per entry door.

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- (d) "Open" or "closed" signs that are turned on or displayed only during business hours, provided they are less than 4 square feet and only one may be displayed per storefront or façade.
  - (e) Signs appearing on display windows or doors denoting hours of operation, credit cards accepted, payment options, and similar information, provided they cover less than 2 square feet, only one sign is allowed per façade or entrance, and these signs are also in conformance with other applicable regulations from (G)(3) "Window / Door Signs".
  - (f) Information pertaining to the operating instructions of vending machines and automatic teller machines, including bank logos on the face of ATM machines, provided they do not project more than 12 inches above or to the sides of the vending box or machine housing.
  - (g) Signs providing directions or guiding traffic on private property that do not exceed four square feet in size or four feet in height each, and do not contain a business name, logo, or an advertising message.
  - (h) Signs internal to a large campus or multi-building development that are not visible from the public right-of-way or public realm.
- (5) Signs painted on or otherwise permanently attached to currently licensed motor vehicles that are not primarily used for or strategically parked to be used as a sign.
  - (6) Signs not exceeding four square feet in size that are customarily associated with residential use and that are not of a commercial nature, such as signs giving names of occupants, signs on mailboxes and paper tubes, and signs posted on private property relating to private parking or warning the public against trespassing or danger from animals.
  - (7) "Yard sale" signs displayed at the location of the yard sale, not exceeding four square feet in area, and not used in connection with any continuous commercial activity. Yard Sale Signs are further regulated in Section (16) "Temporary Signs".
  - (8) Signs containing the message that the real estate on which the sign is located is for sale, lease, or rent, together with information identifying the owner or agent, provided that such signage meets the standards of Table 4-8 "Real Estate Sign Standards". Such signage may have a maximum of two sides, shall be non-illuminated, and shall be removed within 15 days after sale, lease, or rental. Only one sign on each street frontage may be erected, but on lots having a street frontage in excess of 400 feet, a second sign not exceeding nine square feet in size per side may be erected. Feather or windblown signs shall not be permitted as real estate signs, per Section (E) of this Article.
- (9) Fence wraps as defined and regulated by G.S. 160D-908.

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**TABLE 4-8: REAL ESTATE SIGN STANDARDS**

| Nonresidential or Mixed Use Property |                           |                |
|--------------------------------------|---------------------------|----------------|
| Acreage                              | Maximum sign face area    | Maximum Height |
| Less than two acres                  | 16 square feet per side   | Six feet       |
| Greater than two acres               | 32 square feet per side   | Six feet       |
| Residential Property                 |                           |                |
| Acreage                              | Maximum sign face area    | Maximum Height |
| Less than one acre                   | Six square feet per side  | Six feet       |
| One - Five acres                     | Nine square feet per side | Six feet       |
| Five – 20 acres                      | 16 square feet per side   | Six feet       |
| Greater than 20 acres                | 32 square feet per side   | Six feet       |

- (9) Displays, including lighting, flags (less than 12 square feet total area), and inflatables, erected in connection with the observance of holidays that do not bear an advertising message. Such displays shall be removed within ten days following the holiday.
- (10) Sign face plate changes, provided that it meets the applicable criteria of General and Specific Sign Regulations and other applicable portions of this Article.
- (11) Window and door signs, provided that these signs conform to the Specific Sign Regulations (§155.403(G)(3)), and such signage shall count toward the total allowed sign face area and number of signs on a site.
- (12) Easel / Sandwich Boards / A-Frames, provided that these signs conform to the Specific Sign Regulations (§155.403(G)(7)), and such signage shall count toward the total allowed sign face area and number of signs on a site.
- (13) Menu Displays
 

Restaurants and other food- or beverage- selling businesses where consumption occurs on-site may display a menu or list of daily specials on the wall adjacent to their main and secondary entrances provided that it is not larger than the actual printed menu available inside the establishment and is housed in a decorative frame.
- (14) Legal notices
- (15) Historic signs, provided
  - (a) the Planning Director determines the sign meets the following criteria:



1. The sign is 50 years or older; or
2. The sign is particularly unique in character, design, or history; or
3. The sign is a part of the historic character of a building, business, or district; and
4. The sign is kept in good, working order.

(b) Historic signs shall not count toward the total allowable sign face area for a site.

(16) Tenant identification signs, which shall count toward the total signage allowed on a site.

(E) **SIGNS PROHIBITED**

The following signs are expressly prohibited within all zoning districts:

- (1) Abandoned signs or obsolete signs.
- (2) Backlit Awnings, Marquees, or Canopies, unless part of an approved Alternative Sign Plan.
- (3) Portable signs, including any signs painted on or displayed on vehicles or trailers parked or located for the primary purpose of displaying that sign, except Easel / Sandwich Board / A-Frame Signs located on the ground as regulated herein.
- (4) Roof signs.
- (5) Cabinet signs of any shape, attached to a building wall or roof, except that portion that is a federally or state registered trademark. State or federally registered trademarks used in this fashion require a sign permit (per §155.713 "Sign Permit") and are allowed one per tenant per façade, up to a maximum size of 12 square feet.
- (6) Inflatable signs, with the exception of those erected in connection with the observance of holidays and do not bear an advertising message as described in D(8) of this Section.
- (7) Any sign or device set into motion by mechanical, electrical, or other means, except barber poles and those regulated in (G)(11) "Electronic Changeable Copy Sign / Electronic Sign" of this Section.
- (8) Flashing Signs, including but not limited to any sign or device displaying flashing or intermittent lights, lights of changing degrees or intensity, or animation. This includes electronic video display signs. However, Electronic Changeable Copy Signs / Electronic Signs are permitted, as regulated in (G)(11) of this Section.
- (9) String or rope lighting, that is not explicitly associated with the traditional observance of a holiday and regulated by the conditions of (D)(9) under "Exemptions". All string or rope lighting is required to be removed no later than February 1<sup>st</sup>, 2017 in order to comply with this section.

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- (10) Any sign which is a copy or imitation of an official sign, or which purports to have official status.
  - (11) Off-premises signs not specifically regulated herein, including but not limited to billboards.
  - (12) Snipe signs.
  - (13) Temporary product/promotional advertisement signs that are hung on, attached to or placed over a permanent fixture including but not limited to a light pole, tree, fence or bollard, whether on or off-premises, unless approved as part of a Temporary Sign Permit.
  - (14) Pole signs.
  - (15) Signs mounted inside a window or on a wall directly behind a window, and/or otherwise visible from outside the building that are not accounted for or do not meet the criteria of (G)(3) "Window / Door Signs".
  - (16) Signs displayed in secondary windows not located on the first floor or in secondary windows not located in the primary building façade or a storefront entrance, unless as part of an Alternative Sign Plan.
  - (17) Signs or murals of a commercial nature painted directly onto a wall or other building surface or structure, unless as part of an Alternative Sign Plan.
  - (18) Windblown signs, except those exempted in Exemptions (found in (D)(2) and (3) of this Section), part of an approved Flag Sign ((G)(15) of this Section, or those allowed as part of a Temporary Sign Permit in accordance with §155.713 (F).
  - (19) Any sign, other than those described in (D)(4)(g) of this Section, that is stenciled, painted, projected, or otherwise displayed on the ground, sidewalk, or pavement, unless as part of an Alternative Sign Plan.

(F) **GENERAL SIGN REGULATIONS**

(1) **Signs Located in Overlay Districts**

Signs located within an Overlay District are subject to the provisions of this Section, except that regulations within § 155.204 "Overlay Districts" shall supersede and may be either more or less restrictive than the regulations for signs contained in this Section, unless permitted as an Alternative Sign Plan per (K) of this Section.

(2) **Signs Located as Part of a Home Occupation**

Signs erected in connection with a home occupation pursuant to § 155.308(C)(2) are subject to the provisions of this Section, except that regulations within § 155.308(C)(2) shall supersede and may be either more or less restrictive than the regulations for signs contained

in this Section, unless permitted as an Alternative Sign Plan per (K) of this Section. Signs erected in connection with a home occupation shall not be illuminated.

(3) **Total Allowable Sign Face Area**

- (a) The total square footage of allowable sign face area permitted on any site shall be calculated by multiplying the amount of linear lot frontage or building frontage (in feet) by 1.25. The total allowable sign face area for any site shall not exceed this calculation (as shown below).

$$\text{Total allowable sign face area (in square feet)} = \text{Linear frontage (feet)} \times 1.25$$

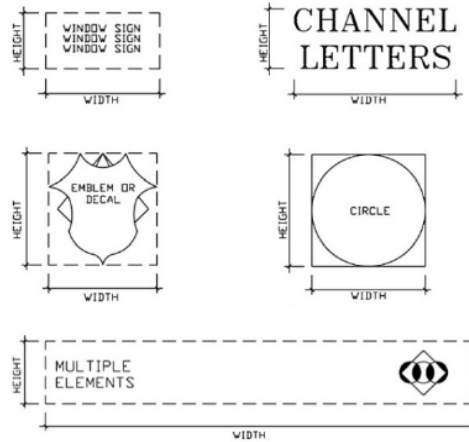
On lots with frontage on more than one street, the longest frontage may be used to calculate the total allowable sign face area.

- (b) In addition, the total area and specific area of allowable sign face area permitted on a sign or site shall be governed by the sign type criteria for each specific sign type (as described below in Section (G) "Specific Sign Regulations").

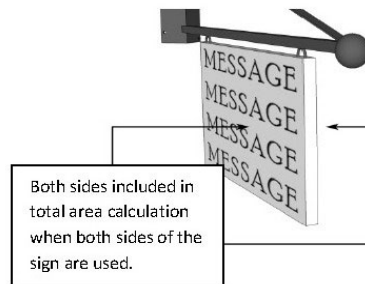
(4) **Computation of Sign Measurements**

(a) ***Computation of Sign Face Area***

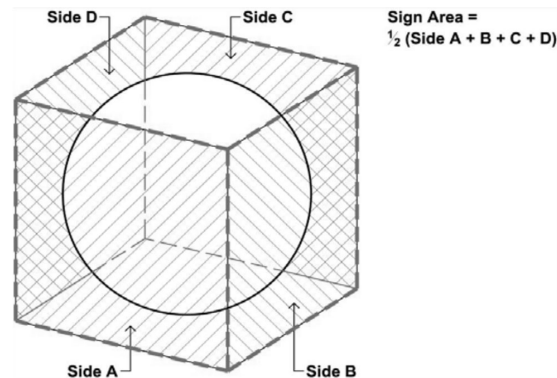
1. The area of a sign, otherwise known as sign face area, is measured by finding the area of the minimum imaginary rectangle or square, aligned parallel to the horizon which fully encloses all sign words, symbol, copy, or message, including any material or color forming the sign face or background used to differentiate the sign from the structure against which it is placed. Sign face area does not include any supporting framework or bracing, unless it is part of the message or sign face, or otherwise functions as an attention-attracting device.



2. Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, unless otherwise specified.



3. The sign face area of free-form or sculptural (non-planar) signs is calculated as fifty percent of the sum of the area of the four vertical sides of the smallest cube that will encompass the sign.



*Illustration of sign area for sculptural non-planar signs.*

(b) **Computation of Sign Height**

1. General

Sign height is measured as described below. The height of a sign shall include the highest point of the sign face area, with the supporting structure and/or any decorative elements dedicated or attached exclusively to the sign limited to 125% of the allowed sign height, unless approved as part of an Alternative Sign Plan per (K) of this Section.

2. Height Measurement

The vertical distance from the average grade of the ground or walkway immediately surrounding the sign to the highest point of the sign face area, or from the level of the average crown of the nearest abutting public street, alley or highway (other than a structurally elevated roadway) to the highest point of the sign face area, whichever measurement permits the greater elevation..

(5) **Construction Standards**

- (a) All signs shall comply with the appropriate provisions of the North Carolina Building Code, the National Electric Code, and this Section.
- (b) Signs shall be located in such a way that they maintain sufficient horizontal and vertical clearance of all overhead electrical conductors in accordance with National Electric Code specifications, provided that no sign, except governmental signs, shall be installed closer than ten feet horizontally or vertically from any conductor or public utility guy wire.

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- (c) In no way shall a sign hinder or obstruct the visibility of the right-of-way, as defined by § 155.400(K) "Visibility at Intersections", either at intersections or points of ingress or egress from parking lots.
  - (d) Signs and any associated structures shall match or exceed in quality the materials of the primary structure on a site. Signs should be integrated into the architectural style of the building and design of the site, and should complement the overall architectural style.
    - 1. All permanent signs shall be constructed of quality and permanent materials.
    - 2. No permanent sign shall be allowed if the materials are of a nature that it is reasonable to expect that the sign will fall into disrepair within a period of 5 years or less through natural weathering.
    - 3. Quality materials for permanent signs shall not include:
      - A. Unfinished wood, including unfinished posts or supports
      - B. Coroplast or other similar rigid, pan, vinyl or plastic backing, for wall signs or tenant identification signs
      - C. Painted signs
  - (e) All signs shall be of a sign type that demonstrates a high quality development.
    - 1. Signs shall be constructed of a quality sign type.
      - A. For purposes of determining the quality of a sign type, the following shall apply for wall signs, in order of highest quality to lowest quality: channel letter sign or similar individually mounted lettering, raceway-mounted lettering, decorative pan sign, cabinet sign, painted sign or vinyl or other lettering adhered directly to the wall.
      - B. For purposes of determining the quality of a sign type, the following shall apply for freestanding and monument signs, in order of highest quality to lowest quality: monument sign, post sign, cabinet sign.
  - (f) Signs with a separate electric meter shall have the pedestal and meter completely screened from view, or be otherwise seamlessly hidden by or integrated into the design of the sign or structure. Approval of a sign plan or issuance of a sign permit for an illuminated sign does not necessarily constitute exemption from this criteria or screening requirements.

(6) **Illumination**

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- (a) At a minimum, illumination of signs shall be limited to business hours when the business is open to the public and/or clients, or as otherwise restricted in this Section. This does not apply to Billboards.
  - (b) Illuminated signs shall have no movement, including but not limited to flashing, blinking, or animation, except as allowed for Electronic Changeable Copy Signs in (11) of this Section, or as otherwise permitted as part of an Alternative Sign Plan in (K) of this Section.
  - (c) At a minimum, illumination of signs in or within 50' of residential zoning districts is prohibited from the hours of 9:00PM to 7:00AM, or as otherwise restricted in this Section.
  - (d) Internal illumination of signs is prohibited in mixed use zoning districts with conforming residential uses, and in and within 50' of residential zoning districts, unless approved as part of an Alternative Sign Plan (K).
  - (e) Signs associated with a home occupation shall not be illuminated.
  - (f) All wires and non-decorative lighting structures shall be camouflaged or reasonably hidden from view.
- (7) **Secondary Signs**
- (a) Where signs are displayed on more than the primary side of a building, any secondary signs shall be no larger than the primary sign.
  - (b) Secondary signs shall be consistent with the primary sign in content, type, construction, illumination, and materials.
  - (c) A secondary sign shall only be allowed if a primary sign already exists.
  - (d) A secondary sign shall only be allowed if it is consistent with the content, user, tenant, business, or activity of the primary sign.
- (8) **Windows and Translucent Doors**
- (a) Primary windows and translucent doors located in first floor, non-residential storefronts shall not be obstructed, covered, or otherwise blocked so as to prohibit visibility from the outside for more than half of regular business hours.
  - (b) Permanent coverings, which include but are not limited to signage, window tinting, reflective window treatments, window wraps, or window treatments, shall cover no more than 25% of the above surfaces.

(G) **SPECIFIC SIGN REGULATIONS**

Requirements additional to Section (F) “General Sign Regulations”, for sign area, dimensions, placement, illumination, and other standards as necessary are described below. All signs must be located on-premises unless otherwise explicitly indicated.

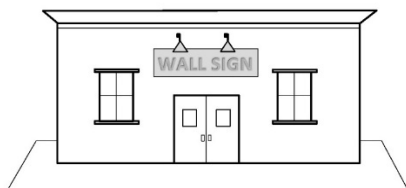
(1) **Sign Color**

The Pantone Matching System (PMS) colors, vinyl manufacturer and numbers, or comparable industry standard of color identification shall be clearly indicated for each proposed sign when applying for a sign permit.



**(2) Wall / Fascia Signs**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Allowed Sign Face Area (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <ol style="list-style-type: none"> <li>Twenty-five percent of the surface area of each wall, façade, storefront, or fascia area (as applicable) exclusive of windows/doors.</li> <li>Max. 75 square feet</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>(b) Number (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <ol style="list-style-type: none"> <li>Each building face may have one Primary Building Identification Sign plus one sign per tenant, provided the cumulative area does not exceed the total allowable sign face area for that façade.</li> <li>Only one sign per tenant per wall / façade is allowed.</li> </ol>                                                                                                                                                                                                                                                                                                                                      |
| <b>(c) Positioning</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <ol style="list-style-type: none"> <li>No portion of a wall/fascia sign may extend above the roof line of a building without a parapet wall.</li> <li>No portion of a wall/fascia sign may extend above parapet walls.</li> <li>No portion of wall/fascia sign may extend above the lower eave line of a building with a pitched roof with a vertical angle less than 75 degrees.</li> <li>Signs may be placed in gables, provided they meet the conditions above.</li> <li>No sign shall be allowed on a dormer.</li> </ol>                                                                                                                           |
| <b>(d) Projection (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Twelve inches from wall or surface to which the sign is attached.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>(e) Clearance (min.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| If the sign projects more than six inches from the wall it is attached to, the sign shall maintain a clearance of 8 feet from the ground below.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>(f) Construction</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <ol style="list-style-type: none"> <li>All wall signs shall be fastened directly to the supporting wall.</li> <li>All supporting brackets or raceways shall be painted to blend in with the building.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>(g) Location</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <ol style="list-style-type: none"> <li>Allowed in residential zoning districts as part of a permitted non-residential use.</li> <li>Allowed in all non-residential and mixed use zoning districts.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>(h) Other Conditions</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <ol style="list-style-type: none"> <li>In multi-tenant, non-residential or mixed use buildings, <ol style="list-style-type: none"> <li>Each tenant shall be allowed one color per wall sign with black also allowable as trim, background, or accent.</li> <li>Pan or rectangular signs must incorporate decorative embellishments, borders, or features.</li> <li>Federally and state registered trademarks may occupy a maximum of 12 square feet of sign face area per tenant and shall be counted toward the allowable sign face area.</li> <li>Signs shall match or exceed the style of existing sign materials and style.</li> </ol> </li> </ol> |



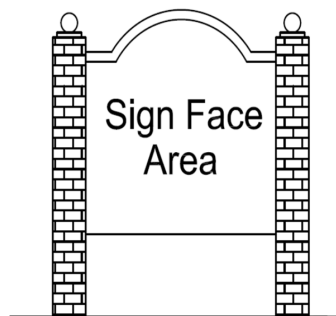
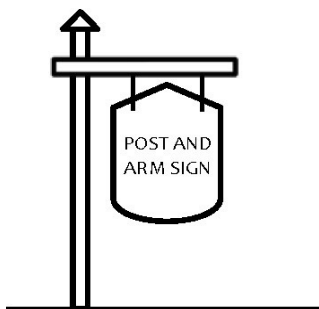
**(3) Window/Door Signs**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Allowed Sign Face Area (max)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Twenty-five percent of the area of the surface of each window/door area. The window/door area is counted as a continuous surface until divided by a solid architectural or structural element with a width greater than 12 inches. Stated alternatively, 75% transparency must be maintained for windows and transparent doors. Faux windows may be up to 100% opaque, but are restricted to the 25% sign face area maximum described above.                                                                                                                                  |
| <b>(b) Positioning</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <ol style="list-style-type: none"> <li>1. Window/door signs are only allowed for businesses or tenants with an exterior entrance directly into their unit.</li> <li>2. Window signs are not allowed on exterior windows above the first floor, unless part of an approved Alternative Sign Plan. Real estate-related signs, such as "For Rent" or "For Sale" are not subject to this provision (see (D)(8) of this section).</li> <li>3. Window signs are attached to the inside or outside of a window or door, or displayed behind a window or transparent door.</li> </ol> |
| <b>(c) Illumination</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <ol style="list-style-type: none"> <li>1. Illumination is prohibited, except for "Open" signs as described in Exempt Signs.</li> <li>2. Illuminated window signs are prohibited in residential zoning districts. This prohibition includes the "Open" Signs described above under Exempt Signs.</li> </ol>                                                                                                                                                                                                                                                                    |
| <b>(d) Location</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <ol style="list-style-type: none"> <li>3. Allowed in residential zoning districts as part of a permitted non-residential use.</li> <li>1. Allowed in all non-residential and mixed use zoning districts.</li> </ol>                                                                                                                                                                                                                                                                                                                                                           |

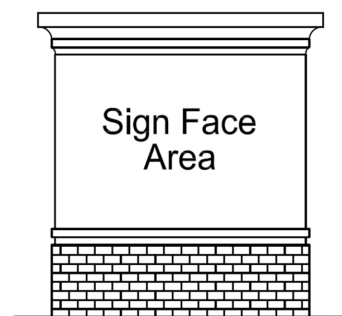


**(4) Freestanding Signs (Monument Sign, Post Sign, Post and Arm Sign)**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Allowed Sign Face Area (max.) Per Sign Face</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <ol style="list-style-type: none"> <li>Maximum size of 64 square feet, and further restricted by type: <ol style="list-style-type: none"> <li>Monument Signs: A total of 0.25 square feet per linear foot of lot frontage or building frontage along the street on which the sign is oriented.</li> <li>Post Signs: A total of 0.20 square feet per linear foot of parcel street frontage or storefront street frontage along the street on which the sign is oriented.</li> <li>Post-and-Arm Sign: Six square feet.</li> </ol> </li> </ol> |
| <b>(b) Height (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Eight feet.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>(c) Minimum Frontage (either building frontage or lot frontage, both as measured parallel to the street on which the sign will be located or facing)</b>                                                                                                                                                                                                                                                                                                                                                                                 |
| <ol style="list-style-type: none"> <li>Monument and Post Signs: 100 linear feet</li> <li>Post-and-Arm Signs: 50 linear feet.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>(d) Number (max.) Per Site</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <ol style="list-style-type: none"> <li>0 to 599 linear feet = 1 sign.</li> <li>600 to 1499 linear feet = 2 signs (min. 300 linear feet on two frontages = 2 signs).</li> <li>1500+ linear feet = 3 signs (min. 300 linear feet on three frontages = 3 signs).</li> </ol>                                                                                                                                                                                                                                                                    |
| <b>(e) Setback and Separation (min.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <ol style="list-style-type: none"> <li>Five feet from the public right-of-way.</li> <li>Fifteen feet from any interior side lot line.</li> <li>Fifty feet between signs.</li> </ol>                                                                                                                                                                                                                                                                                                                                                         |
| <b>(f) Location</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Allowed in all non-residential and mixed use zoning districts.                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>(g) Landscaping</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <ol style="list-style-type: none"> <li>A planting bed area equal to at least one-half of the sign face area (for two-sided signs, use only one sign face area for the calculation) shall be planted around the entire base of any freestanding sign, with decorative landscape features or materials.</li> <li>All planting areas are required to comply with this requirement no later than May 1st, 2017 in order to comply with this section.</li> </ol>                                                                                 |



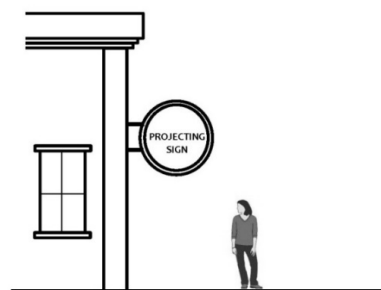
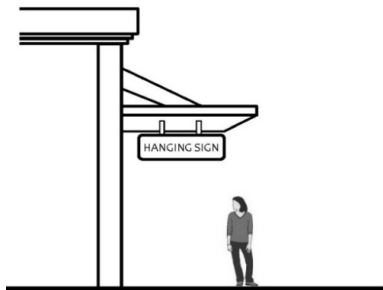
Post Sign



Monument Sign

**(5) Projecting Signs and Hanging Signs**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Allowed Sign Face Area (max.) Per Sign Face</b>                                                                                                                                                                                                                                                                                                                                                                                                           |
| <ol style="list-style-type: none"> <li>1. <u>Projecting signs</u>: 10 square feet.</li> <li>2. <u>Hanging signs</u>: Six square feet.</li> </ol>                                                                                                                                                                                                                                                                                                                 |
| <b>(b) Number (max.) Per Site</b>                                                                                                                                                                                                                                                                                                                                                                                                                                |
| One of each sign (hanging and projecting) per ground floor business frontage. A corner business unit may have one per street frontage.                                                                                                                                                                                                                                                                                                                           |
| <b>(c) Positioning and Clearance</b>                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <ol style="list-style-type: none"> <li>1. Minimum seven feet clearance from the ground level to the bottom of the sign.</li> <li>2. Maximum 15' from ground level to the top of the sign.</li> <li>3. Minimum three feet clearance from curb line.</li> <li>4. May not extend above roof eaves or parapet walls.</li> <li>5. A minimum of 10' clearance is required between hanging signs on the same business frontage.</li> </ol>                              |
| <b>(d) Projection (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <ol style="list-style-type: none"> <li>1. <u>Projecting sign</u>: Three feet from the building wall or one-half the width of the sidewalk.</li> <li>2. <u>Hanging Sign</u>: No restriction provided the sign does not extend past the roof, marquee, or awning to which it is attached.</li> </ol>                                                                                                                                                               |
| <b>(e) Construction</b>                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <ol style="list-style-type: none"> <li>1. <u>Projecting Signs</u>: Signs shall be fastened directly to a building wall and shall intersect the building wall at right angles. When a building corner is at the intersection of two streets, one projecting sign at a 45 degree angle is allowed in lieu of one sign per street frontage.</li> <li>2. <u>Hanging Signs</u>: Shall be fastened directly and securely to the awning, marquee, or canopy.</li> </ol> |
| <b>(f) Illumination</b>                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <ol style="list-style-type: none"> <li>1. Projecting signs may be illuminated internally or externally.</li> <li>2. Hanging signs may only be illuminated externally.</li> </ol>                                                                                                                                                                                                                                                                                 |
| <b>(g) Location</b>                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <ol style="list-style-type: none"> <li>1. Allowed in residential zoning districts as part of a permitted non-residential use.</li> <li>2. Allowed in all non-residential and mixed use zoning districts.</li> </ol>                                                                                                                                                                                                                                              |



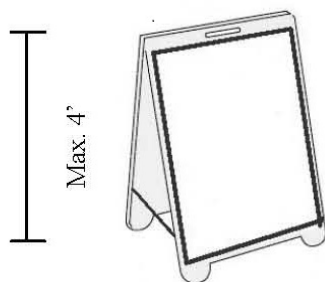
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**(6) Awning, Marquee, or Canopy Signs**

|                                                                                                                   |
|-------------------------------------------------------------------------------------------------------------------|
| <b>(a) Allowed Sign Face Area (max.)</b>                                                                          |
| 75 percent of the surface area of the face of the awning, marquee, or canopy to which it is attached.             |
| <b>(b) Number (max.) Per Site</b>                                                                                 |
| One permitted on each side or face of awning, marquee, or canopy.                                                 |
| <b>(c) Clearance</b>                                                                                              |
| Minimum eight feet from ground level.                                                                             |
| <b>(d) Positioning</b>                                                                                            |
| Lettering or graphics shall not project horizontally more than one inch from the surface to which it is attached. |
| <b>(e) Construction</b>                                                                                           |
| Shall be fastened or adhered directly and securely to the awning/marquee/canopy face.                             |
| <b>(f) Illumination</b>                                                                                           |
| 1. Backlit illumination is prohibited.                                                                            |
| <b>(g) Location</b>                                                                                               |
| 2. Allowed in residential zoning districts as part of a permitted non-residential use.                            |
| 1. Allowed in all non-residential and mixed use zoning districts.                                                 |

**(7) Easel/Sandwich Boards/A-frame**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <b>(a) Allowed Sign Face Area (max) Per Sign Face</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |  |
| 8 square feet.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |  |
| <b>(b) Number (max.) Per Site.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  |
| One per business unit or tenant, with an overall maximum of 1 sign per 20 linear feet of store frontage.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |  |
| <b>(c) Positioning</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |  |
| <ol style="list-style-type: none"> <li>1. Sign must be located within 20 feet of the business entrance.</li> <li>2. No easel/sandwich board / A-frame sign shall be placed on the sidewalk so as to leave less than 4 feet of unobstructed clearance for pedestrians.</li> <li>3. Prohibited within the public right-of-way.</li> <li>4. No easel/sandwich board / A-frame sign shall remain on the sidewalk adjacent to any premises at any time when the premises are closed to the public.</li> <li>5. No easel / sandwich board / A-frame sign shall be tied, locked, chained, or otherwise attached to any other feature.</li> <li>6. No easel / sandwich board / or A-frame shall be displayed outside of business hours.</li> </ol> |  |
| <b>(d) Height (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |  |
| Four feet.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |  |
| <b>(e) Width (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |  |
| Three feet.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |  |
| <b>(f) Construction</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |  |
| <ol style="list-style-type: none"> <li>1. All A-frame/sandwich board/easel signs shall be adequately weighted or anchored to prevent accidental movement of the sign, including by wind gusts. Such weighting shall be integral to the design of the sign, and shall not consist of separate materials such as sandbags or concrete blocks.</li> <li>2. No sign shall obstruct any public street.</li> </ol>                                                                                                                                                                                                                                                                                                                               |  |
| <b>(g) Illumination</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |  |
| Illumination is prohibited.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |  |
| <b>(h) Location</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  |
| <ol style="list-style-type: none"> <li>1. Allowed in residential zoning districts as part of a permitted non-residential use.</li> <li>2. Allowed in all non-residential and mixed use zoning districts.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  |



**(8) Tenant Identification Signs**

|                                                                                                                                                    |
|----------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Allowed Sign Face Area (max.)</b>                                                                                                           |
| Six square feet.                                                                                                                                   |
| <b>(b) Number (max.)</b>                                                                                                                           |
| One sign per external entrance.                                                                                                                    |
| <b>(c) Positioning</b>                                                                                                                             |
| 1. Signs shall be located to the side of the external door which accesses the internal tenants described on the sign.                              |
| <b>(d) Projection (max.)</b>                                                                                                                       |
| Three inches from wall to which the sign is attached.                                                                                              |
| <b>(e) Construction</b>                                                                                                                            |
| 1. All tenant identification signs shall be fastened directly to the supporting wall.                                                              |
| <b>(f) Illumination</b>                                                                                                                            |
| 1. May be illuminated externally only. No backlighting.                                                                                            |
| <b>(g) Location</b>                                                                                                                                |
| 1. Allowed in residential zoning districts as part of a permitted non-residential use.                                                             |
| 2. Allowed in all non-residential and mixed use zoning districts.                                                                                  |
| <b>(h) Other Conditions</b>                                                                                                                        |
| 1. Only tenant(s) accessed by the entrance adjacent to the sign may have their signage displayed.                                                  |
| 2. Tenant and suite identification lettering shall not be taller than 1 inch, and main identification lettering shall not be taller than 4 inches. |
| 3. Faceplates shall not be taller than 2 inches.                                                                                                   |
| 4. All faceplates shall utilize one color for lettering and one color for background. The colors shall be consistent among tenants on the sign.    |

| <b>White House Plaza</b>     |                       |
|------------------------------|-----------------------|
| <b>1600 Pennsylvania Ave</b> |                       |
| Smith's Savory Sweets        | First Floor, Suite 1  |
| Guns & Gorgonzola            | First Floor, Suite 2  |
| Ruffs and Rolls              | First Floor, Suite 3  |
| Designs by DD                | Second Floor, Suite 1 |
| Bunns and Breads             | Second Floor, Suite 2 |
| So Sew Me                    | Second Floor, Suite 3 |
| Boss Hogg's BBQ              | Third Floor, Suite 1  |
|                              |                       |

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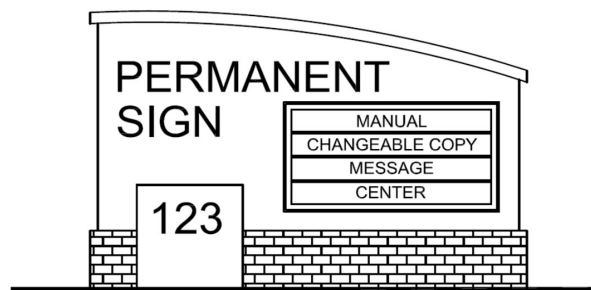
**(9) Drive-Thru Menu Boards**

|                                                                                                                                                                                                                                         |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Number (max.)</b>                                                                                                                                                                                                                |
| Two per drive-thru lane.                                                                                                                                                                                                                |
| <b>(b) Allowable Sign Face Area (max.)</b>                                                                                                                                                                                              |
| 36 square feet allowed per drive-thru lane.                                                                                                                                                                                             |
| <b>(c) Height (max.)</b>                                                                                                                                                                                                                |
| Eight feet.                                                                                                                                                                                                                             |
| <b>(d) Construction</b>                                                                                                                                                                                                                 |
| Sign materials shall be consistent with the primary building construction or other signs on the site.                                                                                                                                   |
| <b>(e) Location</b>                                                                                                                                                                                                                     |
| Drive-Thru Menu Boards shall be located within the minimum vehicle queuing spaces plus one queuing space, of the ordering window or pick-up window, per the use, as identified in Table 4-4: Minimum Queuing Standards (§155.401(D)(1). |
| <b>(f) Illumination</b>                                                                                                                                                                                                                 |
| May be illuminated internally or externally.                                                                                                                                                                                            |
| <b>(g) Other</b>                                                                                                                                                                                                                        |
| Drive-Thru Menu Boards are only permitted as an accessory to a drive-thru business.                                                                                                                                                     |



**(10) Changeable Copy Sign – Manual**

|                                                                                                                                                                                                                                                       |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Location</b>                                                                                                                                                                                                                                   |
| Manual Changeable Copy Signs may be used as a part of a permitted freestanding sign for public, institutional and not-for-profit uses only, unless expressly prohibited elsewhere in the Town's code.                                                 |
| <b>(b) Number (max) Per Site</b>                                                                                                                                                                                                                      |
| One per parcel or site, whichever is more restrictive.                                                                                                                                                                                                |
| <b>(c) Allowable Sign Face Area (max) Per Sign Face</b>                                                                                                                                                                                               |
| The changeable copy area shall be limited to 40 percent of the total sign face area. Sign face area shall be otherwise regulated per Freestanding Signs, in (5) of this Section.                                                                      |
| <b>(d) Construction</b>                                                                                                                                                                                                                               |
| 1. Sign structure shall be constructed of high quality materials.                                                                                                                                                                                     |
| 2. Materials shall be consistent with the primary building construction.                                                                                                                                                                              |
| <b>(e) Illumination</b>                                                                                                                                                                                                                               |
| Internal Illumination is prohibited.                                                                                                                                                                                                                  |
| <b>(f) Landscaping</b>                                                                                                                                                                                                                                |
| A planting bed area equal to at least one-half of the sign face area (for two-sided signs, use only one sign face area for the calculation) shall be planted around the entire base of any freestanding sign, using shrubs, flowers, or ground cover. |
| <b>(g) Other Criteria</b>                                                                                                                                                                                                                             |
| Manual Changeable Copy Signs shall otherwise conform to the regulations of Freestanding Signs (per (4) of this Section).                                                                                                                              |

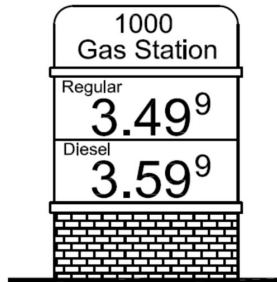
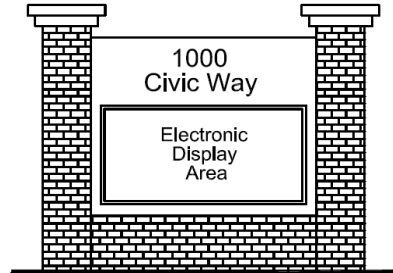
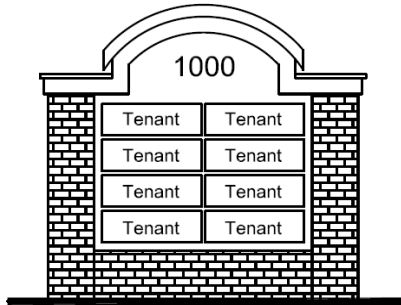


**(11) Changeable Copy Sign – Electronic, and Electronic Sign**

| <b>(a) Location</b>                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|----------------------|-------------------|----------|---------------------|----------|---------------------|----------|
| Electronic changeable copy signs may be a part of any permitted freestanding sign.                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
| <b>(b) Number (max) Per Site</b>                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
| One per parcel or site, whichever is more restrictive.                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
| <b>(c) Allowable Sign Face Area (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
| Sign face may be any part of the total allowable sign face area for a freestanding sign.                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
| <b>(d) Illumination</b>                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
| Electronic signs shall be equipped with dimming technology that automatically adjusts the display's brightness based on ambient light conditions at all times of day and night, and be set at a level no higher than .3 foot candles above ambient light conditions (measured from a distance as specified below) as to not cause glare, distraction, reduced visibility or safety concerns from adjacent roadways.                            |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                | <table> <tr> <th>Sign Size</th><th>Measurement Distance</th></tr> <tr> <td>0-100 square feet</td><td>100 feet</td></tr> <tr> <td>101-350 square feet</td><td>150 feet</td></tr> <tr> <td>351-650 square feet</td><td>200 feet</td></tr> </table> | Sign Size | Measurement Distance | 0-100 square feet | 100 feet | 101-350 square feet | 150 feet | 351-650 square feet | 200 feet |
| Sign Size                                                                                                                                                                                                                                                                                                                                                                                                                                      | Measurement Distance                                                                                                                                                                                                                             |           |                      |                   |          |                     |          |                     |          |
| 0-100 square feet                                                                                                                                                                                                                                                                                                                                                                                                                              | 100 feet                                                                                                                                                                                                                                         |           |                      |                   |          |                     |          |                     |          |
| 101-350 square feet                                                                                                                                                                                                                                                                                                                                                                                                                            | 150 feet                                                                                                                                                                                                                                         |           |                      |                   |          |                     |          |                     |          |
| 351-650 square feet                                                                                                                                                                                                                                                                                                                                                                                                                            | 200 feet                                                                                                                                                                                                                                         |           |                      |                   |          |                     |          |                     |          |
| <b>(e) Permitted Colors</b>                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
| <ol style="list-style-type: none"> <li>Signs associated with associated with uses other than gas station pricing: background must be black. Electronic display is limited to text/logo which may be one of the following: white or red.</li> <li>Signs associated with gas station pricing: background must be black. Pricing may be white, red, and green.</li> </ol>                                                                         |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
| <b>(f) Copy/Text</b>                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
| Copy/text may consist of alphanumeric symbols only, except that pictorial imagery associated with the logo may be permitted.                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
| <b>(g) Construction</b>                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
| <ol style="list-style-type: none"> <li>Sign structure shall be constructed of high quality materials.</li> <li>Materials shall be consistent with the primary building construction.</li> </ol>                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
| <b>(h) Other</b>                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
| <ol style="list-style-type: none"> <li>Electronic changeable copy signs must be physically attached to the primary sign.</li> <li>Sign display shall be static. No portion of the sign may flash, scroll, twirl, change color, blink, or in any manner imitate movement.</li> <li>Copy may change once every 6 minutes.</li> <li>A sign strictly displaying time and temperature may change on no less than a five second interval.</li> </ol> |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
| <b>(i) Landscaping</b>                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
| A planting bed area equal to at least one-half of the sign face area (for two-sided signs, use only one sign face area for the calculation) shall be planted around the entire base of any freestanding sign, using shrubs, flowers, or ground cover.                                                                                                                                                                                          |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |

**Electronic Changeable Copy Sign Examples:**

Town of Clayton Unified Development Code  
Article 4 – Updated through 04-04-2016



**(12) Billboards**

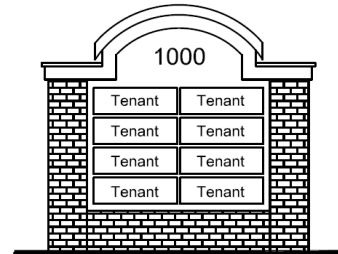
|                                                                                                                                                                                                                                                                                                                      |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Allowable Sign Face Area (max) Per Sign Face</b>                                                                                                                                                                                                                                                              |
| <ol style="list-style-type: none"> <li>1. 200 square feet per sign face.</li> <li>2. Maximum sign face height of 15 feet.</li> <li>3. Maximum sign face width of 20 feet.</li> <li>4. Maximum one advertising face per side.</li> </ol>                                                                              |
| <b>(b) Spacing between billboards (min)</b>                                                                                                                                                                                                                                                                          |
| 2,000 feet.                                                                                                                                                                                                                                                                                                          |
| <b>(c) Setback (min)</b>                                                                                                                                                                                                                                                                                             |
| 50 feet from right-of-way.                                                                                                                                                                                                                                                                                           |
| <b>(d) Height (max) of structure</b>                                                                                                                                                                                                                                                                                 |
| 25 feet.                                                                                                                                                                                                                                                                                                             |
| <b>(e) Clearance (min)</b>                                                                                                                                                                                                                                                                                           |
| Eight feet above the ground at the base of the sign or highway grade level, whichever is higher.                                                                                                                                                                                                                     |
| <b>(f) Illumination</b>                                                                                                                                                                                                                                                                                              |
| <ol style="list-style-type: none"> <li>1. May be externally illuminated only.</li> <li>2. Internal illumination is prohibited.</li> </ol>                                                                                                                                                                            |
| <b>(g) Location</b>                                                                                                                                                                                                                                                                                                  |
| <ol style="list-style-type: none"> <li>1. Prohibited within Town limits.</li> <li>2. Limited to locations on U.S. 70 Bus. HWY.</li> <li>3. All billboards shall be primarily oriented toward the east-bound or west-bound lanes of U.S. 70 Business.</li> <li>4. Billboards must be located off-premises.</li> </ol> |
| <b>(h) Annexation</b>                                                                                                                                                                                                                                                                                                |
| Billboards located on property that is annexed into Town limits shall be removed within the timeframe established within a Developers Agreement or Annexation Agreement.                                                                                                                                             |

**(13) Development Identification Signs – Residential**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Allowable Sign Face Area (max.) per sign face</b>                                                                                                                                                                                                                                                                                                                                                                                                       |
| 24 square feet.                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>(a) Number (max.) per site</b>                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Two per each major project/development entrance, or one in the median of an entrance driveway.                                                                                                                                                                                                                                                                                                                                                                 |
| <b>(b) Height (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <ol style="list-style-type: none"> <li>1. Eight feet.</li> <li>2. If attached to an approved entrance feature, the sign face may not exceed 8 feet in height. Entrance features shall comply with the provisions of this Chapter.</li> </ol>                                                                                                                                                                                                                   |
| <b>(c) Setbacks (min.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Five feet from the public right-of-way or property line and may not encroach into safe sight triangles.                                                                                                                                                                                                                                                                                                                                                        |
| <b>(d) Construction</b>                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <ol style="list-style-type: none"> <li>1. Sign may take the form of a freestanding sign or wall style sign.</li> <li>2. Freestanding signs shall be a monument style sign or post-and-arm style sign.</li> <li>3. Sign may be attached to a decorative wall or fence, or to a building wall.</li> </ol>                                                                                                                                                        |
| <b>(e) Illumination</b>                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| May be illuminated externally or backlit.                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>(f) Location</b>                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <ol style="list-style-type: none"> <li>1. Shall be located on property contiguous to the development identified.</li> <li>2. Shall be located on private property or within the median of the entrance driveway.</li> <li>3. May be located on one or both sides of major entrances to the development, or one sign may be located in the median of the entrance driveway with a sign easement and permission from NCDOT or the Town as applicable.</li> </ol> |
| <b>(g) Landscaping</b>                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| A planting bed area equal to at least one-half of the sign face area (for two-sided signs, use only one sign face area for the calculation) shall be planted around the entire base of any freestanding sign, using shrubs, flowers, or ground cover.                                                                                                                                                                                                          |

**(14) Development Identification Signs – Non-residential (Sites with Multiple Buildings)**

A Non-residential Development Identification Sign may be used in association with a parcel with multiple buildings, or a grouping of parcels such as a medical park, business park, or a shopping center with outparcels where one or more tenants receive the benefit of common signage. A single building (either single or multi-story) with multiple tenants is not eligible for a Development Identification Sign.



Non-residential Development Identification Signs are approved via Alternative Sign Plan. Applications shall clearly identify what businesses, buildings, or parcels are included.

In addition to a Development Identification Sign, parcels within the development may have one monument style freestanding sign provided they meet the criteria for Freestanding Signs in (4) of this Section.

|                                                                                                                                                                                                                                                                                                                                                                                                                         |  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <b>(a) Allowable Sign Face Area (max.)</b>                                                                                                                                                                                                                                                                                                                                                                              |  |
| A total of 0.25 square feet per linear foot of lot frontage or building frontage along the street on which the sign is oriented, or 64 square feet, whichever is less.                                                                                                                                                                                                                                                  |  |
| <b>(a) Number (max.) per roadway frontage</b>                                                                                                                                                                                                                                                                                                                                                                           |  |
| One sign along roadway at main entrance to the development.                                                                                                                                                                                                                                                                                                                                                             |  |
| <b>(b) Height (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                |  |
| <ol style="list-style-type: none"> <li>1. Eight feet.</li> <li>2. If attached to an approved entrance feature, the sign face may not exceed 8 feet in height. Entrance features shall comply with the provisions of this Chapter.</li> </ol>                                                                                                                                                                            |  |
| <b>(c) Setbacks (min.)</b>                                                                                                                                                                                                                                                                                                                                                                                              |  |
| Five feet from the public right-of-way or property line and may not encroach into safe sight triangles.                                                                                                                                                                                                                                                                                                                 |  |
| <b>(d) Construction</b>                                                                                                                                                                                                                                                                                                                                                                                                 |  |
| <ol style="list-style-type: none"> <li>1. Shall be a freestanding monument style sign, or attached to an entry feature.</li> <li>2. Materials shall be consistent with or exceed the materials of the primary building.</li> </ol>                                                                                                                                                                                      |  |
| <b>(e) Illumination</b>                                                                                                                                                                                                                                                                                                                                                                                                 |  |
| May be illuminated internally or externally.                                                                                                                                                                                                                                                                                                                                                                            |  |
| <b>(f) Location</b>                                                                                                                                                                                                                                                                                                                                                                                                     |  |
| <ol style="list-style-type: none"> <li>1. Shall be located on property contiguous to the development identified.</li> <li>2. Shall be located on private property or within the median of the entrance driveway.</li> <li>3. May be located at the main entrance to the development, or within the median of the entrance driveway with a sign easement and permission from NCDOT or the Town as applicable.</li> </ol> |  |
| <b>(g) Landscaping</b>                                                                                                                                                                                                                                                                                                                                                                                                  |  |
| A planting bed area equal to at least one-half of the sign face area (for two-sided signs, use only one sign face area for the calculation) shall be planted around the entire base of any freestanding sign, using shrubs, flowers, or ground cover.                                                                                                                                                                   |  |
| <b>(h) Other Conditions</b>                                                                                                                                                                                                                                                                                                                                                                                             |  |

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1. In multi-tenant, non-residential or mixed use buildings,
    - a. Each tenant or sign shall be allowed two colors for face plate lettering with black always allowed as trim or accent, and white required as the background.

**(15) Flags**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Allowable Sign Face Area (max.) per sign face</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <ol style="list-style-type: none"> <li>For vertically-projecting poles, 24 square feet per flag in residential zoning districts, and 35 square feet per flag in all other zoning districts.</li> <li>Twelve square feet per flag on angled- or horizontally projecting poles.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>(b) Number (max.) per site</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <ol style="list-style-type: none"> <li>A maximum of up to three vertically-projecting flag poles or two angled- or horizontally-projecting flag poles are allowed per frontage, subject to satisfaction of all other criteria herein.</li> <li>Only one type of flag pole – vertically-projecting or horizontally-projecting – is allowed on a site.</li> <li>For vertically-projecting flag poles, as measured by lot frontage: <ol style="list-style-type: none"> <li>0 to 199 linear feet = 1 flag pole</li> <li>200 to 499 linear feet = 2 flag poles</li> <li>500+ linear feet = 3 flag poles</li> </ol> </li> <li>Angled- or horizontally-projecting flag pole, as measured by lot frontage: <ol style="list-style-type: none"> <li>100-200 linear feet = 1 flag pole.</li> <li>200+ linear feet = 2 flag poles.</li> </ol> </li> <li>One flag is allowed as advertising for an on-site operator, tenant, or use, and all other flags shall conform to the exemption listed in (D)(3) of this Section.</li> <li>Vertically-projecting flag poles shall be allowed a maximum of three flags, with one flag allowed per every 5' above 15' of pole height.</li> <li>Angled- or horizontally-projecting flag poles shall have a maximum of one flag per pole.</li> <li>Residential zoning districts are allowed a maximum of one flag pole and two flags.</li> </ol> |
| <b>(c) Height or length (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <ol style="list-style-type: none"> <li><u>Vertically-projecting flag poles</u> may not be taller than the primary structure on the site, or 35', whichever is less.</li> <li>Angled- or horizontally-projecting flag poles may not have a pole length greater than 8'.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>(d) Minimum Required Frontage (either building frontage or lot frontage, as measured parallel to the street on which the flag pole(s) are located)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <ol style="list-style-type: none"> <li>Vertically-projecting flag pole: 175 linear feet.</li> <li>Angled- or horizontally-projecting flag pole: 100 linear feet.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>(e) Clearance (min.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <ol style="list-style-type: none"> <li>On vertically-projecting flagpoles, under normal operation but including times during which a flag is raised at half-mast, no portion of any flag shall extend below the mid-point of the flagpole, with an absolute minimum clearance of seven feet required above the ground beneath the flag.</li> <li>On angled- or horizontally-projecting flag poles, all flags and flagpoles shall maintain a minimum of seven feet of vertical clearance above the ground beneath the flagpole and flag.</li> <li>All flags and flagpoles shall maintain minimum required safety clearances from electrical utilities at all times.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>(f) Setbacks (min.) required for all parts of, flagpole and other supporting or related structure</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <ol style="list-style-type: none"> <li>For vertically-projecting flagpoles, must meet setback requirements of the zoning district, plus one foot setback for every one foot of height above 25 feet.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |



|                                                                                                                                                                                                                                                                                                                      |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2. For angled- or horizontally-projecting flagpoles, may not extend past the property line and must be anchored at or behind the setback line.                                                                                                                                                                       |
| <b>(g) Construction</b>                                                                                                                                                                                                                                                                                              |
| 1. Vertically-projecting flagpoles shall be anchored to a footing in the ground or attached to a wall or building and shall project vertically to the maximum allowed height.                                                                                                                                        |
| 2. Flagpoles may be attached to a structure or building wall, and may project vertically, horizontally, or at an angle to the wall.                                                                                                                                                                                  |
| 3. Zoning Compliance Permits and building permits may be required.                                                                                                                                                                                                                                                   |
| <b>(h) Illumination</b>                                                                                                                                                                                                                                                                                              |
| May be illuminated externally only.                                                                                                                                                                                                                                                                                  |
| <b>(i) Landscaping</b>                                                                                                                                                                                                                                                                                               |
| 1. On vertically-, or angled-projecting flagpoles anchored in the ground, a planting bed area equal to at least one-half of the sign face area (use only one side of the largest flag for the calculation) shall be planted around the entire base of any freestanding sign, using shrubs, flowers, or ground cover. |
| 2. On vertically-, angled-, or horizontally projecting flagpoles anchored directly to a building, no planting bed is required.                                                                                                                                                                                       |

**(16) Temporary Signs**

The signs described below may be erected on a temporary basis only after a permit has been issued by the Planning Director. No sign shall be placed in a public right-of-way, nor attached to a utility pole or other utility-related structure.

**(a) On-Premises Construction Sign**

1. The regulation of on-premises construction signs shall be in accordance with G.S. § 160D-908 or as otherwise regulated below.
2. Residential  
  
One sign, not to exceed 20 square feet in size, may be erected in a residential zoning district.
3. Non-Residential  
  
Up to two on-premises construction project signs may be erected in a business, industrial, or office and institutional zoning district, so long as the total sign face area does not exceed 32 square feet. If a sign is two-sided with faces positioned back to back, only one side of the sign face shall be included in this calculation.
4. Construction signs shall not be erected prior to site plan or plat approval or the issuance of a building permit, and shall be removed within 15 days after final inspection and approval of the project.

**(b) Political Signs**

The regulation of political signs shall be in accordance with G.S. § 136-32, Regulation of Signs.

**(c) Special Event Signs** (fair, carnival, festival, grand opening, sale, or similar non-permanent activity)

1. Limited to two feather signs, not exceeding 16 square feet each (per face), or one banner style sign, not exceeding 32 square feet (per face).
2. Signs may be erected, placed, or located for maximum of 10 consecutive days.
3. Limited to four times per calendar year (40 days in total).
4. Such signs shall be removed by the applicant by the permit expiration date.
5. Prohibited within public rights-of-way and shall not obstruct the view of oncoming traffic.

6. Upon written request, the Planning Director shall extend the timeframe up to a maximum of 60 days for new businesses or businesses undergoing exterior renovation.

(d) ***Yard Sale Signs***

1. Prohibited within public rights-of-way and shall not obstruct oncoming traffic.
2. Such signs may not exceed four square feet in size.
3. Signs shall not be erected more than seven days before the sale date and shall be removed within 48 hours of the sale date.
4. Signs shall not be affixed to any structure within public rights-of-way.

(e) ***Gas Balloons***

1. May be erected, placed, or located in connection with a special event, such as a fair, carnival, grand opening, sale, or similar non-permanent activity.
2. Balloons may be used for maximum of 10 consecutive days.
3. Limited to four times per calendar year (40 days in total).
4. Balloons shall be removed by the applicant within one day after the event has taken place.

(H) **REMOVAL OF ABANDONED, OBSOLETE, OR DETERIORATED SIGNS**

(1) **Abandoned Signs**

(a) ***Removal***

Obsolete signs shall be removed by the owner of the premises on which the sign is situated within 15 days of receipt of notification by the enforcement officer.

(2) **Obsolete Signs**

(a) ***Removal***

Obsolete signs shall be removed by the owner of the premises on which the sign is situated within 15 days of receipt of notification by the enforcement officer.

(3) **Deteriorated Signs**

(a) ***Removal/Compliance***

Deteriorated signs shall be removed or brought into compliance with all codes and ordinances within 15 days of notification by the enforcement officer.

(I) **MAINTENANCE**

- (1) All signs shall be maintained in a state of good repair, and shall not be abandoned, made to be obsolete, or become deteriorated. The Planning Director or designee is authorized to inspect each sign periodically to determine that it meets the requirements set forth in this Section. Whenever a sign has been built or is being maintained in violation of this Section, such sign shall be made to conform to all regulations herein, or shall be removed at the expense of the owner within 15 days after written verification thereof by the Planning Director.
- (2) To ensure that signs are erected and maintained in a safe and attractive manner, the following maintenance requirements shall apply to all signs visible from any right-of-way or public area:
  - (a) A sign shall have no more than five percent of its surface area covered with peeling paint, chipped corners, rust, mud, broken parts and pieces, or other unsightly conditions for a period of more than 15 successive days.
  - (b) A sign shall not stand with bent or broken sign facing, broken supports, loose appendages or struts, or leaning more than 15 percent from vertical for a period greater than 15 successive days.
  - (c) A sign shall not have weeds, trees, vines, or other vegetation growing upon it, that obscures the view of the sign from the street or right-of-way from which it is to be viewed, for a period greater than ten successive days.

(I) **ALTERNATIVE SIGN PLAN**

The purpose and intent of an Alternative Sign Plan is to allow for creativity of sign design, providing an opportunity to demonstrate the intent of this Section can be exceeded, in whole or in part. Any sign application may include an Alternative Sign Plan as an alternative. The Alternative Sign Plan need not comply with the requirements of this Section; however in no case shall an Alternative Sign Plan allow a prohibited sign. The Alternative Sign Plan shall be prepared in accordance with the design principles set forth below.

(1) **Application**

The Alternative Sign Plan shall be submitted to the Planning Department for review following the process requirements of § 155.713 "Sign Permit", with the decision made by Town Council.

(2) **Alternative Sign Plan Elements**

The Alternative Sign Plan shall include, at a minimum, criteria and specifications for the following:

- (a) Justification statement which details project information, modifications being requested, specific code references proposed for waiver, proposed alternatives, and explanation of how the alternative exceeds the requirements of this Section.
- (b) Alternative Sign Plans submitted for a permanent sign shall include all information required for a Permanent Sign Permit application (per §155.713), to be issued at a later date.
- (c) Location of regulated properties.
- (d) Allocation of permitted sign area among tenants and any other proposed signs. Total allowable sign face area for the project is determined using the total sign face area allowance calculation defined in (F)(3) of this Section.
- (e) Sketches of generic sign design and appearance for each sign type provided in Pantone Matching System (PMS) colors, vinyl manufacturer and numbers, or comparable industry standard of color identification. Permitted colors for each sign component shall be specified, including but not limited to sign face backgrounds, lettering, and sign structure.
- (f) Map, site plan, or other graphical depiction showing where each particular sign type is permitted.
- (g) Justification for the Alternative Sign Plan.

**(3) Approval Criteria**

To qualify for consideration, an Alternative Sign Plan shall demonstrate compliance with the following review criteria:

- (a) Components of the Alternative Sign Plan shall be consistent with the Town of Clayton General Design Guidelines.
- (b) The proposed sign design, size, color, illumination, and placement are compatible in style and character with any building to which the sign is to be attached, any surrounding structures, any adjoining signage on the site, and/or the district character or architectural character of the area in which it is located.
- (c) Innovative use of materials and design techniques in response to unique characteristics of the specific site, if applicable.
- (d) Sign design, scale, and placement.

- (e) Integrates architectural features in a manner compatible with the surroundings and district in which the development is located.
- (f) Consistent with approved neighborhood plans, studies, or area plans.
- (g) The Alternative Sign Plan improves the safety and welfare of the general public by minimizing distractions, hazards, and obstructions from sign design or placement.

**(4) Conditions of Approval**

The Town Council may impose Conditions of Approval to carry out the intent of the Alternative Sign Plan while still permitting each sign user opportunities for effective identification and communication. These conditions may include, but are not limited to, specification of color(s), reductions in the allowable number of signs, total sign face area, location of signs, and types of signs allowed.

**(5) Amendment**

An Alternative Sign Plan may be amended by filing an updated application with the Planning Director. The amended Alternative Sign Plan shall include a schedule that requires bringing all signs not conforming to the proposed plan into conformance.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2008-03-02, passed 3-3-08; Am. Ord. 2008-04-02, passed 4-7-08; Am. Ord. 2012-01-04, passed 1-3-12; Am. Ord. 2012-12-04, passed 12-3-12; Am. Ord. 2013-09-05, passed 9-3-13; Am. Ord. 2014-06-11, passed 6-16-14; Am. Ord. 2017-01-01, adopted 01/03/2017)

## § 155.404 OUTDOOR LIGHTING

### (A) APPLICABILITY

- (1) Unless specifically exempt, all existing and proposed development for which site plan approval is required (see § 155.707) shall meet the provisions of this section.
- (2) Buildings and structures lawfully existing as of the effective date of this chapter, may be redeveloped, renovated or repaired without modifying outdoor lighting in conformance with this section, provided there is no increase in gross floor area in such building or structure or impervious area on the site.
- (3) Where a building or structure existed as of the effective date of this chapter, and such building is enlarged in gross floor area or impervious area on the site by 10% or 2,000 square feet, whichever is less, outdoor lighting as specified in this section shall be provided.

### (B) PROHIBITED LIGHT SOURCES

The following light fixtures and sources shall not be used within the town where the direct light emitted is visible from adjacent areas:

- (1) Low-pressure sodium and mercury vapor light sources;
- (2) Cobra-head-type fixtures having dished or drop lenses or refractors which house other than incandescent sources; and
- (3) Searchlights and other high-intensity narrow-beam fixtures.

### (C) DESIGN REQUIREMENTS

Outdoor lighting shall primarily be used to provide safety while secondarily accenting key architectural elements and to emphasize landscape features. Light fixtures shall be designed as an integral design element that complements the design of the project. This may be accomplished through style, material or color. All lighting fixtures designed or placed so as to illuminate any portion of a site shall meet the following requirements:

#### (1) **Fixture (Luminaire)**

The light source shall be concealed and shall not be visible from any street right-of-way or adjacent properties. In order to direct light downward and minimize the amount of light spillage into the night sky and onto adjacent properties, all lighting fixtures shall be cutoff fixtures.

#### (2) **Fixture height**

Lighting fixtures shall be a maximum of 30 feet in height within parking areas and shall be a maximum of 15 feet in height within non-vehicular pedestrian areas. All light fixtures located

within 50 feet of any residential use or residential property boundary shall not exceed 15 feet in height.

(3) **Light source (lamp)**

Only incandescent, fluorescent, metal halide, or color corrected high-pressure sodium may be used. The same light source type shall be used for the same or similar types of lighting on any one site throughout any development.

(4) **Mounting**

Fixtures shall be mounted in such a manner that the cone of light is contained on-site and does not cross any property line of the site.

(5) **Limit Lighting to Periods of Activity**

The use of sensor technologies, timers or other means to activate lighting during times when it will be needed may be required by the Planning Board to conserve energy, provide safety and promote compatibility between different land uses.

(D) **SPECIFIC LIGHTING STANDARDS**

(1) **Security Lighting**

- (a) Building-mounted security light fixtures such as wall packs shall not project above the fascia or roof line of the building and shall be shielded.
- (b) Security fixtures shall not face a residential property.
- (c) Security fixtures shall not be substituted for parking area or walkway lighting and shall be restricted to loading, storage, service and similar locations.

(2) **Accent Lighting**

Only lighting used to accent architectural features, landscaping or art may be directed upward, provided that the fixture shall be located, aimed or shielded to minimize light spill into the night sky.

(3) **Canopy Area Lighting**

All development that incorporates a canopy area over fuel sales, automated teller machines or similar installations shall use a recessed lens cover flush with the bottom surface of the canopy that provides a cutoff or shielded light distribution.

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(4) **Entrances and Exits in Nonresidential and Multi-Family Development**

All entrances and exits to buildings used for nonresidential purposes and open to the general public, along with all entrances and exits in multifamily residential buildings containing more than four units, shall be adequately lighted to ensure the safety of persons and the security of the building.

(5) **Commercial Parking Area Lighting**

All commercial parking areas shall be required to provide lighting during nighttime hours of operation.

(E) **EXCESSIVE ILLUMINATION**

- (1) Lighting within any lot that unnecessarily illuminates and substantially interferes with the use or enjoyment of any other property shall be prohibited. Lighting unnecessarily illuminates another lot if it exceeds the requirements of this section.
- (2) Lighting shall not be oriented so as to direct glare or excessive illumination onto streets in a manner that may distract or interfere with the vision of drivers.

**§ 155.405 DESIGN STANDARDS- NON-RESIDENTIAL & MULTI-FAMILY**

- (1) All existing and proposed non-residential and multi-family residential development, for which site plan approval is required, shall meet the provisions of this section. Townhomes that are developed to single-family residential building code standards shall be exempt from the requirements of this section
- (2) Any requirements within an overlay district shall supersede architectural standards noted within this section.

(F) **BUILDING MATERIALS**

- (1) Any building visible from a right-of-way or adjacent property shall be architecturally consistent on all sides of the building.
- (2) Metal is prohibited as the primary exterior building material or cladding in any zoning district except the I-1, I-2, and PF districts. Decorative metal or metal façade elements may be permitted as an accent feature but may not exceed more than 10% of any façade.

(Ord. 2005-11-02, passed 11-21-05)

## ARTICLE 5: NATURAL RESOURCE PROTECTION

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### § 155.500 RESOURCE CONSERVATION AREAS

#### (A) DEFINED

- (1) All resource conservation areas shall be unoccupied or predominately unoccupied by buildings or other impervious surfaces. Unoccupied or predominately unoccupied by buildings or other impervious surfaces shall mean that not more than 5% of the area of any resource conservation area shall be occupied by such surfaces.
- (2) Resource conservation areas shall be identified on plats as being permanently set aside from development, although they may still be used for other more passive uses pursuant to this Ordinance. No resource conservation area shall be counted towards lot area required by §§ 155.200 through 155.204, with the exceptions for stream buffers pursuant to G.S. §143-214.23A. This shall not preclude the platting of lots in such areas, provided that adequate lot area outside the resource conservation area is provided to meet the minimum lot area requirements of §§ 155.200 through 155.204.
- (3) No resource conservation area shall be counted towards the recreation and open space requirements as set forth in §§ 155.200 through 155.204, with the exceptions for stream buffers pursuant to G.S. §143-214.23A, except developed trails or trail-access or water-access facilities may be counted provided they are developed to the standards of this Ordinance.

#### (B) DETERMINATION OF RESOURCE CONSERVATION AREAS

The following are considered resource conservation areas and shall be unoccupied or predominately unoccupied by buildings or other impervious surfaces. If this provision would constitute an unusual hardship, is counter to the purposes of this chapter, and meets the standards outlined in Article 7, the applicant may pursue a Variance.

- (1) The 100-year floodplain including water bodies, such as lakes, ponds, streams, creeks and rivers.
- (2) Stream buffer areas (see § 155.502);
- (3) Slopes above 25% of at least 5,000 square feet contiguous area; and

- (4) Jurisdictional wetlands under federal law (see § 155.404) that meet the definition applied by the Army Corps of Engineers.

**RESOURCE CONSERVATION AREAS SHOWN ON PLAT**

All resource conservation areas shall be shown on any preliminary or final plat approved after January 1, 2006.

(C) **PERMITTED USES OF RESOURCE CONSERVATION AREAS**

Uses of resource conservation areas may include the following:

- (1) Conservation areas for natural, archeological or historical resources;
- (2) Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
- (3) Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts;
- (4) Walking or bicycle trails;
- (5) Easements for drainage, access, and underground utility lines;
- (6) Other conservation-oriented uses compatible with the purposes of this chapter;
- (7) Public infrastructure projects and supporting facilities.

(D) **PROHIBITED USES OF RESOURCE CONSERVATION AREAS**

Use of resource conservation areas may not include the following:

- (1) Landscaped stormwater management facilities;
- (2) Roads, parking lots and impervious surfaces, except as specifically authorized; and
- (3) Golf courses, agricultural and forestry activities not conducted according to accepted best management practices.

(E) **OWNERSHIP AND MAINTENANCE**

(1) **Ownership**

Resource conservation areas shall be accepted and owned by one of the following entities:

- (a) Land conservancy or land trust. The responsibility for maintenance shall be borne by a land conservancy or land trust.

- (b) Homeowners association. A homeowners association representing residents of the subdivision shall own the resource conservation areas. Membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. The homeowners' association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintenance shall be borne by the homeowner's association.
- (c) Private landowner. A private landowner may retain ownership of the resource conservation areas. The responsibility for maintenance shall be borne by the private landowner.

**(2) Maintenance**

Resource conservation area maintenance is limited to removal of litter, dead tree and plant materials and brush. 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. Unless otherwise specified by the Town Council, maintenance is limited to insuring that there exist no hazards, nuisances or unhealthy conditions.

**(3) Legal Instrument for Permanent Protection**

- (a) Resource conservation areas shall be protected in perpetuity by a binding legal instrument that is recorded with the deed.
- (b) The instrument for permanent protection shall include clear restrictions on the use of the of resource conservation area. These restrictions shall include all restrictions contained in this section, as well as any further restrictions the applicant chooses to place on the use of the resource conservation areas. Where appropriate, the instrument shall allow for stream or habitat restoration.

(Ord. 2005-11-02, passed 11-21-05)

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## **§ 155.501 WATERSHED PROTECTION**

### **(A) AUTHORITY**

The State Legislature has, in G.S. §§ 143-214.5, 160D-701, -801, and -926 delegated the responsibility and authority to local governmental units to establish water supply watershed protection programs, to regulate land use and development within water supply watersheds, and to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.

### **(B) INTENT**

The intent of this section is to provide, in the designated watershed area, a higher level of control from activities and situations that could degrade the quality of the water entering the Neuse River, which serves as a public water source for the town and other jurisdictions.

- (1) Unless specifically exempt below, the provisions of this section shall apply to development within the Watershed Protection Overlay (-WP), as established in § 155.200(C)(2).
- (2) These requirements shall not apply to development existing as of January 1, 2006 except as provided in § 155.719, and shall not apply to a single-family detached, zero lot line, alley-loaded or accessory dwelling units developed on an existing lot.

### **(C) PUBLIC HEALTH REQUIREMENTS**

No activity, situation, structure or land use shall be allowed within the -WP Overlay 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 storm water runoff, or any other situation found to pose a threat to water quality.

### **(D) PERMITTED USES**

The following uses and activities are permitted provided such uses are also permitted in the underlying zoning district, and providing that the restrictions stated herein are met.

- (1) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
- (2) Silviculture, using BMPs required to implement the provisions of the Forest Practices Guidelines Related to Water Quality.
- (3) Residential development.

- (4) Nonresidential uses, excluding discharging landfills and sludge application sites, mining and quarrying activities, and the storage of toxic and hazardous materials unless a spill containment plan is implemented.

(E) **DENSITY AND IMPERVIOUS SURFACE LIMITATIONS**

For the purpose of calculating impervious surface area, total project area shall include total acreage in the parcel on which the project is to be developed.

(1) **Single Family Detached, Zero Lot Line, Alley-Loaded**

Unless approved under the terms of division (E)(4) below, single-family detached, zero lot line and alley-loaded dwelling units shall not exceed two dwelling units per acre or 36% of impervious surface area as defined on a project-by-project basis. No residential lot shall be less than 1/3 acre, except within an approved open space residential subdivision, which meets the standards established in Article 2.

(2) **All Other Residential and Nonresidential Development**

Unless approved under the terms of division (E)(4) below, all other residential and nonresidential development shall not exceed 24% of impervious surface area on a project-by-project basis unless storm water quality mitigation structures are installed and maintained by the property owner.

(3) **Vegetative Swales and Vegetative Swale Outlets**

- (a) All residential development within the -WP Overlay requiring sediment and erosion control permits shall utilize a curb and gutter stormwater collection system when practicable. When a curb and gutter stormwater collection system is used, the system shall utilize vegetative swale outlets to mitigate point-source stormwater flow out of the system into downstream creeks, streams, and waterways when practicable. The following standards shall apply to the use of vegetative swale outlets:
1. The vegetative swale outlet shall be designed and constructed to accommodate the peak stormwater flow from the ten-year storm, and the velocity of the flow shall be non-erosive;
  2. The side-slopes of the vegetative swale shall not be steeper than 5:1 (horizontal to vertical). When this is not practicable due to physical or topographic constraints, devices to slow the rate of stormwater flow and to encourage infiltration to reduce pollutant delivery shall be provided; and
  3. The vegetative swale outlet shall be as wide and long as practicable under the circumstances to maximize the stormwater flow mitigation effect of the outlet.
- (b) When the Town Council determines that a curb and gutter stormwater collection system is not the preferred means of controlling stormwater runoff, vegetative swales

(with vegetative swale outlets) shall be utilized in lieu of a curb and gutter stormwater collection system when practicable. If site or development conditions do not favor the exclusive use of vegetative swales, hybrid stormwater drainage systems utilizing elements of vegetative swales and curb and gutter stormwater collection systems may be considered. The standards set out in division (a) above shall apply to the use of vegetative swale outlets, and the following standards shall apply to the use of vegetative swales in lieu of curb and gutter stormwater collection systems:

1. A vegetative swale shall be designed and constructed to provide for even distribution of stormwater runoff across the width of the swale;
  2. The slope and length of a vegetative swale shall be designed, constructed, and maintained to provide a non-erosive velocity of stormwater flow through the swale for the ten-year storm and shall have a slope of 5% or less when practicable; and
  3. A vegetative swale shall contain natural vegetation, grasses, or artificially planted wetland vegetation appropriate for the applicable site characteristics and proposed development.
- (c) For purposes of this section, the characteristics of the site and proposed development shall be considered in determining the practicability of utilizing vegetative swales and vegetative swale outlets and the design characteristics thereof, including soil types and compaction, topography, roadway and driveway design, lot sizes, front lot-line distances, and the need for and availability of sidewalks and pedestrian facilities in the development.
- (d) Alternative best management practices (BMPs) shall be considered by the town to satisfy the objectives of this section to provide safe and adequate pedestrian and road networks and facilities, control peak stormwater flow discharges, reduce total stormwater runoff volume, provide effective trapping and filtering of stormwater pollutants, and reduce the channelization and erosive velocity of stormwater runoff.

**(4) Industrial (I-1, I-2) or Business (B-1, B-2, B-3) Districts**

In addition to the development allowed under divisions (E)(1) and (E)(2) above, new development and expansions to existing developments may be approved on a project-by-project basis with impervious surfaces not exceeding 70% of the new project area within 10% of the total regulated watershed protection area, when approved by the Council as a special intensity allocation (SIA). The Planning Director shall be responsible for maintaining necessary records of SIA approvals as required. Projects developed under the terms of this division shall minimize impervious areas when feasible, give full consideration to dimension of proposed and required riparian buffers, direct storm water away from surface waters when possible, and follow best management practices in design of measures to minimize negative water quality impacts.

(F) **OPEN SPACE SUBDIVISION.**

Open space residential subdivisions (see §§ 155.200 through 155.204) are allowed in the -WP Overlay with the following requirements:

- (1) Density or impervious surface limitations of the project shall not exceed division (E) above.
- (2) All impervious surfaces shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated storm water flow.

(G) **CHANGES AND AMENDMENTS**

The Town Council may, on its own motion or on petition, after public notice and hearing, amend, supplement, change, or modify these requirements. All applications for changes, supplements, amendments, or modifications of this section shall follow the procedures outlined in § 155.703. Under no circumstances shall the Town Council adopt such amendments, supplements, or changes that would cause this section to violate the Water Supply Watershed Protection Rules as adopted by the state. All amendments must be approved and filed with the state.

(H) **PLANNING DIRECTOR**

- (1) The Planning Director shall monitor land use activities within the -WP Overlay to identify situations that may pose a threat to water quality.
- (2) The Planning Director shall report all findings to any appropriate public agency or official and request recommendations and assistance.
- (3) Where the Planning Director finds a threat to water quality and the public health, safety, and welfare, the Public Works Director shall institute any appropriate action in accordance with the provisions of § 10.99 of the Town Code of Ordinances.
- (4) The Planning Director shall issue zoning compliance permits in the -WP Overlay. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours.
- (5) The Planning Director shall keep records of the town's use of the provision, which allows a maximum of 10% of the regulated area to be developed at a maximum of 70% impervious surface area. Records shall include the total areas of non-critical watershed area, total acres eligible to be developed at this option, and total acres approved for this development option. Individual records, which include location, type of use, number of developed acres and stormwater management plans, shall be kept for each project.
- (6) The Planning Director shall keep records of all amendments to this section, and shall provide copies of all amendments upon adoption to the appropriate state agency.



- (7) The Planning Director shall keep a record of variances to this section (see § 155.716(G)). This record shall be submitted to the appropriate state agency on an annual basis on or before January 1, and shall provide a description of each project receiving a variance and the reasons for granting the variance.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2006-02-02, passed 2-20-06; Am. Ord. 2007-05-04, passed 5-7-07 )

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## § 155.502 STREAM BUFFERS

### (A) BUFFER REQUIRED

- (1) A 50-foot stream buffer shall be established on both sides of all perennial streams (indicated by a solid blue line on the USGS Quadrangle maps) and all intermittent streams (indicated by a dotted blue line on the USGS Quadrangle maps). Stream buffers shall be shown on all appropriate plans and plats for review by the Planning Board and Town Council.
- (2) The applicant may substitute a detailed survey to field verify the location of perennial and intermittent streams on the subject property and within 100 feet of the boundary of the subject property for the delineation on the USGS Quadrangle maps.
- (3) No development, including land-disturbing activities, shall occur within this buffer strip except as listed in (B) of this section.

### (B) LIMITED ACTIVITY PERMITTED

Except for the following limited activities stream buffer areas shall remain undisturbed.

- (1) When agricultural soil disturbing activities such as plowing, grading, ditching, excavating, placement of fill material, or similar activities must occur, they 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.
- (2) Permitted activities within the stream buffer area include sewer easements, providing the activities strictly adhere to all applicable erosion control requirements and all applicable water quality requirements as stipulated by North Carolina Department of Environment and Natural Resources. 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 or underground utilities, roads, streets, bridges, or similar structures should be placed within existing public rights-of-way if possible, but in any case, must cross the buffer as close to perpendicular as possible.

### (C) REVEGETATION

All disturbed areas within the stream buffer area, permitted or not, shall be revegetated with perennial vegetation as soon as practical (immediately) after the disturbance. Any noncompliance shall be treated as a violation of this chapter and be subject to enforcement as described in § 155.720.

### (D) MINIMUM SETBACK

A minimum setback from the stream buffers for all buildings shall be at least 20 feet.

(Ord. 2005-11-02, passed 11-21-05)

## ARTICLE 6: SUBDIVISION STANDARDS

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### § 155.600 APPLICABILITY

- (A) This subchapter shall apply to all development within the town's planning jurisdiction, unless expressly exempted by the language of the sections below.
- (B) Prior to approval of a final plat for the subdivision of land, the applicant shall have installed improvements specified in this subchapter or guaranteed their installation as provided.
- (C) In accordance with section §51.03 (G), no water or sewer service shall be provided to any property outside of the municipal limits of the town, except upon compliance with one of the following:
  - 1. If the property is contiguous to the municipal limits of the town, the property owners shall immediately petition for and obtain annexation of the property into the municipal limits of the town.
  - 2. If the property is not then contiguous to the municipal limits of the town, the property owners shall enter into a written agreement with the town for the voluntary annexation thereof at such future date as said property desires to begin construction activities pursuant to any Town-approved development entitlement.
  - 3. The Town Council may negotiate terms for voluntary annexation of major industrial or commercial tracts which require water and/or sewer system extensions.
- (D) The appropriate water and sewer System Development fees in accordance with § 50.02 of the Town Code of Ordinances, which addresses the water and sewer extension policy.

(Ord. 2005-11-02, passed 11-21-05)

## **§ 155.601 SEQUENCE OF IMPROVEMENTS**

Subdivision improvements shall be installed on the site in the following sequence:

- (A) Street grading and installation of water distribution lines, sanitary sewers, storm sewers, gas, telephone, cable television, and electric service lines, with connections for each system extended beyond the curb line to preclude subsequent cutting of pavement.
- (B) Street base material.
- (C) Curb and gutter and sidewalks.
- (D) Street paving.

(Ord. 2005-11-02, passed 11-21-05)

## **§ 155.602 STREETS**

### **(A) GENERAL**

- (1) Streets within the town are intended for multi-purpose use, as follows:
  - (a) To carry motor vehicle traffic, and, in some cases, allow on-street parking;
  - (b) To provide a safe and convenient passageway for pedestrian traffic; and
  - (c) To serve as an important link in the town's drainage system.
- (2) All public streets which serve properties connected to the town's utility system shall be constructed in conformance with town standards and specifications; however, if the roadway is maintained by NCDOT, then the roadway shall be constructed in conformance with either town or NCDOT standards and specifications, whichever is more stringent.
- (3) If the final plat for a residential subdivision outside the town limits but within the town's extraterritorial jurisdiction has been approved and improvements have been guaranteed by the developer in accordance with § 155.607, the applicant shall provide the town and purchasers of land in the subdivision with an agreement providing for adequate maintenance of the newly constructed streets until such time that the streets are taken over by the NCDOT, as required by G.S. § 136-102.6.

### **(B) STREET IMPROVEMENTS**

- (1) Required Improvements
- (1) The applicant shall be responsible for the cost and installation of the applicable standard residential, residential collector, collector, or commercial street width and pavement design requirements. Paving shall be installed for roadways through and adjoining the development in accordance with town standards and specifications (or NCDOT standards if applicable). The applicant shall also provide additional pavement surfaces for turning lanes in accordance with the town's Engineering Design Manual.
  - (a) The applicant shall be responsible for making improvements to thoroughfare rights-of-way, as designated on the town's Transportation Plan. The improvements to be installed are as follows: the thoroughfare sub-base and surface paving materials, thoroughfare grading, and the remaining standards of applicable minimum residential, residential collector, collector, or commercial streets shall be made to extend to the outer perimeter boundaries of a development for any development where any of the following conditions occur:
    1. The thoroughfare improvements would provide necessary access to the development or adjoining properties.
    2. The improvement would be an extension of an already existing section of thoroughfare roadway.

3. The traffic from the development is predominantly from nonresidential activities and the development would otherwise gain access through a residential area.

(2) **Fee-In-Lieu**

- (a) The town may require a fee-in-lieu of installation payment (at 125% of estimated cost) to the town for minimum residential, residential collector, collector, or commercial streets for the length of the thoroughfare if any of the following criteria are met:
  1. No direct access to the thoroughfare is proposed.
  2. The minimum street improvement is one-half of an existing unimproved right-of-way, and improvements, if constructed, would not be used for traffic circulation.
  3. Where the new thoroughfare right-of-way is only partially contained on the development site and therefore, construction of only a portion of the new street cross-section is possible.
- (b) The Town may allow fee-in-lieu of minimum street construction payments to the town for residential, residential collector, collector, or commercial streets if any of the following criteria and their conditions are satisfied:
  1. Where existing unimproved streets have:
    - A. Insufficient lineal footage to serve overall traffic circulation purposes or interrupts an existing swale/ditch storm drainage system with curb and gutter, which would disrupt the drainage system operation;
    - B. Curb and gutter improvements would not connect to existing curb and gutter, or there are no similar improvements on the same block;
    - C. There are no plans for town improvements on the same block; and
    - D. The area is sufficiently developed (75% of the block) such that few future subdivision or site plan submittals are anticipated.
  2. Where construction of the streets by the town or other party is imminent.
  3. Where construction of only a sidewalk is required without street improvements, and the new sidewalk is less than one block in length and would not connect to an existing sidewalk.
  4. Where approved by the Planning Director for a new street that traverses a site when:
    - A. Street construction will not connect to an existing improved street;
    - B. There are no plans to construct an adjoining street in the near future; and

- C. A letter of credit is not an appropriate financial security.
- 5. Where approved by the Town Engineer, when for reasons of topography, street construction is impractical due to:
  - A. The need for off-site construction or slope encroachment;
  - B. Proper street alignment should be determined with off-site development; or
  - C. Design of bridges or culverts are required and only a portion of the structure is on the development's property.
- (c) Developments will not be responsible for the cost and installation of any paving construction requirements along existing or planned roadways, if any of the following conditions exist:
  - 1. The roadway is a freeway, expressway or any other fully controlled access facility.
  - 2. The roadway is in the town's Capital Improvement Program, final design plans have been initiated, and the project will fall under the assessment policy of the town.
  - 3. The roadway is on NCDOT's Transportation Improvement Program, final design plans have been initiated, and there will be no town contribution or participation in funding the project. If the town funds a portion of the project, then a fee-in-lieu of installation will be required as a contribution towards town-funded improvements.

(C) **STREET CLASSIFICATION**

In all new subdivisions, streets that are dedicated to public use shall be classified as provided in (D) of this section.

- (1) The classification shall be based upon the projected volume of traffic to be carried by the street, stated in terms of the number of trips per day or during the peak hour of the day;
- (2) The number of dwelling units to be served by the street may be used as a useful indicator of the number of trips but is not conclusive; and
- (3) Whenever a subdivision street continues on an existing street or it is expected that a subdivision street will be continued beyond the subdivision at some future time, the classification of the street will be based upon the street in its entirety, both within and outside of the subdivision.

(D) **STREET TYPES**

See Defined Terms (§155.802) for description of each Street Type.



- (1) Residences shall not front on a major thoroughfare.
- (2) Where a parcel of land to be subdivided adjoins a major thoroughfare, the residential lots shall be provided access by a frontage road and no driveways shall be located within 150' of the intersection.

(E) **THOROUGHFARE DEDICATION**

- (1) Whenever a parcel of land included within any proposed development plan embraces any part of a thoroughfare system roadway and is so designated in the town's Transportation Plan, after such part of it has been adopted by the proper authority, such part of such proposed public way shall be platted and dedicated in the location and width indicated on the plans. This requirement shall not require the applicant to dedicate rights-of-way unless indicated on the town's Transportation Plan. It is the responsibility of the applicant to take future roadway plans of the town and the NCDOT into account when laying out a development plan.
- (2) Developments which embrace only one side of an existing or planned thoroughfare right-of-way will only be required to plat and dedicate additional right-of-way for that portion of roadway with which the development has frontage. Such improvements shall be in conformance with town standards and shall be measured from the right-of-way centerline.

(F) **CROSS-SECTIONS**

- (1) Appropriate street cross-sections shall be approved by the town or NCDOT. Appendix A contains approved street cross-sections for the town. Alternative cross-sections may be approved by the Town Council as a waiver (see § 155.706(l)(7)), and when necessary in conjunction with NCDOT.
- (2) Alternative designs must readily accommodate emergency vehicles and sanitation trucks.
- (3) Subdivisions along existing streets of inadequate right-of-way shall provide additional right-of-way to meet the minimum widths specified in Appendix A. The entire right-of-way shall be provided where any part of a new subdivision is on both sides of an existing street, and one-half the required right-of-way, measured from the center line of the existing street, shall be provided where a new subdivision is located on one side of an existing street.
- (4) A slope easement of 20 feet in width may be required adjoining each side of a street right-of-way. The town may reduce or increase the slope easement width, if due to terrain. If the applicant submits to the town sufficient information to show that improvements to be located in the slope easement do not interfere with the right of the public to construct within the adjoining right-of-way streets, sidewalks, or both, then the town shall allow the proposed improvement.

(G) **CUL-DE-SAC AND STUB-STREET LENGTHS**

- (1) No residential street cul-de-sac serving lots of 20,000 square feet or greater in size shall exceed 1,000 feet in length. No residential street cul-de-sac serving lots less than 20,000 square feet in size shall exceed 700 feet in length.
- (2) Stub-streets shall not exceed 700' in length without an approved turn-around for emergency services provided and installed. In the future, when an adjacent development connects to the stub-street and provides another point of ingress/egress, the developer may modify the approved subdivision through an amendment to remove the turn-around and convert it to recreational amenities, open space, or additional lots as permitted within this chapter.
- (3) Stub-streets shall be provided as outlined in Article 4 of this Chapter. See § 155.400(l) Cross Access Connections.
- (4) No commercial street cul-de-sac shall exceed 400 feet in length.
- (5) Cul-de-sac medians may be permitted where the cul-de-sac radius is increased and it can be demonstrated that emergency vehicles and sanitation trucks can be accommodated. Unless specifically agreed upon with the town, landscaped medians are not to be maintained by the town, and a private maintenance agreement for the median shall be required to be approved by the Town Attorney.

(H) **SIDEWALKS**

- (1) In order to enhance pedestrian safety and mobility, except as set forth below, sidewalks shall be required on both sides of all streets (see Appendix A for approved street cross-sections).
  - (a) Sidewalks shall not be required on the following roadways:
    1. In residential developments with minimum lot sizes one acre or greater, except where an existing school, park, open space, trail or greenway lies within one-quarter-mile of the boundaries of the proposed subdivision, in which case a safe pedestrian connection between the subdivision and the off-site facility is required.
    2. Residential streets serving less than or equal to ten dwelling units. Corner lots that have frontage on both a connective or loop street shall not be included in determining the number of dwelling units served by the street. Street stubs temporarily serving ten lots or less shall provide sidewalks on both sides of the street.
    3. Class "A" and "B" private streets.
    4. Commercial street cul-de-sacs that are less than 150 feet in length.
  - (b) Sidewalks shall be required on only one side of a frontage road.

- (2) Sidewalk access ramps, also commonly referred to as wheelchair ramps for the physically handicapped, shall be provided at all intersections where curb and gutter are provided (see (I) of this section), and where sidewalks and/or greenway trails intersect any street.
- (3) Pedestrian crosswalks are required on any residential street at each intersection and at any mid-block pedestrian or bicycle connections.
- (4) The Town may allow a fee-in-lieu for sidewalk construction as set forth in (B)(2)(b) of this section.

(I) **CURB AND GUTTER**

All public streets, inside the corporate limits of the town and outside the town when water or sewer is connected to the town utility system, shall be constructed with curb and gutter (see Appendix A for approved street cross-sections). Curb and gutter shall be a combination curb and gutter or such other construction approved in the Town's Engineering Design Manual. Rolled or valley-type curbs are permitted for new collector, residential collector, and residential streets.

(J) **RELATIONSHIP OF STREETS TO TOPOGRAPHY**

- (1) Streets shall be designed to relate appropriately to the topography of a site. In particular, streets shall be designed to facilitate the storm drainage requirements specified in § 155.604(E) and, subject to the design requirements relating to maximum grades set forth in (J)(2) of this section, street grades shall conform as closely as practicable to the original topography.
- (2) The maximum grade for street construction shall meet design requirements of the town or NCDOT. However, in no case may streets be constructed with grades that, in the professional opinion of the Public Works Director, create a substantial danger to the public safety or cause any substantial degradation to the street or drainage system.

(K) **STREET LAYOUT**

- (1) The street layout of any development should be in conformity with the town's Transportation Plan and all other applicable adopted plans and policies of the town. Public streets shall be constructed to the boundary lines of the development submitted for approval when required to provide for efficient circulation of traffic within the community.
- (2) Each side of a collector street, commercial street or residential street shall, within every 1,500 foot length of the street, be intersected by at least one connective street. The 1,500 foot length shall be measured from the origination point, if established, of the collector, commercial, residential or residential street.
- (3) Pursuant to the standards for a Variance as well as those outlined below, the Board of Adjustment may grant a Variance for developments that do not meet the above layout if:
  - (a) Existing surrounding development prevents extending a street to any adjoining developments to meet this regulation.

- (b) The adjoining existing street pattern or a planned "stub" street provides for an appropriate intersecting street beyond the 1,500-foot point, that would provide equivalent benefits as an intersecting street within 1,500 feet.
- (c) Severe topography or other physical features warrant making a connection of an intersecting street at another location either inside or outside the development to provide equivalent benefits as an intersecting street within a distance of 1,500 feet, and this other alternate specific location is provided for at the time the development making the request for an alternate location is approved.
- (4) Existing adjoining public streets, public platted streets, and publicly planned streets shall be continued and extended as public streets as part of the development. Streets that are not to be extended, as specifically and affirmatively determined by the Transportation Plan, shall be terminated in a permanent cul-de-sac.
- (5) Where a proposed development will extend a public street that is already stubbed out to the property line, such extension as a public street shall be required.
- (6) Wherever there exists a dedicated or platted half street adjacent to the parcel to be developed, the other half shall be platted and, where required, constructed.
- (7) Where a through street or a series of streets establishes a connection between two public streets and the connection is greater than 1,200 feet in length, or the connection may encourage through traffic not generated by the development, the street shall be a public street, except in instances where the Planning Director or Town Public Works Director or his/her designee determines that requiring such connection to be a public street will serve no purpose, due to the existing or proposed street pattern, traffic flow or traffic volumes.
- (8) Where a proposed development utilizing private streets has an area of 20 or more acres the Planning Director or Town Public Works Director or his/her designee may also require additional public through streets for the provision of emergency services, such as police and fire protection, or to provide alternate circulation at congested or critical intersections.

(L) **CONSTRUCTION STANDARDS AND SPECIFICATIONS**

All streets and sidewalks required by this section shall be constructed according to the specifications of the town's Engineering Design Manual, except that the Town Council may permit sidewalks to be constructed with other materials when they conclude that:

- (1) Such sidewalks would serve the residents of the development as adequately as concrete sidewalks;
- (2) Such sidewalks would be more environmentally desirable or more in keeping with the overall design of the development; or
- (3) Such sidewalks could be maintained as adequately as concrete sidewalks.

(M) **PRIVATE STREETS**

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(1) Intent

- (a) Private streets serving single-family residential lots shall be permitted only within the Residential-Estate zoning district.
- (b) The private street standards of this section establish private street design and construction standards that vary based upon the number of single-family lots such streets will serve. These standards are intended to ensure public safety and the long-term durability of private streets while keeping public improvement costs as low as possible for the smallest of subdivisions.
- (c) The Town requires the logical and safe extension of public streets throughout the Town's jurisdiction. The Town shall allow private streets as outlined below, so long as the private streets are designed to protect the health, safety, and welfare of the residents whose primary access is the private street.
- (d) Private streets shall be designated on final plats as either "existing", "new", or "extended", in accordance with the standards of this section. Further, the initial purchasers of a newly created lot served by a private street shall be furnished by the seller with a disclosure statement outlining the maintenance responsibilities for the street, in accordance with the requirements set forth in G.S. § 136-102.6.
- (e) In the event that private streets are later made public through dedication to the Town, such streets shall be brought up to the current public construction and maintenance standards, prior to their acceptance by the Town.

(2) Existing Private Streets

- (a) Private access easements or streets, the existence of which as of July 1, 2018, can be established by documentary evidence, aerial photograph, or judicial decree, will be considered existing private streets.
- (b) All other private streets are considered new private streets or extensions of existing private streets, and must meet the standards set forth in sections (M)(3) and (M)(4) below.

(3) New or Extended Private Streets

- (a) New or extended private streets that serve as frontage for lots shall meet or exceed private street standards within this section.
- (b) Where an extension of an existing private street is proposed, the connecting private street shall be upgraded to comply with the private street standards within this article.

(4) Class "A" and "B" Private Streets

- (a) Class "A" private streets shall be permitted only when the proposed street will provide a maximum of eight (8) to ten (10) single-family residential lots. Extensions of private

streets that will result in the provision of more than ten (10) lots shall be brought up to public street standards as set forth by the Town of Clayton.

- (b) Class "B" private streets shall be permitted only when the proposed street will provide a maximum of seven (7) single-family residential lots. No extension of a Class "B" private street beyond seven (7) lots shall be permitted. Extensions of such roads that will result in the provision of more than seven (7) lots shall be permitted only if the entire length of the road is brought up to Class "A" private or public street standards (based upon the number of lots to be served).
  - (c) Subdivisions proposing lots served by private streets shall record the following notation on the final plat: "Further subdivision of any lot shown on this plat may require upgrades to the private street or its conversion to a public street, based upon the number of lots to be served. All maintenance and repair of private streets shall be borne by the owners of the lots served by the private street".
- (5) Design Standards for Private Streets
- (a) These standards described herein are the minimum set forth by the Town of Clayton for Class "A" and Class "B" private street standards.
  - (b) Class "A" private streets shall be paved and designed in accordance with the requirements outlined in the Town of Clayton Engineering Design Guidelines manual.
  - (c) Class "B" private streets may consist of alternative materials as permitted by the Town Engineer, and shall be designed in accordance with the requirements outlined in the Town of Clayton Engineering Design Guidelines manual.
  - (d) Class "A" and Class "B" private streets shall maintain 20' travel-way width to provide access for emergency vehicles.
  - (e) The property owners are responsible for all maintenance of Class "A" and Class "B" private streets, and shall be required to enter into a road maintenance agreement prior to plat recordation.

(N) **STREET NAMES AND SIGNS**

- (1) Street names shall be subject to the approval of the Planning Department and Johnston County. New street names shall not duplicate or be similar to existing street names in Johnston County. Existing street names, however, shall be projected where appropriate.
- (2) Street name signs shall be in place prior to approval of any certificate of occupancy for structures to be located on the street. Street name signs shall be clearly identified and labeled as "private".

(Ord. 2005-11-02, passed 11-21-05; (Ord. 2016-04-04, adopted 2016-04-04)

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## **§ 155.603 LOTS AND BLOCKS**

### **(A) LOTS**

- (1) Every lot shall abut or front on a public or private street that complies with all applicable standards of this Chapter.
- (2) Lot sites, shapes, and locations shall be made with due regard to topographic conditions, contemplated uses, and the surrounding areas. All lots approved after January 6, 1997 shall contain the minimum required lot width of the applicable zoning district within 50 feet of the street right-of-way adjoining the front yard.
- (3) Double frontage lots shall be avoided, except when lots adjoin a thoroughfare and access is desirable by a street of residential scale, and discouraged or prohibited on the thoroughfare.
- (4) Side lot lines shall be substantially at right angles or radial to street lines.

### **(B) BLOCKS**

- (1) Blocks shall be laid out with special consideration given to the type of land use proposed within the block.
- (2) Blocks shall not exceed 1,500 feet in length.
- (3) Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth, except where otherwise required to separate residential development from through traffic.
- (4) In all districts except RE, I-1 and I-2, pedestrian connection not less than ten feet in width shall be required near the center and entirely across any block in excess of 900 feet in length to provide adequate access to schools, shopping centers, churches, or transportation facilities.
- (5) A pedestrian connection not less than ten feet in width shall be required through a residential cul-de-sac when the cul-de-sac helps provide adequate access to schools, shopping centers, churches, or transportation facilities. For these purposes, this connection is required when another connection (per (4) above) does not exist or the cul-de-sac terminates within 350' of either a public right of way, sidewalk, greenway, school, transportation facility, park, library or public community facility, or shopping center.

(Ord. 2005-11-02, passed 11-21-05)

## **§ 155.604 UTILITIES**

### **(A) EASEMENTS**

- (1) Utility easements shall be at least 20 feet wide, and shall run along side or rear lot lines. Wider easements may be required if the topography along the proposed right-of-way is such that maintenance equipment cannot reasonably operate within the minimum 20-foot wide easement.
- (2) Where a subdivision is traversed by a water-course, drainageway, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way, conforming substantially with the lines of such watercourses, and of such further width or construction, or both, as will be adequate for the purpose. Lakes, ponds, watercourses, and the land immediately adjacent thereto shall be considered for maintenance by the town only if sufficient land is dedicated as a public recreation area or park, or if such area constitutes a necessary part of the drainage control system. The town reserves the right to reject any intended dedications.

### **(B) OWNERSHIP OF UTILITIES**

All water, sanitary sewerage, electrical (when in town's service area) and storm drainage facilities installed under the requirements of this chapter shall become the sole property of the town upon acceptance. A deed to the town for such facilities, including easements pertaining to right-of-way entrance for maintenance, shall be executed prior to connections to the respective municipal systems.

### **(C) REQUIRED ADDITIONAL CAPACITY**

Where the Town Council deems it necessary, in the interest of the health, safety and general welfare of the residents of the town and its extraterritorial jurisdiction, the applicant shall make certain improvements at sizes in excess of those which would normally be required to serve only the applicant's subdivision. Where oversized improvements are required, the town shall reimburse the applicant for the cost of materials incurred over and above those required to serve the applicant's subdivision. Such reimbursement shall be mutually agreed upon through a Reimbursement Agreement as authorized by G.S. 160A-499.

### **(D) WATER DISTRIBUTION LINES AND SANITARY SEWERS**

- (1) Each lot in all subdivisions within the town's corporate limits, and each lot in all subdivisions in the extraterritorial jurisdiction within 300 feet of the town's water and/or sanitary sewer system shall be connected at the applicant's expense to the town's water and/or sewer system. In accordance with § 51.03 (A) of the Town Code of Ordinances, each developer of land shall be responsible for providing water and sewer line connections and all necessary pump stations, lift stations, and fire hydrants between their property and the town systems. In accordance with § 50.02 of the Town Code of Ordinances, the applicant shall pay water and sewer System Development fees for all property to be served by a connection to the town's water and/or sanitary sewer system.



- (2) Where a subdivision, in the extraterritorial jurisdiction lies more than 300 feet from the municipal water and/or sewer system, the applicant may, at the applicant's expense, connect the subdivision lots to the town's water and/or sanitary sewer system. In accordance with section § 51.20 (A) of the Town Code of Ordinances, any property owner or developer desiring to have water or sanitary sewer services extended to and along any public street or other area where no water or sanitary sewer main exists shall apply to the Town Manager, or designee, in writing requesting a specific daily allocation for such services. If the applicant provides a community water and/or sewer system, rather than connecting to the municipal system, or provides individual wells and/or septic tanks, the materials, design, and installation shall be made in accordance with all applicable state and Johnston County specifications and standards.
- (3) In accordance with section § 51.03(D) of the Town Code of Ordinances, the minimum diameter of a water main shall be six inches and the minimum diameter for a sewer main shall be eight inches. All sewer mains shall be installed at a maximum depth to ensure service to as large an area as possible. Water distribution lines shall be no smaller in size than six inches nominal diameter, with the following exception: On cul-de-sacs which are served by fire hydrants at their intersection with a local street, and the hydrant is connected to a water line of six inches nominal diameter, or larger, water service may be provided with lines smaller than six inches if a blow-off valve is established at the end of such line, or the line is connected to another line within the subdivision to form a loop. This exception shall not apply where such line represents the interconnection between the subdivision and the municipal system. On streets which are "stubbed out" at property lines to permit future development, service must be provided by lines of at least six inches nominal diameter.
- (4) In accordance with section § 155.301(F)(6)(a) and Title V of the Town Code of Ordinances, an accessible, adequate, safe supply of water and sewer shall be provided in each manufactured home park.
- (5) For the purpose of this section, the term "water system" shall include all appurtenances and fixtures normally associated with such facilities, including fire hydrants, gate valves, blow-offs, manholes, and pumping apparatus, but shall not include individual service meters, which shall be installed by the town; the aforementioned appurtenances and fixtures shall comply with the specifications and standards of the town.

(E) **STORM DRAINAGE**

- (1) The applicant shall provide an adequate drainage system for the proper drainage of all surface water in order to protect the proposed development from water damage. The design of such system shall be subject to the approval of the Town Public Works Director or his/her designee.
- (2) No surface water shall be channeled or directed into a sanitary sewer.
- (3) Where feasible, the applicant shall connect to the municipal storm drainage system.
- (4) Where the municipal storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to complement surface drainage systems to surrounding properties.

- (5) Cross pipes under streets and driveways shall be concrete, reinforced concrete, or other pipe, as approved by the Town Public Works Director or his/her designee. All such cross pipes shall be a minimum of 15 inches in diameter.
- (6) Surface drainage courses shall have side slopes of at least one foot of horizontal distance for each foot of vertical distance.
- (7) The minimum grade along the bottom of a surface drainage course shall be a vertical fall of approximately one foot in each 300 feet of horizontal distance.

(F) **ELECTRICAL UTILITIES**

Electrical improvements in accordance with town or progress energy standards, whichever is applicable, shall be required in all subdivisions.

(Ord. 2005-11-02, passed 11-21-05)

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## **§ 155.605 PUBLIC FACILITIES**

### **(A) SCHOOL SITES**

- (1) When a subdivision plat is submitted for approval, in which, according to the land use or land development plan, a school site should be reserved, the Planning Director shall notify the County Board of Education that the subdivision has been submitted for approval, and that under this chapter, a school site may be reserved therein.
- (2) In reviewing the subdivision and giving approval the Planning Director shall consult the Board of Education in determining the exact size and location of any school site to be reserved therein.
- (3) Before the final plat of the subdivision is approved, the Board of Education shall determine whether or not it wishes to have a school site reserved in the subdivision. If the Board of Education does wish to have a school site reserved in the subdivision, the subdivision as finally approved shall reserve a school site of a size and location agreeable to the Board of Education and to the Planning Board. The Board of Education shall then have 18 months, beginning on the date of the final approval of the subdivision, within which to acquire the site. If the Board of Education has not purchased or begun proceedings to acquire the site within 18 months after the subdivision is finally approved, the applicant may proceed to dispose of it in accordance with the subdivision procedure and provisions of this chapter.

### **(B) RECREATION AND OPEN SPACE**

The minimum recreation and open space requirements for conventional and open space residential subdivisions are set forth in § 155.203(h).

(Ord. 2005-11-02, passed 11-21-05)

## **§ 155.606 PERMANENT REFERENCE POINTS**

Prior to the approval of the final plat, iron stakes shall be installed on all corners of the subdivision and at additional points in the subdivision, so that no point within the subdivision lies more than 500 feet from a monument. In addition, two or more control points shall be designated on the final plat.

(Ord. 2005-11-02, passed 11-21-05)

## **§ 155.607 GUARANTEE OF IMPROVEMENTS**

### **(A) GENERAL**

- (1) No final plat will be accepted for review by the Technical Review Committee unless accompanied by written notice by the Planning Director, acknowledging compliance with (B) and (C) of this section.
- (2) If the subdivision is to be phased or developed in sections, the Planning Director shall withhold final plat approval for the most recent phase until improvements in prior stages have been completed or guaranteed.

### **(B) PERFORMANCE GUARANTEES**

In lieu of prior construction of the improvements required by this subchapter, the town shall, for the purpose of approving a final plat, accept a guarantee from the applicant that such improvements will be carried out according to the town's specifications at the applicant's expense. Such guarantee may be in the form of a surety bond, letter of credit, certified check drawn in favor of the town, cash deposited with the town, or other form of guarantee that provides equivalent security to a surety bond or letter of credit, at the election of the person required to give the performance guarantee. Such guarantee shall be 125% of the estimated cost of the construction of the required improvements. This amount shall be determined by the Town Public Works Director or designee. Performance guarantees shall run for a period of one year upon written approval of the Town Council. If the improvements are not complete and the current performance guarantee is expiring, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period until such required improvements are complete. See also NC GS § 160D-804(g).

### **(C) SURETY BOND**

The town shall require a bond guaranteeing: street improvements, curbs, gutters, drainage facilities, sidewalks, electrical facilities, water and sewer lines and taps and all other improvements against defects for one year from the date of final acceptance by the town. This bond shall be in the amount determined by the Town Public Works Director or designee, and shall be in such form as allowed by subsection (B) immediately above,.

### **(D) TOWN'S RIGHT OF INSPECTION AND ACCEPTANCE**

- (1) Whether the required improvements are performed prior to or following approval of the final plat, the applicant shall grant to the town and its assignees authority to inspect all construction of the required improvements, and moreover, shall advise the town at least two days in advance of beginning work on any of the various improvements. However, such right of inspection shall not constitute duty to inspect, nor shall it guarantee final acceptance by the town of any required improvements.
- (2) If improvements guaranteed as required by this Article do not meet the town's standards and the party responsible for constructing the improvements refuses to complete the

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improvements to the Town's standards, the Town, at its sole discretion, may call or execute on the performance guarantee in order to finance the necessary completion of the guaranteed improvements. The town will provide the applicant with a written notice of its intent to carry out this provision at least two weeks prior to such liquidations, and shall also provide the applicant during this period a hearing at a regularly scheduled meeting of the Town Council, provided that sufficient time of validity remains on the guarantee.

- (3) The town's final acceptance of required improvements in the event of their construction following final plat approval shall be evidenced by a written letter from the Town Manager as specifically authorized by the Town Council.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07 )

## ARTICLE 7: ADMINISTRATION

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### § 155.700 REVIEW BODIES

#### (A) TOWN COUNCIL

##### (1) **Establishment and Composition**

The Town Council is established and composed pursuant to the Town Charter and Chapter 30 of the Town's Code of Ordinances.

##### (2) **Powers and Duties**

In execution of the provisions of this Chapter, the Town Council shall be responsible for final action per Table 7-1, Review and Approval Authority.

(B) **PLANNING BOARD**

(1) **Establishment and Composition**

The Planning Board is established and composed pursuant to G.S. § 160D-301 and Chapter 32 of the Town's Code of Ordinances. Per G.S. § 160D-307, residents of both the corporate limits and the ETJ shall serve on the Planning Board. The ratio of residents of the corporate limits and residents of the ETJ shall be proportional to the number of residents of the corporate limits to the number of residents of the ETJ. At least one resident of the ETJ shall serve on the Planning Board. The populations shall be taken from the most recent decennial census.

(2) **Powers and Duties**

In execution of the provisions of this Chapter, the Planning Board shall have the following power and duties.

(a) ***General Authority***

1. The Planning Board may exercise additional powers as may be described elsewhere in this chapter and as permitted by North Carolina General Statutes.
2. The Planning Board shall perform related duties as directed by the Town Council.

(b) ***Review Authority***

The Planning Board shall make recommendations per Table 7-1, Review and Approval Authority.

(c) ***Final Authority***

The Planning Board shall be responsible for final action per Table 7-1, Review and Approval Authority.

(C) **BOARD OF ADJUSTMENT**

(1) **Establishment and Composition**

Pursuant to G.S. § 160D-302, the Town has established a Board of Adjustment. Effective August 1, 2018, the Town designates the Town Planning Board established under Chapter 32.075 to 32.078 to perform the duties of a Board of Adjustment. The term "Board of Adjustment" when used in this Chapter shall be construed to mean the Planning Board.

(D) **PLANNING DIRECTOR**

(1) **Designation**

The Planning Director shall administer certain provisions of this Chapter as may be required below.



(2) **Powers and Duties**

In execution of the provisions of this Chapter, the Planning Director shall have the following powers and duties.

(a) ***General Authority***

1. The Planning Director may exercise additional powers as may be described elsewhere in this Chapter and as permitted by North Carolina General Statutes.
2. The Planning Director shall perform related duties as directed by the Town Council.

(b) ***Review Authority***

The Planning Director shall make recommendations per Table 7-1, Review and Approval Authority.

(c) ***Final Authority***

The Planning Director shall be responsible for final action per Table 7-1, Review and Approval Authority.

(E) **TECHNICAL REVIEW COMMITTEE**

(1) **Establishment and Composition**

Pursuant to G.S. § 160D-306, the Technical Review Committee (TRC) is established for the purpose of performing technical evaluations of land development activities, including but not limited to subdivisions, conditional rezonings, and site plan applications, per Table 7-1, Review and Approval Authority. The TRC is further authorized to complete appropriate analyses of land development activities pursuant to the Town's Code of Ordinances. The Technical Review Committee shall be composed of the persons below, or their designee:

- (a) The Planning Director, Chairman;
- (b) Planning Department staff, designated with primary review responsibility for each application;
- (c) The Public Works Director;
- (d) The Electric System Director;
- (e) The Town Engineer;
- (f) The Fire Chief;
- (g) The Parks and Recreation Director; and

- (h) The North Carolina Department of Transportation.

The TRC may request input from other governmental agencies including, but not limited to, the School Board, the USPS Clayton Postmaster, Johnston County Department of Public Utilities, North Carolina Railroad, and adjacent municipalities as needed.

(2) **Powers and Duties.**

The Technical Review Committee has the following duties and responsibilities regarding the review and consideration of applications that come before them:

(a) The TRC shall undertake technical evaluations of land development applications and activities to identify deficiencies and/or discrepancies from the provisions of the Town's Unified Development Code and the Town's Code of Ordinances. These review duties are outlined in Table 7-1, Review and Approval Authority.

(b) The TRC may approve, disapprove, or postpone consideration of applications that require staff-level approval only. Actions by the TRC regarding staff-level approvals shall be final unless appealed in accordance with Section 155.717 of the UDC. Applications which proceed to the Board of Adjustment, Planning Board, or Town Council will be scheduled for the next available agenda, once receiving TRC certification to proceed.

(F) **MAINTENANCE OF THE PUBLIC TRUST**

(1) **Oath of Office**

Pursuant to G.S. § 160D-309, all members appointed to boards shall take the oath of office as required.

(2) **Conflict of Interest**

Pursuant to G.S. § 160D-109, no elected or appointed board member or administrative staff shall make a final decision as required by this Ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on themselves 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 associated relationship.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2008-09-01, passed 9-2-08; Am. Ord. 2011-12-02, passed 12-5-11; Am. Ord. 2013-02-02, passed 2-4-13; Am. Ord. 2013-12-03, passed 12-2-13; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord. 2017-01-01, adopted 01/03/2017)

**§ 155.701 SUMMARY OF REVIEW AUTHORITY**

Table 7-1 below summarizes review and approval authority under this chapter.

**§ 155.701 - Table 7-1: Review and Approval Authority**

|                                                                          | Decision Type  | Technical Review Committee<br>TRC | Planning Director<br>PD | Planning Board / Board of Adjustment<br>PB / BOA | Town Council<br>TC |           |
|--------------------------------------------------------------------------|----------------|-----------------------------------|-------------------------|--------------------------------------------------|--------------------|-----------|
| Text Amendment (aka Ordinance Amendment)                                 | Legislative    | Review, as needed                 | Review                  | Review                                           | <DECISION>         | § 155.703 |
| Rezoning                                                                 | Legislative    |                                   | Review                  | Review                                           | <DECISION>         | § 155.704 |
| Conditional Zoning District                                              | Legislative    | Review                            | Review                  | Review                                           | <DECISION>         | § 155.705 |
| Minor Preliminary Plat (formerly Minor Subdivision)                      | Administrative | Review                            | DECISION                |                                                  |                    | § 155.706 |
| Major Preliminary Plat (formerly Major Subdivision)                      | Administrative | Review                            | DECISION                |                                                  |                    | § 155.706 |
| Final Plat                                                               | Administrative | Review                            | DECISION                |                                                  |                    | § 155.706 |
| Administrative Amendment                                                 | Administrative | Review, as needed                 | DECISION                |                                                  |                    | § 155.707 |
| Site Plan                                                                | Administrative | Review                            | DECISION                |                                                  |                    | § 155.707 |
|                                                                          |                |                                   |                         |                                                  |                    |           |
| Traffic Impact Analysis                                                  | Administrative | Review, as needed                 | DECISION                |                                                  |                    | § 155.708 |
| Zoning Permit                                                            | Administrative |                                   | DECISION                |                                                  |                    | § 155.709 |
| Special Use Permit                                                       | Quasi-judicial | Review                            | Review                  |                                                  | <DECISION>         | § 155.711 |
| Temporary Use Permit                                                     | Administrative | Review, as needed                 | DECISION                |                                                  |                    | § 155.712 |
| Sign Permit                                                              | Administrative |                                   | DECISION                |                                                  |                    | § 155.713 |
| Alternative Sign Plan                                                    | Legislative    |                                   | Review                  |                                                  | <DECISION>         | § 155.713 |
| Written Interpretation (including Determination of Zoning Vested Rights) | Administrative |                                   | DECISION                |                                                  |                    | § 155.715 |

|                                                                                                                                                                             |                |                   |                 |            |  |           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------------|-----------------|------------|--|-----------|
| <b>Variance</b>                                                                                                                                                             | Quasi-judicial | Review, as needed | Review          | <DECISION> |  | § 155.716 |
| <b>Administrative Appeal</b>                                                                                                                                                | Quasi-judicial |                   |                 | <DECISION> |  | § 155.717 |
|                                                                                                                                                                             |                |                   |                 |            |  |           |
| <b>Tree Clearing Certificate</b>                                                                                                                                            | Administrative | Review, as needed | <b>DECISION</b> |            |  | §155.721  |
| <b>&lt;Public Hearing Required&gt;</b><br>* Site Plans that are associated with a Special Use Permit application shall be reviewed during their hearing of the Special Use. |                |                   |                 |            |  |           |

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2013-02-02, passed 2-4-13; Am. Ord. 2013-12-03, passed 12-2-13; Am. Ord. 2017-01-01, adopted 01/03/2017; Am. Ord. 2018-07-02, adopted 07/16/2018)

## **§ 155.702 COMMON REVIEW PROCEDURES**

### **(A) PRE-APPLICATION CONFERENCE**

- (1) Before submitting an application for development approval, each applicant shall schedule a pre-application conference with the Planning Department to discuss the procedures, standards, and regulations required for development approval in accordance with this Chapter. The pre-application meeting shall have been held no more than six (6) months prior to application submittal.
- (2) Unless waived by the Planning Director, a pre-application conference with the Planning Department shall be required for all development approvals listed in Table 7-1, with the exception of Written Interpretations (§155.715), Administrative Appeals (§155.717), Zoning Permits (§155.709), and Sign Permits (§155.713).

### **(B) NEIGHBORHOOD MEETING**

- (1) After the pre-application conference and at least ten (10) days prior to the first public meeting or, if administrative, prior to final approval by the Technical Review Committee (TRC), the applicant shall hold a mandatory neighborhood meeting for the following:
  - (a) Rezoning ( § 155.704);
  - (b) Conditional Zoning ( § 155.705);
  - (c) Major Subdivision / Preliminary Plat Review, ( § 155.706);
  - (d) Major Site Plan Review (only required for site plans including new structures or building additions greater than 10,000 SF in size), ( § 155.707);
  - (e) Special Use Review ( § 155.711); and
  - (f) Variance ( § 155.716)
- (2) Only the initial application for Conditional Rezoning review shall require a neighborhood meeting. Subsequent applications for Minor Preliminary Plat or Site Plan review do not require further neighborhood meetings.
- (3) The purpose of the neighborhood meeting shall be to inform the neighborhood of the nature of the proposed land use and development features, explain the site plan if any, and solicit comments.
- (4) The applicant shall provide notification by mail to property owners as identified in (D)(2)(c) of this Section. The notice shall be mailed at least ten days but not more than 25 days prior to the date of the neighborhood meeting. Neighborhood meetings shall be held no earlier than 6:00 pm Monday through Friday to allow adequate time for attendees to get to the meeting.

- (5) The applicant shall provide to the Planning Department a copy of all notice materials including the letter and addresses, and provide written certification of the mailing. Certification shall note the date of the mailing and be signed by the applicant.
- (6) The applicant shall prepare and submit to the Planning Director a meeting summary that outlines attendance, major points discussed, and any agreements reached between the parties involved.
- (7) The Planning Director may develop administrative rules pertaining to any additional requirements for the conduct of the meeting.

(C) **APPLICATION REQUIREMENTS**

(1) **Forms**

Applications required under this Chapter shall be submitted on forms and in such numbers as required by the Planning Director.

(2) **Fees**

- (a) All applications and associated fees shall be filed with the Planning Department.
- (b) Filing fees shall be established from time to time to defray the actual cost of processing the application, as listed in the Town's Comprehensive List of Fees and Charges.
- (c) An applicant who has paid the appropriate fee pursuant to the submission of an application, but who chooses to withdraw such application prior to its distribution for review shall be entitled to a refund of the total amount paid, less 10% for administrative costs, upon written request to the appropriate department. Once review has begun, no refund shall be available, except that unused notice surcharges shall be refunded less 10% for administrative purposes.

(3) **Application Deadline**

Applications shall be submitted to the Planning Department in accordance with the published calendar schedule. Schedules indicating submittal dates shall be developed each year and made available to the public.

(4) **Applications Sufficient for Processing**

- (a) All applications shall be sufficient for processing before the Planning Department is required to review the application.
- (b) An application shall be sufficient for processing when it contains all of the required information and materials have been submitted for review.
- (c) The presumption shall be that all of the information required in the application materials is necessary to satisfy the requirements of this section. However, it is

recognized that each application is unique, and therefore more or less information may be required according to the needs of the particular case. The applicant may rely on the recommendations of the appropriate department as to whether more or less information should be submitted.

- (d) Once the application has been determined sufficient for processing, copies of the application shall be referred by the Planning Department to the appropriate reviewing entities.

**(5) Final Determinations on Sufficient Applications**

- (a) Following review by appropriate entities, Planning Department staff shall review any updated application materials and confer with the applicant to ensure an understanding of the applicable requirements of this Chapter; that the applicant has submitted all of the information they intend to submit; and that the application represents precisely and completely what the applicant proposes to do.
- (b) Once the applicant indicates that the application is as complete as the applicant intends to make it, Planning Department staff will make a determination on the application, or as required by this Chapter, the application shall be placed on the agenda of the appropriate review board in accordance with standard procedures.

**(6) Concurrent Applications**

- (a) If approved by the Planning Director, applications for development approvals may be filed and reviewed concurrently. Any application that also requires a variance shall not be eligible for final approval until the variance has been granted.
- (b) Applications submitted concurrently are subject to approval of all other related applications; denial or disapproval of any concurrently submitted application shall stop consideration of any related applications until the denied or disapproved application is resolved.

**(D) NOTICE AND PUBLIC HEARINGS**

**(1) Summary of Notice Required**

Notice shall be required for applications for approval as shown in Table 7-2 below.

**Table 7-2 – Public Notice Requirements**

|                                          | Published | Mailed | Posted |           |
|------------------------------------------|-----------|--------|--------|-----------|
| Text Amendment (aka Ordinance Amendment) | •         |        |        | § 155.703 |
| Rezoning                                 | •         | •      | •      | § 155.704 |
| Conditional Zoning District              | •         | •      | •      | § 155.705 |

|                       |   |   |   |           |
|-----------------------|---|---|---|-----------|
|                       |   |   |   |           |
|                       |   |   |   |           |
| Special Use Review    | • | • | • | § 155.711 |
| Variance              | • | • | • | § 155.716 |
| Administrative Appeal |   | • | • | § 155.717 |

(2) **Public Notice Requirements**(a) ***Published Notice***

Where published notice is required, a distinctive advertisement shall be placed by the Town in a local newspaper of general circulation once a week for two successive calendar weeks, the first notice being published not less than ten days nor more than 25 days before the date fixed for the public hearing.

(b) ***Posted Notice (Sign)***

Where posted notice is required, a sign shall be posted within the same time period specified for mailed notices of the hearing.. The sign shall be posted on the property or at a point visible from the nearest public street. The sign shall indicate that a public hearing will be held and a phone number to contact the Town.

(c) ***Mailed Notice***

1. Where mailed notice is required, the applicant shall supply stamped addressed envelopes to the Planning Department. The notification shall be made by first-class mail by Planning Department staff (at the last addresses listed for such owners in the county tax records) to all property owners within 100 feet and immediately abutting the subject property. Pursuant to G.S. §160D-602, where the subject property immediately adjoins a street, railroad, other transportation corridor, public or private right-of-way, landscape or riparian buffer, commonly-owned private area, public property, or homeowners' association property, then letters of notification shall be sent to adjoining property owners as if they directly abut the subject property. The Planning Department shall certify to the Town Council that fact, and such certificate shall be deemed conclusive in the absence of fraud.
2. Pursuant to G.S. §160D-602(c) the notice shall be mailed at least ten but not more than 25 days prior to the date of the public hearing.
3. Mailed notice under this section shall not be required if a rezoning directly affects more than 50 properties owned by a total of at least 50 different property owners, and the Town elects to use the following expanded notice requirements:



- A. Published notice of the hearing shall be provided as set forth in (D)(2)(a) of this section. The advertisement shall not be less than one-half of a newspaper page in size.
- B. Mailed notice of the hearing shall be provided (as set forth in (D)(2)(c)1. and 2. of this section) to all property owners who reside outside of the newspaper's circulation area.

(d) ***Content of Notice***

A published or mailed notice shall provide at least the following:

- 1. Parcel identification number;
- 2. The address of the subject property (if available);
- 3. The general location of the land that is the subject of the application, which may include, a location map;
- 4. A description of the action requested;
- 5. Where a rezoning is proposed, the current and proposed districts;
- 6. The time, date and location of the public hearing;
- 7. A phone number to contact the Town; and
- 8. A statement that interested parties may appear at the public hearing.

(3)

(E) **DECISIONS**

Unless specifically provided elsewhere, all decisions on land use changes, including rezonings, shall require an affirmative vote. Tie votes shall be considered denials of any requested change.

(F) **NOTICE OF DECISION**

Within 14 days after a decision is made, a copy of the decision shall be delivered to the applicant by personal delivery, electronic mail, or first-class mail. The decision shall also be filed with the Planning Department and available for public inspection during regular office hours.

(G) **WITHDRAWAL OF APPLICATION**

- (1) An applicant may withdraw an application at any time, by filing a statement of withdrawal with the Planning Director.

- (2) The statement of withdrawal shall be signed by all persons who signed the application, or in the event of death or incompetence, by the estate's lawful personal representative.
- (3) The Planning Director shall withdraw applications due to failure of the applicant to submit required information within 90 days of the initial request.
- (4) An applicant may postpone a scheduled public hearing once per application for up to 90 days after the date the first public hearing was scheduled to occur, after which the Planning Director shall withdraw the application per (3) above.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2011-05-01, passed 5-2-11; Am. Ord. 2013-02-02, passed 2-4-13; Am. Ord. 2013-12-03, passed 12-2-13; Am. Ord. 2017-01-01, adopted 01/03/2017; Am. Ord. 2018-07-02, adopted 07/16/2018)

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## **§ 155.703 TEXT AMENDMENT**

(A) **APPLICABILITY**

Amendments to the text of the Town's Code of Ordinances or to this Chapter shall be made in accordance with the provisions of this section.

- (1) The Town Council shall consider amendments to the text of this chapter, as may be required from time to time.

(B) **INITIATION OF AMENDMENT**

A request to amend the text of this chapter may be initiated by the Town Council, Board of Adjustment, Planning Board, Planning Director, or the general public.

(C) **APPLICATION REQUIREMENTS**

Applications for a text amendment shall be submitted in accordance with § 155.702(c).

(D) **NOTICE AND PUBLIC HEARINGS**

The Town shall hold all required public hearings and give notice in accordance with § 155.702(d).

(E) **ACTION BY PLANNING DIRECTOR**

- (1) The Planning Director shall draft the appropriate amendment and prepare a staff report that reviews the proposed text amendment request.
  - (a) Following completion of technical review by staff, the Planning Director shall forward the completed request and any related materials to the Planning Board for a recommendation.

(F) **ACTION BY PLANNING BOARD**

- (1) The Planning Board shall make a recommendation on the application to the Town Council. If the Planning Board fails to make a recommendation, the Town Council may process the request without a recommendation.
- (2) Following Planning Board review, the Planning Director shall forward the completed request and any related materials, including the Planning Board recommendation (if applicable), to the Town Council for final action.

(G) **ACTION BY TOWN COUNCIL**

- (1) Before taking action on a text amendment, the Town Council shall consider the recommendations of the Planning Board and Planning Director.
- (2) The Town Council may approve the amendment, deny the amendment, or send the amendment back to the Planning Board for additional consideration.

(H) **APPROVAL CRITERIA**

- (1) In evaluating any proposed amendment of the text of this chapter, the Planning Board and the Town Council shall consider the following:
  - (a) The extent to which the proposed text amendment is consistent with the remainder of the chapter, including, specifically, any purpose and intent statements, and must adopt a statement describing whether the action is consistent or inconsistent with approved plans;
  - (b) The extent to which the proposed text amendment represents a new idea not considered in the existing chapter, or represents a revision necessitated by changing circumstances over time;
  - (c) Whether or not the proposed text amendment corrects an error in the chapter; and
  - (d) Whether or not the proposed text amendment revises the chapter to comply with state or federal statutes or case law.
  - (e) Any adopted plans of the Town.
- (2) In deciding whether to adopt a proposed text amendment to this chapter, the central issue before the Town Council is whether the proposed amendment advances the public health, safety or welfare and is consistent with the adopted plans and policies of the Town and the specific intent of this chapter.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2018-07-02, adopted 07/16/2018)

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## **§ 155.704 REZONING**

### **(A) APPLICABILITY**

- (1) Amendments to the zoning map shall be made in accordance with the provisions of this section.
- (2) The Town Council shall consider amendments to the zoning map, as may be required from time to time.
- (3) Where appropriate, rezonings should correspond with the boundary lines of existing platted lots or parcels or the minimum area for an intended use, especially if that portion of the tract is to be subdivided. Where the boundaries of a rezoning request stop short of an exterior property line, it must be possible to subdivide and develop that portion of the property outside the proposed rezoning boundary in accordance with the existing zoning and other requirements of this chapter.
- (4) All zoning requirements shall be met within the boundaries of the area being rezoned. If all of the requirements cannot be met on the site being rezoned, prior to advertisement of the public hearing, the rezoning shall be expanded to include all property necessary to meet zoning requirements.

### **(B) INITIATION OF AMENDMENT**

- (1) A request for a rezoning may be initiated by the Town Council, the Planning Board, or the Planning Director.
- (2) An owner of land within the jurisdiction of the Town (or a duly authorized agent or representative) may petition the Town Council for a rezoning. Third-party downzoning petitions are specifically prohibited.

### **(C) PRE-APPLICATION CONFERENCE**

All applicants petitioning for a rezoning shall schedule a pre-application conference with the Planning Director in accordance with § 155.702(a).

### **(D) NEIGHBORHOOD MEETING**

All applicants petitioning for a rezoning shall hold a neighborhood meeting in accordance with § 155.702(b).

### **(E) APPLICATION REQUIREMENTS**

All applications for a rezoning shall be submitted in accordance with § 155.702(c).

### **(F) NOTICE AND PUBLIC HEARINGS**

The Town shall hold all required public hearings and give notice in accordance with § 155.702(d).

(G) **ACTION BY PLANNING DIRECTOR**

- (1) The Planning Director shall prepare a staff report that reviews the rezoning request in light of the adopted plans and policies of the Town and the general requirements of this chapter.
- (2) Following completion of technical review by staff, the Planning Director shall forward the completed request and any related materials to the Planning Board.

(H) **ACTION BY PLANNING BOARD**

- (1) The Planning Board shall make a recommendation on the application to the Town Council. The Planning Board's recommendation shall include a written statement to the Town Council describing whether its recommendation is consistent with the adopted plans and policies of the Town. If the Planning Board fails to make a recommendation, the Town Council may process the request without a recommendation.
- (2) Following Planning Board review, the Planning Director shall forward the completed rezoning request and any related materials, including the Planning Board recommendation (if applicable), to the Town Council for final action.

(I) **ACTION BY TOWN COUNCIL**

- (1) Before taking action on a rezoning, the Town Council shall consider the recommendations of the Planning Board and Planning Director.
- (2) The Town Council may approve the rezoning, deny the rezoning, or send the rezoning back to the Planning Board for additional consideration.
- (3) Concurrently with adopting, denying, or remanding any rezoning, the Town Council shall adopt a statement describing whether its action is consistent with the adopted plans and policies of the Town and explaining why the Town Council considers the action taken to be reasonable and in the public interest. If the Council adopts a rezoning which is not consistent with any adopted future land use map, there must be a note placed on the applicable map or maps that an amendment inconsistent with the map has been adopted, and the map or maps are deemed amended.

(J) **APPROVAL CRITERIA**

In connection with its legislative decision on a rezoning request, the Town Council may consider factors including, but not limited to, the following:

- (1) Consistency with the adopted plans and policies of the Town;
- (2) Suitability of the subject property for uses permitted by the current versus the proposed district;
- (3) Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the Town;

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- (4) The capacity of adequate public facilities and services including schools, transportation infrastructure, recreation facilities, wastewater treatment, water supply facilities, and stormwater drainage facilities for the proposed use;
  - (5) It has been determined that the legal purposes for which zoning exists are not contravened;
  - (6) It has been determined that there will be no adverse effect upon adjoining property owners unless such effect can be justified by the overwhelming public good or welfare; and
  - (7) It has been determined that no one property owner or small group of property owners will benefit materially from the change to the detriment of the general public.

(K) **MODIFICATION OF APPLICATION**

An applicant in a zoning matter may reduce the geographic scope and or propose a district of lower density or intensity from that requested in the application by filing a statement of modification with the Planning Director.

(L) **TIME LAPSE BETWEEN SIMILAR APPLICATIONS**

- (1) In the event of a withdrawal of an application during Town Council review on the merits, no application may be filed requesting the rezoning of any parcel contained in the withdrawn application prior to the expiration of a minimum period of six months from the withdrawal of the application. Where the application is withdrawn prior to the required public hearing, no expiration period shall be imposed on a new application.
- (2) When the Town Council has voted on a zoning application and the proposed rezoning has either been denied or has failed to be adopted by the vote required in the event of a valid protest petition, then the application shall be deemed to have expired.
- (3) No subsequent application requesting a zoning change for any parcel contained in an application which has expired may be made prior to the expiration of a minimum period of six months from the date of expiration.
- (4) No subsequent application requesting the same zoning district for any parcel contained in an application which has expired may be filed prior to the expiration of a minimum period of one year from the expiration.
- (5) The Town Council, by a three-fourths majority vote, may waive the time-lapse requirements of this section if the Town Council deems it to be in the public interest to do so.

(Ord. 2005-11-02, passed 11-21-2005; Am. Ord. 2007-04-05, passed 4-2-2007; Am. Ord. 2009-03-04, passed 3-2-2009; Am. Ord. 2016-04-04, passed 04-04-2016)

## **§ 155.705 CONDITIONAL ZONING DISTRICT**

### **(A) APPLICABILITY**

- (1) Conditional zoning district review (also known as conditional rezoning) shall occur in accordance with the provisions of this section.
- (2) The Town Council shall consider conditional districts, as may be required from time to time.
- (3) All requirements shall be met within the boundaries of the area being rezoned. If all of the requirements cannot be met on the site being rezoned, prior to advertisement of the public hearing, the rezoning shall be expanded to include all property necessary to meet zoning requirements.
- (4) A conditional district is not appropriate for developments that could be substantially achieved through traditional subdivision and conventional district rezoning.
- (5) At a minimum, and to avoid the potential for spot zoning, a conditional zoning application shall include a minimum amount of land of either:
  - (a) 5 acres, or
  - (b) One full city block (either existing or proposed) of at least 1 acre whose abutting street network connects to or extends in alignment with the existing public street network.

### **(B) INITIATION OF AMENDMENT**

An owner of land within the jurisdiction of the Town (or a duly authorized agent or representative) may petition the Town Council to establish a conditional district.

### **(C) PRE-APPLICATION CONFERENCE**

All applicants petitioning for a conditional district shall schedule a pre-application conference with the Planning Director in accordance with § 155.702(a).

### **(D) NEIGHBORHOOD MEETING**

All applicants petitioning for a conditional district shall hold a neighborhood meeting in accordance with § 155.702(b).

### **(E) APPLICATION REQUIREMENTS**

- (1) Concurrent with a request for establishment of a conditional district, an applicant shall submit a master plan, as detailed in this section, to govern the development and maintenance of the land within the conditional district. The master plan shall be prepared by a professionally certified landscape architect, engineer, AICP Planner, or architect.



- (2) All applications for establishment of a conditional district shall be submitted in accordance with § 155.702(C).
- (3) A traffic impact analysis shall be required if the proposed master plan meets the thresholds established in § 155.708.

(F) **NOTICE AND PUBLIC HEARINGS**

The Town shall hold all required public hearings and give notice in accordance with § 155.702(d).

(G) **ACTION BY PLANNING DIRECTOR**

- (1) Upon submission of a completed application, the Planning Director shall schedule the master plan for review by the Technical Review Committee. The Technical Review Committee shall review the master plan for consistency with the requirements of this Chapter.
- (2) Upon completion of the technical review, the Planning Director may meet with the applicant to discuss any changes in development design.
- (3) The Planning Director shall prepare a staff report that reviews the application in light of comments provided by the Technical Review Committee, in light of the adopted plans and policies of the town, and the general requirements of this chapter. The report, master plan and any related application materials shall be forwarded to the Town Council.

(H) **ACTION BY THE PLANNING BOARD**

- (1) The Planning Board shall make a recommendation on the application to the Town Council. The Planning Board's recommendation shall include a written statement to the Town Council describing whether its recommendation is consistent with the adopted plans and policies of the Town. If the Planning Board fails to make a recommendation, the Town Council may process the request without a recommendation.
- (2) Following Planning Board review, the Planning Director shall forward the completed conditional district request and any related materials, including the Planning Board recommendation (if applicable), to the Town Council for final action.

(I) **ACTION BY TOWN COUNCIL**

- (1) Before taking action on a conditional district proposal, the Town Council shall consider the recommendation of the Planning Board (if applicable) and the Planning Director.
- (2) The Town Council may approve, approve with conditions, or disapprove the conditional district. Any conditions of approval must be signed (or declined) by the applicant prior to the Council rendering a decision.
- (3) Concurrently with adopting, denying, or remanding any conditional district, the Town Council shall adopt a statement describing whether its action is consistent with the adopted plans and policies of the Town and explaining why the Town Council considers the action taken to be reasonable and in the public interest. If the Council adopts a conditional district that is

inconsistent with any adopted future land use map a note must be placed on the map or maps that an amendment inconsistent with the map has been adopted and that the map is deemed amended.

(J) **CONDITIONAL ZONING DISTRICT APPROVAL CRITERIA**

In connection with its legislative decision on a conditional zoning district request, the Town Council may consider factors including, but not limited to, the following:

- (1) Consistency with the adopted plans and policies of the Town;
- (2) Suitability of the subject property for uses permitted by the current versus the proposed conditional district;
- (3) Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the Town;
- (4) The capacity of adequate public facilities and services including schools, roads, recreation facilities wastewater treatment and water supply facilities and stormwater drainage facilities for the proposed conditional district;
- (5) It has been determined that the legal purposes for which zoning exists are not contravened;
- (6) It has been determined that there will be no adverse effect upon adjoining property owners unless such effect can be justified by the overwhelming public good or welfare; and
- (7) It has been determined that no one property owner or small group of property owners will benefit materially from the change to the detriment of the general public.

(K) **MASTER PLAN CONTENTS AND APPROVAL CRITERIA**

- (1) At a minimum, the master plan shall designate:
  - (a) Where and which uses or groups of uses will occur.
  - (b) The proposed intensity/density of those uses.
  - (c) The general location of the internal and external network of public rights-of-way and public infrastructure.
  - (d) All required elements for establishment of a zoning district including but not limited to dimensional standards, open space network, natural resource preservation, and landscaping or buffering.
- (2) The master plan shall include and the applicant shall be responsible for successfully addressing the following:
  - (a) Compliance with § 155.203(L) and all other applicable requirements of this chapter, or analysis and justification if it deviates from the requirements of this chapter;

- (b) Consistency with the Clayton General Design Guidelines;
- (c) Conformance of the proposal with the stated purpose of the requested conditional zoning district;
- (d) Compatibility of the proposed development with the adjacent community;
- (e) The quality of design intended for each component of the project and the ability of the overall development plan to ensure a unified, cohesive environment at full build-out;
- (f) Compatible relationships between each component of the overall project;
- (g) Self-sufficiency of each phase of the overall project;
- (h) Documentation that the proposed infrastructure improvements accommodate the additional impacts caused by the development, or documentation to assure that the development, as proposed, will not overtax the existing public infrastructure systems;
- (i) The fiscal impact of the proposal and the proposed financing of required improvements;
- (j) The success of the proposal in providing adequate pedestrian and bicycle links within the development and with the adjacent community; and
- (k) The effectiveness with which the proposal protects and preserves the ecologically sensitive areas within the development.

(L) **ACTION AFTER APPROVAL**

- (1) Upon approval of a conditional zoning district by the Town Council, and on recordation of the approved master plan, the district is deemed established. Properly executed documents shall be returned to the office of the Town Clerk for recording no later than 90 days from the date of approval or the approval shall be null and void. All documents (including the approved master plan) shall be an integral part of the approved proposal.
- (2) The approved conditional district and associated master plan shall run with the land and shall be binding on the original applicant as well as any successors, assigns and heirs. The approved master plan shall be recorded in the Johnston County Register of Deeds office and the Zoning Map amended.
- (3) Approval of a conditional district rezoning and associated master plan does not constitute site plan approval or subdivision approval (if the property is to be further subdivided), except where the master plan meets the requirements for and is approved as a preliminary plat.
- (4) Property to be further subdivided shall obtain approval in accordance with § 155.706. Where a preliminary plat has been approved, the applicant may move forward to provide construction plans and a final plat.
- (5) Property not to be further subdivided shall obtain site plan approval as set forth in § 155.707.

- (6) Special uses identified as such in the approved master plan require approval in accordance with § 155.711.
- (7) The master plan shall run with the land perpetually, or until a subsequent rezoning is approved.

**(M) TIME LAPSE BETWEEN SIMILAR APPLICATIONS**

- (1) In the event of a withdrawal of an application prior to action by the Town Council, no application may be filed requesting the same or substantively similar conditional district contained in the withdrawn application prior to the expiration of a minimum period of six months from the withdrawal of the application.
- (2) When the Town Council has voted on a conditional district and the proposed rezoning has failed to be adopted, then the application shall be deemed to have expired.
- (3) No subsequent application requesting a conditional district for any parcel contained in an application which has expired may be made prior to the expiration of a minimum period of six months from the date of expiration.
- (4) No subsequent application requesting the same zoning category for any parcel contained in an application which has expired may be filed prior to the expiration of a minimum period of one year from the expiration.
- (5) The Town Council, by a three-fourths majority vote, may waive the time-lapse requirements of this section if the Town Council deems it to be in the public interest to do so.

**(N) APPROVED MASTER PLAN MODIFICATIONS**

- (1) Amendments or modifications to an approved master plan, if minor in scope, shall be approved administratively by the Planning Director. Minor modifications shall include up to 10% modifications (by area, intensity, or dwelling units) from the original approval to the approved mixture of uses (so long as the maximums stated are not exceeded), adjustments to phasing, and the realignment of internal transportation infrastructure provided connectivity is not reduced. Changes in boundaries between land uses are permitted so long as the boundary abutting outside zoning districts does not change and the boundary between areas within the conditional district does not shift more than 100' for master plans covering 20 acres or less, 200' for master plans of 20-100 acres, or 300' for master plans of greater than 100 acres. Minor modifications to the typical project details, which include but are not limited to signage, lighting, parking, amenities, and landscape requirements shall also be approved administratively by the Planning Director provided they conform to all other aspects of the approved master plan, this Chapter, and other Town policies and specifications, as appropriate.
- (2) Major modifications include anything not identified as minor. Major modifications shall require resubmittal and reconsideration by per this Section. Major modifications shall also include any proposed revisions that are deemed by the Planning Director to be inconsistent with the adopted plans and policies of the Town, or the conditions of the district, or that

would otherwise negatively impact surrounding properties in any manner exceeding the originally approved master plan.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2008-06-01, passed 6-2-08; Am. Ord. 2009-03-04, passed 3-2-09; Am. Ord. 2015-02-01, passed 2-2-15; Am. Ord. 2016-04-04, passed 04-04-2016; Am. Ord. 2018-07-02, adopted 07-16-2018)

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## **§ 155.706 PRELIMINARY PLAT REVIEW (FORMERLY SUBDIVISION REVIEW)**

### **(A) APPLICABILITY**

Pursuant to and in accordance with G.S. § 160D Article 8, subdivision approval shall be required before the division of land (for any purpose) into two or more parcels, except as expressly exempted below.

### **(B) ACTIONS EXEMPT FROM PRELIMINARY PLAT REVIEW**

For the purpose of this Article “subdivision” shall be as defined in G.S. §160D-802, and subject to the restrictions therein. Any subdivisions expressly exempted from all or a portion of the standards of this Ordinance shall still be required to meet the standards of G.S. §160D Article 8, including the filing of a Final Plat.

- (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resulting lots are equal to or exceed the standards of this Chapter;
- (2) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved;
- (3) The public acquisition by purchase of strips of land for water or sewer infrastructure or the widening or opening of streets or for public transportation system corridors
- (4) The division of a site 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 this Chapter.
- (5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under G.S. § 29.
- (6) The division of a tract or parcel of land in single ownership when the following criteria are met (see G.S. § 160D-802(c):
  - (a) The tract or parcel to be divided is not exempted based on any of the criteria listed above in this subsection
  - (b) No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division
  - (c) The entire area of the tract or parcel to be divided is greater than five acres
  - (d) After division, no more than three lots result from the division

(e) After division, all resultant lots comply with all of the following:

1. Any lot dimension size requirements of this Chapter.
2. The use of the lots is in conformity with this Chapter.
3. A permanent means of ingress and egress is recorded for each lot.

(C) **NO SUBDIVISION WITHOUT PLAT APPROVAL**

- (1) No person may subdivide land except in accordance with all of the provisions of this chapter. In particular, no subdivision may occur unless and until a final plat of the subdivision has been approved in accordance with the provisions of this section and recorded in the Johnston County Registry.
- (2) The County Register of Deeds shall not record a plat of any subdivision within the Town's planning jurisdiction unless the plat has been approved in accordance with the provisions of this Chapter.
- (3) Not all divisions of land constitute subdivisions that are subject to regulation under this chapter. However, to ensure that such divisions are in fact exempt from the requirements of this chapter, all plats creating a division of land shall be presented to the Planning Director before recordation in the Johnston County Registry and the Planning Director shall indicate on the face of the plat that the division is exempt from the provisions of this Chapter if that is the case.
- (4) No street shall be maintained or accepted by the Town, nor shall any street lights, water, or sewer be extended to or connected with any subdivision of land, or shall any permit be issued by any administrative agent or department of the Town for the construction of any building or other improvements requiring permit, upon any land for which a plat is to be approved, unless and until the requirements set forth in this Chapter are in compliance.
- (5) There are a variety of requirements for differing levels of resource protection in Article 5, which must be met prior to the subdivision of land.

(D) **DELEGATION OF AUTHORITY**

The Town Council delegates review and approval authority for all preliminary plats and final plats to the Planning Director, with review by the Technical Review Committee.

(E) **UNLAWFUL TO RECORD PLAT WITHOUT FINAL OR PRELIMINARY PLAT APPROVAL**

Except as described above, it shall be unlawful to offer and cause to be recorded any final plat within the Town limits with the County Register of Deeds unless the plat bears the endorsement and approval of the Planning Director or Town Clerk.

(F) **DEFINITIONS**

- (1) **Minor Subdivision**

- (a) A minor subdivision is a subdivision that does not involve any of the following:
  - 1. Creation of a total of more than five lots;
  - 2. Creation of any new public streets;
  - 3. Extension of any water or sewer lines; or
  - 4. Installation of drainage improvements through one or more lots to serve one or more other lots.
  - 5. A traffic impact analysis as established in § 155.708.
- (b) Minor subdivisions require minor preliminary plat review and final plat review.

(2) **Major Subdivision**

- (a) All other divisions of land not exempted in (B) of this section or listed in (F)(1) of this section shall be considered major subdivisions.
- (b) Major subdivisions require major preliminary plat approval and final plat approval.

(G) **PRE-APPLICATION CONFERENCE AND SKETCH PLAN**

- (1) All applicants seeking subdivision approval shall schedule a pre-application conference with the Planning Director, in accordance with § 155.702(A).
- (2) At the time of the pre-application conference, applicants shall submit a sketch plan for review by the Planning Director. This plan should, in simple sketch form, show the proposed layout of streets, lots and other features in relation to existing conditions (see Planning Department for specific submittal requirements).
- (3) The Planning Director shall make a determination as to which approval process authorized by this section can be used. The Planning Director may require the applicant to submit whatever supplemental information is necessary to make this determination.
- (4) When a subdivision is to be developed in phases or stages, a master plan shall be submitted for the entire development and a preliminary plat shall be submitted for each individual stage. A final plat is submitted for individual stages as each stage is developed. Each new stage shall be developed adjacent to an earlier stage.

(H) **MINOR PRELIMINARY PLAT REVIEW (FOR MINOR SUBDIVISIONS)**

(1) **Applicability**

- (a) The procedure for approval of a minor preliminary plat is intended to simplify processing of routine small subdivisions with due regard to protection of the public interest. The difference between the minor and major subdivision processes is that minor subdivisions do not require preliminary plat review.



(b) There shall be only one minor subdivision approved on any original tax parcel in any three-year period. This condition shall not apply to minor subdivisions for which the following conditions are met:

1. The owner and grantee certify that the grantee of each lot is the child or child and spouse, or grandchild and spouse of the owner;
2. The owner and grantee certify that no consideration shall be paid for any of the lots;
3. The owner and grantee certify that the purpose of the minor subdivision is not to circumvent the provisions of this chapter, and that none of the lots shall be conveyed to third parties for a period of not less than three years, and that the record plat shall indicate same.
4. Failure of any person to comply with the provisions of (H)(1)(b)1., 2. and 3. of this section shall be in violation of this chapter, and all of the remedies available in G.S. §160D-807 shall apply.

(2) **Application Requirements**

All applications for minor plat review shall be submitted in accordance with § 155.702(C).

(3) **Action by Planning Director**

- (a) Upon submission of a completed application, the Planning Director shall schedule the minor subdivision plat for review by the Technical Review Committee. The Technical Review Committee shall review the plat for consistency with the requirements of this chapter. The Planning Director shall, after review by the Technical Review Committee, determine whether the plat conforms to the standards of a minor subdivision.
- (b) If the minor subdivision plat is determined not to be in conformance with the requirements of this Chapter, the application shall be denied. If the Planning Director should disapprove the preliminary plat, the reasons for such action shall be given to the applicant.

(4) **Action Following Approval**

Upon minor preliminary plat approval, the applicant may begin preliminary site work. All site work shall be performed in compliance with the requirements of this chapter, and other applicable regulations of the Town, the County, and the state. The final plat may be recorded in the County Record of Deeds.

(5) **Continuing Validity of Minor Plats**

Within 24 months of the date of approval of the minor subdivision plat, the applicant shall submit application for final plat review otherwise the minor subdivision plat shall be null and void.

(6) **Minor Plat Approval Criteria**

Minor subdivision plats shall be approved only when the Planning Director, after Technical Review Committee review, finds that all of the following conditions exist:

- (a) Consistency with the adopted plans and of policies of the Town
- (b) The plat complies with the standards of §§ 155.600 through 155.607, and any other applicable requirements of this Chapter
- (c) The plat indicates that all subject lots will have frontage on existing approved streets
- (d) New or residual parcels conform to the requirements of this chapter and other applicable regulations
- (e) No new streets are required or are likely to be required for access to interior property
- (f) No drainage or utility easements will be required to serve interior property
- (g) No extension of public sewerage or water lines will be required
- (h) The proposed subdivision will not adversely affect permissible development of the remainder of the parcel or of adjoining property.

(I) **MAJOR PRELIMINARY PLAT REVIEW (FOR MAJOR SUBDIVISIONS ONLY)**

(1) **Applicability**

A preliminary plat shall be required for all subdivisions that do not meet the definition of a minor subdivision as set forth in (F) of this section.

(2) **Application Requirements**

- (a) All applications for preliminary plat review shall be submitted in accordance with § 155.702(C).
- (b) A traffic impact analysis may be required if the proposed subdivision meets the thresholds established in § 155.708.

(3) **Notice and Public Hearings**

The Town shall hold all required public hearings and give notice in accordance with § 155.702(D).

(4) **Neighborhood Meeting**

None required.

(5) **Action by Planning Director**

- (a) Upon submission of a completed application, the Planning Director shall schedule the preliminary plat for review by the Technical Review Committee. The Technical Review Committee shall review the preliminary plat for consistency with the requirements of this chapter. The Planning Director shall, after review by the Technical Review Committee, determine whether the plat conforms to the standards of this Chapter.
  - (b) If the preliminary plat is determined not to be in conformance with the requirements of this Chapter, the application shall be denied. If the Planning Director should disapprove the preliminary plat, the reasons for such action shall be given to the applicant.
- (6) **Waivers**
  - (a) The Town Council may authorize, in specific situations, waivers to the access requirements enumerated in Article 4 if it is clear that adequate provisions for the type and intensity of the proposed use has been or will be provided, and there are special circumstances, such as unique characteristics of the lot and area, or strict interpretation of the requirements render the subdivision of the property not feasible or desirable. In granting a waiver, the Council shall affirmatively make the following findings:
    - 1. The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located;
    - 2. The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not generally applicable to other property;
    - 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 this chapter are enforced; and
    - 4. The purpose of the wavier is not based primarily upon financial consideration.
  - (b) In granting a waiver, the Town Council may require certain conditions that in its judgment, substantially secure the objectives, standards, or requirements of this chapter.
- (7) **Action Following Approval**
  - (a) Upon preliminary plat approval, the applicant may initiate proceedings to begin site work and installation of improvements. All work shall be performed in compliance with the requirements of §§ 155.600 through 155.607, and other applicable regulations of the Town, the County, and the state.
  - (b) Approval of a preliminary plat does not constitute approval of the final plat. Application for approval of the final (record) plat will be considered only after the requirements for

final plat approval as specified in (J) of this section have been fulfilled and after all other specified conditions have been met.

**(8) Continuing Validity of Preliminary Plats**

- (a) Within 24 months of the date of approval of the preliminary plat, the applicant shall submit a final plat for at least one section of the subdivision otherwise the preliminary plat shall be null and void.
- (b) For multi-phase developments greater than 25 acres, the preliminary plat shall expire seven years after approval and is subject to the requirements of G.S. § 160D-108(d)(4). As phases continue to receive development approvals or site specific vesting plans, the vesting period may extend past the initial seven year period according to the standards for those approvals.
- (c) For preliminary plats also approved as master plans for Conditional Zoning Districts, the preliminary plat does not expire and runs with the land, or until a subsequent rezoning changes the district.
- (d) Where more than one vested right may be in effect, the longer time period applies.

**(J) FINAL PLAT REVIEW (MAJOR AND MINOR SUBDIVISIONS)**

**(1) Applicability**

A final plat shall be required for all subdivision of land in the Town and its extraterritorial jurisdiction.

**(2) Application Requirements**

All applications for final plat review shall be submitted in accordance with § 155.702(C).

**(3) Action by Planning Director**

- (a) Upon submission of a completed application, the Planning Director shall within 60 days schedule the final plat for review by the Technical Review Committee. The Technical Review Committee shall review the final plat for consistency with the with the approved minor subdivision plat or approved preliminary plat, as applicable, and the general requirements of this chapter.
- (b) Upon completion of the technical review, the Planning Director may approve the final plat, deny the final plat, or send the plat back for additional consideration.
- (c) If the final plat is disapproved by the Planning Director, the reasons for such disapproval shall be stated in writing, specifying the provisions of this chapter with which the final plat does not comply.

**(4) Final Plat Approval Criteria**

Final plats shall be approved when the following conditions exist:

- (a) Consistency with the adopted plans and of policies of the Town;
- (b) The plat substantially complies with the approved minor plat or preliminary plat, as applicable;
- (c) The plat complies with the standards of §§ 155.600 through 155.607 and the other applicable requirements of this chapter;
- (d) New and residual parcels will conform to the requirements of this chapter and other applicable regulations;
- (e) All necessary right-of-way has been offered for reservation or dedication; and
- (f) All necessary drainage easements have been provided.

(5) **Endorsements On Final Plats**

(a) ***Minor Plats***

All minor subdivision final plats shall contain the following certificates:

- 1. Certificate of ownership;
- 2. Certificate of survey and accuracy;
- 3. Certificate of approval by the Planning Director; and
- 4. County Plat Review Officer's Certificate

(b) ***Major Plats***

1. All major subdivision final plats shall contain the following certificates:

- A. Certificate of ownership and dedication;
- B. Certificate of survey and accuracy;
- C. Certificate of approval of water supply and sewage and disposal systems (county);
- D. Certificate of approval of the design and installation of streets, utilities, and other required improvements;
- E. Certificate of approval by the Town Manager, as applicable; and
- F. County Plat Review Officer's Certificate.

2. All final plats located outside the corporate limits of the Town, but within the planning jurisdiction, shall contain the following certificates:
  - A. NCDOT Engineer Certificate; and
  - B. Certificate of approval of non-municipal water supply & sewage disposal systems.
3. When required by the federal government, all final plats shall contain a certificate for a federally funded project.

**(6) Action After Approval**

- (a) The applicant shall file the approved final plat with the County Register of Deeds for recording within 60 days after the date of approval. The Planning Director, upon receipt of a written request, may extend this date an additional 30 days, if the request is received prior to the original expiration date and the final plat meets all applicable provisions of this chapter.
- (b) The approval of a final plat shall not be deemed to constitute or affect the acceptance or affect the acceptance by the Town of the dedication of any street or other ground, public utility line, or other public facility shown on the plat. However, the Town 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 or dedication of lands or facilities located within the subdivision regulation jurisdiction but outside the corporate limits of the Town shall not place on the Town any duty to open, operate, repair, or maintain any street, utility line, or other land or facility, and the Town 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.

**(K) DEDICATION AND IMPROVEMENTS**

- (1) In the development of any subdivision requiring new or modified public infrastructure, the applicant shall be required to dedicate any additional right-of-way necessary to provide the width required by the Town for streets adjoining the property, to install curbs and gutters and pave all streets adjoining the property to Town standards, and to install sidewalks in accordance with the policies and requirements of Article 6.
- (2) The applicant shall bear the costs of the installation of all on-site improvements as required by this chapter, including provision for surface drainage, pavement, landscaping, and utilities. Any applicant required to install or construct off-site improvements pursuant to this section may, with the approval as a condition of subdivision approval, and upon a determination by the Planning Director that such improvements are not necessary or desirable at the time, but will be needed in the future, make a payment in lieu of such improvements or part thereof. The amount of any such payment shall be an amount estimated by the Town to be the actual and total installation and construction costs of such improvements. The amount paid for a given improvement shall be considered total and complete payment for the improvements

considered, and will preclude any further assessment of the property in the event that the Town elects to install such improvements at a later date.

- (3) For all residential developments and master planned conditional zoning district involving a residential component approved after July 3, 1995, recreation and open space dedication, or payment of fee-in-lieu thereof in accordance with § 155.203(H) shall be required.

(L) **GUARANTEES OF IMPROVEMENTS**

Guarantee of improvements shall be made in accordance with § 155.607.

(M) **INSPECTIONS OF REQUIRED IMPROVEMENTS**

Inspections of improvements shall be made in accordance with § 155.607(d).

(N) **MODIFICATIONS TO APPROVED PLAT**

(1) **Minor Modifications**

(a) ***Preliminary Plat***

Minor modifications to an approved preliminary plat shall be reviewed and approved by the Planning Director and TRC if the proposed changes are within the scope and intent of the original approval, meet all other standards of this chapter, and meet the criteria below. Such revisions may include but not be limited to:

1. Reducing the lot count or dwelling unit count up to 10%;
2. Modifying phase lines; and
3. Minor internal adjustments to lot or street locations of no more than 50' in any direction.

(b) ***Final Plat***

A final plat may be rerecorded to:

1. Revise or correct dimensions;
2. Change street names;
3. Add, delete or modify easements or private covenants;
4. Change subdivision name

(c) ***Procedures***

1. Preliminary Plat

- A. When minor modifications are proposed to an approved preliminary plat, the applicant shall submit an Administrative Amendment application to the Planning Director with a copy sent to the Technical Review Committee delineating the revisions and requesting authorization for administrative revision.
- B. The Planning Director shall notify the applicant whether the proposed revision qualifies for minor modification and the basis for the determination. If approved, the final plat may be submitted in accordance with the revisions.
- C. The Planning Director shall distribute copies of the revised plat to the appropriate agencies.

2. Final Plat

- A. When minor modifications are proposed to an approved final plat, the applicant shall submit a written request to the Planning Director with a copy sent to the Technical Review Committee delineating the revisions and requesting authorization for administrative revision.
- B. If the plat has been recorded, the applicant shall submit the recorded plat with a statement describing the revisions made and title block for the Planning Director signature, and date of signing.
- C. If the ownership of the subdivision has changed or if any lots have been sold since the previous recording, an owner's and notary's certificates shall be provided on the plat for each current owner.
- D. In addition to the letter and the revised final plat, the applicant shall submit the required fees to the Planning Director for processing and rerecording the revised plat.
- E. The Planning Director shall distribute copies of the recorded final plat to the appropriate agencies.

(2) **Major Modifications**

Proposed modifications to an approved preliminary plat or final plat not considered minor revisions shall be submitted and processed as new applications in accordance with the provisions of this section.

(O) **RESUBDIVISION AND RECOMBINATION PROCEDURES**

For any replatting or resubdivision of land, the same procedures, rules, and regulations shall apply as prescribed for an original subdivision. Lot size and configuration may, however, be varied on an approved plat after recording, provided that:



- 
- (1) No lot or parcel of land shall be created or sold that does not conform to the minimum standards of the applicable zoning district;
  - (2) Easements or rights-of-way shall not be changed;
  - (3) Street alignment and block sizes shall not be changed;
  - (4) The character of the area shall be maintained;
  - (5) A recombination of existing parcels shall be approved by the Planning Director, subject to the following:
    - (a) The resultant lots are equal to the standards of this chapter or more closely conform to the minimum lot size standards in this chapter;
    - (b) The total number of lots is not increased;
    - (c) All the metes and bounds boundaries of the affected lots are shown;
    - (d) All lot boundaries changed or eliminated by requested combination are indicated by dashed lines;
    - (e) The title block contains the word "recombination";
    - (f) Structures on the affected lots are shown and the requested recombination does not violate setback requirements of the §§ 155.200 through 155.204;
    - (g) The recombination plat is signed by all property owners if either the number of lots is reduced or different owners for different lots are involved in the recombination;
    - (h) The recombination plat is signed and sealed by a registered surveyor;
    - (i) The recombination plat is certified by the Planning Director; and
    - (j) The recombination plat conforms to all laws and ordinances for the recordation of maps.

(P) **APPEAL**

Final action on a final plat may be appealed to the Board of Adjustment in accordance with § 155.717.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2008-08-04, passed 8-4-08; Am. Ord. 2011-05-02, passed 5-2-11; Am. Ord. 2018-07-02, adopted 07/16/2018)

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## **§155.707 SITE PLAN REVIEW**

### **(A) APPLICABILITY**

- (1) All proposed development, except for single-family detached, zero lot line, duplexes, and alley-loaded dwelling units on individual lots, shall be subject to the site plan review process.
- (2) Temporary uses may require site plan review (see § 155.712).

#### **(a) *Approval Authority***

The Planning Director shall be responsible for approving site plans, following review and certification from the TRC.

### **(Q) PRE-APPLICATION CONFERENCE**

- (1) All applicants seeking site plan approval shall schedule a pre-application conference with the Planning Director, in accordance with § 155.702(A).

### **(R) SITE PLAN REVIEW**

#### **(1) *Application Requirements***

An application for site plan approval shall be submitted accordance with § 155.702(C).

#### **(2) *Action by Planning Director***

- (a) Upon submission of a completed application, the Planning Director shall schedule the site plan for review by the Technical Review Committee. The Technical Review Committee shall review the site plan for consistency with the requirements of this chapter and other applicable Town ordinances.
- (b) After technical review, the Planning Director shall determine whether the site plan conforms to the requirements of this chapter.

#### **(3) *Modifications to Approved Site Plans***

- (a) Minor modifications. If a proposed amendment to a site plan represents only a minor modification to the approved site plan, the applicant shall submit an Administrative Amendment application to the Planning Director who shall act upon such application within ten business days of its receipt. Minor modifications shall include the following:
  1. A less than 5% increase or any decrease, in the floor area or number of dwelling units, provided that the district maximums of the subject property is not exceeded.
  2. A less than 10% decrease in parking spaces, open space or livability space;

3. The minor relocation of any structure, dedicated street, easement or landscape screen in any direction from the location shown on the site plan unless deemed by the Planning Director to significantly alter the approved plan such that it would not meet the performance standards of this UDC.

(4) **Substantial Deviations**

If a proposed amendment to a site plan deviates substantially from the approved site plan, the approved site plan shall be amended in accordance with the procedure and standards which governed its approval. Such substantial deviations include the following, in addition to any modifications not identified as minor:

- (a) A 5% or greater increase in floor area or number of dwelling units;
- (b) A 10% or greater decrease in parking spaces or open space
- (c) The relocation of any structure, dedicated street, or easement in any direction from the location shown on the major site plan for the distances specified below based on the size of the development:
  1. 25 feet or more for major site plans of two acres or less;
  2. 50 feet or more for major site plans of more than two acres but less than eight acres;
  3. 100 feet or more for major site plans of eight acres but less than 20 acres; and
  4. 150 feet for major site plans of 20 acres or more.

(5) **APPROVAL CRITERIA**

In approving a site plan the following shall be considered:

- (1) Consistency with the adopted plans and policies of the Town;
- (2) Compliance with all applicable requirements of this Chapter;
- (3) For nonresidential and multifamily projects, the site plan displays the location of trash handling, recycling, grease bins, and other waste-related facilities employed in the normal operation of the use;
- (4) Adequacy and location of parking areas and pedestrian and vehicular access points;
- (5) Compliance with site construction specifications;
- (6) Adequacy of stormwater facilities, water supply, sanitary sewer service, fire protection, street signs, and street lighting as evidenced by conformance with department standards, specifications and guidelines;

- (7) Compliance with requirements for easements or dedications;
- (8) Compliance with any applicable subdivision improvements; and
- (9) If applicable, compliance with an approved master plan.

(T) **PERIOD OF VALIDITY**

An approved site plan shall expire two years from the date of approval unless the proposed development is pursued as set forth below:

- (1) A complete building permit application has been submitted and remains valid;
- (2) Where more than one building is to be built, the applicant may submit a series of building permit applications. The first application shall be submitted within two years from the date that site plan approval is granted. Each subsequent application shall be submitted within 180 days from the date of issuance of a certificate of occupancy for the previous building; or if no building permit is required, a certificate of occupancy has been issued.

(U) **BUILDING PERMIT/CERTIFICATE OF OCCUPANCY**

- (1) No building permit or certificate of occupancy shall be issued until the required site plan of the proposed use or development has been approved by the appropriate Town officials.
- (2) In order to secure a vested right for a site plan, the applicant must submit a site-specific vesting plan in accordance with § 155.718.

(V) **DEDICATION AND IMPROVEMENTS**

- (1) In the development of any property for which a site plan is required in this section, the applicant shall be required to dedicate any additional right-of-way necessary to the width required by the Town for streets adjoining the property, to install curbs and gutters and pave all streets adjoining the property to Town standards, and to install sidewalks in accordance with the policies and requirements of Article 400.
- (2) The applicant shall bear the costs of the installation of all on-site improvements as required by this chapter, including provision for surface drainage, pavement, landscaping, and utilities. Any applicant required to install or construct off-site improvements pursuant to this section may, with the approval of the Planning Director as a condition of site plan approval, and upon a determination by the Town that such improvements are not necessary or desirable at the time, but will be needed in the future, make a payment in lieu of such improvements or part thereof. The amount of any such payment shall be an amount estimated by the Town to be the actual and total installation and construction costs of such improvements. The amount paid for a given improvement shall be considered total and complete payment for the improvements considered, and will preclude any further assessment of the property in the event that the Town elects to install such improvements at a later date. Full payment shall be made before any building permit or certificate of occupancy is issued for any use shown on the site plan.

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- (3) For all residential and master planned conditional zoning districts involving a residential component approved after January 1, 2021, recreation and open space dedication, or payment of fee-in-lieu thereof in accordance with § 155.203(H) shall be required.

(W) **GUARANTEES OF IMPROVEMENTS**

- (1) Prior to the approval of any site plan, the applicant shall submit a cost estimate and time schedule for installation of each phase of the site improvements.
- (2) The Town shall require a performance guarantee for all required on-site and off-site improvements. This performance guarantee shall be in the amount of 125% of the estimated cost of improvements. The guarantee shall be a surety bond, a letter of credit, or other form of guarantee that provides equivalent security to a surety bond or letter of credit, the form to be at the election of the person required to give the performance guarantee. See also NC GS § 160D-804(g).
- (3) As each phase of improvements is installed and inspected by the Town, the guarantee shall be reduced to an amount equal to 125% of the reasonably estimated cost of completion of the remaining incomplete improvements.
- (4) In the event that the applicant wishes to occupy any building or any portion of any building prior to the completion of the required site improvements, the bond guaranteeing improvements shall be retained by the Town until the remaining required improvements are completed.

(X) **INSPECTIONS OF REQUIRED IMPROVEMENTS**

Inspections during off-site improvements shall be made in accordance with § 155.607(d).

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2018-07-02, adopted 07/16/2018)

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## § 155.708 TRAFFIC IMPACT ANALYSIS

### (A) APPLICABILITY

- (1) A traffic impact analysis may be required to be submitted in conjunction with an application for a Conditional Zoning District Master Plan, preliminary plat, site plan, or special use permit.
- (2) Unless exempted in (B) of this section, a traffic impact analysis shall be required for projects, which can be anticipated to generate at least 1,000 new vehicle trips per day or at least 100 new vehicle trips at peak hour from the latest edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual.

*Commentary: 100 peak hour vehicle trips equates to approximately 100 single-family units or 25,000 square feet of general commercial space.*

### (B) EXEMPTIONS

The following projects shall not be required to submit a traffic impact analysis:

- (1) Developments approved prior to the effective date of this chapter that have maintained valid conditional district master plans (formerly planned development master plans), preliminary plats, major site plans, or special use permits.
- (2) Redevelopment of any site on which the additional traffic at peak hour represents an increase of less than 100 trips from the previous development, where the redevelopment is initiated within 12 months of the completion of demolition of the previous project.
- (3) Site plans that do not trigger the requirements for a Traffic Impact Analysis outlined in § 155.708(A).

### (C) PRE-APPLICATION CONFERENCE

- (1) All applicants required to submit a traffic impact analysis shall schedule a pre-application conference with the Planning Director, in accordance with § 155.702(A).
- (2) The Planning Director and the Town's consultant, if applicable, shall determine the type and scope of the study during the pre-application conference, which may also involve representatives from other agencies or departments.

### (D) APPLICATION REQUIREMENTS

A traffic impact analysis prepared by a professional engineer licensed in the state of North Carolina shall be submitted in accordance with § 155.702(c). The traffic impact analysis must conform with the requirements of this section and the Town's engineering design manual. The traffic impact analysis report must describe the study methodology, the data used, and the study findings and provide recommendations based on the results.

**(E) DEFINITION OF IMPACT AREA**

The Planning Director shall determine the geographic area to be included in a traffic impact analysis. Identification of the points of access and key streets and intersections to be affected by development of the subject parcel shall be required. Traffic recorder and turning movement assessment locations may also have to be determined. The study area shall extend to the point where the project traffic at build-out is less than 10% of the capacity of the roadway or intersection.

**(F) CONSULTANTS**

The Planning Director may require that an independent consultant be hired by the Town to perform the required studies, or to review all or part of a study prepared by the applicant's consultant. The Planning Director is authorized to administer the contract for any such consultant.

- (1) The Town shall determine the scope of services to be performed by the independent consultant and receive a cost estimate of such services.
- (2) The applicant shall provide an amount equal to the cost estimate to the Town, which shall deposit the amount in an escrow or other special account set up for this purpose. Any funds not used shall be returned to the applicant in a timely manner, without interest. If the estimated or actual cost increases during the review from the Town's initial cost estimate, the applicant immediately shall provide an amount equal to the increased cost to the Town, which the Town shall deposit in the escrow or special account. The final approval of any application requiring a traffic impact analysis by the Town shall be contingent upon the full payment of all consultant costs incurred for the analysis.
- (3) The Town may require additional funds for independent review where a decision-making body expands the scope of the required review; the applicant substantially amends the application; additional meetings involving the consultant are requested by the applicant; or the consultant's appearance is requested at public or affected agency meetings beyond those anticipated in the original scope of services.

**(G) DESIRABLE OPERATING LEVELS FOR STREETS AND INTERSECTIONS**

Traffic on a residential local or collector street is operating at a desirable level if it does not exceed the following levels:

| <i>Pavement Width</i>        | <i>Vehicles Per Day</i> |
|------------------------------|-------------------------|
| Less than 30 feet            | 1,200                   |
| 30 feet to less than 40 feet | 1,800                   |
| 40 feet or wider             | 4,000                   |

**(H) ACTION ON APPLICATION**

- (1) The Planning Director shall deny an application if the applicant is unwilling or unable to successfully mitigate the proportional impact that the proposed development will have on the public transportation network.

- (2) The Planning Director shall deny an application if the traffic impact analysis demonstrates that:

- (a) The projected traffic generated by the project, combined with existing traffic, exceeds the desirable operating level established in (G) of this section in the traffic impact analysis study area.

(I) **APPLICATION MODIFICATION BASED ON TRAFFIC ANALYSIS**

An applicant may modify an application to minimize the traffic-related effects identified in a traffic impact analysis. Modifications may include:

- (1) A reduction in the projected vehicle trips per day;
- (2) The dedication of additional right-of-way;
- (3) The rerouting of traffic or modifications or additions of the internal street network or proposed access and egress points;
- (4) Participation in the funding of a traffic signal, intersection improvement, or other off-site transportation improvement; and
- (5) Other modification determined to be necessary.

(J) **APPEAL OF PLANNING DIRECTOR'S ACTION**

- (1) An applicant may appeal the Planning Director's denial to the Town Council.
- (2) The Town Council may approve the traffic impact analysis if the Council determines that the:
  - (a) Applicant has satisfactorily mitigated adverse traffic effects; or
  - (b) Additional traffic from the project has an insignificant effect on the Town's streets.

(K) **PERIOD OF VALIDITY**

A traffic impact analysis shall be valid for a specific site for no more than the period for which the plan is vested, so long as no significant modifications to the development approved for the site are made.

(Ord. 2005-11-02, passed 11-21-05)



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## **§ 155.709 ZONING PERMIT**

### **(A) APPLICABILITY**

- (1) It shall be unlawful to begin moving, constructing, altering, or repairing, except ordinary repairs, of any building or other structure on a site including an accessory structure, until the Planning Department has issued a zoning permit for such work.
- (2) It shall be unlawful to change the type of use of land, or to change the type of use or type of occupancy of any building, or to extend any use or any lot on which there is a nonconforming use, until the Planning Department has issued a zoning permit for such intended use, including a determination that the proposed use, in all respects, conforms to the provisions of this chapter.
- (3) It shall be unlawful to undertake any land-disturbing activity until the Planning Department has issued a zoning permit for such work.
- (4) No zoning permit is required for permitted temporary uses (see § 155.712).

### **(B) TIMING OF APPLICATION**

In all cases where a building permit is required, application for a zoning permit shall be made concurrently with the application for a building permit. In all other cases, application shall be made before initiating any of the activities that trigger compliance with this Section.

### **(C) APPLICATION REQUIREMENTS**

All applications for a zoning permit shall be submitted in accordance with § 155.702(c).

### **(D) ACTION BY PLANNING DIRECTOR**

- (1) If the proposed application is in conformity with the provisions of this chapter, the Planning Department shall issue a zoning permit, provided that all of the following conditions shall apply:
  - (a) Issuance of a zoning permit shall in no case be construed as waiving any provisions of this Chapter or other Town Ordinances or other governmental regulations;
  - (b) The Planning Director shall not grant any exceptions to the actual meaning of any clause, standards, or regulation contained in this chapter to any person making application to excavate, construct, move, alter or use buildings, structures or land;
  - (c) The Planning Director shall issue a permit when the imposed conditions of this Chapter are complied with by the applicant regardless of whether the use of the permit would violate contractual or other arrangements (including, but not by way of limitation, restrictive covenants) among private parties; and

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- (d) The zoning permit shall include a determination that plans, specifications and the intended use of such structure and land do, in all respects, conform to the provisions of this Chapter. Prior to the issuance of a zoning permit, the Planning Director shall consult with other applicable departments, as necessary.
- (2) If the proposed application, is not in conformity with the provisions of this Chapter, the Planning Director shall not issue the zoning permit and shall provide in writing the cause of such disapproval to the applicant.

(E) **EXPIRATION**

Once a zoning permit has been issued, all activities pursuant to such permit shall be commenced within six months. If the proposed moving, constructing, altering, repairing, or use of land, as set forth in an application for a zoning permit, is discontinued for a period of one year or more, the zoning permit shall lapse and be of no further force and effect.

(F) **APPEAL**

Final action on a zoning permit may be appealed to the Board of Adjustment in accordance with § 155.717.

(Ord. 2005-11-02, passed 11-21-05)

**§ 155.710 <RESERVED; PREVIOUSLY “CONDITIONAL USE PERMIT REVIEW”>**

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2011-05-01, passed 5-2-11; Am. Ord. 2014-03-02, passed 3-17-14; Am. Ord. 2018-07-02, adopted 07-16-18)

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## **§ 155.711 SPECIAL USE PERMIT REVIEW**

### **(A) APPLICABILITY**

- (1) Special uses within each general use district are uses that may be appropriate in a particular district, but because of the increased potential for incompatibility with adjacent uses requires individual review by the Town Council.
- (2) A special use permit shall be required for all special uses as set forth in the Permitted Land Use Table (see § 155.202(B)). A development comprised of uses regulated by separate rows on the table shall be reviewed using the most restrictive process from among the proposed uses.
- (3) Where a use requiring approval as a special use lies on a separate legal parcel, only the building containing the use and its separate parcel shall be subject to special use review, not the entire project. However, where the separate legal parcel is an outparcel, the application shall describe the relationship of the outparcel to the remaining site.
- (4) Previously approved and valid Conditional Use Permits are subject to §155.109.

### **(B) PRE-APPLICATION CONFERENCE**

All applicants seeking special use approval shall schedule a pre-application conference with the planning director, in accordance with § 155.702(a).

### **(C) NEIGHBORHOOD MEETING**

All applicants seeking special use approval shall hold a neighborhood meeting in accordance with § 155.702(b).

### **(D) APPLICATION REQUIREMENTS**

- (1) Concurrent with a request for a special use permit, an applicant shall submit a site plan application for review and approval.
- (2) An application for a special use permit shall be submitted in accordance with § 155.702(C).
- (3) A traffic impact analysis may be required if the proposed development meets the thresholds established in § 155.708.

### **(E) NOTICE AND PUBLIC HEARINGS**

The Town shall hold all required public hearings and give notice in accordance with § 155.702(d).

### **(F) ACTION BY PLANNING DIRECTOR**

- (1) Upon submission of a completed application, the Planning Director shall schedule the associated site plan application for review by the Technical Review Committee. The Technical

Review Committee shall review the site plan for consistency with the requirements of this chapter.

- (2) Upon completion of the technical review, the Planning Director shall prepare a report that reviews the application in light of comments provided by the Technical Review Committee, in light of the adopted plans and policies of the Town, and the general requirements of this chapter. The report, site plan and any related application materials shall be forwarded to the Town Council.

(G) **ACTION BY TOWN COUNCIL**

- (1) Before taking action on the special use request, the Town Council shall consider the recommendation of the Planning Director.
- (2) The Town Council may approve the request, deny the request, or send the request back to the Technical Review Committee for additional consideration.

(H) **FINDINGS OF FACT REQUIRED**

No special use permit shall be approved unless the following findings are made concerning the application:

- (1) That the application will not materially endanger the public health or safety if located where proposed, and developed according to the plans as submitted and approved.
- (2) That the application meets all required specifications and conforms to the standards and practices of sound land use planning and the Town Code of Ordinances or other applicable regulations.
- (3) That the application will not substantially injure the value of adjoining or abutting property, and will not be detrimental to the use or development of adjacent properties or other neighborhood uses.
- (4) That the application will not adversely affect the adopted plans and policies of the Town, or violate the character of existing standards for development of the adjacent properties.

(I) **ADDITIONAL CONDITIONS**

- (1) In granting approval of a special use permit, the Town Council may impose reasonable conditions which serve to assure that the required findings are upheld. Such conditions may include, but are not limited to, right-of-way or easement dedication; recreation, open space, or buffer provision; limitation in scale, intensity, or hours of operation; and other reasonable restrictions.
- (2) Any additional condition approved by the Town Council shall become a part of the permit and be of equal importance in the responsibility of the applicant or subsequent assigns to adhere to its terms.

- (3) Prior to a decision by the Town Council, the applicant shall consent to these conditions in writing or decline consent to the conditions. Conditions and safeguards imposed under this section shall not include requirements for which the Town does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by a local government.

(J) **MODIFICATIONS TO APPROVED SPECIAL USE PERMITS**

(1) **Minor Deviations**

The Planning Director shall approve minor deviations (also known as minor modifications) to a special use permit provided that such changes are not contrary to the approving action of the Town Council. The Planning Director shall not have the authority to approve substantial deviations as set forth below.

(2) **Substantial Deviations**

- (a) Any deviation requiring evidentiary support in addition to that presented at a public hearing on applications for the original permit shall constitute a substantial deviation. Before making a determination as to whether a proposed action is a minor deviation or a substantial deviation, the Planning Director shall review the record of the proceedings on the original application. Substantial deviations shall include the following:
1. A change in the boundaries of the approved site;
  2. A change from the approved use;
  3. An increase of 5% or more in the approved floor area, unless proposed addition is 500 square feet of floor area or less, whether such addition is proposed at one time or over an extended period of time;
  4. An increase of 5% or more in the number of approved parking spaces, unless the proposed addition is ten or fewer spaces, whether such addition is proposed at one time or over an extended period of time;
  5. Substantial change in the location of principal or accessory structures;
  6. Structural alterations significantly affecting the basic size, form; style, ornamentation, and appearance of principal or accessory structures as shown on the approved site plan;
  7. Substantial changes in pedestrian or vehicular access or circulation; and
  8. Substantial change in the amount or location of landscape screens.
- (b) If a proposed amendment deviates substantially from the approved special use permit, the approved special use permit shall be amended in accordance with the procedure and standards which governed its approval.

(K) **EFFECT OF DECISION**

- (1) If the Town Council votes to deny an application, there may be no subsequent application for the same or similar use submitted by any party for any part of the subject property until 12 months have elapsed from the date of denial. If the Town Council votes to approve an application, the permit shall be recorded in the County Register of Deeds office.
- (2) The special use permit and additional conditions, if applicable, shall run with the land and shall be binding on the original applicant as well as any successors, assigns, and heirs. Any decision by the Town Council may be appealed within 30 days of the decision in accordance with G.S. § 160D-406.

(L) **PERIOD OF VALIDITY**

- (1) An approved special use permit shall expire 12 months from the date of approval unless the proposed development is pursued as set forth below:
  - (a) A complete building permit application has been submitted and remains valid;
  - (b) Where more than one building is to be built, the applicant may submit a series of building permit applications. The first application shall be submitted within 12 months from the date approval was granted. Each subsequent application shall be submitted within 180 days from the date of issuance of a certificate of occupancy for the previous building; or
  - (c) If no building permit is required, a certificate of occupancy has been issued.
- (2) Once the appropriate permit has been issued, the special use permit shall remain valid unless the use, construction, or activity ceases for a period of 12 consecutive months. In such instance the special use permit shall become void. If a special use is determined by the Planning Director to be void, such determination shall be transmitted in writing to the applicant.

(M) **BUILDING PERMIT/CERTIFICATE OF OCCUPANCY**

- (1) No building permit or certificate of occupancy shall be issued until the required site plan of the proposed use or development has been approved by the appropriate review body.
- (2) In order to secure a vested right for a site plan, the applicant must submit a site-specific development plan in accordance with § 155.718.

(N) **REVOCATION OF A SPECIAL USE PERMIT**

- (1) If any conditions of a special use permit, or other requirements of this chapter are violated, the Planning Director shall begin proceedings to revoke the permit.
- (2) Revocation may occur after an evidentiary hearing is conducted by the Town Council.

(3) Upon a four-fifths vote, the Town Council shall revoke the permit, and notice of such revocation shall be recorded in the County Register of Deeds office.

(4) Violations of conditions of a special use permit shall be considered a violation of this chapter and thereby subject to the provisions of § 155.720.

(O) **COORDINATION WITH VARIANCES**

Applications for variances may be submitted concurrently with a request for a special use permit. The variance shall be considered first and any special use permit application shall be decided afterward.

(P) **COORDINATION WITH REZONING**

An application for a special use permit may be reviewed concurrently with a rezoning application. However, a decision shall be rendered first for any rezoning and then subsequently for any special use permit.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2018-07-02, adopted 07-16-18)

(Ord. 2005-11-02, passed 11-21-05)



## § 155.712 TEMPORARY USE PERMIT

**Commentary:** *Temporary outdoor uses should not be confused with permanent outdoor activities (for example, a car sales lot) that are only allowed in certain districts and require site plan approval, nor should they be confused with an outdoor display area (for example, a garden center that is part of a building supply store) that may be a part of a retail store and require site plan approval.*

### (A) APPLICABILITY

- (5) Temporary uses occurring on property outside of the public right-of-way, including those operating for less than 30 days within a one-year time period, shall obtain a temporary use permit from the Planning Department that outlines conditions of operations to protect the public, health, safety and welfare subject to the standards of § 155.306.
- (6) Temporary uses occurring within the public right-of-way require approval by the Town Council.

### (B) APPLICATION REQUIREMENTS

An application for a temporary use permit shall be submitted in accordance with § 155.702(c).

- (1) Each permit must, at the time of acquisition, state all dates that the temporary use will operate at a given site. Dates not initially specified shall be subject to acquisition an additional permit.
- (2) During a one-year period no single site may be utilized for more than 30 days total aggregate of all dates included on all temporary use permits issued for that given location
- (3) An approved temporary use permit must be available on-site upon request by an authorized Town representative.

### (C) ACTION BY PLANNING DEPARTMENT

- (1) After receiving a complete application, the Planning Department shall have up to 30 days to review the application.
- (2) Following completion of the technical review period, the Planning Department shall approve the issuance of a temporary use permit subject to the following:
  - (a) No lighting or electrical service shall be provided without an electrical permit;
  - (b) No temporary use structure shall be erected without a building permit;
  - (c) No temporary use structure shall block fire lanes or pedestrian or vehicular access;
  - (d) The site of the temporary use shall be cleared of all debris at the end of the temporary use. All temporary structures shall be cleared from the site within five days after the use is terminated;

- (e) Written permission of both the property owner and the principal tenant of the property for the temporary use shall be provided;
- (f) Adequate parking shall be provided;
- (g) Required parking for other uses shall remain available;
- (h) Adequate traffic control measures shall be provided;
- (i) Adequate provisions for trash disposal and sanitary facilities shall be provided; and
- (j) When appropriate, adequate provisions for crowd control shall be provided.

(D) **REVOCATION OF A TEMPORARY USE PERMIT**

A temporary use permit shall be revoked if the Planning Director finds that the terms of the permit have been violated or that there is a hazard to the public health, safety and welfare.

(E) **EXCEPTIONS**

Temporary uses conducted by bona fide nonprofit organizations, as defined by and registered with the North Carolina Office of the Secretary of State, shall be exempt from this section to the extent permitted by state law, except that a temporary use permit must be obtained prior to any scheduled event.

(F) **APPEAL**

Final action on a temporary use permit may be appealed to the Board of Adjustment in accordance with § 155.717.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2010-12-03, passed 12-6-10)

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## **§ 155.713 SIGN PERMIT**

### **(A) APPLICABILITY**

- (1) Except as otherwise provided in § 155.403(D) Exemptions, no sign may be erected, located, or altered in any manner until a Sign Permit, and Building Permit if necessary, has been secured from the Planning Department. The change of copy on a legally constructed sign shall not require a Sign Permit.
- (2) Any sign which does not comply with the appropriate regulations in §155.403 "Signs" and cannot produce a valid Sign Permit within one week of request shall be considered in violation and/or nonconforming, depending on the specifics of the sign.

### **(B) APPLICATION REQUIREMENTS**

An application for Sign Permit shall be submitted in accordance with § 155.702(c).

### **(C) ACTION BY PLANNING DIRECTOR**

Following completion of the technical review period, the Planning Director shall review and take final action on the Sign Permit application, provided that all requirements of this chapter, and all other applicable electrical and North Carolina Building Code requirements are met.

### **(D) ACTION BY TOWN COUNCIL**

Following completion of the technical review period, the Town Council shall review and take final action on any Alternative Sign Plan application or billboard sign application provided that all requirements of this chapter, Chapter §155.403 "Signs", and all other applicable electrical and North Carolina Building Code requirements are met.

### **(E) INSPECTION OF PERMANENT SIGNS**

- (1) The applicant shall request an inspection by the appropriate inspector after installation of the signs.
- (2) The Sign Permit shall be null and void if sign installation is not completed within six months or the signs are not in conformance with the approved application.
- (3) Valid Sign Permits may be assigned to a successor as holder of a business license for the same premises.

### **(F) TEMPORARY SIGN PERMIT**

A Temporary Sign Permit shall be issued in accordance with the criteria in § 155.403 "Signs". An Alternative Sign Plan shall not be required for applications for Temporary Sign Permits.

### **(G) REVOCATION OF A SIGN PERMIT**

The Sign Permit shall be revoked if a sign is found to be in violation of the requirements of this chapter, or other applicable electrical and North Carolina State Building Code requirements.

(H) **APPEAL**

Final action on a Sign Permit may be appealed to the Board of Adjustment in accordance with §155.717 "Administrative Appeals".

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2013-09-06, passed 9-3-13; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord. 2017-01-01, adopted 01/03/2017)

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**§ 155.714 RESERVED**

*Reserved.*

## **§ 155.715 WRITTEN INTERPRETATION**

(A) **APPLICABILITY**

When uncertainty exists, the Planning Director, after consultation with other involved staff and Town Attorney, shall make interpretations concerning the provisions of this Chapter.

(B) **APPLICATION REQUIREMENTS**

An application for a written interpretation shall be submitted in accordance with § 155.702(C).

(C) **ACTION BY PLANNING DIRECTOR**

- (1) The Planning Director shall review and evaluate the request in light of the text of this chapter, the zoning map, the adopted plans and policies of the Town, state and federal law, and any other relevant information.
- (2) Following completion of the technical review period, the Planning Director shall render an opinion.
- (3) The interpretation shall be provided to the applicant in writing.

(D) **OFFICIAL RECORD**

The Planning Director shall maintain an official record of all interpretations. The record of interpretations shall be available for public inspection during normal business hours.

(E) **APPEAL**

Final action on a written interpretation may be appealed to the Board of Adjustment in accordance with § 155.717.

(Ord. 2005-11-02, passed 11-21-05)

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## **§ 155.716 VARIANCE**

### **(A) APPLICABILITY**

- (1) The Board of Adjustment may vary certain requirements of this Chapter that will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this Chapter, will, in an individual case, result in practical difficulty or unnecessary hardship. The Board of Adjustment shall ensure that the spirit of this Chapter shall be observed, public safety and welfare secured, and substantial justice done.
- (2) The existence of a nonconforming use of neighboring land, building, or structure in the same district, or of permitted or nonconforming uses in other districts, shall not constitute a reason for the requested variance.

### **(B) APPLICATION REQUIREMENTS**

An application for a variance shall be submitted in accordance with § 155.702(C).

### **(C) NOTICE AND PUBLIC HEARINGS**

- (1) The Town shall hold all required public hearings and give notice in accordance with § 155.702(D).
- (2) A neighborhood meeting is required.

### **(D) BURDEN OF PROOF**

The applicant seeking the variance shall have the burden of presenting competent, material and substantial evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth below as well as the burden of persuasion on those issues.

### **(E) ACTION BY PLANNING DIRECTOR**

The Planning Director shall provide the Board of Adjustment with a copy of the application and all relevant materials pertaining to the request.

### **(F) ACTION BY BOARD OF ADJUSTMENT**

- (1) **Procedure**
  - (a) The Board of Adjustment may approve the request, deny the request, or continue the request. A concurring vote of four-fifths of the Board is necessary to grant a variance.
  - (b) Each decision shall be accompanied by findings of fact that specify the reasons for the decision.

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- (c) In approving the variance, the Board of Adjustment may prescribe reasonable and appropriate conditions which will ensure that the use will be compatible with adjacent properties and will not alter the character of the neighborhood.
  - (d) Conditions may be imposed by the Board of Adjustment regarding the location, character, and other features of the proposed building or use as may be deemed by the Board of Adjustment to protect property values and general welfare of the neighborhood. Failure to comply with such conditions and safeguards, when part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

**(2) Findings of Fact**

No variance shall be approved by the Board of Adjustment unless all of the following findings are made:

- (a) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- (b) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- (c) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- (d) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2013-12-04, passed 12-2-13)



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## **§ 155.717 ADMINISTRATIVE APPEALS**

### **(A) APPLICABILITY**

Pursuant to G.S. §160D-405, an appeal by any person aggrieved by a final order, interpretation or decision of the Planning Director or other administrator of this Chapter in regard to the provisions of this Chapter may be taken to the Board of Adjustment.

### **(B) APPLICATION REQUIREMENTS**

- (1) An appeal of an administrative decision shall be taken by filing a written notice of appeal specifying the grounds for the appeal with the Planning Director and the Board of Adjustment.
- (2) An application for appeal of an administrative decision shall be submitted in accordance with § 155.702(C).
- (3) A notice of appeal of an administrative decision shall be considered filed when a complete application is delivered to the Planning Director. The date and time of filing shall be entered on the notice.
- (4) The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.

### **(C) APPEAL DEADLINE**

- (3) An appeal of an administrative decision may be filed by the Town, the owner or other person affected by the decision, or by a person with standing under G.S. § 160D-1402. An appeal request by an owner or other person affected by the decision must be received by the Town Clerk within 30 days of receipt of written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.
  - (a) It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least 10 days. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision.

### **(D) NOTICE AND PUBLIC HEARINGS**

The Town shall hold all required public hearings and give notice in accordance with § 155.702(D).

### **(E) ACTION BY PLANNING DIRECTOR**

The Planning Director or designee shall transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

(F) **ACTION BY BOARD OF ADJUSTMENT**

- (1) The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement, decision, or determination appealed from and shall make any order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the Board of Adjustment shall have all the powers of the officer from whom the appeal is taken.
- (2) A motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.
- (3) If a motion to reverse or modify is not made, or a motion fails to receive a majority vote from Board members eligible to vote, then the appeal shall be denied.
- (4) Any motion to overturn a decision shall state the reasons or findings of fact that support the motion.

(G) **EFFECT OF APPEAL**

- (1) An appeal shall stay all proceedings in furtherance of the action appealed, unless the administrative official from who the appeal is taken certifies in an affidavit to the Board of Adjustment that, because of facts stated in the affidavit, a stay would, in their opinion, cause imminent peril to life or property or that because the violation is transitory in nature a stay would seriously interfere with the effective enforcement of this chapter. In that case, proceedings shall not be stayed except by order of the Board of Adjustment or a court, issued on application of the party seeking the stay, for due cause shown, after notice to the administrative official.
- (2) An appeal shall not stop action lawfully approved (including construction activities authorized by a building permit); only actions presumed in violation of this chapter are stayed.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2013-12-05, passed 12-2-13)

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## § 155.718 ZONING VESTED RIGHT

### (A) APPLICABILITY

The purpose of this section is to implement the provisions of G.S. §160D-108 pursuant to which a statutory zoning vested right is established upon the approval of a site specific vesting plan (also known as a site specific development plan).

### (B) ESTABLISHMENT

- (1) A zoning vested right shall be deemed established upon the valid approval, or conditional approval, by the Town Council, of a site specific vesting plan.
- (2) The approving authority may approve a site specific vesting plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare.
- (3) Notwithstanding (B)(1) and (2) of this Section, approval of a site specific vesting plan with the condition that a variance be obtained shall not confer a zoning vested right unless and until the necessary variance is obtained.
- (4) A site specific vesting plan shall be deemed approved upon the effective date of the approval authority's action or ordinance relating thereto.
- (5) The establishment of a zoning vested right shall not preclude the application of overlay zoning that imposes additional requirements, but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land use regulation by the Town, including, but not limited to, building, fire, plumbing, electrical and mechanical codes. Otherwise applicable, new or amended regulations shall become effective with respect to property that is subject to a site specific vesting plan upon the expiration or termination of the vested right in accordance with this Chapter.
- (6) A zoning vested right is not a personal right, but shall attach to and run with the applicable property. After approval of a site specific vesting plan, all successors to the original landowner shall be entitled to exercise such right while applicable.
- (7) A site specific vesting plan specifically includes preliminary plats, site plans, construction plans, conditional zoning master plans, and special use permits.
- (8) Substantial commencement of a development, as determined by the Planning Director and as it relates to establishment of a vested right, shall specifically include consideration of the following:
  - (a) The development has received and maintained a valid erosion and sedimentation control permit and conducted grading activity on a continuous basis and not discontinued it for more than thirty (30) days;
  - (b) The development has installed substantial on-site infrastructure; or 15

- (c) The development has received and maintained a valid building permit for the construction and approval of a building foundation.
- (9) Even if work has substantially commenced, a development approval still expires if development work is discontinued for a period of more than 24 consecutive months, pursuant to N.C.G.S. 160D-108.

(C) **APPROVAL PROCEDURES**

- (1) Except as otherwise provided in this section, an application for site specific vesting plan approval shall be processed in accordance with the procedures established by Ordinance and shall be considered by the designated approval authority for the specific type of zoning or land use permit or approval for which application is made.
- (2) Notwithstanding the provisions of (C)(1) of this section, if the authority to issue a particular zoning or land use permit or approval has been delegated by ordinance to a board, committee or administrative official other than the Town Council or Board of Adjustment, in order to obtain a zoning vested right, the applicant must request in writing at the time of application that the application be considered and acted on by the Town Council or Board of Adjustment, following notice and a public hearing as provided in G.S. §160D-601.
- (3) In order for a zoning vested right to be established upon approval of a site specific vesting plan, the applicant must indicate at the time of application, on a form to be provided by the Town, that a zoning vested right is being sought.
- (4) Each map, plat, site plan or other document evidencing a site specific vesting plan shall contain the following notation: "Approval of this plan established a zoning vested right under G.S. §160D-108. Unless terminated at an earlier date, the zoning vested right shall be valid until (date)."
- (5) Following approval or conditional approval of a site specific vesting plan, nothing in this Chapter shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval.
- (6) Nothing in this chapter shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or this Chapter.

(D) **DURATION**

- (1) A zoning right that has been vested as provided in this chapter shall remain vested for a period of two years unless specifically and unambiguously provided otherwise pursuant to (D)(2) of this section. This vesting shall not be extended to any amendments or modifications to a site specific vesting plan unless expressly provided by the approval authority at the time the amendment or modification is approved.
- (2) Notwithstanding the provisions of (D)(1) of this section, the approval authority may provide that rights shall be vested for a period exceeding two years by not exceeding five years where

warranted in light of all relevant circumstances, including, but not limited to, the size of the development, the level of the development, economic cycles, and market conditions. These determinations shall be in the sound discretion of the approval authority at the time the site specific vesting plan is approved.

3) Notwithstanding the provisions of (D)(1) of this section, a multi-phased development as defined in G.S. 160D-108(d)(4) shall be vested for the entire development and the vesting shall be valid for a period of seven (7) years from the time a site plan is approved for the initial phase of the multi-phase development.

(4)

Upon issuance of a building permit, the expiration provisions of G.S. §160D-403(c) and the revocation provisions of G.S. §160D-403(f) shall apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding.

(E) **TERMINATION**

A zoning right that has been vested as provided in this chapter shall terminate:

- (1) At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;
- (2) With the written consent of the affected landowner;
- (3) Upon findings by the Town Council, by ordinance after notice and an evidentiary 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 was contemplated in the site specific vesting plan;
- (4) Upon payment to the affected landowner of 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 thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action;
- (5) Upon findings by the Town Council, by ordinance after notice and an evidentiary hearing, that the landowner or his or her representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority of the site specific development plan; or
- (6) Upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the site specific development plan, in which case the approval authority may modify the affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the plan, by ordinance after notice and a hearing.

(F) **VOLUNTARY ANNEXATION**

A petition for annexation filed with the Town under G.S. §160A-31 or G.S. §160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established under G.S. §160D-108. A statement that declares that no zoning vested right has been established under G.S. §160D-108, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any such zoning vested right shall be terminated.

(G) **LIMITATIONS**

Nothing in this chapter is intended or shall be deemed to create any vested right other than those established pursuant to G.S. §160D-108 or common law.

(H) **REPEALER**

In the event that G.S. §160D-108 is repealed, this chapter shall be deemed repealed and the provisions hereof no longer effective.

(I) **EFFECTIVE DATE**

This Chapter shall be effective and shall only apply to site specific vesting plans approved on or after November 18, 1991.

(Ord. 2005-11-02, passed 11-21-05)

## **§ 155.719 RESERVED**

*<Reserved; previously “Nonconformities”.>*

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2016-04-04, passed 04-04-2016)

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## **§ 155.720 ENFORCEMENT**

### **(A) ENFORCEMENT OF PROVISIONS**

The Planning Director, or his or her designee, is charged with the enforcement of the provisions of this Chapter. If the Planning Director or a designee finds that any of the provisions of this Chapter are being violated, he or she shall notify in writing the persons responsible for such violations, indicating the nature of violation and ordering the actions necessary to correct it. They shall also take any other action authorized by this Chapter to ensure compliance with or to prevent the violation of its provisions.

### **(B) APPLICABILITY**

- (1) In accordance with G.S. §160A-175 and § 10.98 of the Town's Code of Ordinances, any person violating any provision of this Chapter must remedy the violation. Violations are considered a civil penalty, and violators are required to pay a separate penalty for each violation until the provisions of this Chapter are met. Each day that a violation fails to comply with a provision of this Chapter is considered a separate and distinct violation.
- (2) In case a building or structure is erected, constructed, reconstructed, repaired, converted, or maintained, or a building, structure, or land is used in violation of this Chapter, the Planning Director or his or her designees, in addition to other remedies, may institute injunction, mandamus, or other appropriate action in proceeding to prevent the violation.
- (3) In accordance with G.S. §160D-807, "Penalties for Transferring Lots in Unapproved Subdivisions", any person who, being the owner or agent of the owner of any land located within the jurisdiction of the Town, subdivides his land in violation of the subdivision requirements set forth in the Town's Unified Development Code, or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under in accordance with the UDC and recorded in the office of the appropriate register of deeds, shall be guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The Town may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the UDC.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2013-12-06, passed 12-2-13)



## § 155.721 TREE CLEARING CERTIFICATE

### (A) PURPOSE

This section implements the enabling legislation granted to the Town by the North Carolina General Assembly. The purposes of these regulations are to:

- (1) Protect existing trees and shrubs located upon undeveloped sites for use as future buffers and streetscapes to meet site and/or subdivision plan requirements;
- (2) Preserve existing tree and vegetative cover to protect the health safety and welfare of the public by preserving the visual and aesthetic qualities of the Town; maintaining property values; controlling erosion; and reducing sediment and other pollutant run-off into streams and waterways in an effort to protect water quality; and
- (3) Create a process whereby some properties are required to obtain a tree clearing certificate, recognize some properties are exempted from the requirement to obtain a tree clearing certificate prior to the removal of vegetation, and establish penalties for removal of all or substantially all of the required vegetation within required vegetation protection areas.

### (B) APPLICABILITY

The requirements for obtaining a tree clearing certificate and penalties for non-compliance are applicable to all undeveloped properties that are zoned for residential or nonresidential use located within the Town limits and/or extraterritorial jurisdiction (ETJ). For the purposes of the section, undeveloped properties shall include any property within the Town's jurisdiction that is not the subject of an approved site and/or subdivision plan.

### (C) EXEMPTIONS

A tree clearing certificate shall not be required for the activities listed below.

- (1) Forestry activities on property that is taxed on the basis of its present-use value as agricultural, horticultural, or forestland under G.S. Ch. 105, Article 12, and forestry activity that is conducted in accordance with a forestry management plan prepared or approved by a forester registered pursuant to G.S. Ch. 89B, and provided such activities are accomplished in compliance with this section. In cases where all trees or substantially all trees are removed from the perimeter buffers described in division (D) of this section, the Town will not grant a building permit and site and/or subdivision plan approval for said property for a period of three years following the harvest of such trees. The three-year waiting period may be waived if the Town Council, by a 3/4 vote, determines a project to be desirable and grants the right to immediate development on recently timbered land where no perimeter buffer was kept. For the purposes of this section, the term **ALL OR SUBSTANTIALLY ALL** shall mean 75% or more of the existing trees with a caliper of four inches or greater.
- (2) Properties with a town-approved site and/or subdivision plan, provided such plan has not expired and that any clearing or vegetation removal is performed in strict accordance with the approved site and/or subdivision plan.

- (3) The removal of vegetation by public or private agencies within the lines of any public street rights-of-way, utility easements, or other Town property, as may be necessary to ensure public safety, to obtain clear visibility at driveways or intersections, to perform authorized field survey work, or to preserve or enhance the symmetry and beauty of such Town property.
- (4) The town-initiated or approved removal of any vegetation which is in an unsafe condition, constitutes a nuisance or noxious weed, or which by its nature is injurious to sanitary sewers, electrical power lines, gas lines, water lines, stream or conveyance channels, or other public improvements, or vegetation which is infected with any injurious fungus, insect, or other pest.
- (5) The removal of vegetation on property located within an approved residential subdivision that is zoned for single-family use, and provided such vegetation is not a portion of a required streetscape or other landscaping buffer.
- (6) The removal of vegetation on a lot of two acres or less. Subdivision of property to circumvent these requirements is not permitted.

(D) **REQUIRED BUFFERS AND VEGETATION**

Other than that necessary to gain reasonable access to the property, clearing and/or removal of trees and other vegetation shall be prohibited in the areas listed below. In situations where one or more buffer zones or vegetation protection areas overlap on the same site, then the more restrictive requirement shall apply.

- (1) A perimeter buffer zone having a width of 50 feet as measured from all ultimate property boundaries that adjoin existing public roadways. For the purposes of this section, the term **ULTIMATE PROPERTY BOUNDARY** of a parcel or tract shall mean the final demarcation line around the perimeter of a parcel excluding all areas that must be dedicated to the Town for use as rights-of-way.
- (2) A perimeter buffer zone having a width of 50 feet as measured from all property boundaries that adjoin developed property or vacant property with an approved site and/or subdivision plan.
- (3) A perimeter buffer zone having a width of 25 feet as measured from all property boundaries that adjoin undeveloped property or vacant property without an approved site and/or subdivision plan.
- (4) Any other areas necessary for the protection of existing vegetation as indicated within this section (such as riparian buffers).
- (5) Notwithstanding any requirements of this section, the area of the required perimeter buffer zones for any tract shall not exceed 20% of the area of the tract, net of public road rights-of-way, and any required conservation easements.

(E) **APPLICATION REQUIREMENTS**

- (1) An application for a tree clearing certificate may be filed only by all the owners of the property or by such owners' authorized agent.
- (2) An application for a tree clearing certificate shall be filed with the Planning Department. The application form shall be accompanied by a Vegetation Protection Plan that shall include, at a minimum, the following information on a sheet size no larger than 24 by 36 inches at a minimum scale of one inch equals 50 feet:
  - (a) Vicinity map showing the location of the tract at a readable scale.
  - (b) A map of the entire tract, including the property boundary of the entire tract by courses and distances with references to true meridian and the location and dimension of all on-site and adjacent off-site easements (such as drainage, utility, public access, aerial utility, conservation, permanent and temporary construction easements).
  - (c) General information about the tract, including but not limited to the owner of the tract; the current zoning of the tract, the area of the tract, and the conditional use zoning conditions, planned unit development master plan requirements, if applicable.
  - (d) The location and use(s) of all existing building(s) on the tract.
  - (e) The owner, current zoning and present use of all contiguous properties (including property on opposite side of adjoining streets).
  - (f) The general classification of all existing and proposed adjacent roadways (as depicted in the Clayton Transportation Plan) and the ultimate right-of-way boundaries associated with these roadways.
  - (g) The location and width of all future/existing buffers and associated vegetation protection areas, including riparian buffers, perimeter buffers and perimeter streetscapes.
  - (h) The proposed limits of timbering activities, including the location and extent of all tree protection areas as required under § 155.402(H)(4).
  - (i) A survey of individual trees is not required.
- (3) The Planning Director may reduce or waive the requirements for a Vegetation Protection Plan in situations where it can be demonstrated that all vegetation removal will take place outside of required vegetation protection areas.

(F) **PROCEDURE**

Prior to the commencement of any vegetation clearing or removal on any undeveloped property, the owner or the owner's agent must demonstrate exemption from the requirements of this section, or submit the required application materials and applicable fees for a tree clearing certificate.

- (1) Upon receipt of documentation that a property is exempted from obtaining a tree clearing certificate, the Planning Director shall review all materials and make a determination if a property is exempted from the requirements or if the requirements apply. In situations where exemption status is claimed based on forestry use, this documentation shall include proof that the property is taxed under the present-use value standard or a copy of the valid forestry management plan prepared or approved by a North Carolina registered forester. The decision of the Planning Director may be appealed to the Zoning Board of Adjustment pursuant to § 155.717.
  - (2) If a property is not exempted from the provisions pertaining to a tree clearing certificate, then such application materials shall include a Vegetation Protection Plan consistent with the requirements listed in division (E)(2) above.
  - (3) The Vegetation Protection Plan shall be reviewed by the Planning Director. The Director shall disapprove the Vegetation Protection Plan if he or she has concerns about the plan's ability to meet the standards of this Section. In the event the Director disapproves the plan, an Administrative Appeal may be filed.
  - (4) An applicant for a tree clearing certificate shall be notified upon approval of the Vegetation Protection Plan, and shall be free to erect or install any and all barriers necessary to protect existing vegetation within required buffer areas and vegetation protection areas from damage during tree clearing and/or removal activities. Failure to protect these areas shall result in penalties as indicated in division (G) below.
  - (5) Once all barriers for the protection of existing vegetation have been installed, a property owner or agent shall request inspection of such barriers for compliance with the requirements of this section.
  - (6) Upon a passing inspection of vegetation protection barriers, the Director shall issue a tree clearing certificate, and authorized vegetation clearing and/or removal may commence.
  - (7) An approved tree clearing certificate shall be valid for a period of not more than 12 months from the date of issuance.
- (G) **NON-COMPLIANCE**
- (1) Failure to comply with the provisions of this section shall constitute a violation of this section, and shall subject an offending party to a series of actions, including the payment of fines, delay in site and/or subdivision plan approval or building permit issuance, and the requirement to double the amount of required vegetation as would typically be required during the site and/or subdivision plan review and approval process. The following table summarizes the penalties for non-compliance with this section.
  - (2) An "X" in a particular cell indicates that the associated penalty applies:

|                                            |
|--------------------------------------------|
| <b><i>Penalties for Non-Compliance</i></b> |
|--------------------------------------------|

| Type of Violation                                                                                                                                                                                                         | Payment of Fines | Review of All Subsequent Site and/or Subdivision Plans by Town Council | Three-Year Delay in Approval of Building Permit or Site and/or Subdivision Plan | Landscaping Requirements Doubled During Site and/or Subdivision Plan Review |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|------------------------------------------------------------------------|---------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| Property is exempt from tree clearing certificate requirements, but all or substantially all vegetation within required buffers and/or vegetation protection areas is removed                                             |                  | X                                                                      | X                                                                               | X                                                                           |
| Property owner obtains a tree clearing certificate, but removes some of the vegetation within a required buffer and/or tree protection area                                                                               | X                |                                                                        |                                                                                 | X                                                                           |
| Property is not exempt from tree clearing certificate requirements, but property owner obtains no certificate, and removes some of the vegetation within a required buffer and/or tree protection area                    | X                | X                                                                      |                                                                                 | X                                                                           |
| Property is not exempt from tree clearing certificate requirements, but property owner obtains no certificate and removes all or substantially all of the vegetation within a required buffer and/or tree protection area | X                | X                                                                      | X                                                                               | X                                                                           |

(Ord. 2006-07-03, passed 7-17-06)



## ARTICLE 8: DEFINITIONS

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### § 155.800 GENERAL

- (A) Words used in the present tense include the future tense.
- (B) Words used in the singular number include the plural, and words used in the plural include the singular.
- (C) The word "shall" is always mandatory and not merely directory.
- (D) The words "day" or "days" shall refer to calendar days and shall be computed by excluding the first day and including the last day, unless the last day is a Saturday or Sunday or a holiday declared by the United States Congress or the State of North Carolina, in which event it shall also be excluded.
- (E) Any term not herein defined shall be as defined elsewhere in the town code of ordinances or, if not defined elsewhere in the Town Code of Ordinances, as defined in Webster's New International Dictionary, most recent edition.
- (F) In case of any difference of meaning or implication between the text of this chapter and any caption, illustration or table, the text shall control.

(Ord. 2005-11-02, passed 11-21-05)

## **§ 155.801 ABBREVIATIONS**

ANSI: American National Standards Institute

BMP: Best Management Practices

BOA: Board of Adjustment

DAS: Distributive Access System

dbh. Diameter at Breast Height

DDA: Downtown Development Association

DENR: Department of Environment and Natural Resources (now known as Department of Environmental Quality)

DEQ: North Carolina Department of Environmental Quality

ETJ: Extraterritorial Jurisdiction

FAA: Federal Aviation Administration

FAR: Floor Area Ratio

FCC: Federal Communications Commission

FEMA: Federal Emergency Management Agency

FIRM: Flood Insurance Rate Map

GFA: Gross Floor Area

NCDOT: North Carolina Department of Transportation

NIER: Non-Ionizing Electromagnetic Radiation

PAAB: Public Arts Advisory Board

PB: Planning Board

PD: Planning Director

PW: Public Works Director

RF: Radio Frequency



SHO: Scenic Highway Overlay

TIA: Traffic Impact Analysis

TC: Town Council

TOD: Thoroughfare Overlay District

TRC: Technical Review Committee

UDC: Unified Development Code

USDA: United States Department of Agriculture

USGS: United States Geologic Survey

WP- Watershed Protection Overlay

(Ord. 2005-11-02, passed 11-21-05; Am. Ord 2016-04-04, adopted 04-04-2016)

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## § 155.802 DEFINED TERMS

### **Abutting**

A property that directly touches another piece of property.

### **Accessory Structure**

A structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. A subordinate dwelling unit, garage, carport or storage shed are all examples of accessory structures.

### **Acreage, Gross**

Land area with streets, rights-of-way, driveways which serve as access to more than two units or uses, and major transmission lines not included in its measurement.

### **Acreage, Net**

Land area excluding streets, rights-of-way, driveways which serve as access to more than two units or uses, and major transmission lines not included in its measurement.

### **Adjacent**

Property abutting directly on the boundary of, touching, or sharing a common point.

### **Administrative Decision**

Pursuant to G.S. § 160D-102, decisions made in the implementation, administration, or enforcement of development regulations that involves the determination of facts and the application of objective standards set forth in G.S. § 160D or local government development regulations. These are sometimes referred to as “administrative determinations.”

### **Administrative Hearing**

Pursuant to G.S. § 160D-102, a proceeding to gather facts needed to make an administrative decision.

### **Alley**

A public or private vehicular way providing service access along rear or side property lines of lots which are also served by one of the other listed street types.

### **Alteration**

Any change, addition, or modification in construction or occupancy of an existing structure.

### **Antenna**

A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals. Such shall include, but not be limited to radio, television, cellular, internet, microwave telecommunications and services not licensed by the FCC, but not expressly exempt from the Town's siting, building and permitting authority.

### **Applicant**

Any person, firm, or corporation requesting approval of any land-use, development, or improvement application, or similar entitlement regulated by the municipal code.

**Approval Authority**

The Town Council, Planning Board, Board of Adjustment or other board or official designated by ordinance or this chapter as being authorized to grant the specific zoning or land use permit or approval that constitutes a site specific development plan.

**Best Management Practices (BMP)**

A structural or nonstructural management-based practice used singularly or in combination to reduce non-point source inputs to receiving waters in order to achieve water quality protection goals.

**Buffer**

Open spaces, landscaped areas, fences, walls, berms, or any combination thereof used to physically and visually separate one use or property from another in order to mitigate the impacts of noise, light, or other nuisance.

**Buffer, Stream**

An area of natural or planted vegetation surrounding and running parallel to a stream or waterway through which stormwater runoff flows in a diffuse manner so that the runoff does not form a channel, and which provides for infiltration of the runoff and filtering of pollutants.

**Building**

Pursuant to G.S. § 160D-102, any structure used or intended for supporting or sheltering any use or occupancy.

**Building Coverage**

The maximum area of the lot that is permitted to be covered by buildings, including both principal structures and accessory buildings. Building coverage does not include paved areas such as driveways, uncovered porches or patios, decks, swimming pools or pool cages, or roof overhangs of less than three feet.

**Building Separation**

The required separation between any two buildings.

**Caliper**

The diameter of plant material, measured at six inches above grade for calipers of up to four inches, and 12 inches above grade for larger calipers.

**Clearance**

The shortest distance between two objects that must be maintained clear and free from obstructions or another specific identified object(s).

**Co-Location**

The use of a wireless telecommunication support facilities by more than one wireless telecommunication provider for the provision of wireless services without increasing the height of the tower or structure.

**Conditional Zoning**

Pursuant to G.S. § 160D, a legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

**Condominium**

A building, group of buildings, or portion thereof, in which units are owned individually, and the structure, common areas, or facilities are owned by all the owners on a proportional, undivided basis. For the purposes of development and use regulation, condominiums are treated as apartments.

**Construction**

On-site erection, fabrication, installation, alteration, demolition or removal of any structure, facility, or addition thereto, including all related activities, including, but not restricted to, clearing of land, earthmoving, blasting and landscaping.

**Crosswalk**

A public pedestrian right-of-way which cuts across a block to facilitate pedestrian access to adjacent streets and properties.

**Cul-De-Sac (Commercial, Residential)**

A short, street having one end open to traffic and the other permanently terminated by a vehicular turnaround.

**Dedication**

The transfer of ownership without payment or other interest in real property from a private entity to a public agency.

**Density**

The number of dwelling units permitted per acre of land.

**Development**

The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure. The excavation, grading, filling, clearing, or alteration of land. The subdivision of land as defined in G.S. § 160D-802. The initiation or substantial change in the use of land or the intensity of use of land.

**Development Approval**

An administrative or quasi-judicial approval made pursuant to G.S. § 160D that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to G.S. § 160D including plat approvals, permits issued, development agreements entered into, and building permits issued.

**Driveway**

A private roadway located on a parcel or lot used for vehicle access.

**Dwelling**

Pursuant to G.S. § 160D-102, a building that contains one or more dwelling units used, intended, or designed to be used, rented, leased, let, or hired out to be occupied for living purposes.

**Dwelling Unit**

Pursuant to G.S. § 160D-102, a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

**Easement**

A grant of one or more of the property rights by the owner to, or for the use by, the public, a corporation, or another person or entity.

**Extraterritorial Jurisdiction (ETJ)**

An area outside the Town of Clayton's town limit delineated on the Official Zoning District Map. Pursuant to the North Carolina General Statutes, the Town enforces the following regulations within the ETJ: zoning ordinance; subdivision regulations and the North Carolina State Building Code.

**Evidentiary Hearing**

A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation, pursuant to G.S. § 160D-102.

**Fence**

An enclosure or barrier, such as wooden posts, wire, iron, etc., used as a boundary, means of protection, privacy screening or confinement, but not including hedges, shrubs, trees, or other natural growth.

**Floor Area, Gross**

The sum of the gross horizontal area of the several floors of a building, measured from the exterior faces of the exterior walls or from the center of the common walls of attached buildings. Gross floor area includes basement floors, attic floor space, halls, closets, stairwells, space devoted to mechanical equipment, and enclosed porches. Gross Floor Area also includes all outside storage areas.

**Flood Fringe Area**

That area of the floodplain lying outside the floodway but still lying within the area of special flood hazard, that is, within the 100-year floodplain.

**Floodplain**

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

**Floodway**

The channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the 100-year flood without a significant increase in the base flood elevation.

**Food Truck**

A food truck is a mobile food service establishment that prepares and serves food and/or beverages for sale to the general public on a recurring basis from a truck, vehicle-mounted, or vehicle-towed piece of equipment designed to be readily moved.

**Frontage, Building**

The straight-line length of any building or store which fronts upon a public street, a customer parking area, or pedestrian mall and which has one or more entrances to the main part of the building or store. If specified, this may also apply to the equivalent distance on another lot line, such as side.

**Frontage, Lot**

The distance for which the front boundary line of the lot and the street line are coincident. If specified, this may also apply to the equivalent distance on another lot line, such as side.

**Frontage, Street**

See “Lot Frontage”. Not to be confused with “Frontage Road”, which is a type of physical street occurring near a thoroughfare.

**Greenway**

A linear, multi-use (pedestrian, bicycle) trail, generally with a finished surface of asphalt or concrete, providing passive and active recreational opportunities. Greenways are typically built to the Town’s specification (“Typical Bikeway / Greenway Pavement Section”, Detail # 401.03), with a minimum width of 10’, with 2’ of clear, graded natural surface on each side. Occasionally, greenways will be built to a lesser width and/or with alternative materials, such as gravel, stone dust, lime rock, packed clay, rubber, pervious pavement, or mulch.

**Ground Cover**

Any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.

**Hazardous Material**

Any substance that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment.

**Home Occupation**

An occupation carried on in a dwelling unit by the resident thereof; provided that the use is limited in extent and incidental and secondary to the use of the dwelling unit for residential purposes and does not change the character thereof.

**Household**

A domestic establishment including a member or members of a family or others living under the same roof.

**Impervious Surface**

Any hard-surfaced, man-made area that does not readily absorb or retain water, including but not limited to building roofs, parking and driveway areas, graveled areas, sidewalks, and paved recreation areas.

**Infrastructure**

Streets, water lines, sewers lines and other public facilities necessary to the functioning of a community.

**Junk**

Any scrap, waste, worn out, discarded material or debris collected or stored for destruction, disposal or some other use.

**Land Disturbing Activity**

Any use of land in residential, industrial, educational, institutional or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. Sedimentation occurs whenever solid particulate matter,

mineral or organic, is transported by water, air, gravity, or ice from the site of its origin, and is deposited elsewhere.

**Landscape Plan**

A plan associated with a subdivision, land development, or parking facility plan indicating the placement of landscape materials, including specifications, species, quantities, and method of installation.

**Landscaping**

The area within the boundaries of a given a lot that consists of planting materials, including but not limited to trees, shrubs, ground covers, grass, flowers, decorative rock, bark, mulch, and other similar materials.

**Legislative Hearing**

Pursuant to G.S. § 160D-102, a hearing to solicit public comment on a proposed legislative decision.

**Livestock**

Grazing animals kept either in open fields or structures for training, boarding, home use, sales, or breeding and production, including but not limited to: cattle, riding and draft horses, hogs, sheep, goats, miniature horses, llamas, and alpacas.

**Loading, Off-Street**

An unobstructed area provided and maintained for the temporary parking of trucks and other motor vehicles for the purpose of loading and unloading goods, materials and merchandise.

**Local Street Network**

System of local streets that include commercial streets, collector streets, residential collectors, cul-de-sacs, and alleys.

**Lot**

A portion of a subdivision or other parcel of land, intended as a unit for transfer of ownership or for development or both.

**Lot Area**

The horizontal area within the exterior lines of the lot, exclusive of any area in a public or private way open to public uses.

**Lot, Corner**

A lot having at least two adjacent sides that abut for their full length upon streets. Both such lot lines shall be considered front lot lines.

**Lot, Double Frontage**

A continuous or through lot of the same depth as the width of a block, and which is accessible from both of the streets upon which it fronts.

**Lot, Flag**

A lot that has access to a public right-of-way by means of a narrow strip of land.

**Lot, Nonconforming**

See Nonconforming Lot.

**Lot of Record**

A lot which is part of a subdivision recorded in the Office of the Register of Deeds of Johnston County or Wake County, as appropriate, or a lot described by metes and bounds, the description of which has been so recorded.

**Lot Width**

Parcel or lot width shall be measured by the distance between the side lot lines (generally running perpendicular to a street), measured at the rear edge of the street yard along a straight line parallel to the front of the property line or along the chord of the front property line.

**Multi-Family Residential**

A building or portion thereof containing 3 or more dwelling units, including condominiums, apartments, and townhomes with shared parking, with varying arrangements of entrances and party walls.

**Net Acreage, Net Gross**

Land area with streets, rights-of-way, driveways which serve as access to more than two units or uses, and major transmission lines not included in its measurement.

**Nonconformity**

A condition that occurs when, on the effective date of adoption of this code or a previous ordinance or on the effective date of an ordinance text amendment or rezoning, an existing lot, structure, building, sign, development, or use of an existing lot or structure does not conform to one or more of the regulations currently applicable to the district.

**Nonconforming Lot (of Record)**

A recorded lot described by a plat or a deed that does not meet the minimum lot size or other development requirements.

**Nonconforming Site Element**

A nonconforming site element is a feature of or on the which existed or was lawfully established prior to this Ordinance being adopted or amended. Site elements include but are not limited to access, parking, pedestrian amenities, landscaping, signage, and lighting.

**Nonconforming Structure**

A nonconforming structure is a structure that was lawfully established on a property prior to this Ordinance being adopted or amended, but does not conform with the square footage, density, yard, dimensional, height, lot coverage, or other dimensional or structural provision of this Ordinance.

**Nonconforming Use**

A nonconforming use is the use of land, buildings, or structures that was lawfully established on a property prior before this Ordinance was adopted or amended, but does not conform to the use regulations of his Ordinance.

**Outdoor Storage**



The keeping of personal or business property or motor vehicles in a required open parking space or any other area outside of a building for a period of time exceeding 72 consecutive hours.

**Outparcel**

An area located within a non-residential development that may share common parking and circulation areas with other buildings or parcels, but is usually situated as its own parcel and is separated from anchor buildings by parking and circulation areas.

**Owner**

Any person having charge of any real property according to the records held by the Register of Deeds.

**Parcel**

A continuous plot of recorded land in the possession of or owned by any individual or group of individuals.

**Parking Lot**

An off-street area used for the storage of motor vehicles on a temporary, daily, or overnight basis.

**Parking Space**

An off-street area designed to accommodate the parking of one vehicle.

**Pervious Surface Coverage**

Ground treatments which will allow the infiltration of water, air and nutrients to root systems of adjacent plant material which lie directly under the ground treatment.

**Planting Area**

The area within the boundaries of a given lot consists of planting materials, including but not limited to trees, shrubs, ground covers, grass, flowers, decorative rock, bark, mulch, and other similar materials.

**Plat**

A map or plan of a parcel of land which is to be or which has been subdivided.

**Quasi-judicial Decision**

Pursuant to G.S. §160D-102, decision involving the findings of fact regarding a specific application of development regulation and that requires the exercise of discretion when applying the standards of the regulation.

**Resource Conservation Area**

An area set aside for the conservation of natural, archeological or historic resources.

**Right-of-Way**

An area or strip of land, either public or private, on which an irrevocable right-of- passage has been recorded for the use of vehicles or pedestrians or both.

**Road**

See "Street".

**Frontage Road**

A street, parallel and adjacent to a major or minor thoroughfare, which provides access to abutting properties, protection from through traffic, and control of access to the major or minor thoroughfare. Not to be confused with “Street Frontage”, which is a measurement of distance.

**Screening**

A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

**Setback**

A line delineating the minimum allowable distance between the property line or right-of-way line and a building on a lot, within which no building, significant development, or other structure shall be placed except as otherwise provided. Wherever property lines and right-of-way lines both occur, the most restrictive setback distance on the lot shall prevail.

**Sewer System, Public**

An off-site system for the treatment and disposal of sewage in which sewage is conveyed by interceptor to a publicly operated treatment plant

**Sign**

Exclusive of architectural features, any words, lettering, figures, numerals, emblems, devices, trademarks, or trade names, or any combination thereof, by which anything is made known and which is designed to attract attention or to convey a message.

**Single Family Residential**

A single detached dwelling unit located on a single lot with private yards on all four sides. See also “Single Family Detached House”, in §155.301(D).

**Site**

A continuous plot of land to be developed as a single project. A site may contain multiple parcel or lots.

**Site Area**

Site area shall be the total land area of the proposed development. A site may include multiple parcels or lots.

**Site Area, Net**

Net site area shall mean the total gross area of the parcel, minus any resource conservation areas.

**Site Element, Nonconforming**

See Nonconforming Site Element.

**Site Plan**

A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include, but not be limited to site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to project and site plan review.

**Special Use**

A use that meets the intent and purpose of the zoning district but which requires the review and approval by Town Council to ensure that any adverse impacts on adjacent uses, structures, or public services and facilities that may be generated are mitigated.

**Special Use Permit**

Pursuant to G.S. §160D-102, a permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards.

**State**

The State of North Carolina.

**Stream**

A body of concentrated flowing water in a natural low area or natural channel on the land surface.

**Stream Buffer**

See Buffer, Stream.

**Stream, Intermittent**

A watercourse that collects surface runoff and is shown as a dashed blue line on the most recent United States Geologic Survey (USGS) 7½-minute quadrangle topographic maps, is shown as an intermittent stream on the most recent US Department of Agriculture (USDA) Soil Survey, or is shown as an intermittent stream on the Natural Resource Conservation Service (NRCS) maps.

**Stream, Perennial**

A watercourse that collects surface runoff and is shown as a solid blue line on the most recent USGS 7½-minute quadrangle topographic maps, is shown as a perennial stream on maps in the most recent US Department of Agriculture (USDA) Soil Survey, or is shown as a perennial stream on the Natural Resource Conservation Service (NRCS) maps.

**Street, Collector**

A street whose principal function is to carry traffic between residential collectors, residential streets, cul-de-sacs and major and minor thoroughfares, but that may also provide direct access to abutting properties. It is designed to carry more than 3,500 but less than 6,000 trips per day. Typically, a collector is able to serve, directly or indirectly, between 350 and 600 dwelling units.

**Street, Commercial**

A multi-lane, street connecting to major or minor thoroughfares designed to accommodate large volumes (in excess of 6,000 trips per day) of traffic at moderate speeds while also providing, as a major part of its function, direct access to nonresidential or mixed use high trip generating land uses.

**Street, Private**

Any road or street that is not publicly owned and maintained and used for access by the occupants of the development, their guests, and the general public.

**Street, Public**

A dedicated and accepted public right-of-way for vehicular traffic and access to abutting property.

**Street, Residential**

A street whose principal function is to provide access to adjacent properties.

**Street, Residential Collector**

A street which serves as a connector street between residential streets, cul-de-sacs and major and minor thoroughfares. Residential collector streets typically collect traffic from 100 to 400 dwelling units.

**Structure, Nonconforming**

See Nonconforming Structure.

**Thoroughfare, Major**

Major streets, excluding freeways but not excluding limited access facilities that provide for the expeditious movement of large volumes of traffic within and through the urban area. A street serving the principal network for high volumes of traffic or high-speed traffic as shown on the town's Transportation Plan. This street type consists of at least two travel lanes in each direction. A major thoroughfare shall be designated where the anticipated average daily volume exceeds 10,000 vehicles.

**Thoroughfare, Minor**

Streets that perform the function of collecting traffic from local access streets and carrying it to the major thoroughfare system. Such streets may be used to supplement the major thoroughfare system by facilitating minor through movements and may also serve abutting property. A street designed primarily to collect and distribute traffic between the local street network and major thoroughfares as shown on the town's Transportation Plan. This street type generally consists of more than one travel lane in each direction. A minor thoroughfare shall be designated where the anticipated average daily volume ranges exceeds 6,000 vehicles.

**Town**

The Town of Clayton, North Carolina.

**Transportation Plan**

A map approved by the Town Council that indicates the system of roads expected to serve major access and travel needs with regard to auto, truck and transit transportation.

**Unified Development Code**

Chapter 155 of the Town Code of Ordinances, as adopted by Town Council.

**Use, Nonconforming**

See Nonconforming Use.

**Variance**

Permission which is granted by the Board of Adjustment to deviate from zoning requirements when strict enforcement of certain provisions of the Unified Development Code would cause undue hardship because of circumstances unique to the individual property for which the variance is granted. Only the Board of Adjustment can do this after specific findings of fact.

**Waiver**

Permission which is granted by Town Council or a part of a Planned Development Approval to deviate from specific provisions of the Unified Development Code if mitigating circumstances are justified.

**Water Supply, Public**

A publicly owned system of pipes, structures and facilities through which a water supply is obtained, treated, sold and distributed for human consumption or household use.

**Watershed**

All of the land area draining to a particular point on a water course or to a water body.

**Yard, Front, (also known as Street Yard)**

An open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the front line of the lot and the front line of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front line of the building and the front line of the lot. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required yard.

**Yard, Rear**

An open space on the same lot with a main building, unoccupied except as hereinafter permitted, extending the full width of lot and situated between the rear line of lot and the rear line of the building.

**Yard, Side (Street), (also known as Street Side Yard)**

The area extending between the front yard and the rear yard or rear street yard and situated between the side street lot line and the face of the principal building which is parallel to, or most nearly parallel to, the side lot line.

**Yard, Side (Interior), (also known as Interior Yard)**

A side yard located immediately adjacent to another zoning lot or to an alley separating such side yard from another zoning lot.

**Zoning District**

A part, zone, or geographic area within the Town or its Extraterritorial Jurisdiction (ETJ) where certain zoning and development regulations apply.

**Zoning Vested Right**

The right to undertake and complete development and use of property under the terms and conditions of an approval secured as specified in G.S. §160D-108 or under common law.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2009-08-01, passed 8-3-09; Am. Ord. 2016-04-04, adopted 04-04-2016; Am. Ord. 2017-01-01, adopted 01/03/2017; Ord. 2017-04-06, approved 04/03/2017)

## ARTICLE 1: GENERAL PROVISIONS

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### § 155.100 TITLE

This Chapter shall be known and may be cited as the Unified Development Code of the Town of Clayton, North Carolina, and may be referred to as “this Chapter,” “this Code,” “this Ordinance,” “this UDC,” or “the UDC.”

(Ord. 2005-11-02, passed 11-21-05)

### § 155.101 AUTHORITY AND ENACTMENT

The Town Council, pursuant to the authority conferred by the General Assembly of the State of North Carolina in G.S. ~~Chapter 160A, Article 19§ 160D~~ generally, and more specifically § 160D-702 and -103, does hereby ordain and enact into laws these articles and sections.

(Ord. 2005-11-02, passed 11-21-05)

### § 155.102 PURPOSE

#### (A) GENERAL

For the purpose of promoting the health, safety, morals, and general welfare, this Chapter is adopted by the governing body to regulate and restrict 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, general design, appearance and use of buildings, structures and land for trade, industry, residence, or other purposes.

(B) **ZONING**

The zoning regulations in this Chapter are in accordance with a comprehensive plan and are designed 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 preserve and improve the character of development in the Town and its neighborhoods; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. The regulations have been made with reasonable consideration, among other things, as to the character of the jurisdiction and its areas and their peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdiction.

(C) **SUBDIVISION**

The purpose of this Chapter is also to provide for the orderly development of the Town and its environs through the regulation of the subdivision of land. The regulations contained herein are intended to coordinate proposed development with existing development and with officially adopted plans for the future development of the Town; to ensure the provision of adequate facilities for transportation, water, sewerage, and other public facilities in subdivisions; to ensure the proper legal description, monumentation, and recording of subdivided land; and to promote the public health, safety, and general welfare of the Town.

(Ord. 2005-11-02, passed 11-21-05)

## **§ 155.103 EFFECTIVE DATE**

This Chapter was adopted on February 01, 2021, becoming effective on EFFECTIVE DATE. From time to time this chapter or sections herein may be amended by the Town Council.

(Ord. 2005-11-02, passed 11-21-05; Ord. 2017-04-06, approved 04/03/2017)

## **§ 155.104 JURISDICTION**

(A) **ZONING DISTRICTS**

- (1) The boundaries of the zoning districts, including but not limited to Conventional General Use Districts, Conditional Zoning Districts (some of which are formerly-approved Special Use Districts), and Overlay Districts, are shown upon the map accompanying this Chapter, and made a part hereof, entitled "Town of Clayton Official Zoning Map" (also known as "zoning map"), as amended from time to time. The zoning map and all the notations, references and all amendments thereto, and other information shown thereon is hereby made a part of this Chapter the same as if such information set forth on the map were all fully described and set out herein. The most current and updated version of the Official Zoning Map properly attested is maintained by the Planning Department, and is on file in the Planning Department and the Office of the Town Clerk, and is available for inspection by the public. When duly adopted by the Town Council, these regulations shall also govern each and every subdivision

of land within the corporate limits of the Town, as now or hereafter established, and within the extraterritorial jurisdiction adopted by the Town.

**(B) FUTURE LAND USE DISTRICTS**

- (1) Certain Future Land Use Designations are established and incorporated by reference on the "Town of Clayton Future Land Use Map" (as part of the most current, adopted ~~"Comprehensive Plan 2040"~~ comprehensive plan, and also known as "future land use map") ~~and presented with the Official Zoning Map as appropriate~~, which is hereby made a portion of this Ordinance. The future land use map shall guide and govern changes to the Official Zoning Map and the districts therein. The most current and updated version of the Future Land Use Map properly attested is maintained by the Planning Department, is on file in the Planning Department and the Office of the Town Clerk, and is available for inspection by the public.

**(C) OTHER MAPS AND ORDINANCES**

- (1) The most recent officially adopted version of other maps adopted by the state or federal government, including regulatory language, as necessary to accomplish the purpose of this UDC, are hereby incorporated by reference. This includes but is not limited to maps of floodplains, soils, watersheds, water supply protection areas, and United States Geological Survey (USGS) maps depicting streams or other water courses.

(Ord. 2005-11-02, passed 11-21-05; Ord. 2017-04-06, approved 04/03/2017)

## **§ 155.105 LEGAL STATUS PROVISIONS**

**(A) LEGAL STATUS PROVISIONS**

- (1) In its interpretation and application, the provisions of this Chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Whenever the requirements of lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants are at variance with the requirements of this Chapter, the most restrictive, or that imposing the highest standards, shall govern.
- (2) This Chapter and various parts, sections, subsections, and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Chapter shall not be affected thereby. Whenever any condition or limitation is included in an order authorizing a special use permit, conditional zoning, ~~conditional use permit~~, variance, certificate of occupancy, or site plan approval or is offered by an applicant in an application or public hearing for such permit or approval, it shall be conclusively presumed that the authorizing officer or body considered such condition or limitation necessary to carry out the spirit and purpose of this Chapter or the requirements of some provisions hereof, and to protect the public health, safety, and welfare, and that the officer or body would not have granted the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful. ~~Any and all representations made by the applicant to the Town on the record during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the Town. All~~



conditions proposed to be attached to a Special Use Permit or a Conditional Zoning must be voluntarily agreed to in writing by all owners of the property to which those regulations may be applied.

(B) **STATUTE OF LIMITATIONS**

In accordance with G.S. ~~§ 160A-364.1~~ § 160D-1405, a cause of action as to the validity of this Chapter, or amendment thereto, shall accrue upon the adoption of this Chapter or amendment thereto, and shall be brought within ~~two months as provided in G.S. § 1-54.1~~ the time period specified therein.

(C) **REPEAL OF CONFLICTING ORDINANCE**

All ordinances or parts of ordinances of the Town which are in conflict or inconsistent with this Chapter are repealed and superseded to the extent necessary to give this Chapter full force and effect.

(D) **ADMINISTRATOR**

(1) The Planning Director is appointed to serve as administrator of this Chapter. If this position should at any time be vacant, then the Town Manager shall designate another Town official to act as administrator until the office is filled.

(2) Delegation of Authority

The Planning Director may designate any staff member to represent the Planning Director in any function assigned by this Chapter but shall remain responsible for any final action.

(E) **EXAMPLES AND ILLUSTRATIONS**

The examples, illustrations, and any other commentaries used in this Chapter are for informational purposes only and are not intended for the purpose of construing the substantive or procedural provisions of this Chapter or the Town's intent in adopting specific provisions in this Chapter. In instances with contradictions, the text always supersedes illustrations or graphics.

(Ord. 2005-11-02, passed 11-21-05)

## **§ 155.106 APPLICATION OF REGULATIONS**

The regulations set forth in this Chapter shall affect all land, every structure, and every use of land or structure, and shall apply as follows:

(A) **COMPLIANCE REQUIRED**

No structure or land shall hereafter be used, occupied, or modified, and no structure or part thereof shall be erected, moved onto, or structurally altered, except in compliance with the regulations of this Chapter, for the district in which it is located. This definition shall include all forms of development as defined in GS 160D-102(12).

(B) **ZONING PERMIT REQUIRED**

No building, sign, structure, or land-disturbing activities, or any part thereof shall be erected, structurally altered, moved, or changed in use until a zoning permit has been issued by the Planning Director, as set forth in § 155.709 "Zoning Permit".  
(Ord. 2005-11-02, passed 11-21-05; Ord. 2017-04-06, approved 04/03/2017)

## **§ 155.107 INTERPRETATION OF REGULATIONS**

The regulations in this Chapter shall be enforced and interpreted according to the following rules:

(A) **MINIMUM REQUIREMENTS**

Regulations set forth by this Chapter shall be minimum regulations. If the requirements set forth in this Chapter are ~~at variance~~ inconsistent with the requirements of any other lawfully adopted uses, regulations, or ordinances, the more restrictive or higher standard shall govern, unless otherwise specified.

(B) **RESTRICTIVE COVENANTS**

Unless restrictions established by covenants with the land are prohibited by or contrary to the provisions of this Chapter, nothing contained within this Chapter shall be construed to render such covenants inoperative.

(Ord. 2005-11-02, passed 11-21-05)

## **§ 155.108 COMPLIANCE WITH PLANS**

(A) **APPROVED PLANS**

Permits or certificates issued on the basis of plans and applications shall authorize only the use, arrangement, and construction as set forth in such approved plans and applications and no other use, arrangement, or construction.

(B) **ADOPTED PLANS AND POLICIES**

All proposed subdivisions, structures, developments, and associated infrastructure shall be placed and designed in a manner consistent with the adopted plans and policies of the Town.

(Ord. 2005-11-02, passed 11-21-05; Ord. 2017-04-06, approved 04/03/2017)

## **§ 155.109 TRANSITIONAL PROVISIONS**

(A) **CONFORMING USES AND STRUCTURES**

- (1) Any use or structure existing prior to the effective date of this Chapter that conforms to the regulations of this Chapter for permitted uses, and satisfies the dimensional requirements and any other applicable regulations of the district in which it is located, may be continued,

provided any use, structural, or other changes shall comply with the provisions of this Chapter.

(2) ~~(2)~~ Any use or structure existing prior to the effective date of this Chapter that would be permitted by this Chapter as a special ~~or conditional use~~ (or previously as a conditional use) in the district in which it is located, may be continued as if a special or conditional use permit had been issued, provided that any use, structural, or other changes shall comply with the provisions of this Chapter.

(B) **EFFECT OF AMENDMENT**

If subsequent amendments to this Chapter or the zoning map result in the creation of additional nonconformities or conformities, such nonconformities or conformities shall be governed by the provisions of this Chapter, unless otherwise stated in the amendment.

(C) **APPLICATIONS AND PRIOR APPROVALS**

(1) **Projects Under Construction Prior to Effective Date**

- (a) Any building or development for which a permit was issued before the effective date of this Chapter may be completed in conformance with the issued permit and other applicable permits and conditions, even if such building or development does not fully comply with provisions of this Chapter.
- (b) Nothing in this Chapter shall require a change to a phasing plan approved prior to the adoption of this Chapter, provided construction is consistent with the terms and conditions of the phasing plan and proceeds to completion in a timely manner. The applicant shall ensure that a period of no more than two years without an active building permit occurs in order to continue a project under a previous phasing plan.
- (c) If construction is not completed according to the applicable permit terms, the Town Council may, for good cause shown, grant an extension of up to one year for such construction. If the building is not completed within the time allowed under the original permit or any extension granted, then the building may be constructed, completed, or occupied only in compliance with this Chapter.

(2) **Applications Submitted Prior to Effective Date**

- (a) Pursuant to G.S. §160D-108, any complete application submitted before the effective date of this Chapter or sections herein may be completed in conformance with applicable permits and conditions of the regulations in effect at the time of submission of the application, even if such application does not fully comply with provisions of this Chapter.
- (b) If construction is not commenced or completed according to the applicable terms of the application, the Town Council may, for good cause shown, grant an extension of up to one year for such construction. If the building or improvements are not completed within the time allowed under the original application or any extension granted, then

the building or improvements may be constructed, completed, or occupied only in compliance with this Chapter.

(3) **Prior Approvals**

- (a) —Where a planned development, special use district, special use, or conditional use was approved prior to the effective date of this Chapter, the provisions of this Chapter shall apply to the extent that they do not conflict with the original conditions of approval.
- (b) Pursuant to Section 2.9(b) of S.L. 2019-111, any Conditional Use Permit approved prior to the adoption of this subsection that is valid and legal as of the effective date of this Ordinance is hereby transformed into an identical Special Use Permit immediately, subject to all established conditions and applicable standards of this Chapter.
- (c) Pursuant to Section 2.9(b) of S.L. 2019-111, any special use district, conditional use district, or Planned Development districts (formerly identified as PD-R, PD-C, PD-I, or PD-MU) that is valid and legal as of the effective date of this Ordinance hereby transformed into an identical Conditional Zoning District immediately, subject to all established conditions and applicable standards of this Chapter.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07, Am. Ord. 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)

## § 155.110 NONCONFORMITIES

### (A) PURPOSE AND INTENT

The purpose of this Section is to establish regulations to address lots, structures, uses and site elements that were lawfully established before this Chapter was adopted or amended, but do not conform to the terms and current requirements of this Chapter, or were required as part of an approval but do not exist. It is the intent of this Section to regulate and limit the continued existence of such nonconformities; and, where possible, bring them into conformance with this Chapter.

### (B) APPLICABILITY

This Section applies to nonconforming lots, structures, uses, and site elements. In determining whether such nonconformities will be regulated by the provisions of this Section, the following shall apply:

- (1) Nonconforming status shall not be provided for any lot, structure, use, or site element which was illegally created, commenced, constructed, or unlawfully continued.
- (2) Nonconforming status shall only be authorized upon demonstration by the applicant that a lot, structure, use or site element was lawfully approved, created, commenced or constructed, and not merely contemplated.
  - (a) To obtain nonconforming status, the applicant must demonstrate that the use was in continuous operation during business hours and not an occasional use of the property.
- (3) An accessory nonconforming use shall not become the principal use.

### (C) NONCONFORMING LOT

A nonconforming lot is a lot that was lawfully created before this Chapter was adopted or amended, but does not conform to the minimum lot acreage and dimensional criteria as set forth in Article 2, Zoning Districts of this Chapter.

- (1) Where the owner of a residential lot that was lawfully created before this Chapter was adopted or amended, or any successor in title does not own sufficient land to conform to the standards provided in Section 155.203, District Standards, such a lot may be used as a building site for a single-family residence in a district in which residences are permitted, provided that the required standards are not more than 20 percent below the minimum specified in this Chapter, or within five percent of the average deviation on lots adjacent to or within the same subdivision. The County Health Department's approval of the reduction is required if on-site water or wastewater facilities are involved. In cases where the criteria above cannot be met, the Board of Adjustment may grant a Variance, subject to the required findings set forth in Section 155.716, Variance.

- (2) Nonconforming, substandard lots may be granted a Variance for development, subject to approval by the Board of Adjustment and the required findings set forth in Section 155.716, Variance.
- (3) If two or more adjoining and vacant lots are in one ownership when this Chapter is adopted, or at any time after the adoption of this Chapter, and either or both lots do not meet the dimensional requirements of this Chapter for the district in which such lots are located, then such group of lots shall be considered as a single lot.

(D) **NONCONFORMING USE**

A nonconforming use is the use of land, buildings, or structures that was lawfully established on a property prior before this Chapter was adopted or amended, but does not conform to the use regulations of his Chapter.

(1) **Continuation**

No nonconforming use may be enlarged, expanded, or extended, or moved to occupy a different or greater area of land, buildings or structures than was occupied by the use at the time it became nonconforming.

(2) **Change in Use**

A nonconforming use shall not be changed to any other use, unless the new use conforms to this Chapter. A nonconforming use physically replaced by a permitted use shall not be re-established.

(3) **Maintenance**

Maintenance and repair of a building occupied by a nonconforming use is permitted, provided it does not extend the nonconforming use.

(4) **Discontinuance or Cessation**

- (a) A nonconforming use that is discontinued, abandoned, or changed to an accessory use for a period of more than 90 consecutive days, or for a total of 180 calendar days during any twelve month period, shall lose its nonconforming status and shall not be reestablished or resumed. Any subsequent use in the same location shall be consistent with this Chapter.

(E) **NONCONFORMING STRUCTURE**

A nonconforming structure is a structure that was lawfully established on a property prior to this Chapter being adopted or amended, but does not conform with the square footage, density, yard, dimensional, height, lot coverage or other structural provision of this Chapter.

- (1) The nonconforming features of a structure shall not be changed or increased in such a way as to intensify the nonconformity or increase the degree to which the structure is nonconforming. A nonconforming structure can be changed if the area of the improvement will reduce the nonconformity.
- (2) Changes to or expansion of a nonconforming structure shall not result in the intensification or expansion of a nonconforming use.
- (3) Substandard structures which are damaged or destroyed by fire, wind, flood or other natural causes may be reconstructed and shall comply with the applicable provisions of this Chapter, unless the structure is situated on a substandard lot of record, in which case the provisions concerning nonconforming lots shall apply.

(F) **NONCONFORMING SITE ELEMENT**

A nonconforming site element is a site improvement that is required as part of an approval but does not exist, or was existing or lawfully established prior to this Chapter being adopted or amended. Site elements include, but are not limited to access, parking, landscaping, signage and lighting.

- (1) No nonconforming site element shall be erected, replaced, or modified except to reduce or eliminate the nonconformity. Repair and maintenance of nonconforming site elements is permitted.
- (2) When improvements or major external renovations are proposed to an existing conforming structure, the associated non-conforming site elements must also be improved to comply with the current requirements of this Chapter.
- (3) If all site elements cannot be brought into compliance with the current requirements of this Chapter for reasons which include, but are not limited to site layout, space limitations, tree preservation, or other natural features, the Planning Director may approve a deviation from site element requirements so long as the modifications to the elements are moving in the direction of conformity with the provisions of this Chapter.

(G) **NONCONFORMITIES IN THE WATER PROTECTION OVERLAY (WPO)**

Nonconforming lots, buildings, and structures located within the WPO may be continued and maintained. Expansions to nonconformities must meet the requirements of § 155.501.

(Ord. 2013-10-03, passed 10-7-13)

## ARTICLE 2: ZONING DISTRICTS

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### § 155.200 DISTRICTS ESTABLISHED

To carry out the provisions of this Chapter, within the jurisdiction of the Town, the following zoning districts are established.

#### (A) INTERPRETATION OF ZONING DISTRICT BOUNDARIES

##### (1) **Defined**

District boundaries are as shown upon the Official Zoning Map and Future Land Use Map as set forth in § 155.104, and as adopted by Town Council. The provisions of this chapter are hereby established and declared to be in effect upon all land included within the boundaries as shown on the maps.

##### (2) **Rules for Interpretation**

- (a) The Planning Director shall be responsible for interpretations of the Official Zoning Map and Future Land Use Map in accordance with the standards set forth in this Section. Where uncertainty exists as to the boundaries of any district shown on the Official Zoning Map, the following rules shall apply:
  1. Boundaries indicated as approximately following the centerlines of streets, alleys, highways, streams or railroads shall be construed to follow such centerlines.
  2. Boundaries indicated as approximately following lot lines, Town limits or extraterritorial jurisdiction boundary lines, shall be construed as following such lines, limits or boundaries; and
  3. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as following such changed shorelines.



4. Where a district boundary divides a lot or where distances are not specifically indicated on the zoning map, the boundary shall be determined by measurement, using the scale of the zoning map.
5. Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.

- (b) Any person or party aggrieved by the Planning Director's interpretation of the Official Zoning Map may file an Administrative Appeal application to the Board of Adjustment, as provided in §155.717 of this ordinance. The application shall contain sufficient information to enable the Board of Adjustment to make the necessary interpretation.

(B) **CONVENTIONAL ~~General Use~~ DISTRICTS**

(1) **Residential Districts**

- (a) ***R-E / Residential-Estate.*** The R-E district is comprised of low density, single-family dwellings, and other selected uses which are compatible with the open and rural character of the area. The established regulations for this district are designed to promote and encourage an environment for family life and agriculture. To encourage higher quality development and to ensure greater environmental protection, open space (cluster) subdivisions are permitted.
- (b) ***R-10 / Single-Family Residential-10.*** The R-10 district is established to provide for orderly suburban residential development and redevelopment and is intended to maintain residential areas at relatively low densities characterized predominantly by ~~owner-occupied~~, single-family detached units. The district requirements protect existing neighborhoods from undesirable or incompatible uses. To encourage higher quality development and to ensure greater environmental protection, open space (cluster) subdivisions are permitted. A special permit process for higher intensity development is also allowed, using discretion to balance issues of higher density with improved amenities.
- (c) ***R-8 / Single-Family Residential-8.*** The R-8 district is established to provide for orderly suburban residential development and redevelopment and is intended to maintain residential areas at suburban densities characterized predominantly by ~~owner-occupied~~, single-family detached units. To encourage higher quality development and to ensure greater environmental protection, open space (cluster) subdivisions are permitted. A special permit process for higher intensity development is also allowed, using discretion to balance issues of higher density with improved amenities.
- (d) ***R-6 / Single-Family Residential-6.*** The R-6 district is established to provide for orderly suburban residential development and redevelopment. Intended to protect, preserve and enhance existing residential areas of higher density, which includes multi-family dwellings mixed with other housing types. A special permit process for higher intensity development is also allowed, using discretion to balance issues of higher density with improved amenities.

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**(2) Nonresidential Districts**

- (a) ***O-R | Office-Residential.*** The O-R district is intended to accommodate modest-scale professional occupations, along with single-family and multi-family residential units, to serve as a neighborhood activity center and as a transition between residential and more intense commercial uses.
- (b) ***O-I | Office-Institutional.*** The O-I district is intended to permit offices, institutions, and associated administrative, executive, professional and research uses in new and existing structures and limited retail uses. Such offices and institutional uses are generally located along or proximate to major roadways or adjacent to commercial uses and may act as a buffer between such areas and residential uses.
- (c) ***B-1 | Central-Business.*** The B-1 district is intended to foster a vibrant, safe, central business district and town center by encouraging dense residential development while retaining and further developing a broad range of commercial, retail, service, office, institutional, public, cultural, and entertainment uses and activities. The district is intended to define and promote the town center as a desirable place to live, work, shop, and recreate.
- (d) ***B-2 | Neighborhood-Business.*** The B-2 district provides opportunities for small-scale commercial uses offering primarily convenience shopping and services for adjacent residential areas. Proximity to residences requires that commercial operations are low intensity, unobtrusive, and conducted at a scale and density compatible with the surrounding neighborhood. There is a relatively low demand on public services, transportation, and utilities.
- (e) ***B-3 | Highway-Business.*** The B-3 district provides opportunities for offices, service uses, and businesses retailing durable and convenience goods for the community as a whole. Located on major and minor thoroughfares, this district is accessible to and serves the entire community. Site design and buffering mitigate impacts of traffic, operations, and scale on adjacent businesses and residential neighborhoods.
- (f) ***I-1 | Industrial-Light.*** The I-1 district fosters the retention and growth of employment opportunities by providing areas where a broad range of industrial uses may locate and where options for complementary uses exist. Industries should be operated in a relatively clean and quiet manner, and should not be obnoxious to nearby residential or business districts, warehousing and wholesaling activities, and research facilities. The regulations of this district are intended to prohibit the use of land for industries that by their nature may create very minor nuisance to surrounding properties.
- (g) ***I-2 | Industrial-Heavy.*** The I-2 district fosters the retention and growth of employment opportunities by providing areas where a broad range of industrial uses may locate and where options for complementary uses exist. Intended for heavy industries that, by their nature, may create some nuisance, and which are not properly associated with or are compatible with nearby residential or business districts, warehousing and wholesaling activities, and research facilities.
- (h) ***PF | Public Facilities.*** The PF district is established to provide a coordinated land planning approach to the sale, rent, lease, purchase, management, or alteration of

publicly owned or operated lands. Notwithstanding those public uses permitted elsewhere in this Code, the PF district is primarily intended for, although not limited to, public parks and recreation areas, public buildings and facilities, and other capital improvements of a significant nature. (*Ord. 2015-09-03, adopted 09/28/2015*)

~~(0)~~ **Planned Development Districts**

- ~~(-)~~ **PD-R | Planned Development Residential.** The PD-R district provides opportunities for master planned residential communities containing a mix of housing types, including associated amenities with appropriate perimeter buffering and open space. This district is primarily intended for large-scale residential projects that require either additional flexibility not available in a residential district or greater scrutiny by the Town due to their scale.
- ~~(-)~~ **PD-C | Planned Development Commercial.** The PD-C district is intended to enhance the design of a commercial development by allowing for additional flexibility not available in the nonresidential districts. The district allows for innovations and special features in site development, including the location and type of structures, the conservation of natural features, the conservation of energy, and the efficient use of open space.
- ~~(-)~~ **PD-I | Planned Development Industrial.** The PD-I district is intended to provide a means of achieving unified industrial complexes of high quality to promote amenities beyond those expected under conventional techniques, to achieve greater flexibility in design, to encourage well-planned industrial developments that provide for community needs, to provide for appropriate use of land which is significantly unique in its physical characteristics, location or other circumstances to warrant special methods of development, and to allow the expansion of existing industrial areas while safeguarding and maintaining the integrity of surrounding uses, especially those of a residential nature.
- ~~(-)~~ **PD-MU | Planned Development Mixed Use.** The PD-MU district is intended to provide coordinated mixed-use developments, which includes light industrial, commercial, office, educational, civic, institutional, residential and service uses within a planned development with appropriate perimeter buffering and open space. The variety of land uses available in this district allows flexibility to respond to market demands and the needs of tenants, which provides for a variety of physically and functionally integrated land uses.

~~(H)(C)~~ **CONDITIONAL ZONING DISTRICTS/SPECIAL USE DISTRICTS**

- (1) Pursuant to G.S. § ~~160A-382~~160D-703(B), the Town Council may establish by ordinance ~~various special-use conditional districts (§ 155.705)~~ upon request by or on behalf of all owners. A conditional zoning is a legislative map amendment with site-specific conditions incorporated into the zoning map amendment. Conditional districts provide the opportunity for developments that do not fit easily into existing zoning district(s) even when divided into component parts, and that also demonstrate excellence in site design, circulation, use coordination, and compatibility with neighboring properties such that it is in the public interest to create a new and novel zoning district to accommodate them. Parallel special-use Conditional districts shall be designated by adding "-CZ" "-SUD" to the corresponding general

~~use district followed by the ordinance or project number establishing the district. Novel conditional zoning districts shall be designated by adding "CZ" followed by the ordinance number creating the district.~~

~~(2) All zoning regulations that apply to the general use district are the minimum within the corresponding special use district.~~

~~(3) A special use district may provide for greater but not lesser setbacks than those applicable to the corresponding general use district, and may limit the number of uses.~~

~~(4) Under each special use district, all uses must be approved through the issuance of a special use permit granted by the Town Council in accordance with § 155.711. However, a special use permit is not required as a prerequisite to establish a special use district, since the district itself may be conditioned and established first and then developed much later. However, a special use permit may be submitted in tandem petition for the special use district, either by preference of the applicant or upon request by the Town Council or Planning Director, if either finds that such permit is necessary in order to consider an application for a special use district.~~

~~(5)~~(2) If for any reason a condition imposed pursuant to these regulations is found to be illegal or invalid, or if the applicant should fail to accept any condition, it is the intent of this chapter that the authorization of such special use district or special use permit within that conditional district shall be null and void and of no effect and that proceedings be instituted to rezone the property to its previous zoning classification. All conditions on conditional zonings must be voluntarily agreed to in writing by all owners of property to which the conditions apply.

(D) **OVERLAY DISTRICTS**

(1) **Thoroughfare Overlay District (TOD)**

The Thoroughfare Overlay District is established for the purpose of maintaining a safe, efficient, and functional development pattern adjacent to major thoroughfares, while maintaining an aesthetic streetscape environment. It is recognized that an enhanced development quality in areas of high visibility promotes economic development and stability in the entire community. The standards established in § 155.204(A) shall be applied to properties which adjoin major thoroughfares, as designated on the Town's Overlay Zoning Map.

(2) **Watershed Protection Overlay (WPO)**

(a) The Watershed Protection Overlay (WPO) is hereby established as a district that overlays the designated water supply watershed. The designated water supply watershed under this district is defined and established by the overlay district "Watershed Protection Overlay" on the zoning map. Land use and development within the WPO must comply with all the requirements of both the underlying zoning district and the watershed overlay.

(b) The designated water supply watershed within the Town is designated by the state as a Class IV watershed protected area (WS-IV PA) and is referred to as the Neuse River (Smithfield) watershed within the Neuse River basin. Only new development activities that require an erosion/sedimentation control plan under state law or approved local

government program are required to meet the provisions of this program. See § 155.501 for watershed protection standards.

**(3) Downtown Overlay District (DOD)**

The Downtown Overlay District is established for the purpose of fostering the economic vitality of the area within the district's boundaries, as well as the aesthetics and character of the district as further described in this Article, specifically in §155.204.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2009-08-02, passed 8-3-09, Am. Ord. 2012-04-02, passed 4-2-12; Am. Ord. 2012-12-02, passed 12-3-12; Am. Ord. 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)

**§ 155.201 MEASUREMENTS AND EXCEPTIONS****(A) GENERAL**

No lot, even though it may consist of one or more adjacent lots of record in single ownership, shall be reduced in size so that the lot area per dwelling unit, lot width, yard and lot coverage requirements, and other requirements of this chapter are not maintained. This prohibition shall not be construed to prevent the purchase or condemnation of narrow strips of land for public utilities or street right-of-way purposes.

**(B) GROSS FLOOR AREA**

The gross floor area of a building shall be measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings.

**(C) HEIGHT**

(1) Height shall be determined by the vertical distance from the average of the finished ground level to the highest finished roof surface.

(2) No structure shall be erected or altered so as to exceed the height limit or density regulations of this article for the district in which it is located, except that in an Industrial district the maximum height may be exceeded by 1 vertical foot for every additional horizontal foot of setback provided for all sides, up to a maximum 100' of structure height. Structures may be stepped in order to meet this performance standard.

~~(3) The Board of Adjustment may grant a Conditional Use Permit in accordance with § 155.710 for structures such as spires, belfries, cupolas, domes not intended for human occupancy, monuments, water tanks/towers, transmission and telecommunication towers, chimneys, flagpoles, aerials or antennas, or other similar structures which, by design or function, must exceed established height limits of the district in which it is to be located.~~

~~(4)(3) The Board of Adjustment may grant a Variance~~ Town Council may grant a Special Use Permit in accordance with § 155.716 ~~§ 155.711~~ for structures exceeding the maximum height limits of any district.

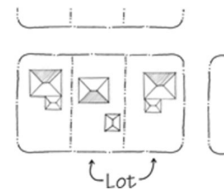
**(D) AREA**

Area shall be measured in gross square feet or acres.

**(1) Lot**

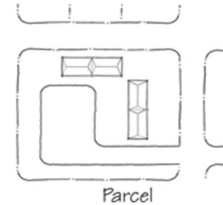
(a) Lot area shall be that area included in a single, undivided piece of land.

(b) Minimum lot areas shall be exclusive of existing or proposed public or private right-of-way, resource conservation areas (see § 155.500), and required recreation and open space (see § 155.203(H)).



(2) **Parcel**

- (a) A parcel may contain multiple buildings or uses.
- (b) Parcel area shall be that area required for each individual building in a multi-building project. A parcel may include multiple lots.

(E) **WIDTH**(1) **Building Width**

Building width shall be measured by the distance along the front plane of any building (as determined by the location of an entrance fronting on a street).

(2) **Parcel or Lot Width**

Parcel or lot width shall be measured by the distance between the side lot lines (generally running perpendicular to a street), measured at the rear edge of the front setback (also commonly known as the street yard) along a straight line parallel to the front of the property line or if the front property line is not straight, parallel to the chord of the front property line.

(F) **DENSITY**

- (1) ~~Density shall be allocated to each development parcel as follows:~~ The maximum possible density on any parcel of land shall be as follows:

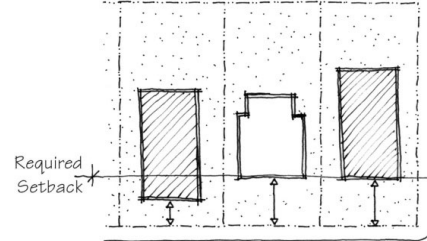
- (a) One hundred percent of the district density for the area outside of resource conservation areas; and
- (b) Fifty percent of the district density for any resource conservation areas (see Article 5).

- (2) ~~Density~~ Maximum allowable density for residential development shall be calculated by dividing ~~one acre~~ the acreage of land (43,560 ~~in~~ square feet) by the minimum lot area (in square feet) for the district, and then rounding down to the nearest whole number.

(G) **YARDS AND SETBACKS**

**(1) General**

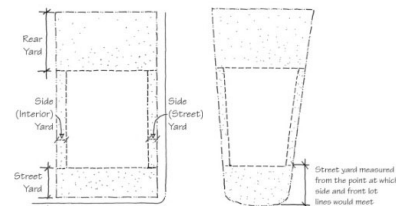
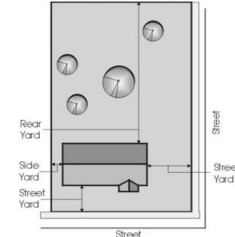
- (a) All front yard and side street yard setbacks shall be measured from the edge of the right-of-way.
- (b) The minimum front yard requirements of this article for residential dwellings shall not apply on any lot where the average front yard of existing dwellings located on either side of the lot in question within the same block and zoning district and fronting on the same side of the street is less than the minimum required front yard. In such cases, the front yard on such lots may be less than the required front yard, but not less than the adjacent dwelling with the greatest front yard depth.
- (c) Every part of every required yard shall be open and unobstructed above the general ground level of the graded lot upward to the sky except as provided or as otherwise permitted in this section.
- (d) No part of a yard or other open space required about any structure or use for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another structure or use.

**(2) Types of Yards**

- (a) There are four types of yards – front, side street (also commonly known as street side), side interior, and rear.

**(3) Measurement of Yards**

- (a) Depth of a required front yard shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot lines, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding.
- (b) Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line.
- (c) Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line.

**(4) Yard Encroachments**

The following encroachment standards shall apply to all required yards, so long as they do not extend into any easements:

- (a) Parking structures may extend into the rear yard of a dwelling unit.



- 
- (b) Chimneys, pre-fabricated chimneys, flues, or smokestacks may extend a maximum of four feet into a required yard.
  - (c) Building eave or roof overhang may extend up to 24 inches into a required yard; provided that such extension is at least three feet from the property line, its lower edge is at least seven and one-half feet above the ground elevation, and it is located at least five feet from any other building or eave.
  - (d) Sills and ornamental features may project up to 24 inches into any required yard.
  - (e) Except in the B-1 District, fire escapes may project up to eight feet into any required yard.
  - (f) Signs may extend into required yards in conformance with standards found in § 155.403.
  - (g) Pedestrian bridges, breezeways, building connections, and supports of these structures may extend into required yards upon findings by the approving authority that the connecting feature is necessary to provide safe pedestrian access or to improve transit access.
  - (h) Security gates and guard stations may be located within any required yard.
  - (i) Unenclosed patios, decks or terraces, including lighting structures, may extend up to four feet into any required side yard, or up to eight feet into any required rear yard.
  - (j) Covered porches may encroach a maximum of 20% of the required front yard setback depth.
  - (k) Mechanical equipment for residential uses, such as HVAC units and security lighting, may extend into any required side yard but shall remain at least four feet from the property line.
  - (l) Bay windows, entrances, balconies, and similar features that are less than ten feet wide may extend up to 18 inches into any required yard, but shall remain at least six feet from the property line.
  - (m) Structures below and covered by the ground may extend into any required yard.
  - (n) Driveways may extend into any required yard, provided that, to the extent practicable, they extend across rather than along the setback area and may be no closer than two feet from the property line.
  - (o) Planters, retaining walls, fences, hedges, and other landscaping structures may encroach into any required yard subject to visibility restrictions.
  - (p) Utility lines located underground and minor structures accessory to utility lines (such as hydrants, manholes, and transformers and other cabinet structures) may encroach into any required yard.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2012-04-02, passed 4-2-12; Am. Ord. 2012-12-02, passed 12-3-12; Am. Ord. 2014-03-01, passed 3-17-14; Am. Ord 2016-04-04, passed 04-04-2016)

## § 155.202 LAND USE REGULATIONS

### (A) USE REGULATIONS TABLE

The use regulations table is subject to the explanation as set forth below.

#### (1) **Key to Types of Use**

(a) **Permitted.** A "P" indicates that a use is permitted in the respective district subject to the specific use standards in §§ 155.300 through 155.311. Such uses are also subject to all other applicable requirements of this chapter.

~~(b) **Conditional Use Review.** A "C" indicates a use that may be permitted in the respective general use district only where approved by the Board of Adjustment in accordance with § 155.710. Conditional uses are subject to all other applicable requirements of this chapter, including the specific use standards contained in §§ 155.300 through 155.311, except where such use standards are expressly modified by the Board of Adjustment as part of the conditional use approval.~~

~~(c)~~(b) **Special Use Review.** An "S" indicates a use that may be permitted in the respective general use district only where approved by the Town Council upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards, and in accordance with § 155.711. Special uses are subject to all other applicable requirements of this chapter, including the specific use standards contained in §§ 155.300 through 155.311, except where such use standards are expressly modified by the Town Council as part of the special use approval.

~~(d)~~(c) **Specific Use Section.** The "Specific Use Section" column on the table is a cross-reference to any specific use standard listed in §§ 155.300 through 155.311. Where no cross-reference is shown, no additional use standard shall apply.

~~(e)~~(d) **Uses Not Permitted.** A blank cell in the use table indicates that a use is not permitted in the respective district. Except as pursuant to §155.110 and §155.300, the following uses are entirely prohibited within the jurisdiction of the Town, although such enumeration shall not necessarily be deemed exclusive or all-inclusive:

1. Open dump;
2. Outdoor gun range; and
3. Any use prohibited by an applicable overlay zoning district.

#### (2) **Uses**

Table 2-1 "Use Regulations" lists the principal uses regulated by this chapter for ~~general use~~conventional districts. For ~~special use~~conditional zoning districts see ~~§ 155.200(B)~~, § 155.200(C), for overlay districts see ~~§ 155.204~~§ 155.200(D), for planned development districts see ~~§ 155.203(L)~~, and for accessory structures and uses see § 155.308. In all cases, additional clarification and/or restrictions may be found in the Specific Use Standards (Article 3 of this chapter).

## § 155.202 - Table 2-1 Use Regulations

| Use Type                                  | Zoning Districts |      |     |     |                |     |     |     |     |     |     |    | Specific Use Section |
|-------------------------------------------|------------------|------|-----|-----|----------------|-----|-----|-----|-----|-----|-----|----|----------------------|
|                                           | Residential      |      |     |     | Nonresidential |     |     |     |     |     |     |    |                      |
|                                           | R-E              | R-10 | R-8 | R-6 | O-R            | O-I | B-1 | B-2 | B-3 | I-1 | I-2 | PF |                      |
| Residential Uses                          |                  |      |     |     |                |     |     |     |     |     |     |    |                      |
| Adult Care Home (2-6 Adults Residents)    | P                | P    | P   | P   |                |     |     |     |     |     |     |    | \$155.301(A)         |
| Adult Care Home (7-12 Adults Residents)   | S                | S    | S   | S   | S              | S   |     | S   |     |     |     |    | \$155.301(A)         |
| Adult Care Home (13+ Adults Residents)    |                  |      |     |     |                | S   |     | S   |     |     |     |    | \$155.301(A)         |
| Apartments                                |                  | S    | S   | S   | S              | S   | S   | S   | S   |     |     |    | \$155.301(B)         |
| Boarding House                            |                  |      |     | S   |                | S   |     | S   |     |     |     |    | \$155.301(C)         |
| Child Care Home                           | S                | S    | S   | S   | S              |     |     |     |     |     |     |    | \$155.301(D)         |
| Duplex                                    |                  | S    | S   | S   | S              |     |     |     |     |     |     |    | \$155.301(GH)        |
| Manufactured Home                         | P                |      |     |     |                |     |     |     |     |     |     |    | \$155.301(DE)        |
| Manufactured Home Park                    | S                |      |     |     |                |     |     |     |     |     |     |    | \$155.301(EF)        |
| Nursing Home (Congregate Living Facility) | SP               |      |     |     |                | P   |     | SP  | P   |     |     |    | \$155.301(FG)        |
| Townhouse                                 |                  | S    | S   | S   | S              | S   |     | S   | S   |     |     |    | \$155.301(HI)        |
| Security/Caretaker Quarters               | SP               |      |     |     |                |     |     |     | S   |     |     | S  | \$155.301(IJ)        |
| Single Family House                       | P                | P    | P   | P   | P              |     |     |     |     |     |     |    | \$155.301(IK)        |
| Upper-story Residence                     | S                | S    | S   | S   | SP             | P   | P   | P   | P   |     |     |    | \$155.301(KL)        |
| Zero Lot Line House                       |                  | P    | P   | P   |                |     |     |     |     |     |     |    | \$155.301(LM)        |
| Public and Civic Uses                     |                  |      |     |     |                |     |     |     |     |     |     |    |                      |
| Assembly                                  | S                |      |     |     |                | P   | S   | S   | SP  |     |     | P  | \$155.302(A)         |
| Cemetery                                  | SP               |      |     |     |                |     |     |     | S   |     |     | P  | \$155.302(B)         |
| Church or Place of Worship                | S                | S    | S   | S   |                | SP  |     | SP  | S   |     |     |    | \$155.302(C)         |
| College or University                     |                  |      |     |     |                | P   |     |     |     |     |     | P  | \$155.302(D)         |
| Day Care Facility                         | S                | S    | S   | S   | S              | P   |     | P   | P   |     |     |    | \$155.302(E)         |
| Government Service                        | S                | S    | S   | S   | P              | P   | P   | P   | P   | P   | P   | P  | \$155.302(F)         |
| Hospital or Medical Center                |                  |      |     |     |                | P   |     |     | P   |     |     | P  | \$155.302(G)         |
| School (Elementary or Secondary)          | S                | S    | S   | S   |                | SP  |     |     |     |     |     | P  | \$155.302(H)         |
| School (Technical, Trade or Business)     | S                | S    | S   | S   |                | P   |     |     | P   | P   | P   | P  | \$155.302(I)         |
| Recreational Uses                         |                  |      |     |     |                |     |     |     |     |     |     |    |                      |
| Entertainment, Indoor                     |                  |      |     |     |                | SP  | SS  | SP  | P   | P   |     | P  | \$155.303(A)         |
| Entertainment, Outdoor                    |                  |      |     |     |                |     |     |     | S   | P   |     | P  | \$155.303(B)         |
| Fitness/Recreation Center                 |                  |      |     |     |                | P   | S   | P   | P   | P   |     | P  | \$155.303(C)         |
| Golf Course                               | P                | P    | P   | P   |                |     |     |     |     |     |     | P  | \$155.303(D)         |
| Gun Range                                 |                  |      |     |     |                |     | S   |     | S   | S   | S   | S  | \$155.303(E)         |
| Park                                      | P                | P    | P   | P   | SP             | P   | S   | P   |     |     |     | P  | \$155.303(F)         |
| Stable, Private                           | P                |      |     |     |                |     |     |     |     |     |     |    | \$155.303(G)         |
| Agricultural Uses                         |                  |      |     |     |                |     |     |     |     |     |     |    |                      |
| Agriculture, Livestock                    | S                |      |     |     |                |     |     |     |     |     |     | S  | \$155.304(A)         |
| Agriculture, Sales and Service            | P                |      |     |     |                |     |     |     |     |     |     | S  | \$155.304(B)         |
| Nursery                                   | P                |      |     |     |                | SP  | S   | SP  | P   |     |     | P  | \$155.304(C)         |
| Commercial Uses                           |                  |      |     |     |                |     |     |     |     |     |     |    |                      |
| Adult Oriented Business                   |                  |      |     |     |                |     |     |     |     | S   |     |    | \$155.305(A)         |
| Bed and Breakfast                         | P                |      |     | S   | S              | P   | S   | P   |     |     |     |    | \$155.305(B)         |
| Car Wash/Auto Detailing                   |                  |      |     |     |                | S   |     | P   | P   |     |     |    | \$155.305(C)         |
| Contractor Office                         |                  |      |     |     |                | SP  |     |     | SP  | P   | P   |    | \$155.305(D)         |
| Convenience Store with Gas Sales          |                  |      |     |     |                |     |     | SP  | P   | P   |     |    | \$155.305(EF)        |
| Creative Studio                           |                  |      |     |     | P              | P   | P   | P   | P   |     |     |    | \$155.305(FG)        |
| Financial Institution                     |                  |      |     |     | S              | P   | S   | P   | P   |     |     |    | \$155.305(HG)        |
| Funeral Home                              | S                |      |     |     | SP             | P   |     |     |     |     |     |    | \$155.305(HI)        |
| Hotel/Motel                               |                  |      |     |     |                | PS  | S   | PS  | P   |     |     |    | \$155.305(HI)        |
| Kennel                                    | S                |      |     |     |                |     |     | SP  | SP  |     |     |    | \$155.305(KI)        |
| Laundry Services                          |                  |      |     |     |                |     |     | SP  | SP  | P   | P   |    | \$155.305(LK)        |
| Lounge, Cocktail                          |                  |      |     |     |                |     | S   | S   | S   | S   |     |    | \$155.305(M-L)       |
| Microbrewery                              |                  |      |     |     |                |     | P   | S   | P   | P   | P   |    | \$155.305(NM)        |
| Publisher                                 |                  |      |     |     |                | P   |     |     | P   | P   | P   |    | \$155.305(ON)        |

| Use Type                                                                                                      | Zoning Districts |      |     |     |                |     |     |     |     |     |     |    | Specific Use Section           |
|---------------------------------------------------------------------------------------------------------------|------------------|------|-----|-----|----------------|-----|-----|-----|-----|-----|-----|----|--------------------------------|
|                                                                                                               | Residential      |      |     |     | Nonresidential |     |     |     |     |     |     |    |                                |
|                                                                                                               | R-E              | R-10 | R-8 | R-6 | O-R            | O-1 | B-1 | B-2 | B-3 | I-1 | I-2 | PF |                                |
| Office, General                                                                                               |                  |      |     |     | P              | P   | P   | P   | P   | P   |     | P  | \$155.305(P0)                  |
| Office, Medical                                                                                               |                  |      |     |     | P              | P   | SP  | P   | P   |     |     |    | \$155.305(QP)                  |
| Outdoor Seating/Sidewalk Cafe                                                                                 |                  |      |     |     |                | SP  | P   | P   | SP  |     |     |    | \$155.305(RQ)                  |
| Parking Lot                                                                                                   |                  |      |     |     |                | S   | S   | S   | S   | S   | S   | S  | \$155.305(SR)                  |
| Pawn Shop                                                                                                     |                  |      |     |     |                |     |     |     | SP  | P   |     |    | \$155.305(TS)                  |
| Radio or Television Studio                                                                                    |                  |      |     |     |                |     |     |     | P   | P   | P   |    | \$155.305(UT)                  |
| Restaurant                                                                                                    |                  |      |     |     |                | SP  | P   | P   | P   |     |     |    | \$155.305(UU)                  |
| Retail Sales                                                                                                  |                  |      |     |     |                |     | P   | P   | P   | P   |     |    | \$155.305(VV)                  |
| Self-storage Facility                                                                                         |                  |      |     |     |                |     |     |     | S   | P   |     |    | \$155.305(WW)                  |
| Service                                                                                                       |                  |      |     |     | SP             | SP  | P   | P   | P   |     |     |    | \$155.305(WX)                  |
| Storage Yard                                                                                                  |                  |      |     |     |                |     |     |     |     | S   | P   | P  | \$155.305(XE)                  |
| Tattoo Parlor                                                                                                 |                  |      |     |     |                |     |     |     | SP  |     |     |    | \$155.305(XY)                  |
| Towing Service and Storage                                                                                    |                  |      |     |     |                |     |     |     | S   | S   | SP  |    | \$155.305(YZ)                  |
| Vehicle Repair or Service                                                                                     |                  |      |     |     |                |     |     |     | S   | P   | SP  |    | \$155.305(ZAA)                 |
| Vehicle Sales and Rental                                                                                      |                  |      |     |     |                |     |     |     | S   | P   | SP  |    | \$155.305(AAB<br>B)            |
| Veterinary Clinic                                                                                             |                  |      |     |     |                | SP  |     | SP  | P   |     |     |    | \$155.305(BBC<br>C)            |
| Video Sweepstakes Operations                                                                                  |                  |      |     |     |                |     |     |     |     | S   |     |    | \$155.305(CC)                  |
| Industrial Uses                                                                                               |                  |      |     |     |                |     |     |     |     |     |     |    |                                |
| Building Supplies, Wholesale                                                                                  |                  |      |     |     |                |     |     |     |     | P   | P   |    | \$155.306(A)                   |
| Crematorium                                                                                                   |                  |      |     |     |                |     |     |     |     | P   | P   |    | \$155.306(B)                   |
| Gas and Fuel, Wholesale                                                                                       |                  |      |     |     |                |     |     |     |     | P   | P   | P  | \$155.306(C)                   |
| Laboratory, Research                                                                                          |                  |      |     |     |                | P   |     |     |     | P   | P   |    | \$155.306(D)                   |
| Manufacturing, Light                                                                                          |                  |      |     |     |                |     |     |     |     | P   | P   |    | \$155.306(E)                   |
| Manufacturing, Heavy                                                                                          |                  |      |     |     |                |     |     |     |     |     | P   |    | \$155.306(F)                   |
| Research and Development                                                                                      |                  |      |     |     |                | P   |     |     |     | P   | P   |    | \$155.306(G)                   |
| Warehouse, Freight Movement                                                                                   |                  |      |     |     |                |     |     |     | S   | P   | P   |    | \$155.306(H)                   |
| Utilities                                                                                                     |                  |      |     |     |                |     |     |     |     |     |     |    |                                |
| Recycling Center                                                                                              |                  |      |     |     |                |     |     |     |     | S   | P   | P  | \$155.307(A)                   |
| Renewable Energy Facility                                                                                     | S                |      |     |     |                |     |     |     |     | S   | S   | S  | \$155.307(B)                   |
| Telecommunication Facility                                                                                    | S                | S    | S   | S   | S              | S   | S   | S   | S   | S   | S   | S  | \$155.307(C)                   |
| Utility, Minor                                                                                                | P                | P    | P   | P   | P              | P   | P   | P   | P   | P   | P   | P  | \$155.307(D)                   |
| Utility, Major                                                                                                |                  |      |     |     |                |     |     |     |     | P   | P   | P  | \$155.307(E)                   |
| Waste Service                                                                                                 |                  |      |     |     |                |     |     |     |     | S   | P   | P  | \$155.307(F)                   |
| Accessory Uses                                                                                                |                  |      |     |     |                |     |     |     |     |     |     |    |                                |
| Accessory Dwelling Unit                                                                                       | S                | S    | S   | S   |                |     |     |     |     |     |     |    | 155.308(C)(1)                  |
| Food Truck                                                                                                    |                  |      |     |     |                | P   | P   | P   | P   | P   | P   | P  | 155.308(D)(2)                  |
| Day Care Facility                                                                                             | S                | S    | S   | S   |                | P   |     | P   | P   | P   | P   | P  | 155.308(E)(3)<br>155.308(D)(3) |
| In-Home Daycare                                                                                               | P                | P    | P   | P   | P              |     |     |     |     |     |     |    | 155.308(C)(3)                  |
| Park                                                                                                          |                  |      |     |     |                |     |     |     | P   |     |     | P  | 155.308(D)(4)                  |
| Outdoor Display/Sales                                                                                         |                  |      |     |     |                |     | P   | P   | P   |     |     |    | 155.308(D)(5)                  |
| Outdoor Dining                                                                                                |                  |      |     |     |                | P   | P   | P   | P   |     |     |    | 155.308(D)(6)                  |
| Outdoor Storage, Limited                                                                                      |                  |      |     |     |                |     |     |     | S   | P   | P   | P  | 155.308(D)(7)                  |
| Outdoor Storage, General                                                                                      |                  |      |     |     |                |     |     |     |     | P   | P   | P  | 155.308(D)(8)                  |
| Key:                                                                                                          |                  |      |     |     |                |     |     |     |     |     |     |    |                                |
| P – Permitted                                                                                                 |                  |      |     |     |                |     |     |     |     |     |     |    |                                |
| S – Special Use Permit required in the zoning district only if approved by the Town Council (TC) ( § 155.711) |                  |      |     |     |                |     |     |     |     |     |     |    |                                |

(Ord. 2005-11-02, adopted 11/21/2005; Am. Ord. 2006-06-01, adopted 06/19/2006; Am. Ord. 2007-04-05, adopted 04/02/2007; Am. Ord. 2007-05-02, adopted 05/07/2007; Am. Ord. 2009-06-06, adopted 06/01/2009; Am. Ord. 2009-08-03, adopted 08/03/2009; Am. Ord. 2012-01-04, adopted 01/03/2012; Am. Ord. 2012-04-02, adopted 04/02/2012; Am. Ord. 2012-12-02, adopted 12/03/2012; Am. Ord. 2014-12-02,

*adopted 12/01/2014; Ord. 2015-09-03, adopted 09/28/2015; Am. Ord 2016-04-04, passed 04-04-2016;  
Ord. 2017-04-06, approved 04/03/2017)*

**§ 155.203 GENERAL USE DISTRICT STANDARDS****(A) INTENT**

The ~~general-use~~conventional district development standards establish lot sizes and certain restrictions for residential and nonresidential development. These standards allow for variety in housing types while maintaining the overall character of neighborhoods and commercial areas of the town. Separate standards are established to regulate development in each ~~general-use~~conventional district. This approach to district development standards benefits the public by:

- (1) Allowing for development that is more sensitive to the environment and encourages the preservation of open and natural areas.
- (2) Promoting quality site design and energy-efficient development.
- (3) Promoting affordable and life-cycle housing.
- (4) Promoting development intensities that maximize existing and proposed infrastructure investments.

**(B) RESOURCE CONSERVATION AREAS**

~~(1) No resource conservation area (see §155.500) shall be counted towards lot area required by this subchapter. This shall not preclude the platting of lots in such areas, provided that adequate lot area outside the resource conservation area is provided to meet the minimum lot area requirements of this subchapter. See Article 5 for restrictions on the use of resource conservation areas.~~

~~(2) No resource conservation area shall be counted towards the recreation and open space requirements (see (H) of this section).~~

**(C) CLAYTON GENERAL DESIGN GUIDELINES**

The town has established a manual to guide the future growth of development. The design guidelines provide a basis for making decisions about the appropriate treatment of new construction and land development. Property owners, real estate agents, developers, tenants, architects and decision makers ~~should~~shall use the guidelines contained in the document when considering a project. This will help establish an appropriate direction for its design. For any project subject to review, the applicant ~~should~~shall refer to the guidelines at the outset, to avoid planning efforts that later may prove to be inappropriate.

**(D) HOW TO USE THIS SECTION**

This section is divided into the following:

**Part 1. Residential Districts.** This Part sets forth specific standards for development in residential districts.

§ 155.203(E) through § 155.203(J)

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**Part 2. Nonresidential Districts.** This Part sets forth specific standards for development in nonresidential districts. § 155.203(K)

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**Part 3. ~~Planned Development~~ Conditional Zoning Districts.** This Part sets forth specific standards for development in ~~planned development~~ conditional districts. § 155.203(L)

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## PART 1. RESIDENTIAL DISTRICTS

### (E) PURPOSE AND INTENT

The purpose and intent of the residential districts is to provide a safe and healthy living environment for residents, protect the town's existing neighborhoods from incompatible uses, maintain natural areas and open spaces within neighborhoods, encourage connectivity and interconnectivity for multiple modes of transportation, and ensure adequate public facilities and services are available to meet the needs of current and future residents.

### (F) RESIDENTIAL SUBDIVISION TYPES

Development within the residential districts allows a variety of housing types. To further the purpose of residential districts, two types of residential subdivisions are permitted, as follows.

#### (1) **Conventional Residential Subdivision**

A conventional residential subdivision is a pattern of residential development that provides a majority of property owners with substantial yards on their own property. A recreation and open space dedication or payment of a fee-in-lieu is required for conventional residential subdivisions.

#### (2) **Open Space Residential Subdivision**

An open space residential subdivision trades conventional minimum lot size and dimensions for additional common recreation and open space. An open space residential subdivision shall be a sufficient size to ensure adequate common recreation and open space can be incorporated into the subdivision design. An open space residential subdivision may allow additional density provided certain enhancements are incorporated into the design of the subdivision.

### (G) CONVENTIONAL SUBDIVISION STANDARDS

#### (1) **Applicability**

A conventional residential subdivision is permitted in all residential districts subject to the following standards.



(2) **Density**

In the R-10 and R-8 Districts, townhouse parcels, apartment parcels and upper-story residential units shall not exceed a density of ten units per acre. In the R-6 District, townhouse parcels, apartment parcels and upper-story residential units shall not exceed a density of 12 units per acre.

(3) **Development Standards**

Applicants utilizing the conventional residential subdivision option shall meet all applicable development standards as set forth in § 155.400 through § 155.405 and § 155.500 through § 155.502. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

(4) **Lots Not Served by Public Water and Sewer**

No permit to install a septic tank system shall be issued until the County Health Director has determined by a field investigation of the area that the site is acceptable for a septic tank system and that such a system can be installed at the site in compliance with these rules and regulations. The field investigations shall include evaluation of such factors as size and shape of the lot or lots, character and porosity of soil, percolation rate, topography, depth of the water table, rock or other impervious formations, location or proposed location of any water supply wells, and the success or failure history of any other septic tank systems in the area. The County Health Director shall not issue a permit if he determines that the site is not acceptable for septic tank systems.

~~(5) **Minimum Square Footage**~~

~~Minimum square footage requirements have been established for conventional subdivisions to ensure the scale of new construction is consistent with the established neighborhood patterns. Residential subdivisions which have a valid subdivision/plat approval, and additions to existing dwelling units are exempt from the minimum square footage requirements.~~

~~(6)~~(5) **Dimensional Standards**

Applicants utilizing the conventional residential subdivision option shall meet the dimensional standards provided in Table 2-2. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

Table 2-2 Conventional Subdivision Regulations

| Conventional Subdivision Standards |                                            |                        |                            |                                          |                 |                       |                      |                            |                                 |                        |               |             |      |                    |                                   |                      |
|------------------------------------|--------------------------------------------|------------------------|----------------------------|------------------------------------------|-----------------|-----------------------|----------------------|----------------------------|---------------------------------|------------------------|---------------|-------------|------|--------------------|-----------------------------------|----------------------|
| Zoning District                    | Unit Type                                  | Lot Standards          |                            |                                          |                 |                       |                      |                            | Density (dwelling units / acre) | Minimum Setbacks (ft.) |               |             |      | Building Standards |                                   |                      |
|                                    |                                            | Min. Site Area (Acres) | Min. Parcel Size (sq. ft.) | Min. Lot Area (sq. ft.)                  | Lot Width (ft.) | Min. Lot Coverage (%) | Max Lot Coverage (%) | Max Impervious Surface (%) |                                 | Front                  | Side Interior | Side Street | Rear | Max. Height (ft.)  | Min. Dwelling Unit Size (sq. ft.) | Accessory Structures |
| R-E                                | Single Family with water and sewer         | --                     | --                         | 20,000                                   | 80              | 35                    | 50                   | 2.1                        | 35                              | 15                     | 25            | 30          | 35   | <del>1,400</del>   | See \$155.308                     |                      |
|                                    | Single Family with well and septic         | --                     | --                         | 40,000                                   | 100             | 35                    | 50                   | 1.0                        | 35                              | 15                     | 25            | 30          | 35   | <del>1,400</del>   |                                   |                      |
|                                    | Single Family with public water and septic | --                     | --                         | 25,000                                   | 80              | 35                    | 50                   | 1.7                        | 35                              | 15                     | 25            | 30          | 35   | <del>1,400</del>   |                                   |                      |
| R-10                               | Single Family                              | --                     | --                         | 10,000                                   | 70              | 35                    | 50                   | 4                          | 30                              | 10                     | 20            | 25          | 35   | <del>1,100</del>   | See \$155.308                     |                      |
|                                    | Zero Lot Line                              | --                     | --                         | 10,000                                   | 70              | 35                    | 50                   | 4                          | 30                              | 0                      | 20            | 25          | 35   | <del>1,100</del>   |                                   |                      |
|                                    | Alley Loaded <sup>10</sup>                 | --                     | --                         | 10,000                                   | 70              | 35                    | 50                   | 4                          | 30                              | 10                     | 10            | 25          | 35   | <del>1,100</del>   |                                   |                      |
|                                    | Two Family                                 |                        | 12,000                     | Set by Special Use Process <sup>10</sup> |                 |                       |                      |                            |                                 |                        |               |             |      | --                 |                                   |                      |
|                                    | Townhouse (2 units)                        |                        | 12,000                     |                                          |                 |                       |                      |                            |                                 |                        |               |             |      | --                 |                                   |                      |
|                                    | Townhouse (3+ units)                       |                        | 20,000                     |                                          |                 |                       |                      |                            |                                 |                        |               |             |      | --                 |                                   |                      |
| Apartments                         | 20,000                                     |                        | --                         |                                          |                 |                       |                      |                            |                                 |                        |               |             |      |                    |                                   |                      |
| R-8                                | Single Family                              | --                     | --                         | 8,000                                    | 60              | 35                    | 55                   | 5                          | 25                              | 10                     | 15            | 25          | 35   | <del>1,100</del>   | See \$155.308                     |                      |
|                                    | Zero Lot Line                              | --                     | --                         | 8,000                                    | 60              | 35                    | 55                   | 5                          | 25                              | 0                      | 15            | 25          | 35   | <del>1,100</del>   |                                   |                      |
|                                    | Alley Loaded <sup>10</sup>                 | --                     | --                         | 8,000                                    | 60              | 35                    | 55                   | 5                          | 15                              | 10                     | 15            | 25          | 35   | <del>1,100</del>   |                                   |                      |
|                                    | Two Family                                 |                        | 10,000                     | Set by Special Use Process <sup>10</sup> |                 |                       |                      |                            |                                 |                        |               |             |      | --                 |                                   |                      |
|                                    | Townhouse (2 units)                        |                        | 10,000                     |                                          |                 |                       |                      |                            |                                 |                        |               |             |      | --                 |                                   |                      |
|                                    | Townhouse (3+ units)                       |                        | 20,000                     |                                          |                 |                       |                      |                            |                                 |                        |               |             |      | --                 |                                   |                      |
| Apartments                         | 20,000                                     |                        | --                         |                                          |                 |                       |                      |                            |                                 |                        |               |             |      |                    |                                   |                      |
| R-6                                | Single Family                              | --                     | --                         | 6,000                                    | 50              | 35                    | 60                   | 7                          | <del>25</del>                   | 6                      | 10            | 20          | 35   | <del>960</del>     | See \$155.308                     |                      |
|                                    | Zero Lot Line                              | --                     | --                         | 6,000                                    | 50              | 35                    | 60                   | 7                          | 20                              | 0                      | 10            | 25          | 35   | <del>960</del>     |                                   |                      |
|                                    | Alley Loaded <sup>10</sup>                 | --                     | --                         | 6,000                                    | 50              | 35                    | 60                   | 7                          | 10                              | 6                      | 10            | 25          | 35   | <del>960</del>     |                                   |                      |
|                                    | Two Family                                 |                        | 8,000                      | Set by Special Use Process <sup>10</sup> |                 |                       |                      |                            |                                 |                        |               |             |      | --                 |                                   |                      |
|                                    | Townhouse (2 units)                        |                        | 8,000                      |                                          |                 |                       |                      |                            |                                 |                        |               |             |      | --                 |                                   |                      |
|                                    | Townhouse (3+ units)                       |                        | 20,000                     |                                          |                 |                       |                      |                            |                                 |                        |               |             |      | --                 |                                   |                      |
| Apartments                         | 20,000                                     |                        | --                         |                                          |                 |                       |                      |                            |                                 |                        |               |             |      |                    |                                   |                      |
| Notes                              |                                            |                        |                            |                                          |                 |                       |                      |                            |                                 |                        |               |             |      |                    |                                   |                      |

Adopted 12-3-2012, amended 3-17-14 (155.201(J)(4)), amended 6-16-14 (155.203(G) Table; 155.204(A)(5)(b)6; 155.204(C)(9)(b) table 2-8)

Article 2 / Zoning Districts  
§155.203 General Use District Standards

|    |                                                                                                                                                                                                                                                                                                                                                                    |
|----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1  | Minimum dwelling unit size = total heated square footage                                                                                                                                                                                                                                                                                                           |
| 2  | Manufactured homes and manufactured home parks shall meet the minimum requirements set forth in UDC §155.301 (F) and (G)                                                                                                                                                                                                                                           |
| 3  | In no instance shall the area of a residential lot be less than the size determined to be adequate by the County Health Department after soil and ground water table investigations have been made.                                                                                                                                                                |
| 4  | A minimum of 1,245 square feet of Recreation and Open Space is required per unit for Single Family, Zero Lot Line and Alley Loaded units.                                                                                                                                                                                                                          |
| 5  | Public water and sewer is required in the R-10, R-8 and R-6 Zoning Districts. Within Town limits, connection to public water and sewer is also required for lots contiguous to existing service.                                                                                                                                                                   |
| 6  | Lots using a zero side interior setback for one lot line are required to double the side interior setback requirement established for a single family unit for the opposite lot line.                                                                                                                                                                              |
| 7  | In the R-10 and R-8 Zoning Districts, townhouse parcels, apartment parcels, and upper story residential shall not exceed a density of 10 dwelling units per acre.                                                                                                                                                                                                  |
| 8  | In the R-6 Zoning District, townhouse parcels, apartment parcels, and upper story residential shall not exceed a density of 12 dwelling units per acre.                                                                                                                                                                                                            |
| 9  | <u>When dwelling units are front-loaded or accessed from the front or side, a minimum 25' setback is required from the right-of-way providing access.</u>                                                                                                                                                                                                          |
| 10 | <u>Where lot width is less than 42' (except in existing in-fill lots), the lot must be alley-loaded or have parking accessed from the rear of the lot. Alley-loaded units are permitted only if at least 60% of the dwellings on that side of the block are also alley-loaded and formal on-street parking is required in the front of all alley-loaded units.</u> |

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**(H) OPEN SPACE SUBDIVISION STANDARDS****(1) Intent**

The intent of an open space residential subdivision is to provide a development alternative to a conventional subdivision. An open space residential subdivision involves clustering home sites within a portion of the development site and allowing housing units on smaller lots than those permitted in a conventional residential subdivision. Open space subdivisions promote the preservation of environmentally sensitive land and allows for efficient use of the land to provide additional common open space. Open space subdivision development is encouraged by the Town in the form of these flexible design and maximum density provisions. Other purposes of an open space residential subdivision include the following:

- (a) To preserve in perpetuity unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes, woodlands and wildlife habitat.
- (b) To preserve important historic and archaeological sites.
- (c) To permit clustering of houses and structures in a manner that will reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development.
- (d) To reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development.
- (e) To promote interconnected greenways and corridors throughout the community.
- (f) To create contiguous greenspace within and adjacent to the development site.
- (g) To protect scenic views.
- (h) To protect prime agricultural land and preserve farming as an economic activity.

**(2) Applicability**

An open space residential subdivision is permitted in the R-E, R-10, and R-8 Zoning Districts subject to the following standards.

**(3) Mix of Housing Types**

Two-family, townhouse, apartment, and upper-story residential units may comprise no more than 50percent of the total dwelling units of a proposed open space residential subdivision. In no case shall the density allowance be exceeded for the overall site. In the R-10 and R-8 Districts, townhouse parcels, apartment parcels, and upper-story residential units shall not exceed a density of ten units per acre.

~~(4)~~ **Minimum Square Footage**

~~Minimum square footage requirements have been established for open space subdivisions to ensure the scale of new construction is consistent with the established neighborhood patterns. Existing dwelling units, including any additions thereto, are exempt from the minimum square footage requirements.~~

~~(5)~~**(4) Development Standards**

Applicants utilizing the open space residential subdivision option shall meet all applicable development standards as set forth in §§ 155.400 through 155.405 and §§ 155.500 through 155.502. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

~~(6)~~**(5) Dimensional Standards**

Applicants utilizing the open space residential subdivision option shall meet the dimensional standards provided in Table 2-3. Applicants shall comply with all other provisions this chapter and all other applicable laws.

[The Remainder of this Page Left Intentionally Blank]

Table 2-3 Open Space Subdivision Regulations

| Open Space Subdivision Standards |                                                                                                                                                                                                     |                              |                                     |                               |                               |                                |                               |                                           |                        |                      |                 |      |                         |                                            |                                 |
|----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|-------------------------------------|-------------------------------|-------------------------------|--------------------------------|-------------------------------|-------------------------------------------|------------------------|----------------------|-----------------|------|-------------------------|--------------------------------------------|---------------------------------|
| Zonin<br>g<br>Distric<br>t       | Unit Type                                                                                                                                                                                           | Lot Standards                |                                     |                               |                               |                                |                               | Density<br>(dwellin<br>g units /<br>acre) | Minimum Setbacks (ft.) |                      |                 |      | Building Standards      |                                            |                                 |
|                                  |                                                                                                                                                                                                     | Min. Site<br>Area<br>(Acres) | Min.<br>Parcel<br>Size<br>(sq. ft.) | Min. Lot<br>Area<br>(sq. ft.) | Min.<br>Lot<br>Width<br>(ft.) | Max Lot<br>Coverag<br>e<br>(%) | Max Impervious<br>Surface (%) |                                           | Front                  | Side<br>Interio<br>r | Side Stree<br>t | Rear | Max.<br>Height<br>(ft.) | Min.<br>Dwelling<br>Unit Size<br>(sq. ft.) | Accessor<br>Y<br>Structur<br>es |
| R-E                              | Single Family                                                                                                                                                                                       | 10                           | --                                  | 12,000                        | 48                            | 35                             | 50                            | 3.7                                       | <del>25</del> <u>4</u> | 9                    | 15              | 18   | 35                      | <del>1,400</del> <u>--</u>                 | See<br>§155.308                 |
| R-10                             | Single Family                                                                                                                                                                                       | 10                           | --                                  | 8,000                         | 50                            | 35                             | 50                            | 5                                         | 25                     | 6                    | 15              | 15   | 35                      | <del>1,100</del> <u>--</u>                 | See<br>§155.308                 |
|                                  | Zero Lot Line                                                                                                                                                                                       | 10                           | --                                  | 8,000                         | 50                            | 35                             | 50                            | 5                                         | 25                     | 0                    | 15              | 15   | 35                      | <del>1,100</del> <u>--</u>                 |                                 |
|                                  | Alley<br>Loaded <sup>12</sup>                                                                                                                                                                       | 10                           | --                                  | 6,000                         | 42                            | 35                             | 50                            | 7                                         | 15                     | 5                    | 10              | 15   | 35                      | <del>960</del> <u>--</u>                   |                                 |
|                                  | Two Family                                                                                                                                                                                          | 10                           | 12,000                              | 12,000                        | 75                            | 35                             | 50                            | 3                                         | 25                     | 6                    | 15              | 15   | 35                      | <del>960</del> <u>--</u>                   | See<br>§155.308                 |
|                                  | Townhouse<br>(2 units)                                                                                                                                                                              | 10                           | 12,000                              | 6,000                         | 42                            | 35                             | 50                            | 3                                         | 25                     | 6                    | 15              | 15   | 35                      | <del>960</del> <u>--</u>                   |                                 |
|                                  | Townhouse<br>(3+ units)                                                                                                                                                                             | 10                           | 20,000                              | 4,000                         | 25                            | 35                             | 50                            | 10                                        | 25                     | 15                   | 15              | 15   | 35                      | <del>700</del> <u>--</u>                   |                                 |
|                                  | Apartments                                                                                                                                                                                          | 10                           | 20,000                              | --                            | --                            | 35                             | 50                            | 10                                        | 25                     | 15                   | 15              | 15   | 35                      | <del>700</del> <u>--</u>                   |                                 |
| R-8                              | Single Family                                                                                                                                                                                       | 10                           | --                                  | 6,000                         | 42                            | 35                             | 55                            | 7                                         | <del>25</del> <u>0</u> | 6                    | 10              | 15   | 35                      | <del>960</del> <u>--</u>                   | See<br>§155.308                 |
|                                  | Zero Lot Line                                                                                                                                                                                       | 10                           | --                                  | 6,000                         | 42                            | 35                             | 55                            | 7                                         | <del>25</del> <u>0</u> | 0                    | 10              | 15   | 35                      | <del>960</del> <u>--</u>                   |                                 |
|                                  | Alley<br>Loaded <sup>12</sup>                                                                                                                                                                       | 10                           | --                                  | 4,800                         | 40                            | 40                             | 55                            | 9                                         | 10                     | 5                    | 10              | 15   | 35                      | <del>960</del> <u>--</u>                   |                                 |
|                                  | Two Family                                                                                                                                                                                          | 10                           | 10,000                              | 9,000                         | 65                            | 40                             | 55                            | 4                                         | <del>25</del> <u>0</u> | 6                    | 10              | 15   | 35                      | <del>700</del> <u>--</u>                   |                                 |
|                                  | Townhouse<br>(2 units)                                                                                                                                                                              | 10                           | 10,000                              | 4,800                         | 40                            | 40                             | 55                            | 9                                         | <del>25</del> <u>0</u> | 6                    | 10              | 15   | 35                      | <del>700</del> <u>--</u>                   |                                 |
|                                  | Townhouse<br>(3+ units)                                                                                                                                                                             | 10                           | 20,000                              | 3,000                         | 21                            | 40                             | 55                            | 10                                        | <del>25</del> <u>0</u> | --                   | 10              | 15   | 35                      | <del>700</del> <u>--</u>                   |                                 |
|                                  | Apartments                                                                                                                                                                                          | 10                           | 20,000                              | --                            | --                            | 40                             | 55                            | 10                                        | 15                     | 10                   | 15              | 20   | 35                      | <del>700</del> <u>--</u>                   |                                 |
| Notes                            |                                                                                                                                                                                                     |                              |                                     |                               |                               |                                |                               |                                           |                        |                      |                 |      |                         |                                            |                                 |
| 1                                | Minimum dwelling unit size = total heated square footage                                                                                                                                            |                              |                                     |                               |                               |                                |                               |                                           |                        |                      |                 |      |                         |                                            |                                 |
| 2                                | Minimum dwelling unit size for multi-family is a per unit minimum                                                                                                                                   |                              |                                     |                               |                               |                                |                               |                                           |                        |                      |                 |      |                         |                                            |                                 |
| 3                                | Manufactured homes and manufactured home parks shall meet the minimum requirements set forth in UDC §155.301 (F) and (G)                                                                            |                              |                                     |                               |                               |                                |                               |                                           |                        |                      |                 |      |                         |                                            |                                 |
| 4                                | In no instance shall the area of a residential lot be less than the size determined to be adequate by the County Health Department after soil and ground water table investigations have been made. |                              |                                     |                               |                               |                                |                               |                                           |                        |                      |                 |      |                         |                                            |                                 |
| 5                                | A minimum of 1,245 square feet per unit of public Recreation and Open Space is required in the R-E Zoning District                                                                                  |                              |                                     |                               |                               |                                |                               |                                           |                        |                      |                 |      |                         |                                            |                                 |
| 6                                | A minimum of 12.5% of the total site acreage is required to be Recreation and Open Space in all Open Space Subdivisions.                                                                            |                              |                                     |                               |                               |                                |                               |                                           |                        |                      |                 |      |                         |                                            |                                 |
| 7                                | Public water and sewer is required in all residential Zoning Districts.                                                                                                                             |                              |                                     |                               |                               |                                |                               |                                           |                        |                      |                 |      |                         |                                            |                                 |
| 8                                | Lots using a zero side interior setback for one lot line are required to double the side interior setback requirement established for a single family unit for the opposite lot line.               |                              |                                     |                               |                               |                                |                               |                                           |                        |                      |                 |      |                         |                                            |                                 |
| 9                                | In the R-10 and R-8 Zoning Districts, townhouse parcels, apartment parcels, and upper story residential shall not exceed a density of 10 dwelling units per acre.                                   |                              |                                     |                               |                               |                                |                               |                                           |                        |                      |                 |      |                         |                                            |                                 |

Adopted 12-3-2012, amended 3-17-14 (155.201(J)(4)), amended 6-16-14 (155.203(G) Table; 155.204(A)(5)(b)6; 155.204(C)(9)(b) table 2-8)

Article 2 / Zoning Districts  
§155.203 General Use District Standards

|           |                                                                                                                                                                                                                                                                                                                                                                    |
|-----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10        | The minimum building separation for townhouse parcels and apartment parcels is 20 feet.                                                                                                                                                                                                                                                                            |
| <u>11</u> | <u>When dwelling units are front-loaded or accessed from the front or side, a minimum 25' setback is required from the right-of-way providing access.</u>                                                                                                                                                                                                          |
| <u>12</u> | <u>Where lot width is less than 42' (except in existing in-fill lots), the lot must be alley-loaded or have parking accessed from the rear of the lot. Alley-loaded units are permitted only if at least 60% of the dwellings on that side of the block are also alley-loaded and formal on-street parking is required in the front of all alley-loaded units.</u> |

~~(7)~~(6) **Utilities**

To the maximum extent feasible, utilities in open space residential subdivisions shall be placed underground.

~~(8)~~(7) **Project Boundary Buffer**

- (a) No buffer is required where the width of the project's perimeter lots is equal to or greater than the minimum lot width of the adjoining development or the minimum lot width required by the zoning district applied to any adjoining undeveloped parcel.
- (b) Where narrower lot widths are provided, a Class C buffer shall be provided (see § 155.402) along all project boundaries of an open space subdivision.

**(I) RECREATION AND OPEN SPACE REQUIREMENTS**

**(1) Applicability**

Recreation and open space is an integral part of both conventional and open space residential subdivisions. The minimum recreation and open space requirement for each subdivision type is set forth below. No additional recreation or open space shall be required on the site, except where otherwise required by state or federal law. In the case that a subdivision is being developed in phases, the amount of recreation and open space shall be computed separately for each phase, but may be combined with existing recreation and open space in earlier phases to create a larger uniform area.

**(2) All Residential Subdivisions**

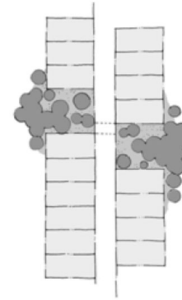
- (a) All residential development shall be required to either dedicate a portion of the land in the subdivision, or land in another location if approved by Town Council for recreation or open space use, or make a payment-in-lieu of dedication at a rate as set forth in the Town's Comprehensive List of Fees and Charges per lot or dwelling unit. If a development is approved which provides private recreation and open space, to be maintained by a homeowner or property management organization, and meeting the minimum standards of this section, the required fee-in-lieu payment shall be as set forth in the Town's Comprehensive List of Fees and Charges per lot or dwelling unit. A combination of dedication and payment-in-lieu may be used to meet these requirements.
- (b) At least 1,245 square feet of land shall be required for each proposed dwelling unit. Such land shall not include resource conservation areas (see § 155.500). The Town Council reserves the right to refuse to accept dedication of parcels for subdivisions, in which case the applicant shall pay the fee-in-lieu of dedication. The Town shall use fee-in-lieu payments for the acquisition or development of recreation and open space sites.
- (c) The location of the proposed recreation and open space areas, its suitability for recreational use, and any recreational plans adopted by the Town shall be considered



in determining whether to accept dedication or payment-in-lieu. The decision shall be made by the Town Council as a component of preliminary subdivision plans or special use permits, or by the Planning Director as a component of site plans. Any decision of the Planning Director relative to this section may be appealed to the Town Council.

(3) **Open Space Residential Subdivision**

- (a) All development utilizing the open space residential subdivision option shall provide recreation and open space equal to 12.5% of the net site area as public or private recreation and open space.
- (b) Where the Town Council accepts dedication of a portion or all of this recreation and open space, the dedicated portion shall receive 100% credit toward the requirement for recreation and open space in (1)(2) of this section. The Town Council reserves the right to refuse to accept dedication. If dedication is not accepted by the Town Council, the development shall pay 100% of the required fee-in-lieu payment as set forth in the Town's Comprehensive List of Fees and Charges per lot or dwelling unit.



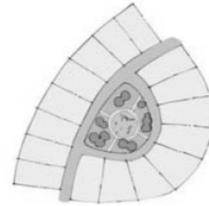
(4) **Configuration of Recreation and Open Space**

- (a) The minimum width for any required recreation and open space shall be 50 feet. Exceptions may be granted by the Town Council for items such as trail easements, mid-block crossings, linear parks/medians, when their purpose meets the intent of this section.
- (b) At least 60% of the required recreation and open space shall be in a contiguous parcel. For the purposes of this section, contiguous shall include any recreation and open space bisected by a residential street (including a residential collector), provided that:
  - 1. A pedestrian crosswalk is constructed to provide access to the recreation and open space on both sides of the street; and
  - 2. The right-of-way area is not included in the calculation of minimum recreation and open space required.
- (c) The recreation and open space shall adjoin any neighboring areas of recreation and open space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future area of protected recreation and open space.
- (d) The required recreation and open space shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjoining lots shall be provided with safe, convenient access to the open space (i.e. mid-block connections in logical locations). No lot within the subdivision should be further than a one-quarter-mile radius from the required recreation and open space. This radius shall be measured in a straight line, without regard for street, sidewalk or trail connections to the open space.

- (e) Access to the recreation and open space shall be provided either by an abutting street or easement. Such easement shall be not less than 30 feet wide.
- (f) At least 25% of the recreation and open space shall be improved. Trails may be developed in accordance with the Clayton General Design Guidelines. Other improved recreation and open space areas shall be developed as set forth below. The shape, topography, and subsoils shall be appropriate to the improvements proposed. Where recreation or open space consists of prime agricultural land, this improvement requirement shall not apply.

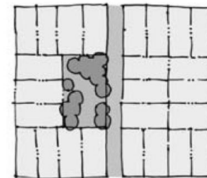
**Tot Lot & Playgrounds (Private Only).** *Playgrounds provide play areas for children as well as open shelter and benches. Playgrounds may be built within squares, greens, mini-parks and neighborhood parks or may stand alone within a residential block.*

Playgrounds shall be designed with commercial grade play equipment for two age groups: tot lot for children ages one to five; and separate play equipment for children ages six to ten. May include picnic units and shelters. Minimum requirements include two park benches and one trash receptacle. Must have shock absorbing surface with a maximum 2% slope. Playgrounds must meet all federal, state and local regulations and be compliant with the Americans with Disabilities Act. Due to the continuing maintenance obligations, the Town does not accept dedication of tot lots and playgrounds.



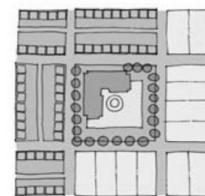
**Mini-Park (Private Only).** *The mini-park provides active recreational facilities for the use by the residents of the immediate surrounding neighborhood within the development.*

Size is from 2,500 sq. ft to one acre. May include: tennis courts, basketball courts, playgrounds and seating accommodations. Each mini-park shall be centrally located and easily accessible so that it can be conveniently and safely reached and used by those persons in the surrounding neighborhood it is designed to serve. Rear facing lots are allowed. Mini-parks shall be attractively landscaped and be provided with sufficient natural or man-made screening or buffer areas to minimize any negative impacts upon adjacent residences. Due to the continuing maintenance obligations, the Town does not accept dedication of mini-parks.



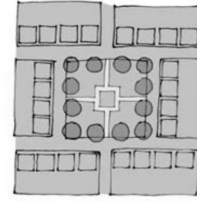
**Plaza.** *Plazas are for passive recreation use adjacent to a civic or commercial building. Plazas are paved in brick or another type of imperious surface.*

Plazas shall be level, stepped or gently sloping. At no time shall a plaza's horizontal length or width be greater than three times the height of surrounding buildings. Size is from 2,000 to 30,000 sq. ft.



**Squares.** *Squares are formal areas for passive recreation use bound by streets or front facing lots.*

Squares shall be bound by streets on a minimum of three sides or 75% of their perimeter and may be bound by front facing lots on one side or 25% of their perimeter. No rear facing lots allowed adjacent to a square. Trees plantings are encouraged parallel to the street right-of-way. Geometrical tree planting layouts for internal plantings are encouraged. Minimum size is 500 sq. ft. to one acre.



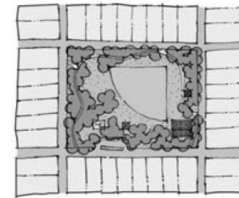
**Green.** *The green is an informal area for passive use bound by streets or front facing lots.*

A green shall be bound by streets on a minimum of three sides or 75% of their perimeter and may be bound by front facing lots on one side or 25% of their perimeter. No rear facing lots allowed adjacent to a green. Tree plantings can be informal and the topography irregular. Greens may be used to preserve specimen trees. Size is 500 sq. ft. to one acre.



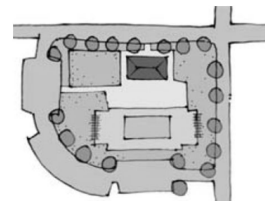
**Neighborhood Park.** *Neighborhood parks are designed for active or passive recreation use. Maximum park size can exceed five acres if the neighborhood park creates an open space that services an entire neighborhood or a group of neighborhoods; or incorporates physical features which are an asset to the community (i.e. lake or river frontage, high ground, or significant stands of trees).*

Minimum size from one to five acres. Neighborhood parks shall be bound by streets on a minimum of 50% of their perimeter. Front facing lots are encouraged around the perimeter. Neighborhood parks shall include benches and walking paths. Neighborhood parks may include but are not limited to: tennis courts, racquet ball courts, basketball courts, volley ball courts, ball fields, swings, slides, playgrounds, dog parks, benches, restrooms, picnic units, shelters, walking paths and parking areas.



**Clubhouse/Pool Amenity Area.** *Clubhouse/pool areas can be found in a neighborhood park, mini-park or alone as an amenity area for the residents of a developed community. Clubhouse/pool areas can include: swimming pools, group activity room, gazebos, outdoor eating areas, and exercise stations.*

Pools should be a minimum size of 1,000 sq. ft. Clubhouses and swimming pools must meet all applicable building and health codes for the Town and the state.



**Greenway.** *Greenways typically follow natural or constructed features such as streams or roads and are designed to incorporate natural settings such as creeks and significant stands of trees within neighborhoods, and are used for transportation, recreation, and environmental protection. Greenways differ from parks; plazas and squares in that their detailing is natural (i.e. informally planted) except along rights-of-way, and may contain irregular topography.*

Design of the greenway should incorporate conservation of existing mature tree canopy and landscape, protection of existing natural drainage ways and creeks. Improvements shall include paved walks/trails and benches, and trash receptacles.



(5) **Adopted Municipal and County Plans**

Adopted municipal and County plans shall be taken into consideration when evaluating land proposals.

(6) **Permitted Uses of Recreation and Open Space**

Uses of recreation and open space may include the following:

- (a) Conservation areas for natural, archeological or historical resources;
- (b) Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
- (c) Pedestrian or multipurpose trails;
- (d) Passive recreation areas;
- (e) Active recreation areas, provided that impervious area is limited to no more than 50% of the total recreation and open space;
- (f) Golf courses (excluding clubhouse areas and maintenance facilities), provided the area does not exceed 50% of the required recreation and open space, and further provided that impervious area is limited to no more than 10% of the total recreation and open space;
- (g) Above-ground utility rights-of-way, provided the area does not exceed 50% of the required recreation and open space;
- (h) Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts;
- (i) Landscaped stormwater management facilities;
- (j) Easements for drainage, access, and underground utility lines; and

- (k) Other conservation-oriented uses compatible with the purposes of this chapter.

(7) **Prohibited Uses of Recreation and Open Space**

Recreation and open space shall not include the following:

- (a) Community or individual wastewater disposal systems;
- (b) Streets (except for street crossings as expressly provided above) and parking areas; and
- (c) Other activities as determined by the applicant and recorded on the legal instrument providing for permanent protection.

(8) **Ownership and Management of Recreation and Open Space**

(a) ***Ownership***

Recreation and open space shall be accepted and owned by one of the following entities:

- 1) Town of Clayton. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by the Town.
- 2) Land conservancy or land trust. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by a land conservancy or land trust.
- 3) Homeowners association. A homeowners association representing residents of the subdivision shall own the recreation and open space. Membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. The homeowners' association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by the homeowner's association.
- 4) Private landowner. A private landowner may retain ownership of recreation and open space. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by the private landowner.

(b) ***Management***

Applicants shall submit a plan for the management of recreation and open space and other common facilities that:

- 1) Allocates responsibility and guidelines for the maintenance and operation of the recreation and open space, and any facilities located thereon, including provisions for ongoing maintenance and for long-term capital improvements;

- 2) Estimates the costs and staffing requirements needed for maintenance and operation of, and insurance for, the recreation and open space and outlines the means by which such funding will be obtained or provided;
- 3) Provides that any changes to the plan be approved by the Town; and
- 4) Provides for enforcement of the plan.

(c) ***Maintenance***

- 1) Passive recreation and 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.
- 2) No specific maintenance is required for agricultural uses.
- 3) Active recreation and 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.

(d) ***Failure to Maintain***

In the event the party responsible for maintenance of the recreation and open space fails to maintain all or any portion in reasonable order and condition, the Town may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to the homeowner's association, or to the individual property owners that make up the homeowner's association, and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties.

(9) **Legal Instrument for Permanent Protection**

- (a) The recreation and open space shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument shall be one of the following:
  - 1) A permanent conservation easement in favor of either:
    - A. A land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for re-transfer in the event the organization becomes unable to carry out its functions; or
    - B. A governmental entity with an interest in pursuing goals compatible with the purposes of this chapter. If the entity accepting the easement is not the

Town, then a third right of enforcement favoring the Town shall be included in the easement.

- 2) A permanent restrictive covenant for conservation purposes in favor of a governmental entity.
  - 3) An equivalent legal tool that provides permanent protection, if approved by the Town.
- (b) The instrument for permanent protection shall include clear restrictions on the use of the recreation and open space. These restrictions shall include all restrictions contained in this chapter, as well as any further restrictions the applicant chooses to place on the use of the recreation and open space. Where appropriate, the instrument shall allow for stream or habitat restoration within the easement area.

(J) **NONRESIDENTIAL DEVELOPMENT IN RESIDENTIAL DISTRICTS**

As set forth in the Use Regulation Table (Table 2-1 § 155.202(B)) certain nonresidential uses are permitted in residential districts. Permitted nonresidential uses shall meet the dimensional standards provided in table 2-4. Applicants shall comply with all other provisions of this chapter and all other applicable laws.

**Table 2-4 Nonresidential Development Standards for Residential Districts**

| Zoning District | Lot Standards                                                                                                                                                               |                      |                      | Minimum Setbacks |               |             |      | Building Standards                        |                   |                    |
|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|----------------------|------------------|---------------|-------------|------|-------------------------------------------|-------------------|--------------------|
|                 | Min. Lot Area (sq.ft.)                                                                                                                                                      | Min. Lot Width (ft.) | Public Water & Sewer | Street (Front)   | Side Interior | Side Street | Rear | Max. Building Height (ft.) <sup>(1)</sup> | Building Coverage | Impervious Surface |
| <b>R-E</b>      | 20,000                                                                                                                                                                      | 80                   | Required             | 35               | 15            | 25          | 30   | 35                                        | 35%               | 50%                |
| <b>R-10</b>     | 10,000                                                                                                                                                                      | 70                   | Required             | 30               | 10            | 20          | 25   | 35                                        | 35%               | 50%                |
| <b>R-8</b>      | 8,000                                                                                                                                                                       | 60                   | Required             | 25               | 10            | 15          | 25   | 35                                        | 35%               | 55%                |
| <b>R-6</b>      | 6,000                                                                                                                                                                       | 50                   | Required             | 20               | 6             | 10          | 20   | 35                                        | 35%               | 60%                |
| <b>Notes</b>    |                                                                                                                                                                             |                      |                      |                  |               |             |      |                                           |                   |                    |
| (1)             | The Council may grant a special use permit in accordance with <del>§ 155.711</del> , allowing nonresidential buildings to exceed the maximum height limits of the district. |                      |                      |                  |               |             |      |                                           |                   |                    |

## PART 2. NONRESIDENTIAL DISTRICTS

(K) **NONRESIDENTIAL DISTRICT STANDARDS**

(1) **Development Standards**

Applicants shall meet all applicable development standards as set forth in §§ 155.400 through 155.405 and §§ 155.500 through 155.502. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

(2) **Nonresidential Dimensional Standards**

- (a) As set forth in the Use Regulations Table (Table 2-1 § 155.202(B)) certain uses are allowed in nonresidential districts. Allowed uses shall meet the dimensional standards provided in Table 2-5. Applicants shall comply with all other provisions of this chapter and all other applicable laws.

**§ 155.203, PART 2. Table 2-5 Nonresidential Dimensional Standards**

| Zoning District          | Lot Standards                                                                                                                   |                      |                      | Minimum Setbacks (ft.) |                                      |             |                             | Building Standards <sup>(3)</sup>         |                   |                    |
|--------------------------|---------------------------------------------------------------------------------------------------------------------------------|----------------------|----------------------|------------------------|--------------------------------------|-------------|-----------------------------|-------------------------------------------|-------------------|--------------------|
|                          | Min. Lot Area (sq.ft.)                                                                                                          | Min. Lot Width (ft.) | Public Water & Sewer | Street / Front (Max.)  | Side Interior (abutting residential) | Side Street | Rear (abutting residential) | Max. Building Height (ft.) <sup>(1)</sup> | Building Coverage | Impervious Surface |
| <b>O-R</b>               | 6,000                                                                                                                           | 50                   | Required             | 20                     | 6 (6)                                | 10          | 20 (20)                     | 35                                        | 50%               | 75%                |
| <b>O-I</b>               | 6,000                                                                                                                           | 60                   | Required             | 30                     | 10 (30)                              | 20          | 20 (30)                     | 60                                        | 50%               | 75%                |
| <b>B-1<sup>(1)</sup></b> | None                                                                                                                            | None                 | Required             | 0 <sup>(2)</sup>       | 0 (30)                               | 0           | 0 (30)                      | 50                                        | --                | --                 |
| <b>B-2</b>               | 6,000                                                                                                                           | 50                   | Required             | 20                     | 10 (30)                              | 10          | 20 (30)                     | 35                                        | 50%               | 75%                |
| <b>B-3</b>               | 8,000                                                                                                                           | 60                   | Required             | 25                     | 15 (30)                              | 30          | 30 (30)                     | 60                                        | 50%               | 75%                |
| <b>I-1</b>               | 20,000                                                                                                                          | 100                  | Required             | 50                     | 20 (30)                              | 30          | 40 (40)                     | 50                                        | 50%               | 75%                |
| <b>I-2</b>               | 20,000                                                                                                                          | 100                  | Required             | 50                     | 20 (30)                              | 30          | 40 (40)                     | 50                                        | 50%               | 75%                |
| <b>PF</b>                | --                                                                                                                              | --                   | --                   | --                     | --                                   | --          | --                          | --                                        | --                | --                 |
| <b>Notes:</b>            |                                                                                                                                 |                      |                      |                        |                                      |             |                             |                                           |                   |                    |
| (1)                      | No maximum building coverage or impervious surface limits in the B-1 Zoning District                                            |                      |                      |                        |                                      |             |                             |                                           |                   |                    |
| (2)                      | Maximum 10 foot street yard setback in B-1 Zoning District                                                                      |                      |                      |                        |                                      |             |                             |                                           |                   |                    |
| (3)                      | Minimum Building Separation in all Zoning Districts is 20 feet                                                                  |                      |                      |                        |                                      |             |                             |                                           |                   |                    |
| (4)                      | The Town Council may grant a special use permit in accordance with § 155.711 for structures exceeding the maximum height limits |                      |                      |                        |                                      |             |                             |                                           |                   |                    |

- (b) More than one building may be permitted be on a single lot.
- (c) In the B-1 District, no rear yard shall be less than that of the nearest building facing on the same side of the street with the least rear yard depth. In no case shall the required rear yard setback exceed ten feet from the rear property line.
- (d) The Town Council may grant a special use permit in accordance with § 155.711, allowing specified nonresidential buildings to exceed the maximum height limits of the district.

(3) **Residential Dimensional Standards**

- (a) As set forth in the Use Regulations Table (Table 2-1 § 155.202(B)) certain residential uses are permitted in nonresidential districts. Dimensional standards for townhouses and apartments are established through the special use process (see § 155.711). Within



the B-1 District, no townhouse or apartment shall be established on a parcel less than 20,000 square feet in area.

- (b) Upper-story residential is permitted on the upper floors of a nonresidential building and shall conform to the lot, yard and bulk requirements of the principal building.
- (c) Except in the B-1 District, townhouse and apartment parcels and upper-story residential units shall not exceed a density of 12 units per acre in a standard residential district.

### **PART 3. CONDITIONAL ZONING ~~PLANNED DEVELOPMENT~~ DISTRICTS**

#### **(L) PLANNED DEVELOPMENT ~~CONDITIONAL ZONING~~ DISTRICT STANDARDS**

##### **(1) General Provisions for all ~~Planned Developments (PD-R, PD-C, PD-I, PD-MU)~~ Conditional Zoning Districts**

###### **(a) Rezoning Criteria**

In approving a rezoning for a ~~planned development~~ conditional district, the Town Council shall find the district designation and ~~planned development~~ master plan comply with the general standards for all ~~planned development~~ in of this section and the specific standards for the proposed ~~planned development~~ listed in (L)(2) through (5) of this section, respectively, and the specific criteria of (§ 155.705).

###### **(b) Planned Development Master Plan**

The development proposed in the master plan is compatible with the character of surrounding land uses and maintains and enhances the value of surrounding properties. The master plan shall be prepared by a professionally certified landscape architect, engineer or architect.

###### **(c) Design Guidelines and Dimensional Standards**

Each ~~planned development~~ master plan shall provide a comprehensive set of design guidelines that demonstrate the project will be appropriate within the context of the surrounding properties and the larger community. All bulk, area, and dimensional standards shall be established by the Town Council at the time of approval.

###### **(d) General Development Standards**

~~Unless specifically waived by the Town Council,~~ Unless granted Variance by the Board of Adjustment, all standards specified in §§ 155.400 through 155.405 shall apply.

###### **(e) Resource Conservation Areas**

See Article 5 for restrictions on the use of resource conservation areas.

1) ~~No resource conservation area (see § 155.500) shall be counted towards lot area. This shall not preclude the platting of lots in such areas, provided that adequate lot area outside the resource conservation area is provided.~~

2) ~~No resource conservation area shall be counted towards the recreation and open space requirements (see below).~~

(f) ***Recreation and Open Space***

The ~~planned development~~ master plan shall meet or exceed the recreation and open space requirements of an open space residential subdivision (see § 155.203(H)).

(g) ***Stormwater Management***

~~When determined necessary by the Town Council, the planned development~~ The master plan shall contain a comprehensive stormwater management plan prepared by a professional engineer licensed in the state.

(h) ***Phasing***

If development is proposed to occur in phases, the ~~planned development~~ master plan shall include a phasing plan for the development, and if appropriate, with specific build-out dates. Guarantees shall be provided that project improvements and amenities that are necessary and desirable for residents and tenants of the project, or that are of benefit to the Town, are constructed with the first phase of the project, or, if this is not possible, then as early in the project as is technically feasible.

(i) ***Landscaping, Buffering, and Screening***

As otherwise required by Article 4, with a minimum requirement of a 15' wide buffer meeting Class "C" A perimeter buffer planting requirements.

~~(2) **Planned Development Residential (PD-R) District**~~

~~(a) **Minimum Requirements**~~

1) ~~The Planned Development Residential District is an option provided to encourage a mix of housing options within a comprehensively planned development, allowing a density bonus in return for the provision of a higher quality development.~~

2) ~~Unless waived by the Town Council, the PD-R District is permissible on tracts of land of least ten contiguous acres.~~

~~(b) **Uses**~~

~~Uses listed in the R-E, R-10, R-8, R-6 Districts are generally allowed in a PD-R District (see Table 2-1 § 155.202), subject to approval by the Town Council.~~

~~(c) — **Project Boundary Buffer**~~

- ~~1) — A perimeter buffer shall be required along all project boundaries of a planned residential development.~~
- ~~2) — Where narrower lot widths are provided, a Class C buffer shall be provided (see § 155.402) along all project boundaries.~~

~~(3) — **Planned Development Commercial (PD-C) District**~~

~~(a) — **Minimum Requirements**~~

- ~~1) — The Planned Development Commercial District is an option provided to enhance the design of a commercial development within a comprehensively planned development by allowing for additional flexibility not available in nonresidential districts.~~
- ~~2) — Unless waived by the Town Council, the minimum tract of land for rezoning is two contiguous acres.~~

~~(b) — **Uses**~~

~~The uses listed in the O-1, B-1, B-2, and B-3 districts are generally allowed in a PD-C District (Table 2-1 see § 155.202), subject to approval by the Town Council.~~

~~(c) — **Project Boundary Buffer**~~

- ~~1) — Unless waived by the Town Council, a Class B buffer (see § 155.402) shall be provided along all project boundaries abutting a nonresidential district.~~
- ~~2) — Unless waived by the Town Council, a Class C buffer (see § 155.402) shall be provided all project boundaries abutting a residential district.~~

~~(4) — **Planned Development Industrial (PD-I) District**~~

~~(a) — **Minimum Requirements**~~

- ~~1) — The Planned Development Industrial District is an option provided to encourage unified industrial complexes of high quality by allowing for additional flexibility not available in nonresidential districts.~~
- ~~2) — The PD-I District is permissible on tracts of land of least ten contiguous acres.~~

~~(b) — **Uses**~~

- ~~1) — The uses listed in the B-1, B-2, B-3, I-1, and I-2 Districts are generally allowed in a PD-I District (see § 155.202), subject to approval by the Town Council.~~

- 2) ~~Non-industrial or non-manufacturing uses located in a PD-I District are intended to serve the needs of the development and not the needs of a surrounding area. Areas designated for non-industrial and non-manufacturing activities shall be oriented towards the interior of the project and shall not be located on exterior or perimeter streets or property boundaries, but shall be centrally located within the project to serve the employees of the district.~~

(c) ~~**Project Boundary Buffer**~~

~~A Class C buffer shall be provided (see § 155.402) along all project boundaries.~~

(5) ~~**Planned Development Mixed Use (PD-MU) District**~~

(a) ~~**Minimum Requirements**~~

- 1) ~~The Planned Development Mixed Use District is an option provided to encourage coordinated mixed-use developments.~~
- 2) ~~Unless waived by the Town Council, the minimum tract of land for rezoning is two contiguous acres.~~

(b) ~~**Uses**~~

- 1) ~~The uses listed in the Use Regulations Table are generally allowed in a PD-MU District (Table 2-1 § 155.202), subject to approval by the Town Council.~~
- 2) ~~The mix of uses shall be established by the Town Council at the time of approval.~~

(c) ~~**Project Boundary Buffer**~~

~~Unless waived by the Town Council, a Class C buffer shall be provided (see § 155.402) along all project boundaries.~~

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2012-04-02, passed 4-2-12; Am. Ord. 2012-12-02, passed 12-3-12; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord. 2017-08-05, adopted 8/7/2017)

**§ 155.204 OVERLAY DISTRICT STANDARDS****(A) THOROUGHFARE OVERLAY DISTRICT****(1) Established**

The thoroughfare overlay district (TOD) is established for the purpose of maintaining a safe, efficient, and functional development pattern adjacent to major thoroughfares while maintaining an aesthetic streetscape environment. It is recognized that an enhanced development quality in areas of high visibility promotes economic development and stability in the entire community. The standards established in this section shall be applied, at the discretion of the town council, to nonresidential properties which adjoin major thoroughfares.

**(2) Designation**

Properties subject to these regulations shall be adjacent to, or have immediate access to a major thoroughfare. The boundaries follow the major thoroughfares both within the corporate limits and extraterritorial jurisdiction, and in no case extend more than 150 feet from the outer edge of the right-of-way of a thoroughfare.

**(3) Permitted Uses**

All permitted, ~~special, and conditional~~ and special uses of the underlying zoning district are allowed subject to the specific requirements and procedures for each classification and any standards listed herein.

**(4) Dimensional Requirements**

The dimensional requirements of this overlay district shall be the same as the underlying zoning district.

**(5) Street Yard Requirements**

- (a) All new developments or major expansions of existing development (25% increase in building area, lot area, or parking requirement) shall provide a landscaped street yard as provided in Table 2-6.

**Table 2-6 TOD Street Yard Requirements**

|                | Street Yard Width (feet) |         |         |
|----------------|--------------------------|---------|---------|
|                | Average                  | Minimum | Maximum |
| TOD Commercial | 20                       | 10      | 40      |
| TOD Industrial | 40                       | 20      | 80      |

- (b) For purposes of this section, the street yard area is determined by multiplying the lot frontage, less driveways, times the average required width to determine the required

street yard area. There shall be no structures allowed in this street yard, except as follows:

- 1) Landscaping;
- 2) Drainage features designed to mimic the natural environment;
- 3) Public utilities and facilities;
- 4) Driveways and streets;
- 5) Sidewalks, pedestrian ways, or bikeways;
- 6) Other than a Development Identification Sign described in §155.403, freestanding signs may not exceed six feet in height and 24 square feet per sign face.

**(6) Landscape Requirements**

- (a) All required street yard areas shall be covered by lawn, ground cover, trees, shrubs, or mulch, except as noted above. Maintenance shall be the responsibility of the property owner. Landscaping shall be required according to Table 2-7 below.

**Table 2-7 TOD Landscape Requirements**

|                | Min. Landscape Requirements              |                                           |
|----------------|------------------------------------------|-------------------------------------------|
|                | Trees (per 1,000 sq. ft. of street yard) | Shrubs (per 1,000 sq. ft. of street yard) |
| TOD Commercial | 1                                        | 5                                         |
| TOD Industrial | 2                                        | 10                                        |

- (b) The preservation of existing trees shall be required when practical, utilizing recognized professional standards. The species and size of all plant material shall be specified on the site plan, and at least 50% of the total shall be evergreen. Trees shall have a minimum height of six feet and shrubs must have a minimum height of 18 inches at planting and reach 30 inches within two years. Additional trees may substitute for shrubs on a one-for-one basis. The requirements set forth in this section may be used to fulfill up to 67% (two-thirds) of the landscaping required under § 155.402(D), except that landscaping within all parking areas for vehicles, as set forth in § 155.401(C)(3)(d)2., and buffers, as set forth in § 155.402(E)(2)(c) shall be provided completely, as required, in addition to these requirements.

**(7) Access Regulations**

All driveways and public street intersections in a Thoroughfare Overlay District shall be subject to NCDOT and the town standards and permitting processes, whichever is applicable. Any parcel of land with less than 400 feet of frontage on a thoroughfare may have no more than one point of access to the thoroughfare. One additional driveway for each additional 400 feet

of thoroughfare frontage shall be allowed, and one per 400 feet of additional frontage. Where medians are provided which prohibit turns into oncoming traffic, access points may be provided every 200 linear feet. No driveway shall be allowed within 300 feet of the intersection of two thoroughfares or within 200 feet of an intersection of any other public street on the thoroughfare. Driveways shall be a minimum of 200 feet apart (measured from center line to center line) on thoroughfares, and shall align with opposing drives, where possible. Shared driveways or parallel access roads shall be used when deemed necessary, and the appropriate legal documents may be required by the town prior to driveway permit issuance. If access to a lot or legally created parcel of land is physically unobtainable under these provisions, an access point may be approved which is located the greatest distance possible from an existing access point and in the safest possible location to be approved by NCDOT and/or the town. For the purpose of this section, adjacent lots in common ownership fronting on a thoroughfare in a Thoroughfare Overlay District shall be considered as one lot when determining permitted driveways.

(8) **Alternative Means of Compliance**

It is recognized that strict interpretation and application of these standards may create particular hardships in areas of unusual topographic condition, or in retrofitting existing developed properties which are expanded. ~~The Planning Board, by majority vote, may approve a site plan~~ Board of Adjustment may grant a Variance for any proposed development which ~~does not meet~~ proposes to meet any specific standard of this section ~~as via~~ an alternate means of compliance, subject to making the following findings (in addition to those of a Variance):

- (a) The proposed development attempts to meet the intent of the Thoroughfare Overlay District.
- (b) There are physical conditions, not only economic considerations, which prevent the proposed development from meeting the specific standards of this chapter.
- (c) The proposed development will be designed to meet the standards of this section to the fullest extent possible.
- (d) In determining alternative means of compliance, the ~~Planning Board~~ may consider various features such as width in relation to opacity of landscaping in street yard, number of required parking spaces, and driveway locations and/or distances from nearby intersections.

(B) **WATERSHED PROTECTION OVERLAY (-WP)**

The use and development standards for the Watershed Protection Overlay (-WP) are found in § 155.501.

(C) **DOWNTOWN OVERLAY DISTRICT**

The Downtown Overlay District is established for the purpose of fostering the economic vitality of the area within the district's boundaries. It is recognized that an attractive and vibrant downtown

promotes the economic development and stability of the entire community. The uses, character, and design of the public and private realm all contribute to the success of the downtown. The standards established herein shall be applied to all properties which are located within the district's boundaries.

(1) **Designation of Downtown Overlay District**

This district shall be an overlay district and shall include all properties located wholly or partially (20 percent or more) within the Downtown Overlay District of the Town Zoning Map.

(2) **Permitted Uses**

(a) All permitted, ~~special, and conditional~~ and special uses of the underlying zoning district are allowed subject to the specific requirements and procedures for each classification, subject to site plan approval and the additional requirements of this section.

(b) All nonresidential tenants, businesses, uses, and activities on the ground (first) floor of a building which fronts on Main Street shall be responsive to and provide services, goods, or otherwise engage in business with pedestrians and the general public. More specifically, the following use types are prohibited on the first floor (street level) of Main Street, ~~with the Planning Director responsible for ultimate interpretation:~~

1. Businesses which exclusively engage in “by appointment only” clientele or do not have active reception areas which accept walk-in customers;
2. Residential uses. This does not include ancillary facilities, such as lobbies which serve upper story residential uses;
3. Drive-thru facilities;

(3) **Sign Regulations**

The following criteria modifies, but does not replace, the text of §155.403 “Signs”, and may be either more or less restrictive.

(a) All signs allowed in the Downtown Overlay District, with the exception of Window / Door Signs, Awning / Marquee / Canopy Signs, and Flags, shall have at least one distinguishing architectural or design feature, including but not limited to one of the following:

1. Exterior illumination with decorative lighting fixture;
2. Decorative or architectural mounting bracket;
3. Decorative border design that deviates from a standard rectangle;
4. Or some other design feature or embellishment that distinguishes the sign as high quality and enhancing of the downtown streetscape.

(b) **Illumination**

Illumination of sign shall not be restricted based on proximity to residential uses, but rather by the business hours of the use.



(c) **Clearance**

1. The minimum required clearance for any overhead sign, awning, or canopy is seven feet – six inches.
2. In order to ensure adequate pedestrian movement on the sidewalk (including the opening and closing of vehicular doors), no overhead sign, awning, or canopy shall be supported through the use of columns or other measure which requires it to be anchored to the ground



(d) **Prohibited Signs**

Except for “Historic Signs”, the following additional signs shall be prohibited in the Downtown Overlay District:

1. All signs designated in §155.403(E) “Signs Prohibited”;
2. Electronic Changeable Copy Signs;
3. Freestanding Signs that cannot meet the setback criteria;
4. Billboards;
5. Manual Changeable Copy Signs, unless associated with a theater, assembly, or a church;
6. Drive-Thru Menu Boards;

(e) **Promotional Banners and Seasonal Displays**

1. Small window posters advertising upcoming special events, sales events, or other such seasonal information are allowed on ground-floor storefront windows without requirement for a sign permit. A maximum of one 24 inchesx36 inches poster, or two 18 inches x24 inches posters are allowed per storefront, and these posters must be relevant and current.

(f) **Easels / Sandwich Boards / A-Frame Signs**

1. Easels / Sandwich Boards / A-Frames Signs shall be permitted provided that there is a minimum of five feet of sidewalk clearance.
2. Easels / Sandwich Boards / A-Frames Signs shall be a maximum of six square feet in area (per side).
3. Easels / Sandwich Boards / A-Frames Signs shall only be displayed during business hours, and may not be attached to anything else.
4. Easels / Sandwich Boards / A-Frames Signs shall be constructed of quality frame materials, such as decorative metal or wood; plastic shall not be allowed.

(g) **Wall / Fascia Signs**

1. All tenants not on the ground floor and located within the same building with units accessed internally may only utilize a Tenant Identification Sign (§155.403(G)(9)).
2. A wall sign designed and functioning as a larger version of a tenant identification sign (advertising for some or all on-site tenants) may be permitted provided that it:
3. Adheres to the dimensional requirements of a wall sign, and
4. Each tenant may not be advertised more than once per façade, if they are included on the modified wall sign.

(h) **Flags**

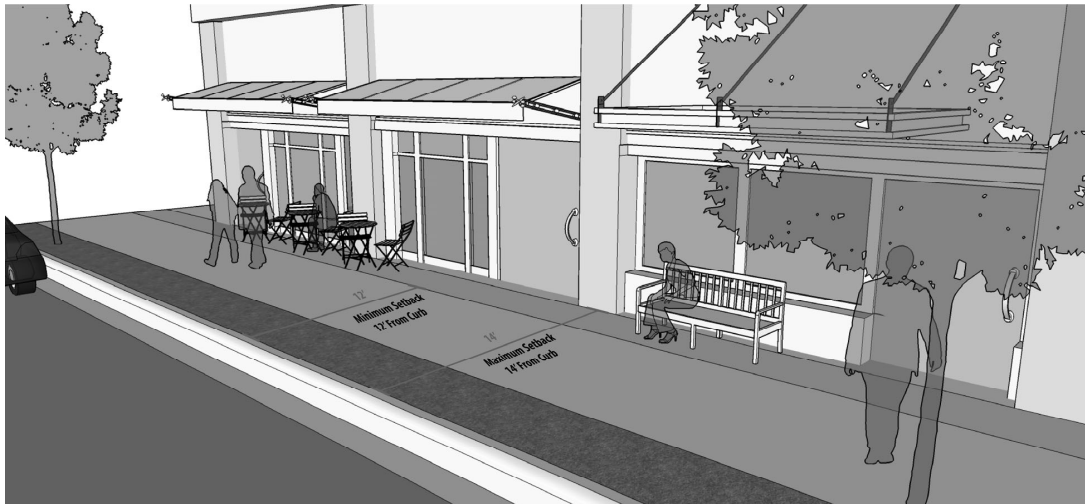
1. Angled- or horizontally-projecting flagpoles may encroach into the right-of-way with an approved sign permit, although they must remain three feet from the back of curb. Permission from NCDOT may be required, depending on ownership of the right-of-way.
2. Only one flagpole per building or site is allowed, with a minimum required frontage as follows:
  - A. One angled- or horizontally-projecting flagpole allowed for buildings with 25 feet of building frontage.
3. An exemption to the maximum number of flags and clearance requirements is that each ground floor entrance may have one small flag (two square feet per side) projecting from adjacent to the door.

(4) **Dimensional Requirements**

- (a) The purpose of modified setbacks on Main Street in the Downtown Overlay District is to provide adequate room for outdoor seating and dining, display of wares, an enhanced pedestrian realm, and create space for an active street life, while also continuing a unified visual building frontage along the street. This is in addition to the standard purpose for enforcing setbacks in the Town.
- (b) Setbacks and build-to lines for nonresidential and mixed use zoning districts:
  1. The dimensional requirements of this Overlay District are the same as the underlying zoning district, with the following modifications to setbacks and

dimensional standards on that portion of Main Street that is within the Downtown Overlay District.

- A. Minimum and maximum setbacks are established on properties that front on roads, sidewalks, or public rights-of-way:
- i. A minimum setback line is established at 12 feet from back of curb.
  - ii. A maximum setback line is established at 14 feet from back of curb.



- iii. ~~The Planning Director~~Board of Adjustment may grant a Variance to~~may~~ allow an alternate building setback that pulls the building or a portion thereof closer to the street to provide consistency with adjacent properties and continue an established streetscape rhythm.
  - iv. ~~The Planning Director~~Board of Adjustment may waive-grant a Variance to vary the maximum setback requirement in order to preserve the historic character or landmark status of an existing building, to preserve the character of a park or public square, or to ensure the Americans with Disabilities Act (ADA) requirements are met.
  - v. Architectural, landscaping, or other site elements may still be required as part of the site plan to continue the appearance of a unified frontage with neighboring buildings.
- B. The Street-facing façades of a building are permitted to exceed the minimum and maximum setback lines established above to allow for decorative, recessed or projected entries, balconies, or window treatments that are in accordance with other parts of this Section.
- C. If a building is set back further than neighboring buildings, some design element shall be incorporated in front of the first floor façade, such as knee wall, first floor

roof projection designating outdoor seating area, or other architectural element or design feature that continues the streetscape rhythm of neighboring buildings.

(5) **Development Standards**

The following criteria modifies, but does not replace, the text of §155.400 “Access”, §155.401 “Off-Street Parking and Loading”, §155.402 “Landscaping, Screening, and Buffering”.

- (a) Widths of access ways, as described in Table 4-1 “Dimensional Standards of Access Ways”, may be reduced to match the dimensions of existing streets in the Downtown Overlay District, with approval by the Planning Director, Engineering Director, and Fire Marshal as part of the standard review of individual development projects.

(b) **Parking Requirements**

1. **General:**

- A. Cross access shall be provided between adjacent parking lots to minimize the number of access points along streets. ~~The Planning Director may waive~~ Board of Adjustment may grant a Variance to this requirement if cross access is not feasible due to natural features or site layout restrictions. Cross access shall be accompanied by a cross access easement or agreement, recorded with the Clerk of Court. Single family residential and duplexes are exempt from this requirement.
- B. Any new construction in the Downtown Overlay District with frontage on a public right-of-way shall be required to formalize on-street, parallel parking, along the frontage(s) of the property, including landscaped bump-outs at intersections. Adjacent on-street parking spaces may count toward meeting the parking requirement for a site.
- C. All parking spaces within the Downtown Overlay District shall be paved. Permeable paving that is dustless and meeting the load-bearing standards required for its use and meeting any other engineering standards of the town may be allowed if approved by the ~~Planning Director and Engineering Director~~ Town Engineer. No grass, gravel, dirt, or other non-engineered surfaces are allowed.
- D. Multi-story parking structures/decks:
  - i. If visible from the street, multi-story parking structures/decks shall place the shortest dimension along the street, if possible.
  - ii. On Main Street, multi-story parking structures/decks shall incorporate usable spaces for nonresidential uses (i.e. – storefronts and/or tenant spaces) along the entirety of first floor facades that front on public rights-of-way, excepting entrances and exits.
  - iii. Multi-story parking structures/decks shall be architecturally consistent with surrounding buildings and shall meet all other criteria of this section.

2. **Residential off-street parking**

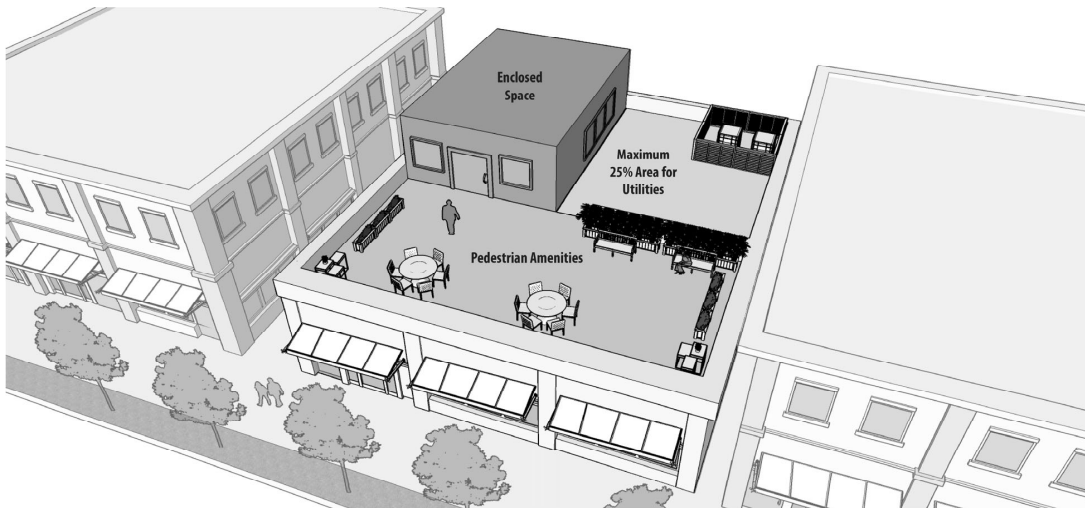
- A. Residential off-street parking requirements may be met-satisfied with off-site parking, ~~subject to Planning Director approval,~~ provided the following are met:
  - i. The off-site parking area is in proximity to the parcel on which the residential dwellings are located;
  - ii. The off-site parking spaces are designated as reserved for the residential units which they serve;
  - iii. Required handicap parking spaces are located as close as possible to the residential dwellings;
  - iv. Required guest spaces may utilize adjacent on-street parking, to the extent that it is feasible and that those spaces remain publicly accessible.
  - v. All other relevant conditions of §155.401(C)(3)(c), “Off-Site Parking”, are met.
- 3. Nonresidential development and uses:
  - A. All nonresidential and mixed use developments shall utilize alley loaded and/or parking to the rear of the building.
  - B. ~~The Planning Director~~Board of Adjustment may ~~allow-grant~~ Variance to the ~~a use to be established, or existing structure expansion even if off street parking and loading requirements of Section 155.401 for business or structure expansions cannot be met for the use,~~ provided that as much off-street parking and loading as can reasonably be provided is provided, and no foreseeable traffic congestion problems will be created.
  - C. New construction shall provide bicycle rack(s) on site or pay fee-in-lieu. The fee-in-lieu shall be calculated using an average purchase price for the bicycle rack(s) plus installation cost, and will be used to provide appropriate bicycle infrastructure and parking facilities in the public right-of-way or on public property in downtown.
- (c) Landscaping, Screening, and Buffering Requirements
  - 1. ~~The Planning Director may allow a new use to be established or an existing use to be expanded, even if all~~Board of Adjustment may grant Variance to the landscaping, screening, and buffering requirements cannot be met, provided that as much landscaping, screening, and buffering as can be reasonably provided is provided.
  - 2. All landscaping shall be designed to reduce unsafe areas of limited visibility.
  - 3. Berms may not be used for required screening.
  - 4. Landscape buffers or opaque visual screening, except that used for screening parking areas to a maximum height of three feet, shall not be required along any public right-of-way.
  - 5. Fences or walls not used for required screening or for providing security for a parking area shall be limited to four feet in height. This requirement does not

apply to single family residential, duplexes, or townhomes. Chain link fencing is prohibited.

6. Plastic, vinyl, and similar low quality materials are prohibited for planters and window boxes.
7. Street trees:
  - A. At the discretion of the Planning Director, street trees shall be required at appropriate, coordinated locations along all public rights-of-way at an interval that mimics the existing tree placement in that area.
8. ~~Subject to Planning Director approval, the following may be approved.~~The following are considered minor administrative modifications:
  - A. ~~Modifications to the required amount of site interior landscaping materials, in In zoning districts where the maximum allowed impervious area infringes on site area available for landscaping, the number of site interior landscaping materials may be reduced up to 25% as a minor administrative modification.~~
  - B. Understory tree species may be substituted for canopy trees. This includes trees required as part of overlay districts, site interior landscaping requirements, parking lot landscaping, street trees, and incompatibility buffers.
  - C. High-quality, raised landscaping planters may be substituted for required plantings ~~provided that, at a rate to be determined by the Planning Director based on area of planters provided. Planters~~ the planters must match the existing streetscape materials and design palette if adjacent to a public right-of-way, or that of the primary structure. Plastic, vinyl, and similar low quality materials are prohibited.

**(6) Neighborhood Character, Appearance, and Architectural Design**

- (a) General requirements applicable to all properties:
  1. Right-of-way shall be dedicated (if necessary) to allow for two-way traffic and on-street parking (both sides) along public streets.
  2. In new construction, a minimum of eight feet of mostly-unobstructed walking surface (from back of curb) shall be provided for pedestrian traffic on Main Street. Some of this area may be used for public display of wares or outdoor seating, pursuant to the relevant portions of this Chapter, so long as a minimum of five feet of fully unobstructed clearance remains for pedestrian traffic.
  3. Structures shall be oriented so that their primary façade faces and is parallel with the principal street on which they are located.
  4. Nonresidential and mixed use infill development shall occupy the full width of the lot width to create a continuous streetscape. Allowances may be made for required vehicular and pedestrian ingress/egress points, courtyards, or other pedestrian friendly points of interest.
  5. The following shall apply to properties on Main Street:
    - A. New and infill development shall be a minimum of two stories, with the uppermost story being enclosed space, space for pedestrian amenities, or a combination thereof. A maximum of 25 percent of the uppermost story may be set aside to allow room for mechanical equipment. .



- B. Buildings shall not have a single tenant space which exceeds 10,000 square feet in area on the first floor, unless at least one external, storefront entrance is provided for every 5,000 square feet, and the internal space is designed to be able to be partitioned.
- 6. Corner Lots on Main Street:
  - A. Corner buildings shall match or exceed the height of adjacent buildings, with a minimum height of two stories.
  - B. Façades shall be oriented so that they face and are parallel with adjoining streets.
  - C. Where practicable, vehicular access shall be located on the side street and as far as possible from the intersection.
- 7. Materials:
  - A. Quality building materials shall be used on the exterior facades of new construction, replacement, renovation, or covering of an existing façade. The following materials are prohibited from use, ~~unless the materials are identified on architectural elevations and specifically approved for use by the Planning Director:~~ stucco; metal panels; corrugated metal; fiberglass; metal screening; horizontal lap siding made of plastic, vinyl, or aluminum; concrete block (flat or textured); and concrete panels; ~~or any other material deemed substandard by the Planning Director.~~
- 8. Windows:
  - A. Opaque windows shall be limited to a maximum of 10 percent of the total window requirement of a building. In this instance, “opaque” is defined as any window material or glazing (glass block, frosted or smoked windows, wraps, etc.) that inhibits view from the outside to the inside of the building.
  - B. False windows or faux windows are not permitted on the first floor on any façade that is visible from a public right-of-way.
  - C. Security bars or similar theft prevention devices of high visual impact shall not be allowed on any window that is visible to the public. Any security

measures shall be of low visual impact or seamlessly integrated into the design of the window, building, or façade.

D. Nonresidential and mixed use zoning districts, and conforming nonresidential buildings in residential zoning districts:

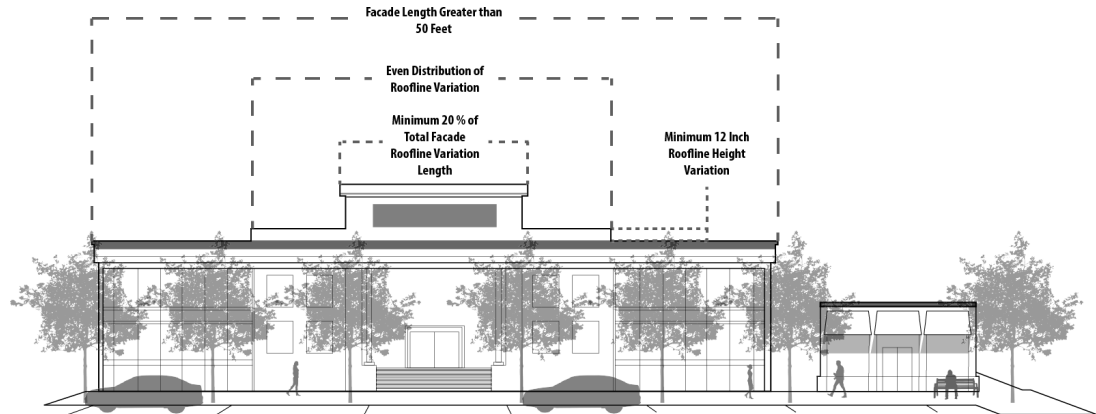
- i. For the purpose of calculating the window percentages required below, a building floor shall be measured from two feet above finished floor to a height of 10 feet.
- ii. The ground floor of a building shall provide a minimum window coverage of 60 percent on the primary façade. Corner buildings may reduce the ground floor window coverage to 30 percent on the side street façade.
- iii. Upper floors shall provide a minimum of 30 percent window coverage of the façade, and simple patterns shall be used to subdivide the windows to add character to the buildings. Horizontal massing of upper floor windows is prohibited, ~~unless they are identified on the architectural elevations and specifically approved for use by the Planning Board.~~
- iv. Buildings shall not be altered as to reduce the amount or area of first (ground) floor storefront windows to less than the amount specified in this Section.
- v. Ground floor windows and translucent doors within 20 feet of the back of curb along a road frontage shall not be covered or screened with window coverings, so as to obstruct visibility over more than 25 percent of the surface area, for more than one half of business hours. Existing violations shall be removed no later than December 31, 2019.
- vi. Ground floor storefront windows shall incorporate at least one architectural design element to enhance the visual appeal of the district. Elements may include but are not limited to soldier courses, brick patterns, columns, knee walls, recessed entrances, peaked or arched windows, or decorative window frames. Large windows that open and provide a direct connection to the street, such as roll-up, accordion, or retracting windows are permitted, so long as they blend into the character of the street and district.

9. Roofs:

- A. Parapet style roofs are required for all new development that is not single family residential or duplexes.
- B. Peaked roofs are prohibited on new or infill development on of Main Street.
- C. Façades with rooflines greater than 50 feet in length shall incorporate a change in height. This roofline variation shall be minimum 12 inches, for a minimum of 20 percent of the total length of the façade. Roofline variations



shall be evenly distributed along the façade to balance the overall appearance of the building.



10. Utilities:

- A. New or replacement of existing utilities shall be undergrounded where practicable.
- B. New utilities shall be consolidated with existing utilities to reduce the proliferation of overhead wires and cables.
- C. All mechanical equipment shall be completely screened from view and located on the roof, where practicable, or an alternate location (for instance underground) that achieves the same screening performance standard ~~and completely screened from view. The Planning Director may allow an alternate location of mechanical equipment, so long as it is screened or otherwise hidden to the greatest extent possible from view.~~

11. Entrances

The following shall apply to entrances in nonresidential and mixed use zoning districts, and in conforming nonresidential buildings in residential zoning districts.

- A. Existing entrances with features such as recessed or angled entries shall not be removed, except to restore the storefront to a more historically accurate design.
- B. Entrance doors shall be a minimum of 25 percent translucent.
- C. Shingled or plastic awnings are prohibited.

(7) **Incentives and disincentives:**

- (a) The Town encourages the use, re-use, renovation, and other creative endeavors that preserve historic structures, create new structures, or otherwise enhance the private or public realm, and which add value and enhance or promote the character of downtown Clayton. To that purpose, the following incentives and disincentives are established in the Downtown Overlay District.
- (b) Incentives:

1. Outdoor seating and dining areas and outdoor display areas, on private property and in public rights-of-way, shall be allowed with approval of a Zoning Compliance Permit and accompanying dimensioned site drawing complying with §155.311(B) "Outdoor Dining". In this instance and within this Overlay District, the Zoning Compliance Permit expressly replaces any other requirement for a Site Plan application, ~~unless the Planning Director determines otherwise or elevates the decision to a higher level.~~
    - A. Outdoor seating and dining areas and site elements shall be constructed of high-quality materials. Plastic or unfinished wood are not allowed for tables, chairs, planters, window boxes, benches, or similar.
    - B. All outdoor seating and dining and site elements shall be kept in good working order and appearance and shall not fall into disrepair or they shall be removed immediately.
    - C. All accoutrements associated with outdoor seating and dining (tables, chairs, benches, planters, bollards, dividers, umbrellas, space heaters, lighting, entrance menus, etc.) shall be maintained to a high standard which demonstrates appreciation of the special character of the district.
  2. Properties in the Downtown Overlay District may be developed at densities and intensities that are consistent with the Town's adopted Future Land Use Map, subject to the approval of a Special Use Permit.
  3. Downtown properties that meet other eligibility requirements may apply for:
    - A. The Façade and Site Element Improvement Grant;
    - B. The Clayton Downtown Redevelopment Incentive Grant (CDRIG).
- (c) Disincentives:
1. Any demolition of a historically-contributing building or structure in the Downtown Overlay District shall result in a one year waiting period between application for a demolition permit and the time that the demolition occurs, and a one year moratorium (following demolition) of development applications and buildings permits upon that lot. The Town Council can waive the waiting period and the moratorium by a majority vote if the proposed new development is determined to be in the best interest of adjacent property owners and the Town.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2012-01-04, passed 1-3-12; Am. Ord. 2012-04-02, passed 4-2-12; Am. Ord. 2012-12-02, passed 12-3-12; Am. Ord. 2012-12-04, passed 12-3-12; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord. 2016-04-04, passed 04-04-2016)

## ARTICLE 3: SPECIFIC USE STANDARDS

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### § 155.300 USE INTERPRETATION

#### (A) USES

- (A) The list of uses included in the Use Regulations Table (Table 2-1 in §155.202) and defined in this subsection is intended to classify uses on the basis of common functional characteristics (activity, type of customers, goods or services) and land use compatibility. Other uses not specifically listed in the Use Table, but exhibiting similar characteristics to a listed use, shall be so classified by the interpretation of the Planning Director pursuant to the procedures and standards set forth in 155.300(B) below.

#### (B) USES NOT SPECIFICALLY LISTED

- (1) Any use not specifically listed in this chapter is expressly prohibited, unless the Planning Director determines in accordance with § 155.715, that the use is similar to a use or uses listed in this chapter. Where an unlisted use is similar to a use listed in Table 2-1 (§ 155.202), the unlisted use shall also be subject to the similar uses standards and approval process. The Planning Director shall not amend this chapter by adding to or eliminating any use standard for the unlisted use.
- (2) Where an unlisted use is found by the Planning Director not to be similar to any other use listed in Table 2-1 (§ 155.202), the use shall be permitted only following a text amendment in accordance with § 155.703. The decision of the Planning Director may ~~not~~ be appealed to the Board of Adjustment.

- (3) When considering the appropriate districts for a use not listed in the Use Regulations Table, the district intent statements (see §155.200) shall be taken into consideration.
  - (4) Determination of an appropriate category for a proposed use not currently listed shall be made by applying the following criteria.
    - (a) The actual or projected characteristics of the activity in relationship to the stated characteristics of each use category.
    - (b) The relative amount of site area or floor space and equipment devoted to the activity.
    - (c) Relative amounts of sales from each activity.
    - (d) The customer type for each activity.
    - (e) The relative number of employees in each activity.
    - (f) Hours of operation.
    - (g) Building and site arrangement.
    - (h) Types of vehicles used and their parking requirements.
    - (i) The relative number of vehicle trips generated.
    - (j) Signs.
    - (k) How the use is advertised.
    - (l) The likely impact on surrounding properties.
    - (m) Whether the activity is likely to be found independent of the other activities on the site.
- (C) **DEVELOPMENTS WITH MULTIPLE USES**
- (1) Nonresidential, townhouse, and apartment complexes may be established on a single unified parcel, provided that the following requirements are met. Except as set forth above, no more than one principal building or use may be erected on a single lot of record.
  - (2) Development with multiple uses shall meet all applicable development standards as set forth in §§ 155.200 through 155.204, §§ 155.400 through 155.404 and §§ 155.500 through 155.502. Applicants shall comply with all other provisions in this Chapter and all other applicable laws.
  - (3) When the principal uses of a development fall within different group of uses or no group of uses, each principal use shall be classified in the applicable group of uses or treated as an individual use and each use shall be subject to all applicable regulations for that group of uses or individual use.

- (4) A development comprised of uses regulated by separate rows on the Use Regulations Table shall be reviewed using the most restrictive process from among the proposed uses. If a proposed development on a single parcel includes a special use review, then the entire development requires special use review.
- (5) Where a use requiring approval as a ~~conditional use or a~~ special use lies on a separate legal parcel, only the building containing the use and its separate parcel shall be subject to review, not the entire project. However, where the separate legal parcel is an outparcel, the application shall describe the relationship of the outparcel to the remaining site.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2006-06-01, passed 6-19-06; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Ord. 2017-04-06, approved 04/03/2017)

## § 155.301 RESIDENTIAL USE STANDARDS

The following standards shall apply to all permitted uses, ~~conditional uses~~ and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

### ~~(B)~~ (A) ADULT-GROUP CARE HOME

- (1) An assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to residents, either directly or, for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult-group 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.
- (2) In the R-E District, an adult-group care home shall provide at least 150 square feet of gross floor area per occupant ~~and 4,000 square feet of lot area per occupant.~~
- (3) In the R-10 District, an adult-group care home shall provide least 150 square feet of gross floor area per occupant ~~and 2,000 square feet of lot area per occupant.~~
- (4) In the R-8 District, an adult-group care home shall provide least 150 square feet of gross floor area per occupant ~~and 1,600 square feet of lot area per occupant.~~
- (5) In the R-6 District, an adult-group care home shall provide at least 150 square feet of gross floor area per occupant ~~and 1,200 square feet of lot area per occupant.~~
- (6) Pursuant to N.C. General Statutes 168-22, an Adult-Group Care Home shall not be located within a ½-mile radius of an existing Adult-Group Care Home.

### ~~(C)~~(B) APARTMENTS

Three or more attached dwelling units in a single structure on a single lot, although individual units may be owned by a single or many different entities. Apartments are usually multi-story, and individual units can be mixed vertically and/or horizontally.

- (1) No parking space shall be located in a required yard, except for the rear yard.
- (2) No off-street parking space shall be located closer than ten feet to any residential building wall.
- (3) For developments of 40 or more dwelling units, a divided ingress-egress driveway with a landscaped median is required at the main entrance to the community.
- (4) 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.

(C) **BOARDING HOUSE**

~~(D)~~ A building, other than a hotel/motel or bed and breakfast, containing not more than nine guest rooms. At least one meal is provided to guests. Individual guest rooms may not contain kitchens and personal services are not provided.

- (1) Boarding houses shall meet the standards of § 152.25 of the Town Code of Ordinances.
- (2) Each boarding house shall have a full-time resident manager.
- (3) Fifteen square feet of common living area other than kitchens, hallways and bathrooms shall be provided per occupant.
- (4) A boarding house shall not be located within 1,000 feet, as measured in any direction from property line to property line, of another boarding house.

~~(D)~~ **CHILD CARE HOME**

~~An assisted living residence that provides 24 hour supervision and personal care services for not more than eight orphaned, abandoned, dependent, disabled, or neglected children, together with not more than two adults who supervise such children, all of whom live together within a single residential dwelling unit. All Child Care Homes shall obtain appropriate licenses from the state.~~

- ~~(1) In the R-E District, a child care home shall provide at least 150 square feet of gross floor area per occupant and 4,000 square feet of lot area per occupant.~~
- ~~(2) In the R-10 District, a child care home shall provide at least 150 square feet of gross floor area per occupant and 2,000 square feet of lot area per occupant.~~
- ~~(3) In the R-8 District, a child care home shall provide at least 150 square feet of gross floor area per occupant and 1,600 square feet of lot area per occupant.~~
- ~~(4) In the R-6 District, a child care home shall provide at least 150 square feet of gross floor area per occupant and 1,200 square feet of lot area per occupant.~~
- ~~(5) Where abutting a residential use, visual buffers shall be provided so as to shield all parking areas, play areas and outdoor activity from abutting property. Such buffer shall consist of trees or other vegetation of such height and depths as determined by the Board of Adjustment or an appropriate fence or wall or combination thereof.~~

~~(E)~~~~(D)~~ **MANUFACTURED HOME**

~~(E)~~ A structure, transportable in one or more sections, 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 definition and with

respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the Manufactured Home Act.

Except as set forth in division (F)(1)(a) of this section, all manufactured homes shall meet or exceed the following criteria:

- (1) The manufactured home shall be set up and tied down in accordance with the standards set by the North Carolina Department of Insurance.
- (2) The manufactured home shall have a length not exceeding four times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis.
- (3) The manufactured home shall have a minimum of 960 square feet of enclosed and heated living area per dwelling area.
- (4) Screening of the foundation area shall be by a continuous, permanent masonry foundation or masonry curtain wall with a finished surface and constructed in accordance with North Carolina Building Code regulations. The foundation shall be unbroken except for required ventilation and access, and installed under the perimeter of the manufactured home.
- (5) Stairs, porches, entrance platforms, ramps, and other means of entrance and exit to and from the manufactured home shall be installed or constructed in accordance with the standards set by the North Carolina Building Code, free standing or attached firmly to the primary structure and anchored securely to the ground.
- (6) The exterior siding shall consist predominantly of vinyl or aluminum horizontal siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.
- (7) The moving hitch, wheels and axles, and transporting lights shall be have been removed.
- (8) At least two off-street parking spaces shall be provided.
- (9) The lot shall be cleared of all excess growth and graded to provide adequate drainage.
- (10) All areas not used for parking, manufactured homes, or required porches, shall be grassed or otherwise suitably landscaped to prevent erosion.
- (11) All standards must be met prior to issuance of a certificate of occupancy.

#### **(F)(E) MANUFACTURED HOME PARKS**

**(F)** Any plat of ground upon which two or more manufactured homes, occupied for dwelling purposes, are located, regardless of whether a charge is made for such accommodations. Includes a recreation vehicle park.

##### **(1) General Requirements**

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- (a) Notwithstanding the criteria set forth in division (E) above, manufactured homes located within manufactured home parks shall be in accordance with all of the requirements of division (E) above, except divisions (E)(2), (E)(3) and (E)(4) shall not apply to manufactured homes located in manufactured home parks. All new or replacement manufactured homes located in manufactured home parks shall be a minimum of 12 feet in width, measured at the narrowest part of the shortest axis of the home, and shall contain a minimum of 480 square feet of enclosed and heated living area. The foundation area of the manufactured home shall be at a minimum, completely screened with faux skirting panels constructed from durable vinyl, or panels simulating a faux brick, rock or stone finish. The skirting shall be completely framed including a bottom track. The foundation screening must be kept in a well maintained condition.
  - (b) All manufactured home parks shall be a minimum of three acres in size.
  - (c) No living compartment or structure, other than a Florida Room or other prefabricated structure, specifically designed for manufactured home use or extension, shall be added to any manufactured home. Porches covered with a roof and open on three sides may be permitted if yard space requirements of this chapter are not violated, and if such addition complies with the North Carolina Building Code.
  - (d) Up to two manufactured home park identification signs may be utilized, but the sum of the areas of one side of these signs shall not exceed 40 square feet. Only external, non-flashing lighting shall be used for illumination. The top portion of any sign shall not exceed 12 feet in height.
  - (e) Within a manufactured home park, one manufactured home may be used as an administrative office.
- (2) **Streets and Parking**
- (a) Each manufactured home shall abut upon an improved street or driveway, which shall have unobstructed access to a Town or state maintained road.
  - (b) Streets shall have a minimum paved width of 20 feet. In addition, every such street shall lie within a cleared right-of-way having a minimum width of 40 feet.
  - (c) Maintenance of such streets shall be provided by the owner or operator of the park.
  - (d) Permanent dead-end streets or cul-de-sacs shall not exceed 500 feet in length and shall be provided with a turnaround of at least 70 feet in diameter.
  - (e) Streets or drives within the manufactured home park shall intersect as nearly as possible at right angles, and no street shall intersect at less than 75 degrees. Where a street intersects a public street or road, the design standards of the North Carolina Highway Commission shall apply.

- (f) New street names or manufactured home park names shall not duplicate nor be similar to existing street names or manufactured home park names in the area.
- (g) A minimum of two paved parking spaces shall be provided adjacent to each manufactured home space, but shall not be located within any public right-of-way or within any street in the park.
- (h) No manufactured home lots shall be located within the 100-year floodway area, as shown on the latest National Flood Insurance Program map for the Town.

**(3) Lot Size and Lot Width Requirements**

- (a) Lots served by community or public water and sewer shall have a minimum lot size of 6,000 square feet and have a minimum lot width of 50 feet at the front building line. The maximum coverage of the lot by the unit and any accessory structures shall not exceed 40% of the lot area.
- (b) Lots served by individual septic tank and individual well shall have a minimum lot size of 25,000 square feet and have a minimum lot width of 75 feet at the front building line. The maximum coverage of the lot by the unit and any accessory structures shall not exceed 40% of the lot area.
- (c) Lots served by community or public water and individual septic tank or public sewer and individual well shall have a minimum lot size of 15,000 square feet and have a minimum lot width of 75 feet at the front building line. The maximum coverage of the lot by the unit shall not exceed 40% of the lot area.

**(4) Project Boundary Buffer**

 A Class C buffer shall be provided (see § 155.402) along all project boundaries of a manufactured home park.

**(5) Yard Requirements**

- (a) The following yard requirements shall pertain to every manufactured home in the manufactured home park:
  - 1. Minimum depth of street yard, measured from front lot line: 20 feet.
  - 2. Minimum width of side yard, measured from side lot line:
    - A. Ten feet.
    - B. Six feet, if served by public water and sewer.
- (b) Minimum depth of rear yard, measured from rear lot line: 20 feet.

- (c) Detached garages and accessory buildings may be erected on manufactured home lots as permitted in § 155.308.

**(6) Utility Requirements**

**(a) Water**

~~(b)~~ An accessible, adequate, safe supply of water shall be provided in each manufactured home park. When a municipal water supply is not available, a community water supply shall be developed and its supply used exclusively in accordance with the standards of the Sanitary Engineering Division of the North Carolina Division of Health Services and the County Health Department.

**(b) Sewer**

~~(c)~~ Adequate and safe sewage disposal facilities shall be provided in all manufactured home parks. Collection systems and sewage treatment complying with the requirements of the North Carolina Department of Natural Resources and Community Development and the County Health Department shall be provided.

**(c) Solid Waste**

1. The storage, collection, and disposal of solid waste in the manufactured home park shall be so constructed as to create no health hazards, rodent harborage, insect breeding area, accident or fire hazard, or pollution, and shall be maintained at least 100 feet from a well site.
2. All solid waste containing garbage shall be stored in a standard fly-tight, watertight, rodent-proof container, which shall be located at each manufactured home space, or an approved bulk container site. The manufactured home park management shall be responsible for the proper storage, collection, and disposal of solid waste as specified by the County Health Department.
3. Grounds, buildings, and structures shall be maintained free of insect and rodent harborage and infestation.
4. No junked or abandoned vehicles shall be allowed in the park.

**(7) Street Lights**

~~(2)~~ All streets in the manufactured home park shall be adequately illuminated. The minimum size street light shall be a 175-watt mercury vapor, approximately 7,000-lumen class or its equivalent, spaced at intervals of not more than 400 feet. [Equivalent illumination LED lights are also allowed.](#) Streetlights shall be at each intersection.

**(8) Telephone and Power Lines**

~~(3)~~ All telephone lines and power lines are to be located underground. Utility easements shall not be less than ten feet in width.

**(9) Recreation Areas and Facilities**

- (a) Adequate and suitable recreation areas to serve the anticipated population shall be provided and shall consist of at least 10,000 square feet for each 25 manufactured home lots. All manufactured home parks having five or more lots shall have a minimum size recreational area of 10,000 square feet. Manufactured home parks having more than 25 manufactured home lots shall provide 400 square feet of recreation space per lot in excess of 25.
- (b) No recreational facilities shall be placed in an area utilized for septic tank filter fields.

**(10) Mobile Home Parks with Prior Approval**

~~(4)~~ All mobile home parks approved for development by the Town, County, or State prior May 4, 1987 are hereby granted special use status under the terms of [§ 155.109\(A\)\(2\)](#), and the number of units contained therein may be maintained and replaced with other units, provided that:

- (a) A copy of the mobile home park plan bearing proof of approval by the responsible governmental agency shall be filed in the Planning Department no later than 90 days after the approval of this revision.
- (b) All replacement units shall obtain an approved zoning compliance permit and inspection by the Town Inspections Department prior to occupancy.
- (c) All replacement units shall meet the requirements of (F) of this section.
- (d) No replacement unit may increase any nonconforming standard of the existing unit, and in no case may any replacement unit be located nearer than ten feet to a public street right-of-way or periphery property line.
- (e) Any expansion of a mobile home park shall be in full accordance with the current standards of this chapter.
- (f) If a mobile home park which does not conform to current standards has been discontinued, or if 80% of the number of spaces are vacated for a period of 180 days, the mobile home park shall not be re-established, and all future use of the land therein shall comply fully with the provisions of this chapter.

~~(G)~~ **(F) NURSING HOME (CONGREGATE LIVING FACILITY)**

This term includes assisted living facilities, extended congregate care facilities, transitional living facilities, rehabilitative home care services, or home for the aged or any other residential structure, whether or not operated for profit, which undertakes for a period exceeding 24 hours: care, housing, food service, and one or more personal services for persons not related to the owner or administrator by blood or marriage.

In addition, this term shall include other residential uses such as dormitories, group homes with a central dining facility, and similar bed-based uses.

~~(G)~~ (1) A nursing home/congregate living facility located in the Residential-Estate (R-E) zoning district shall provide a Class "C" landscape buffer along all property lines in accordance with the standards of this chapter.

~~(H)~~~~(G)~~ **DUPLEX (also known as "TWO FAMILY HOUSE")**

~~(H)~~ Two attached dwelling units in a single structure on a single lot. The two units can be located on separate floors or side-by-side.

~~(H)~~~~(H)~~ **TOWNHOUSE (also known as townhome or rowhouse)**

~~(H)~~ Two or more attached dwelling units located on separately owned lots or on a single lot where the units are lined up in a row and share side walls, individual units can be mixed vertically. each unit has direct access to the outside, with front and rear walls exposed, to be used for access, light, and/or ventilation.

- (1) Side yards are not required for interior townhouses, but street and rear yards shall be provided for all townhouses, and building separation requirements shall be maintained for all townhouse structures.

(2) **Parking Options**

(a) **Rear-Loaded Garage**

1. Garage is placed entirely to the rear of the townhouse and is rear-accessed or alley loaded. Garage can be attached or detached.
2. Garage doors must face the alley or rear access drive.

~~(a)~~~~(b)~~ **Front-Loaded Garage**

1. Garage doors may constitute no more than 50% of the width of the individual townhouse unit.
2. The driveway must be aligned with the garage and shall not exceed the width of the garage entrance/door.
3. Any parking in the front setback must have sufficient depth so that parked cars do not encroach on the adjacent sidewalk. The garage doors must be set back at least twenty-five feet (25') from the sidewalk.
4. Garage doors must be recessed at least one foot behind the front wall plane, or a second story element over the garage doors must be provided that extends at least one foot beyond the front wall plane.

5. Front-loaded garages shall be prohibited on one-story townhome units.

~~(b)~~(c) **Shared Parking Area/Shared Parking Lot**

1. The minimum parking requirement shall be calculated as for an apartment or multi-family development.
- (2) The maximum number of units allowed in a single building is eight.
- (3) The first floor shall be located from ground level to a maximum of three feet above grade.

~~(H)~~ **(I) SECURITY OR CARETAKER QUARTERS**

~~(H)~~ A dwelling unit, which may be a mobile home, a manufactured home, or a modular home, located on a site for occupancy by a caretaker or security guard. If located on the same parcel as a primary dwelling, this use shall be considered an "Accessory Dwelling Unit" and shall be subject to the requirements outlined in 155.308(C)(1).

~~(K)~~(J) **SINGLE FAMILY HOUSE**

~~(K)~~ A detached dwelling unit located on a single lot with private yards on all four sides.

- (1) For alley-loaded houses, an alley shall be provided to the rear of the house. All vehicular access shall take place from the alley. No parking shall be permitted in the required street yard.

~~(L)~~(K) **UPPER-STORY RESIDENTIAL**

~~(L)~~ A dwelling unit located on a floor above a nonresidential use.

- ~~(2)~~(1) An upper-story residential unit shall adhere to all dimensional standards of the nonresidential zoning district in which it is located.

~~(M)~~(L) **ZERO LOT LINE**

~~(M)~~ A detached dwelling unit located on a single lot with private yards on three sides. The unit has a single side yard on one side comprising the equivalent of two side yards of a single-family detached house.

- (1) A single side yard shall be provided comprising the equivalent of two side yards of a conventional detached house. This reduction shall not be allowed on the street yard or to the side yard adjacent to lots that are not part of the zero lot line project.
- (2) An easement between the two property owners to allow for maintenance or repair of the house shall be required when the roof overhang or side wall of the house are within four feet of the adjacent property line (no roof overhang shall be permitted to extend across the property line). The easement on the adjacent property must provide at least five feet of unobstructed space. The easement shall be recorded on the subdivision plat.

- (3) If the sidewall of the house is on the property line, or within three feet of the property line, windows or other openings that allow for visibility into the side yard of the adjacent lot shall not be allowed. Windows that do not allow visibility into the side yard of the adjacent lot, such as a clerestory window or a translucent window, shall be allowed.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-06-02, passed 6-4-07; Am. Ord. 2012-01-04, passed 1-3-12; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord. 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)

## § 155.302 PUBLIC AND CIVIC USE STANDARDS

The following standards shall apply to all permitted uses, ~~conditional uses~~ and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

### ~~(A)~~(A) ASSEMBLY

~~(A)~~ A site or facility open to the public or membership groups for social, civic, political, educational, or recreational purposes. Typical uses include museums, cultural centers, recreational facilities, botanical gardens and community services such as after school care or tutorial services, medical services, employment services, and may also include uses such as cultural organizations and union halls.

### (B) CEMETERY

~~(B)~~ A place used or to be used and dedicated or designated for interments of human remains or pet animal remains. A cemetery may include an office, chapel, mausoleum, columbarium or crematory.

### (C) CHURCH OR PLACE OF WORSHIP

~~(C)~~ A sanctuary which may include a retreat, convent, seminary or other similar use, owned or operated by a tax-exempt religious group that is used periodically, primarily or exclusively for religious worship, activities and related services.

- (1) Where a church or place of worship requires a Special Use Permit, fFollowing the initial approval of places of worship through the ~~conditional special~~ use permit process (see § 155.7110), expansions of up to 20% of the area originally approved through the ~~conditional special~~ use permit process may be approved administratively. Any administrative approvals of expansion shall not waive any conditions of approval of the special use permit.

- ~~(2) Administrative approvals of expansions of places of worship shall not waive any conditions of approval of the conditional special use permit.~~

~~(3)~~(2) Accessory uses standards for a place of worship are set forth in § 155.308(E).

### (D) COLLEGE OR UNIVERSITY

~~(D)~~ An institution of higher learning offering undergraduate or graduate degrees, and including the buildings required for educational or support services, such as classrooms, laboratories, dormitories and the like.

### (E) DAY CARE FACILITY

~~(E)~~ A non-residential day care facility licensed by the state, if applicable; providing care for children or adults who do not reside in the facility, are present primarily during daytime hours, and do not regularly stay overnight. all daycares shall be subject to the following:



- (1) An off-street passenger drop-off and passenger loading area shall be provided for any day care. Such area shall not be located in the street yard.
- (2) Where abutting a residential use, ~~visual buffers~~ a Class "C" landscape buffer shall be provided so as to shield all parking areas, play areas and outdoor activity from abutting property.
- ~~(3) In home daycares, consisting of no more than 6 children and operating within a residential dwelling unit by a person that is a resident of the dwelling, shall be permitted subject to the requirements of a Class "B" Home Occupation (See §155.308).~~

(F) **GOVERNMENT SERVICE**

~~(F)~~ Buildings or facilities owned or operated by a government entity and providing services for the public, excluding utility and recreational services. Typical uses include administrative offices for government agencies, public libraries, police and fire stations, and resource centers.

(G) **HOSPITAL OR MEDICAL CENTER**

~~(H)~~ A facility licensed by the State of North Carolina which maintains and operates organized facilities for medical or surgical diagnosis, overnight and outpatient care, and treatment of human illness. A hospital may include related support facilities such as a helipad, laboratories, out-patient departments, staff offices, food services, and a gift shop.

(H) **SCHOOL (ELEMENTARY OR SECONDARY)**

~~(I)~~ A public or private institution offering a curriculum of education authorized by the state giving regular instruction at the primary, secondary level, or a school for the mentally or physically handicapped. Included in this definition are preschool programs. However, this definition does not include day care facilities, individual instruction, or classes in a specialized subject.

- (1) Following the initial approval of a school through the special use permit process (see § 155.711), expansions of up to 20% of the area originally approved through the special use permit process may be approved administratively.
- (2) Administrative approvals of expansions of schools shall not waive any conditions of approval of the special use permit.

(I) **SCHOOL (TECHNICAL, TRADE OR BUSINESS)**

~~(J)~~ An institution offering instruction beyond high school level with a course of study in vocational, technical or other special subjects.

- (1) Following the initial approval of a school through the special use permit process (see § 155.711), expansions of up to 20% of the area originally approved through the special use permit process may be approved administratively.
- (2) Administrative approvals of expansions of schools shall not waive any conditions of approval of the special use permit.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2009-08-02, passed 8-3-09; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)

## § 155.303 RECREATIONAL USE STANDARDS

The following standards shall apply to all permitted uses, conditional zoning district uses, and uses requiring a special use permit~~conditional uses and special uses~~, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

### ~~(X)~~(A) INDOOR ENTERTAINMENT

~~(X)~~ Amusement activities carried on wholly within a building. Typical uses include bowling alleys, billiard parlors, theaters, escape rooms, video game arcades, laser tag, indoor paint ball, skating rink, and activities of a similar nature. This does not include an adult-oriented business or adult-oriented amusement center.

### (B) OUTDOOR ENTERTAINMENT

~~(Z)~~ Amusement activities where any portion of the activity takes place outside or in the open, excluding recreation centers and parks. Typical uses include batting cages, golf driving ranges, go-cart tracks, outdoor paint ball, drive-in theater, outdoor skating rink, and miniature golf courses.

### (C) FITNESS/RECREATION CENTER

~~(AA)~~ A facility for conducting recreational activities, either indoors or outdoors, including but not limited to racketball, handball, swimming, running, weight lifting, athletic fields, tennis courts, and aerobic exercises. THIS FACILITY MAY also INCLUDE classrooms, BABYSITTING, AND LIMITED FOOD SERVICE FOR THE facility.

### (D) GOLF COURSE

~~(BB)~~ A facility providing a golf recreation area designed for executive or regulation play along with accessory support facilities, excluding miniature golf.

### (E) GUN RANGE

~~(CC)~~ An enclosed facility used for the discharge of firearms or projectiles at targets.

### (F) PARK

~~(DD)~~ An outdoor recreation area relying on a natural resource base or man-made recreation amenity and developed with a low to medium intensity of impact on the land. Typical uses include greenway (non-equestrian multi-use trail) systems, community gardens, wildlife management, playground, dog park, other small-scale recreational amenities, such as sand volleyball, basketball, or tennis court, or other active recreational opportunities, as well as demonstration areas for historical, cultural, scientific, educational, or other purposes that relate to the natural qualities of the area, and support facilities for such activities. commercial amusement facilities, such as water slides, miniature golf, or go-cart tracks, are not considered parks (see "Outdoor entertainment").

(G) **STABLE, PRIVATE**

~~(EE)~~ The breeding, boarding, training, or raising and care of horses owned by the occupants or owners of the premises. Property used for Private Stables shall be a minimum of five (5) acres in size.

(Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Ord. 2017-04-06, approved 04/03/2017)

## § 155.304 AGRICULTURAL USE STANDARDS

The following standards shall apply to all permitted uses, conditional zoning district uses, and uses requiring a special use permit, conditional uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

### (A) AGRICULTURE, LIVESTOCK

The breeding, raising and caring for domestic animals including horses (excluding private stables).

- (1) Property used for livestock shall be a minimum of five acres in size.
- (2) All accessory uses and structures, such as troughs, feed mechanisms and storage, shall be setback a minimum of 100 feet from any property line.
- (3) The maximum number of large animals permitted for each acre shall not exceed five. Large animals shall include horses, swine, cattle, goats, and sheep. An enclosed structure with one stall for each large animal is required when the total number of large animals exceeds three per acre.
- (4) The maximum number of small animals permitted for each acre shall not exceed 100. Small animals shall include rabbits and fowl, excluding peafowl. Small animals shall be permitted in addition to large animals.
- (5) The use shall assure that there is no incompatibility with surrounding land uses. In the event that an incompatibility exists, the applicant shall satisfactorily mitigate the incompatibility prior to receiving final approval.

### (B) AGRICULTURE, SALES AND SERVICE

An establishment primarily engaged in the sale or rental of farm tools, small implements and farming equipment such as pickers, mowers, livestock, feed, grain, tack, riding attire, animal care products, and farm supplies.

(1) Outdoor storage of materials shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)).

~~(1) All storage areas for agricultural sales and service uses shall be enclosed or completely screened from view.~~

### (C) NURSERY

The sale of horticultural specialties such as flowers, shrubs, sod, trees, mulch and accessory hardscape materials such as decorative stones intended for ornamental or landscaping purposes.

- (1) Outdoor storage of materials shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).

(Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12)

## § 155.305 COMMERCIAL USE STANDARDS

The following standards shall apply to all permitted uses ~~and conditional uses and~~ special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

### ~~(D)~~ **(A) ADULT ORIENTED BUSINESS**

~~(E)~~ Any place defined as an "adult establishment" as defined by G.S. § 14-202.10, as such statute may be amended from time to time, including adult cabarets, and except the definition of "massage business" shall not include any establishment or business where massage is practiced that is a health club, exercise studio, hospital, physical therapy business or other similar health-related business. Adult-oriented business specifically includes, however, any massage business where massages are rendered by any person exhibiting "specified anatomical areas" and/or where massages are performed on any client's "specified anatomical areas." "Specified anatomical areas" are those defined by G.S. § 14-202.10 as such statute may be amended from time to time.

- (1) No such use shall be located within 1,000 feet of a church, primary, elementary or secondary school, residence or residentially zoned property, any establishment serving on-premises beverages requiring an ABC license, or any other adult-oriented business.
- (2) There shall be no more than one such use on the same property or in the same building or structure.
- (3) Except for permanent signage as permitted in § 155.403, there shall be no advertisement, promotional materials, displays, or temporary signs visible to the public from public rights-of-way.

### **(B) BED & BREAKFAST**

~~(F)~~ A building containing one or more guest rooms for an overnight stay which are rented at a daily rate and where breakfast is the only meal served to guests.

- (1) An owner shall reside on site.
- (2) There shall be no substantial modifications to the exterior appearance of the structure; however, fire escapes, handicapped entrances and other features may be added to protect public safety.
- (3) Meals shall be served on the premises only for guests and employees. Rooms may not be equipped with cooking facilities.
- (4) Parking shall not be allowed in any street yard.

(C) **CAR WASH/AUTO DETAILING**

~~(G)~~ A permanent establishment engaged in washing or detailing motor vehicles which may use production line methods with a conveyor, blower, or other mechanical devices, and which may employ some hand labor. Detailing includes hand washing and waxing, striping, and interior cleaning.

(D) **CONTRACTOR OFFICE**

~~(H)~~ A facility for a building, heating, plumbing, electrical, landscape, janitorial or similar contractor.

- (1) All activity shall be conducted entirely within a fully enclosed building. The temporary loading and off-loading of vehicles shall be permitted outside.
- (2) The overnight storage of fleet vehicles ~~may shall be considered an accessory use of "Limited Outdoor Storage" and shall be permitted only as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)). be allowed subject to Planning Board approval (see § 155.311).~~

~~(E)~~ **CONTRACTOR STORAGE YARD**

~~(I)~~ A lot used for the storage of construction material, equipment, or three or more commercial vehicles used by building trades and services, other than construction sites. A contractor's office is permitted as an accessory to the storage yard.

- ~~(1)~~ Equipment principally used in construction activity shall include but is not limited to bobcats, front-end loaders, over-head cranes, graders, dump trucks, compactors, forklift, steam rollers, earth movers, bulldozer, backhoe, concrete mixer, trenchers, cable/pipe layers or any such equipment that is not a street worthy vehicle.
- ~~(2)~~ Outdoor storage may be allowed subject to Planning Board approval (see § 155.311).
- ~~(3)~~ Combustible materials and chemicals shall be stored in compliance with all local, state, and federal regulations.

~~(F)~~~~(E)~~ **CONVENIENCE STORE WITH GAS SALES**

~~(J)~~ A convenience store which includes accessory gasoline retail sales to the general public.

~~(2)~~~~(1)~~ **General Standards**

- (a) Vehicle repair or service shall not be permitted.
- (b) The primary building, including any attached canopy, shall conform to all setback requirements.
- (c) Gasoline pumps, tanks and pump islands shall be located no closer than 20 feet to any side or rear property line or right-of-way.



- (d) No sign of any type or any gasoline pump or tank shall be located within 20 feet of a residential use.
- (e) A Class C buffer (see § 155.402) shall be established along any side of the property where the gas station abuts a residential use, provided such buffer shall not restrict clear sight at any intersection or driveway.
- (f) Freestanding vents shall not be permitted.

~~(g) Outdoor storage and display may allowed subject to Planning Board approval (see § 155.311).~~

#### ~~(1)~~(2) Fuel Canopies

- (a) The canopy shall be located no closer than 15 feet to any side or rear property line or right-of-way.
- (b) The canopy shall not exceed the height of the principal building, but in no case shall the canopy height exceed 20 feet.

#### ~~(2)~~(3) Single-Bay Automatic Car Wash

~~(1)~~(4) An accessory single-bay automatic (not self-service) car wash completely enclosed except for openings necessary to allow entry and exit of vehicles shall be permitted subject to the following:

- (a) The car wash structure shall be located no closer than 20 feet to any side or rear property line or right-of-way.
- (b) The car wash structure shall not exceed a height of 20 feet or exceed an overall building dimension of 25 feet in width and 50 feet in length.
- (c) The car wash structure shall be located behind the rear building line of the principal building.
- (d) All car wash structures shall meet all applicable yard requirements.

#### ~~(G)~~(F) CREATIVE STUDIO

~~(K)~~ A facility involved in the display and/or instruction of the arts, such as individually crafted artwork, jewelry, furniture, sculpture, pottery, leathercraft, hand-woven articles, and related items; art classroom; music studio or classroom; dance studio or classroom; martial arts instruction; or similar use. This definition does not include any adult entertainment establishment.

#### ~~(H)~~(G) FINANCIAL INSTITUTION

~~(L)~~ An establishment engaged in deposit banking. Typical uses include commercial banks, savings institutions, and credit unions, including outdoor automated teller machines and drive-thru only facilities.

- (1) Freestanding automated teller machines require ~~minor~~ site plan approval.
- (2) Drive-through service is only permitted as an accessory use in the B-3, ~~O-I, and B-2~~ zoning districts, ~~or as a Conditional Use Permit in the B-2 zoning district.~~ In the O-I and B-2 zoning districts, drive-through lanes/services shall not be located along any residentially zoned property.

#### ~~(H)~~(H) **FUNERAL HOME**

~~(M)~~(1) An establishment which arranges and manages funeral and prepares the human deceased for burial.

~~(3)~~(2) A funeral home may include a crematorium located within the principal building.

#### ~~(H)~~(I) **HOTEL/MOTEL**

~~(N)~~ A building containing one or more guest rooms, for overnight guests, and containing registration facilities, on-site management, cleaning services and combined utilities.

- (1) All hotel and motel buildings and parking shall be located at least 50 feet from any property line adjoining a residential district or use.
- (2) Any accessory commercial activities such as restaurants shall not be located along the side of the property adjacent to a residential district or use.
- (3) Any outdoor recreation facilities, such as swimming pools, shall not be located along the side of the property adjacent to a residential district or use. If the outdoor recreation facility is a swimming pool, it shall meet the standards of § 155.308(D)(3) "Swimming Pools".

#### ~~(K)~~(J) **KENNEL**

Any building or land used, designed or arranged to facilitate the care of four or more domestic animals, such as dogs and cats.

- (1) All animal boarding shall occur indoors. All kennels and runs shall be located in an enclosed structure.
- (2) An outdoor pen may be provided only for exercise/relief areas for the animals. This area shall be located to the side or rear of the building, and shall not be located closer than 50' from any residentially zoned properties. The area shall be securely fenced by a minimum 6' opaque fence.
- (3) Animal waste shall not be stored within 50' of any adjacent property.
- ~~(O)~~(4) Outdoor runs may be permitted subject to Town Council approval of a Special Use Permit (see § 155.711)

#### ~~(L)~~(K) **LAUNDRY SERVICES**

~~(P)~~ An establishment that provides washing, drying, dry-cleaning, or ironing machines for hire to be used by customers on the premises, or that is engaged in providing laundry and dry cleaning services with customer drop-off and pick-up.

~~(M)~~~~(L)~~ **LOUNGE, COCKTAIL**

~~(O)~~ A use or facility engaged primarily in the preparation and retail sale of alcoholic beverages (with food sales an allowed accessory use) for consumption on the premises. this use is also known as tavern, bar, nightclub, or similar use other than restaurant or alcohol sales for off-premises consumption.

- (1) Except in the B-1 zoning district, a cocktail lounge shall not be located within 250 feet of a residential district and shall be separated a minimum of 750 feet from another cocktail lounge.
- (2) Outdoor seating and open lounge areas shall meet the criteria set forth in § 155.305(R)

~~(N)~~~~(M)~~ **MICROBREWERY**

~~(R)~~ A facility for the production and packaging of beer and other malt beverages for distribution, retail, or wholesale, on or off premise, with a capacity of not more than 15,000 barrels per year. Areas for demonstration, education, retail sale, or tasting are included in this definition as incidental to the primary use of producing beverages.

~~(O)~~~~(N)~~ **PUBLISHER**

~~(S)~~ A building used for the production and distribution of newspapers, magazines, books, and other related materials.

~~(P)~~~~(O)~~ **OFFICE, GENERAL**

~~(T)~~ A facility generally focusing on business, government, or professional services. General office shall include advertising offices; business management consulting, data processing, collection agency; real estate or insurance agents, and professional services such as lawyer, accountant, bookkeeper, engineer, or architect, sales office, travel agency or any similar use.

~~(O)~~~~(P)~~ **OFFICE, MEDICAL**

~~(U)~~ A facility in which a doctor, dentist, psychiatrist, physician's assistant, nurse practitioner, or similar medial provider treats or counsels patients.

~~(R)~~~~(Q)~~ **OUTDOOR SEATING AND SIDEWALK CAFES**

~~(V)~~ A restaurant which provides as a primary component of its business, an open area outside of the principal structure for seating including areas adjacent to sidewalks or pedestrian circulation areas.

- (1) **Application**

(1) Any restaurant or cocktail lounge seeking to operate a sidewalk cafe shall, in addition to acquiring all necessary health and sanitation permits and inspection and applicable ABC and other business licenses, prepare and file an application for outdoor seating with the Planning Director.

(2) **Site Plan Requirement**

(2) A drawing or site plan showing the section of sidewalk or pedestrian way to be used for the sidewalk cafe, and the section to be kept clear for pedestrian use, and depicting the proposed placement of tables, chairs, barriers, and other furnishings on the sidewalk or pedestrian way.

(3) **Insurance and Indemnification**

(3) Applicants must show proof of meeting minimum criteria for general liability insurance and must execute an indemnification statement in favor of the Town, each as approved by the Town Attorney.

(4) **Issuance of Permit**

(4) No permit for outdoor seating may be issued unless the application is complete and unless the following requirements are met.

- (a) The sidewalk cafe must be associated with an operating restaurant or business such that it is under the same management and shares the same food preparation facilities, restroom facilities and other customer convenience facilities as the restaurant and does not exceed 50% of the interior seating for the associated restaurant or business.
- (b) The sidewalk cafe must be operated under the same name as the restaurant and may not be opened or operated at any time when the restaurant or business is not open for business.
- (c) The operation of the sidewalk cafe must be clearly incidental to the associated restaurant business.
- (d) The placement of tables, chairs and other furnishings, as shown in the site plan, must be done in such a manner not to extend more than five feet from the property line, provided that at least four feet of unobstructed space (as measured from the street-side edge of curb or sidewalk) remains for the passage of pedestrians. Trees, poles, signs, sandwich board signs, planters, benches, hydrants, trash receptacles, and the like are all considered obstructions.
- (e) The restaurant seeking to operate the sidewalk cafe must front on and open onto the sidewalk or pedestrian way proposed for the sidewalk cafe. The placement of tables, chairs, and other furnishings may not extend in front of other businesses or across other public rights-of-way.
- (f) The tables, chairs, and other furnishings used in the sidewalk cafe shall be of a type that is easily removed from the public right-of-way. Tables, chairs, and other furnishings

used in the operation of the sidewalk cafe must be removed within 24 hours' notice from the Town. If such items are not removed upon 24 hours' notice, the Town shall have the right to remove and dispose of these items and may assess the property owner for the cost of such removal and disposal. The Town shall also have the right to remove such items immediately in an emergency situation. The Town shall not be responsible for damage to the public sidewalk cafe barricades and furnishings under any circumstances.

- (g) Except as elsewhere permitted, the operation or furnishing of the sidewalk cafe shall not involve any permanent alteration to or encroachment upon any street, sidewalk or pedestrian way or to the exterior of the associated restaurant. The owner of the sidewalk cafe shall be responsible for repairing any incidental damage to public sidewalks resulting from the operation of the sidewalk cafe.
- (h) The sidewalk cafe shall only be open when the restaurant is open. No person shall consume alcoholic beverages in a sidewalk cafe after such hours.
- (i) **Alcoholic Beverages.** Alcoholic beverages may be served and consumed at sidewalk cafes providing the following requirements are met:
  - 1. The sidewalk cafe shall be part of a standard restaurant or business and shall otherwise be authorized, permitted or licensed under the state law and Town codes to serve and sell alcoholic beverages for on-premises consumption.
  - 2. The portion of the sidewalk cafe where alcohol is or may be served shall be enclosed by clearly visible barricades and shall have not more than two points of ingress or egress.
  - 3. The sidewalk cafe must be included as part of the premises for which an ABC permit is issued pursuant to G.S. § 18B-1001 for the purposes of applying and enforcing state laws regarding the sale or consumption of alcoholic beverages.
  - 4. Signs shall be posted, visible at all exit points from the sidewalk cafe, that it is unlawful to remove alcoholic beverages in open and unsealed containers from the premises.
  - 5. The business operator shall not have violated any law, regulation or ordinance relating to the possession, sale, transportation or consumption of intoxicating beverages or controlled substances for the five years preceding the commencement of the sale of alcoholic beverages at the sidewalk cafe.
- (j) **Denial.** A permit may be denied if it is found that the granting of the permit would not be in the public interest. Any applicant denied a permit to operate a sidewalk cafe shall receive a written statement, outlining the grounds on which the denial is based. The applicant may appeal the denial of the permit to the Town Council within 30 working days after the date of the written denial and the Town Council may take such corrective

action as it shall find necessary. The findings and determination of the Town Council shall be final.

(k) **Permit Revocation.** The Town Manager or his designee may revoke a permit issued pursuant to this section, if he finds that the restaurant operator has:

1. Deliberately misrepresented or provided false information in the permit application;
2. Violated any provision of this code;
3. Violated any law, regulation or ordinance regarding the possession, sale, transportation or consumption of intoxicating beverages or controlled substances;
4. Operate the sidewalk cafe in such a manner as to create a public nuisance or to constitute a hazard to the public health, safety or welfare, specifically including failure to keep the sidewalk cafe area clean and free of refuse; and/or
5. Failed to maintain any health, business or other permit or license required by law for the operation of a restaurant business. Before the revocation of a permit, the Town Manager shall notify the permit holder of his intent to revoke the permit and the reasons therefor and shall afford the permit holder a reasonable opportunity to appear and be heard on the question of such revocation. After the hearing, the Town Manager shall notify permit holder in writing of the decision and the reasons therefor. A decision of the Town Manager to revoke permit may be appealed to the Town Council in accordance with the provision of this section.

(l) **Term, Transfer, Renewal, and the Like.** Permits issued in accordance with the provisions of this section shall:

1. Be renewed automatically on an annual basis unless notice is otherwise given to the applicant or business; and
2. Not be transferable or assignable.

(5) **Definitions**

~~(5)~~ For purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**Pedestrian Way.** An improved walk or passageway intended for use by pedestrians, but not adjacent to any Town street.

**Restaurant.** An establishment engaged in the business of regularly and customarily selling food, primarily to be eaten on the premises, including businesses that are referred to as restaurants, cafeterias, cafes, lunch stands, grills, snack bars, fast food businesses and other

establishments, such as drug stores, which have a lunch counter or other section where food is sold to be eaten on the premises. This definition does not include food vendors selling food as part of a festival or nonprofit event.

Restaurant Operator or Business Operator. The person, firm or corporation operating a restaurant and associated sidewalk cafe. As used in this section, this definition includes the owner and manager, if different from the owner of the restaurant and associated sidewalk cafe.

Sidewalk. That portion of a public street between the curb line, or the lateral lines of the roadway if there is no curb and the adjacent property line that is intended for the use of pedestrians.

(R) **PARKING LOT**

An area provided for self-parking or valet parking of operable passenger automobiles or commercial vehicles by employees, visitors, and/or patrons of any office of government, public accommodations, commercial or industrial establishments, institutions, or any other business open to the general public. Parking lots may be further defined as being available for compensation, free, or as an accommodation to clients or customers, and are generally only utilized during regular business hours. For short-term or long-term vehicle storage, see "Self-Storage Facility".

~~(W)(S)~~ **PAWN SHOP**

Any establishment engaged in the loaning of money on the security of personal property pledged in the keeping of the pawnbroker, and the sale of such property.

(1) Outdoor storage shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).

~~(4) Outdoor storage and display may be allowed subject to Planning Board approval (see § 155.311).~~

~~(S)(T)~~ **RADIO OR TELEVISION STUDIO**

An establishment primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Excluded are facilities classified as major utility services, broadcasting or telecommunication facilities.

(U) **RESTAURANT**

A use, facility, or establishment whose primary purpose is the preparation and sale of food for on- or off-premise consumption. this use may or may not include the accessory sale of alcoholic beverages.

~~(1) Drive through service is only permitted as an accessory use in the B-3 zoning district, or as a Conditional Use Permit in the B-2 zoning district.~~

~~(F)~~ **(V) RETAIL SALES**

A facility involved in the wholesale or retail sale, lease, or rental of new or used products. retail shall include the selling, leasing or renting of the following goods: antiques; art; art supplies; bicycles; books; building supplies; cameras; carpet and floor coverings; crafts; clothing; computers; dry goods; electronic equipment; fabric; furniture; garden supplies; hardware; health and beauty products; household products; jewelry; medical supplies; musical instruments; music; pets; pet supplies; photo finishing; printed materials; crafts; flowers; gifts or souvenirs; groceries; plants; picture frames; produce; sporting goods; stationery; tobacco; videos, or any similar use. Also includes preparation and sale of baked goods, coffee, ice cream, fountain drinks, confections, and similar products whose preparation does not require installation of an exhaust hood. The retail sale of automobile parts is allowed provided that no on-site automobile service or repair is provided. This definition does not include any adult-oriented business or adult-entertainment establishment.

- (1) Outdoor display and sales and outdoor seating and dining may be allowed subject to § 155.308 Planning Board approval (see § 155.311).
- (2) Outdoor storage of shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).
- ~~(2) Limited outdoor storage may be allowed in the B-3 and industrial zoning districts only, subject to Planning Board approval.~~
- ~~(3) General outdoor storage may be allowed in industrial zoning districts only, subject to Planning Board approval (see §155.311).~~
- (3) Uses that are strictly wholesale and not available to the general public shall not be allowed in the B-1, ~~or B-2, or B-3~~ zoning districts.
- ~~(4) Drive through service is only permitted as an accessory use in the B-3 zoning district, or as a Conditional Special Use Permit in the B-2 zoning district.~~

~~(U)~~**(W) SELF STORAGE FACILITY**

A facility consisting of individual, self-contained units that are leased for the storage of business or personal goods.

- (1) All storage shall be contained within a fully enclosed building. ~~However, limited outdoor storage of boats, travel trailers, recreational vehicles, and other noncommercial, occasional use vehicles may allowed subject to Planning Board approval (see §155.311).~~ Outdoor storage of shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).
- ~~(2)~~(1) A Class C buffer (see § 155.402) shall be established along any side of the property where the self-storage facility abuts or is across the street from a residential use or a public right-of-way.



~~(3)~~(1) Where the end wall of the self-storage facility is visible from a public right-of-way, the wall shall be buffered by a hedge that has a mature height of at least four feet.

~~(4)~~(1) The following activities shall be prohibited on the premises:

(a) Commercial, wholesale or retail sales, flea markets or peddling, or miscellaneous or garage sales. However, once a month, the management of the self-storage facility may conduct a one-day auction or sale of abandoned or stored materials to settle unpaid storage bills in accordance with state regulations.

~~(b)~~(a) Servicing, repair, or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances, or other similar equipment.

~~(c)~~(a) Operation of a transfer-and-storage business.

~~(d)~~(a) Operation of power tools, spray painting equipment, table saws, lathes, compressors, welding equipment, kilns, or other similar equipment except when needed for maintenance of the use.

~~(e)~~(a) Any activity that is noxious or offensive because of odors, dust, noise, fumes, or vibrations.

~~(f)~~(a) Storage of hazardous chemicals, flammable liquids, or combustible and explosive materials.

~~(g)~~(a) Habitation of storage units by humans or animals.

#### ~~(V)~~ **(X) SERVICE**

A facility involved in providing personal or repair services to through traffic as well as the surrounding neighborhood. General services shall include the following personal services: beauty, hair, nail, or tanning salon, massage therapy, pack-and-ship facility, animal grooming; photographic; photography, blueprint, quick-sign service; psychic or medium; security service; taxidermist; catering service or any similar use. General services shall also include the following repair services: bicycles; moped, canvas products; clocks; computers; jewelry; musical instruments; office equipment; radios; shoes; televisions; furniture; watches or any similar use. Also includes a tailor, milliner, upholsterer or locksmith. This definition does not include any adult-oriented business or adult entertainment establishment. All activity shall be conducted entirely within a fully-enclosed building, except for the following:

~~(5)~~(1) ~~Outdoor storage may only be allowed in the B-3 zoning district subject to Planning Board approval (see 155.311). Outdoor storage of shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).~~

~~(6)~~(2) ~~Outdoor display and sales may shall be considered an accessory use and only permitted as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)). allowed subject to Planning Board approval (see §155.311).~~

~~(W)~~ **(Y) TATTOO PARLOR**

An establishment whose principal business activity is the practice of one or more of the following:

- (1) Placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin.

~~(2)~~(1) Piercing of the body of a person (other than the ear) for the purpose of inserting jewelry or other decoration.

~~(X)~~ **(Z) TOWING SERVICE AND STORAGE**

The use of a lot for the temporary storage of operable or inoperable vehicles in conjunction with a commercial towing service, with no sales or repair or salvage activity occurring on the lot and subject to the following standards:

(1) Outdoor storage shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).

~~(7) Outdoor storage may allowed subject to Planning Board approval (see § 155.311).~~

~~(Y)~~ **(AA) VEHICLE REPAIR OR SERVICE**

An establishment engaged in the repair of new or used motorized vehicles, equipment.

- (1) No vehicle sales shall be permitted.

~~(2)~~(1) A Class C buffer (see § 155.402) shall be established along any side of the property adjacent to a residential use.

~~(3)~~(1) If the facility has more than one service bay, the additional service bay doors shall not be oriented toward any residential use, or the service bays shall be screened from view from adjacent property using landscaping.

~~(4)~~(1) All repair or service operations, excluding washing, shall be conducted entirely within a fully enclosed building. The term fully enclosed building shall not be construed to limit open bay doors during hours of operation.

~~(5)~~(1) Operable vehicles may be parked on-site during business hours. All vehicle parking shall be accomplished on the site, and in no case shall a parked vehicle encroach into the right-of-way.

(1) Overnight outdoor storage of vehicles shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).

~~(6) The outdoor overnight storage of vehicles may be allowed subject to Planning Board approval (see § 155.311).~~

~~(7)~~(2) There shall be no dismantling of vehicles for salvage.

~~(8)~~(1) The storage of impounded vehicles shall not be permitted.

~~(Z)~~ **(BB) VEHICLE SALES AND RENTAL**

An establishment engaged in the sale, rental, or lease of new or used motorized vehicles, equipment, or mobile homes as defined by the Department of Motor Vehicles. Typical uses include auto and truck rental, lease and sales; boat rental and sales; mobile home and recreational vehicle sales; construction equipment rental yards; moving trailer rental, and large implement sales or rental.

(1) A Class C buffer (see § 155.402) shall be established along any side of the property adjacent to a residential use.

~~(2)~~(1) Operable vehicles for sale/rental may be parked on-site, ~~during business hours~~. All vehicle parking shall be accomplished on the site, and in no case shall a parked vehicle for sale/rental encroach into the right-of-way or utilize required off-street parking spaces for the business.

(1) Overnight outdoor storage of inoperable vehicles or vehicles under repair shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).

~~(3) The outdoor overnight storage of vehicles under repair may be allowed subject to Planning Board approval (see § 155.311).~~

~~(4)~~(2) Vehicle sales displayed for rental or sale visible from the public right-of-way shall provide a parking buffer as set forth in § 155.402(E)(2)(b).

~~(AA)~~ **(CC) VETERINARY CLINIC**

An establishment engaged in providing medical care, treatment and temporary boarding for animals.

(1) Animal boarding may be permitted but shall occur entirely indoors.

(2) An outdoor pen may be provided only for exercise/relief areas for the animals. This area shall be located to the side or rear of the building, and shall not be located closer than 50' from any residentially zoned properties. The area shall be securely fenced by a minimum 6' opaque fence.

(3) Animal waste shall not be stored within 50' of any adjacent property.

(4) Outdoor runs may be permitted subject to Town Council approval of a Special Use Permit (see § 155.711)

(1) Outdoor runs may be permitted subject to Board of Adjustment approval (see § 155.710).

- ~~(2) All animal boarding shall occur indoors. All pens, kennels and runs shall be located within an enclosed structure.~~

~~(BB) VIDEO SWEEPSTAKES OPERATION~~

~~Any business enterprise, whether as a principal or an accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of 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 cafes, internet sweepstakes, and cybercafés. This does not include any lottery approved by the State of North Carolina.~~

- ~~(1) Unaccompanied persons under the age of eighteen (18) are prohibited from entering the premises.~~
- ~~(2) The hours of operation shall be limited to Sunday through Thursday 9am to 1am, and Friday and Saturday 9am to 2am.~~
- ~~(3) A maximum of one hundred (100) machines are allowed at each establishment.~~
- ~~(4) Two (2) or fewer machines are classified as an accessory use and shall not be bound by the standards of this section.~~
- ~~(5) All uses meeting the definition of Internet Sweepstakes Facilities that were established prior to December 3, 2012 shall cease operations and close or be brought into compliance with the provisions of this ordinance by midnight, December 31, 2013.~~

(Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)

## § 155.306 INDUSTRIAL USE STANDARDS

The following standards shall apply to all permitted uses, ~~conditional uses~~ and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(A) **BUILDING SUPPLIES, WHOLESALE**

An establishment engaged in the sale or fabrication and allied products to contractors for the construction, maintenance, repair and improvement of real property.

~~(8)~~(1) Retail sales of lumber and allied products to the consumer may be conducted, but must be clearly accessory to the primary use.

(B) **CREMATORIUM**

A place used and dedicated to the cremation of human remains or pet animal remains.

(C) **GAS AND FUEL, WHOLESALE**

The use of land for bulk storage and wholesale distribution of 2,500 gallons or more of flammable liquid, or 2,000 gallons water capacity or more of flammable gas, excluding below-ground storage which is clearly accessory to the principal use on the site.

(D) **LABORATORY, RESEARCH**

An establishment engaged in industrial, scientific or medical research, bio-manufacturing, testing, and analysis, including support services and structures. Typical uses include natural science/manufacturing research facilities and product testing/quality control facilities.

~~(9)~~(1) Outdoor manufacturing, processing or testing shall be limited to industrial districts only.

(E) **MANUFACTURING, LIGHT**

A facility conducting medium and light manufacturing operations, primarily involving the creation of finished products or parts from previously prepared materials and the manufacturing of products and materials from extracted raw materials. The processing, fabrication, assembly, treatment, packaging, and storage of such products is also included. All activities shall occur within a fully enclosed building and no manufacturing involved shall produce noise, vibration, air pollution, fire hazard, or noxious emission which may disturb or endanger neighboring properties.

(1) All manufacturing activity shall be conducted entirely within a fully enclosed building.

~~(2)~~ Overnight outdoor storage and display shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)).

~~(2)~~ Outdoor storage and display may allowed subject to Planning Board approval (see § 155.311).

- (3) Uses shall not emit smoke, odor, objectionable waste materials or excessive noise.
- (4) No vibration shall be produced that is transmitted through the ground (and is discernible without the aid of instruments) at or beyond the lot line.
- (5) No direct glare from high temperature processes such as combustion or welding visible from the street shall be permitted.

(F) **MANUFACTURING, HEAVY**

A facility conducting assembly heavy manufacturing with operation conducted indoors and outdoors. Heavy manufacturing shall include the following: heavy factory production; industrial yards; any use that is potentially dangerous, noxious or offensive to neighboring uses or those who pass on public ways by reason of smoke, odor, noise, glare, fumes, gas, vibration, threat of fire or explosion, emission of particulate matter, interference with radio, television reception, radiation or any other likely cause; animal processing, packing, treating, and storage; livestock or poultry slaughtering; citrus concentrate plant; processing of food and related products; production of chemical, rubber, leather, clay, bone, paper, pulp, plastic, stone, or glass materials or products, production or fabrication of metals or metal products including enameling and galvanizing, sawmill; bulk storage of flammable liquids; commercial feed lot; concrete batching and asphalt processing and manufacture; wrecking, junk or salvage yard; bottling plant; or any similar use.

(G) **RESEARCH AND DEVELOPMENT**

A facility focused primarily on the research and development of new products. Research and development shall include: offices, and other facilities used for research and development by or for any individual, organization, or concern, whether public or private; prototype production facilities that manufacture a limited amount of a product in order to fully investigate the merits of such a product; pilot plants used to test manufacturing processes planned for use in production elsewhere; production facilities and operations with a high degree of scientific input; facilities and operations in which the input of science, technology, research, and other forms of concepts or ideas constitute a major element of the value added by manufacture per unit of product.

(H) **WAREHOUSE AND FREIGHT MOVEMENT**

A facility involved in the storage or movement of goods for themselves or other firms. Goods are delivered to other firms or the final consumer with little on-site sales activity to customers. Warehouse and freight movement shall include the following: bulk storage, including nonflammable liquids, feed and grain storage; cold storage plants, including frozen food lockers; household moving and general freight storage; separate warehouse used by retail store such as furniture or appliance store; bus barn; parcel services, mail order facility; stockpiling of sand, gravel, or other aggregate materials; transfer and storage business where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred; or any similar use.

(Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Ord. 2017-04-06, approved 04/03/2017)

## § 155.307 UTILITIES USE STANDARDS

The following standards shall apply to all permitted uses, ~~conditional uses~~ and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

### ~~(B)~~(A) RECYCLING CENTER

A permanent facility designed and used for receiving, separating, storing, converting, baling or processing of non-hazardous recyclable materials that are not intended for disposal. The use may include construction debris recycling or other intensive recycling processes such as chipping and mulching.

~~(10)~~(1) To ensure compatibility with surrounding uses, screening and buffering around the perimeter of the proposed recycling plant shall be required at the time the facility is constructed.

### (B) RENEWABLE ENERGY FACILITY

A facility that generates renewable energy from sources such as solar, wind, or other systems with a principal use of producing electric, thermal power, or mechanical power.

### (C) TELECOMMUNICATION FACILITY

Any tower, site, building, structure, or other facility whose principal use is to facilitate transmissions for AM/FM radio, television, microwave, and cellular telephone transmission towers, antennae, and accessory equipment and buildings. Specific standards for communication towers are set forth in § 155.310.

(1) Facilities in the B-1, B-2, or B-3 districts are only permitted if they are attached to a habitable structure and are completely screened or camouflaged from view. This does not apply to pre-existing and unrelated utility structures, such as water towers.

### (D) UTILITY, MAJOR

A large-scale utility such as a water or wastewater treatment plant, water tower, electrical generation plant, or transmission facility or any similar use.

### (E) UTILITY, MINOR

All utility facilities not considered major, including, but not limited to neighborhood-serving facilities such as pump stations, telephone exchanges, lift stations, and stormwater detention facilities, or any similar use.

### (F) WASTE SERVICE

A facility that generally receives solid or liquid wastes from others for transfer to another location, collects sanitary waste, or manufactures a product from the composting of organic material. Waste-related service shall include the following: animal waste processing; landfill, incinerator; manufacture and production of goods from composting organic material; outdoor recycle processing center; outdoor storage of recyclable material, including construction material; transfer station; or any similar use.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-05-02, passed 5-7-07; Am. Ord. 2007-05-03, passed 5-7-07; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)



## **§ 155.308 ACCESSORY STRUCTURES AND USES.**

### **(A) GENERAL**

Accessory structures and uses shall be consistent with all standards in the district for the principal use, except as expressly set forth below. Additional design considerations may be outlined in the Clayton General Design Guidelines.

- (1) Accessory structures and uses shall be accessory and clearly incidental and subordinate to a permitted principal uses. An accessory use shall only be allowed when a principal use exists.
- (2) Accessory structures and uses shall be located on the same lot as the permitted use or structure, or on a contiguous lot in the same ownership.
- (3) Accessory structures and uses shall not involve operations or structures not in keeping with the character of the primary use or principal structure served.
- (4) Accessory structures and uses shall not be of a nature likely to attract visitors in larger numbers than would normally be expected, where applicable.
- (5) An accessory use shall contribute to the comfort, convenience, or necessity of occupants of the primary use served.
- (6) An accessory use shall be located within the same district as the principal use.
- (7) Tractor-trailers are prohibited as storage buildings or structures except as permitted on an active construction site.

### **(B) ACCESSORY STRUCTURES**

Accessory structures, not including accessory dwelling units (see (C)(1) of this section) or in-ground pools, shall be subject to the following requirements:

#### **(1) Zoning Permit Required**

It shall be unlawful to begin moving, constructing, altering, or repairing, except ordinary repairs, of an accessory structure, until the Planning Department has issued a zoning permit for such work (see § 155.709).

#### **(2) Setbacks**

- (a) No accessory structure shall be located closer than ten feet to any other building or manufactured home.
- (a) No accessory structure shall extend in front of the front line of the principal structure, except in the B-1 zoning district where the ~~Board of Adjustment~~Planning Board may

approve a Conditional Use Permit Variance for an accessory use or structure to be placed in any yard other than the rear yard.

- (b) No accessory structure may extend within five feet of any lot line in R-6 and R-8 Districts, and within ten feet in all other zoning districts. No accessory structure shall be located within 20 feet of any street right-of-way.

(3) **Height**

The height of an accessory structure shall not exceed the height of the principal structure or 25 feet, whichever is lesser, unless approved in accordance with the requirements outlined in §155.201(C) Measurements and Exceptions, as a Conditional Use Permit by the Board of Adjustment, as provided in § 155.710.

(4) **Number**

- (a) Up to two accessory structures may be permitted on the same lot, subject to meeting the criteria elsewhere in this section.
- (b) No more than one shed is permitted in the R-6 and R-8 zoning districts.
- (c) Two or more accessory structures may not be joined together by adding a roofline, such as a breezeway or covered walkway, to give the appearance of a lesser number of structures.

(5) **Size**

~~(a)~~ An accessory structure may not exceed the gross floor area of the primary structure on the site. This restriction does not apply to in-ground pools.

(6) **Architectural consistency**

~~(a)~~ On non-residential or mixed use sites, the architecture of accessory structures shall be consistent with the primary structure.

(C) **ACCESSORY USES IN RESIDENTIAL DISTRICTS**

(1) **Accessory Dwelling Units**

~~(a)~~ One accessory dwelling ~~shall~~ may be permitted as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).

~~with a as a conditional use by the Board of Adjustment (see § 155.710) subject to their approval and the following requirements:~~

~~(a)~~ (b) The living area of the accessory dwelling shall not exceed the living area of the principal structure. In no case shall the total floor area of the accessory dwelling unit exceed 600 square feet.

~~(b)~~(c) The accessory dwelling shall not have a separate electrical meter.

~~(c)~~(d) The owner of the property shall occupy either the primary structure or the accessory dwelling.

~~(d)~~(e) The principal dwelling and accessory dwelling unit together shall not exceed the maximum building coverage and impervious surface requirements for the district.

~~(e)~~(f) All principal structure setbacks and yard requirements shall be met.

~~(f)~~(g) One additional parking space on the same premises shall be required for the accessory dwelling unit.

~~(g)~~(h) A subdivision with accessory dwelling units shall not exceed the maximum district density requirements, counting all principal dwelling units and any accessory dwelling units.

~~(h)~~(i) An accessory dwelling shall either be located within the principal structure; or meet the following standards:

1. The accessory dwelling shall be located on the same lot as the principal structure.
2. The accessory dwelling shall be separated by at least ten feet from the principal structure.
3. The accessory dwelling shall be located in the rear or side yard of the principal structure. The rear and side setback shall be equal to those of all accessory structures.
4. Total building coverage and impervious surface area shall not exceed that permitted in the district.
5. The height of a principal structure shall not be exceeded by any accessory dwelling.
6. The accessory dwelling unit shall be architecturally consistent with the principal structure.

(2) **Home Occupations**

(a) **Prohibited Home Occupations**

~~(a)~~ The following uses are not permitted as home occupations:

1. Vehicle and/or body and fender repair.
2. Outdoor repair or outdoor storage.

3. Commercial nursery or truck farming.
4. Food handling, processing or packing, other than services that utilize standard home kitchen equipment.
5. Medical or dental lab.
6. Restaurant.
7. Sale or repair of firearms.
8. Bulk storage of flammable liquids.
9. Funeral homes and mortuaries.
10. Animal hospitals and kennels.

(b) ***Class A Home Occupations***

The intent of a Class A Home Occupation is to permit very limited activities in a residential dwelling, provided such activities do not impact or detract from the residential character of the neighborhood. A Class A Home Occupation shall be deemed an accessory use and no further approval shall be required, provided the use meets the standards of this chapter.

1. The use of the dwelling unit for Class A Home Occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and shall under no circumstances change the residential character of the structure.
2. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of a home occupation.
3. No business, storage or warehousing of material, supplies or equipment shall be permitted outside of the primary dwelling unit.
4. No equipment or process shall be used that creates excessive noise, vibration, glare, fumes, odors, or electrical interference.
5. No display of products shall be visible from the street.
6. A Class A Home Occupation shall be subject to all applicable licenses and business taxes.
7. No persons other than members of the family residing on the premises shall be engaged in the home occupation.

8. Storage space and the operation of the business inside the dwelling unit shall not exceed 25% of the first floor area of the residence.
9. Customers and employees coming to the residence to conduct business shall not be permitted.
10. No signage shall be permitted.

(c) ***Class B Home Occupations***

A Class B Home Occupations is a business, profession, occupation or trade conducted for gain or support within a residential dwelling or its accessory buildings that requires employees, customers, clients or patrons to visit the home. This use does not include "In-Home Daycares" which are subject to separate requirements as outlined in this Chapter. A Class B Home Occupation ~~shall may~~ be permitted as a ~~conditional-special~~ use permit provided that the ~~Board of Adjustment~~Town Council shall determine in its judgment that:

1. It is carried on by a person residing on the premises and employs no more than two employees not living on the premises.
2. No more than 20% of the total actual floor area of the dwelling shall be in the conduct of the home occupation.
3. No more than two vehicles are used in the conduct of the home occupation, and such vehicles are parked off the street.
4. No merchandise or commodity is sold on the premises, except what is incidental to the home occupation.
5. No mechanical equipment is installed or used except such that is normally used for domestic or professional purposes.
6. No expansion shall be permitted outside the principal structure that houses the home occupation, except that which is necessary to house vehicles used in the conduct of home occupation.
7. It is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.
8. The use will not create undue traffic congestion or create a traffic hazard.
9. Advertising signs shall be limited to one unlighted wall sign no larger than three square feet in area, attached to the structure housing the home occupation, or one yard sign of the same size not to exceed three feet in height.

~~(3) — Day Care Facility~~

- ~~(a) All accessory daycare facilities shall be subject to the requirements for Day Care Facilities, outlined in §155.302(E).~~
- ~~(b) In-home day cares, consisting of no more than 6 children and operating within a residential dwelling unit by a person that is a resident of the dwelling, shall be permitted subject to the requirements of a Class "B" Home Occupation (see §155.308(C)(2)(c)).~~
- ~~(c) An accessory day care facility to a church or place of worship shall be permitted as outlined in §155.308(E). A Conditional Special Use Permit shall not be required for an accessory day care facility to a church or place of worship.~~

**(3) In-Home Daycare**

The operation of a day care within a residential dwelling unit by a person that is a resident of the dwelling. All in-home daycares shall obtain proper licensing from the State of North Carolina. In-Home daycares shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).

- (a) A Zoning Compliance Permit shall be obtained from the Town to operate an in-home daycare. A site layout and floor plan shall be submitted with the permit application to ensure the following requirements are met:
  - 1. No more than five (5) children may be supervised at a time. This includes any resident children that may be on the premises during hours of operation.
  - 2. The day care shall be carried on by a person residing on the premises and employ no additional employees. If additional employees are proposed, the day care shall be subject to the requirements of a Class "B" Home Occupation.
  - 3. No more than 20% of the total actual floor area of the dwelling shall be in the conduct of the home occupation.
  - 4. No expansion shall be permitted outside the principal structure that houses the home occupation.
  - 5. An off-street drop off and passenger loading area shall be provided. This may be provided within a residential driveway.
  - 6. Hours of operation shall be limited to Monday-Friday, 7 am- 6 pm.
  - 7. Visual buffers shall be provided to shield all play areas and outdoor activity from abutting residentially zoned properties. This shall be done in the form of 6' tall opaque fencing and/or landscaping that is 6' in height at the time of planting.
- (b) Advertising signs shall be limited to one unlighted wall sign no larger than three (3) square feet in area, attached to the structure housing the in-home daycare, or one yard sign of the same size not to exceed 3 feet in height. All signage is subject to review and approval of a Permanent Sign Permit application.

**(4) Swimming Pools**

When allowed, in-ground and aboveground swimming pools that have a water depth over 24 inches and or have a surface area of at least 100 square feet shall be subject to the following requirements (see Chapter 154, Swimming Pools, of the Town Code of Ordinances for additional standards).

(a) ***Private Pools***

Private swimming pools (including any associated decking, pool house, pool chemical storage shed, or equipment associated with the pool) on single-family detached, zero lot lines, alley-loaded, and two-family lots shall not be located in the street yard and shall not be closer than five feet to any property line.

(b) **Outdoor Community Pools, Private Club Pools, or Pools in Multi-Family Complexes**

1. Outdoor pools (including any associated decking, pool house, pool chemical storage shed, or equipment associated with the pool) shall be located at least 50 feet from any property line adjacent to a residential district or use, and at least 25 feet from any property line adjacent to any other district or use.
2. When the pool is adjacent to off-site residences, the playing of music detectable off-site on a public address system is prohibited. Informational announcements shall be permitted. This requirement is waived if a permit has been issued for a special event.

(5) **Vehicle Repair**

Up to two vehicles may be repaired simultaneously on a residential property if the vehicles are registered to an occupant of the residence.

(6) **Vehicle Sales**

Vehicle sales shall be prohibited within a residential district or on property devoted to residential use, except that the sale of a private vehicle registered to the occupant of the residence shall be allowed. No more than one such vehicle shall be displayed at a time.

(D) **ACCESSORY USES IN NONRESIDENTIAL DISTRICTS**

(1) **Drive-Thru (aka Drive-Through)**

Drive-thru facilities shall be subject to the following requirements:

- (a) A drive-thru shall only be permitted in conjunction with a permitted nonresidential use.
- (b) Drive-thru windows and lanes shall be screened in accordance with § 155.402(G).

(2) **Food Truck**

(a) ***Permits Required***

1. Food truck vendors must provide documentation of approval from the Health Department of the County in which the food truck's associated restaurant or commissary is located.
2. The County Health Permit must be displayed during hours of operation.

(b) **Public Safety**

1. Temporary connections to potable water are prohibited. All plumbing and electrical connections shall be in accordance with the State Building Code.
2. Grease and wastewater must be contained and disposed of in an approved grease receptacle located at the associated restaurant or commissary.
3. If the food truck is operating after dark, the food truck vendor shall provide appropriate lighting.
4. A food truck vendor shall not operate the food truck as a drive-in window.
5. The Planning Director may engage in zoning enforcement or prohibit/suspend a food truck vendor's operations if are causing parking, traffic congestion, or litter problems either on or off the property where the use is located or such use is otherwise creating a danger to the public health or safety.

(c) **General Location Requirements**

1. Food trucks must be located on private property with written permission from property owner.
2. Food trucks shall be positioned at least 400 feet from the customer entrance of an existing restaurant during hours of operation, unless the vendor provides documentation that the restaurant owner supports a closer proximity.
3. Food trucks shall not block parking spaces, drive aisles, access to loading/service areas, or emergency access and fire lanes. Food truck vending must also be positioned at least 15 feet away from fire hydrants, any fire department connection, and driveway entrances.
4. No more than two food trucks are permitted as an accessory use, unless at an approved special event, market, festival, or an active construction site.

(d) **Hours of Operation**

Food trucks must cease operations between the hours of 12 a.m. and 7 a.m., and are not permitted to remain on site overnight.

(e) **Signage**



No signage shall be allowed other than signs permanently attached to the motor vehicle. An easel sign no more than 12 square feet per sign face in display area may be placed within the customer waiting area.

(3) **Day Care Facility**

(a) ~~An non-residential~~ accessory day care facility shall only be permitted as an accessory to the following uses:

1. Hospital or Medical Center (§155.302(G))
2. School (Elementary or Secondary) (§155.302(H))
3. School (Technical, Trade, or Business) (§155.302(I))
4. Entertainment, Indoor (§155.303(A))
5. Entertainment, Outdoor (§155.303(B))
6. Fitness/Recreation Center (§155.303(C))
7. Creative Studio, (§155.305(G))
8. Office, General, (§155.305(P))
9. Office, Medical, (§155.305(Q))
10. Research & Development, (§155.306(G))
11. Church or Place of Worship, (§155.302(C))

(b) All accessory daycare facilities shall be subject to the same requirements for Day Care Facilities, outlined in §155.302(E). This shall not include in-home daycares which are governed by separate requirements outlined in 155.

~~(c) An accessory day care facility to a church or place of worship shall be permitted as outlined in §155.308(E). A Conditional Use Permit shall not be required for an accessory day care facility to a church or place of worship.~~

(4) **Park**

(a) An accessory park shall be permitted in the forms of community gardens, playgrounds, or other small-scale recreational amenities that are secondary in nature to the primary use of the property.

(b) Accessory park uses shall be subject to ~~minor~~ site plan review in accordance with §155.707, illustrating the proposed boundaries of the park, amenities, and any other applicable elements.

(c) Additional parking to accommodate the accessory park shall be required in accordance with §155.401.

(5) **Outdoor Display & Sales**

(a) Outdoor display and sales shall be generally defined as the display and sales of goods, wares or merchandise outside of a permanent structure on property owned or leased by the person, firm or corporation. Outdoor display and sales must be secondary and incidental to the principal use or structure on the property, unless authorized pursuant to § 155.309, Temporary Use.

(b) Outdoor display and sale areas greater than 50 square feet shall only be permitted following ~~Planning Director~~ review of a ~~minor~~ site plan in accordance with § 155.707, illustrating the extent of the permitted area for outdoor display and sales subject to the standards below. Outdoor display and sale areas 50 square feet or less do not require site plan approval, but are still subject to the standards below.

(c) The location of outdoor merchandise must be on the same property as the principal use, and not within the right-of-way, except that in the B-1 zoning district it may be displayed in the right-of-way, provided that clearance requirements are maintained for pedestrian passage.

~~(c)~~(d) No outdoor merchandise displayed shall exceed five (5) feet in height. Wholesale of materials and any display that exceeds this height limitation shall be considered accessory outdoor storage and shall be permitted only in districts as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).

~~(d)~~(e) Merchandise shall be displayed to allow pedestrians use of the adjacent sidewalk or parking areas, and shall meet ADA accessibility requirements.

1. Any merchant desiring to display and sell merchandise along a public sidewalk or right-of-way must ~~also receive approval from the Town Manager or his designee, and agree to also comply with the~~ following stipulations:

A. Merchandise must be removed from the sidewalk within 24 hours of notice from the Town. If such items are not removed following notice, the Town has the right to remove and dispose of these items and may assess the property owner for the cost of removal and disposal. The Town has the right to remove such items immediately in emergency situation. The Town is not responsible for damage to the merchandise under any circumstances.

C. The owner of the business displaying or selling merchandise within a public sidewalk is responsible for repairing any incidental damage to public sidewalk resulting from the display of merchandise.

D. Merchandise must be removed from the sidewalk when the business is closed.

(6) **Outdoor Dining**

(a) Outdoor dining shall be defined as the placement of tables and chairs for dining outside of a permanent structure.

(b) **General Requirements**

1. Outdoor dining shall be permitted with a zoning compliance permit for 8 or fewer seats. More than 8 seats is subject to ~~a minor site plan approval, or as a component of a major site plan in accordance with § 155.707,~~ illustrating the extent of the outdoor dining area, the maximum seating capacity, and subject to the standards below. The impact of outdoor dining areas on adjacent churches, hospitals, public schools, and residential uses shall be mitigated to minimize potential impacts related to glare, light, loitering, and noise.
  2. Patron tables and other outdoor dining area components shall be clearly defined and located on the same site as the other facilities of the restaurant or on the adjacent public right-of-way. Separation between the seating and vehicular or pedestrian traffic by a physical barrier may be required, with the design to be approved by the Planning Director.
  3. Separation may be achieved through the use of materials which include, but are not limited to landscape planters, walls, railings or a combination thereof. Only barriers composed of landscape planters or masonry walls may be solid.
- (c) The additional parking necessary to accommodate seating created in the outdoor dining area shall comply with the parking requirements set forth in § 155.401 of this Chapter.
- (d) Outdoor dining areas and associated structural elements, such as awnings, covers, umbrellas, or other physical elements shall be compatible with the overall design of the main structure and must maintain a height clearance of eight feet and meet ADA accessibility requirements. Dining equipment (including, but not limited to tables, chairs, space heaters, barriers) may remain in place.
- (e) The Town may revoke the outdoor dining area if it is determined that its operation is causing litter problems either on or off the property where the dining is located or that such use is otherwise creating a danger to the public health or safety.
- (f) In addition to the requirements set forth above, if any portion of the outdoor dining area is to be located within a public right-of-way (sidewalks only), the dining area must also ~~receive approval from the Town Manager or his designee, and agree to comply with~~ the following stipulations. Outdoor dining within right-of-way owned and operated by the State of North Carolina, must also meet the requirements of G.S. 136-27.4 listed below.
1. Tables, chairs, and other furnishings shall be placed a minimum of six feet from any travel lane.
  2. Tables, chairs, and other furnishings shall be placed in such a manner that at least five feet of unobstructed paved space of the sidewalk, measured from any permanent or semi-permanent object, remains clear for the passage of pedestrians and provides adequate passing space that complies with the Americans with Disabilities Act.

3. Tables, chairs, and other furnishings shall not obstruct any driveway, alleyway, building entrance or exit, emergency entrance or exit, fire hydrant or standpipe, utility access, ventilations areas, or ramps necessary to meet accessibility requirements under the Americans with Disabilities Act.
  4. The maximum posted speed permitted on the roadway adjacent to the right-of-way to be used for sidewalk dining activities shall not be greater than 45 miles per hour.
  5. The restaurant operator shall provide evidence of adequate liability insurance specified by the Town under G.S. 160A-485 as the limit of the Town's waiver of immunity or the amount of Tort Claim liability specified in G.S. 143-299.2, whichever is greater. The insurance shall protect and name NCDOT and the Town as additional insured on any policies covering the business and the sidewalk activities.
  6. The restaurant operator shall provide an agreement to indemnify and hold harmless NCDOT and the Town from any claim resulting from the operation of sidewalk dining activities.
  7. The restaurant operator shall provide a copy of all permits and licenses issued by the State, County or Town, including health and ABC permits, if any, necessary for the operation of the restaurant or business, or a copy of the application for the permit if no permit has been issued. This requirement includes any permits or certificates issued by the Town for exterior alterations or improvements to the restaurant.
  8. The restaurant operator shall cease part or all sidewalk dining activities in order to allow construction, maintenance, or repair of any street, sidewalk, utility, or public building, by NCDOT, the Town, its agents or employees, or by any other governmental entity or public utility.
  9. Any other requirements deemed necessary by the NCDOT, either for a particular Town or a particular component of the State highway system.
- (g) The Town reserves the right to terminate the use of outdoor dining within the public right-of-way at any time. Upon notice, all furnishings must be removed from the sidewalk within 24 hours of notice from the Town. If furnishings are not removed within the time specified, the Town has the right to remove and dispose of these items and may assess the property owner for the cost of removal and disposal. The Town has the right to remove such items immediately in emergency situations. The Town is not responsible for damage to the furnishings under any circumstances.
- (h) The owner of the business utilizing a dining area within a public sidewalk is responsible for repairing any incidental damage to public sidewalk resulting from outdoor dining furnishings.

(7) **Accessory Limited Outdoor Storage**

- (a) Accessory Limited outdoor storage shall be defined as the overnight outdoor storage of vehicles (not associated with outdoor sales and display including vehicle sales, vehicle repair or car rental), merchandise or material in boxes, crates, on pallets or other kinds of containers, shopping carts, or other similar merchandise, material or equipment.
- (b) Limited outdoor storage shall only be ~~permitted as~~considered an accessory use and permitted in districts as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)). Limited outdoor storage areas shall meet the standards below:
- ~~(b) following Planning Board review of a major site plan in accordance with § 155.707, illustrating the extent of the permitted area for limited outdoor storage provided it meets the standards below.~~
1. Limited outdoor storage shall not be more than 12 feet in height and shall be fully screened from view from the public right-of-way, public parking areas, or adjacent residential development by a 100% opaque visual barrier or screen.
  2. All limited outdoor storage shall be located at least 15 feet from the public right-of-way and any abutting residential use or residentially-zoned district.
  3. Limited outdoor storage shall not be permitted in a street yard or otherwise forward of the front building line.

(8) **Accessory General Outdoor Storage**

- (a) General outdoor storage shall be defined as salvage yards, vehicle junk yards, overnight outdoor storage of shipping containers, lumber, pipe, steel, junk and other similar merchandise, material or equipment.
- (b) General outdoor storage shall only be considered an accessory use and permitted in districts as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)). General outdoor storage areas shall meet the standards below:
- ~~(b) General outdoor storage shall only be permitted as an accessory use following Planning Board review of a major site plan in accordance with § 155.707, illustrating the extent of the permitted area for general outdoor storage provided it meets the standards below.~~
1. General outdoor storage shall be screened by 100% opaque, eight foot high visual barrier or screen. When located abutting or across the street from a residential use or residentially-zoned property such screening shall be high enough to completely conceal all outdoor storage from view.

2. All general outdoor storage shall be located at least 15 feet from the public right-of-way and any abutting residential use or residential district.
3. No general outdoor storage shall be permitted in a street yard or otherwise forward of the front building line.
4. General outdoor storage may be located in the side or rear yard.

(9) **Swimming Pools**

- (a) Outdoor pools shall meet the standards of Chapter 154, Swimming Pools, of the Town Code of Ordinances.
- (b) Outdoor pools including decking shall be located at least 50 feet from any property line adjacent to a residential district or use, and at least 25 feet from any property line adjacent to any other district or use.
- (c) When the pool is adjacent to residences, the playing of music detectable off-site on a public address system is prohibited. Informational announcements shall be permitted. This requirement may be waived if a permit has been issued for a special event.

(E) **ACCESSORY USES FOR PLACES OF WORSHIP**

Accessory uses are permitted for a place of worship in accordance with the following standards.

The following facilities may be considered accessory to a place of worship. Additional buffering may be required through the review and approval of a site plan to address the intensity of the proposed place of worship and the proposed accessory uses.

- (a) Offices for the place of worship;
- (b) Rooms for religious instruction or counseling;
- (c) Meeting rooms for intermittent community meetings or instruction;
- (d) Fellowship hall;
- (e) Kitchen facilities;
- (f) Senior center, neighborhood arts center or other community center;
- (g) Temporary child care during religious services or events;
- (h) Outdoor play area;
- (i) Columbarium;

- (j) "Meals on Wheels" or other similar programs using the kitchen in the place of worship but delivering food elsewhere; and
  - (k) Residence for clergy employed by the place of worship.
- (2) The following accessory uses are subject to approval of a ~~major~~-site plan ~~by the Planning Board~~ (see § 155.707).
- (a) Gymnasium or similar indoor recreational facility;
  - (b) Cemetery;
  - (c) Overnight accommodation for visiting clergy and non-paying guests of clergy employed by the place of worship;
  - (d) Child care center;
  - (e) School;
  - (f) Soup kitchen or other social service facility; and
  - (g) Athletic field or similar facility.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-05-02, passed 5-7-07; Am. Ord. 2007-05-03, passed 5-7-07; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Ord. 2017-04-06, approved 04/03/2017)

## § 155.309 TEMPORARY USES

### (B) GENERAL REQUIREMENTS

Certain uses are temporary in character. They vary in type and degree, as well as length of time involved. Such uses may have little impact on surrounding and nearby properties or they may present questions involving potential incompatibility of the temporary use with existing uses. Unless otherwise specified in this chapter, the following regulations shall govern temporary uses.

### ~~(C)~~(F) TEMPORARY USES EXEMPT FROM PERMIT

The following permitted temporary uses are exempt from these requirements.

- (1) Christmas tree sales lots.
- (2) Garage or yard sales are permitted only by the property owner on their property and are allowed once every four months at any given location. The sale may not exceed three consecutive days in length. Advertising signs may not be placed on any rights-of-way or off-site locations without the owners' permission.
- (3) Storage pods for off-site storage of household or other goods located in any street yard are permitted for a maximum of seven consecutive days, and any side or rear yard for a maximum of 30 consecutive days.

### ~~(D)~~(G) TEMPORARY USE PERMIT REQUIRED

The following temporary uses are allowed in the frequency stated below, except that no property shall have more than four of the events listed below in one calendar year.

#### (1) **Commercial Circuses, Carnivals or Fairs**

Commercial circuses, carnivals or fairs, for not more than two consecutive weeks in any calendar year.

#### (2) **Temporary Religious or Revival Activities**

Temporary religious or revival activities in tents in association with a place of worship, for not more than two consecutive weeks in any calendar year.

#### (3) **Non-profit Special Events**

Special events run by non-profit, charitable organizations occurring no longer than seven consecutive days once every three months.

#### (4) **Tent Sales**



Tent sales by merchants occupying the premises on which the sale is conducted and having a valid certificate of occupancy, and occurring no longer than seven consecutive days once every six months.

(5) **Grand Opening Sales**

Grand opening sales, including outside food and beverage vending, for three consecutive days, once per certificate of occupancy.

(6) **Outdoor Vehicle Show or Sale**

Outdoor motor vehicle or recreational vehicle show or sale, for three consecutive days, twice per calendar year.

(7) **Other Temporary Uses**

Other temporary uses similar in nature to the ones listed above, with corresponding limitations, as determined by the Planning Director.

~~(F)(H)~~ **TEMPORARY OUTDOOR DISPLAY OF MERCHANDISE**

~~Permanent outdoor display of merchandise may be approved as part of major site plan (see § 155.311).~~

- (1) Outdoor display of merchandise in nonresidential districts by merchants occupying the premises and having a valid certificate of occupancy, occurring no longer than nine consecutive days up to four times per year, is allowed subject to issuance of a temporary use permit and all of the following conditions.
  - (a) Merchandise shall only be displayed in front of the premises occupied by the merchant.
  - (b) Merchandise shall not be displayed closer than five feet to any entrance to the premises.
  - (c) Merchandise shall only be displayed in a manner that does not obstruct pedestrian or vehicular circulation or traffic.
  - (d) The display of merchandise shall not exceed eight feet in height.
  - (e) Merchandise shall only be displayed during the merchant's hours of operation, and must be taken inside the premises at closing.
  - (f) Merchandise shall only be displayed in an area not wider than 50% of the total linear foot frontage of the building occupied by the merchant.
  - (g) The required temporary use permit must be visibly displayed at the main entrance of the associated merchant.

- (h) A violation of any conditions set out in this section shall constitute a violation of the temporary use permit and cause said temporary use permit to be revoked. Once revoked, a temporary use permit shall not be issued for the same temporary use for a period of one year.
- (2) Any temporary use permit issued under (C)(1) through (7) of this section shall be counted in the maximum number of temporary use permits allowed for the temporary outdoor display of merchandise.
- (3) The requirements of this section do not supersede the permanent outdoor storage or display requirements of §155.311-308. Permanent outdoor display/sales of merchandise shall be considered an accessory use and permitted in districts as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)). This use shall be subject to site plan approval.

**(F)(I) MANUFACTURED HOME OR TRAILER FOR TEMPORARY USE**

~~After approval by the Planning Director, a One~~ manufactured home or trailer may be used as a temporary office, security shelter, or shelter for materials or tools (but not for residential purposes or sales offices) incident to construction on or development of the premises upon which the manufactured home or trailer is located. Such use shall be strictly limited to the time construction or development is actively underway. ~~In no event shall the~~The temporary use may continue more than six months ~~without the further approval of the Planning Director. The temporary use shall be approved only~~ upon finding that actual construction is continuing.

**(G)(J) TEMPORARY USE IN CONJUNCTION WITH SPECIAL EVENT PERMIT**

Where a valid permit has been issued by the Town for use of adjacent right-of-way that makes the street unavailable to vehicular traffic, a temporary use permit may be issued in accordance for events on the grounds or in the parking lot of any adjacent parcel during the period of the special event permit.

**(H)(K) REAL ESTATE DEVELOPMENT PROJECTS**

- (1) A developer may request a temporary use permit for necessary commercial promotional, storage, or fabrication activities at the development site which occur during construction of that developer's project.
- (2) When the request is for a temporary sales office, model home, or apartment, the application shall list the lots, apartment units, or dwelling units to be initially sold.
- (3) The temporary use permit shall be restricted to only those activities and properties listed on the petition. Such activities shall not include any sale of properties outside the development site or any resale of properties.
- (4) The following uses in connection with such a project require a temporary use permit:
  - (a) Offices for sale of real estate or for persons engaged in the development.

- (b) Construction materials storage, general contractor's business office, processing, or fabrication.
- (c) Equipment storage.
- (d) Model homes or sample apartments.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-05-02, passed 5-7-07; Am. Ord. 2007-05-03, passed 5-7-07; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12)

## **§ 155.310 TELECOMMUNICATION FACILITIES**

### **(A) PURPOSE AND LEGISLATIVE INTENT**

The purpose of this Section is to establish general guidelines for the locating, collocating, modifying or upgrading of telecommunications towers, antenna, ground equipment and related accessory structures. It is the intent of this Section to:

- (1) Promote the health, safety, and general welfare of the public by regulating the locating of telecommunication facilities.
- (2) Minimize the impacts of wireless communication facilities on surrounding land uses by establishing standards for location, structural integrity, and compatibility.
- (3) Encourage the location and collocation of telecommunication equipment on existing structures thereby minimizing new visual, aesthetic, and public safety impacts, effects upon the natural environment and wildlife, and to reduce the need for additional towers.
- (4) Accommodate the growing need and demand for new and upgraded telecommunication services.
- (5) Encourage coordination between suppliers and providers of personal telecommunication services.
- (6) Establish predictable and balanced codes governing the construction and location of telecommunications facilities within the confines of permissible local regulations.
- (7) Establish review procedures to ensure that applications for telecommunications facilities are reviewed and acted upon within a reasonable period of time as required by applicable state and federal regulations.
- (8) Respond to the policies embodied in the Telecommunications Act of 1996 so that no discrimination between providers of functionally equivalent personal wireless services occurs, or to prohibit or have the effect of prohibiting personal wireless services.
- (9) Respond to the policies in Section 6409 of the Tax Relief and Job Creation Act of 2012 (47 USC §1445(a)).
- (10) Protect the character of the Town while meeting the needs of its citizens to enjoy the benefits of telecommunication services.
- (11) Encourage the use of public lands, buildings, and structures as locations for telecommunications infrastructure demonstrating concealed technologies and revenue generating methodologies.

### **(B) AUTHORITY**

The provisions of this Section are permitted under authority granted by the General Assembly of the State of North Carolina with particular reference to Article 9, Part 3, of Chapter 160D of the North Carolina General Statutes.

(C) **SPECIFIC WIRELESS COMMUNICATION DEFINITIONS**

- (1) **Alternative Structure**  
A structure that is not primarily constructed for the purpose of holding Antennas but on which one or more antennas may be mounted, including, but not limited to buildings, water tanks, pole signs, billboards, church steeples, and electric power transmission towers.
- (2) **Amateur Radio Tower**  
Any tower used for amateur radio transmissions consistent with the “Complete FCC U.S. Amateur Part 97 Rules and Regulations” for amateur radio towers.
- (3) **Ancillary Structure**  
Any form of development associated with a Wireless Communications Facility, including, but not limited to foundations, concrete slabs on grade, guy anchors, generators, and transmission cable supports, but excluding equipment cabinets.
- (4) **Anti-Climbing Device**  
A piece or pieces of equipment designed to prevent people from climbing the structure.
- (5) **Antenna**  
Any apparatus designed for the transmitting and/or receiving of communication signals, including, but not limited to telephonic, radio and television communications.
- (6) **Antenna Array**  
A single or group of antenna elements and associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support structure for the sole purpose of transmitting or receiving communication signals.
- (7) **Antenna Element**  
Any antenna or antenna array.
- (8) **ASR**  
The Antenna Structure Registration Number as required by the FAA and FCC.
- (9) **Base Station**  
The electronic equipment utilized at the base of a Wireless Communication Facility for the transmission and reception of communication signals.
- (10) **Breakpoint Technology**  
The engineering design of a tower wherein a specified point on the tower is designed to have stresses concentrated so that the point is at least five percent (5%) more susceptible to failure

than any other point. In the event of a structural failure, the failure will occur at the breakpoint rather than at the base plate, anchor bolts, or any other point on the tower.

(11) **Broadcast Facilities**

Towers, antennas, and/or antenna arrays for AM/FM/TV/HDTV broadcasting transmission facilities that are licensed by the Federal Communications Commission.

(12) **Collocation**

The practice of installing and operating multiple wireless carriers, service providers, and/or radio common carrier licensees on the same tower or alternative structure using different and separate antenna, feed lines, and radio frequency generating equipment.

(13) **Combined Antenna**

An antenna or an antenna array designed and utilized to provide services for more than one wireless provider, or a single wireless provider utilizing more than one frequency band or spectrum, for the same or similar type of services.

(14) **Concealed**

A Wireless Communication Facility is not readily identifiable as such, and is designed to be aesthetically compatible with the natural environment or existing and proposed building(s) and uses on a site. There are two types of concealed facilities:

(a) **Attached.** Attachment to an alternative structure in a manner that blends with the alternative structure, which may include painted antenna and feed lines to match the color of a building or structure, faux windows, dormers or other architectural features that blend with an existing or proposed building or structure.

(b) **Freestanding.** Freestanding concealed tower, usually having a secondary, obvious function which may include church steeple, windmill, bell tower, clock tower, light standard, flagpole with or without a flag, or tree.

(15) **Development Area**

The area occupied by a Wireless Communication Facility including areas inside or under an antenna-support structure's framework, equipment cabinets, ancillary structures, and/or access ways.

(16) **Discontinued**

Any tower without any mounted transmitting and/or receiving antennas in continued use for a period of 180 consecutive days.

(17) **Distributed Antenna System (DAS)**

A network of smaller, spatially separated antenna nodes ~~located within the public right-of-way~~ and typically installed on either existing or new utility poles and connected to a communications network. A DAS network splits the transmitted signal among several smaller antennas.

- (18) **Eligible Facilities Request.**  
Modification of an existing tower, or alternative structure supporting a Wireless Communication Facility, that involves collocation of new transmission equipment or removal or replacement of transmission equipment, including structural enhancement of the support structure, but does not include a Substantial Modification.
- (19) **Equipment Compound**  
The fenced-in area surrounding the base station equipment including the areas inside or under a structure's framework and ancillary structures such as equipment necessary to operate the antenna on the structure including cabinets, shelters, pedestals, and other similar structures.
- (20) **Equipment Cabinet**  
Any structure including cabinets, shelters, pedestals, and other similar structures and used exclusively to contain radio or other equipment necessary for the transmission or reception of communication signals.
- (21) **FAA**  
The Federal Aviation Administration.
- (22) **FCC**  
The Federal Communications Commission.
- (23) **Feed Lines**  
Cables used as the interconnecting media between the transmission/receiving base station and the antenna.
- (24) **Flush-Mounted**  
Any antenna or antenna array attached directly to the face of the support structure or building such that no portion of the antenna extends above the height of the support structure or building. Where a maximum flush-mounting distance is given, that distance shall be measured from the outside edge of the support structure or building to the inside edge of the antenna.
- (25) **Geographic Search Ring**  
An area designated by a wireless provider or operator for a new Wireless Communication Facility, produced in accordance with generally accepted principles of wireless engineering.
- (26) **Handoff Candidate**  
A Wireless Communication Facility that receives call transference from another Wireless Communication Facility.
- (27) **Least Visually Obtrusive Profile**  
The design of a Wireless Communication Facility to present a visual profile that is the minimum profile necessary for the facility to properly function.
- (28) **Non-concealed**

A Wireless Communication Facility that is readily identifiable as such and can be either supported by a freestanding Tower or attached to an Alternative Structure.

(29) **Personal Wireless Service**

Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services as defined in the Telecommunications Act of 1996.

(30) **Public Safety Communications Equipment**

All communications equipment utilized by a public entity for the purpose of ensuring the safety its citizens and operating within the frequency range of 700 MHz and 1,000 MHz and any future spectrum allocations at the direction of the FCC.

(31) **Radio Frequency Emissions**

Any electromagnetic radiation or other communications signal emitted from an antenna or antenna-related equipment on the ground, tower, or alternative structure.

(32) **Satellite Earth Station**

A single or group of parabolic or dish antennas mounted to a support device that may be a pole or truss assembly attached to a foundation in the ground, or in some other configuration, including the associated separate equipment cabinets necessary for the transmission or reception of communications signals with satellites.

(33) **Structure**

Anything constructed or erected, the use of which required permanent location on the ground, or attachment to something having a permanent location on the ground, including advertising signs.

(34) **Substantial Modification**

Modification of an existing tower, or alternative structure supporting a wireless communication facility, that substantially changes the physical dimensions of the support structure. A modification is presumed to be a Substantial Modification if it meets any one or more of the following criteria:

(a) Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional Antenna array with separation from the nearest existing Antenna not to exceed 20 feet.

(b) Except where necessary to shelter the Antenna from inclement weather or to connect the Antenna to the structure via cable, adding an appurtenance to the body of the structure that protrudes horizontally from the edge of the structure the greater of (i) more than 20 feet or (ii) more than the width of the structure at the level of the appurtenance.

(c) Excavation or deployment of transmission equipment outside of the current site by more than 30 feet in any direction, excluding any access or utility easements currently related to the site. The boundaries of the current site for existing Towers are the boundaries of the leased or owned property surrounding the Tower and any access or utility easements



currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground. The current boundaries of the site are the boundaries that existed as of the date that the original support structure or a modification to that structure was last reviewed and approved by the Town or other local government.

(d) Involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets.

(e) The modification will not comply with applicable regulations, restrictions, and/or conditions, if any, associated with the prior approval of construction or modification of the tower or alternative structure, unless non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the thresholds of a Substantial Modification.

(35) **Tower**

A new or existing structure that is primarily designed to support or capable of supporting Wireless Communication Facilities. Types of tower structures include the following:

- (a) **Guyed.** A style of tower consisting of a single truss assembly composed of sections with bracing incorporated. The sections are attached to each other, and the assembly is attached to a foundation and supported by a series of wires that are connected to anchors placed in the ground or on a building.
- (b) **Lattice.** A tapered style of tower that consists of vertical and horizontal supports with multiple legs and cross bracing, and metal crossed strips or bars to support Antennas.
- (c) **Monopole.** A style of freestanding tower consisting of a single shaft usually composed of two or more hollow sections that are in turn attached to a foundation. This type of tower is designed to support itself without the use of guy wires or other stabilization devices. These facilities are mounted to a foundation that rests on or in the ground or on a building's roof. All feed lines shall be installed within the shaft of the structure.

Towers do not include any structure used to attach antennas to an existing building, unless the device extends above the highest point of the building by more than twenty feet.

(36) **Tower Base**

The foundation, usually concrete, on which the Tower and other support equipment are situated. For measurement calculations, the Tower Base is that point on the foundation reached by dropping a perpendicular line from the geometric center of the Tower.

(37) **Tower Height**

The vertical distance measured from finished grade to the highest point of the Tower, including any antenna, lighting or other equipment affixed thereto.

(38) **Tower Site**

The land area that contains, or will contain, a proposed Tower, support structures and other related buildings and improvements.

(40) **Wireless Communication Facility**

Equipment at a fixed location for the transmission and/or reception of radio frequency signals or other wireless communications between user equipment and a communications network, and usually consisting of an antenna or group of antennas, transmission cables and equipment cabinets. The following developments shall be deemed a wireless communication facility: new, mitigated, or existing towers, public towers, replacement towers, collocation on existing towers, attached wireless communications facilities, concealed wireless communication facilities, and non-concealed wireless communication facilities.

(D) **EXEMPTIONS**

The following items are exempt from the provisions of this Section:

- (1) Any amateur radio tower less than 50 feet in height or communications towers existing or permitted prior to the adoption of this Section.
- (2) Satellite earth stations that are one meter (39.37 inches) or less in diameter in all residential zoning districts and two meters or less in all other zoning districts.
- (3) A government-owned communications facility, upon the declaration of a state of emergency by federal, state, or local government, and a written determination of public necessity by the Town designee; except that such facility must comply with all federal and state requirements. No communications facility shall be exempt from this Section beyond the duration of the state of emergency.
- (4) A government-owned communications facility erected for the purposes of installing antenna(s) and ancillary equipment necessary to provide communications for public health and safety.
- (5) A temporary, commercial communications facility, for the purposes of providing coverage of a special event such as news coverage or sporting event, subject to approval by the Town, except that such facility must comply with all federal and state requirements. Said communications facility may be exempt from this Section for up to one week following the special event.

(E) **APPLICABILITY**

Unless specifically exempted above, this Section applies to development activity involving the installation, construction, or modification of all Wireless Communication Facilities. This includes but is not limited to:

- (1) Non-commercial, amateur radio station antennas.
- (2) Existing towers.
- (3) Proposed towers.

- (4) Public towers.
- (5) ~~Mitigation~~ Replacement or consolidation of towers.
- (6) Collocation on existing towers.
- (7) Attached wireless communication facilities.
- (8) Concealed wireless communication facilities.
- (9) Non-concealed towers.
- (10) Broadcast facilities.

(F) **ABANDONMENT (DISCONTINUED USE)**

- (1) Towers, antennas, and the equipment compound shall be removed at the owner's expense should the facility/tower not have active antennas in use for a period of 180 days.
- (2) An owner wishing to extend the time for removal or reactivation shall submit an application stating the reason for such extension. The Town may extend the time for removal or reactivation up to 60 additional days upon a showing of good cause. If the tower or antenna is not removed within this time, the Town may give notice that it will contract for removal within 30 days following written notice to the owner. Thereafter, the Town may cause removal of the tower with costs being borne by the owner.
- (3) Upon removal of the tower, antenna, and equipment compound, the development area shall be returned to its natural state and topography and vegetated consistent with the natural surroundings or consistent with the current uses of the surrounding or adjacent land at the time of removal, excluding the foundation, which does not have to be removed.

(G) **CONFLICT WITH OTHER LAWS OR REGULATIONS**

When the requirements of this Section conflict with the requirements of other lawfully adopted rules, regulations, or ordinances of the Town, State or Federal Government, or deeds restrictions imposed by the developer or subdivider, the more stringent requirements shall govern, except to the extent pre-empted by State or Federal law.

(H) **INTERFERENCE WITH PUBLIC SAFETY COMMUNICATIONS**

In order to facilitate the regulation, placement, and construction of Wireless Communication Facilities, and to ensure that all parties are complying to the fullest extent possible with the rules, regulations, and/or guidelines of the FCC, each owner of a Wireless Communication Facility or applicant for a collocation shall agree in a written statement to the following:

- (1) Compliance with "Good Engineering Practices" as defined by the FCC in its rules and regulations.

- (2) Compliance with FCC regulations regarding susceptibility to radio frequency interference, frequency coordination requirements, general technical standards for power, antenna, bandwidth limitations, frequency stability, transmitter measurements, operating requirements, and any and all other federal statutory and regulatory requirements relating to radio frequency interference (RFI).
- (3) In the case of an application for co-located Wireless Communication Facilities, the applicant, together with the owner of the subject site, shall use their best efforts to provide a composite analysis of all users of the site to determine that the applicant's proposed facilities will not cause radio frequency interference with the Town's public safety communications equipment and will implement appropriate technical measures, as described in antenna element replacements, to attempt to prevent such interference.
- (4) Whenever the Town has encountered radio frequency interference with its public safety communications equipment, and it believes that such interference has been or is being caused by one or more antenna arrays, the following steps shall be taken:

~~(e)~~(a) The Town shall provide notification to all wireless service providers operating in the Town of possible interference with the public safety communications equipment, and upon such notifications, the owners shall use their best efforts to cooperate and coordinate with the Town and among themselves to investigate and mitigate the interference, if any, utilizing the procedures set forth in the joint wireless industry-public safety "Best Practices Guide," released by the FCC in February 2001, including the "Good Engineering Practices," as may be amended or revised by the FCC from time to time.

~~(f)~~(b) If any equipment owner fails to cooperate with the Town in complying with the owner's obligations under this section or if the FCC makes a determination of radio frequency interference with the Town public safety communications equipment, the owner who failed to cooperate and/or the owner of the equipment which caused the interference shall be responsible, upon FCC determination of radio frequency interference, for reimbursing the Town for all costs associated with ascertaining and resolving the interference, including but not limited to any engineering studies obtained by the Town to determine the source of the interference. For the purposes of this subsection, failure to cooperate shall include failure to initiate any response or action as described in the "Best Practices Guide" within 24 hours of Town's notification.

(I) **BUILDING CODE REQUIREMENTS**

Towers shall be constructed and maintained in conformance with all applicable building code requirements.

(J) **ZONING PROCESS LEVELS**

Table 3-1 below indicates the zoning process for the different types of tower projects.

**Table 3-1 Process**

| PROCESS LEVEL                                                                                                                                                            | APPROVAL AUTHORITY  | PROCESS TYPE <sup>1</sup> | USE                                                                                                                                                                    |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| I                                                                                                                                                                        | Planning Department | P                         | Amateur radio no greater than fifty (50) feet in height                                                                                                                |
| II                                                                                                                                                                       | Planning Department | TRC                       | DAS network equipment, concealed towers, collocation and Eligible Facilities Requests, attached Wireless Communication Facilities                                      |
| III                                                                                                                                                                      | Town Council        | TC                        | New towers other than those defined as concealed; Collocation or other modifications to existing towers or alternative structures involving a Substantial Modification |
| IV                                                                                                                                                                       | Town Council        | TC                        | Broadcast facilities                                                                                                                                                   |
| Notes:<br>1. P - Permitted by right<br>TRC - Subject to Technical Review Committee approval (staff level)<br>TC - Subject to Special Use Permit approval by Town Council |                     |                           |                                                                                                                                                                        |

(1) **Process Level I**

The Zoning Compliance Permit issued by the Planning Department to an individual, corporation, partnership, or other entity to engage in the creation of amateur radio tower

(2) **Process Level II**

The Zoning Compliance Permit issued by the Planning Department (after Technical Review Committee approval) to an individual, corporation, partnership, or other entity to engage in the installation of DAS network equipment or concealed towers and collocation not qualifying as an Eligible Facilities Request, or attached antennas, base station equipment or antenna element replacements that do not qualify as an Eligible Facilities Request.

(3) **Process Level III**

The Special Use Permit issued by the Planning Department (after public hearing and approval by Town Council) to an individual, corporation, partnership, or other entity to engage in the creation of new towers, excluding amateur radio towers.

(4) **Process Level IV**

The Special Use Permit issued by the Planning Department (after public hearing and approval by Town Council) to an individual, corporation, partnership, or other entity to engage in the creation of new towers, specifically broadcast facilities.

(K) **LOCATING ALTERNATIVES ORDER**

(1) **Locating of New Wireless Communication Facilities & New Towers**

Locating of a new Wireless Communication Facilities and new towers shall be in accordance with the preferred location hierarchy provided in Table 3-2 below.

**Table 3-2 Preferred Location Hierarchy**

| Ranking | Type                                                                                                                                                |
|---------|-----------------------------------------------------------------------------------------------------------------------------------------------------|
| 1       | Concealed <u>or camouflaged</u> attached Wireless Communication Facilities                                                                          |
| 2       | Collocation on existing tower or Alternative Structure supporting one or more Wireless Communication Facilities, or use of DAS or Combined Antennas |
| 3       | Replacement of existing tower                                                                                                                       |
| 4       | Non-concealed attached Wireless Communication Facilities                                                                                            |
| 5       | Concealed freestanding tower                                                                                                                        |
| 6       | Non-concealed freestanding tower                                                                                                                    |

Where a lower ranked alternative is proposed, the applicant must file relevant information as required including, but not limited to, an affidavit by a radio frequency engineer demonstrating that despite diligent efforts to adhere to the established hierarchy within the geographic search area, higher ranked options are not technically feasible, practical or justified given the location of the proposed Wireless Communication Facility.

(L) **APPLICATION REQUIREMENTS**

All new tower applications shall contain the following:

- (1) Completion of the Town of Clayton's Site Plan and Tower Application.
- (2) Proof that a property and/or tower owner's agent has appropriate authorization to act upon the owner's behalf, if applicable.
- (3) Application Fee.
- (4) Site Plan.

(5) Written statement indicating that the criteria set forth in Section 155.310 (H) are met.

~~(6) Evidence demonstrating that Collocation on an existing tower within the applicant's Geographic Search Ring is not reasonably feasible. Collocation on an existing tower is not reasonably feasible if Collocation is technically or commercially impractical or the owner of the existing Tower is unwilling to enter into a contract for such use at fair market value.~~

~~(7)~~(6) Valid FCC license / approval, as applicable.

(M) **GENERAL DEVELOPMENT STANDARDS**

(1) **Visibility**

- (a) New towers shall be configured and located in a manner that shall minimize adverse effects including visual impacts on the landscape and adjacent properties.
- (b) New freestanding towers shall be designed to match adjacent structures and landscapes with specific design considerations such as architectural designs, height, scale, color, and texture.
- (c) A balloon test shall be required in order to demonstrate the proposed height of the new tower. The applicant shall arrange to raise a colored balloon no less than three feet in diameter at the maximum height of the proposed tower, and within fifty horizontal feet of the center of the proposed tower. The applicant shall provide photo simulations of the proposed tower based on the balloon test pursuant to Section 7(n).
- (d) The applicant shall meet the following for the required balloon test:
  - 1. Applicant must inform the Planning Department and abutting property owners in writing of the date and times, including alternative date and times, of the test at least 14 days in advance.
  - 2. The date, time, and location, including alternative date, time and location, of the balloon test shall be advertised in a locally distributed paper by the applicant at least seven but no more than 14 days in advance of the test date.
  - 3. The balloon shall be flown for at least four consecutive hours during daylight hours on the date chosen. The applicant shall record the weather during the balloon test.
  - 4. Re-advertisement will not be required if inclement weather occurs.
- (e) New antenna mounts shall be flush-mounted or camouflaged, unless the applicant's engineer seals and signs an attestation applicant provides evidence that flush-mounted antennas are not technically feasible for the proposed Tower.
- (f) In residential zoning districts, new towers shall only be considered on lots whose principal use is not residential.

(2) **Construction**

- (a) Grading shall be minimized and limited only to the area necessary for the new Tower and equipment.
- (b) Towers shall be constructed to accommodate antenna arrays as follows:
  - 1. All freestanding towers up to 120 feet in height shall be engineered and constructed to accommodate no less than four antenna arrays.
  - 2. All towers between 121 feet and 150 feet shall be engineered and constructed to accommodate no less than five antenna arrays.
  - 3. All towers between 151 feet and taller shall be engineered and constructed to accommodate no less than six antenna arrays.
- (c) Freestanding non-concealed tower shall be limited to monopole type towers, unless the applicant demonstrates that such design is not feasible to accommodate the intended uses.

(3) **Setbacks**

Freestanding towers and equipment compounds shall be subject to the setbacks described below:

- (a) If the tower has been constructed using breakpoint technology (see 'Definitions'), the minimum setback distance shall be equal to 110 percent (110%) of the distance from the top of the structure to the breakpoint level of the structure, or the minimum side and rear yard requirements, whichever is greater. Certification by a registered professional engineer licensed by the State of North Carolina of the breakpoint design and the design's fall radius must be provided together with the other information required herein from an applicant. (For example, on a 100-foot tall monopole with a breakpoint at 80 feet, the minimum setback distance would be 22 feet (110 percent of 20 feet, the distance from the top of the monopole to the breakpoint) plus the minimum side or rear yard setback requirements for that zoning district.)
- (b) If the tower is not constructed using breakpoint design technology, the minimum setback distance shall be equal to the height of the proposed tower.

(4) **Height**

- (a) Height calculations shall include above ground foundations, ~~but exclude~~including lightning rods or lights required by the FAA that do not provide any support for antennas or communications operations. It is intended that all new non-broadcasting towers be 150 feet or less in height. However, should a Tower be required in excess of 151 feet, under no circumstance shall any tower exceed 300 feet. All new towers in excess of 151 feet shall be subject to the following additional requirements:



1. Evidence that the proposed height is necessary to provide the applicant's designed service.
2. The tower shall be designed to allow for a future reduction of elevation to no more than 150 feet, or the replacement of the tower with a monopole type structure at such time as the wireless network had developed to the point that such heights can be justified.

- (b) New concealed towers shall be limited to 150 feet or less in height. Height calculations shall include above ground foundations, ~~but~~ **and include** exclude lightning rods or lights required by the FAA that do not provide any support for antennas.

**(5) Equipment Compound**

- (b) Equipment compounds shall be completely screened from view and shall not be used for the storage of any excess equipment or hazardous materials. No outdoor storage yards shall be allowed in a tower equipment compound. The compound shall not be used as habitable space.
1. Equipment cabinets shall be screened in accordance with Section 155.402(G)(4). Cabinets may be provided within the principal building, behind a screen on a rooftop, or on the ground within the fenced-in and screened equipment compound.

**(6) Parking**

Parking shall be required in accordance Section 155.401(C) of the UDC.

**(7) Fencing**

All equipment compounds shall be screened from view and enclosed with an opaque fence, masonry wall, landscaping, or combination thereof. Alternative equivalent screening may be approved through the site plan approval process described in Section 155.402 of the UDC.

**(8) Buffer**

The equipment compound shall be landscaped with a minimum 10 foot wide perimeter buffer containing the following planting standards:

- (a) All plants and trees shall be indigenous to eastern North Carolina.
- (b) Existing trees and shrubs on the site should be preserved and may be used in lieu of required landscaping with approval from the Planning Department.
- (c) One row of evergreen trees with a minimum two inch caliper, 25 foot on center.

- (d) Evergreen shrubs capable of creating a continuous hedge and obtaining a height of at least five feet shall be planted, minimum three gallon or 24 inches tall at the time of planting, five foot on center.
- (e) Alternative landscaping plans which provide for the same average canopy and understory trees but propose alternative locating on the entire subject property may be considered and approved by the Planning Department, provided the proposed alternative maximizes screening as provided above, and is otherwise consistent with the requirements of Section 155.402 of the UDC.

(9) **Signage**

Commercial messages shall not be displayed on any tower. Required noncommercial signage shall be limited to the following:

- (a) The only signage that is permitted upon a tower, equipment cabinets, or fence shall be informational, and for the purpose of identifying the tower (such as ASR registration number), as well as the party responsible for the operation and maintenance of the facility, and any additional security and/or safety signs as applicable.
- (b) If 220 volts or more is necessary for the operation of the facility and is present in a ground grid or in the tower, signs located every 20 feet and attached to the fence or wall shall display in large, bold, high contrast letters, minimum height of each letter four inches, the following: "HIGH VOLTAGE - DANGER."
- (c) Name plate signage shall be provided, in an easily visible location, including the address and telephone number of the contact to reach in the event of an emergency or equipment malfunction, including property manager signs as applicable.

(10) **Lighting**

Lighting on towers shall not exceed the Federal Aviation Administration (FAA) minimum standards. All other lighting shall be subject to the following.

- (a) Any lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) allowable by the FAA. Dual lighting standards are required and strobe light standards are prohibited unless required by the FAA.
- (b) Lights shall be oriented so as not to project directly onto surrounding property or rights-of-way, consistent with FAA requirements.

(N) **ADDITIONAL REQUIREMENTS FOR LEVEL II and LEVEL III FACILITIES**

(1) **Requirements for all Level II Facilities:**

- (a) Compliance with American National Standards Institute (ANSI) standards for electromagnetic radiation: In order to protect the public from excessive exposure to electromagnetic radiation, the facility applicant shall certify through a written statement that the facility meets or exceeds current ANSI standards as adopted by the FCC.
  - (b) Certification furnished by a registered professional engineer licensed in the State of North Carolina that the structure has sufficient structural integrity to support the proposed antenna and feed lines in addition to all other equipment located or mounted on the structure.
  - (c) One original and two copies of a survey of the property completed by a registered professional surveyor, licensed in the State of North Carolina showing all existing uses, structures, and improvements.
  - (d) Any applicant for facilities under this section shall certify that such proposed facility shall comply with all applicable federal regulations regarding interference protection, including but not limited to federal regulations regarding adjacent channel receiver (blanket) overload and intermodulation distortion.
- (2) **Collocation & Combination (Level II)**

The Town requires collocation and combining of antennas on existing communications towers as a first priority where collocation is possible. Collocations are subject to the following additional requirements:

- (a) A collocated or combined antenna or antenna array shall not increase the height of an existing tower by more than 10 percent or 20 feet, whichever is greater.
- (b) New antenna mounts shall be flush-mounted [or camouflaged](#) onto existing structures, unless ~~it is demonstrated~~ [the applicant's engineer seals and signs an attestation](#) that flush-mounted antennas are not technically feasible for the proposed collocation .
- (c) The equipment cabinet shall be subject to the setback requirements of the underlying zoning district.
- (d) When a collocated or combined antenna is to be located on a nonconforming building or structure, then the existing permitted nonconforming setback shall prevail.
- (e) Collocation and eligible facilities requests of wireless support structures described in Section 160D-934 North Carolina General Statutes, shall meet all the following requirements:
  - 1. Shall not involve installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets.
  - 2. The proposed collocation shall not increase the overall height of the tower or alternative structure to which the proposed infrastructure is to be attached by

the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.

3. Excavation or deployment of transmission equipment outside of the current site by more than 30 feet in any direction, excluding any access or utility easements currently related to the site.
  4. The collocation shall not, except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, add an appurtenance to the body of a communications tower that protrudes horizontally from the edge of the tower the greater of (i) more than 20 feet or (ii) more than the width of the tower at the level of the appurtenance increase.
  5. The existing tower on which the collocation will attach shall comply with applicable regulations, restrictions, and/or conditions, if any, associated with the prior approval of construction or modification of the tower or alternative structure, unless non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the thresholds of a Substantial Modification.
  6. The proposed additional collocation and tower shall comply with all federal, state, and local safety requirements.
  7. The proposed collocation and ancillary equipment shall not exceed the applicable weight limits for the tower.
- (f) Applications for collocation entitled to processing pursuant to Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 USC §1445(a)) shall be approved provided they meet the following requirements:
1. A collocation on an existing antenna-supporting structure shall not increase the overall height of the antenna-supporting structure, antenna and/or antenna array more than 10% or 20 feet, whichever is greater, and shall not cause the width (girth) of the structure to be increased more than 20 feet or the existing girth of the structure, whichever is greater.
  2. Any collocation on an existing antenna-supporting structure shall meet current building code requirements (including windloading).
  3. A collocation shall not add more than four additional equipment cabinets.
  4. A collocation shall not require excavation more than 30 feet outside of the existing leased or owned parcel.
  5. Proposed collocations that do not meet these standards shall be processed as a Level III application.

- (g) Collocation approvals entitled to processing pursuant to Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 USC §1445(a)) are subject to the following:
    - 1. A collocation application shall be deemed complete unless the Town notifies the applicant within 45 days of submission (or within some other mutually agreed upon timeframe) that the submission is incomplete. Notices of application incompleteness shall identify the deficiencies in the application which, if cured, would make the application complete. Approval or denial of a complete application shall be in writing and shall be postmarked to the applicant by the 45<sup>th</sup> day after the submission is deemed complete.
    - 2. Upon resubmitting of the revised application the Town shall follow the process identified in this section, above, until all deficiencies identified are deemed cured.
    - 3. If the Town does not respond in writing to the applicant within the specified timeframe detailed above, then the application shall be deemed approved.
    - 4. Applications subject to this review process shall not be subject to design or placement requirement, or public hearing review. All applications shall be initially submitted to the Planning Department for review and processing.
  - (h) New concealed and non-concealed towers shall be reviewed and have a decision rendered within 150 days of receipt of the application.
- (3) **Attachment: Concealed & Non-Concealed (Level II)**
- Antennas may be mounted onto a structure which is not primarily constructed for the purpose of holding attachment antennas but on which one or more antennas may be mounted. Attached antenna shall be subject to the following:
- (a) The top of the attached antenna shall not be more than 20 feet above the existing or proposed building or structure
  - (b) Non-concealed attachments shall only be allowed on electrical transmission towers and existing light stanchions subject to approval by the Technical Review Committee and utility company.
  - (c) When an attached antenna is to be located on a nonconforming building or structure, the existing permitted nonconforming setback shall prevail.
  - (d) Except for non-concealed attached antennas, feed lines and antennas shall be designed to architecturally match the façade, roof, wall, and/or structure on which they are affixed so that they blend with the existing structural design, color, and texture.
- (4) **Antenna Element Replacement (Level II)**

For any replacement of an existing antenna element on an antenna, the applicant must, prior to making such modifications, submit the following:

- (a) A description of the proposed modifications to the antenna, including modifications to antenna element design, type and number, as well as changes in the number and/or size of any feed lines, from the base of the equipment cabinet to such antenna elements.
- (b) A signed statement from a qualified person, together with their qualifications, shall be included representing the tower's owner or owner's agent that the radio frequency emissions comply with FCC standards for such emissions. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the replacement antenna complies with FCC standards.
- (c) A stamped or sealed structural analysis of the existing structure prepared by a registered professional engineer licensed by the State of North Carolina indicating that the existing tower as well as all existing and proposed appurtenances meets North Carolina Uniform Statewide Building Code (USBC) requirements, including wind loading, for the antenna support structure.

(5) **DAS Equipment [and Small Cell \(as applicable\)](#) (Level II)**

(c) ***System Design Review***

A DAS applicant, prior to its initial application for a DAS facility, shall furnish an overall system design application to the Planning Department for review and approval by the Technical Review Committee. The system design application shall include the following information:

- 1. A statement of the identity and number of wireless services providers that will utilize the DAS systems;
- 2. A statement that the DAS system will be capable of accommodating at least eight (8) wireless service providers on the proposed system
- 3. A graphic depiction of the conceptual plan for the proposed total area of service coverage by the DAS system;
- 4. A statement of the number of handoff facilities for the DAS system;
- 5. A proposed build-out timeline and graphic depiction of the build-out phases through completion.

(b) ***Equipment Design Review***

A DAS applicant, prior to its initial application for a DAS facility, shall furnish an equipment design application to the Planning Department for review and approval by

the Technical Review Committee. The equipment design application shall include the following information for each proposed design:

1. Elevation of the antenna and/or antenna support structure to include the following proposed dimensions: height, width and breadth. Height shall include the base, the antenna support structure, and lightning rod.
2. Elevation views of any security barrier or equipment compound, indicating architectural design, exterior appearance and materials, including color.
3. Mounting location on antenna support structure or building, including height (AGL).
4. Identification of all mounting frames, arms, brackets or other devices or equipment used to hold antennas and other equipment in place.
5. Equipment brochures or drawings for the proposed facility, shall be provided for antennas, support structures/mounts, equipment shelters, feed lines and security barrier, if any.
6. Photo-simulated post-construction renderings of a sampling of completed proposed DAS facilities, equipment compound and/or equipment cabinets, ancillary structures, and landscaping, if any, from locations determined at the pre-application conference. The views shall incorporate before and after scenarios, a scaled color image of the proposed type of facility, an aerial map with the location of the selected views, and a description of the technical approach used to create the photo simulations. The simulations shall include a minimum of four vantage points (north, south, east, and west).
7. Individual sample site plan (no larger than 24 inches by 36 inches with an 8½ inch by 11 inch reduced copy) prepared and certified by a North Carolina-licensed professional engineer shall include all information listed on the DAS application checklist, and including existing or proposed public rights-of-ways, private roads and/or access easements through, on, or adjacent to the subject property.
8. Applicants should submit the information required by subsections (1) through (7) above for each design, if multiple designs are proposed.

(c) ***Individual Component Application and Approval***

Following approval of the DAS system design and DAS equipment design by the Technical Review Committee, a DAS applicant shall submit applications for individual DAS installations to the Planning Department for administrative approval provided the individual application provides documentation certifying it is consistent with the system design and equipment design standards previously approved in subsections (a) and (b) above.

(6) **Replacement of Existing Towers**

For a replacement of an existing tower with a new structure, the applicant must submit the following items outlined in subsection (7) below for new towers, including items (c) through (h), (k) through (p) and (r).

- (a) The height of a tower approved for replacement shall not exceed one hundred and fifteen percent (115%) of the height of the tallest tower that is being ~~mitigated-replaced~~ or consolidated.

- (b) ***Level III***

The height of a tower may exceed one hundred and fifteen percent (115%) of the height of the tallest tower that is being ~~mitigated-replaced~~ or consolidated with evidence that the Tower height is necessary to provide the applicant's designed service. Under no circumstance shall any mitigated tower exceed a height of 300 feet.

- 2. Height & Setbacks

A new tower approved for replacement of an existing tower shall not exceed one hundred and fifteen percent (115%) of the height of the existing tower and shall not be required to meet new setback standards so long as the new tower and its equipment compound are no closer to any property lines or dwelling units as the tower and equipment co

mpound being replaced. The intent is to encourage the replacement process, not penalize the tower owner for the change out of the old facility.

- 1. Buffers

At the time of replacement, the tower equipment compound shall be brought into compliance with any applicable buffer requirements.

- 2. Visibility

Replacement towers shall be configured and located in a manner that minimizes adverse effects on the landscape and adjacent properties, with specific design considerations as to height, scale, color, texture, and architectural design of the buildings on the same and adjacent zoned lots.

(7) **New Towers (Level III)**

All new towers shall submit the following addition information as a part of a complete application:

- (d) A report and supporting technical data shall be submitted, demonstrating the following:



1. All antenna attachments and collocations, including all potentially useable cross country utility distribution towers and other elevated structures within the Geographic Search Ring have been examined, and found unacceptable.
  2. Reasoning as to why existing facilities such as cross country utility distribution and other elevated structures are not acceptable alternatives to a new freestanding tower.
  3. Reasoning as to why the adequacy of alternative existing facilities or the mitigation of existing facilities are not technically or commercially feasible and that no existing communications facility could accommodate the applicant's proposed facility shall consist of any of the following:
    - B. No existing towers located within the Geographic Search Ring meet the applicant's engineering requirements, and why.
    - C. Existing towers are not of sufficient height to meet the applicant's engineering requirements, and cannot be mitigated to increase in height.
    - D. Existing towers do not have sufficient structural integrity to support the applicant's proposed wireless communications facilities and related equipment, and the existing facility cannot be sufficiently improved.
    - E. Other limiting factors that render collocation technically or commercially impractical, or the owner of the existing structure is unwilling to enter into a contract for such use at fair market value.
- (b) Signed statement from a qualified person, together with their qualifications, shall be included that warrants radio frequency emissions from the antenna array(s) comply with FCC standards. The statement shall also certify that both individually and cumulatively, ~~and with any other facilities located on or immediately adjacent to the proposed facility,~~ the replacement antenna complies with FCC standards.
- (c) A stamped or sealed structural analysis of the proposed tower prepared by a registered professional engineer licensed by the State of North Carolina indicating the proposed and future loading capacity of the tower is compliant with EIA/TIA-222-G (as amended) for either Johnston or Wake County, North Carolina, as appropriate.
- (d) An affidavit by a radio frequency engineer demonstrating compliance with 'Locating Alternatives Order' located in Section 155.310(K) above. If a lower ranking alternative is proposed the affidavit must address why higher ranked options are not technically feasible, practical, and/or justified given the location of the proposed communications facility.
- (e) Statement as to the potential visual and aesthetic impacts of the proposed tower and equipment on all adjacent residential zoning districts.

- (f) Written statement by a registered professional engineer licensed by the State of North Carolina specifying the design structural failure modes of the proposed facility.
- (g) Statement certifying that sound levels shall not exceed seventy decibels (70 db) at the related property line.
- (h) A map showing the Geographic Search Ring.
- (i) ~~Certification~~ Signed and sealed certification from the applicant's radio frequency (RF) engineer that the proposed facility cannot be achieved by any higher ranked alternative such as a concealed facility, attached facility, replacement facility, collocation, or new tower.  
  
~~1. These documents are needed to verify the proposed parameters of a facility and to determine if the proposed location is the best suitable land use in the Geographic Search Ring of the proposed facility in accordance with applicable state and federal standards for communications facility siting.~~
- (j) One original and two copies of a survey of the property completed by a registered professional engineer, licensed in the State of North Carolina showing all existing uses, structures, and improvements.
- (k) Signed and sealed site plans shall include the following:
  - 1. Name of project and date.
  - 2. Deed Book, and Page and Map Book and Page Reference.
  - 3. Scale, north arrow, and vicinity map.
  - 4. Subject property information including zoning, watershed classification, and percent coverage of lot to be impervious surface (if located in a designated watershed area).
  - 5. Adjacent property information, including land owners, land uses, height of principal building, size of lots, zoning, and land use designation.
  - 6. Tower elevations.
  - 7. Landscape buffering plans.
  - 8. Maximum height of the proposed Tower and proposed and future mounting elevations of future antenna, including individual measurement of the base, the tower, and lightning rod.
  - 9. Location, classification, and size of all major public or private streets and rights-of-way.

10. Identify adjacent features within 500 feet of property boundary including driveways, public parking areas, pedestrian ways, trails, and any other pertinent features.
  11. Two reduced copies (8½"×11"), of the foregoing preliminary grading plans may be included on site plans or separately submitted in equal quantities.
- (e) Title report or American Land Title Association (A.L.T.A.) survey showing all easements on the subject property, together with a full legal description of the property.
- (l) List of adjacent property owners and keyed to the map. The list must be from the most current ownership information supplied by the appropriate County Tax Department, together with two sets of mailing labels for such property owners. Applicant will also provide a notarized Certification Letter stating the ownership list referenced herein is accurate to the best of the applicant's ability.
- (m) Simulated photographic evidence of the proposed tower and antenna appearance from any and all residential areas within 1,500 feet and vantage points approved by the Planning Department including the facility types the applicant has considered and the impact on adjacent properties. The simulations shall include depictions of:
1. Overall height
  2. Configuration
  3. Physical location
  4. Mass and scale
  5. Materials and color
  6. Illumination
  7. Architectural design
- (n) All other documentation, evidence, or materials necessary to demonstrate compliance with the applicable approval criteria set forth in this Section.
- (o) A pre-application conference will be required for any new tower. The applicant shall demonstrate that the following notice was mailed (via certified mail) to all other wireless service providers licensed to provide service within the Town as indicated on the list of wireless service providers provided by the Town:

"Pursuant to the requirements set forth in Section 155.310 of the Town of Clayton Unified Development Code, [TOWER PROVIDER] is hereby providing you with notice of our intent to meet with the Town Staff in a pre-application conference to discuss the location of a free-standing wireless communication facility that would be located at \_\_\_\_\_ (physical address, latitude and longitude (NAD-83)). In general, we plan to construct a tower of \_\_\_\_\_ feet in height for the

purpose of providing \_\_\_\_\_ (type of wireless service) \_\_\_\_\_. Please inform the Town staff if you have any desire for placing additional Wireless Communication Facilities or equipment within two miles of our proposed Tower. Please provide us with this information within 20 business days after the date of this letter. Your cooperation is sincerely appreciated.

Sincerely, (pre-application applicant, wireless provider)"

- (p) Prior to issuance of a building permit, proof of FAA compliance with Subpart C of the Federal Aviation Regulations, Part 77, and "Objects Affecting Navigable Airspace," if applicable.

(O) **ADDITIONAL REQUIREMENTS FOR LEVEL IV (BROADCAST) FACILITIES**

(2) **Broadcast Facilities**

All new broadcast facilities shall submit the following addition information as a part of a complete application:

- (a) Technical data included in the report shall include the purpose of the proposed facility as described in the FCC Construction Permit Application.
- (b) Signed statement from a qualified person, together with their qualifications, shall be included that warrants radio frequency emissions from the antenna array(s) comply with FCC standards regarding interference to other radio services. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the replacement antenna complies with FCC standards regarding human exposure to RF energy.
- (c) A stamped or sealed structural analysis of the proposed tower prepared by a registered professional engineer licensed by the State of North Carolina indicating the proposed and future loading capacity of the tower is compliant with EIA/TIA-222-G (as amended) for either Johnston or Wake County, North Carolina, as appropriate.
- (d) Statement certifying that no unusual sound emissions such as alarms, bells, buzzers, or the like are permitted. Emergency Generators are permitted. Sound levels shall not exceed seventy decibels (70 db).
- (e) One original and two copies of a survey of the property completed by a registered professional engineer, licensed in the State of North Carolina showing all existing uses, structures, and improvements.
- (f) Six sets (24"x36") of signed and sealed site plans shall include the following:
  - 1. Name of project and date
  - 2. Deed Book, and Page and Map Book and Page Reference

3. Scale, north arrow, and vicinity map
  4. Subject property information including zoning, watershed classification, percent coverage of lot to be impervious surface (if located in a designated watershed area)
  5. Adjacent property information including land owners, land uses, height of principal building, size of lots, and existing zoning and land use
  6. Landscape buffering plans
  7. Maximum height of the proposed tower and/or antenna, including individual measurements of the base, tower, and lightning rod
  8. Location, classification, and size of all major public or private streets and rights-of-way
  9. Identify adjacent features within 500 feet of property boundary including driveways, public parking areas, pedestrian ways, trails, and any other pertinent features
  10. Two reduced copies (8½"×11"), of the foregoing preliminary grading plans may be included on site plans or separately submitted in equal quantities.
  11. Structure elevations
- (g) Title report or American Land Title Association (A.L.T.A.) survey showing all easements on the subject property, together with a full legal description of the property.
- (h) List of property owners within 1,000 feet in residential zoning districts and 500 feet in all other zoning districts and keyed to the map. The list must be from the most current ownership information supplied by the appropriate County Tax Department, together with two sets of mailing labels for such property owners. Applicant will also provide a notarized Certification Letter stating the ownership list referenced herein is accurate to the best of the applicant's ability.
- (i) A pre-application conference will be required for any new broadcast facility.
- (j) Prior to issuance of a building permit, proof of FAA compliance with Subpart C of the Federal Aviation Regulations, Part 77, and "Objects Affecting Navigable Airspace," if applicable.
- (2) **Supplemental Requirements for Broadcast Facilities**

All new broadcast facilities shall meet the following supplemental requirements:

- (a) ***Determination of Need***

No new broadcast facilities shall be permitted unless the applicant demonstrates that no existing broadcast tower can accommodate the applicant's proposed use.

(b) **Height**

Height for broadcast facilities shall be evaluated on a case by case basis. The determination of height contained in the applicant's FCC Form 351/352 Construction Permit or application for Construction Permit and an FAA Determination of No Hazard (FAA Form 7460/2) shall be considered prima facie evidence of the tower height required for such broadcast facilities.

(c) **Setbacks**

New broadcast facilities and anchors shall be subject to the setbacks described below:

1. Minimum of 500 feet from any single-family dwelling unit on same lot.
1. Minimum of one foot for every one feet of tower height from all adjacent lots of record.

(d) **Equipment Cabinets**

Except for AM broadcast facilities, cabinets shall not be visible from pedestrian and right-of-way views.

(e) **Fencing**

All broadcast facility towers, AM antenna(s) towers, and guy anchors shall each be surrounded with an anti-climbing fence compliant with applicable FCC regulations.

(f) **Buffer**

Except for AM broadcast facilities, it is the intent that all pedestrian views from public rights-of-way and adjacent residential land uses be screened from proposed broadcast facilities using existing vegetation or be landscaped with a minimum 10 foot wide perimeter buffer containing the following planting standards:

1. All plants and trees shall be indigenous to this part of North Carolina.
2. Existing trees and shrubs on the site should be preserved and may be used in lieu of required landscaping where approved by the Planning Department.
3. One Row of evergreen trees with a minimum two inches caliper, 25 foot on center.
4. Evergreen shrubs capable of creating a continuous hedge and obtaining a height of at least five feet shall be planted, minimum three gallon or 24 inches tall at the time of planting, five foot on center.

5. Alternative landscaping plans which provide for the same average canopy and understory trees but propose alternative locating on the entire subject property may be considered and approved by the Planning Department, provided the proposed alternative maximizes screening as provided above, and is otherwise consistent with the requirements of this section.

(P) **ADMINISTRATION, ENFORCEMENT, AND PENALTIES**

(1) **Administration**

This Section shall be administered and enforced by the Planning Director or designee. The Town may, through contract, secure the professional services of telecommunications consultants to assist Town staff in the implementation of this Section. Such professional services include, but are not limited to, review and evaluation of permit applications, determination of compliance with existing and proposed Federal regulations, minimization of the aesthetic impact, review of the technical data and expert testimony as needed.

(2) **Enforcement and Penalties**

If the Planning Director or designee shall find that any of the provisions of this Section are being violated, it shall notify in writing the person responsible for the violation, specifying the nature of the violation and what corrective measures must be taken. The Planning Director or designee shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by law to insure compliance with or to prevent violation of the provisions of this Section.

(3) **Penalties**

Any person failing to take corrective action within a reasonable time after receiving written notice from the Planning Department and any person operating a communications Tower without a valid permit shall be guilty of a misdemeanor and subject to the enforcement provisions listed in Section 155.720 of the Unified Development Code.

(4) **Fees**

The Town Council shall set a fee, payable to the Town to cover the necessary processing cost of all Communications Tower Permits. The set fee shall be posted in the Town's Comprehensive List of Fees and Charges.

(5) **Supplemental Review**

The Town reserves the right to require a supplemental review for any Process Level (I, II, III, or IV) subject to the following:

- (a) Where due to the complexity of the methodology or analysis required to review an application for a Process Level (I, II, III or IV), the Town may require the applicant to pay for a technical review by a third party expert, the costs of which shall be borne by the

applicant and be in addition to other applicable fees. Schedules of current fees are listed in the Town Fee Schedule.

- (b) Based on the results of the expert review, the approving authority may require changes to the applicant's application or submittals.
- (c) The supplemental review may address any or all of the following:
  - 1. The accuracy and completeness of the application and any accompanying documentation.
  - 2. The applicability of analysis techniques and methodologies.
  - 3. The validity of conclusions reached.
  - 4. Whether the proposed Wireless Communication Facility complies with the applicable approval criteria set forth in these codes.
  - 5. Other items deemed by the Town to be relevant to determining whether a proposed communications facility complies with the provisions of these codes.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-05-02, passed 5-7-07; Am. Ord. 2007-05-03, passed 5-7-07; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12)



(Ord. 2013-10-02, passed 10-7-13; Ord. 2017-04-06, approved 04/03/2017)

## ARTICLE 4: GENERAL DEVELOPMENT STANDARDS

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### § 155.400 ACCESS

#### (A) PURPOSE AND INTENT

It is the intent of this Section to establish procedures and design standards for driveways and access points to promote efficiency and safety of the connecting street system, support operations of the surrounding pedestrian and bicycle network, ensure safe roadway access to all parcels and lots, and promote a vibrant and attractive streetscape character. These procedures and standards are intended to preserve and enhance the character of the community, and protect the health, safety and general welfare of Clayton's residents.

#### (B) ACCESS

For the purposes of this Section, access means the point or points of ingress and egress from a development or parcel to the existing right-of-way network.

**(C) ACCESS REQUIRED**

- (1) Except as provided in paragraph(c)(2) below, no principal building, structure, or use may be erected or established on any lot which does not abut at least 30 feet on a street that is publicly-dedicated and maintained by the Town or the North Carolina Department Of Transportation (NCDOT).
- (2) The ~~Planning Director~~Board of Adjustment may authorize, ~~in specific situations as a Variance,~~ alternative driveway access when:
  - (a) The effect of such application would be to deprive the parcel of reasonable access; or
  - (b) The size, configuration, or lack of frontage makes alternatives infeasible.
  - (c) At a minimum, entrances and exits, except those associated with a single-family residential use, shall be subject to the dimensional standards provided in Table 4-1 below.

**TABLE 4-1 –DIMENSIONAL STANDARDS OF ACCESS WAYS**

| Min. Entrance/Exit Width                                                                                                                                                                                                                                              | Feet <sup>(1)</sup> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| One-Way                                                                                                                                                                                                                                                               | 15                  |
| Two-Way without median                                                                                                                                                                                                                                                | 25 (35 maximum)     |
| Two-way with median                                                                                                                                                                                                                                                   | 40 <sup>(2)</sup>   |
| <b>Right Turn Radius <sup>(3)</sup></b>                                                                                                                                                                                                                               |                     |
| Minimum                                                                                                                                                                                                                                                               | 25                  |
| Maximum                                                                                                                                                                                                                                                               | 30                  |
| <b>Notes:</b>                                                                                                                                                                                                                                                         |                     |
| 1. All entrances and exits are subject to approval by the Town of Clayton and/or NCDOT. Widths exceeding these standards <u>by up to 20%</u> may be approved by the Planning Director or Town Engineer, depending on the use. <u>Elsewise a Variance is required.</u> |                     |
| 2. Width excludes median. 20 foot unobstructed pavement required on both sides of median, excluding landscape islands.                                                                                                                                                |                     |

**(D) COMPLIANCE WITH LOCAL AND STATE REQUIREMENTS**

- (1) Prior to beginning any construction, permits necessary to connect to the right-of-way network of the Town or State shall be secured. Driveway connections to individual residences are generally excluded from this requirement, but may be necessary if a safety concern is identified.
- (2) Failure to secure necessary permits prior to construction may result in the removal of the driveways and/or denial of access at that location.
- (3) A Certificate of Occupancy shall not be issued until the access requirements of this Cchapter have been met.

**(E) ACCESS TO RESIDENTIAL SUBDIVISIONS**

- (1) When a residential subdivision borders on or contains a major thoroughfare, direct driveway access from lots within the subdivision onto the thoroughfare shall not be permitted.
- (2) In order to accommodate emergency and service vehicles, the following standards shall apply:
  - (a) Any residential subdivision of greater than 30 lots shall include at least two separate and constructed access points.
  - (b) Residential subdivisions of 300 or more lots shall provide at least three separate and constructed access points. Where three or more access points are required, the Town Council may waive the requirement for immediate construction of more than two access points, provided that subdivision phasing and design illustrates the additional required connections. Street stub-outs to adjacent undeveloped properties shall be provided as deemed appropriate. Stub-outs to adjacent undeveloped properties shall not count towards the minimum number of required access points. All stub-outs shall be constructed to the property line.
  - (c) Street connections shall be made to existing stub-outs on adjacent developed properties. These street connections may count towards the minimum number of required access points.
  - (d) All required access points outlined in this section shall be constructed prior to plat recordation of the phase in which the access points are located.
  - (e) A waiver ~~(see § 155.706(1)(7))~~ of these standards of this subsection may be allowed by the Town Council ~~during approval of the preliminary subdivision plat~~ pursuant to the standards of §155.706(1)(6) only in instances where limited frontage, natural features (slope, topography), or similar circumstances preclude the required connections and there is no substantial impact noted regarding emergency service delivery.

**(F) MULTI-FAMILY RESIDENTIAL DEVELOPMENTS**

- (a) Multi-Family projects having more than 100 dwelling units shall provide at least two separate and constructed access points. Required access points shall be constructed prior to issuance of the first Certificate of Occupancy for the phase in which they are located.

**(G) RESIDENTIAL DRIVEWAY STANDARDS**

Residential driveway access to and from streets shall be constructed in accordance with Town standards as outlined below:

---

(1) **Design**

The standard residential driveway access for the Town shall be a "ramp" type driveway section. Ramp-type driveways shall be constructed in accordance with Town standards and specifications as outlined in the Town's *Engineering Design Manual*.

(2) **Width**

The width of a residential driveway shall be no less than ten feet and no more than 24 feet. When two residential driveways coincide along a property line, the maximum width of both driveways combined shall not exceed 24 feet.

(3) **Number**

The number of driveway access points servicing a residential lot should be limited to one. In no instance shall there be more than two residential driveway access points servicing the lot.

(4) **Setbacks**

- (a) Residential driveways shall be spaced at least 20 feet from any other driveway on the same lot.
- (b) Driveways shall be no closer than three and one-half feet to any lot line, except where two residential driveways coincide along the same lot line.
- (c) The minimum corner clearance from the curb line or edge of pavement of intersecting streets shall be at least 20 feet from the point of tangency of the radius curvature, or 20 feet from the intersection of right-of-way lines, whichever is greater.
- (d) The radius of the driveway shall not encroach on the minimum corner clearance.

(H) **NON-RESIDENTIAL DRIVEWAY STANDARDS**

(1) **Design**

Non-residential driveway access to and from streets shall be constructed in accordance with the standards and specifications provided in the manual, *Policy on Street and Driveway Access to North Carolina Highways*, as adopted and amended by NCDOT.

(2) **Number**

- (a) For any development, the number of driveway access points may be restricted where it is necessary for purposes of decreasing traffic congestion or hazards. These restrictions may include required common access points.
- (b) Approval of driveway access between a lot and the right-of-way at an interval less than those specified by the *Policy on Street and Driveway Access to North Carolina Highways*

manual, as adopted and amended by NCDOT, may be granted only by review and recommendation of the Town Engineer and NCDOT.

(3) **Outparcels**

Outparcels shall take access from within the development, where possible.

(I) **CROSS ACCESS CONNECTIONS**

(1) Internal driveway connections to adjacent existing or future development shall be provided for residential and commercial development, and clearly identified. All driveway connections shall be constructed and stubbed to the property line, and future development of adjacent property shall complete a connection to any existing stub.

(2) Access easements may be required to ensure outparcels or adjacent developments have adequate access if ownership patterns change.

~~(3) The Planning Board or Town Council may waive the requirement for a driveway connection required above in those cases where unusual topography or site conditions would render such a connection or easement of no benefit to adjoining properties.~~

(J) **SHARED ACCESS**

A shared access easement may be required between adjacent lots fronting on a thoroughfare in order to minimize the total number of access points along those streets and to facilitate traffic flow between lots.

(K) **CLOSURE OR RELOCATION OF EXISTING ACCESS POINTS**

(1) The Planning Board or Town Council, in conjunction with NCDOT, shall have the authority to require the closure or relocation of existing access points where multiple access points to the site are available.

(2) The Planning Board or Town Council may approve the closure of driveway access in those cases where adjoining parcels are subsequently developed with a residential use.

(L) **VISIBILITY AT INTERSECTIONS**

(1) On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of 30 inches and ten feet in a triangular area formed by a diagonal line between two points on the right-of-way lines, 20 feet from where they intersect.

(2) Adequate sight distance should be provided at all driveway access points and shall be in accordance with the standards provided in the manual, *Policy on Street and Driveway Access to North Carolina Highways*, as adopted and amended by the NCDOT.

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(M) **THOROUGHFARE OVERLAY DISTRICT**

In addition to the standards set forth in this Section, driveways to be constructed within a Thoroughfare Overlay District are subject to the additional standards set forth in § 155.204(A).

(N) **SIDEWALKS**

- (1) All sidewalks associated with a residential subdivision shall be required as outlined in Article 6 of this chapter.
- (2) All residential and non-residential development projects not associated with a residential subdivision shall be required to install sidewalks and curb-and-gutter along all property lines with road frontage. If there is no existing sidewalk within 300' of the proposed development project, a fee-in-lieu of sidewalk may be accepted.
- (3) If fee-in-lieu of sidewalk is made, an Engineer's estimate for fee-in-lieu shall be provided to the Town's Engineering department for review. Fee-in-lieu shall be paid for sidewalks prior to issuance of building permits.

- (4) Sidewalks shall be installed prior to issuance of a Certificate of Occupancy for the development.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2013-09-03, passed 9-3-13)

**§ 155.401 -OFF-STREET PARKING AND LOADING****(A) PURPOSE AND INTENT**

The purpose of this Section is to ensure the provision of off-street parking, loading, queuing and on-site circulation is in proportion to the demand created by each use. By requiring such facilities, it is the intent of the Town to ensure the provision of functional and safe off-street parking, loading, queuing, and on-site circulation.

**(B) APPLICABILITY**

The standards of this Section shall apply to all new development or existing development that is modified to the extent that it includes uses or site design features that were not specifically shown on previously approved plans. All off-street parking areas shall be maintained in accordance with this Section. No Certificate of Occupancy shall be issued until the requirements of this Section are met.

- (1) All required off-street parking shall be provided on the same lot as the principal use, except developments with common parking lots and as provided in §155.401(C)(4)(d), Shared Parking. The location of required off-street parking spaces shall not interfere with normal vehicular, bicycle and pedestrian traffic flow or with the operation of queuing and backup areas. Loading areas shall not obstruct pedestrian pathways.
- (2) With the exception of the restriping of a parking area or other vehicular use area which does not result in a reconfiguration of the parking spaces, any modification to existing off-street parking and loading facilities shall conform to the requirements of this Section.
- (3) No land shall be developed as a parking area or parking garage without an approved site plan issued in accordance with § 155.707 or a Zoning Permit in accordance with § 155.709.
- (4) Buildings and uses lawfully existing as of the effective date of this chapter may be redeveloped, renovated or repaired without providing additional off-street parking and loading facilities, provided there is no increase in gross floor area or change in use of existing floor area that would increase parking demands.
- (5) Where a vehicular use area existed as of the effective date of this Chapter, and such building is enlarged in gross floor area or impervious area by less than 10% or 2,000 square feet, whichever is less, the off-street parking and loading requirements as specified in this Section shall only be required for the enlarged area.
- (6) A change in use of a building or of a use existing as of the effective date of this Chapter shall require additional off-street parking and loading facilities to comply with the requirements of this Section for the new use unless the new use has the same parking requirement or a lesser requirement than the previous use.



- (7) Parking required within an Overlay District is subject to the provisions of this Section, except that regulations within § 155.204 (Overlay Districts) shall supersede and may be either more or less restrictive than the regulations for parking contained in this Section.
- (8) In the Downtown Overlay District, the Planning Director may allow a new use to be established, or existing structure expansion even if off-street parking and loading requirements of this Section cannot be met for the new use, provided that as much off-street parking and loading as can reasonably be provided is provided, and no foreseeable traffic congestion problems will be created.

## **PART 1. PARKING STANDARDS**

### **(C) OFF-STREET PARKING REQUIREMENTS**

#### **(1) Computing Parking Standards**

- (a) Developments containing more than one use shall provide parking spaces in an amount equal to the total of the requirements for all uses.
- (b) Off-street parking requirements that are based on square footage shall be computed using Gross Floor Area (GFA), unless another measurement is specifically called for in this Section.
- (c) Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.
- (d) The parking space requirements for a use not specifically listed in the Table 4-2 below shall be the same as for the listed use deemed most similar to the proposed use by the Planning Director.
- (e) In residential districts in which garage space is provided, the garage space may be considered in determining whether required parking has been met.

#### **(2) Minimum Parking Requirements**

Off-street vehicular and bicycle parking spaces shall be provided in accordance with Table 4-2, Minimum Off-Street Parking Requirements. An alternative parking plan with data submitted in support of higher or lower ratios in accordance with § 155.401(C)(4) may be submitted to support variations to the requirements below. 1. For bicycle parking, the minimum required parking shall be two bicycle parking spaces (or one rack) unless “no requirement” is listed in the table.

**TABLE 4-2 MINIMUM OFF-STREET PARKING REQUIREMENTS**

| Use Type                                                                                | Parking Ratio                                                                                                                                               | Bicycle Parking Ratio                         |
|-----------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|
| <b>Residential Uses</b>                                                                 |                                                                                                                                                             |                                               |
| Accessory Dwelling                                                                      | 1 space per unit                                                                                                                                            | None                                          |
| Farm Residence                                                                          | 2 spaces per unit                                                                                                                                           | None                                          |
| Farm Worker Quarters                                                                    | 1 space per 4 units or                                                                                                                                      | None                                          |
| Guest Cottage                                                                           | 1 space per cottage                                                                                                                                         | None                                          |
| Home Occupation                                                                         | N/A                                                                                                                                                         | None                                          |
| Multi-Family (including Apartments and Manufactured Home Parks)                         | 1 space per studio or 1 bedroom unit;<br>2 spaces per unit (two bedrooms or more);<br>plus 1 guest parking space per 4 units                                | 1 rack per building or 1 per 50 units*        |
| Nursing Home (Congregate Living Facility)                                               | 1 space per unit or 2 beds (whichever is greater)<br>plus 1 space per 200 sq. ft. of office space                                                           | 1 rack per building                           |
| Security or Caretaker Quarters                                                          | 1 space per unit                                                                                                                                            | No requirement                                |
| Senior Apartments                                                                       | 1.3 spaces per unit                                                                                                                                         | 1 rack per building                           |
| Single-family, Zero Lot Line, Alley Loaded, Two-Family, Townhouse, or Manufactured Home | 2 spaces per unit                                                                                                                                           | No requirement                                |
| <b>Public and Civic Uses</b>                                                            |                                                                                                                                                             |                                               |
| Assembly, Not For Profit                                                                | 1 space per 3 seats or 200 sq. ft. for the principal place of assembly, whichever is greater.                                                               | 1 rack, or 1 rack per 100 auto spaces*        |
| Cemetery                                                                                | 1 space per 200 sq. ft. of office space; plus 1 space per 500 sq. ft. of maintenance area; plus a minimum of 5 public spaces.                               | No requirement                                |
| Church or Place of Worship                                                              | 1 space per 3 seats or 200 sq. ft. for the principal place of worship, whichever is greater.                                                                | 1 rack, or 1 rack per 100 auto spaces*        |
| Civic Club                                                                              | 1 space per 500 sq. ft.                                                                                                                                     | 1 rack, or 1 rack per 100 auto spaces*        |
| College or University                                                                   | 1 space per 2 students; plus 1 space per 5 seats in gymnasiums and auditoriums; plus 1 space per 200 sq. ft. of administrative and educational office space | 1 rack per 40 students and employees          |
| Day Care                                                                                | 1 space per 5 persons plus drop off stall                                                                                                                   | No requirement                                |
| Government Services                                                                     | 1 space per 500 sq. ft.; or 1 space per 3 seats, whichever is greater                                                                                       | 1 rack                                        |
| Homeless Resource Centers                                                               | 1 space per 200 sq. ft. of accessory service delivery areas                                                                                                 | 1 rack, or 1 rack per 100 auto spaces*        |
| Hospital or Medical Center                                                              | 1 space per 2 beds; plus 1 space per 200 sq. ft. of outpatient treatment area                                                                               | 1 rack per building, or 1 rack per 50,000 sf* |

| Use Type                                     | Parking Ratio                                                                                                                                                      | Bicycle Parking Ratio                                                |
|----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------|
| School: Elementary or Secondary              | 1 space per employee, 1 visitor space for every 50 students, 1 space for every 5.5 students in 10th thru 12th grade;<br>Auditorium or stadium- 1 space per 3 seats | 1 rack per 40 students above 2 <sup>nd</sup> grade and all employees |
| School: Technical, Trade or Business         | 1 space per classroom; plus 1 space per 5 students; plus 1 space per 200 sq. ft. of administration, and assembly areas                                             | 1 rack per 40 students and employees                                 |
| <b>Recreational Uses</b>                     |                                                                                                                                                                    |                                                                      |
| Arena, Auditorium or Stadium                 | 1 space per 3 seats                                                                                                                                                | 3 racks, or 1 rack per 50 auto spaces*                               |
| Bowling Alley                                | 3 spaces per lane                                                                                                                                                  | 3 racks, or 1 rack per 100 auto spaces*                              |
| Campground                                   | 1 space per campsite                                                                                                                                               | 1 rack                                                               |
| Community Clubhouse                          | 1 space per 300 sq. ft.                                                                                                                                            | 3 racks, or 1 rack per 50 auto spaces*                               |
| Entertainment, Indoor (except Bowling Alley) | 1 space per 200 sq. ft. or 1space per 3 seats, whichever is greater                                                                                                | 3 racks, or 1 rack per 100 auto spaces*                              |
| Entertainment, Outdoor                       | 1 space per 3 seats; or 10 spaces per acre occupied by amusements, whichever is greater                                                                            | 3 racks, or 1 rack per 100 auto spaces*                              |
| Fitness Center                               | 1 space per 200 sq. ft.                                                                                                                                            | 3 racks, or 1 rack per 100 auto spaces*                              |
| Golf Course                                  | 4 spaces per hole; plus 1 space per 300 sq. ft. of clubhouse                                                                                                       | 3 racks, or 1 rack per 100 auto spaces*                              |
| Gun Club or Gun Range                        | 1 space per target area                                                                                                                                            | 1 rack, or 1 rack per 100 auto spaces*                               |
| Park, Passive                                | 2 spaces for the first acre plus 1 space for each additional 2 acres; accessory uses shall be parked as required                                                   | 3 racks, or 1 rack per 50 auto spaces*                               |
| Special Event                                | 1 space per 3 seats; or 10 spaces per acre occupied by amusements, whichever is greater                                                                            | No requirement                                                       |
| Stable, Commercial or Private                | 1 space per 500 sq. ft.; plus 1 space per 4 animal stalls                                                                                                          | 1 rack, or 1 rack per 100 auto spaces*                               |
| Swimming pool                                | 1 space per 200 sq. ft. of pool area                                                                                                                               | 3 racks, or 1 rack per 100 auto spaces*                              |
| Tennis and Basketball Courts                 | 1.5 spaces per court                                                                                                                                               | 3 racks, or 1 rack per 100 auto spaces*                              |
| <b>Agricultural Uses</b>                     |                                                                                                                                                                    |                                                                      |
| Agriculture Use (Unless Otherwise Specified) | 1 space per 1,000 sq. ft. or 1 space per employee on maximum shift                                                                                                 | No requirement                                                       |
| Agriculture, Sales and Service               | 1 space per 250 sq. ft.                                                                                                                                            | No requirement                                                       |
| Agriculture, Storage                         | 1 space per 1,000 sq. ft.                                                                                                                                          | No requirement                                                       |
| Agriculture, Accessory Use                   | 5 spaces or 1 space per employee, whichever is greater                                                                                                             | No requirement                                                       |
| Community Garden                             | 4 spaces per garden                                                                                                                                                | 3 racks, or 1 rack per 50 auto spaces*                               |

| Use Type                                     | Parking Ratio                                                                                                                                                                                    | Bicycle Parking Ratio                  |
|----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|
| Nursery, retail                              | 1 space per 500 sq. ft. of indoor or covered retail and office areas plus 1 space per 4 acres if the nursery is 20 acres or less, or 1 space per 5 acres if the nursery is greater than 20 acres | No requirement                         |
| Nursery, wholesale                           | 1 space per 4 acres if the nursery is 20 acres or less, or 1 space per 5 acres if the nursery is greater than 20 acres                                                                           | No requirement                         |
| Produce Stand                                | 1 space per 200 sq. ft. including outdoor sales display area                                                                                                                                     | No requirement                         |
| <b>Commercial Uses</b>                       |                                                                                                                                                                                                  |                                        |
| Adult Oriented Business                      | 1 space per 200 sq. ft.                                                                                                                                                                          | 1 rack, or 1 rack per 100 auto spaces* |
| Bed and Breakfast                            | 2 spaces for the primary dwelling unit plus 1 space per guest room                                                                                                                               | No requirement                         |
| Car Wash / Auto Detailing                    | 1 space per 200 sq. ft. of office, retail, or indoor seating area                                                                                                                                | No requirement                         |
| Contractor Office                            | 1 space per 200 sq. ft.                                                                                                                                                                          | No requirement                         |
| Contractor Storage Yard                      | 1 space per 5,000 sq. ft. of outdoor storage area                                                                                                                                                | No requirement                         |
| Convenience Store, with or without Gas Sales | 1 space per 200 sq. ft.                                                                                                                                                                          | 1 space per 20 auto spaces provided    |
| Creative Studio                              | 1 space per 400 sq. ft.                                                                                                                                                                          | 1 rack, or 1 rack per 100 auto spaces* |
| Dispatching Office                           | 1 space per 250 sq. ft.                                                                                                                                                                          | 1 rack                                 |
| Financial Institution                        | 1 space per 250 sq. ft.                                                                                                                                                                          | 1 rack, or 1 rack per 100 auto spaces* |
| Funeral Home                                 | 1 space per 4 seats                                                                                                                                                                              | 1 rack                                 |
| Hotel/Motel                                  | 1.25 spaces per room (convention areas, restaurants, etc. over 2,000 sq. ft. to be calculated separately)                                                                                        | 1 space per 20 auto spaces provided    |
| Kennel                                       | 1 space per employee; and, 1 space for each 200 sq. ft. of sale, grooming or office area.                                                                                                        | 1 rack                                 |
| Kiosk                                        | N/A                                                                                                                                                                                              | No requirement                         |
| Laundry Services                             | 1 space per 200 sq. ft.                                                                                                                                                                          | 1 rack                                 |
| Lounge, Cocktail                             | 1 space per 3 seats                                                                                                                                                                              | 1 rack, or 1 rack per 100 auto spaces* |
| Microbrewery                                 | 1 space per 1,000 sq. ft. (accessory uses calculated separately)                                                                                                                                 | 1 rack, or 1 rack per 100 auto spaces* |
| Newspaper Publisher                          | 1 space per 1,000 sq. ft.                                                                                                                                                                        | 1 rack                                 |
| Office, General                              | 1 space per 300 sq. ft.                                                                                                                                                                          | 1 rack, or 1 rack per 100 auto spaces* |
| Office, Medical                              | 1 space per 200 sq. ft.                                                                                                                                                                          | 1 rack, or 1 rack per 100 auto spaces* |
| Outdoor Seating / Sidewalk Cafe              | 1 space per 3 seats                                                                                                                                                                              | 1 rack, or 1 rack per 100 auto spaces* |
| Pawn Shop                                    | 1 space per 200 sq. ft.                                                                                                                                                                          | 1 rack, or 1 rack per 100 auto spaces* |
| Personal services                            | 1 space per 200 sq. ft.                                                                                                                                                                          | 1 rack, or 1 rack per 100 auto spaces* |
| Radio or Television Studio                   | 1 space per 300 sq. ft.                                                                                                                                                                          | 1 rack, or 1 rack per 100 auto spaces* |

| Use Type                                    | Parking Ratio                                                                                                                                     | Bicycle Parking Ratio                  |
|---------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|
| Restaurant                                  | 1 space per 3 seats including outdoor seating area                                                                                                | 1 rack, or 1 rack per 100 auto spaces* |
| Retail Sales, General                       | 1 space per 200 sq. ft.                                                                                                                           | 1 rack, or 1 rack per 100 auto spaces* |
| Retail Sales, Neighborhood                  | 1 space per 200 sq. ft.                                                                                                                           | 1 rack, or 1 rack per 100 auto spaces* |
| Self-Service Storage                        | 1 space per 100 storage bays; minimum of 5 customer spaces (security quarters calculated separately)                                              | No requirement                         |
| Service, General                            | 1 space per 200 sq. ft.                                                                                                                           | 1 rack, or 1 rack per 100 auto spaces* |
| Service, Neighborhood                       | 1 space per 200 sq. ft.                                                                                                                           | 1 rack, or 1 rack per 100 auto spaces* |
| Theater, indoor                             | 1 space per 3 seats                                                                                                                               | 1 space per 20 auto spaces provided    |
| Vehicle Repair or Service                   | 1 space per 250 sq. ft.                                                                                                                           | No requirement                         |
| Vehicle Sales or Rental                     | 1 space per 250 sq. ft. of enclosed area; plus 1 space per 5,000 sq. ft. of outdoor sales, rental and display area; plus 2 spaces per service bay | 1 rack                                 |
| Veterinary Clinic                           | 1 space per 250 sq. ft. of floor area                                                                                                             | 1 rack, or 1 rack per 100 auto spaces* |
| Video Sweepstakes Operation / Internet Cafe | 1 space per 200 sq. ft. or 1 space per 3 seats, whichever is greater                                                                              | 1 rack, or 1 rack per 100 auto spaces* |
| <b>Industrial Uses</b>                      |                                                                                                                                                   |                                        |
| Building Supplies, Wholesale                | 1 space per 1,000 sq. ft.                                                                                                                         | No requirement                         |
| Crematorium                                 | 1 space per 4 seats or 100 square feet of chapel area, whichever is greater                                                                       | No requirement                         |
| Gas and Fuel, Wholesale                     | 1 space per 250 sq. ft.                                                                                                                           | No requirement                         |
| Laboratory, Research                        | 1.5 spaces per 1,000 sq. ft.                                                                                                                      | 1 rack                                 |
| Manufacturing and Processing                | 1.5 spaces per 1,000 sq. ft.                                                                                                                      | 1 rack                                 |
| Research and Development                    | 1.5 spaces per 1,000 sq. ft.                                                                                                                      | 1 rack                                 |
| Salvage or Junk Yard                        | 1 space per 200 sq. ft. of office space; plus 1 space per employee                                                                                | No requirement                         |
| Transportation Facility                     | 1 space per 200 sq. ft. of office space                                                                                                           | 1 rack                                 |
| Warehouse                                   | 1 space per 1,000 sq. ft.; plus 1 space per 200 sq. ft. of office space                                                                           | 1 rack                                 |
| Wholesaling, General                        | 1 space per 1,000 sq. ft.                                                                                                                         | 1 rack                                 |
| <b>Utilities</b>                            |                                                                                                                                                   |                                        |
| Electric Power Facility                     | 1 space per 200 sq. ft. of office space; plus 1 space per 10,000 sq. ft.                                                                          | No requirement                         |
| Recycling Center                            | 1 space per 200 sq. ft. of office space; plus one space per 250 sq. ft. of warehouse and maintenance area; plus 1 space per 10,000 sq. ft.        | No requirement                         |
| Recycling Drop-Off Bin                      | 1 space per bin                                                                                                                                   | No requirement                         |
| Renewable Energy Facility                   | 1 space per site and 1 space per 200 sq. ft. of office space                                                                                      | No requirement                         |
| Sanitary Landfill                           | 1 space per 200 sq. ft. of office space; plus 1 space per employee                                                                                | No requirement                         |

| Use Type                     | Parking Ratio                                                                                                                                                                            | Bicycle Parking Ratio |
|------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| Solid Waste Transfer Station | 1 space per 1,000 sq. ft.                                                                                                                                                                | No requirement        |
| Telecommunication Facility   | Exempt from parking regulations<br><del>unless otherwise required by Planning Director</del><br><u>except that standalone cell towers require a minimum of 2 spaces and a turnaround</u> | No requirement        |
| Utility                      | 1 space per 200 sq. ft. of office space<br>plus 1 space per employee                                                                                                                     | No requirement        |

**Notes:**

1. The provision of parking spaces and passenger loading areas for persons who have disabilities shall be governed by the Americans with Disabilities Act (ADA) Standards for Accessible Design.
2. In addition to the parking requirements of Table 4.2, Minimum Off-Street Parking Requirements, uses with company vehicles shall provide 1 space per company vehicle.
3. The Planning Director may reduce the required number of parking spaces by up to 10% for reasons of topography, tree preservation, mixes of uses, ride sharing programs, availability of transit, or other conditions specific to the site, provided that the reduction in the required number of parking spaces satisfies the intent of this chapter.
4. ~~The~~Upon written request, the Planning Director may reduce the required number of bike racks ~~by 10% or one 2-bike rack (whichever is greater)~~, provided that the reduction in the required number of spaces satisfies the intent of this chapter and that a minimum of one 2-bike rack is still provided.

**(3) Design Standards****(a) Landscaping**

1. Vehicular area landscaping, including interior, terminal and median islands, shall be designed in accordance with the requirements set forth in § 155.402(D)(2) of this Chapter.

**(b) Dimensions**

1. Parking space sizes shall be governed by the dimensions indicated in Table 4-3, Minimum Parking Dimensions for Nonresidential Uses and Residential Uses with Shared Parking Lots:

**TABLE 4-3 MINIMUM PARKING DIMENSIONS FOR NONRESIDENTIAL  
USES AND RESIDENTIAL USES WITH SHARED PARKING LOTS**

| Angle | Type        | Space Width (feet) | Space Depth (feet) | Aisle Width (feet) |
|-------|-------------|--------------------|--------------------|--------------------|
| 0     | General     | 10.0               | 23                 | 12.0               |
|       | Handicapped | 10.0               | 23                 | 12.0               |
| 45    | General     | 9.0                | 19.0               | 13.0               |
|       | Handicapped | 12.5               | 19.0               | 13.0               |
| 60    | General     | 9.0                | 19.0               | 18.0               |
|       | Handicapped | 12.5               | 19.0               | 18.0               |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |             |      |      |      |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|------|------|------|
| 70                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | General     | 9.0  | 19.0 | 18.0 |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Handicapped | 12.5 | 19.0 | 18.0 |
| 75                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | General     | 9.0  | 19.0 | 24.0 |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Handicapped | 12.5 | 19.0 | 24.0 |
| 80                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | General     | 9.0  | 19.0 | 24.0 |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Handicapped | 12.5 | 19.0 | 24.0 |
| 90                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | General     | 9.0  | 19.0 | 24.0 |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Handicapped | 12.5 | 19.0 | 24.0 |
| <b>Notes:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |             |      |      |      |
| <ol style="list-style-type: none"> <li>0 angle parking represents parallel parking</li> <li>Angled parking with two-way traffic movement shall be a minimum of 24 feet wide</li> <li>The maximum grade permitted for any required parking shall not exceed 8%.</li> <li>Parking spaces using geometric standards other than those specified above may be approved if developed and sealed by a registered engineer subject to a determination by the Town Engineer that the proposed facility will satisfy off-street parking requirements as adequately as would a facility using those specified above.</li> <li>Handicap parking spaces are required to have a minimum five foot wide access aisle for loading and unloading. Access aisle may be shared between two spaces.</li> </ol> |             |      |      |      |

(c) ***Bicycle Parking Facilities***

When required pursuant to Table 4-2, bicycle parking facilities shall meet the following requirements:

- Each bicycle rack shall accommodate two bicycle parking spaces. Where a bike can be locked on both sides of a rack without conflict, each side can be counted as a required space.
- Bicycle racks shall be securely anchored, easily usable with both U-locks and cable locks and support a bicycle at two points of contact to prevent damage to the bicycle wheels and frame.
- Spacing of the racks shall provide clear and maneuverable access. Each required bicycle parking space must have at least two by six feet of clearance and be located no closer than three feet from a wall.
- Bicycle racks may be placed on private property or within the public right-of-way. Facilities in the right-of-way must be approved by the Public Works Director or NCDOT, as applicable.
- Bicycle rack location shall not impede pedestrian and vehicular traffic.
- Bicycle racks must be publicly accessible and be located no more than 100 feet from the building entrance the bicycle rack is intended to serve.

7. Bicycle racks shall be separated from automobile parking by a physical barrier or by at least 6 feet where automobile parking is prohibited.
- ~~8. Alternative bicycle parking facilities (both type and location) which meet the intent of the requirements listed in Table 4-2 may be provided subject to Planning Director approval.~~

(d) ***Circulation Standards***

1. A safe arrangement of pedestrian pathways, bikeways, roads, driveways, and off-street parking and loading spaces within parking areas shall be provided.
2. Streets, pedestrian walks, parking areas, and open space shall be designed as integral parts of an overall site design and shall be properly related to existing and proposed buildings, adjacent uses and landscaped areas.
3. Structures, vehicular circulation lanes, parking spaces, driveways, and open spaces shall be designed to provide logical, impediment free pedestrian movement. The site shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic.
4. Where off-street parking directly abuts a walkway or sidewalk, the parking area shall be separated from the walkway or sidewalk by concrete wheel stops or continuous curbing. Walkways or sidewalks shall be a minimum of five feet wide, exclusive of vehicle overhang. Single family residential uses are exempt from this requirement.
5. A continuous internal pedestrian walkway shall be provided from each adjacent perimeter public sidewalk to all customer entrances.

(e) ***Surfacing Material***

1. Unless provided below, all off-street facilities provided for parking or any other vehicular use area shall be surfaced with asphalt or concrete and shall be maintained in a smooth, well-graded condition. Alternative surfaces may be reviewed and approved by the Town Engineer.
2. Grass Parking
  - A. Grass or other pervious parking surfaces may be permitted for specific uses as set forth below, subject to TRC approval. Where provided, such alternative parking surfaces shall be maintained in a smooth, well-graded condition. If parking demand is such that the grass is damaged or destroyed to the extent that it ceases to grow and is not repaired or replaced, then paving in accordance with this Section will be required.



B. All driveways, access aisles and parking spaces (excluding handicapped) may be surfaced with grass for the following:

- i. Uses which require parking on an average of less than five days per week during a month;
- ii. Schools and churches; and
- iii. Parks, trailheads, playgrounds, ballfields, football and baseball stadiums, fairgrounds, and other similar outdoor recreation areas.

(f) ***Pavement Markings***

All pavement markings shall be maintained ~~so as to~~ be distinguishable.

(g) ***Lighting***

Where off-street facilities are provided for parking or any other vehicular use area adequate outdoor lighting shall be provided. Lighting shall be so arranged as to direct the light and glare away from streets and adjacent property in accordance with the requirements set forth in § 155.404.

(h) ***Drainage***

Parking lots shall not drain onto or across public sidewalks or into adjacent property, except into a natural watercourse or a drainage easement. In already developed areas where this condition would be impossible to meet, the Town Engineer may exempt the applicant from this requirement, provided that provisions are made for drainage.

(i) ***Entrances and Exits***

Entrances and exits, except those associated with a single-family residential use, are subject to the dimensional standards provided in § 155.400, Table 4-1.

(4) **Alternative Parking Plans**

(a) ***General***

~~The Planning Board may~~To modify the parking ratios set forth in Table 4-2 of this Section where applicant-submitted parking data, prepared and sealed by a registered engineer in the State North of Carolina, illustrates that the standards of this Section do not accurately apply to a specific development, the applicant must apply for a variance. The ~~alternative parking request~~variance request shall include:

- 1. The size and type of the proposed development;
- 2. The mix of uses;

3. The anticipated peak parking need;
4. The proposed parking rate; and
5. The data necessary to support the request.

(b) ***On-Street Parking***

~~The Planning Director may approve the use of on-street parking spaces to meet~~may count toward meeting off-street parking requirements. To be considered, the on-street spaces shall be located immediately abutting the subject parcel, entirely within the extension of the side lot lines into the roadway, and not within any required clear sight triangle.

(c) ***Off-Site Parking***

~~The Planning Director may approve the location of~~Required off-street parking spaces may be located on a separate lot from the lot on which the principal use is located if the off-site parking complies with all of the following standards.

1. Ineligible Activities

Off-site parking may not be used to satisfy the off-street parking requirements for residential uses (except for guest parking), as well as convenience stores or other convenience-oriented uses. Required parking spaces reserved for persons with disabilities may not be located off-site.

2. Location

Off-site parking spaces shall be located within 750 feet from the primary entrance of the use served unless shuttle bus service is ~~provided to the remote parking area~~approved via a Variance. Off-site parking may not be separated from the use that it serves by a street right-of-way with a width of more than 80 feet unless a grade-separated pedestrian walkway is provided, or other traffic control or Variance-approved shuttle bus service is provided to the off-site parking area.

3. Zoning Classification

Off-site parking areas serving non-residential uses shall be located in nonresidential districts.

4. Agreement

Off-site parking shall be enforced by an off-site parking agreement, subject to review by, and in a form acceptable to the Town Attorney.

(d) ***Shared Parking***

The Planning Director may authorize up to a 20% reduction in the number of required parking spaces for multiple and mixed-use projects and for uses that are in close proximity to one another and which have different peak parking demands and operating hours. Shared parking shall be subject to the following standards:

1. Application

A shared parking study shall be submitted in writing to the Planning Director.

2. Location

All uses which participate in a shared parking plan shall be located on the same lot or on contiguous lots. The shared parking lot shall have access as though the uses were a single project.

3. Shared Parking Study

The shared parking study, shall clearly establish the uses that will use the shared spaces at different times of the day, week, month or year. The study shall:

- A. Be based on a generally accepted methodology for determining shared parking;
- B. Define the size and type of activities, the composition of tenants, the rate of turnover for proposed shared spaces, and the anticipated peak parking and traffic demands; and
- C. Provide for no reduction in the number of required handicapped spaces.

4. Shared Parking Agreement

A shared parking plan will be enforced through written agreement among all owners of record, subject to review by, and in a form acceptable to the Town Attorney.

5. Change in Use

Should any of the uses in the shared parking study change, ~~or should the Planning Director find that any, or if any~~ of the conditions described in the approved shared parking study or agreement no longer exist, the owner of record shall have the option of submitting a revised shared parking study in accordance with the standards of this Section or of providing the number of spaces required for each use as if computed separately.

(e) ***Valet Parking***

The Planning Director ~~may~~ shall approve valet parking as a means of satisfying off-street parking requirements. Valet parking shall not cause customers or patrons who do not

use the valet service to park off site or in the right-of-way or cause queuing in a street, driveway, or drive aisle. The following additional standards shall apply to valet parking:

1. Adequate assurance of the continued operation of the valet parking is provided, such as a contractual agreement for valet services or the tenant's affidavit agreeing to provide such services;
2. The maximum number of spaces reserved for valet parking shall not exceed 25 percent of the minimum number of required off-street parking spaces.
3. Valet parking area shall not be located within 200 feet of a public entrance to a building. Areas designated for valet parking shall not interfere with vehicular circulation or emergency access and shall not cause customers who do not use the valet service to park off-premise or cause queuing in the right-of-way.

## PART 2. QUEUING STANDARDS

### (D) OFF-STREET QUEUING REQUIREMENTS

Queuing shall be provided for all drive-thru establishments. Each queuing space shall be a minimum of eight feet by 20 feet, clearly defined and designed so as not to conflict or interfere with other traffic using the site. Unless otherwise indicated below, queuing shall be measured from the front of the stopped vehicle located at the point of service to the rear of the queuing lane. One additional queuing space shall also be provided after the point of service for all uses. ~~The Planning Director may require additional queuing spaces where trip generation rates suggest that additional spaces will be needed.~~

#### (1) **Minimum Number Of Spaces**

Queuing spaces shall be provided as indicated in Table 4-4 below.

**TABLE 4-4 - MINIMUM QUEUING STANDARDS**

| Use                                       | Number of Spaces                              | Required By-Pass <sup>(1)</sup> |
|-------------------------------------------|-----------------------------------------------|---------------------------------|
| <b>Drive-Thru Financial Institution</b>   |                                               |                                 |
| Teller Lanes                              | 5                                             | Y                               |
| Automatic Teller Lanes                    | 3                                             | N                               |
| <b>Drive-Thru Restaurant</b>              | 6                                             |                                 |
| Minimum before Menu Board                 | 4                                             | Y                               |
| <b>Drive-Thru Car Wash</b>                |                                               |                                 |
| Automatic                                 | 5                                             | N                               |
| Self-Service                              | 3                                             | Y                               |
| <b>Drive-Thru Oil Change</b>              | 4                                             | Y                               |
| <b>Gasoline Pump Island</b>               | 20 feet of queuing at each end of pump island | N                               |
| <b>Drive-Thru Dry Cleaning or Laundry</b> | 3                                             | Y                               |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |          |          |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|----------|
| <b>Drive-Thru General Retail</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <b>4</b> | <b>Y</b> |
| <b>Notes:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |          |          |
| 1. All Uses: a by-pass lane shall be required if 5 or more queuing spaces are provided. A by-pass lane a minimum of ten feet wide shall be provided before or around the point of service. <del>Subject to the Planning Director's approval, a</del> by-pass lane <del>may</del> <u>is</u> not be required if the queuing lane is adjacent to a vehicular use area which functions as a by-pass lane. The by-pass lane shall be clearly designated and distinct from the queuing area.<br>2. Queuing spaces shall not impede traffic circulation or movements into or out of off-street parking spaces. |          |          |

### PART 3. LOADING STANDARDS

#### (E) OFF-STREET LOADING REQUIREMENTS

##### (1) Loading Facilities Required

- (a) ~~As determined by the Planning Director, o~~Off-street loading facilities shall be required for uses that regularly handle large quantities of goods. Loading facilities shall be of sufficient quantity to adequately serve the proposed use.
- (b) Any vehicle sales or rental facility or similar use requiring delivery of vehicles by truck shall demonstrate adequate on-site area exists for the loading and unloading of such trucks.
- (c) Any convenience store or similar use requiring deliveries by truck shall demonstrate adequate on-site area exists for the loading and unloading of such trucks.

##### (2) Design and Layout

- (a) Loading and unloading activity be shall not be permitted in any public right-of-way. In no case shall loading and unloading activity encroach on or interfere with the public use of streets, sidewalks, and lanes by automotive vehicles or pedestrians. Adequate space shall be made available for the unloading and loading of goods, materials, items or stock for delivery and shipping.
- (b) Where off-street loading facilities are provided, they shall be not less than 15 feet in width by 40 feet in length, with not less than 15 feet of vertical clearance.
- (c) Hours of loading and unloading operation adjacent to ground floor residential uses shall be limited between the hours of 6:30 a.m. and 10:00 p.m. Loading docks shall be signed to indicate "no idling."

##### (3) Screening

All loading areas shall be screened in accordance with § 155.402(G).

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2012-01-04, passed 1-3-12; Am. Ord. 2013-09-04, passed 9-3-13; Am. Ord. 2014-06-10, passed 6-16-14)

## **§ 155.402 LANDSCAPING, SCREENING AND BUFFERING**

### **(A) PURPOSE AND INTENT**

The purpose and intent of this Section is to establish minimum standards for the design, layout, installation, and continued maintenance of landscaping. It is the intent of this Section to encourage creativity in landscape design while providing general direction and criteria for the evaluation of landscaping.

### **(B) APPLICABILITY**

- (1) Unless specifically exempt, all development which requires site plan approval (see § 155.707) shall meet the provisions of this Section.
- (2) Buildings and structures lawfully existing as of the effective date of this Chapter may be redeveloped, renovated or repaired without providing or modifying landscaping, screening, and buffering in conformance with this Section, provided there is no increase in gross floor area in such building or structure or impervious area on the site.
- (3) The maintenance standards in (G)(2) of this Section shall apply as of the effective date of this Chapter to all existing development and new construction.
- (4) Where a building or structure existed as of the effective date of this Chapter, and such building or structure is enlarged in gross floor area or impervious area by 10% or 2,000 square feet, whichever is less, landscaping, screenings, and buffering as specified in this Section shall be provided.
- (5) Landscaping required within an Overlay District is subject to the provisions of this Section, except that regulations within § 155.204 (Overlay Districts) shall supersede and may be either more or less restrictive than the regulations for landscaping contained in this Section. In the Downtown Overlay District, ~~a the Planning Director may allow a new~~ permitted use ~~to may~~ be established, even if all landscaping, screening, and buffering requirements cannot be met for the new use, provided that as much landscaping, screening and buffering as can reasonably be provided is provided by the use.

### **(C) LANDSCAPE PLAN REQUIRED**

- (1) A landscape plan shall be submitted in conjunction with a required site plan (see § 155.707).
- (2) A registered landscape architect shall prepare all landscape plans, except where expressly exempted by the Planning Director. The landscape treatment shall adequately detail the requirements of this section and any additional considerations set forth in the Clayton General Design Guidelines.

## **PART 1. SITE INTERIOR LANDSCAPE REQUIREMENTS**

### **(D) SITE INTERIOR LANDSCAPING**

All site plans requiring landscaping in accordance with this Section shall provide site interior landscaping. Perimeter Buffer requirements set forth in PART 2 and Street Yard Trees set forth in PART 3 of this Section shall be provided completely, as required, in addition to these requirements.

#### **(1) Interior Landscaping**

- (a) 20 percent of the total lot area shall be landscaped.
- (b) One canopy tree, one understory tree, and two shrubs shall be planted for each 1,000 square feet of landscape area required. Trees need to be evenly planted throughout the landscaped area, but may be staggered or clustered as necessary to maximize visual and screening objectives, and to meet the needs of the particular species of plants for root space, water, light, and air circulation.
  - 1. Landscaping provided within vehicular use areas may be counted toward the site interior landscape requirement.
  - 2. Resource conservation areas (see § 155.500) may be used to satisfy a maximum of 40% of the total required landscaped area.

#### **(2) Vehicular Use Areas**

All vehicular use areas shall observe a minimum front yard of not less than five feet, and a side yard on a corner lot of not less than five feet. Parking lots in residential districts shall have front yards of not less than 15 feet and side and rear yards of not less than five feet.

Parking areas in excess of 1,500 square feet or five spaces shall provide landscaped areas in accordance with the requirements set forth in this Section.

##### **(a) *Perimeter Screening***

- 1. The perimeter of all parking areas and other vehicular use areas adjacent to residentially-zoned property shall provide a Class C buffer as set forth in this Section.
- 2. The perimeter of all parking areas and other vehicular use areas with frontage on or visibility from any portion of a public right-of-way shall be screened to a height of 3 feet by either a berm, continuous landscaped hedge, decorative fence, decorative masonry wall or any combination thereof.
- 3. Any vegetative screen shall be maintained at a minimum height of 36 inches within two years of planting.

4. No such buffer shall be required along an alley.

(b) ***Landscaping Islands***

1. Interior Islands

An interior landscape island shall be provided every ten spaces. Each island shall contain a minimum of 150 square feet of landscaped area with a minimum width of eight feet inside the curb. Each island shall include a minimum of one tree with a minimum caliper of two and one-half inches. Interior islands may be consolidated or intervals may be expanded in order to preserve existing trees of greater than 6" dbh ~~where approved by the Planning Director.~~

2. Terminal Islands

All parking rows shall terminate in a curbed landscaped island. All terminal islands shall include a minimum of one tree with a minimum caliper of two and one-half inches.

3. Median Islands

A median island with a minimum width of eight feet inside the curb shall be sited between every six single parking rows and along primary internal and external access drives. Median intervals may be expanded in order to preserve existing trees of greater than 6" dbh ~~where approved by the Planning Director.~~

(c) ***Curbing***

1. All landscaping in or adjacent to a vehicular use area shall be protected from vehicular damage by a raised concrete curb six inches in height or equivalent barrier, however, the barrier need not be continuous.
2. Landscaped areas adjacent to parking areas shall be landscaped so that no plant material greater than 12 inches in height will be located within two feet of the curb or other protective barrier.

## **PART 2. PERIMETER BUFFERS**

(E) **BUFFERS**

- (1) **Buffer Defined**

A buffer is a specified land area, located parallel to and within the outer perimeter of a lot and extending to the lot line, together with the planting and landscaping required on the land. A buffer may also contain, or be required to contain, a barrier such as a berm or wall where such additional screening is necessary to achieve the desired level of buffering between



various land use activities. A buffer is not intended to be commensurate with the term "yard" or "setback."

(2) **Buffer Types**

There are four types of required buffers that may occur on any given parcel, as described further in this section.

(a) **Street Buffers**

1. All new development with frontage on a commercial street or designated minor thoroughfare shall provide a Class A buffer as set forth in (E)(3) of this section.
2. Double frontage lots abutting a collector street or residential collector street shall provide a Class A buffer along the entire rear yard frontage.

(b) **Parking Buffers**

Parking buffer requirements are set forth in PART 1 of this Section.

(c) **Compatibility Buffers**

Perimeter compatibility is required along the boundaries of all incompatible zoning districts or existing uses, whichever is more restrictive. If the existing use of an adjacent property is nonconforming then the required buffer shall be determined by the zoning district instead of the existing use. Table 4-5 shall be used to determine the required buffer classification between adjacent districts.

**§155.402, PART 2. TABLE 4-5 COMPATIBILITY BUFFER REQUIREMENTS**

| Subject Property District | Adjacent Property District |      |     |     |     |     |     |     |     |     |     |    |
|---------------------------|----------------------------|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|----|
|                           | R-E                        | R-10 | R-8 | R-6 | O-R | O-I | B-1 | B-2 | B-3 | I-1 | I-2 | PF |
| R-E                       | --                         | --   | --  | --  | --  | --  | --  | --  | --  | --  | --  | -- |
| R-10                      | A                          | --   | --  | --  | --  | --  | --  | --  | --  | --  | --  | -- |
| R-8                       | B                          | A    | --  | --  | --  | --  | --  | --  | --  | --  | --  | -- |
| R-6                       | B                          | A    | A   | --  | --  | --  | --  | --  | --  | --  | --  | -- |
| O-R                       | B                          | A    | A   | A   | --  | --  | --  | --  | --  | --  | --  | -- |
| O-I                       | B                          | B    | B   | B   | A   | --  | --  | --  | --  | --  | --  | -- |
| B-1                       | B                          | B    | B   | B   | B   | B   | --  | B   | --  | --  | --  | -- |
| B-2                       | B                          | B    | B   | B   | B   | B   | --  | --  | --  | --  | --  | -- |
| B-3                       | C                          | C    | C   | C   | C   | B   | B   | B   | --  | --  | --  | B  |
| I-1                       | C                          | C    | C   | C   | C   | C   | C   | C   | B   | --  | --  | B  |
| I-2                       | C                          | C    | C   | C   | C   | C   | C   | C   | B   | --  | --  | B  |
| PF <sup>1</sup>           | --                         | --   | --  | --  | --  | --  | --  | --  | --  | --  | --  | -- |

<sup>1</sup> Where a use in a PF zoning district is generally found only in Industrial or Commercial districts, the use shall be buffered according to the more intensive buffer requirement found in that district.

*(Ord. 2015-09-03, adopted 09-08-2015; Am. Ord. 2016-04-04, adopted 04-04-2016)*

(d) ***Project Boundary Buffers***

Project boundary buffers are established to mitigate the effect of specific types of development on adjacent properties. Where project boundaries coincide with district boundaries the following project boundary buffers shall apply.

1. Open Space Residential Subdivision

A Class C buffer is required along all project boundaries of an open space subdivision (see § 155.203(H)(8)).

2. Planned Development

A. A Class C buffer is required along all project boundaries of a planned development.

B. The continuous visual barrier of Class C buffers is not required for the street-side of non-residential Planned Developments where they abut major or minor thoroughfares.

C. A Class B buffer may be used when a Planned Development - Commercial (PD-C) abuts a non-residential district (see § 155.203(L)).

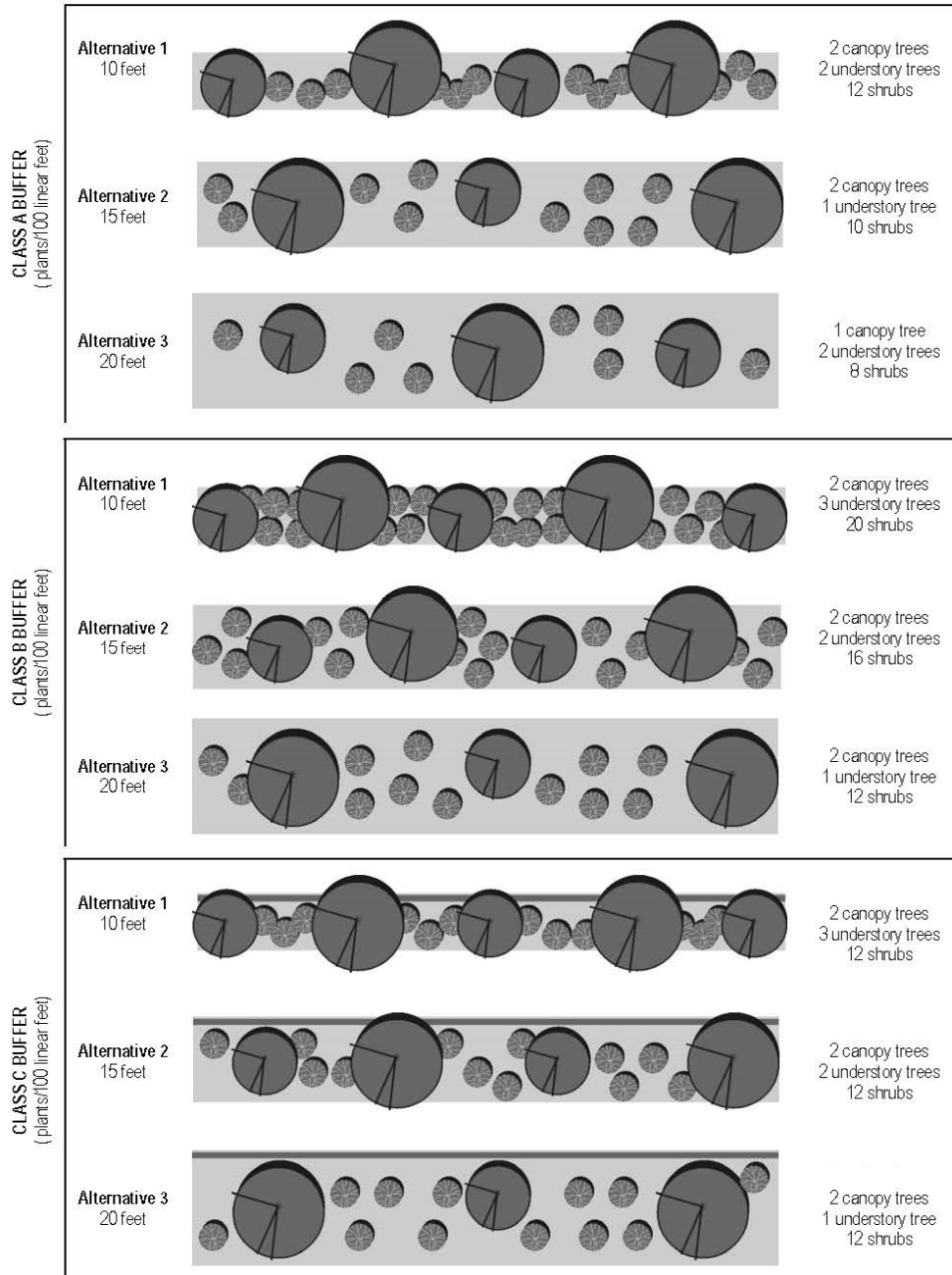
3. Manufactured Home Park

A Class C buffer is required along all project boundaries of a manufactured home park (see § 155.301(G)(4)).

(3) ***Buffer Classification***

Figure 4-1 establishes the specific width and plant material for each buffer classification. The applicant may choose any alternative (1, 2, or 3) in the respective buffer classification. Buffers planted below overhead utility lines shall apply any of the allowed buffer alternatives, except that understory trees shall replace any canopy trees at a rate of two understory trees per required canopy tree.

**FIGURE 4-1 LANDSCAPE BUFFERS**



Class C buffer shall include a wall, opaque fence, evergreen hedge, berm, or combination thereof with a minimum height of six feet at installation.

**(4) Location of Buffer**

- (a) Buffers shall be located along the outer perimeter of a lot or parcel, parallel to and extending to the lot or parcel boundary line. Buffers shall not be located on any portion of an existing, dedicated or reserved public or private street or right-of-way.
- (b) Except as provided below, the required buffer shall be provided along the entire frontage abutting the existing, dedicated or reserved public or private street or right-of-way, district boundary, or project boundary, as applicable.
- (c) A buffer may be interrupted in order to provide access (pedestrian or vehicular) to adjacent parcels or public right-of-way.

**(5) Plant and Structure Location within Buffers**

The placement of required plants and structures shall be the decision of the applicant, except that the following requirements shall be satisfied:

- (a) Plant materials shall be located ~~so as to~~ achieve the maximum level of protection. Plant material shall meet the buffer requirements every 100 feet.
- (b) Canopy trees shall be located no closer than five feet from any structure. Understory trees shall be planted no closer than three feet from any structure.
- (c) Buffer areas not retained in native habitat shall be seeded or sodded with lawn, established with ground cover, or mulched with organic mulch. No turfgrass shall be planted under the dripline of trees. Inorganic ground cover shall not exceed 20% of the total required area of the buffer.

**(6) Planting in Easements**

- (a) Buffers may not be planted in wet retention ponds or drainage easements.
- (b) Trees and shrubs shall be installed no closer than five feet to the flow line of a swale.
- (c) Existing trees may remain in dry retention ponds provided that the natural grade is undisturbed to the tree line, the species that are planted ~~are~~ adapted to seasonal flooding and the pond is adequately maintained.
- (d) Trees may be planted within the boundaries of utility easements with Public Works Director approval, provided the root structure of the proposed tree is not anticipated to extend more than three feet below the ground. Shrubs may be planted, provided they are only within the outer three feet of the easement. Where such trees and shrubs are planted, the property owner shall be responsible for replacement of such required vegetation if maintenance or other utility requirements require their temporary removal.

- (e) A minimum buffer width of five feet or at least half the minimum required buffer width, whichever is greater, shall be provided outside of any required easements. The majority of buffer plantings and all structures shall be located outside the easements.

(7) **Permitted Structures in Buffer Areas**

(a) ***Walls***

Where walls are placed within a required buffer area, they shall meet the following requirements:

1. Walls shall have a minimum height of three feet and a maximum height of six feet. Additional height may be approved by the Planning Director after taking into account site topography, existing and proposed vegetative screening, setbacks, or unique site conditions, such that an overall 6' visual barrier is achieved.
2. Walls shall be constructed of one or a combination of the following materials: stucco over concrete block, brick, stone, split-faced block or glass block in a structurally safe and attractive condition. ~~Alternative walls (including vinyl, EIFS or other similar systems) may be permitted with the approval of the Planning Director.~~ No walls of exposed concrete block are permitted, whether painted or not.
3. No wall shall be located within any required drainage, utility or similar easement.
4. The applicant shall be required to demonstrate provision for access and maintenance of landscaping and the wall structure at the time of landscape plan approval.
5. Breaks in the wall may be provided for pedestrian connections to adjacent developments.

(b) ***Berms***

Where berms are placed within any required buffer area, they shall meet the following requirements.

1. Berms shall have a minimum average height of 30 inches with side slopes not steeper than three feet horizontal for each one foot vertical.
- ~~2.~~ Slopes steeper than three feet horizontal for each one-foot vertical may be permitted if sufficient erosion control methods are taken and deemed by the ~~Public Works Director~~ Town Engineer to be maintainable.

~~3-2.~~

(c) ***Fences***

1. Fences may be constructed in a required buffer.
2. Fences shall have a minimum height of three feet and a maximum height of six feet. Additional height may be approved by the Planning Director after taking into account elements including, but not limited to, site topography, existing and proposed vegetative screening, setbacks, or unique site conditions, such that the maximum 6' height performance criteria is achieved.
3. Fences are subject to the requirements set forth in § 155.402 (G)(6) below.
4. Breaks in the fence may be provided for pedestrian connections to adjacent developments.
5. Fences shall be maintained in a structurally safe and attractive condition and with finished faces and required plantings located towards the adjacent property.
6. Any fence constructed in a buffer shall be capable of withstanding a 30 pound per square foot horizontal wind load from any direction.

**(8) Permitted Use of Buffer Area**

A buffer area shall not be used for any principal building or use, accessory building or use, vehicle use area or storage area except as specifically permitted below.

- (a) A buffer may be used for passive recreation and picnic facilities; and it may contain pedestrian or bike trails, provided that:
  1. Trails may be incorporated provided that adequate width (minimum 15 feet) is added to the required buffer width to accommodate both the trail and the required buffer plantings. Buffers with trails may also count toward the provision of recreation and open space for the development.
  2. Existing plant material, other than nuisance exotics, shall be preserved to the greatest extent possible; and
  3. All other requirements of this section shall be met.
- (b) Other appurtenances which require high visibility and easy access, such as fire hydrants, mail boxes and bus shelters or benches, are also permitted in a buffer. No screening of such appurtenances shall be required.
- (c) A buffer is encouraged to retain areas of native habitat and may incorporate water resources including stormwater detention or retention facilities. However a minimum 10-foot contiguous width of the buffer shall be preserved as a planting area without stormwater facilities.

**(9) Ownership of Buffers**

Buffers may remain in the ownership of the original applicant; they may be subjected to deed restrictions and subsequently be freely conveyed; or they may be transferred to any consenting grantees, such as the Town, a land conservancy or land trust, or homeowners association. Any such conveyance shall adequately guarantee the protection and maintenance of the buffer in perpetuity and in accordance with the provisions of this section.

(10) **Alternative Compliance**

- (a) Buffer requirements may be modified by ~~the Planning Board~~the Planning Director upon finding that a modification would be consistent with the standards and purpose of this Chapter, this Section and the adopted plans and policies of the Town; that such modification would not adversely affect the land use compatibility or public interest; and that the subject parcel or modified buffer complies with one or more of the following criteria:
1. The buffer is parallel and adjacent to an existing utility or drainage easement of at least 100 feet in width;
  2. The buffer is between uses that are to be developed under a common development plan or series of development plans;
  3. The buffer is adjacent to a property that has a joint use agreement with the subject parcel under;
  4. The buffer is parallel and adjacent to an existing railroad right-of-way; or
  5. The topography of the parcel is such that buffering would not be effective.
- (b) Financial hardship due to meeting the requirements of this is Section shall not be sufficient justification for alternative compliance.

### **PART 3. STREET YARD TREES**

(F) **STREET YARD TREES**

- (1) Street yard trees shall be required along all rights of way at the rate of one canopy tree per lot or one canopy tree for every 40 linear feet (spaced a maximum of 50 feet part).
- (2) All street yard trees shall be a minimum of two and one-half caliper inches at time of planting and shall be planted no less than five feet or more than 15 feet from the back of the sidewalk.
- (3) Credit shall be given for any existing tree with a minimum dbh of six inches that is preserved within the planting strip at rate of one preserved tree for two required street yard trees.
- (4) Double frontage lots abutting a collector street or residential collector street shall provide a Class A buffer along the entire rear yard frontage.

## **PART 4. SCREENING**

### **(G) SCREENING**

#### **(1) Drive-thru Facilities**

Drive-thru windows and lanes shall be designed to adhere to the following standards:

- (a) Drive-thru windows and lanes placed between the right-of-way and the associated building shall require landscape plantings installed and maintained along the entire length of the drive-thru lane, located between the drive-thru lane and the adjacent right-of-way.
- (b) Such screening shall be a compact evergreen hedge or other type of dense foliage. At the time of installation, such screening shall be at least 36 inches in height and be maintained at a minimum height of 48 inches within two years of planting.
- (c) Drive-thru windows are not permitted on the side of a building adjacent to any residential district.

#### **(2) Service Areas**

- (a) Trash collection, trash compaction, recycling collection and other similar service areas shall be located on the side or rear of the building and shall be effectively screened from view from adjacent properties or public rights-of-way.
- (b) Service areas shall be fully enclosed by opaque walls, gates, and/or fences at least eight feet high and shall be constructed of the same materials as the primary building.
- (c) All service areas are limited to the area shown on an approved site plan.
- (d) All service areas shall be located a minimum of 50 feet away from any residentially-zoned property line.

#### **(3) Loading Areas**

Loading areas shall be subject to the following screening requirements:

- (a) A 100% year-round screen of all loading areas visible from residential properties or public rights-of-way is required.
- (b) Screening shall consist of berms, walls, fences, plant material or combination thereof totaling eight feet in height at installation or completion of construction. Wall or fence materials shall be compatible with the primary structure.



- (c) Loading docks not in an I-1 or I-2 District shall be located at the side or rear of buildings a minimum of 50 feet away from any residentially-zoned property, unless the loading area is wholly within a closed building.

**(4) Mechanical Equipment**

- (a) All roof, ground and wall mounted mechanical equipment including, but not limited to air handling equipment, vents, compressors, duct work, transformers and elevator equipment) shall be screened from view.
- (b) Roof-mounted mechanical equipment shall be shielded from view on all sides. Screening shall consist of materials consistent with the primary building materials, and may include metal screening or louvers which are painted to blend with the primary structure.
- (c) Wall or ground-mounted equipment screening shall be constructed of:
  - 1. Planting screens;
  - 2. Brick, stone, reinforced concrete, or other similar masonry materials; or
  - 3. Redwood, cedar, preservative pressure treated wood, or other similar materials.

**(5) Utilities**

Above-ground utilities and appurtenances to underground utilities which require above-ground installation shall be screened by a continuous planting of shrubs, with a minimum mature height equal to that of the utility structure. Required access to these utilities is exempt from the screening provisions.

**(6) Fencing and Walls**

- (a) A fence or wall not more than six feet in height may be installed along any side and rear lot line. A fence or wall in any required front yard shall not exceed four feet in height.
- (b) Fences and walls shall be constructed of high quality materials, such as decorative blocks, brick, stone, treated wood, wrought iron and black vinyl coated chain link fence . Black vinyl coated chain link fence is permitted subject to the following additional requirements:

**1. Residential Uses**

Black vinyl coated chain link fencing is permitted for individual lots from the front façade of the house in the side and/or rear. It may not be used forward of the front façade. It may be used along a side street or between the house and the side property line if screened from view by landscape materials maintained at the same height as the fence or higher. Shrubs shall be at least 30

inches in height at planting. Chain link fencing is not permitted for use by a developer for buffering and screening. Black vinyl coated fencing may be used for recreational uses including, but not limited to parks, playgrounds, swimming pools, tennis courts and basketball courts.

2. Non-Residential Uses

Black vinyl coated chain link fencing is permitted for the accessory enclosures of day care facilities, kennels or veterinary clinics. Black vinyl coated chain link fencing is permitted for industrial uses. Vinyl coating is not required for fences when not visible from adjacent property or right-of-way.

3. Public Utilities

Black vinyl coated chain link fencing is permitted for public utility purposes. Vinyl coating is not required for industrial fences when it is not visible from adjacent property or right-of-way.

4. ~~The Planning Director may authorize the use of black coated vinyl chain link fencing for uses not listed above~~ is permitted if the use of such material is consistent with, and will not impact the aesthetic appearance of the surrounding area.

- (c) Fences topped with razor, concertina, or barbed wire are limited to properties designated for industrial or utility use. ~~The material may be used for security at commercial uses subject to Technical Review Committee approval. In no case shall the material be used below a point of five feet from ground level, or visible from public streets or adjacent residential areas.~~
- (d) Breaks in the fence or wall may be provided for pedestrian connections to adjacent developments.
- (e) The maximum length of a continuous, unbroken and uninterrupted fence or wall plane shall be 100 feet. Breaks shall be provided through the use of columns, landscaped areas, transparent sections and a change in material.

## **PART 5. GENERAL LANDSCAPING, SCREENING AND BUFFERING PROVISIONS**

### **(H) GENERAL PROVISIONS**

#### **(1) Design, Installation and Establishment**

##### **(a) *Plant Material***

1. Except as otherwise specified in this article, landscaping materials shall conform to the following minimum specifications:
  - A. Canopy trees shall have a 2.5 inch caliper and be 8 feet tall following installation.
  - B. Understory trees shall have a 2.0 inch caliper and be 6 feet tall following installation.
  - C. Shrubs not used for screening shall be a minimum height of 12 inches following installation.
  - D. Shrubs explicitly used for screening shall be a minimum height of 24 inches following installation.
2. Plant material shall be chosen from the lists of recommended plant species contained in the Clayton General Design Guidelines. Plant materials that vary from this list may be used ~~with the approval of the Planning Director or staff~~ provided they meet the general size requirements and growth habits of the existing list of recommended plant species.
3. Selected plants should be predominately hardy species that are native to North Carolina.

(b) ***Cold Hardy and Drought Tolerant Plants***

Plantings shall be cold hardy for the specific location where they are to be planted. Trees and shrubs shall be salt tolerant and drought tolerant and able to survive on natural rainfall once established with no loss of health.

(c) ***Soils***

Planting areas shall have uncompacted coarse loam that is a minimum of 12 inches deep. Soils shall be appreciably free of gravel, stones, rubble or trash. All compacted soil, contaminated soil or roadbase fill shall be removed.

(d) ***Issuance of Certificate of Occupancy***

The Code Enforcement Officer may not issue a permanent Certificate of Occupancy for an approved site plan or part thereof, until all seeding, trees, and plant material have been placed in accordance with the approved site plan and requirements of this Section. A temporary Certificate of Occupancy may be issued for a period of 30 days under circumstances that would affect the seeding and planting of the site, or until the proper planting season is reached to complete the landscaping requirements, and may be extended up to 90 days upon request to the Code Enforcement Officer.

(2) **Requirements for Maintaining Planted Areas**

(a) ***Responsibility***

The responsibility for maintenance of a planted area shall remain with the owner, his or her successors, heirs, assignees or any consenting grantee. Maintenance is required in order to ensure the proper functioning of a planted area.

(b) **Maintenance**

1. All plantings shall be maintained in an attractive and healthy condition. Maintenance shall include, but not be limited to, watering, mulching, fertilizing and pest management, mowing, weeding, removal of litter and dead plant material, and necessary pruning and trimming.
2. Necessary pruning and trimming shall be in accordance with the American National Standards for Tree Care Operations: Tree Shrub and Other Woody Plant Maintenance - Standards Practices (Pruning), and shall not be interpreted to include topping of trees through removal of crown material or the central leader, or any other similarly severe procedures such as lollipopping or meatballing that cause irreparable harm to the natural form of the tree, except where such procedures are necessary to maintain public overhead utilities. Any such activity shall be a violation of this Chapter. Additional plant material shall be required to replace or supplement the damaged plant material.
3. Dead or diseased plantings shall be removed. Replacement plantings shall be provided for any required plants which die or are removed for any reason and shall meet all minimum standards and conform to these regulations.
4. Natural water courses shall be maintained in a natural condition.
5. A water source shall be supplied within 50 feet of any planting requiring continuing watering. Where non-native or non-drought tolerant native vegetation is incorporated an irrigation system shall be required. Irrigation systems shall meet the standards of the Town.
6. Landscape structural features such as walls, fences, berms or water features shall be maintained in a structurally safe and attractive condition.
7. Where other uses, including pedestrian, bike or other trails these uses shall be maintained to provide for their safe use.

(c) **Failure to Maintain**

In the event that any owner of a planted area fails to maintain the planted area according to the standards of this section, the Town shall have the right to recover the cost of enforcement, including reasonable attorney fees. The Town may also, following ~~reasonable notice~~notice of violation and a demand that deficiency of maintenance be corrected, enter the planted area to take maintenance action. The cost of such maintenance shall be charged to the party having the primary responsibility for maintenance of the planted area.

**(3) Credit for Existing Plant Material**

- (a) With the exception of street yard tree credit, credit for existing plant material shall be allocated on a one-for-one basis for canopy trees, understory trees or shrubs. The size of material shall not be taken into account, except where such material is below the required minimum planting size.
- (b) Required planting areas shall incorporate existing natural vegetation to the maximum extent feasible. Prior to disturbance of a required planting area approval shall be obtained from the Town. Where existing vegetation is inadequate to meet the required planting standards, additional plant material shall be required.
- (c) The retention of existing vegetation shall be maximized within proposed planting areas. Existing native habitat or vegetation located within planting area that meets the requirements of this section may be counted, provided such plant material meets the minimum standards of this section. If the existing vegetation has been credited and is subsequently removed or dies, it shall be replaced with the appropriate planting material.
- (d) Credit may be permitted for existing plant material and walls on adjacent property, provided such items are in a permanently protected area, including, but not limited to:
  - 1. A conservation easement or preserve area on adjacent property; or
  - 2. An existing utility or drainage easement exceeding 100 feet in width.

**(4) Tree Protection During Construction**

Existing trees specified on the landscape plan to remain on the site as a function of fulfilling the purpose of this Section shall be protected from vehicular movement and material storage over their root spaces during the following construction. An undisturbed area with a porous surface shall be reserved around a tree, based on dbh of the tree as provided in Table 4-7, and with no protective distance less than four feet from the base of the tree.

**TABLE 4-7: TREE PROTECTION**

| Trunk Diameter dbh | Area Required |
|--------------------|---------------|
| 4-10 inches        | 80 sq. ft.    |
| 11-16 inches       | 180 sq. ft.   |
| 17-20 inches       | 320 sq. ft.   |
| 21 inches plus     | 340 sq. ft.   |

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2012-01-04, passed 1-3-12; Am. Ord. 2013-06-01, passed 6-3-13; Am. Ord. 2013-08-02, passed 8-5-13; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord 2016-04-04, adopted 04-04-2016)

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## § 155.403 SIGNS

### (A) PURPOSE AND INTENT

Signs are herein regulated in the interest of promoting traffic safety, safeguarding the public health, facilitating police and fire protection, preventing adverse community appearance, over-crowding of the land, and protecting the character of the area in which they are located. This Section is intended to establish requirements for the concentration, placement, height, bulk, and area of signs, while preserving community scenic, economic, and aesthetic values.

### (B) PERMIT REQUIRED

Except as exempted in this Section and in accordance with §155.713, no sign may be erected, located, or altered in any manner until a sign permit (if necessary), and building permit if necessary, has been secured from the Planning Department.

### (C) SIGN DEFINITIONS

A sign is described as any visual device or representation designed or used for the purpose of communicating a message or identifying a product, service, person, organization, business, or event, with the use of words or characters, visible from outside the premises on which such device is located. "Sign" is further defined in section §155.802 Defined Terms. Specific sign types are described below in further detail.

#### (1) **Abandoned Sign**

A sign which has not identified or advertised a current business, service, owner, product, or activity for a period of at least 360 days.

#### (2) **Awning/Marquee/Canopy Sign**

A sign which is attached flat to an awning, marquee, or canopy.

#### (3) **Backlit Sign, (as it applies to Awnings, Marquees, and Canopies)**

A awning, either fabric, plastic, or other material that is partially or wholly translucent, and allows lighting from behind to illuminate the part or whole of the awning, marquee, or canopy at night.

#### (4) **Billboard**

A structure used for the permanent display of off-premise advertising.

#### (5) **Cabinet Sign**

A sign in which a removable sign face (usually with translucent sign graphics which are illuminated from behind) is enclosed on all edges by a cabinet.

(6) **Clearance**

The distance above the walkway, or other surface if specified, to the bottom edge of a structure or sign. The term can also refer to a horizontal distance between two objects.

(7) **Changeable Copy Sign – Electronic**

A sign or portion thereof that displays non-pictorial, text information in which alphanumeric characters or symbols are defined by a small number of matrix elements using different combinations of light emitting diodes (LED's), fiber optics, light bulbs or other illumination devices within the display area. Electronic changeable copy signs include computer programmable, microprocessor controlled electronic displays. Electronic changeable copy signs include projected images or messages with these characteristics onto buildings or other objects.

(8) **Changeable Copy Sign – Manual**

A sign or portion thereof designed to accommodate frequent message changes composed of letters, characters, or illustrations and that can be changed or rearranged manually, without altering the face or surface of the sign.

(9) **Channel Letter Sign**

A sign consisting of fabricated or formed three-dimensional letters, individually applied to a wall or joined by a raceway. Channel letter signs are often internally illuminated. These signs may also include "bullets" or "taglines", which are smaller than and subordinate to the main sign letters, and function as small, irregularly shaped cabinets.

(10) **Deteriorated Sign**

Any sign which, together with its supports, braces, anchors, and other structural elements, is not maintained in accordance with the provisions of the North Carolina State Building Code, or where elements of the display area or panel are visibly cracked, broken, or discolored, or where the support structures or frame members are visibly corroded, bent, broken, torn, or dented, or where the message can no longer be read under normal viewing conditions.

(11) **Development Identification Sign – Non-residential**

A sign that identifies a non-residential development with multiple buildings. The sign may contain the name of the development, names of the tenants, or a combination of these components.

(12) **Development Identification Sign - Residential**



A sign that identifies a residential development such as a single family residential subdivision, apartments, or multi-family development.

(13) **Drive-thru Menu Board**

A sign displaying the bill of fare for a drive-thru restaurant.

(14) **Easel / Sandwich Board / A-Frame Sign**

An upright “A”-frame or “H”-frame structure used for displaying promotional information to the public.

(15) **Electronic Sign: Electronic Graphic or Video Display**

A sign or portion thereof that displays either static or moving pictorial images or graphics, with or without text information, defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs or other electronic illumination devices within the display area. Electronic graphic or video display signs include computer programmable, microprocessor controlled electronic or digital displays, not including electronic changeable copy signs. Electronic graphic or video display signs include projected images or messages with these characteristics onto buildings or other objects.

(16) **Façade**

Generally known as the face of a building, especially the principal face. More specifically, this is that portion of any exterior elevation on the building extending from grade to top of the parapet, wall, or eaves, and the entire width of the building elevation. The primary façade is the side that includes the storefront and main entrance, or main public facing portion of a building.

(17) **Feather Sign, or Feather Flag**

A piece of cloth or similar material, typically elongated, oblong, and/or with a curved top or bottom edge, which is attached by two edges or one long, curving edge to a pole, and resembles a feather in shape. Generally, the sign is self-supporting (not attached to a building) and/or stuck into the ground in a temporary fashion, the flag is attached by a sleeve (and not by grommets or rope), and the entire sign is temporary in nature.

18 Fence Wrap

Fence wraps, as defined by G.S. 160D-908, are exempt from this Ordinance as provided by G.S. 160D-908.

(18) **Flag, or Flag Sign**

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A piece of cloth or similar material, typically rectangular, square, or triangular, which is attached by one edge to a pole or pole-mounted rope. More often than not, a flag is attached at distinct points, and not sleeved over the pole.

(19) **Flag Pole**

A straight pole used for flying a flag. A flag pole is a long, rigid structure, permanently mounted either vertically, horizontally, or angled, where one end is anchored and the other end displays one or more flags.

(20) **Flashing Sign**

Any sign whose artificial illumination is not kept constant in intensity at all times when in use and which exhibits changes in light, color, direction, or animation. This definition does not include Changeable Copy Signs or Electronic Signs which meet the requirements set forth herein.

(21) **Freestanding Sign**

A sign supported by a structure that is not itself part of a building.

(22) **Gas Balloon (or Balloon Sign)**

A lighter-than-air, gas-filled balloon, tethered in a fixed location, which may contain an advertisement message on its surface or attached to the balloon or its tether in any manner.

(23) **Hanging Sign**

A sign that is hanging from an awning, marquee or canopy.

(24) **Historic Sign**

A sign that is 50 years or older; particularly unique in character, design, or history; or part of the historic character of a business or building.

(25) **Illumination**

A source of artificial or reflected light, either directly illuminating a partially or wholly translucent material from a source of light incorporated inside a structure or sign, or indirectly from an artificial source outside of a structure or sign.

(26) **Illumination, Halo**

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A sign using a 3-dimensional message, logo, etc., which is lit in such a way as to produce a halo effect. For the purposes of regulating total sign face area, the entirety of the area covered by the sign and the halo illumination shall be considered.

(27) **Inflatable Sign**

Signs that are inflated using air pressure.

(28) **Monument Sign**

A freestanding sign where the base of the sign is on the ground and is supported primarily by an internal structural framework or solid structural features other than support posts.

(29) **Obsolete Sign**

A sign whose message describes the availability of goods or services at a location where such goods and services are no longer available and have ceased to be available for a period of at least 60 days or, in the alternative, any sign whose content pertains to a time, event or purpose which has elapsed or expired.

(30) **Off-Premises Sign**

A sign which conveys information about a business, product, service, owner, or other activity not sold or offered on the premises on which the sign is located.

(31) **On-Premises Sign**

A sign which conveys information about a business, product, service, or other activity offered or sold at the premises on which the sign is located.

(32) **Pan Sign**

A flat sign where vinyl or other adhesive graphics are applied to a metal sheet or some other type of flat backing plate. Often these signs are rectangular and used above storefronts, taking the place of areas that might otherwise be channel letter or cabinet signs. Pan signs are not made of translucent materials and are externally illuminated, if they have illumination at all.

(33) **Personal Expression Sign**

An on-premises sign that expresses an opinion, interest, position, or other non-commercial message.

(34) **Pole Sign**

A sign mounted on a freestanding pole attached to the ground by a support structure having a ratio of greater than four to one sign width to narrowest width of support structure.

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(35) **Portable Sign**

A sign that is not directly attached to the ground and is designed to be easily transportable.

(36) **Post Sign**

A freestanding sign permanently affixed to the ground by support posts and does not have a solid base.

(37) **Post and Arm Sign**

A sign supported by a single upright post, with a horizontal arm from which a sign is suspended.

(38) **Primary Building Identification Sign**

A sign communicating the generic or specific name of an entire building without communicating or advertising for a specific business, service, owner, or product housed therein.

(39) **Primary Side (of a Building)**

The face or façade of a building that generally occurs in association with the main storefront entrance.

(40) **Primary Sign**

Any sign generally occurring on the primary building façade or above or in association with the main storefront entrance.

(41) **Projecting Sign**

A sign fastened directly to and extending out from a building face or wall, so that the sign face is perpendicular to or at an angle to the building face or wall.

(42) **Roof Sign**

A sign that is mounted to a roof with an angle less than 75 degrees or a sign displayed above the highest point of the roofline on a pitched roof or the parapet wall on a flat roof.

(43) **Secondary Sign**

Any sign not occurring on the primary side of a -building.

(44) **Snipe Sign**

A sign tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, public benches, trash cans, streetlights, or other objects, or placed on any public property or in the public right of way or on any private property without the permission of the property owner. May also be known as a “bandit sign”.

(45) **String or Rope Lighting**

Lights, either constant, flashing, or intermittent, arranged in a line, string, or rope, generally lining a window, door, or other architectural or façade feature.

(46) **Tenant Identification Sign**

An exterior sign that identifies tenants of a single building, such as a multi-family residential building or a multi-tenant, non-residential commercial building, where access to each tenant is provided internally, via a shared external entrance. The sign may contain the name of the development, names of the tenants, suite number or address of each tenant, or a combination of these components. Tenant identification signs are designed to the pedestrian scale, located on or to the side of the shared external entrance, and are generally readable at a distance of less than 10-15 feet.

(47) **Temporary Signs**

A sign that is not intended or designed for permanent display.

(48) **Wall/Fascia Sign**

A sign adhered to, attached to or mounted away from but parallel to the building wall.

(49) **Windblown Sign**

Any sign composed of a banner, flag, pennant, or other objects, mounted and fastened in such a manner as to move upon being subjected to pressure by air pressure, wind, or breeze.

(50) **Window / Door Sign**

A sign attached to the inside or outside of a window or door, or displayed behind a window.

(D) **EXEMPTIONS**

The following signs (known as “Exempt Signs”) shall not be subject to a Sign Permit application per §155.713 “Sign Permit”, with regulation hereunder. Exempt Signs shall not count toward the total allowed sign face area on a site, unless otherwise noted below. Exempt Signs shall still be governed by the General Sign Regulations and Specific Sign Regulations, including dimensional standards of each individual sign type, except as otherwise noted below:

- (1) Signs erected by, on behalf of, or pursuant to the authorization of a governmental body.

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- (2) Personal expression signs of any sign type, including flags, provided that they do not exceed 4 square feet in area per side, are non-commercial in nature, and are non-illuminated. The maximum number of personal expression signs per lot is two.
  - (3) Flags, pennants, or insignia of any governmental or non-governmental organization, when not displayed in connection with a commercial promotion or as an advertising device provided that the following criteria are met:
    - (a) Flags and flagpoles are not located within any public right-of-way, and must meet the setback requirements of the zoning district, as well as the setbacks described in “Flags” (G)(15) of this Section;
    - (b) Flags and flagpoles do not extend more than 25’ above the ground;
    - (c) No more than 2 flags per lot in residential districts, and no more than 3 flags per lot in all other districts;
    - (d) Maximum size per flag is 24 square feet in residential districts and 40 square feet in all other districts;
    - (e) Illumination is permitted so long as it is not brighter than the light produced by a 100W incandescent bulb, and shines directly up at the flag.
    - (f) Only one exempt flag pole is permitted per lot; this counts toward the total number of permitted flag poles on a site.
    - (g) If the above criteria are not met, or if the flag contains commercial messaging, then the flag shall require a sign permit and shall be regulated according to the General Sign Regulations and Specific Sign Regulations for that sign type.
  - (4) Miscellaneous informational signs. The following types of miscellaneous informational signs shall be exempt from sign permit requirements:
    - (a) Informational signs appearing on gasoline pumps, such as the names of grades of fuel and prices and conditions relating to prices (i.e. full or self-service).
    - (b) Signs appearing on vending boxes, provided they do not project more than 12 inches above or past the sides of the vending box, and no more than a total of 80 square feet of signage exists on each vending box. Vending boxes that stand apart from the primary structure on a site shall be considered as accessory structures, and shall require sign permits as regulated by General and Specific Sign Regulations, of this Section.
    - (c) Directional signs less than 4 square feet appearing on or adjacent to entry doors such as PUSH, PULL, OPEN, and/or CLOSED, as regulated by (G)(3) “Window / Door Signs”, and a maximum of two signs are allowed per entry door.

- (d) "Open" or "closed" signs that are turned on or displayed only during business hours, provided they are less than 4 square feet and only one may be displayed per storefront or façade.
  - (e) Signs appearing on display windows or doors denoting hours of operation, credit cards accepted, payment options, and similar information, provided they cover less than 2 square feet, only one sign is allowed per façade or entrance, and these signs are also in conformance with other applicable regulations from (G)(3) "Window / Door Signs".
  - (f) Information pertaining to the operating instructions of vending machines and automatic teller machines, including bank logos on the face of ATM machines, provided they do not project more than 12 inches above or to the sides of the vending box or machine housing.
  - (g) Signs providing directions or guiding traffic on private property that do not exceed four square feet in size or four feet in height each, and do not contain a business name, logo, or an advertising message.
  - (h) Signs internal to a large campus or multi-building development that are not visible from the public right-of-way or public realm.
- (5) Signs painted on or otherwise permanently attached to currently licensed motor vehicles that are not primarily used for or strategically parked to be used as a sign.
  - (6) Signs not exceeding four square feet in size that are customarily associated with residential use and that are not of a commercial nature, such as signs giving names of occupants, signs on mailboxes and paper tubes, and signs posted on private property relating to private parking or warning the public against trespassing or danger from animals.
  - (7) "Yard sale" signs displayed at the location of the yard sale, not exceeding four square feet in area, and not used in connection with any continuous commercial activity. Yard Sale Signs are further regulated in Section (16) "Temporary Signs".
  - (8) Signs containing the message that the real estate on which the sign is located is for sale, lease, or rent, together with information identifying the owner or agent, provided that such signage meets the standards of Table 4-8 "Real Estate Sign Standards". Such signage may have a maximum of two sides, shall be non-illuminated, and shall be removed within 15 days after sale, lease, or rental. Only one sign on each street frontage may be erected, but on lots having a street frontage in excess of 400 feet, a second sign not exceeding nine square feet in size per side may be erected. Feather or windblown signs shall not be permitted as real estate signs, per Section (E) of this Article.

~~(8)~~ (9) Fence wraps as defined and regulated by G.S. 160D-908.

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**TABLE 4-8: REAL ESTATE SIGN STANDARDS**

| Nonresidential or Mixed Use Property |                           |                |
|--------------------------------------|---------------------------|----------------|
| Acreage                              | Maximum sign face area    | Maximum Height |
| Less than two acres                  | 16 square feet per side   | Six feet       |
| Greater than two acres               | 32 square feet per side   | Six feet       |
| Residential Property                 |                           |                |
| Acreage                              | Maximum sign face area    | Maximum Height |
| Less than one acre                   | Six square feet per side  | Six feet       |
| One - Five acres                     | Nine square feet per side | Six feet       |
| Five – 20 acres                      | 16 square feet per side   | Six feet       |
| Greater than 20 acres                | 32 square feet per side   | Six feet       |

- (9) Displays, including lighting, flags (less than 12 square feet total area), and inflatables, erected in connection with the observance of holidays that do not bear an advertising message. Such displays shall be removed within ten days following the holiday.
- (10) Sign face plate changes, provided that it meets the applicable criteria of General and Specific Sign Regulations and other applicable portions of this Article.
- (11) Window and door signs, provided that these signs conform to the Specific Sign Regulations (§155.403(G)(3)), and such signage shall count toward the total allowed sign face area and number of signs on a site.
- (12) Easel / Sandwich Boards / A-Frames, provided that these signs conform to the Specific Sign Regulations (§155.403(G)(7)), and such signage shall count toward the total allowed sign face area and number of signs on a site.
- (13) Menu Displays
 

Restaurants and other food- or beverage- selling businesses where consumption occurs on-site may display a menu or list of daily specials on the wall adjacent to their main and secondary entrances provided that it is not larger than the actual printed menu available inside the establishment and is housed in a decorative frame.
- (14) Legal notices
- (15) Historic signs, provided
  - (a) the Planning Director determines the sign meets the following criteria:



1. The sign is 50 years or older; or
2. The sign is particularly unique in character, design, or history; or
3. The sign is a part of the historic character of a building, business, or district; and
4. The sign is kept in good, working order.

(b) Historic signs shall not count toward the total allowable sign face area for a site.

(16) Tenant identification signs, which shall count toward the total signage allowed on a site.

(E) **SIGNS PROHIBITED**

The following signs are expressly prohibited within all zoning districts:

- (1) Abandoned signs or obsolete signs.
- (2) Backlit Awnings, Marquees, or Canopies, unless part of an approved Alternative Sign Plan.
- (3) Portable signs, including any signs painted on or displayed on vehicles or trailers parked or located for the primary purpose of displaying that sign, except Easel / Sandwich Board / A-Frame Signs located on the ground as regulated herein.
- (4) Roof signs.
- (5) Cabinet signs of any shape, attached to a building wall or roof, except that portion that is a federally or state registered trademark. State or federally registered trademarks used in this fashion require a sign permit (per §155.713 "Sign Permit") and are allowed one per tenant per façade, up to a maximum size of 12 square feet.
- (6) Inflatable signs, with the exception of those erected in connection with the observance of holidays and do not bear an advertising message as described in D(8) of this Section.
- (7) Any sign or device set into motion by mechanical, electrical, or other means, except barber poles and those regulated in (G)(11) "Electronic Changeable Copy Sign / Electronic Sign" of this Section.
- (8) Flashing Signs, including but not limited to any sign or device displaying flashing or intermittent lights, lights of changing degrees or intensity, or animation. This includes electronic video display signs. However, Electronic Changeable Copy Signs / Electronic Signs are permitted, as regulated in (G)(11) of this Section.
- (9) String or rope lighting, that is not explicitly associated with the traditional observance of a holiday and regulated by the conditions of (D)(9) under "Exemptions". All string or rope lighting is required to be removed no later than February 1<sup>st</sup>, 2017 in order to comply with this section.

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- (10) Any sign which is a copy or imitation of an official sign, or which purports to have official status.
  - (11) Off-premises signs not specifically regulated herein, including but not limited to billboards.
  - (12) Snipe signs.
  - (13) Temporary product/promotional advertisement signs that are hung on, attached to or placed over a permanent fixture including but not limited to a light pole, tree, fence or bollard, whether on or off-premises, unless approved as part of a Temporary Sign Permit.
  - (14) Pole signs.
  - (15) Signs mounted inside a window or on a wall directly behind a window, and/or otherwise visible from outside the building that are not accounted for or do not meet the criteria of (G)(3) "Window / Door Signs".
  - (16) Signs displayed in secondary windows not located on the first floor or in secondary windows not located in the primary building façade or a storefront entrance, unless as part of an Alternative Sign Plan.
  - (17) Signs or murals of a commercial nature painted directly onto a wall or other building surface or structure, unless as part of an Alternative Sign Plan.
  - (18) Windblown signs, except those exempted in Exemptions (found in (D)(2) and (3) of this Section), part of an approved Flag Sign ((G)(15) of this Section, or those allowed as part of a Temporary Sign Permit in accordance with §155.713 (F).
  - (19) Any sign, other than those described in (D)(4)(g) of this Section, that is stenciled, painted, projected, or otherwise displayed on the ground, sidewalk, or pavement, unless as part of an Alternative Sign Plan.

(F) **GENERAL SIGN REGULATIONS**

(1) **Signs Located in Overlay Districts**

Signs located within an Overlay District are subject to the provisions of this Section, except that regulations within § 155.204 "Overlay Districts" shall supersede and may be either more or less restrictive than the regulations for signs contained in this Section, unless permitted as an Alternative Sign Plan per (K) of this Section.

(2) **Signs Located as Part of a Home Occupation**

Signs erected in connection with a home occupation pursuant to § 155.308(C)(2) are subject to the provisions of this Section, except that regulations within § 155.308(C)(2) shall supersede and may be either more or less restrictive than the regulations for signs contained

in this Section, unless permitted as an Alternative Sign Plan per (K) of this Section. Signs erected in connection with a home occupation shall not be illuminated.

(3) **Total Allowable Sign Face Area**

- (a) The total square footage of allowable sign face area permitted on any site shall be calculated by multiplying the amount of linear lot frontage or building frontage (in feet) by 1.25. The total allowable sign face area for any site shall not exceed this calculation (as shown below).

$$\text{Total allowable sign face area (in square feet)} = \text{Linear frontage (feet)} \times 1.25$$

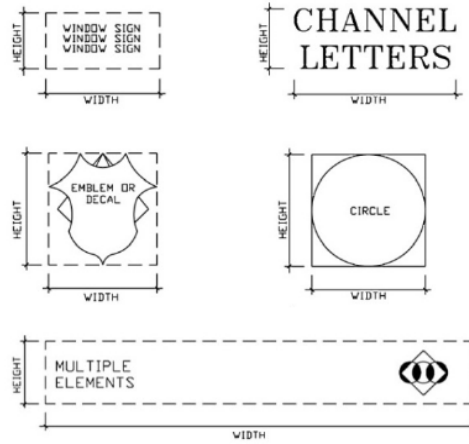
On lots with frontage on more than one street, the longest frontage may be used to calculate the total allowable sign face area.

- (b) In addition, the total area and specific area of allowable sign face area permitted on a sign or site shall be governed by the sign type criteria for each specific sign type (as described below in Section (G) "Specific Sign Regulations").

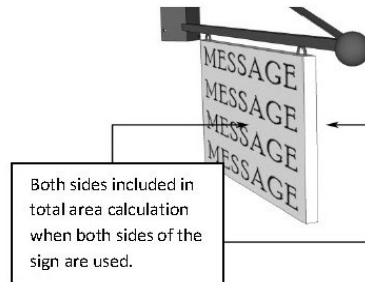
(4) **Computation of Sign Measurements**

(a) ***Computation of Sign Face Area***

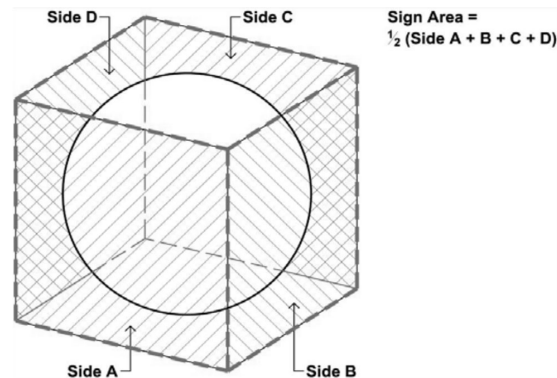
1. The area of a sign, otherwise known as sign face area, is measured by finding the area of the minimum imaginary rectangle or square, aligned parallel to the horizon which fully encloses all sign words, symbol, copy, or message, including any material or color forming the sign face or background used to differentiate the sign from the structure against which it is placed. Sign face area does not include any supporting framework or bracing, unless it is part of the message or sign face, or otherwise functions as an attention-attracting device.



2. Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, unless otherwise specified.



3. The sign face area of free-form or sculptural (non-planar) signs is calculated as fifty percent of the sum of the area of the four vertical sides of the smallest cube that will encompass the sign.



*Illustration of sign area for sculptural non-planar signs.*

(b) **Computation of Sign Height**

1. General

Sign height is measured as described below. The height of a sign shall include the highest point of the sign face area, with the supporting structure and/or any decorative elements dedicated or attached exclusively to the sign limited to 125% of the allowed sign height, unless approved as part of an Alternative Sign Plan per (K) of this Section.

2. Height Measurement

The vertical distance from the average grade of the ground or walkway immediately surrounding the sign to the highest point of the sign face area, or from the level of the average crown of the nearest abutting public street, alley or highway (other than a structurally elevated roadway) to the highest point of the sign face area, whichever measurement permits the greater elevation..

(5) **Construction Standards**

- (a) All signs shall comply with the appropriate provisions of the North Carolina Building Code, the National Electric Code, and this Section.
- (b) Signs shall be located in such a way that they maintain sufficient horizontal and vertical clearance of all overhead electrical conductors in accordance with National Electric Code specifications, provided that no sign, except governmental signs, shall be installed closer than ten feet horizontally or vertically from any conductor or public utility guy wire.

- (c) In no way shall a sign hinder or obstruct the visibility of the right-of-way, as defined by § 155.400(K) "Visibility at Intersections", either at intersections or points of ingress or egress from parking lots.
- (d) Signs and any associated structures shall match or exceed in quality the materials of the primary structure on a site. Signs should be integrated into the architectural style of the building and design of the site, and should complement the overall architectural style.
  - 1. All permanent signs shall be constructed of quality and permanent materials, ~~where final interpretation is made by the Planning Director.~~
  - 2. No permanent sign shall be allowed if the materials are of a nature that it is reasonable to expect that the sign will fall into disrepair within a period of 5 years or less through natural weathering.
  - 3. Quality materials for permanent signs shall not include:
    - A. Unfinished wood, including unfinished posts or supports
    - B. Coroplast or other similar rigid, pan, vinyl or plastic backing, for wall signs or tenant identification signs
    - C. Painted signs, ~~unless expressly allowed by the Planning Director~~
- (e) All signs shall be of a sign type that demonstrates a high quality development, ~~where final interpretation is made by the Planning Director.~~
  - 1. Signs shall be constructed of a quality sign type.
    - A. For purposes of determining the quality of a sign type, the following shall apply for wall signs, in order of highest quality to lowest quality: channel letter sign or similar individually mounted lettering, raceway-mounted lettering, decorative pan sign, cabinet sign, painted sign or vinyl or other lettering adhered directly to the wall.
    - B. For purposes of determining the quality of a sign type, the following shall apply for freestanding and monument signs, in order of highest quality to lowest quality: monument sign, post sign, cabinet sign.
- (f) Signs with a separate electric meter shall have the pedestal and meter completely screened from view, or be otherwise seamlessly hidden by or integrated into the design of the sign or structure. Approval of a sign plan or issuance of a sign permit for an illuminated sign does not necessarily constitute exemption from this criteria or screening requirements.

~~(g) The Planning Director may modify parts (d) through (f) of these requirements based on conditions specific to an applicant, business, or site. In no case shall financial cost of sign construction be acceptable justification for reduced quality of sign materials.~~

**(6) Illumination**

(a) At a minimum, illumination of signs shall be limited to business hours when the business is open to the public and/or clients, or as otherwise restricted in this Section. This does not apply to Billboards.

(b) Illuminated signs shall have no movement, including but not limited to flashing, blinking, or animation, except as allowed for Electronic Changeable Copy Signs in (11) of this Section, or as otherwise permitted as part of an Alternative Sign Plan in (K) of this Section.

(c) At a minimum, illumination of signs in or within 50' of residential zoning districts is prohibited from the hours of 9:00PM to 7:00AM, or as otherwise restricted in this Section.

~~(h)~~(d) Internal illumination of signs is prohibited in mixed use zoning districts with conforming residential uses, and in and within 50' of residential zoning districts, unless approved as part of an Alternative Sign Plan (K).

~~(i)~~(e) Signs associated with a home occupation shall not be illuminated.

~~(j)~~(f) All wires and non-decorative lighting structures shall be camouflaged or reasonably hidden from view.

**(7) Secondary Signs**

(a) Where signs are displayed on more than the primary side of a building, any secondary signs shall be no larger than the primary sign.

(b) Secondary signs shall be consistent with the primary sign in content, type, construction, illumination, and materials.

(c) A secondary sign shall only be allowed if a primary sign already exists.

(d) A secondary sign shall only be allowed if it is consistent with the content, user, tenant, business, or activity of the primary sign.

**(8) Windows and Translucent Doors**

(a) Primary windows and translucent doors located in first floor, non-residential storefronts shall not be obstructed, covered, or otherwise blocked so as to prohibit visibility from the outside for more than half of regular business hours.

- 
- (b) Permanent coverings, which include but are not limited to signage, window tinting, reflective window treatments, window wraps, or window treatments, shall cover no more than 25% of the above surfaces.

(G) **SPECIFIC SIGN REGULATIONS**

Requirements additional to Section (F) "General Sign Regulations", for sign area, dimensions, placement, illumination, and other standards as necessary are described below. All signs must be located on-premises unless otherwise explicitly indicated.

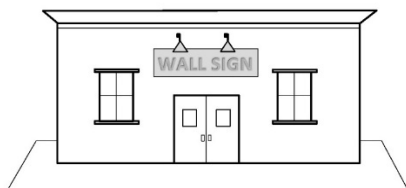
(1) **Sign Color**

The Pantone Matching System (PMS) colors, vinyl manufacturer and numbers, or comparable industry standard of color identification shall be clearly indicated for each proposed sign when applying for a sign permit.



**(2) Wall / Fascia Signs**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Allowed Sign Face Area (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <ol style="list-style-type: none"> <li>Twenty-five percent of the surface area of each wall, façade, storefront, or fascia area (as applicable) exclusive of windows/doors.</li> <li>Max. 75 square feet</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>(b) Number (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <ol style="list-style-type: none"> <li>Each building face may have one Primary Building Identification Sign plus one sign per tenant, provided the cumulative area does not exceed the total allowable sign face area for that façade.</li> <li>Only one sign per tenant per wall / façade is allowed.</li> </ol>                                                                                                                                                                                                                                                                                                                                      |
| <b>(c) Positioning</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <ol style="list-style-type: none"> <li>No portion of a wall/fascia sign may extend above the roof line of a building without a parapet wall.</li> <li>No portion of a wall/fascia sign may extend above parapet walls.</li> <li>No portion of wall/fascia sign may extend above the lower eave line of a building with a pitched roof with a vertical angle less than 75 degrees.</li> <li>Signs may be placed in gables, provided they meet the conditions above.</li> <li>No sign shall be allowed on a dormer.</li> </ol>                                                                                                                           |
| <b>(d) Projection (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Twelve inches from wall or surface to which the sign is attached.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>(e) Clearance (min.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| If the sign projects more than six inches from the wall it is attached to, the sign shall maintain a clearance of 8 feet from the ground below.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>(f) Construction</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <ol style="list-style-type: none"> <li>All wall signs shall be fastened directly to the supporting wall.</li> <li>All supporting brackets or raceways shall be painted to blend in with the building.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>(g) Location</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <ol style="list-style-type: none"> <li>Allowed in residential zoning districts as part of a permitted non-residential use.</li> <li>Allowed in all non-residential and mixed use zoning districts.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>(h) Other Conditions</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <ol style="list-style-type: none"> <li>In multi-tenant, non-residential or mixed use buildings, <ol style="list-style-type: none"> <li>Each tenant shall be allowed one color per wall sign with black also allowable as trim, background, or accent.</li> <li>Pan or rectangular signs must incorporate decorative embellishments, borders, or features.</li> <li>Federally and state registered trademarks may occupy a maximum of 12 square feet of sign face area per tenant and shall be counted toward the allowable sign face area.</li> <li>Signs shall match or exceed the style of existing sign materials and style.</li> </ol> </li> </ol> |



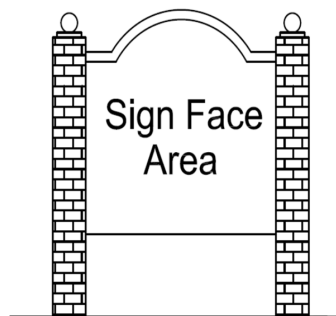
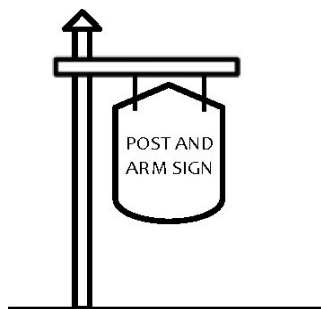
**(3) Window/Door Signs**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Allowed Sign Face Area (max)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Twenty-five percent of the area of the surface of each window/door area. The window/door area is counted as a continuous surface until divided by a solid architectural or structural element with a width greater than 12 inches. Stated alternatively, 75% transparency must be maintained for windows and transparent doors. Faux windows may be up to 100% opaque, but are restricted to the 25% sign face area maximum described above.                                                                                                                                  |
| <b>(b) Positioning</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <ol style="list-style-type: none"> <li>1. Window/door signs are only allowed for businesses or tenants with an exterior entrance directly into their unit.</li> <li>2. Window signs are not allowed on exterior windows above the first floor, unless part of an approved Alternative Sign Plan. Real estate-related signs, such as "For Rent" or "For Sale" are not subject to this provision (see (D)(8) of this section).</li> <li>3. Window signs are attached to the inside or outside of a window or door, or displayed behind a window or transparent door.</li> </ol> |
| <b>(c) Illumination</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <ol style="list-style-type: none"> <li>1. Illumination is prohibited, except for "Open" signs as described in Exempt Signs.</li> <li>2. Illuminated window signs are prohibited in residential zoning districts. This prohibition includes the "Open" Signs described above under Exempt Signs.</li> </ol>                                                                                                                                                                                                                                                                    |
| <b>(d) Location</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <ol style="list-style-type: none"> <li>3. Allowed in residential zoning districts as part of a permitted non-residential use.</li> <li>1. Allowed in all non-residential and mixed use zoning districts.</li> </ol>                                                                                                                                                                                                                                                                                                                                                           |

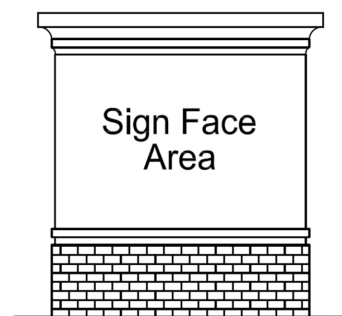


**(4) Freestanding Signs (Monument Sign, Post Sign, Post and Arm Sign)**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Allowed Sign Face Area (max.) Per Sign Face</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <ol style="list-style-type: none"> <li>Maximum size of 64 square feet, and further restricted by type: <ol style="list-style-type: none"> <li>Monument Signs: A total of 0.25 square feet per linear foot of lot frontage or building frontage along the street on which the sign is oriented.</li> <li>Post Signs: A total of 0.20 square feet per linear foot of parcel street frontage or storefront street frontage along the street on which the sign is oriented.</li> <li>Post-and-Arm Sign: Six square feet.</li> </ol> </li> </ol>                         |
| <b>(b) Height (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Eight feet.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>(c) Minimum Frontage (either building frontage or lot frontage, both as measured parallel to the street on which the sign will be located or facing)</b>                                                                                                                                                                                                                                                                                                                                                                                                         |
| <ol style="list-style-type: none"> <li>Monument and Post Signs: 100 linear feet</li> <li>Post-and-Arm Signs: 50 linear feet.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>(d) Number (max.) Per Site</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <ol style="list-style-type: none"> <li>0 to 599 linear feet = 1 sign.</li> <li>600 to 1499 linear feet = 2 signs (min. 300 linear feet on two frontages = 2 signs).</li> <li>1500+ linear feet = 3 signs (min. 300 linear feet on three frontages = 3 signs).</li> </ol>                                                                                                                                                                                                                                                                                            |
| <b>(e) Setback and Separation (min.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <ol style="list-style-type: none"> <li>Five feet from the public right-of-way.</li> <li>Fifteen feet from any interior side lot line.</li> <li>Fifty feet between signs.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>(f) Location</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Allowed in all non-residential and mixed use zoning districts.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>(g) Landscaping</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <ol style="list-style-type: none"> <li>A planting bed area equal to at least one-half of the sign face area (for two-sided signs, use only one sign face area for the calculation) shall be planted around the entire base of any freestanding sign, with decorative landscape features or materials. <del>The Planning Director may modify this requirement based on constraints specific to the site.</del></li> <li>All planting areas are required to comply with this requirement no later than May 1st, 2017 in order to comply with this section.</li> </ol> |



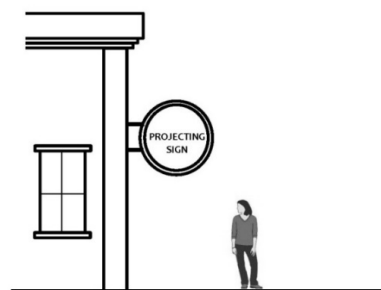
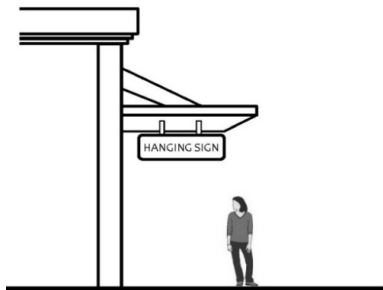
Post Sign



Monument Sign

**(5) Projecting Signs and Hanging Signs**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Allowed Sign Face Area (max.) Per Sign Face</b>                                                                                                                                                                                                                                                                                                                                                                                                           |
| <ol style="list-style-type: none"> <li>1. <u>Projecting signs</u>: 10 square feet.</li> <li>2. <u>Hanging signs</u>: Six square feet.</li> </ol>                                                                                                                                                                                                                                                                                                                 |
| <b>(b) Number (max.) Per Site</b>                                                                                                                                                                                                                                                                                                                                                                                                                                |
| One of each sign (hanging and projecting) per ground floor business frontage. A corner business unit may have one per street frontage.                                                                                                                                                                                                                                                                                                                           |
| <b>(c) Positioning and Clearance</b>                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <ol style="list-style-type: none"> <li>1. Minimum seven feet clearance from the ground level to the bottom of the sign.</li> <li>2. Maximum 15' from ground level to the top of the sign.</li> <li>3. Minimum three feet clearance from curb line.</li> <li>4. May not extend above roof eaves or parapet walls.</li> <li>5. A minimum of 10' clearance is required between hanging signs on the same business frontage.</li> </ol>                              |
| <b>(d) Projection (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <ol style="list-style-type: none"> <li>1. <u>Projecting sign</u>: Three feet from the building wall or one-half the width of the sidewalk.</li> <li>2. <u>Hanging Sign</u>: No restriction provided the sign does not extend past the roof, marquee, or awning to which it is attached.</li> </ol>                                                                                                                                                               |
| <b>(e) Construction</b>                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <ol style="list-style-type: none"> <li>1. <u>Projecting Signs</u>: Signs shall be fastened directly to a building wall and shall intersect the building wall at right angles. When a building corner is at the intersection of two streets, one projecting sign at a 45 degree angle is allowed in lieu of one sign per street frontage.</li> <li>2. <u>Hanging Signs</u>: Shall be fastened directly and securely to the awning, marquee, or canopy.</li> </ol> |
| <b>(f) Illumination</b>                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <ol style="list-style-type: none"> <li>1. Projecting signs may be illuminated internally or externally.</li> <li>2. Hanging signs may only be illuminated externally.</li> </ol>                                                                                                                                                                                                                                                                                 |
| <b>(g) Location</b>                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <ol style="list-style-type: none"> <li>1. Allowed in residential zoning districts as part of a permitted non-residential use.</li> <li>2. Allowed in all non-residential and mixed use zoning districts.</li> </ol>                                                                                                                                                                                                                                              |



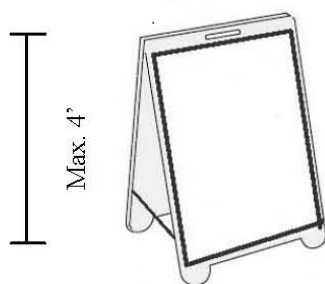
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**(6) Awning, Marquee, or Canopy Signs**

|                                                                                                                   |
|-------------------------------------------------------------------------------------------------------------------|
| <b>(a) Allowed Sign Face Area (max.)</b>                                                                          |
| 75 percent of the surface area of the face of the awning, marquee, or canopy to which it is attached.             |
| <b>(b) Number (max.) Per Site</b>                                                                                 |
| One permitted on each side or face of awning, marquee, or canopy.                                                 |
| <b>(c) Clearance</b>                                                                                              |
| Minimum eight feet from ground level.                                                                             |
| <b>(d) Positioning</b>                                                                                            |
| Lettering or graphics shall not project horizontally more than one inch from the surface to which it is attached. |
| <b>(e) Construction</b>                                                                                           |
| Shall be fastened or adhered directly and securely to the awning/marquee/canopy face.                             |
| <b>(f) Illumination</b>                                                                                           |
| 1. Backlit illumination is prohibited.                                                                            |
| <b>(g) Location</b>                                                                                               |
| 2. Allowed in residential zoning districts as part of a permitted non-residential use.                            |
| 1. Allowed in all non-residential and mixed use zoning districts.                                                 |

**(7) Easel/Sandwich Boards/A-frame**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <b>(a) Allowed Sign Face Area (max) Per Sign Face</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |  |
| 8 square feet.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |  |
| <b>(b) Number (max.) Per Site.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  |
| One per business unit or tenant, with an overall maximum of 1 sign per 20 linear feet of store frontage.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |  |
| <b>(c) Positioning</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |  |
| <ol style="list-style-type: none"> <li>1. Sign must be located within 20 feet of the business entrance.</li> <li>2. No easel/sandwich board / A-frame sign shall be placed on the sidewalk so as to leave less than 4 feet of unobstructed clearance for pedestrians.</li> <li>3. Prohibited within the public right-of-way.</li> <li>4. No easel/sandwich board / A-frame sign shall remain on the sidewalk adjacent to any premises at any time when the premises are closed to the public.</li> <li>5. No easel / sandwich board / A-frame sign shall be tied, locked, chained, or otherwise attached to any other feature.</li> <li>6. No easel / sandwich board / or A-frame shall be displayed outside of business hours.</li> </ol> |  |
| <b>(d) Height (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |  |
| Four feet.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |  |
| <b>(e) Width (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |  |
| Three feet.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |  |
| <b>(f) Construction</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |  |
| <ol style="list-style-type: none"> <li>1. All A-frame/sandwich board/easel signs shall be adequately weighted or anchored to prevent accidental movement of the sign, including by wind gusts. Such weighting shall be integral to the design of the sign, and shall not consist of separate materials such as sandbags or concrete blocks.</li> <li>2. No sign shall obstruct any public street.</li> </ol>                                                                                                                                                                                                                                                                                                                               |  |
| <b>(g) Illumination</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |  |
| Illumination is prohibited.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |  |
| <b>(h) Location</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  |
| <ol style="list-style-type: none"> <li>1. Allowed in residential zoning districts as part of a permitted non-residential use.</li> <li>2. Allowed in all non-residential and mixed use zoning districts.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  |



**(8) Tenant Identification Signs**

|                                                                                                                                                    |
|----------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Allowed Sign Face Area (max.)</b>                                                                                                           |
| Six square feet.                                                                                                                                   |
| <b>(b) Number (max.)</b>                                                                                                                           |
| One sign per external entrance.                                                                                                                    |
| <b>(c) Positioning</b>                                                                                                                             |
| 1. Signs shall be located to the side of the external door which accesses the internal tenants described on the sign.                              |
| <b>(d) Projection (max.)</b>                                                                                                                       |
| Three inches from wall to which the sign is attached.                                                                                              |
| <b>(e) Construction</b>                                                                                                                            |
| 1. All tenant identification signs shall be fastened directly to the supporting wall.                                                              |
| <b>(f) Illumination</b>                                                                                                                            |
| 1. May be illuminated externally only. No backlighting.                                                                                            |
| <b>(g) Location</b>                                                                                                                                |
| 1. Allowed in residential zoning districts as part of a permitted non-residential use.                                                             |
| 2. Allowed in all non-residential and mixed use zoning districts.                                                                                  |
| <b>(h) Other Conditions</b>                                                                                                                        |
| 1. Only tenant(s) accessed by the entrance adjacent to the sign may have their signage displayed.                                                  |
| 2. Tenant and suite identification lettering shall not be taller than 1 inch, and main identification lettering shall not be taller than 4 inches. |
| 3. Faceplates shall not be taller than 2 inches.                                                                                                   |
| 4. All faceplates shall utilize one color for lettering and one color for background. The colors shall be consistent among tenants on the sign.    |

| <b>White House Plaza</b>     |                       |
|------------------------------|-----------------------|
| <b>1600 Pennsylvania Ave</b> |                       |
| Smith's Savory Sweets        | First Floor, Suite 1  |
| Guns & Gorgonzola            | First Floor, Suite 2  |
| Ruffs and Rolls              | First Floor, Suite 3  |
| Designs by DD                | Second Floor, Suite 1 |
| Bunns and Breads             | Second Floor, Suite 2 |
| So Sew Me                    | Second Floor, Suite 3 |
| Boss Hogg's BBQ              | Third Floor, Suite 1  |
|                              |                       |

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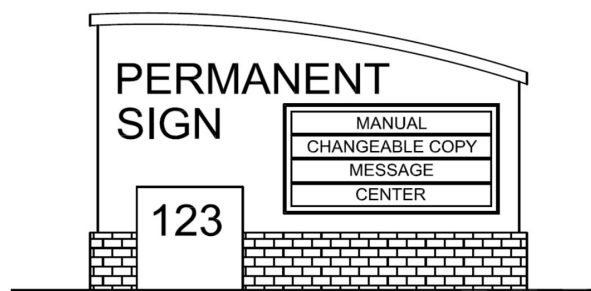
**(9) Drive-Thru Menu Boards**

|                                                                                                                                                                                                                                         |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Number (max.)</b>                                                                                                                                                                                                                |
| Two per drive-thru lane.                                                                                                                                                                                                                |
| <b>(b) Allowable Sign Face Area (max.)</b>                                                                                                                                                                                              |
| 36 square feet allowed per drive-thru lane.                                                                                                                                                                                             |
| <b>(c) Height (max.)</b>                                                                                                                                                                                                                |
| Eight feet.                                                                                                                                                                                                                             |
| <b>(d) Construction</b>                                                                                                                                                                                                                 |
| Sign materials shall be consistent with the primary building construction or other signs on the site.                                                                                                                                   |
| <b>(e) Location</b>                                                                                                                                                                                                                     |
| Drive-Thru Menu Boards shall be located within the minimum vehicle queuing spaces plus one queuing space, of the ordering window or pick-up window, per the use, as identified in Table 4-4: Minimum Queuing Standards (§155.401(D)(1). |
| <b>(f) Illumination</b>                                                                                                                                                                                                                 |
| May be illuminated internally or externally.                                                                                                                                                                                            |
| <b>(g) Other</b>                                                                                                                                                                                                                        |
| Drive-Thru Menu Boards are only permitted as an accessory to a drive-thru business.                                                                                                                                                     |



**(10) Changeable Copy Sign – Manual**

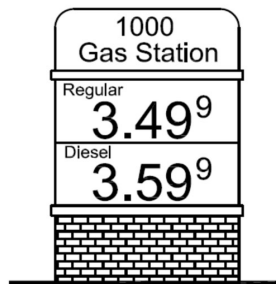
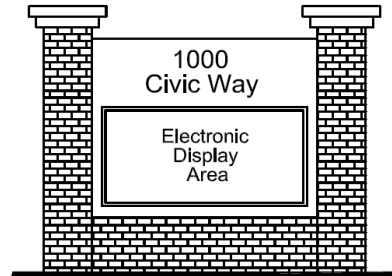
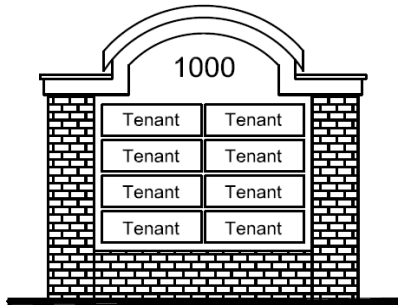
|                                                                                                                                                                                                                                                                                                                                                               |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Location</b>                                                                                                                                                                                                                                                                                                                                           |
| Manual Changeable Copy Signs may be used as a part of a permitted freestanding sign for public, institutional and not-for-profit uses only, unless expressly prohibited elsewhere in the Town's code.                                                                                                                                                         |
| <b>(b) Number (max) Per Site</b>                                                                                                                                                                                                                                                                                                                              |
| One per parcel or site, whichever is more restrictive.                                                                                                                                                                                                                                                                                                        |
| <b>(c) Allowable Sign Face Area (max) Per Sign Face</b>                                                                                                                                                                                                                                                                                                       |
| The changeable copy area shall be limited to 40 percent of the total sign face area. Sign face area shall be otherwise regulated per Freestanding Signs, in (5) of this Section.                                                                                                                                                                              |
| <b>(d) Construction</b>                                                                                                                                                                                                                                                                                                                                       |
| 1. Sign structure shall be constructed of high quality materials.                                                                                                                                                                                                                                                                                             |
| 2. Materials shall be consistent with the primary building construction.                                                                                                                                                                                                                                                                                      |
| <b>(e) Illumination</b>                                                                                                                                                                                                                                                                                                                                       |
| Internal Illumination is prohibited.                                                                                                                                                                                                                                                                                                                          |
| <b>(f) Landscaping</b>                                                                                                                                                                                                                                                                                                                                        |
| A planting bed area equal to at least one-half of the sign face area (for two-sided signs, use only one sign face area for the calculation) shall be planted around the entire base of any freestanding sign, using shrubs, flowers, or ground cover. <del>The Planning Director may modify this requirement based on constraints specific to the site.</del> |
| <b>(g) Other Criteria</b>                                                                                                                                                                                                                                                                                                                                     |
| Manual Changeable Copy Signs shall otherwise conform to the regulations of Freestanding Signs (per (4) of this Section).                                                                                                                                                                                                                                      |



**(11) Changeable Copy Sign – Electronic, and Electronic Sign**

| <b>(a) Location</b>                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|----------------------|-------------------|----------|---------------------|----------|---------------------|----------|
| Electronic changeable copy signs may be a part of any permitted freestanding sign.                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
| <b>(b) Number (max) Per Site</b>                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
| One per parcel or site, whichever is more restrictive.                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
| <b>(c) Allowable Sign Face Area (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
| Sign face may be any part of the total allowable sign face area for a freestanding sign.                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
| <b>(d) Illumination</b>                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
| Electronic signs shall be equipped with dimming technology that automatically adjusts the display's brightness based on ambient light conditions at all times of day and night, and be set at a level no higher than .3 foot candles above ambient light conditions (measured from a distance as specified below) as to not cause glare, distraction, reduced visibility or safety concerns from adjacent roadways.                            |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                | <table> <tr> <th>Sign Size</th><th>Measurement Distance</th></tr> <tr> <td>0-100 square feet</td><td>100 feet</td></tr> <tr> <td>101-350 square feet</td><td>150 feet</td></tr> <tr> <td>351-650 square feet</td><td>200 feet</td></tr> </table> | Sign Size | Measurement Distance | 0-100 square feet | 100 feet | 101-350 square feet | 150 feet | 351-650 square feet | 200 feet |
| Sign Size                                                                                                                                                                                                                                                                                                                                                                                                                                      | Measurement Distance                                                                                                                                                                                                                             |           |                      |                   |          |                     |          |                     |          |
| 0-100 square feet                                                                                                                                                                                                                                                                                                                                                                                                                              | 100 feet                                                                                                                                                                                                                                         |           |                      |                   |          |                     |          |                     |          |
| 101-350 square feet                                                                                                                                                                                                                                                                                                                                                                                                                            | 150 feet                                                                                                                                                                                                                                         |           |                      |                   |          |                     |          |                     |          |
| 351-650 square feet                                                                                                                                                                                                                                                                                                                                                                                                                            | 200 feet                                                                                                                                                                                                                                         |           |                      |                   |          |                     |          |                     |          |
| <b>(e) Permitted Colors</b>                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
| <ol style="list-style-type: none"> <li>Signs associated with associated with uses other than gas station pricing: background must be black. Electronic display is limited to text/logo which may be one of the following: white or red.</li> <li>Signs associated with gas station pricing: background must be black. Pricing may be white, red, and green.</li> </ol>                                                                         |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
| <b>(f) Copy/Text</b>                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
| Copy/text may consist of alphanumeric symbols only, except that pictorial imagery associated with the logo may be permitted.                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
| <b>(g) Construction</b>                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
| <ol style="list-style-type: none"> <li>Sign structure shall be constructed of high quality materials.</li> <li>Materials shall be consistent with the primary building construction.</li> </ol>                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
| <b>(h) Other</b>                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
| <ol style="list-style-type: none"> <li>Electronic changeable copy signs must be physically attached to the primary sign.</li> <li>Sign display shall be static. No portion of the sign may flash, scroll, twirl, change color, blink, or in any manner imitate movement.</li> <li>Copy may change once every 6 minutes.</li> <li>A sign strictly displaying time and temperature may change on no less than a five second interval.</li> </ol> |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
| <b>(i) Landscaping</b>                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |
| A planting bed area equal to at least one-half of the sign face area (for two-sided signs, use only one sign face area for the calculation) shall be planted around the entire base of any freestanding sign, using shrubs, flowers, or ground cover. <del>The Planning Director may modify this requirement based on constraints specific to the site.</del>                                                                                  |                                                                                                                                                                                                                                                  |           |                      |                   |          |                     |          |                     |          |

Electronic Changeable Copy Sign Examples:



**(12) Billboards**

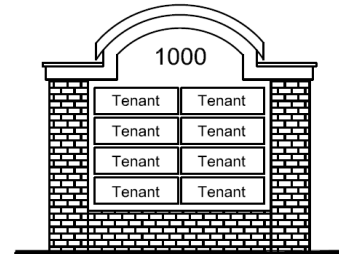
|                                                                                                                                                                                                                                                                                                                      |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Allowable Sign Face Area (max) Per Sign Face</b>                                                                                                                                                                                                                                                              |
| <ol style="list-style-type: none"> <li>1. 200 square feet per sign face.</li> <li>2. Maximum sign face height of 15 feet.</li> <li>3. Maximum sign face width of 20 feet.</li> <li>4. Maximum one advertising face per side.</li> </ol>                                                                              |
| <b>(b) Spacing between billboards (min)</b>                                                                                                                                                                                                                                                                          |
| 2,000 feet.                                                                                                                                                                                                                                                                                                          |
| <b>(c) Setback (min)</b>                                                                                                                                                                                                                                                                                             |
| 50 feet from right-of-way.                                                                                                                                                                                                                                                                                           |
| <b>(d) Height (max) of structure</b>                                                                                                                                                                                                                                                                                 |
| 25 feet.                                                                                                                                                                                                                                                                                                             |
| <b>(e) Clearance (min)</b>                                                                                                                                                                                                                                                                                           |
| Eight feet above the ground at the base of the sign or highway grade level, whichever is higher.                                                                                                                                                                                                                     |
| <b>(f) Illumination</b>                                                                                                                                                                                                                                                                                              |
| <ol style="list-style-type: none"> <li>1. May be externally illuminated only.</li> <li>2. Internal illumination is prohibited.</li> </ol>                                                                                                                                                                            |
| <b>(g) Location</b>                                                                                                                                                                                                                                                                                                  |
| <ol style="list-style-type: none"> <li>1. Prohibited within Town limits.</li> <li>2. Limited to locations on U.S. 70 Bus. HWY.</li> <li>3. All billboards shall be primarily oriented toward the east-bound or west-bound lanes of U.S. 70 Business.</li> <li>4. Billboards must be located off-premises.</li> </ol> |
| <b>(h) Annexation</b>                                                                                                                                                                                                                                                                                                |
| Billboards located on property that is annexed into Town limits shall be removed within the timeframe established within a Developers Agreement or Annexation Agreement.                                                                                                                                             |

**(13) Development Identification Signs – Residential**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Allowable Sign Face Area (max.) per sign face</b>                                                                                                                                                                                                                                                                                                                                                                                                       |
| 24 square feet.                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>(a) Number (max.) per site</b>                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Two per each major project/development entrance, or one in the median of an entrance driveway.                                                                                                                                                                                                                                                                                                                                                                 |
| <b>(b) Height (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <ol style="list-style-type: none"> <li>1. Eight feet.</li> <li>2. If attached to an approved entrance feature, the sign face may not exceed 8 feet in height. Entrance features shall comply with the provisions of this Chapter.</li> </ol>                                                                                                                                                                                                                   |
| <b>(c) Setbacks (min.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Five feet from the public right-of-way or property line and may not encroach into safe sight triangles.                                                                                                                                                                                                                                                                                                                                                        |
| <b>(d) Construction</b>                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <ol style="list-style-type: none"> <li>1. Sign may take the form of a freestanding sign or wall style sign.</li> <li>2. Freestanding signs shall be a monument style sign or post-and-arm style sign.</li> <li>3. Sign may be attached to a decorative wall or fence, or to a building wall.</li> </ol>                                                                                                                                                        |
| <b>(e) Illumination</b>                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| May be illuminated externally or backlit.                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>(f) Location</b>                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <ol style="list-style-type: none"> <li>1. Shall be located on property contiguous to the development identified.</li> <li>2. Shall be located on private property or within the median of the entrance driveway.</li> <li>3. May be located on one or both sides of major entrances to the development, or one sign may be located in the median of the entrance driveway with a sign easement and permission from NCDOT or the Town as applicable.</li> </ol> |
| <b>(g) Landscaping</b>                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| A planting bed area equal to at least one-half of the sign face area (for two-sided signs, use only one sign face area for the calculation) shall be planted around the entire base of any freestanding sign, using shrubs, flowers, or ground cover. <del>The Planning Director may modify this requirement based on constraints specific to the site.</del>                                                                                                  |

**(14) Development Identification Signs – Non-residential (Sites with Multiple Buildings)**

A Non-residential Development Identification Sign may be used in association with a parcel with multiple buildings, or a grouping of parcels such as a medical park, business park, or a shopping center with outparcels where one or more tenants receive the benefit of common signage. A single building (either single or multi-story) with multiple tenants is not eligible for a Development Identification Sign.



Non-residential Development Identification Signs are approved via Alternative Sign Plan. Applications shall clearly identify what businesses, buildings, or parcels are included.

In addition to a Development Identification Sign, parcels within the development may have one monument style freestanding sign provided they meet the criteria for Freestanding Signs in (4) of this Section.

|                                                                                                                                                                                                                                                                                                                                                                                                                         |  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <b>(a) Allowable Sign Face Area (max.)</b>                                                                                                                                                                                                                                                                                                                                                                              |  |
| A total of 0.25 square feet per linear foot of lot frontage or building frontage along the street on which the sign is oriented, or 64 square feet, whichever is less.                                                                                                                                                                                                                                                  |  |
| <b>(a) Number (max.) per roadway frontage</b>                                                                                                                                                                                                                                                                                                                                                                           |  |
| One sign along roadway at main entrance to the development.                                                                                                                                                                                                                                                                                                                                                             |  |
| <b>(b) Height (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                |  |
| <ol style="list-style-type: none"> <li>1. Eight feet.</li> <li>2. If attached to an approved entrance feature, the sign face may not exceed 8 feet in height. Entrance features shall comply with the provisions of this Chapter.</li> </ol>                                                                                                                                                                            |  |
| <b>(c) Setbacks (min.)</b>                                                                                                                                                                                                                                                                                                                                                                                              |  |
| Five feet from the public right-of-way or property line and may not encroach into safe sight triangles.                                                                                                                                                                                                                                                                                                                 |  |
| <b>(d) Construction</b>                                                                                                                                                                                                                                                                                                                                                                                                 |  |
| <ol style="list-style-type: none"> <li>1. Shall be a freestanding monument style sign, or attached to an entry feature.</li> <li>2. Materials shall be consistent with or exceed the materials of the primary building.</li> </ol>                                                                                                                                                                                      |  |
| <b>(e) Illumination</b>                                                                                                                                                                                                                                                                                                                                                                                                 |  |
| May be illuminated internally or externally.                                                                                                                                                                                                                                                                                                                                                                            |  |
| <b>(f) Location</b>                                                                                                                                                                                                                                                                                                                                                                                                     |  |
| <ol style="list-style-type: none"> <li>1. Shall be located on property contiguous to the development identified.</li> <li>2. Shall be located on private property or within the median of the entrance driveway.</li> <li>3. May be located at the main entrance to the development, or within the median of the entrance driveway with a sign easement and permission from NCDOT or the Town as applicable.</li> </ol> |  |
| <b>(g) Landscaping</b>                                                                                                                                                                                                                                                                                                                                                                                                  |  |
| A planting bed area equal to at least one-half of the sign face area (for two-sided signs, use only one sign face area for the calculation) shall be planted around the entire base of any freestanding sign, using shrubs, flowers, or ground cover. <del>The Planning Director may modify this requirement based on constraints specific to the site.</del>                                                           |  |

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**(h) Other Conditions**

1. In multi-tenant, non-residential or mixed use buildings,
  - a. Each tenant or sign shall be allowed two colors for face plate lettering with black always allowed as trim or accent, and white required as the background.

**(15) Flags**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Allowable Sign Face Area (max.) per sign face</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <ol style="list-style-type: none"> <li>For vertically-projecting poles, 24 square feet per flag in residential zoning districts, and 35 square feet per flag in all other zoning districts.</li> <li>Twelve square feet per flag on angled- or horizontally projecting poles.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>(b) Number (max.) per site</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <ol style="list-style-type: none"> <li>A maximum of up to three vertically-projecting flag poles or two angled- or horizontally-projecting flag poles are allowed per frontage, subject to satisfaction of all other criteria herein.</li> <li>Only one type of flag pole – vertically-projecting or horizontally-projecting – is allowed on a site.</li> <li>For vertically-projecting flag poles, as measured by lot frontage: <ol style="list-style-type: none"> <li>0 to 199 linear feet = 1 flag pole</li> <li>200 to 499 linear feet = 2 flag poles</li> <li>500+ linear feet = 3 flag poles</li> </ol> </li> <li>Angled- or horizontally-projecting flag pole, as measured by lot frontage: <ol style="list-style-type: none"> <li>100-200 linear feet = 1 flag pole.</li> <li>200+ linear feet = 2 flag poles.</li> </ol> </li> <li>One flag is allowed as advertising for an on-site operator, tenant, or use, and all other flags shall conform to the exemption listed in (D)(3) of this Section.</li> <li>Vertically-projecting flag poles shall be allowed a maximum of three flags, with one flag allowed per every 5' above 15' of pole height.</li> <li>Angled- or horizontally-projecting flag poles shall have a maximum of one flag per pole.</li> <li>Residential zoning districts are allowed a maximum of one flag pole and two flags.</li> </ol> |
| <b>(c) Height or length (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <ol style="list-style-type: none"> <li><u>Vertically-projecting flag poles</u> may not be taller than the primary structure on the site, or 35', whichever is less.</li> <li>Angled- or horizontally-projecting flag poles may not have a pole length greater than 8'.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>(d) Minimum Required Frontage (either building frontage or lot frontage, as measured parallel to the street on which the flag pole(s) are located)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <ol style="list-style-type: none"> <li>Vertically-projecting flag pole: 175 linear feet.</li> <li>Angled- or horizontally-projecting flag pole: 100 linear feet.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>(e) Clearance (min.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <ol style="list-style-type: none"> <li>On vertically-projecting flagpoles, under normal operation but including times during which a flag is raised at half-mast, no portion of any flag shall extend below the mid-point of the flagpole, with an absolute minimum clearance of seven feet required above the ground beneath the flag.</li> <li>On angled- or horizontally-projecting flag poles, all flags and flagpoles shall maintain a minimum of seven feet of vertical clearance above the ground beneath the flagpole and flag.</li> <li>All flags and flagpoles shall maintain minimum required safety clearances from electrical utilities at all times.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>(f) Setbacks (min.) required for all parts of, flagpole and other supporting or related structure</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <ol style="list-style-type: none"> <li>For vertically-projecting flagpoles, must meet setback requirements of the zoning district, plus one foot setback for every one foot of height above 25 feet.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |



|                                                                                                                                                                                                                                                                                                                                                                                                                              |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2. For angled- or horizontally-projecting flagpoles, may not extend past the property line and must be anchored at or behind the setback line.                                                                                                                                                                                                                                                                               |
| <b>(g) Construction</b>                                                                                                                                                                                                                                                                                                                                                                                                      |
| 1. Vertically-projecting flagpoles shall be anchored to a footing in the ground or attached to a wall or building and shall project vertically to the maximum allowed height.                                                                                                                                                                                                                                                |
| 2. Flagpoles may be attached to a structure or building wall, and may project vertically, horizontally, or at an angle to the wall.                                                                                                                                                                                                                                                                                          |
| 3. Zoning Compliance Permits and building permits may be required.                                                                                                                                                                                                                                                                                                                                                           |
| <b>(h) Illumination</b>                                                                                                                                                                                                                                                                                                                                                                                                      |
| May be illuminated externally only.                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>(i) Landscaping</b>                                                                                                                                                                                                                                                                                                                                                                                                       |
| 1. On vertically-, or angled-projecting flagpoles anchored in the ground, a planting bed area equal to at least one-half of the sign face area (use only one side of the largest flag for the calculation) shall be planted around the entire base of any freestanding sign, using shrubs, flowers, or ground cover. <del>The Planning Director may modify this requirement based on constraints specific to the site.</del> |
| 2. On vertically-, angled-, or horizontally projecting flagpoles anchored directly to a building, no planting bed is required.                                                                                                                                                                                                                                                                                               |

**(16) Temporary Signs**

The signs described below may be erected on a temporary basis only after a permit has been issued by the Planning Director. No sign shall be placed in a public right-of-way, nor attached to a utility pole or other utility-related structure.

**(a) On-Premises Construction Sign**

1. The regulation of on-premises construction signs shall be in accordance with ~~North Carolina General Statutes §160A-381(j)~~, G.S. § 160D-908 or as otherwise regulated below.
2. Residential  
  
One sign, not to exceed 20 square feet in size, may be erected in a residential zoning district.
3. Non-Residential  
  
Up to two on-premises construction project signs may be erected in a business, industrial, or office and institutional zoning district, so long as the total sign face area does not exceed 32 square feet. If a sign is two-sided with faces positioned back to back, only one side of the sign face shall be included in this calculation.
4. Construction signs shall not be erected prior to site plan or plat approval or the issuance of a building permit, and shall be removed within 15 days after final inspection and approval of the project.

**(b) Political Signs**

The regulation of political signs shall be in accordance with ~~G.S. North Carolina General Statutes § 136-32~~, Regulation of Signs.

**(c) Special Event Signs** (fair, carnival, festival, grand opening, sale, or similar non-permanent activity)

1. Limited to two feather signs, not exceeding 16 square feet each (per face), or one banner style sign, not exceeding 32 square feet (per face).
2. Signs may be erected, placed, or located for maximum of 10 consecutive days.
3. Limited to four times per calendar year (40 days in total).
4. Such signs shall be removed by the applicant by the permit expiration date.
5. Prohibited within public rights-of-way and shall not obstruct the view of oncoming traffic.

6. ~~The Upon written request, the Planning Director shall have the authority to~~ extend the timeframe up to a maximum of 60 days for new businesses or businesses undergoing exterior renovation.

(d) ***Yard Sale Signs***

1. Prohibited within public rights-of-way and shall not obstruct oncoming traffic.
2. Such signs may not exceed four square feet in size.
3. Signs shall not be erected more than seven days before the sale date and shall be removed within 48 hours of the sale date.
4. Signs shall not be affixed to any structure within public rights-of-way.

(e) ***Gas Balloons***

1. May be erected, placed, or located in connection with a special event, such as a fair, carnival, grand opening, sale, or similar non-permanent activity.
2. Balloons may be used for maximum of 10 consecutive days.
3. Limited to four times per calendar year (40 days in total).
4. Balloons shall be removed by the applicant within one day after the event has taken place.

(H) **REMOVAL OF ABANDONED, OBSOLETE, OR DETERIORATED SIGNS**

(1) **Abandoned Signs**

(a) ***Removal***

Obsolete signs shall be removed by the owner of the premises on which the sign is situated within 15 days of receipt of notification by the enforcement officer.

(2) **Obsolete Signs**

(a) ***Removal***

Obsolete signs shall be removed by the owner of the premises on which the sign is situated within 15 days of receipt of notification by the enforcement officer.

(3) **Deteriorated Signs**

(a) ***Removal/Compliance***

Deteriorated signs shall be removed or brought into compliance with all codes and ordinances within 15 days of notification by the enforcement officer.

(I) **MAINTENANCE**

- (1) All signs shall be maintained in a state of good repair, and shall not be abandoned, made to be obsolete, or become deteriorated. The Planning Director or designee is authorized to inspect each sign periodically to determine that it meets the requirements set forth in this Section. Whenever a sign has been built or is being maintained in violation of this Section, such sign shall be made to conform to all regulations herein, or shall be removed at the expense of the owner within 15 days after written verification thereof by the Planning Director.
- (2) To ensure that signs are erected and maintained in a safe and attractive manner, the following maintenance requirements shall apply to all signs visible from any right-of-way or public area:
  - (a) A sign shall have no more than five percent of its surface area covered with peeling paint, chipped corners, rust, mud, broken parts and pieces, or other unsightly conditions for a period of more than 15 successive days.
  - (b) A sign shall not stand with bent or broken sign facing, broken supports, loose appendages or struts, or leaning more than 15 percent from vertical for a period greater than 15 successive days.
  - (c) A sign shall not have weeds, trees, vines, or other vegetation growing upon it, that obscures the view of the sign from the street or right-of-way from which it is to be viewed, for a period greater than ten successive days.

(I) **ALTERNATIVE SIGN PLAN**

The purpose and intent of an Alternative Sign Plan is to allow for creativity of sign design, providing an opportunity to demonstrate the intent of this Section can be exceeded, in whole or in part. Any sign application may include an Alternative Sign Plan as an alternative. The Alternative Sign Plan need not comply with the requirements of this Section; however in no case shall an Alternative Sign Plan allow a prohibited sign. The Alternative Sign Plan shall be prepared in accordance with the design principles set forth below.

(1) **Application**

The Alternative Sign Plan shall be submitted to the Planning Department for review following the process requirements of § 155.713 "Sign Permit", with the decision made by Town Council.

(2) **Alternative Sign Plan Elements**

The Alternative Sign Plan shall include, at a minimum, criteria and specifications for the following:

- (a) Justification statement which details project information, modifications being requested, specific code references proposed for waiver, proposed alternatives, and explanation of how the alternative exceeds the requirements of this Section.
- (b) Alternative Sign Plans submitted for a permanent sign shall include all information required for a Permanent Sign Permit application (per §155.713), to be issued at a later date.
- (c) Location of regulated properties.
- (d) Allocation of permitted sign area among tenants and any other proposed signs. Total allowable sign face area for the project is determined using the total sign face area allowance calculation defined in (F)(3) of this Section.
- (e) Sketches of generic sign design and appearance for each sign type provided in Pantone Matching System (PMS) colors, vinyl manufacturer and numbers, or comparable industry standard of color identification. Permitted colors for each sign component shall be specified, including but not limited to sign face backgrounds, lettering, and sign structure.
- (f) Map, site plan, or other graphical depiction showing where each particular sign type is permitted.
- (g) Justification for the Alternative Sign Plan.

**(3) Approval Criteria**

To qualify for consideration, an Alternative Sign Plan shall demonstrate compliance with the following review criteria:

- (a) Components of the Alternative Sign Plan shall be consistent with the Town of Clayton General Design Guidelines.
- (b) The proposed sign design, size, color, illumination, and placement are compatible in style and character with any building to which the sign is to be attached, any surrounding structures, any adjoining signage on the site, and/or the district character or architectural character of the area in which it is located.
- (c) Innovative use of materials and design techniques in response to unique characteristics of the specific site, if applicable.
- (d) Sign design, scale, and placement.

- (e) Integrates architectural features in a manner compatible with the surroundings and district in which the development is located.
- (f) Consistent with approved neighborhood plans, studies, or area plans.
- (g) The Alternative Sign Plan improves the safety and welfare of the general public by minimizing distractions, hazards, and obstructions from sign design or placement.

**(4) Conditions of Approval**

The Town Council may impose Conditions of Approval to carry out the intent of the Alternative Sign Plan while still permitting each sign user opportunities for effective identification and communication. These conditions may include, but are not limited to, specification of color(s), reductions in the allowable number of signs, total sign face area, location of signs, and types of signs allowed.

**(5) Amendment**

An Alternative Sign Plan may be amended by filing an updated application with the Planning Director. The amended Alternative Sign Plan shall include a schedule that requires bringing all signs not conforming to the proposed plan into conformance.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2008-03-02, passed 3-3-08; Am. Ord. 2008-04-02, passed 4-7-08; Am. Ord. 2012-01-04, passed 1-3-12; Am. Ord. 2012-12-04, passed 12-3-12; Am. Ord. 2013-09-05, passed 9-3-13; Am. Ord. 2014-06-11, passed 6-16-14; Am. Ord. 2017-01-01, adopted 01/03/2017)

## § 155.404 OUTDOOR LIGHTING

### (A) APPLICABILITY

- (1) Unless specifically exempt, all existing and proposed development for which site plan approval is required (see § 155.707) shall meet the provisions of this section.
- (2) Buildings and structures lawfully existing as of the effective date of this chapter, may be redeveloped, renovated or repaired without modifying outdoor lighting in conformance with this section, provided there is no increase in gross floor area in such building or structure or impervious area on the site.
- (3) Where a building or structure existed as of the effective date of this chapter, and such building is enlarged in gross floor area or impervious area on the site by 10% or 2,000 square feet, whichever is less, outdoor lighting as specified in this section shall be provided.

### (B) PROHIBITED LIGHT SOURCES

The following light fixtures and sources shall not be used within the town where the direct light emitted is visible from adjacent areas:

- (1) Low-pressure sodium and mercury vapor light sources;
- (2) Cobra-head-type fixtures having dished or drop lenses or refractors which house other than incandescent sources; and
- (3) Searchlights and other high-intensity narrow-beam fixtures.

### (C) DESIGN REQUIREMENTS

Outdoor lighting shall primarily be used to provide safety while secondarily accenting key architectural elements and to emphasize landscape features. Light fixtures shall be designed as an integral design element that complements the design of the project. This may be accomplished through style, material or color. All lighting fixtures designed or placed so as to illuminate any portion of a site shall meet the following requirements:

#### (1) **Fixture (Luminaire)**

The light source shall be concealed and shall not be visible from any street right-of-way or adjacent properties. In order to direct light downward and minimize the amount of light spillage into the night sky and onto adjacent properties, all lighting fixtures shall be cutoff fixtures.

#### (2) **Fixture height**

Lighting fixtures shall be a maximum of 30 feet in height within parking areas and shall be a maximum of 15 feet in height within non-vehicular pedestrian areas. All light fixtures located

within 50 feet of any residential use or residential property boundary shall not exceed 15 feet in height.

(3) **Light source (lamp)**

Only incandescent, fluorescent, metal halide, or color corrected high-pressure sodium may be used. The same light source type shall be used for the same or similar types of lighting on any one site throughout any development.

(4) **Mounting**

Fixtures shall be mounted in such a manner that the cone of light is contained on-site and does not cross any property line of the site.

(5) **Limit Lighting to Periods of Activity**

The use of sensor technologies, timers or other means to activate lighting during times when it will be needed may be required by the Planning Board to conserve energy, provide safety and promote compatibility between different land uses.

(D) **SPECIFIC LIGHTING STANDARDS**

(1) **Security Lighting**

- (a) Building-mounted security light fixtures such as wall packs shall not project above the fascia or roof line of the building and shall be shielded.
- (b) Security fixtures shall not face a residential property.
- (c) Security fixtures shall not be substituted for parking area or walkway lighting and shall be restricted to loading, storage, service and similar locations.

(2) **Accent Lighting**

Only lighting used to accent architectural features, landscaping or art may be directed upward, provided that the fixture shall be located, aimed or shielded to minimize light spill into the night sky.

(3) **Canopy Area Lighting**

All development that incorporates a canopy area over fuel sales, automated teller machines or similar installations shall use a recessed lens cover flush with the bottom surface of the canopy that provides a cutoff or shielded light distribution.

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**(4) Entrances and Exits in Nonresidential and Multi-Family Development**

All entrances and exits to buildings used for nonresidential purposes and open to the general public, along with all entrances and exits in multifamily residential buildings containing more than four units, shall be adequately lighted to ensure the safety of persons and the security of the building.

**(5) Commercial Parking Area Lighting**

All commercial parking areas shall be required to provide lighting during nighttime hours of operation.

**(E) EXCESSIVE ILLUMINATION**

- (1) Lighting within any lot that unnecessarily illuminates and substantially interferes with the use or enjoyment of any other property shall be prohibited. Lighting unnecessarily illuminates another lot if it exceeds the requirements of this section.

~~(1)~~(2) Lighting shall not be oriented so as to direct glare or excessive illumination onto streets in a manner that may distract or interfere with the vision of drivers.

**§ 155.405 DESIGN STANDARDS- NON-RESIDENTIAL & MULTI-FAMILY**

~~(2)~~(1) All existing and proposed non-residential and multi-family residential development, for which site plan approval is required, shall meet the provisions of this section. Townhomes that are developed to single-family residential building code standards shall be exempt from the requirements of this section

~~(3)~~(2) Any requirements within an overlay district shall supersede architectural standards noted within this section.

**(F) BUILDING MATERIALS**

(1) Any building visible from a right-of-way or adjacent property shall be architecturally consistent on all sides of the building.

~~(1)~~(2) Metal is prohibited as the primary exterior building material or cladding in any zoning district except the I-1, I-2, and PF districts. Decorative metal or metal façade elements may be permitted as an accent feature but may not exceed more than 10% of any façade.

(Ord. 2005-11-02, passed 11-21-05)

## ARTICLE 5: NATURAL RESOURCE PROTECTION

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### § 155.500 RESOURCE CONSERVATION AREAS

#### (A) DEFINED

- (1) All resource conservation areas shall be unoccupied or predominately unoccupied by buildings or other impervious surfaces. Unoccupied or predominately unoccupied by buildings or other impervious surfaces shall mean that not more than 5% of the area of any resource conservation area shall be occupied by such surfaces.
- (2) Resource conservation areas shall be identified on plats as being permanently set aside from development, although they may still be used for other more passive uses pursuant to this Ordinance. No resource conservation area shall be counted towards lot area required by §§ 155.200 through 155.204, with the exceptions for stream buffers pursuant to G.S. §143-214.23A. This shall not preclude the platting of lots in such areas, provided that adequate lot area outside the resource conservation area is provided to meet the minimum lot area requirements of §§ 155.200 through 155.204.
- (3) No resource conservation area shall be counted towards the recreation and open space requirements as set forth in §§ 155.200 through 155.204, with the exceptions for stream buffers pursuant to G.S. §143-214.23A, except developed trails or trail-access or water-access facilities may be counted provided they are developed to the standards of this Ordinance.

#### (B) DETERMINATION OF RESOURCE CONSERVATION AREAS

The following are considered resource conservation areas and shall be unoccupied or predominately unoccupied by buildings or other impervious surfaces, ~~unless the applicant demonstrates to the Planning Board that~~ If this provision would constitute an unusual hardship, ~~and is counter to the purposes of this chapter, and meets the standards outlined in Article 7, the applicant may pursue a Variance.~~

- (1) The 100-year floodplain including water bodies, such as lakes, ponds, streams, creeks and rivers.
- (2) Stream buffer areas (see § 155.502);

- (3) Slopes above 25% of at least 5,000 square feet contiguous area; and
- (4) Jurisdictional wetlands under federal law (see § 155.404) that meet the definition applied by the Army Corps of Engineers.

**RESOURCE CONSERVATION AREAS SHOWN ON PLAT**

All resource conservation areas shall be shown on any preliminary or final plat approved after January 1, 2006.

(C) **PERMITTED USES OF RESOURCE CONSERVATION AREAS**

Uses of resource conservation areas may include the following:

- (1) Conservation areas for natural, archeological or historical resources;
- (2) Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
- (3) Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts;
- (4) Walking or bicycle trails; ~~provided they are constructed of pervious paving materials;~~
- (5) Easements for drainage, access, and underground utility lines; ~~and~~
- (6) Other conservation-oriented uses compatible with the purposes of this chapter;
- ~~(6)(7) Public infrastructure projects and supporting facilities.~~

(D) **PROHIBITED USES OF RESOURCE CONSERVATION AREAS**

Use of resource conservation areas may not include the following:

- (1) Landscaped stormwater management facilities;
- (2) Roads, parking lots and impervious surfaces, except as specifically authorized; and
- (3) Golf courses, agricultural and forestry activities not conducted according to accepted best management practices.

(E) **OWNERSHIP AND MAINTENANCE**

(1) **Ownership**

Resource conservation areas shall be accepted and owned by one of the following entities:

- (a) Land conservancy or land trust. The responsibility for maintenance shall be borne by a land conservancy or land trust.
- (b) Homeowners association. A homeowners association representing residents of the subdivision shall own the resource conservation areas. Membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. The homeowners' association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintenance shall be borne by the homeowner's association.
- (c) Private landowner. A private landowner may retain ownership of the resource conservation areas. The responsibility for maintenance shall be borne by the private landowner.

**(2) Maintenance**

Resource conservation area maintenance is limited to removal of litter, dead tree and plant materials and brush. 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. Unless otherwise specified by the Town Council, maintenance is limited to insuring that there exist no hazards, nuisances or unhealthy conditions.

**(3) Legal Instrument for Permanent Protection**

- (a) Resource conservation areas shall be protected in perpetuity by a binding legal instrument that is recorded with the deed.
- (b) The instrument for permanent protection shall include clear restrictions on the use of the of resource conservation area. These restrictions shall include all restrictions contained in this section, as well as any further restrictions the applicant chooses to place on the use of the resource conservation areas. Where appropriate, the instrument shall allow for stream or habitat restoration.

(Ord. 2005-11-02, passed 11-21-05)

## § 155.501 WATERSHED PROTECTION

### (A) AUTHORITY

The State Legislature has, in G.S. §§ 143-214.5, ~~160A-371 and 160A-381~~160D-701, -801, and -926 delegated the responsibility and authority to local governmental units to establish water supply watershed protection programs, to regulate land use and development within water supply watersheds, and to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.

### (B) INTENT

The intent of this section is to provide, in the designated watershed area, a higher level of control from activities and situations that could degrade the quality of the water entering the Neuse River, which serves as a public water source for the town and other jurisdictions.

- (1) Unless specifically exempt below, the provisions of this section shall apply to development within the Watershed Protection Overlay (-WP), as established in § 155.200(C)(2).
- (2) These requirements shall not apply to development existing as of January 1, 2006 except as provided in § 155.719, and shall not apply to a single-family detached, zero lot line, alley-loaded or accessory dwelling units developed on an existing lot.

### (C) PUBLIC HEALTH REQUIREMENTS

No activity, situation, structure or land use shall be allowed within the -WP Overlay 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 storm water runoff, or any other situation found to pose a threat to water quality.

### (D) PERMITTED USES

The following uses and activities are permitted provided such uses are also permitted in the underlying zoning district, and providing that the restrictions stated herein are met.

- (1) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
- (2) Silviculture, using BMPs required to implement the provisions of the Forest Practices Guidelines Related to Water Quality.
- (3) Residential development.

- (4) Nonresidential uses, excluding discharging landfills and sludge application sites, mining and quarrying activities, and the storage of toxic and hazardous materials unless a spill containment plan is implemented.

(E) **DENSITY AND IMPERVIOUS SURFACE LIMITATIONS**

For the purpose of calculating impervious surface area, total project area shall include total acreage in the parcel on which the project is to be developed.

(1) **Single Family Detached, Zero Lot Line, Alley-Loaded**

Unless approved under the terms of division (E)(4) below, single-family detached, zero lot line and alley-loaded dwelling units shall not exceed two dwelling units per acre or 36% of impervious surface area as defined on a project-by-project basis. No residential lot shall be less than 1/3 acre, except within an approved open space residential subdivision, which meets the standards established in Article 2.

(2) **All Other Residential and Nonresidential Development**

Unless approved under the terms of division (E)(4) below, all other residential and nonresidential development shall not exceed 24% of impervious surface area on a project-by-project basis unless storm water quality mitigation structures are installed and maintained by the property owner.

(3) **Vegetative Swales and Vegetative Swale Outlets**

- (a) All residential development within the -WP Overlay requiring sediment and erosion control permits shall utilize a curb and gutter stormwater collection system when practicable. When a curb and gutter stormwater collection system is used, the system shall utilize vegetative swale outlets to mitigate point-source stormwater flow out of the system into downstream creeks, streams, and waterways when practicable. The following standards shall apply to the use of vegetative swale outlets:
  - 1. The vegetative swale outlet shall be designed and constructed to accommodate the peak stormwater flow from the ten-year storm, and the velocity of the flow shall be non-erosive;
  - 2. The side-slopes of the vegetative swale shall not be steeper than 5:1 (horizontal to vertical). When this is not practicable due to physical or topographic constraints, devices to slow the rate of stormwater flow and to encourage infiltration to reduce pollutant delivery shall be provided; and
  - 3. The vegetative swale outlet shall be as wide and long as practicable under the circumstances to maximize the stormwater flow mitigation effect of the outlet.
- (b) When the Town Council determines that a curb and gutter stormwater collection system is not the preferred means of controlling stormwater runoff, vegetative swales

(with vegetative swale outlets) shall be utilized in lieu of a curb and gutter stormwater collection system when practicable. If site or development conditions do not favor the exclusive use of vegetative swales, hybrid stormwater drainage systems utilizing elements of vegetative swales and curb and gutter stormwater collection systems may be considered. The standards set out in division (a) above shall apply to the use of vegetative swale outlets, and the following standards shall apply to the use of vegetative swales in lieu of curb and gutter stormwater collection systems:

1. A vegetative swale shall be designed and constructed to provide for even distribution of stormwater runoff across the width of the swale;
  2. The slope and length of a vegetative swale shall be designed, constructed, and maintained to provide a non-erosive velocity of stormwater flow through the swale for the ten-year storm and shall have a slope of 5% or less when practicable; and
  3. A vegetative swale shall contain natural vegetation, grasses, or artificially planted wetland vegetation appropriate for the applicable site characteristics and proposed development.
- (c) For purposes of this section, the characteristics of the site and proposed development shall be considered in determining the practicability of utilizing vegetative swales and vegetative swale outlets and the design characteristics thereof, including soil types and compaction, topography, roadway and driveway design, lot sizes, front lot-line distances, and the need for and availability of sidewalks and pedestrian facilities in the development.
- (d) Alternative best management practices (BMPs) shall be considered by the town to satisfy the objectives of this section to provide safe and adequate pedestrian and road networks and facilities, control peak stormwater flow discharges, reduce total stormwater runoff volume, provide effective trapping and filtering of stormwater pollutants, and reduce the channelization and erosive velocity of stormwater runoff.

**(4) Industrial (I-1, I-2) or Business (B-1, B-2, B-3) Districts**

In addition to the development allowed under divisions (E)(1) and (E)(2) above, new development and expansions to existing developments may be approved on a project-by-project basis with impervious surfaces not exceeding 70% of the new project area within 10% of the total regulated watershed protection area, when approved by the Council as a special intensity allocation (SIA). The Planning Director shall be responsible for maintaining necessary records of SIA approvals as required. Projects developed under the terms of this division shall minimize impervious areas when feasible, give full consideration to dimension of proposed and required riparian buffers, direct storm water away from surface waters when possible, and follow best management practices in design of measures to minimize negative water quality impacts.

(F) **OPEN SPACE SUBDIVISION.**

Open space residential subdivisions (see §§ 155.200 through 155.204) are allowed in the -WP Overlay with the following requirements:

- (1) Density or impervious surface limitations of the project shall not exceed division (E) above.
- (2) All impervious surfaces shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated storm water flow.

(G) **CHANGES AND AMENDMENTS**

The Town Council may, on its own motion or on petition, after public notice and hearing, amend, supplement, change, or modify these requirements. All applications for changes, supplements, amendments, or modifications of this section shall follow the procedures outlined in § 155.703. Under no circumstances shall the Town Council adopt such amendments, supplements, or changes that would cause this section to violate the Water Supply Watershed Protection Rules as adopted by the state. All amendments must be approved and filed with the state.

(H) **PLANNING DIRECTOR**

- (1) The Planning Director shall monitor land use activities within the -WP Overlay to identify situations that may pose a threat to water quality.
- (2) The Planning Director shall report all findings to any appropriate public agency or official and request recommendations and assistance.
- (3) Where the Planning Director finds a threat to water quality and the public health, safety, and welfare, the Public Works Director shall institute any appropriate action in accordance with the provisions of § 10.99 of the Town Code of Ordinances.
- (4) The Planning Director shall issue zoning compliance permits in the -WP Overlay. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours.
- (5) The Planning Director shall keep records of the town's use of the provision, which allows a maximum of 10% of the regulated area to be developed at a maximum of 70% impervious surface area. Records shall include the total areas of non-critical watershed area, total acres eligible to be developed at this option, and total acres approved for this development option. Individual records, which include location, type of use, number of developed acres and stormwater management plans, shall be kept for each project.
- (6) The Planning Director shall keep records of all amendments to this section, and shall provide copies of all amendments upon adoption to the appropriate state agency.



- (7) The Planning Director shall keep a record of variances to this section (see § 155.716(G)). This record shall be submitted to the appropriate state agency on an annual basis on or before January 1, and shall provide a description of each project receiving a variance and the reasons for granting the variance.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2006-02-02, passed 2-20-06; Am. Ord. 2007-05-04, passed 5-7-07 )

## § 155.502 STREAM BUFFERS

### (A) BUFFER REQUIRED

- (1) A 50-foot stream buffer shall be established on both sides of all perennial streams (indicated by a solid blue line on the USGS Quadrangle maps) and all intermittent streams (indicated by a dotted blue line on the USGS Quadrangle maps). Stream buffers shall be shown on all appropriate plans and plats for review by the Planning Board and Town Council.
- (2) The applicant may substitute a detailed survey to field verify the location of perennial and intermittent streams on the subject property and within 100 feet of the boundary of the subject property for the delineation on the USGS Quadrangle maps. ~~All designated floodways and flood fringe areas as defined by the Federal Emergency Management Agency (FEMA) are also subject to these restrictions.~~
- (3) No development, including land-disturbing activities, shall occur within this buffer strip except as listed in (B) of this section.

### (B) LIMITED ACTIVITY PERMITTED

Except for the following limited activities stream buffer areas shall remain undisturbed.

- (1) When agricultural soil disturbing activities such as plowing, grading, ditching, excavating, placement of fill material, or similar activities must occur, they 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.
- (2) Permitted activities within the stream buffer area include sewer easements, providing the activities strictly adhere to all applicable erosion control requirements and all applicable water quality requirements as stipulated by North Carolina Department of Environment and Natural Resources. 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 or underground utilities, roads, streets, bridges, or similar structures should be placed within existing public rights-of-way if possible, but in any case, must cross the buffer as close to perpendicular as possible.

### (C) REVEGETATION

All disturbed areas within the stream buffer area, permitted or not, shall be revegetated with perennial vegetation as soon as practical (immediately) after the disturbance. Any noncompliance shall be treated as a violation of this chapter and be subject to enforcement as described in § 155.720.

(D) **MINIMUM SETBACK**

A minimum setback from the stream buffers for all buildings shall be at least 20 feet.

(E) ~~**MINIMUM LOT SIZE**~~

~~Land within a stream buffer shall not be used to meet minimum lot size requirements, except where lots are greater than one acre in area, in which case at least 50% of the lot shall remain outside the stream buffer.~~

(Ord. 2005-11-02, passed 11-21-05)

## ARTICLE 6: SUBDIVISION STANDARDS

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### § 155.600 APPLICABILITY

- (A) This subchapter shall apply to all development within the town's planning jurisdiction, unless expressly exempted by the language of the sections below.
- (B) Prior to approval of a final plat for the subdivision of land, the applicant shall have installed improvements specified in this subchapter or guaranteed their installation as provided.
- (C) In accordance with section §51.03 (G), no water or sewer service shall be provided to any property outside of the municipal limits of the town, except upon compliance with one of the following:
1. If the property is contiguous to the municipal limits of the town, the property owners shall immediately petition for and obtain annexation of the property into the municipal limits of the town.
  2. If the property is not then contiguous to the municipal limits of the town, the property owners shall enter into a written agreement with the town for the voluntary annexation thereof at such future date as said property desires to begin construction activities pursuant to any Town-approved development entitlement.
  3. The Town Council may negotiate terms for voluntary annexation of major industrial or commercial tracts which require water and/or sewer system extensions.
- (D) The appropriate water and sewer System Development fees in accordance with § 50.02 of the Town Code of Ordinances, which addresses the water and sewer extension policy.

(Ord. 2005-11-02, passed 11-21-05)

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## **§ 155.601 SEQUENCE OF IMPROVEMENTS**

Subdivision improvements shall be installed on the site in the following sequence:

- (A) Street grading and installation of water distribution lines, sanitary sewers, storm sewers, gas, telephone, cable television, and electric service lines, with connections for each system extended beyond the curb line to preclude subsequent cutting of pavement.
- (B) Street base material.
- (C) Curb and gutter and sidewalks.
- (D) Street paving.

(Ord. 2005-11-02, passed 11-21-05)

## **§ 155.602 STREETS**

### **(A) GENERAL**

- (1) Streets within the town are intended for multi-purpose use, as follows:
  - (a) To carry motor vehicle traffic, and, in some cases, allow on-street parking;
  - (b) To provide a safe and convenient passageway for pedestrian traffic; and
  - (c) To serve as an important link in the town's drainage system.
- (2) All public streets which serve properties connected to the town's utility system shall be constructed in conformance with town standards and specifications; however, if the roadway is maintained by NCDOT, then the roadway shall be constructed in conformance with either town or NCDOT standards and specifications, whichever is more stringent.
- (3) If the final plat for a residential subdivision outside the town limits but within the town's extraterritorial jurisdiction has been approved and improvements have been guaranteed by the developer in accordance with § 155.607, the applicant shall provide the town and purchasers of land in the subdivision with an agreement providing for adequate maintenance of the newly constructed streets until such time that the streets are taken over by the NCDOT, as required by G.S. § 136-102.6.

### **(B) STREET IMPROVEMENTS**

- (1) Required Improvements
- (1) The applicant shall be responsible for the cost and installation of the applicable standard residential, residential collector, collector, or commercial street width and pavement design requirements. Paving shall be installed for roadways through and adjoining the development in accordance with town standards and specifications (or NCDOT standards if applicable). The applicant shall also provide additional pavement surfaces for turning lanes in accordance with the town's Engineering Design Manual.
  - (a) The applicant shall be responsible for making improvements to thoroughfare rights-of-way, as designated on the town's Transportation Plan. The improvements to be installed are as follows: the thoroughfare sub-base and surface paving materials, thoroughfare grading, and the remaining standards of applicable minimum residential, residential collector, collector, or commercial streets shall be made to extend to the outer perimeter boundaries of a development for any development where any of the following conditions occur:
    1. The thoroughfare improvements would provide necessary access to the development or adjoining properties.
    2. The improvement would be an extension of an already existing section of thoroughfare roadway.

3. The traffic from the development is predominantly from nonresidential activities and the development would otherwise gain access through a residential area.

(2) **Fee-In-Lieu**

- (a) The town may require a fee-in-lieu of installation payment (at 125% of estimated cost) to the town for minimum residential, residential collector, collector, or commercial streets for the length of the thoroughfare if any of the following criteria are met:

1. No direct access to the thoroughfare is proposed.
2. The minimum street improvement is one-half of an existing unimproved right-of-way, and improvements, if constructed, would not be used for traffic circulation.
3. Where the new thoroughfare right-of-way is only partially contained on the development site and therefore, construction of only a portion of the new street cross-section is possible.

- (b) The Town ~~Council~~ may allow fee-in-lieu of minimum street construction payments to the town for residential, residential collector, collector, or commercial streets if any of the following criteria and their conditions are satisfied:

1. Where existing unimproved streets have:
  - A. Insufficient lineal footage to serve overall traffic circulation purposes or interrupts an existing swale/ditch storm drainage system with curb and gutter, which would disrupt the drainage system operation;
  - B. Curb and gutter improvements would not connect to existing curb and gutter, or there are no similar improvements on the same block;
  - C. There are no plans for town improvements on the same block; and
  - D. The area is sufficiently developed (75% of the block) such that few future subdivision or site plan submittals are anticipated.
2. Where construction of the streets by the town or other party is imminent.
3. Where construction of only a sidewalk is required without street improvements, and the new sidewalk is less than one block in length and would not connect to an existing sidewalk.
4. Where approved by the Planning Director ~~Town Council~~ for a new street that traverses a site when:
  - A. Street construction will not connect to an existing improved street;
  - B. There are no plans to construct an adjoining street in the near future; and

- C. A letter of credit is not an appropriate financial security.
- 5. Where approved by the Town ~~Engineer~~Council, when for reasons of topography, street construction is impractical due to:
  - A. The need for off-site construction or slope encroachment;
  - B. Proper street alignment should be determined with off-site development; or
  - C. Design of bridges or culverts are required and only a portion of the structure is on the development's property.
- (c) Developments will not be responsible for the cost and installation of any paving construction requirements along existing or planned roadways, if any of the following conditions exist:
  - 1. The roadway is a freeway, expressway or any other fully controlled access facility.
  - 2. The roadway is in the town's Capital Improvement Program, final design plans have been initiated, and the project will fall under the assessment policy of the town.
  - 3. The roadway is on NCDOT's Transportation Improvement Program, final design plans have been initiated, and there will be no town contribution or participation in funding the project. If the town funds a portion of the project, then a fee-in-lieu of installation will be required as a contribution towards town-funded improvements.

(C) **STREET CLASSIFICATION**

In all new subdivisions, streets that are dedicated to public use shall be classified as provided in (D) of this section.

- (1) The classification shall be based upon the projected volume of traffic to be carried by the street, stated in terms of the number of trips per day or during the peak hour of the day;
- (2) The number of dwelling units to be served by the street may be used as a useful indicator of the number of trips but is not conclusive; and
- (3) Whenever a subdivision street continues on an existing street or it is expected that a subdivision street will be continued beyond the subdivision at some future time, the classification of the street will be based upon the street in its entirety, both within and outside of the subdivision.

(D) **STREET TYPES**

See Defined Terms (§155.802) for description of each Street Type.



- (1) Residences ~~should~~ shall not front on a major thoroughfare.
- (2) Where a parcel of land to be subdivided adjoins a major thoroughfare, the ~~Planning Board or Town Council may require that such residential lots shall be provided access by a frontage road and no driveways shall be located within 150' of the intersection.~~

(E) **THOROUGHFARE DEDICATION**

- (1) Whenever a parcel of land included within any proposed development plan embraces any part of a thoroughfare system roadway and is so designated in the town's Transportation Plan, after such part of it has been adopted by the proper authority, such part of such proposed public way shall be platted and dedicated in the location and width indicated on the plans. This requirement shall not require the applicant to dedicate rights-of-way unless indicated on the town's Transportation Plan. It is the responsibility of the applicant to take future roadway plans of the town and the NCDOT into account when laying out a development plan.
- (2) Developments which embrace only one side of an existing or planned thoroughfare right-of-way will only be required to plat and dedicate additional right-of-way for that portion of roadway with which the development has frontage. Such improvements shall be in conformance with town standards and shall be measured from the right-of-way centerline.

(F) **CROSS-SECTIONS**

- (1) Appropriate street cross-sections shall be approved by the town or NCDOT. Appendix A contains approved street cross-sections for the town. Alternative cross-sections may be approved by the Town Council as a waiver (see § 155.706(l)(7)), and when necessary in conjunction with NCDOT.
- (2) ~~Cul-de-sacs shall be used only when it is determined by the Town Council that extension of the street to an adjacent property is impractical or unnecessary. Alternative turnaround designs on residential streets serving six dwelling units or less may be considered on a case-by-case basis. Alternative designs must readily accommodate emergency vehicles and sanitation trucks. Medians may be permitted where the cul-de-sac radius is increased and it can be demonstrated that emergency vehicles and sanitation trucks can be accommodated. Unless specifically agreed upon with the town, landscaped medians are not to be maintained by the town, and a private maintenance agreement for the median shall be required to be approved by the Town Attorney.~~
- (3) Subdivisions along existing streets of inadequate right-of-way shall provide additional right-of-way to meet the minimum widths specified in Appendix A. The entire right-of-way shall be provided where any part of a new subdivision is on both sides of an existing street, and one-half the required right-of-way, measured from the center line of the existing street, shall be provided where a new subdivision is located on one side of an existing street.
- (4) A slope easement of 20 feet in width may be required adjoining each side of a street right-of-way. The town may reduce or increase the slope easement width, if due to terrain. If the

applicant submits to the town sufficient information to show that improvements to be located in the slope easement do not interfere with the right of the public to construct within the adjoining right-of-way streets, sidewalks, or both, then the town shall allow the proposed improvement.

(G) **CUL-DE-SAC AND STUB-STREET LENGTHS**

- (1) No residential street cul-de-sac serving lots of 20,000 square feet or greater in size shall exceed 1,000 feet in length. No residential street cul-de-sac serving lots less than 20,000 square feet in size shall exceed 700 feet in length.
- (2) Stub-streets shall not exceed 700' in length without an approved turn-around for emergency services provided and installed. In the future, when an adjacent development connects to the stub-street and provides another point of ingress/egress, the developer may modify the approved subdivision through an amendment to remove the turn-around and convert it to recreational amenities, open space, or additional lots as permitted within this chapter.
- ~~(1)~~(3) Stub-streets shall be provided as outlined in Article 4 of this Chapter. See § 155.400(I) Cross Access Connections.
- ~~(2)~~(4) No commercial street cul-de-sac shall exceed 400 feet in length.
- ~~(3)~~(5) Cul-de-sac ~~and~~ medians may be permitted where the cul-de-sac radius is increased and it can be demonstrated that emergency vehicles and sanitation trucks can be accommodated. Unless specifically agreed upon with the town, landscaped medians are not to be maintained by the town, and a private maintenance agreement for the median shall be required to be approved by the Town Attorney.

(H) **SIDEWALKS**

- (1) In order to enhance pedestrian safety and mobility, except as set forth below, sidewalks shall be required on both sides of all streets (see Appendix A for approved street cross-sections).
  - (a) Sidewalks shall not be required on the following roadways:
    1. In residential developments with minimum lot sizes one acre or greater, except where an existing school, park, open space, trail or greenway lies within one-quarter-mile of the boundaries of the proposed subdivision, in which case a safe pedestrian connection between the subdivision and the off-site facility is required.
    2. Residential streets serving less than or equal to ten dwelling units. Corner lots that have frontage on both a connective or loop street shall not be included in determining the number of dwelling units served by the street. Street stubs

temporarily serving ten lots or less shall provide sidewalks on both sides of the street.

3. Class "A" and "B" private streets.

4. Commercial street cul-de-sacs that are less than 150 feet in length.

(b) Sidewalks shall be required on only one side of a frontage road.

(2) Sidewalk access ramps, also commonly referred to as wheelchair ramps for the physically handicapped, shall be provided at all intersections where curb and gutter are provided (see (I) of this section), and where sidewalks and/or greenway trails intersect any street.

(3) Pedestrian crosswalks are required on any residential street at each intersection and at any mid-block pedestrian or bicycle connections.

(4) The Town Council may allow a fee-in-lieu for sidewalk construction as set forth in (B)(2)(b) of this section.

(I) **CURB AND GUTTER**

Unless granted a waiver (see § 155.706(I)(7)) by the Town Council, all public streets, inside the corporate limits of the town and outside the town when water or sewer is connected to the town utility system, shall be constructed with curb and gutter (see Appendix A for approved street cross-sections). Curb and gutter shall be a combination curb and gutter or such other construction approved in the Town's Engineering Design Manual. Rolled or valley-type curbs are permitted for new collector, residential collector, and residential streets.

(J) **RELATIONSHIP OF STREETS TO TOPOGRAPHY**

(1) Streets shall be designed to relate appropriately to the topography of a site. In particular, streets shall be designed to facilitate the storm drainage requirements specified in § 155.604(E) and, subject to the design requirements relating to maximum grades set forth in (J)(2) of this section, street grades shall conform as closely as practicable to the original topography.

(2) The maximum grade for street construction shall meet design requirements of the town or NCDOT. However, in no case may streets be constructed with grades that, in the professional opinion of the Public Works Director, create a substantial danger to the public safety or cause any substantial degradation to the street or drainage system.

(K) **STREET LAYOUT**

(1) The street layout of any development should be in conformity with the town's Transportation Plan and all other applicable adopted plans and policies of the town. Public streets shall be constructed to the boundary lines of the development submitted for approval when required to provide for efficient circulation of traffic within the community.

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- (2) Each side of a collector street, commercial street or residential street shall, within every 1,500 foot length of the street, be intersected by at least one connective street. The 1,500 foot length shall be measured from the origination point, if established, of the collector, commercial, residential or residential street.
- (3) ~~A Pursuant to the standards for a Variance as well as those outlined below, the Board of Adjustment may grant a Variance waiver (see § 155.706(1)(7)) may be granted by the Town Council for developments that do not meet the above layout or creates a violation of this layout if:~~
- (a) Existing surrounding development prevents extending a street to any adjoining developments to meet this regulation.
  - (b) The adjoining existing street pattern or a planned "stub" street provides for an appropriate intersecting street beyond the 1,500-foot point, that would provide equivalent benefits as an intersecting street within 1,500 feet.
  - (c) Severe topography or other physical features warrant making a connection of an intersecting street at another location either inside or outside the development to provide equivalent benefits as an intersecting street within a distance of 1,500 feet, and this other alternate specific location is provided for at the time the development making the request for an alternate location is approved.
- (4) Existing adjoining public streets, public platted streets, and publicly planned streets shall be continued and extended as public streets as part of the development. Streets that are not to be extended, as specifically and affirmatively determined by the Transportation Plan~~Town Council~~, shall be terminated in a permanent cul-de-sac.
- (5) Where a proposed development will extend a public street that is already stubbed out to the property line, such extension as a public street shall be required.
- (6) Wherever there exists a dedicated or platted half street adjacent to the parcel to be developed, the other half shall be platted and, where required, constructed.
- (7) Where a through street or a series of streets establishes a connection between two public streets and the connection is greater than 1,200 feet in length, or the connection may encourage through traffic not generated by the development, the street shall be a public street, except in instances where the ~~Town Council~~Planning Director or Town Public Works Director or his/her designee determines that requiring such connection to be a public street will serve no purpose, due to the existing or proposed street pattern, traffic flow or traffic volumes.
- (8) Where a proposed development utilizing private streets has an area of 20 or more acres the ~~Town Council~~Planning Director or Town Public Works Director or his/her designee may also require additional public through streets for the provision of emergency services, such as police and fire protection, or to provide alternate circulation at congested or critical intersections.

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(L) **CONSTRUCTION STANDARDS AND SPECIFICATIONS**

All streets and sidewalks required by this section shall be constructed according to the specifications of the town's Engineering Design Manual, except that the Town Council may permit sidewalks to be constructed with other materials when they conclude that:

- (1) Such sidewalks would serve the residents of the development as adequately as concrete sidewalks;
- (2) Such sidewalks would be more environmentally desirable or more in keeping with the overall design of the development; or
- (3) Such sidewalks could be maintained as adequately as concrete sidewalks.

(M) **PRIVATE STREETS**

- (1) Intent
  - (a) Private streets serving single-family residential lots shall be permitted only within the Residential-Estate zoning district.
  - (b) The private street standards of this section establish private street design and construction standards that vary based upon the number of single-family lots such streets will serve. These standards are intended to ensure public safety and the long-term durability of private streets while keeping public improvement costs as low as possible for the smallest of subdivisions.
  - (c) The Town requires the logical and safe extension of public streets throughout the Town's jurisdiction. The Town shall allow private streets as outlined below, so long as the private streets are designed to protect the health, safety, and welfare of the residents whose primary access is the private street.
  - (d) Private streets shall be designated on final plats as either "existing", "new", or "extended", in accordance with the standards of this section. Further, the initial purchasers of a newly created lot served by a private street shall be furnished by the seller with a disclosure statement outlining the maintenance responsibilities for the street, in accordance with the requirements set forth in G.S. § 136-102.6.
  - (e) In the event that private streets are later made public through dedication to the Town, such streets shall be brought up to the current public construction and maintenance standards, prior to their acceptance by the Town.
- (2) Existing Private Streets
  - (a) Private access easements or streets, the existence of which as of July 1, 2018, can be established by documentary evidence, aerial photograph, or judicial decree, will be considered existing private streets.

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- (b) All other private streets are considered new private streets or extensions of existing private streets, and must meet the standards set forth in sections (M)(3) and (M)(4) below.
  - (3) New or Extended Private Streets
    - (a) New or extended private streets that serve as frontage for lots shall meet or exceed private street standards within this section.
    - (b) Where an extension of an existing private street is proposed, the connecting private street shall be upgraded to comply with the private street standards within this article.
  - (4) Class "A" and "B" Private Streets
    - (a) Class "A" private streets shall be permitted only when the proposed street will provide a maximum of eight (8) to ten (10) single-family residential lots. Extensions of private streets that will result in the provision of more than ten (10) lots shall be brought up to public street standards as set forth by the Town of Clayton.
    - (b) Class "B" private streets shall be permitted only when the proposed street will provide a maximum of seven (7) single-family residential lots. No extension of a Class "B" private street beyond seven (7) lots shall be permitted. Extensions of such roads that will result in the provision of more than seven (7) lots shall be permitted only if the entire length of the road is brought up to Class "A" private or public street standards (based upon the number of lots to be served).
    - (c) Subdivisions proposing lots served by private streets shall record the following notation on the final plat: "Further subdivision of any lot shown on this plat may require upgrades to the private street or its conversion to a public street, based upon the number of lots to be served. All maintenance and repair of private streets shall be borne by the owners of the lots served by the private street".
  - (5) Design Standards for Private Streets
    - (a) These standards described herein are the minimum set forth by the Town of Clayton for Class "A" and Class "B" private street standards.
    - (b) Class "A" private streets shall be paved and designed in accordance with the requirements outlined in the Town of Clayton Engineering Design Guidelines manual.
    - (c) Class "B" private streets may consist of alternative materials as permitted by the Town Engineer, and shall be designed in accordance with the requirements outlined in the Town of Clayton Engineering Design Guidelines manual.
    - (d) Class "A" and Class "B" private streets shall maintain 20' travel-way width to provide access for emergency vehicles.

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- (e) The property owners are responsible for all maintenance of Class “A” and Class “B” private streets, and shall be required to enter into a road maintenance agreement prior to plat recordation.

(N) **STREET NAMES AND SIGNS**

- (1) Street names shall be subject to the approval of the Planning Department and Johnston County. New street names shall not duplicate or be similar to existing street names in Johnston County. Existing street names, however, shall be projected where appropriate.
- (2) Street name signs shall be in place prior to approval of any certificate of occupancy for structures to be located on the street. Street name signs shall be clearly identified and labeled as “private”.

(Ord. 2005-11-02, passed 11-21-05; (Ord. 2016-04-04, adopted 2016-04-04)

## § 155.603 LOTS AND BLOCKS

### (A) LOTS

- (1) Every lot shall abut or front on a public or private street that complies with all applicable standards of this ~~Article~~Chapter.
- (2) Lot sites, shapes, and locations shall be made with due regard to topographic conditions, contemplated uses, and the surrounding areas. All lots approved after January 6, 1997 shall contain the minimum required lot width of the applicable zoning district within 50 feet of the street right-of-way adjoining the front yard.
- (3) Double frontage lots shall be avoided, except when lots adjoin a thoroughfare and access is desirable by a street of residential scale, and discouraged or prohibited on the thoroughfare.
- (4) Side lot lines shall be substantially at right angles or radial to street lines.

### (B) BLOCKS

- (1) Blocks shall be laid out with special consideration given to the type of land use proposed within the block.
- (2) Blocks shall not exceed 1,500 feet in length.
- (3) Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth, except where otherwise required to separate residential development from through traffic.
- (4) ~~A-In all districts except RE, I-1 and I-2, pedestrian connection not less than ten feet in width may shall be required near the center and entirely across any block in excess of 900 feet in length to provide adequate access to schools, shopping centers, churches, or transportation facilities.~~
- (5) A pedestrian connection not less than ten feet in width shall be required through a residential cul-de-sac ~~not less than ten feet in width may be required when the cul-de-sac helps provide adequate access to schools, shopping centers, churches, or transportation facilities. For these purposes, this connection is required when another connection (per (4) above) does not exist or the cul-de-sac terminates within 350' of either a public right of way, sidewalk, greenway, school, transportation facility, park, library or public community facility, or shopping center.~~

(Ord. 2005-11-02, passed 11-21-05)



## **§ 155.604 UTILITIES**

### **(A) EASEMENTS**

- (1) Utility easements shall be at least 20 feet wide, and shall run along side or rear lot lines. Wider easements may be required if the topography along the proposed right-of-way is such that maintenance equipment cannot reasonably operate within the minimum 20-foot wide easement.
- (2) Where a subdivision is traversed by a water-course, drainageway, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way, conforming substantially with the lines of such watercourses, and of such further width or construction, or both, as will be adequate for the purpose. Lakes, ponds, watercourses, and the land immediately adjacent thereto shall be considered for maintenance by the town only if sufficient land is dedicated as a public recreation area or park, or if such area constitutes a necessary part of the drainage control system. The town reserves the right to reject any intended dedications.

### **(B) OWNERSHIP OF UTILITIES**

All water, sanitary sewerage, electrical (when in town's service area) and storm drainage facilities installed under the requirements of this chapter shall become the sole property of the town upon acceptance. A deed to the town for such facilities, including easements pertaining to right-of-way entrance for maintenance, shall be executed prior to connections to the respective municipal systems.

### **(C) REQUIRED ADDITIONAL CAPACITY**

Where the Town Council deems it necessary, in the interest of the health, safety and general welfare of the residents of the town and its extraterritorial jurisdiction, the applicant shall make certain improvements at sizes in excess of those which would normally be required to serve only the applicant's subdivision. Where oversized improvements are required, the town shall reimburse the applicant for the cost of materials incurred over and above those required to serve the applicant's subdivision. Such reimbursement shall be mutually agreed upon through a Reimbursement Agreement as authorized by G.S. 160A-499. ~~development agreement.~~

### **(D) WATER DISTRIBUTION LINES AND SANITARY SEWERS**

- (1) Each lot in all subdivisions within the town's corporate limits, and each lot in all subdivisions in the extraterritorial jurisdiction within 300 feet of the town's water and/or sanitary sewer system shall be connected at the applicant's expense to the town's water and/or sewer system. In accordance with § 51.03 (A) of the Town Code of Ordinances, each developer of land shall be responsible for providing water and sewer line connections and all necessary pump stations, lift stations, and fire hydrants between their property and the town systems. In accordance with § 50.02 of the Town Code of Ordinances, the applicant shall pay water and sewer System Development fees for all property to be served by a connection to the town's water and/or sanitary sewer system.

- (2) Where a subdivision, in the extraterritorial jurisdiction lies more than 300 feet from the municipal water and/or sewer system, the applicant may, at the applicant's expense, connect the subdivision lots to the town's water and/or sanitary sewer system. In accordance with section § 51.20 (A) of the Town Code of Ordinances, any property owner or developer desiring to have water or sanitary sewer services extended to and along any public street or other area where no water or sanitary sewer main exists shall apply to the Town Manager, or designee, in writing requesting a specific daily allocation for such services. If the applicant provides a community water and/or sewer system, rather than connecting to the municipal system, or provides individual wells and/or septic tanks, the materials, design, and installation shall be made in accordance with all applicable state and Johnston County specifications and standards.
- (3) In accordance with section § 51.03(D) of the Town Code of Ordinances, the minimum diameter of a water main shall be six inches and the minimum diameter for a sewer main shall be eight inches. All sewer mains shall be installed at a maximum depth to ensure service to as large an area as possible. Water distribution lines shall be no smaller in size than six inches nominal diameter, with the following exception: On cul-de-sacs which are served by fire hydrants at their intersection with a local street, and the hydrant is connected to a water line of six inches nominal diameter, or larger, water service may be provided with lines smaller than six inches if a blow-off valve is established at the end of such line, or the line is connected to another line within the subdivision to form a loop. This exception shall not apply where such line represents the interconnection between the subdivision and the municipal system. On streets which are "stubbed out" at property lines to permit future development, service must be provided by lines of at least six inches nominal diameter.
- (4) In accordance with section § 155.301(F)(6)(a) and Title V of the Town Code of Ordinances, an accessible, adequate, safe supply of water and sewer shall be provided in each manufactured home park.
- (5) For the purpose of this section, the term "water system" shall include all appurtenances and fixtures normally associated with such facilities, including fire hydrants, gate valves, blow-offs, manholes, and pumping apparatus, but shall not include individual service meters, which shall be installed by the town; the aforementioned appurtenances and fixtures shall comply with the specifications and standards of the town.

(E) **STORM DRAINAGE**

- (1) The applicant shall provide an adequate drainage system for the proper drainage of all surface water in order to protect the proposed development from water damage. The design of such system shall be subject to the approval of the ~~Town Council~~ Town Public Works Director or his/her designee.
- (2) No surface water shall be channeled or directed into a sanitary sewer.
- (3) Where feasible, the applicant shall connect to the municipal storm drainage system.

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- (4) Where the municipal storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to complement surface drainage systems to surrounding properties.
  - (5) Cross pipes under streets and driveways shall be concrete, reinforced concrete, or other pipe, as approved by the ~~Town Manager~~ Town Public Works Director or his/her designee. All such cross pipes shall be a minimum of 15 inches in diameter.
  - (6) Surface drainage courses shall have side slopes of at least one foot of horizontal distance for each foot of vertical distance.
  - (7) The minimum grade along the bottom of a surface drainage course shall be a vertical fall of approximately one foot in each 300 feet of horizontal distance.

(F) **ELECTRICAL UTILITIES**

Electrical improvements in accordance with town or progress energy standards, whichever is applicable, shall be required in all subdivisions.

(Ord. 2005-11-02, passed 11-21-05)

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## **§ 155.605 PUBLIC FACILITIES**

### **(A) SCHOOL SITES**

- (1) When a subdivision plat is submitted for approval, in which, according to the land use or land development plan, a school site should be reserved, the Planning Director shall notify the County Board of Education that the subdivision has been submitted for approval, and that under this chapter, a school site may be reserved therein.
- (2) In reviewing the subdivision and giving approval the Planning Director shall consult the Board of Education in determining the exact size and location of any school site to be reserved therein.
- (3) Before the final plat of the subdivision is approved, the Board of Education shall determine whether or not it wishes to have a school site reserved in the subdivision. If the Board of Education does wish to have a school site reserved in the subdivision, the subdivision as finally approved shall reserve a school site of a size and location agreeable to the Board of Education and to the Planning Board. The Board of Education shall then have 18 months, beginning on the date of the final approval of the subdivision, within which to acquire the site. If the Board of Education has not purchased or begun proceedings to acquire the site within 18 months after the subdivision is finally approved, the applicant may proceed to dispose of it in accordance with the subdivision procedure and provisions of this chapter.

### **(B) RECREATION AND OPEN SPACE**

The minimum recreation and open space requirements for conventional and open space residential subdivisions are set forth in § 155.203(h).

(Ord. 2005-11-02, passed 11-21-05)

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## **§ 155.606 PERMANENT REFERENCE POINTS**

Prior to the approval of the final plat, iron stakes shall be installed on all corners of the subdivision and at additional points in the subdivision, so that no point within the subdivision lies more than 500 feet from a monument. In addition, two or more control points shall be designated on the final plat.

(Ord. 2005-11-02, passed 11-21-05)

## § 155.607 GUARANTEE OF IMPROVEMENTS

### (A) GENERAL

- (1) No final plat will be accepted for review by the Technical Review Committee unless accompanied by written notice by the Planning Director, acknowledging compliance with (B) and (C) of this section.
- (2) If the subdivision is to be phased or developed in sections, the Planning Director shall withhold final plat approval for the most recent phase until improvements in prior stages have been completed or guaranteed.

### (B) PERFORMANCE GUARANTEES

In lieu of prior construction of the improvements required by this subchapter, the town shall, for the purpose of approving a final plat, accept a guarantee from the applicant that such improvements will be carried out according to the town's specifications at the applicant's expense. Such guarantee may be in the form of a ~~surety performance bond~~, letter of credit, ~~or~~ certified check drawn in favor of the town, ~~or cash deposited with the town, or other form of guarantee that provides equivalent security to a surety bond or letter of credit, at the election of the person required to give the performance guarantee.~~ Such guarantee shall be ~~in an amount of not less than 125% or more than 150%~~ of the estimated cost of the construction of the required improvements. This amount shall be determined by the Town Public Works Director ~~or designee~~. Performance guarantees shall run for a period of one year upon written approval of the Town Council. ~~If the improvements are not complete and the current performance guarantee is expiring, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period until such required improvements are complete. See also NC GS § 160D-804(g).~~

### (C) ~~SURETY~~ PERFORMANCE BOND

The town shall require a bond guaranteeing: street improvements, curbs, gutters, drainage facilities, sidewalks, electrical facilities, water and sewer lines and taps and all other improvements against defects for one year from the date of final acceptance by the town. This bond shall be in the amount determined by the Town Public Works Director or designee, and shall be in such form as allowed by subsection (B) immediately above, ~~cash, certified check, or be made by a bonding/insurance company authorized to do business in North Carolina.~~

### (D) TOWN'S RIGHT OF INSPECTION AND ACCEPTANCE

- (1) Whether the required improvements are performed prior to or following approval of the final plat, the applicant shall grant to the town and its assignees authority to inspect all construction of the required improvements, and moreover, shall advise the town at least two days in advance of beginning work on any of the various improvements. However, such right of inspection shall not constitute duty to inspect, nor shall it guarantee final acceptance by the town of any required improvements.

- (2) If improvements are guaranteed as required by this Article ~~by a bond or cash deposit, failure by the applicant to perform the work to do not meet the town's standards and the party responsible for constructing the improvements refuses to complete the improvements to the Town's standards, the Town, at its sole discretion, may call or execute on the lperformance guarantees shall free the town, at the discretion of the Town Council, to liquidate the bond or cash deposit, in order to finance the necessary completion of the guaranteed improvements repairs. This provision shall extend through the one-year warranty period. The town will provide the applicant with a written notice of its intent to carry out this provision at least two weeks prior to such liquidations, and shall also provide the applicant during this period a hearing at a regularly scheduled meeting of the Town Council, provided that sufficient time of validity remains on the guarantee.~~
- (3) The town's final acceptance of required improvements in the event of their construction following final plat approval shall be evidenced by a written letter from the Town Manager as specifically authorized by the Town Council.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07 )

## ARTICLE 7: ADMINISTRATION

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### § 155.700 REVIEW BODIES

#### (A) TOWN COUNCIL

##### (1) **Establishment and Composition**

The Town Council is established and composed pursuant to the Town Charter and Chapter 30 of the Town's Code of Ordinances.

##### (2) **Powers and Duties**

In execution of the provisions of this Chapter, the Town Council shall be responsible for final action per Table 7-1, Review and Approval Authority.~~regarding the following:~~



- ~~(a) Text Amendments ( § 155.703);~~
- ~~(b) Rezoning ( § 155.704);~~
- ~~(c) Planned Development Review ( § 155.705);~~
- ~~(d) Preliminary Plat Review ( § 155.706);~~
- ~~(e) Major Site Plan Review, associated with a Special Use Permit ( § 155.707);~~
- ~~(f) Special Use Review ( § 155.711);~~
- ~~(g) Zoning Vested Rights ( § 155.718); and~~
- ~~(h) Alternative Sign Plans ( § 155.703).~~

(B) **PLANNING BOARD**

(1) **Establishment and Composition**

The Planning Board is established and composed pursuant to G.S. § 160D-301 and Chapter 32 of the Town's Code of Ordinances. ~~Per G.S. § 160D-307, residents of both the corporate limits and the ETJ shall serve on the Planning Board. The ratio of residents of the corporate limits and residents of the ETJ shall be proportional to the number of residents of the corporate limits to the number of residents of the ETJ. At least one resident of the ETJ shall serve on the Planning Board. The populations shall be taken from the most recent decennial census.~~

(2) **Powers and Duties**

In execution of the provisions of this Chapter, the Planning Board shall have the following power and duties.

(a) ***General Authority***

1. The Planning Board may exercise additional powers as may be described elsewhere in this chapter and as permitted by North Carolina General Statutes.
2. The Planning Board shall perform related duties as directed by the Town Council.

(b) ***Review Authority***

The Planning Board shall make recommendations per Table 7-1, Review and Approval Authority ~~regarding the following:~~

- ~~1. Text Amendments ( § 155.703);~~
- ~~2. Rezoning ( § 155.704);~~

(c) ***Final Authority***

The Planning Board shall be responsible for final action per Table 7-1, Review and Approval Authority regarding the following:

~~Major Site Plan Review, except those associated with a Special Use Permit application and  
Alternative means of compliance in the Thoroughfare Overlay District.  
Conditional Use Review ( § 155.710);  
Variances ( § 155.716); and  
Administrative Appeals ( § 155.717).~~

(C) **BOARD OF ADJUSTMENT**

(1) **Establishment and Composition**

Pursuant to G.S. § 160D-302, the Town has established a Board of Adjustment. Effective August 1, 2018, the Town abolishes the previously established Board of Adjustment and designates the Town Planning Board established under Chapter 32.075 to 32.078 to perform the duties of a Board of Adjustment. The term "Board of Adjustment" when used in this Chapter shall be construed to mean the Planning Board.

(D) **PLANNING DIRECTOR**

(1) **Designation**

The Planning Director shall administer certain provisions of this Chapter as may be required below.

~~(2) **Delegation of Authority**~~

~~The Planning Director may designate any staff member to represent the Planning Director in any function assigned by this Chapter but shall remain responsible for any final action.~~

~~(3)~~**(2) Powers and Duties**

In execution of the provisions of this Chapter, the Planning Director shall have the following powers and duties.

(a) **General Authority**

1. The Planning Director may exercise additional powers as may be described elsewhere in this Chapter and as permitted by North Carolina General Statutes.
2. The Planning Director shall perform related duties as directed by the Town Council.

(b) **Review Authority**

The Planning Director shall make recommendations per Table 7-1, Review and Approval Authority regarding the following:

~~Text Amendments ( § 155.703);  
Rezoning ( § 155.704);  
Planned Development Review ( § 155.705);  
Preliminary Plat Review ( § 155.706);  
Major Site Plan Review ( § 155.707);  
Conditional Use Review ( § 155.710);  
Special Use Review ( § 155.711);  
Alternative Sign Plans ( § 155.713);  
Variances ( § 155.716); and  
Zoning Vested Rights ( § 155.718).~~

(c) ***Final Authority***

The Planning Director shall be responsible for final action per Table 7-1, Review and Approval Authority regarding the following:

~~Minor Plat Review ( § 155.706);  
Final Plat Review ( § 155.706);  
Administrative Amendment ( § 155.707);  
Minor Site Plan Review ( § 155.707);  
Traffic Impact Analyses ( § 155.708);  
Zoning Permits ( § 155.709);  
Temporary Use Permits ( § 155.712);  
Sign Permits ( § 155.713);  
Tree Clearing Certificates ( § 155.714); and  
Written Interpretations ( § 155.715).~~

(E) **TECHNICAL REVIEW COMMITTEE**

(1) **Establishment and Composition**

Pursuant to G.S. § 160D-306, the~~The~~ Technical Review Committee (TRC) is established for the purpose of performing technical evaluations of land development activities, including but not limited to subdivisions, ~~planned developments~~conditional rezonings, and site plan applications, per Table 7-1, Review and Approval Authority~~as set forth in Section 155.701(E) of the Unified Development Code (UDC).~~ The TRC is further authorized to complete appropriate analyses of land development activities pursuant to the Town's Code of Ordinances. The Technical Review Committee shall be composed of the persons below, or their designee:

- (a) The Planning Director, Chairman;
- (b) Planning Department staff, designated with primary review responsibility for each application;
- (c) The Public Works Director;

- (d) The Electric System Director;
- (e) The Town Engineer;
- (f) The Fire Chief;
- (g) The Parks and Recreation Director; and
- (h) The North Carolina Department of Transportation.

The TRC may request input from other governmental agencies including, but not limited to, the School Board, the USPS Clayton Postmaster, Johnston County Department of Public Utilities, North Carolina Railroad, and adjacent municipalities as needed.

(2) **Powers and Duties.**

The Technical Review Committee has the following duties and responsibilities regarding the review and consideration of applications that come before them:

~~(a)~~—The TRC shall undertake technical evaluations of land development applications and activities to identify deficiencies and/or discrepancies from the provisions of the Town's Unified Development Code and the Town's Code of Ordinances. ~~This includes: These review duties are outlined in Table 7-1, Review and Approval Authority.~~

~~(b)~~ 1. ~~Planned Development Review (§ 155.705);~~

~~(c)~~ 2. ~~Minor Plat Review (§ 155.706);~~

~~(d)~~ 3. ~~Preliminary Plat Review (§ 155.706);~~

~~(e)~~ 4. ~~Final Plat Review (§ 155.706);~~

~~(f)~~ 5. ~~Minor Site Plan Review (§ 155.707); and~~

~~(a)~~ 6. ~~Major Site Plan Review (§ 155.707).~~

~~(b)~~ The TRC, ~~through its chairman,~~ may approve, ~~approve with conditions,~~ disapprove, or postpone consideration of applications that require staff-level approval only. Actions by the TRC regarding staff-level approvals shall be final unless appealed in accordance with Section 155.717 of the UDC. Applications which proceed to the Board of Adjustment, Planning Board, or Town Council will be scheduled for the next available agenda, once receiving TRC ~~chairman approval certification~~ to proceed.

**(F) MAINTENANCE OF THE PUBLIC TRUST**

(1) **Oath of Office**

Pursuant to G.S. § 160D-309, all members appointed to boards shall take the oath of office as required.

(2) **Conflict of Interest**

Pursuant to G.S. § 160D-109, no elected or appointed board member or administrative staff shall make a final decision as required by this Ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on themselves 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 associated relationship.

~~(g)~~

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2008-09-01, passed 9-2-08; Am. Ord. 2011-12-02, passed 12-5-11; Am. Ord. 2013-02-02, passed 2-4-13; Am. Ord. 2013-12-03, passed 12-2-13; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord. 2017-01-01, adopted 01/03/2017)

**§ 155.701 SUMMARY OF REVIEW AUTHORITY**

Table 7-1 below summarizes review and approval authority under this chapter.

**§ 155.701 - Table 7-1: Review and Approval Authority**

|                                                                        | <u>Decision Type</u>                            | Technical Review Committee<br><b>TRC</b> | Planning Director<br><b>PD</b>    | Planning Board / Board of Adjustment<br><b>PB / BOA</b> | Town Council<br><b>TC</b> |                      |
|------------------------------------------------------------------------|-------------------------------------------------|------------------------------------------|-----------------------------------|---------------------------------------------------------|---------------------------|----------------------|
| <b>Text Amendment</b> (aka Ordinance Amendment)                        | <u>Legislative</u>                              | <u>Review, as needed</u>                 | Review                            | Review                                                  | <DECISION>                | § 155.703            |
| <b>Rezoning</b>                                                        | <u>Legislative</u>                              |                                          | Review                            | Review                                                  | <DECISION>                | § 155.704            |
| <b>Conditional Zoning District</b> <del>Planned Development</del>      | <u>Legislative</u>                              | Review                                   | Review                            | <u>Review</u>                                           | <DECISION>                | § 155.705            |
| <b>Minor Subdivision Preliminary Plat</b> (formerly Minor Subdivision) | <u>Administrative</u>                           | Review                                   | <DECISION>                        |                                                         |                           | § 155.706            |
| <b>Major Preliminary Plat</b> (formerly Major Subdivision)             | <u>Quasi-judicial</u> <del>Administrative</del> | Review                                   | <del>DECISION</del> <u>Review</u> |                                                         | <DECISION>                | § 155.706            |
| <b>Final Plat</b>                                                      | <u>Administrative</u>                           | Review                                   | <DECISION>                        |                                                         |                           | § 155.706            |
| <b>Administrative Amendment</b>                                        | <u>Administrative</u>                           | <u>Review, as needed</u>                 | <DECISION>                        |                                                         |                           | § 155.707            |
| <b>Minor Site Plan</b>                                                 | <u>Administrative</u>                           | Review                                   | <DECISION>                        |                                                         |                           | § 155.707            |
| <b>Major Site Plan</b> <sup>a</sup>                                    |                                                 | Review                                   | Review                            | <DECISION>                                              | <DECISION> <sup>*</sup>   | <del>§ 155.707</del> |
| <b>Traffic Impact Analysis</b>                                         | <u>Administrative</u>                           | <u>Review, as needed</u>                 | <DECISION>                        |                                                         |                           | § 155.708            |
| <b>Zoning Permit</b>                                                   | <u>Administrative</u>                           |                                          | DECISION                          |                                                         |                           | § 155.709            |
| <b>Conditional Use</b>                                                 |                                                 |                                          | Review                            | <DECISION>                                              |                           | <del>§ 155.710</del> |
| <b>Special Use Permit</b>                                              | <u>Quasi-judicial</u>                           | <u>Review</u>                            | Review                            |                                                         | <DECISION>                | § 155.711            |
| <b>Temporary Use Permit</b>                                            | <u>Administrative</u>                           | <u>Review, as needed</u>                 | DECISION                          |                                                         |                           | § 155.712            |
| <b>Sign Permit</b>                                                     | <u>Administrative</u>                           |                                          | DECISION                          |                                                         |                           | § 155.713            |
| <b>Alternative Sign Plan</b>                                           | <u>Legislative</u>                              |                                          | Review                            |                                                         | <DECISION>                | § 155.713            |

|                                                                                                                                                                                                                                            |                       |                          |                   |            |                             |                      |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|--------------------------|-------------------|------------|-----------------------------|----------------------|
| <b>Written Interpretation</b><br>(including Determination of Zoning Vested Rights)                                                                                                                                                         | <u>Administrative</u> |                          | <DECISION>        |            |                             | § 155.715            |
| <b>Variance</b>                                                                                                                                                                                                                            | <u>Quasi-judicial</u> | <u>Review, as needed</u> | Review            | <DECISION> |                             | § 155.716            |
| <b>Administrative Appeal</b>                                                                                                                                                                                                               | <u>Quasi-judicial</u> |                          |                   | <DECISION> |                             | § 155.717            |
| <del>Zoning Vested Right</del>                                                                                                                                                                                                             |                       |                          | <del>Review</del> |            | <del>&lt;DECISION&gt;</del> | <del>§ 155.718</del> |
| <b>Tree Clearing Certificate</b>                                                                                                                                                                                                           | <u>Administrative</u> | <u>Review, as needed</u> | <DECISION>        |            |                             | §155.721             |
| <b>&lt;Public Hearing Required&gt;</b><br>* <del>Major</del> Site Plans that are associated with a Special Use Permit application shall be reviewed <del>for final decision by Town Council during their hearing of the Special Use.</del> |                       |                          |                   |            |                             |                      |

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2013-02-02, passed 2-4-13; Am. Ord. 2013-12-03, passed 12-2-13; Am. Ord. 2017-01-01, adopted 01/03/2017; Am. Ord. 2018-07-02, adopted 07/16/2018)

## § 155.702 COMMON REVIEW PROCEDURES

### (A) PRE-APPLICATION CONFERENCE

- (1) Before submitting an application for development approval, each applicant shall schedule a pre-application conference with the Planning Department to discuss the procedures, standards, and regulations required for development approval in accordance with this Chapter. The pre-application meeting shall have been held no more than six (6) months prior to application submittal.
- (2) Unless waived by the Planning Director, a pre-application conference with the Planning Department shall be required for all development approvals listed in Table 7-1, with the exception of Written Interpretations (§155.715), Administrative Appeals (§155.717), Zoning Permits (§155.709), and Sign Permits (§155.713).

### (B) NEIGHBORHOOD MEETING

- (1) After the pre-application conference and at least ten (10) days prior to the first public meeting or, if administrative, prior to final approval by the Technical Review Committee (TRC), the applicant shall hold a mandatory neighborhood meeting for the following:
  - (a) Rezoning ( § 155.704);
  - (b) ~~Planned Development Review~~ Conditional Zoning ( § 155.705);
  - (c) Major Subdivision / Preliminary Plat Review, ( § 155.706);
  - (d) Major Site Plan Review (only required for site plans including new structures or building additions greater than 10,000 SF in size), ( § 155.707);
  - (e) Special Use Review ( § 155.711); and  
~~Conditional Use Review ( § 155.710).~~
  - (f) Variance ( § 155.716)
- (2) Only the initial application for ~~Planned Development-Conditional Rezoning~~ review shall require a neighborhood meeting. Subsequent applications for ~~Subdivision-Minor Preliminary Plat~~ or Site Plan review do not require further neighborhood meetings.
- (3) The purpose of the neighborhood meeting shall be to inform the neighborhood of the nature of the proposed land use and development features, explain the site plan if any, and solicit comments.
- (4) The applicant shall provide notification by mail to property owners as identified in (D)(2)(c) of this Section. The notice shall be mailed at least ten days but not more than 25 days prior to the date of the neighborhood meeting. Neighborhood meetings shall be held no earlier than 6:00 pm Monday through Friday to allow adequate time for attendees to get to the meeting.



- (5) The applicant shall provide to the Planning Department a copy of all notice materials including the letter and addresses, and provide written certification of the mailing. Certification shall note the date of the mailing and be signed by the applicant.
- (6) The applicant shall prepare and submit to the Planning Director a meeting summary that outlines attendance, major points discussed, and any agreements reached between the parties involved.
- (7) The Planning Director may develop administrative rules pertaining to any additional requirements for the conduct of the meeting.

(C) **APPLICATION REQUIREMENTS**

(1) **Forms**

Applications required under this Chapter shall be submitted on forms and in such numbers as required by the Planning Director.

(2) **Fees**

- (a) All applications and associated fees shall be filed with the Planning Department.
- (b) Filing fees shall be established from time to time to defray the actual cost of processing the application, as listed in the Town's Comprehensive List of Fees and Charges.
- (c) An applicant who has paid the appropriate fee pursuant to the submission of an application, but who chooses to withdraw such application prior to its distribution for review shall be entitled to a refund of the total amount paid, less 10% for administrative costs, upon written request to the appropriate department. Once review has begun, no refund shall be available, except that unused notice surcharges shall be refunded less 10% for administrative purposes.

(3) **Application Deadline**

Applications shall be submitted to the Planning Department in accordance with the published calendar schedule. Schedules indicating submittal dates shall be developed each year and made available to the public.

(4) **Applications Sufficient for Processing**

- (a) All applications shall be sufficient for processing before the Planning Department is required to review the application.
- (b) An application shall be sufficient for processing when it contains all of the required information and materials have been submitted for review.
- (c) The presumption shall be that all of the information required in the application materials is necessary to satisfy the requirements of this section. However, it is

recognized that each application is unique, and therefore more or less information may be required according to the needs of the particular case. The applicant may rely on the recommendations of the appropriate department as to whether more or less information should be submitted.

- (d) Once the application has been determined sufficient for processing, copies of the application shall be referred by the Planning Department to the appropriate reviewing entities.

(5) **Final Determinations on Sufficient Applications**

- (a) Following review by appropriate entities, Planning Department staff shall review any updated application materials and confer with the applicant to ensure an understanding of the applicable requirements of this Chapter; that the applicant has submitted all of the information they intend to submit; and that the application represents precisely and completely what the applicant proposes to do.
- (b) Once the applicant indicates that the application is as complete as the applicant intends to make it, Planning Department staff will make a determination on the application, or as required by this Chapter, the application shall be placed on the agenda of the appropriate review board in accordance with standard procedures.

(6) **Concurrent Applications**

- (a) If approved by the Planning Director, applications for development approvals may be filed and reviewed concurrently. Any application that also requires a variance shall not be eligible for final approval until the variance has been granted.
- (b) Applications submitted concurrently are subject to approval of all other related applications; denial or disapproval of any concurrently submitted application shall stop consideration of any related applications until the denied or disapproved application is resolved.

(D) **NOTICE AND PUBLIC HEARINGS**

(1) **Summary of Notice Required**

Notice shall be required for applications for approval as shown in Table 7-2 below.

**Table 7-2 – Public Notice Requirements**

|                                          | Published | Mailed | Posted |           |
|------------------------------------------|-----------|--------|--------|-----------|
| Text Amendment (aka Ordinance Amendment) | •         |        |        | § 155.703 |
| Rezoning                                 | •         | •      | •      | § 155.704 |

|                             |   |   |   |                      |
|-----------------------------|---|---|---|----------------------|
| Conditional Zoning District | • | • | • | § 155.705            |
| Planned Development         |   |   |   |                      |
| Preliminary Plat Review     | • | • | • | <del>§ 155.706</del> |
| Major Site Plan             |   |   | • | <del>§ 155.707</del> |
| Conditional Use Review      | • | • | • | <del>§ 155.710</del> |
| Special Use Review          | • | • | • | § 155.711            |
| Variance                    | • | • | • | § 155.716            |
| Administrative Appeal       |   | • | • | § 155.717            |

(2) **Public Notice Requirements**(a) ***Published Notice***

Where published notice is required, a distinctive advertisement shall be placed by the Town in a local newspaper of general circulation once a week for two successive calendar weeks, the first notice being published not less than ten days nor more than 25 days before the date fixed for the public hearing.

(b) ***Posted Notice (Sign)***

Where posted notice is required, a sign shall be posted within the same time period specified for mailed notices of the hearing ~~not less than ten days prior to the public hearing at which the application shall be reviewed~~. The sign shall be posted on the property or at a point visible from the nearest public street. The sign shall indicate that a public hearing will be held and a phone number to contact the Town.

(c) ***Mailed Notice***

- Where mailed notice is required, the applicant shall supply stamped addressed envelopes to the Planning Department. The notification shall be made by first-class mail by Planning Department ~~Staff~~ staff (at the last addresses listed for such owners in the county tax records) to all property owners within 100 feet and immediately abutting the subject property. Pursuant to G.S. §160D-602, where ~~Where~~ the subject property immediately adjoins a street, railroad, other transportation corridor, public or private right-of-way, landscape or riparian buffer, commonly-owned private area, public property, or homeowners' association property, then letters of notification shall be sent to adjoining property owners as if they directly abut the subject property. The Planning Department shall certify to the Town Council that fact, and such certificate shall be deemed conclusive in the absence of fraud.
- Pursuant to G.S. §160D-602(c) the ~~The~~ notice shall be mailed at least ten but not more than 25 days prior to the date of the public hearing.

3. Mailed notice under this section shall not be required if a rezoning ~~(including a planned development rezoning)~~ directly affects more than 50 properties owned by a total of at least 50 different property owners, and the Town elects to use the following expanded notice requirements:

A. Published notice of the hearing shall be provided as set forth in (D)(2)(a) of this section. The advertisement shall not be less than one-half of a newspaper page in size.

B. Mailed notice of the hearing shall be provided (as set forth in (D)(2)(c)1. and 2. of this section) to all property owners who reside outside of the newspaper's circulation area.

(d) **Content of Notice**

A published or mailed notice shall provide at least the following:

1. Parcel identification number;
2. The address of the subject property (if available);
3. The general location of the land that is the subject of the application, which may include, a location map;
4. A description of the action requested;
5. Where a rezoning is proposed, the current and proposed districts;
6. The time, date and location of the public hearing;
7. A phone number to contact the Town; and
8. A statement that interested parties may appear at the public hearing.

~~(3)~~ **Constructive Notice**

~~(3) Minor defects in notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements.~~

~~(E)~~ **REQUIRED HEARINGS**

~~A public hearing shall be required for development review as shown in Table 7-3 below.~~

**Table 7-3 Required Hearings**

|                        | Planning Board<br>PB | Town Council<br>TC |           |
|------------------------|----------------------|--------------------|-----------|
| Text Amendment         |                      | •                  | § 155.703 |
| Rezoning               |                      | •                  | § 155.704 |
| Planned Development    |                      | •                  | § 155.705 |
| Preliminary Plat       |                      | •                  | § 155.706 |
| Conditional Use Review | •                    |                    | § 155.710 |
| Special Use Review     |                      | •                  | § 155.711 |
| Alternative Sign Plan  |                      | •                  | § 155.713 |
| Variance               | •                    |                    | § 155.716 |
| Administrative Appeal  | •                    |                    | § 155.717 |

**(F)(E) DECISIONS**

Unless specifically provided elsewhere, all decisions on land use changes, including rezonings, shall require an affirmative vote. Tie votes shall be considered denials of any requested change.

**(G)(F) NOTICE OF DECISION**

Within 14 days after a decision is made, a copy of the decision shall be delivered to the applicant by personal delivery, electronic mail, or first-class mail. The decision shall also be filed with the Planning Department and available for public inspection during regular office hours.

**(H)(G) WITHDRAWAL OF APPLICATION**

- (1) An applicant may withdraw an application at any time, by filing a statement of withdrawal with the Planning Director.
- (2) The statement of withdrawal shall be signed by all persons who signed the application, or in the event of death or incompetence, by the estate's lawful personal representative.
- ~~(3) If a valid zoning protest petition shall have been filed, the application may be withdrawn only if the statement of withdrawal is filed no later than five days prior to the date of the Town Council hearing date upon which the matter is to be returned for action by the Town Council. Thereafter, the application may be withdrawn only by leave of the Town Council, by majority vote.~~

|        ~~(4)~~(3) The Planning Director ~~may~~shall withdraw applications due to failure of the applicant to submit required information within 90 days of the initial request.

|        ~~(5)~~(4) An applicant may postpone a scheduled public hearing once per application for up to 90 days after the date the first public hearing was scheduled to occur, after which the Planning Director ~~may~~shall withdraw the application per (3) above.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2011-05-01, passed 5-2-11; Am. Ord. 2013-02-02, passed 2-4-13; Am. Ord. 2013-12-03, passed 12-2-13; Am. Ord. 2017-01-01, adopted 01/03/2017; Am. Ord. 2018-07-02, adopted 07/16/2018)

## § 155.703 TEXT AMENDMENT

### TEXT AMENDMENT



#### (A) APPLICABILITY

Amendments to the text of ~~the Town's Code of Ordinances or to this chapter~~ Chapter shall be made in accordance with the provisions of this section.

(1) The Town Council shall consider amendments to the text of this chapter, as may be required from time to time.

**TEXT AMENDMENT**



**(B) INITIATION OF AMENDMENT**

A request to amend the text of this chapter may be initiated by the ~~Town Council, Board of Adjustment, Planning Board, Planning Director~~ town council, board of adjustment, planning board, planning director, or the general public.

**(C) APPLICATION REQUIREMENTS**

Applications for a text amendment shall be submitted in accordance with § 155.702(c).

**(D) NOTICE AND PUBLIC HEARINGS**

The ~~town~~ Town shall hold all required public hearings and give notice in accordance with § 155.702(d).

**(E) ACTION BY PLANNING DIRECTOR**

- (1) The Planning Director shall draft the appropriate amendment and prepare a staff report that reviews the proposed text amendment request.
  - (a) Following completion of technical review by staff, the Planning Director shall forward the completed request and any related materials to the Planning Board for a recommendation.

**(F) ACTION BY PLANNING BOARD**

- (1) The Planning Board shall make a recommendation on the application to the Town Council. If the Planning Board fails to make a recommendation, the Town Council may process the request without a recommendation.



- (2) Following Planning Board review, the Planning Director shall forward the completed request and any related materials, including the Planning Board recommendation (if applicable), to the Town Council for final action.

(G) **ACTION BY TOWN COUNCIL**

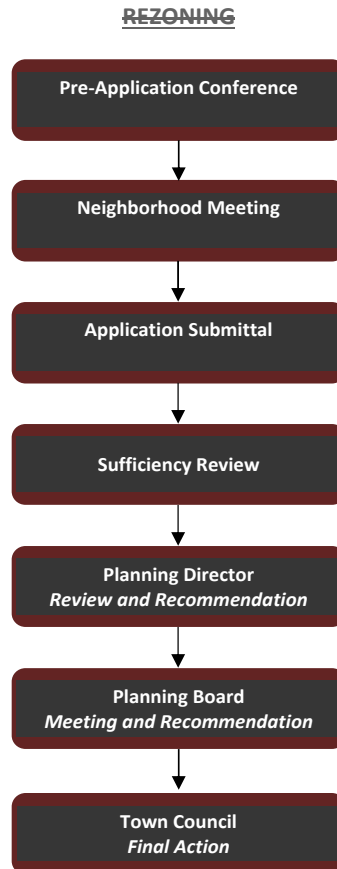
- (1) Before taking action on a text amendment, the Town Council shall consider the recommendations of the Planning Board and Planning Director.
- (2) The Town Council may approve the amendment, deny the amendment, or send the amendment back to the Planning Board for additional consideration.

(H) **APPROVAL CRITERIA**

- (1) In evaluating any proposed amendment of the text of this chapter, the Planning Board and the Town Council shall consider the following:
  - (a) The extent to which the proposed text amendment is consistent with the remainder of the chapter, including, specifically, any purpose and intent statements, and must adopt a statement describing whether the action is consistent or inconsistent with approved plans;
  - (b) The extent to which the proposed text amendment represents a new idea not considered in the existing chapter, or represents a revision necessitated by changing circumstances over time;
  - (c) Whether or not the proposed text amendment corrects an error in the chapter; and
  - (d) Whether or not the proposed text amendment revises the chapter to comply with state or federal statutes or case law.
  - ~~(d)~~ (e) Any adopted plans of the Town.
- (2) In deciding whether to adopt a proposed text amendment to this chapter, the central issue before the Town Council is whether the proposed amendment advances the public health, safety or welfare and is consistent with the adopted plans and policies of the Town and the specific intent of this chapter.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2018-07-02, adopted 07/16/2018)

## § 155.704 REZONING



### (A) APPLICABILITY

- (1) Amendments to the zoning map shall be made in accordance with the provisions of this section.
- (2) The Town Council shall consider amendments to the zoning map, as may be required from time to time.
- (3) Where appropriate, Rezonings-rezonings should correspond with the boundary lines of existing platted lots or parcels or the minimum area for an intended use, especially if that portion of the tract is to be subdivided. Where the boundaries of a rezoning request stop short of an exterior property line, it must be possible to subdivide and develop that portion of the property outside the proposed rezoning boundary in accordance with the existing zoning and other requirements of this chapter.

~~(3)~~—All zoning requirements shall be met within the boundaries of the area being rezoned. If all of the requirements cannot be met on the site being rezoned, prior to advertisement of the public hearing, the rezoning shall be expanded to include all property necessary to meet zoning requirements.

(4)



(B) **INITIATION OF AMENDMENT**

- (1) A request for a rezoning may be initiated by the Town Council, the Planning Board, or the Planning Director.
- (2) An owner of land within the jurisdiction of the Town (or a duly authorized agent or representative) may petition the Town Council for a rezoning. Third-party downzoning petitions are specifically prohibited.

(C) **PRE-APPLICATION CONFERENCE**

All applicants petitioning for a rezoning shall schedule a pre-application conference with the Planning Director in accordance with § 155.702(a).

(D) **NEIGHBORHOOD MEETING**

All applicants petitioning for a rezoning shall hold a neighborhood meeting in accordance with § 155.702(b).

(E) **APPLICATION REQUIREMENTS**

All applications for a rezoning shall be submitted in accordance with § 155.702(c).

(F) **NOTICE AND PUBLIC HEARINGS**

The Town shall hold all required public hearings and give notice in accordance with § 155.702(d).

(G) **ACTION BY PLANNING DIRECTOR**

- (1) The Planning Director shall prepare a staff report that reviews the rezoning request in light of the adopted plans and policies of the Town and the general requirements of this chapter.
- (2) Following completion of technical review by staff, the Planning Director shall forward the completed request and any related materials to the Planning Board.

(H) **ACTION BY PLANNING BOARD**

- (1) The Planning Board shall make a recommendation on the application to the Town Council. The Planning Board's recommendation shall include a written statement to the Town Council describing whether its recommendation is consistent with the adopted plans and policies of the Town. If the Planning Board fails to make a recommendation, the Town Council may process the request without a recommendation.
- (2) Following Planning Board review, the Planning Director shall forward the completed rezoning request and any related materials, including the Planning Board recommendation (if applicable), to the Town Council for final action.

(I) **ACTION BY TOWN COUNCIL**

- (1) Before taking action on a rezoning, the Town Council shall consider the recommendations of the Planning Board and Planning Director.
- (2) The Town Council may approve the rezoning, deny the rezoning, or send the rezoning back to the Planning Board for additional consideration.
- (3) Concurrently with adopting, denying, or remanding any rezoning, the Town Council shall adopt a statement describing whether its action is consistent with the adopted plans and policies of the Town and explaining why the Town Council considers the action taken to be reasonable and in the public interest. If the Council adopts a rezoning which is not consistent with any adopted future land use map, there must be a note placed on the applicable map or maps that an amendment inconsistent with the map has been adopted, and the map or maps are deemed amended.

(J) **APPROVAL CRITERIA**

In connection with its legislative decision on a rezoning request, the Town Council may consider factors including, but not limited to, the following:

- (1) Consistency with the adopted plans and policies of the Town;
- (2) Suitability of the subject property for uses permitted by the current versus the proposed district;
- (3) Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the Town;
- (4) The capacity of adequate public facilities and services including schools, ~~road~~transportation infrastructure, recreation facilities, wastewater treatment, ~~and~~ water supply facilities, and stormwater drainage facilities for the proposed use;
- (5) It has been determined that the legal purposes for which zoning exists are not contravened;
- (6) It has been determined that there will be no adverse effect upon adjoining property owners unless such effect can be justified by the overwhelming public good or welfare; and
- (7) It has been determined that no one property owner or small group of property owners will benefit materially from the change to the detriment of the general public.

(K) **MODIFICATION OF APPLICATION**

An applicant in a zoning matter may reduce the geographic scope and or propose a district of lower density or intensity from that requested in the application by filing a statement of modification with the Planning Director.

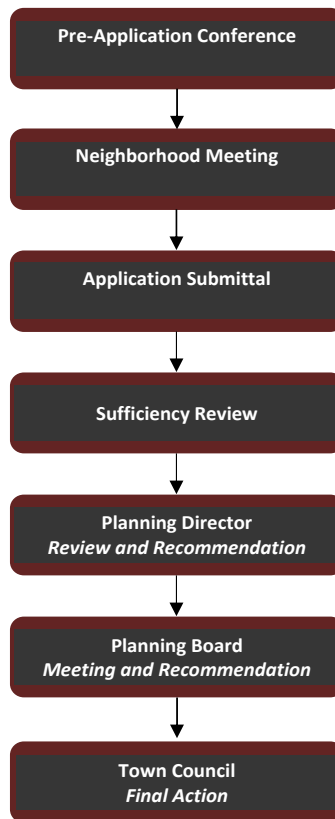
(L) **TIME LAPSE BETWEEN SIMILAR APPLICATIONS**

- (1) In the event of a withdrawal of an application during Town Council review on the merits, no application may be filed requesting the rezoning of any parcel contained in the withdrawn application prior to the expiration of a minimum period of six months from the withdrawal of the application. Where the application is withdrawn prior to the required public hearing, no expiration period shall be imposed on a new application.
- (2) When the Town Council has voted on a zoning application and the proposed rezoning has either been denied or has failed to be adopted by the vote required in the event of a valid protest petition, then the application shall be deemed to have expired.
- (3) No subsequent application requesting a zoning change for any parcel contained in an application which has expired may be made prior to the expiration of a minimum period of six months from the date of expiration.

- 
- (4) No subsequent application requesting the same zoning district for any parcel contained in an application which has expired may be filed prior to the expiration of a minimum period of one year from the expiration.
  - (5) The Town Council, by a three-fourths majority vote, may waive the time-lapse requirements of this section if the Town Council deems it to be in the public interest to do so.
- (Ord. 2005-11-02, passed 11-21-2005; Am. Ord. 2007-04-05, passed 4-2-2007; Am. Ord. 2009-03-04, passed 3-2-2009; Am. Ord. 2016-04-04, passed 04-04-2016)

**§ 155.705 CONDITIONAL ZONING DISTRICT~~PLANNED DEVELOPMENT~~  
REVIEW**

**CONDITIONAL ZONING DISTRICT**



**PLANNED DEVELOPMENT REVIEW**





(A) **APPLICABILITY**

- (1) Conditional zoning district ~~Planned development review~~ (also known as conditional rezoning) shall occur in accordance with the provisions of this section.
- (2) The Town Council shall consider conditional districts ~~planned development rezonings~~, as may be required from time to time.
- (3) All requirements shall be met within the boundaries of the area being rezoned. If all of the requirements cannot be met on the site being rezoned, prior to advertisement of the public hearing, the rezoning shall be expanded to include all property necessary to meet zoning requirements.
- (4) A conditional district is not appropriate for developments that could be substantially achieved through traditional subdivision and conventional district rezoning.
- (5) At a minimum, and to avoid the potential for spot zoning, a conditional zoning application shall include a minimum amount of land of either:
  - (a) 5 acres, or
  - (b) One full city block (either existing or proposed) of at least 1 acre whose abutting street network connects to or extends in alignment with the existing public street network.

(B) **INITIATION OF AMENDMENT**

An owner of land within the jurisdiction of the Town (or a duly authorized agent or representative) may petition the Town Council ~~for to establish a conditional district, planned development rezoning.~~

(C) **PRE-APPLICATION CONFERENCE**

All applicants petitioning for a conditional district ~~planned development rezoning~~ shall schedule a pre-application conference with the Planning Director in accordance with § 155.702(a).

(D) **NEIGHBORHOOD MEETING**

All applicants petitioning for a conditional district ~~planned development rezoning~~ shall hold a neighborhood meeting in accordance with § 155.702(b).

(E) **APPLICATION REQUIREMENTS**

- (1) Concurrent with a request for establishment of a conditional district ~~planned development rezoning~~, an applicant shall submit a master plan, as detailed in this section, to govern the development and maintenance of the land within the ~~planned development~~ conditional district. The master plan shall be prepared by a professionally certified landscape architect, engineer, AICP Planner, or architect.

- (2) All applications for establishment of a conditional district ~~planned development rezoning~~ shall be submitted in accordance with § 155.702(C).

- ~~(3) A master plan which meets the requirements for submittal of a preliminary plat may be approved as the master plan for the development and the preliminary plat concurrently.~~

- ~~(4)~~(3) A traffic impact analysis ~~may~~ shall be required if the proposed ~~planned development~~ master plan meets the thresholds established in § 155.708.

(F) **NOTICE AND PUBLIC HEARINGS**

The Town shall hold all required public hearings and give notice in accordance with § 155.702(d).

(G) **ACTION BY PLANNING DIRECTOR**

- (1) Upon submission of a completed application, the Planning Director shall schedule the master plan for review by the Technical Review Committee. The Technical Review Committee shall review the master plan for consistency with the requirements of this Chapter.
- (2) Upon completion of the technical review, the Planning Director may meet with the applicant to discuss any changes in development design.
- (3) The Planning Director shall prepare a staff report that reviews the application in light of comments provided by the Technical Review Committee, in light of the adopted plans and policies of the town, and the general requirements of this chapter. The report, master plan and any related application materials shall be forwarded to the Town Council.

(H) **ACTION BY THE PLANNING BOARD**

- (1) The Planning Board shall make a recommendation on the application to the Town Council. The Planning Board's recommendation shall include a written statement to the Town Council describing whether its recommendation is consistent with the adopted plans and policies of the Town. If the Planning Board fails to make a recommendation, the Town Council may process the request without a recommendation.
- (2) Following Planning Board review, the Planning Director shall forward the completed conditional district request and any related materials, including the Planning Board recommendation (if applicable), to the Town Council for final action.

~~(H)~~(I) **ACTION BY TOWN COUNCIL**

- (1) Before taking action on a conditional district proposal ~~planned development rezoning~~, the Town Council shall consider the recommendation of the Planning Board (if applicable) and the Planning Director.
- (2) The Town Council may approve, approve with conditions, or disapprove the conditional district ~~Planned Development rezoning~~ Any conditions of approval must be signed (or declined) by the applicant prior to the Council rendering a decision.

- (3) Concurrently with adopting, denying, or remanding any ~~conditional district~~rezoning, the Town Council shall adopt a statement describing whether its action is consistent with the adopted plans and policies of the ~~town~~Town and explaining why the Town Council considers the action taken to be reasonable and in the public interest. If the Council adopts a conditional district that is inconsistent with any adopted future land use map a note must be placed on the map or maps that an amendment inconsistent with the map has been adopted and that the map is deemed amended.

- ~~(4) A master plan which meets the requirements for submittal of a preliminary plat or major site plan may be approved as the master plan for the development and the preliminary plat concurrently. If a master plan does not meet the requirements of a preliminary plat or major site plan it may still be approved, but a separate, subsequent application will be required for preliminary plat or major site plan approval.~~

#### ~~(H)~~(J) **CONDITIONAL ZONING DISTRICT APPROVAL CRITERIA**

In connection with its legislative decision on a ~~rezoning~~conditional zoning district request, the ~~town council~~Town Council may consider factors including, but not limited to, the following:

- (1) Consistency with the adopted plans and policies of the ~~town~~Town;
- (2) Suitability of the subject property for uses permitted by the current versus the proposed ~~conditional district~~district;
- (3) Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the ~~town~~Town;
- (4) The capacity of adequate public facilities and services including schools, roads, recreation facilities wastewater treatment and water supply facilities and stormwater drainage facilities for the proposed ~~use~~conditional district;
- (5) It has been determined that the legal purposes for which zoning exists are not contravened;
- (6) It has been determined that there will be no adverse effect upon adjoining property owners unless such effect can be justified by the overwhelming public good or welfare; and
- (7) It has been determined that no one property owner or small group of property owners will benefit materially from the change to the detriment of the general public.

#### ~~(H)~~(K) **MASTER PLAN CONTENTS AND APPROVAL CRITERIA**

- (1) At a minimum, the master plan shall designate:
  - (a) Where and which uses or groups of uses will occur.
  - (b) The proposed intensity/density of those uses.
  - (c) The general location of the internal and external network of public rights-of-way and public infrastructure.

(d) All required elements for establishment of a zoning district including but not limited to dimensional standards, open space network, natural resource preservation, and landscaping or buffering.

~~(1)~~(2) The master plan ~~review~~ shall include and the applicant shall be responsible for successfully addressing the following:

- (a) Compliance with § 155.203(L) and all other applicable requirements of this chapter, or analysis and justification if it deviates from the requirements of this chapter;
- (b) Consistency with the Clayton General Design Guidelines;
- (c) Conformance of the proposal with the stated purpose of the requested ~~planned development~~conditional zoning district;
- (d) Compatibility of the proposed development with the adjacent community;
- (e) The quality of design intended for each component of the project and the ability of the overall development plan to ensure a unified, cohesive environment at full build-out;
- (f) Compatible relationships between each component of the overall project;
- (g) Self-sufficiency of each phase of the overall project;
- (h) Documentation that the proposed infrastructure improvements accommodate the additional impacts caused by the development, or documentation to assure that the development, as proposed, will not overtax the existing public infrastructure systems;
- (i) The fiscal impact of the proposal and the proposed financing of required improvements;
- (j) The success of the proposal in providing adequate pedestrian and bicycle links within the development and with the adjacent community; and
- (k) The effectiveness with which the proposal protects and preserves the ecologically sensitive areas within the development.

~~(K)~~(L) **ACTION AFTER APPROVAL**

- (1) Upon approval of a conditional zoning district~~a planned development rezoning~~ by the Town Council, and on recordation of the approved master plan, the district is deemed established. Properly executed documents shall be returned to the office of the Town Clerk for recording no later than 90 days from the date of approval or the approval shall be null and void. All documents (including the approved master plan) shall be an integral part of the approved proposal.
- (2) The approved ~~planned development~~conditional district and associated master plan shall run with the land and shall be binding on the original applicant as well as any successors, assigns

and heirs. The approved master plan shall be recorded in the Johnston County Register of Deeds office and the Zoning Map amended.

- (3) Approval of a ~~planned development~~conditional district rezoning and associated master plan does not constitute site plan approval or subdivision approval (if the property is to be further subdivided), except where the master plan meets the requirements for and is approved as a preliminary plat.
- (4) Property to be further subdivided shall obtain approval in accordance with § 155.706. Where a preliminary plat has been approved, the applicant may move forward to provide construction plans and a final plat.
- (5) Property not to be further subdivided shall obtain site plan approval as set forth in § 155.707.
- ~~(6) Conditional uses not shown on the approved master plan require approval in accordance with § 155.710.~~
- ~~(6)~~ Special uses not shown or identified as such in the approved master plan require approval in accordance with § 155.711.
- (7) The master plan shall run with the land perpetually, or until a subsequent rezoning is approved.

#### ~~(L)~~(M) **TIME LAPSE BETWEEN SIMILAR APPLICATIONS**

- (1) In the event of a withdrawal of an application prior to action by the Town Council, no application may be filed requesting the same ~~planned development~~ or substantively similar conditional district contained in the withdrawn application prior to the expiration of a minimum period of six months from the withdrawal of the application.
- (2) When the Town Council has voted on a conditional district ~~planned development~~ and the proposed rezoning has ~~either been denied or has failed to be adopted by the vote required in the event of a valid protest petition~~, then the application shall be deemed to have expired.
- (3) No subsequent application requesting a conditional district ~~planned development~~ for any parcel contained in an application which has expired may be made prior to the expiration of a minimum period of six months from the date of expiration.
- (4) No subsequent application requesting the same zoning category for any parcel contained in an application which has expired may be filed prior to the expiration of a minimum period of one year from the expiration.
- (5) The Town Council, by a three-fourths majority vote, may waive the time-lapse requirements of this section if the Town Council deems it to be in the public interest to do so.

#### ~~(M)~~(N) **APPROVED MASTER PLAN MODIFICATIONS**

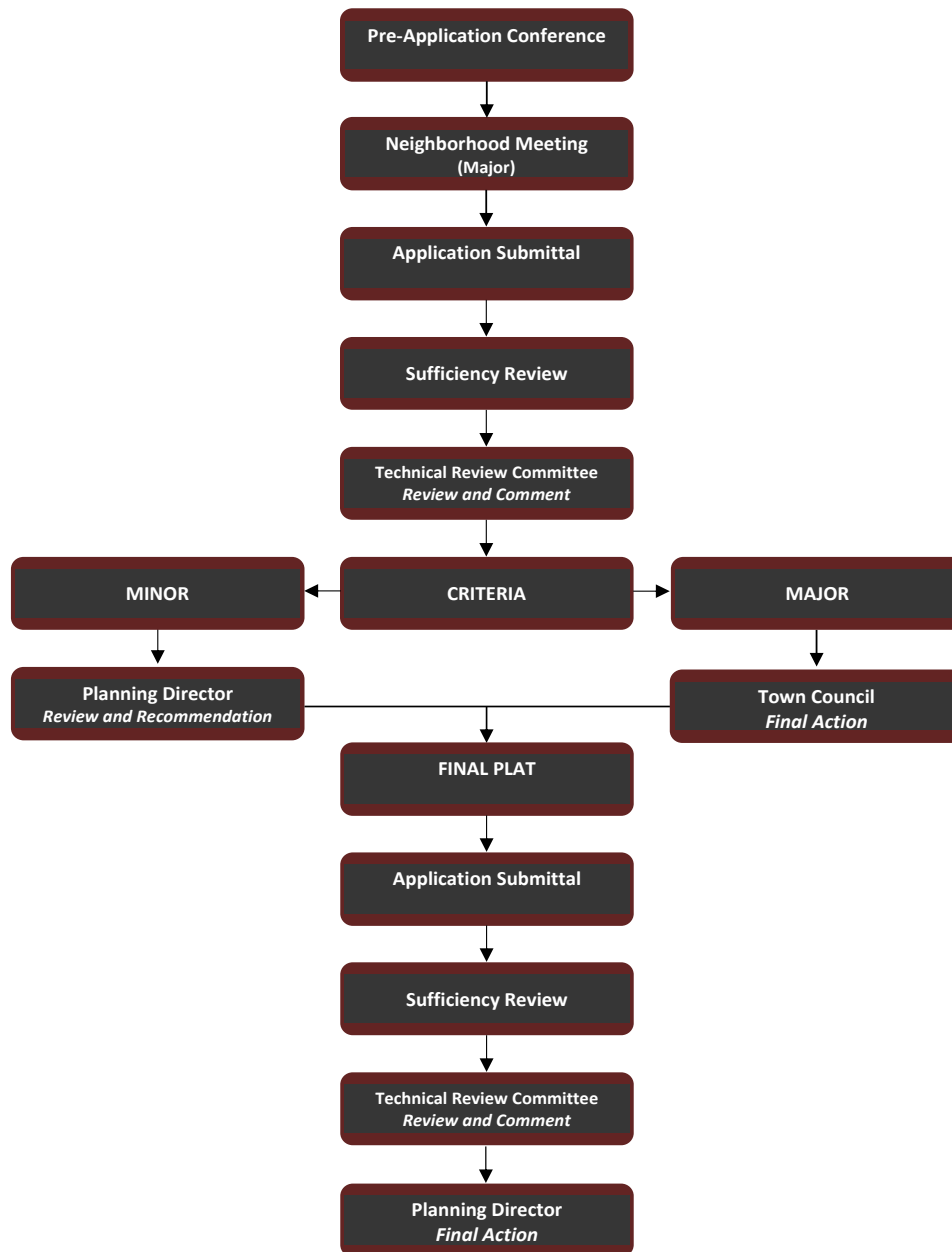
- (1) Amendments or modifications to an approved master plan, if minor in scope, ~~may~~ shall be approved administratively by the Planning Director. Minor ~~changes~~ modifications shall

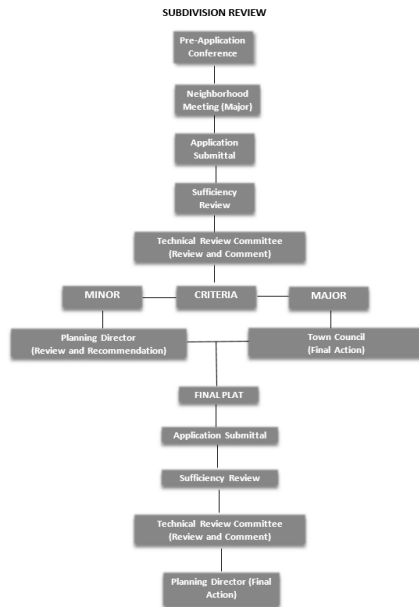
include up to 10% modifications (by area, intensity, or dwelling units) from the original approval to the approved mixture of uses (so long as the maximums stated are not exceeded), adjustments to phasing, and the realignment of internal ~~roadways~~transportation infrastructure provided connectivity is not reduced. Changes in boundaries between land uses are permitted so long as the boundary abutting outside zoning districts does not change and the boundary between areas within the conditional district does not shift more than 100' for master plans covering 20 acres or less, 200' for master plans of 20-100 acres, or 300' for master plans of greater than 100 acres. Minor ~~changes~~ modifications to the typical project details, which include but are not limited to signage, lighting, parking, amenities, and landscape requirements ~~may~~ shall also be approved administratively by the Planning Director provided they conform to all other aspects of the approved master plan, this Chapter, and other Town policies and specifications, as appropriate.

- (2) Major modifications include anything not identified as minor. Major modifications shall require resubmittal and reconsideration by per this Section. to the Town Council. These shall include the addition of land, modifications to the approved mixture of uses in excess of 10%, and the addition, deletion, or relocation of main vehicular entrances. Major modifications shall also include any proposed revisions that are deemed by the Planning Director to be inconsistent with the adopted plans and policies of the ~~town~~ Town, or the conditions of the district, or that would otherwise negatively impact surrounding properties in any manner exceeding the originally approved master plan.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2008-06-01, passed 6-2-08; Am. Ord. 2009-03-04, passed 3-2-09; Am. Ord. 2015-02-01, passed 2-2-15; Am. Ord. 2016-04-04, passed 04-04-2016; Am. Ord. 2018-07-02, adopted 07-16-2018)

**§ 155.706 SUBDIVISION—PRELIMINARY PLAT REVIEW (FORMERLY  
SUBDIVISION REVIEW)**



(A) APPLICABILITY

~~Subdivision~~ Pursuant to and in accordance with G.S. § 160D Article 8, subdivision approval shall be required before the division of land (for any purpose) into two or more parcels, except as expressly exempted below.

(B) ACTIONS EXEMPT FROM SUBDIVISION REQUIREMENTS PRELIMINARY PLAT REVIEW

For the purpose of this Article “subdivision” shall be as defined in G.S. §160D-802, and subject to the restrictions therein. Any subdivisions expressly exempted from all or a portion of the standards of this Ordinance shall still be required to meet the standards of G.S. §160D Article 8, including the filing of a Final Plat.

~~The following shall not be considered "subdivision" subject to review under this section:~~

(1) — The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resulting lots are equal to or exceed the standards of this Cchapter;

(2) —

(3) —

(4) —

(5) (1)

(6) (2) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved;



- ~~(7)~~(3) The public acquisition by purchase of strips of land for water or sewer infrastructure or the widening or opening of streets or for public transportation system corridors;
- (4) The division of a site 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 this Chapter.
- (5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under G.S. § 29.
- (6) The division of a tract or parcel of land in single ownership when the following criteria are met (see G.S. § 160D-802(c):
- (a) The tract or parcel to be divided is not exempted based on any of the criteria listed above in this subsection
  - (b) No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division
  - (c) The entire area of the tract or parcel to be divided is greater than five acres
  - (d) After division, no more than three lots result from the division
  - (e) After division, all resultant lots comply with all of the following:
    - 1. Any lot dimension size requirements of this Chapter.
    - 2. The use of the lots is in conformity with this Chapter.
    - ~~1-3.~~ A permanent means of ingress and egress is recorded for each lot.

(C) **NO SUBDIVISION WITHOUT PLAT APPROVAL**

- (1) No person may subdivide land except in accordance with all of the provisions of this chapter. In particular, no subdivision may occur unless and until a final plat of the subdivision has been approved in accordance with the provisions of this section and recorded in the Johnston County Registry.
- (2) The ~~Johnston~~ County Register of Deeds shall not record a plat of any subdivision within the Town's planning jurisdiction unless the plat has been approved in accordance with the provisions of this Chapter.
- (3) Not all divisions of land constitute subdivisions that are subject to regulation under this chapter. However, to ensure that such divisions are in fact exempt from the requirements of this chapter, all plats creating a division of land shall be presented to the Planning Director before recordation in the Johnston County Registry and the Planning Director shall indicate on the face of the plat that the division is exempt from the provisions of this Chapter if that is the case.

(4) No street shall be maintained or accepted by the Town, nor shall any street lights, water, or sewer be extended to or connected with any subdivision of land, or shall any permit be issued by any administrative agent or department of the Town for the construction of any building or other improvements requiring permit, upon any land for which a plat is to be approved, unless and until the requirements set forth in this Chapter ~~have been complied with~~ are in compliance.

(5) There are a variety of requirements for differing levels of resource protection in ~~§§ 155.500 through 155.502~~ Article 5, which must be met prior to the subdivision of land.

(D) **DELEGATION OF AUTHORITY**

The Town Council delegates review and approval authority for all ~~minor preliminary~~ plats and final plats to the Planning Director, with review by the Technical Review Committee.

(E) **UNLAWFUL TO RECORD PLAT WITHOUT FINAL OR ~~MINOR PRELIMINARY~~ PLAT APPROVAL**

~~Except as described above,~~ it shall be unlawful to offer and cause to be recorded any final plat within the Town limits with the ~~Johnston~~ County Register of Deeds unless the plat bears the endorsement and approval of the Planning Director or Town Clerk.

(F) **DEFINITIONS**

(1) **Minor Subdivision**

(a) A minor subdivision is a subdivision that does not involve any of the following:

1. Creation of a total of more than five lots;
2. Creation of any new public streets;
3. Extension of any water or sewer lines; or
4. Installation of drainage improvements through one or more lots to serve one or more other lots.
5. A traffic impact analysis as established in § 155.708.

(b) Minor subdivisions requires minor preliminary plat review and final plat review.

(2) **Major Subdivision**

(a) All other divisions of land not exempted in (B) of this section or listed in (F)(1) of this section shall be considered major subdivisions.

(b) Major subdivisions require major preliminary plat approval and final plat approval.

(G) **PRE-APPLICATION CONFERENCE AND SKETCH PLAN**

- (1) All applicants seeking subdivision approval shall schedule a pre-application conference with the Planning Director, in accordance with § 155.702(A).
- (2) At the time of the pre-application conference, applicants shall submit a sketch plan for review by the Planning Director. This plan should, in simple sketch form, show the proposed layout of streets, lots and other features in relation to existing conditions (see Planning Department for specific submittal requirements).
- (3) The Planning Director shall make a determination as to which approval process authorized by this section can be used. The Planning Director may require the applicant to submit whatever supplemental information is necessary to make this determination.
- (4) When a subdivision is to be developed in phases or stages, a master plan shall be submitted for the entire development and a preliminary plat shall be submitted for each individual stage. A final plat is submitted for individual stages as each stage is developed. Each new stage shall be developed adjacent to an earlier stage.

(H) **MINOR PRELIMINARY PLAT REVIEW (FOR MINOR SUBDIVISIONS)**

(1) **Applicability**

- (a) The procedure for approval of a minor ~~subdivision~~ preliminary plat is intended to simplify processing of routine small subdivisions with due regard to protection of the public interest. The difference between the minor and major subdivision processes is that minor subdivisions do not require preliminary plat review.
- (b) There shall be only one minor subdivision approved on any original tax parcel in any three-year period. This ~~division condition~~ shall not apply to minor subdivisions for which the following conditions are met:
  1. The owner and grantee certify that the grantee of each lot is the child or child and spouse, or grandchild and spouse of the owner;
  2. The owner and grantee certify that no consideration shall be paid for any of the lots;
  3. The owner and grantee certify that the purpose of the minor subdivision is not to circumvent the provisions of this chapter, and that none of the lots shall be conveyed to third parties for a period of not less than three years, and that the record plat shall indicate same.
  4. Failure of any person to comply with the provisions of (H)(1)(b)1., 2. and 3. of this section shall be in violation of this chapter, and all of the remedies available in G.S. § ~~160A-375~~ 160D-807 shall apply.

(2) **Application Requirements**

All applications for minor plat review shall be submitted in accordance with § 155.702(C).

(3) **Action by Planning Director**

- (a) Upon submission of a completed application, the Planning Director shall schedule the minor subdivision plat for review by the Technical Review Committee. The Technical Review Committee shall review the plat for consistency with the requirements of this chapter. The Planning Director shall, after review by the Technical Review Committee, determine whether the plat conforms to the standards of a minor subdivision.
- (b) If the minor subdivision plat is determined not to be in conformance with the requirements for a minor subdivision of this Chapter, the applicant may proceed with preliminary plat approval. application shall be denied. If the Planning Director should disapprove the preliminary plat, the reasons for such action shall be given to the applicant.

(4) **Action Following Approval**

Upon minor preliminary plat approval, the applicant may begin preliminary site work. All site work shall be performed in compliance with the requirements of this chapter, and other applicable regulations of the Town, ~~Johnston~~ the County, and the state. The final plat may be recorded in the ~~Johnston~~ County Record of Deeds.

(5) **Continuing Validity of Minor Plats**

Within 24 months of the date of approval of the minor subdivision plat, the applicant shall submit application for final plat review otherwise the minor subdivision plat shall be null and void.

(6) **Minor Plat Approval Criteria**

Minor subdivision plats shall be approved only when the Planning Director, after Technical Review Committee review, finds that all of the following conditions exist:

- (a) Consistency with the adopted plans and of policies of the Town
- (b) The plat complies with the standards of §§ 155.600 through 155.607, and any other applicable requirements of this Chapter
- (c) The plat indicates that all subject lots will have frontage on existing approved streets;
- (d) New or residual parcels conform to the requirements of this chapter and other applicable regulations;
- (e) No new streets are required or are likely to be required for access to interior property;
- (f) No drainage or utility easements will be required to serve interior property;
- (g) No extension of public sewerage or water lines will be required; ~~and~~

- (h) The proposed subdivision will not adversely ~~effect~~affect permissible development of the remainder of the parcel or of adjoining property.

~~(7) **Waivers for Minor Plat Approval**~~

~~The Planning Director may grant exceptions to the requirements for minor plat approval provided that the purposes and intent of this section have been met.~~

(I) **MAJOR PRELIMINARY PLAT APPROVAL REVIEW (FOR MAJOR SUBDIVISIONS ONLY)**

(1) **Applicability**

A preliminary plat shall be required for all subdivisions that do not meet the definition of a minor subdivision as set forth in (F) of this section.

(2) **Application Requirements**

- (a) All applications for preliminary plat review shall be submitted in accordance with § 155.702(C).

- (b) A traffic impact analysis may be required if the proposed subdivision meets the thresholds established in § 155.708.

- ~~(c) An application for a waiver from any of the provisions of §§ 155.600 through 155.607 shall be submitted in writing by the applicant at the time the preliminary plat is filed. The application shall state the grounds for the waiver and all the facts relied upon by the applicant.~~

(3) **Notice and Public Hearings**

The Town shall hold all required public hearings and give notice in accordance with § 155.702(D).

(4) **Neighborhood Meeting**

~~All applicants seeking major subdivision approval (open space subdivision only) shall hold a neighborhood meeting in accordance with § 155.702(B). None required.~~

(5) **Action by Planning Director**

- (a) Upon submission of a completed application, the Planning Director shall schedule the preliminary plat for review by the Technical Review Committee. The Technical Review Committee shall review the preliminary plat for consistency with the requirements of this chapter. The Planning Director shall, after review by the Technical Review Committee, determine whether the plat conforms to the standards of this Chapter.

- (b) If the preliminary plat is determined not to be in conformance with the requirements of this Chapter, the application shall be denied. If the Planning Director should

disapprove the preliminary plat, the reasons for such action shall be given to the applicant.

~~(a) —~~

~~(b) — The following agencies shall be given an opportunity to review the proposed plat as needed:~~

~~1. — County Superintendent of Schools.~~

~~2. — County Health Department.~~

~~3. — State Department of Transportation District Engineer.~~

~~4. — State Department of Natural Resources and Community Development.~~

~~5. — Other agencies and officials as the Planning Director or Planning Board may deem necessary or desirable.~~

~~(c) — The Planning Director shall prepare a report that reviews the application in light of comments provided by the Technical Review Committee, and in light of the adopted plans and policies of the town, and the general requirements of this chapter. The report, preliminary plat and any related application materials shall be forwarded to the Town Council.~~

**(6) Waivers**

(a) The Town Council may authorize, in specific situations, waivers to ~~certain requirements of §§ 155.600 through 155.607~~the access requirements enumerated in Article 4 if it is clear that adequate provisions for the type and intensity of the proposed use has been or will be provided, and there are special circumstances, such as unique characteristics of the lot and area, or strict interpretation of the requirements render the subdivision of the property not feasible or desirable. In granting a waiver, the Council shall affirmatively make the following findings:

1. The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located;
2. The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not generally applicable to other property;
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 this chapter are enforced; and
4. The purpose of the wavier is not based primarily upon financial consideration.

- (b) In granting a waiver, the Town Council may require certain conditions that in its judgment, substantially secure the objectives, standards, or requirements of this chapter.

~~(7)~~ **Action by Town Council**

- ~~(a) The preliminary plat shall be referred to the Town Council for final action after review is completed by the Planning Director and Technical Review Committee. The preliminary plat shall be considered by the Town Council in accordance with its rules of procedure and the General Statutes of North Carolina.~~
- ~~(b) An evidentiary hearing shall be held after due notice has been given to the applicant and the general public. Sworn parties shall be given the opportunity to present evidence, cross-examine other parties, inspect any documentation, and offer evidence or testimony in rebuttal.~~
- ~~(c) Findings of fact shall be made by the Town Council that are based on sworn evidence or testimony presented at the meeting. Such evidence or testimony must be relevant, material, and competent.~~
- ~~(d) No final action shall be deemed to have been given by the Town Council Planning Director on the preliminary plat until the Town Council's Planning Director's written decision on the preliminary plat is delivered to the applicant by the town.~~
- ~~(e) The Town Council Planning Director may approve the preliminary plat, deny the preliminary plat, or send the preliminary plat back to the Technical Review Committee for additional consideration.~~
- ~~(f) If the Town Council Planning Director should disapprove the preliminary plat, the reasons for such action shall be given to the applicant.~~

~~(8)~~ **(7) Action Following Approval**

- (a) Upon preliminary plat approval, the applicant may initiate proceedings to begin site work and installation of improvements. All work shall be performed in compliance with the requirements of §§ 155.600 through 155.607, and other applicable regulations of the Town, ~~Johnston~~the County, and the state.
- (b) Approval of a preliminary plat does not constitute approval of the final plat. Application for approval of the final (record) plat will be considered only after the requirements for final plat approval as specified in (J) of this section have been fulfilled and after all other specified conditions have been met.

~~(9)~~ **Findings of Fact Required**

No preliminary plat may be approved by the Town Council unless all of the following findings are made concerning the subdivision:

- ~~(a) Consistency with the adopted plans and of policies of the town.~~
- ~~(b) The subdivision meets all required specifications of this chapter.~~
- ~~(c) The subdivision will not be detrimental to the use or orderly development of other properties in the surrounding area and will not violate the character of existing standards for development of properties in the surrounding area.~~
- ~~(d) The subdivision design will provide for the distribution of traffic in a manner that will avoid or mitigate congestion within the immediate area, will provide for the unified and orderly use of or extension of public infrastructure, and will not materially endanger the environment, public health, safety, or the general welfare.~~

~~(10)~~ **Modification of Construction Standards**

~~Notwithstanding the approval of a preliminary plat, the town shall have the authority to apply any revised construction standards to future plats at the time of application for final plat approval. The Public Works Director shall determine the maximum extent to which such new standards may feasibly apply.~~

~~(11)~~(8) **Continuing Validity of Preliminary Plats**

- (a) Within 24 months of the date of approval of the preliminary plat, the applicant shall submit a final plat for at least one section of the subdivision otherwise the preliminary plat shall be null and void.
- (b) For multi-phase developments greater than 25 acres, the preliminary plat shall expire seven years after approval and is subject to the requirements of G.S. § 160D-108(d)(4). As phases continue to receive development approvals or site specific vesting plans, the vesting period may extend past the initial seven year period according to the standards for those approvals.
- (c) For preliminary plats also approved as master plans for Conditional Zoning Districts, the preliminary plat does not expire and runs with the land, or until a subsequent rezoning changes the district.
- (d) Where more than one vested right may be in effect, the longer time period applies.
- ~~(a) All sections of an approved preliminary plat must be submitted for final plat approval within three years of preliminary plat approval for a preliminary plat containing up to 100 lots, and within five years for a preliminary plat containing 100 lots or more. Otherwise, the preliminary plat shall be null and void.~~

(J) **FINAL PLAT REVIEW (MAJOR AND MINOR SUBDIVISIONS)**

(1) **Applicability**

A final plat shall be required for all subdivision of land in the Town and its extraterritorial jurisdiction.



(2) **Application Requirements**

All applications for final plat review shall be submitted in accordance with § 155.702(C).

(3) **Action by Planning Director**

- (a) Upon submission of a completed application, the Planning Director shall within 60 days schedule the final plat for review by the Technical Review Committee. The Technical Review Committee shall review the final plat for consistency with the with the approved minor subdivision plat or approved preliminary plat, as applicable, and the general requirements of this chapter.
- (b) Upon completion of the technical review, the Planning Director may approve the final plat, deny the final plat, or send the plat back for additional consideration.
- (c) If the final plat is disapproved by the Planning Director, the reasons for such disapproval shall be stated in writing, specifying the provisions of this chapter with which the final plat does not comply.

(4) **Final Plat Approval Criteria**

Final plats shall be approved when the following conditions exist:

- (a) Consistency with the adopted plans and of polices of the Town;
- (b) The plat substantially complies with the approved minor plat or preliminary plat, as applicable;
- (c) The plat complies with the standards of §§ 155.600 through 155.607 and the other applicable requirements of this chapter;
- (d) New and residual parcels will conform to the requirements of this chapter and other applicable regulations;
- (e) All necessary right-of-way has been offered for reservation or dedication; and
- (f) All necessary drainage easements have been provided.

(5) **Endorsements On Final Plats**

(a) ***Minor Plats***

All minor subdivision final plats shall contain the following certificates:

- 1. Certificate of ownership;
- 2. Certificate of survey and accuracy;
- 3. Certificate of approval by the Planning Director; and

4. ~~Johnston~~ County Plat Review Officer's Certificate

(b) **Major Plats**

1. All major subdivision final plats shall contain the following certificates:
  - A. Certificate of ownership and dedication;
  - B. Certificate of survey and accuracy;
  - C. Certificate of approval of water supply and sewage and disposal systems (county);
  - D. Certificate of approval of the design and installation of streets, utilities, and other required improvements;
  - E. Certificate of approval by the Town Manager, as applicable; and
  - F. ~~Johnston~~ County Plat Review Officer's Certificate.
2. All final plats located outside the corporate limits of the Town, but within the planning jurisdiction, shall contain the following certificates:
  - A. NCDOT Engineer Certificate; and
  - B. Certificate of approval of non-municipal water supply & sewage disposal systems.
3. When required by the federal government, all final plats shall contain a certificate for a federally funded project.

(6) **Action After Approval**

- (a) The applicant shall file the approved final plat with the County Register of Deeds for recording within 60 days after the date of approval. The Planning Director, upon receipt of a written request, may extend this date an additional 30 days, if the request is received prior to the original expiration date and the final plat meets all applicable provisions of this chapter.
- (b) The approval of a final plat shall not be deemed to constitute or affect the acceptance or affect the acceptance by the Town of the dedication of any street or other ground, public utility line, or other public facility shown on the plat. However, the Town 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 or dedication of lands or facilities located within the subdivision regulation jurisdiction but outside the corporate limits of the Town shall not place on the Town any duty to open, operate, repair, or maintain any street, utility line, or other land or facility, and the Town 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.

(K) **DEDICATION AND IMPROVEMENTS**

- (1) In the development of any subdivision requiring new or modified public infrastructure, the applicant shall be required to dedicate any additional right-of-way necessary to provide the width required by the Town for streets adjoining the property, to install curbs and gutters and pave all streets adjoining the property to Town standards, and to install sidewalks in accordance with the policies and requirements of ~~§§ 155.600 through 155.607~~ Article 6.
- (2) The applicant shall bear the costs of the installation of all on-site improvements as required by this chapter, including provision for surface drainage, pavement, landscaping, and utilities. Any applicant required to install or construct off-site improvements pursuant to this section may, with the approval as a condition of subdivision approval, and upon a determination by the Planning Director that such improvements are not necessary or desirable at the time, but will be needed in the future, make a payment in lieu of such improvements or part thereof. The amount of any such payment shall be an amount estimated by the Town to be the actual and total installation and construction costs of such improvements. The amount paid for a given improvement shall be considered total and complete payment for the improvements considered, and will preclude any further assessment of the property in the event that the Town elects to install such improvements at a later date.
- (3) For all residential developments and master planned conditional zoning district involving a residential component approved after July 3, 1995, recreation and open space dedication, or payment of fee-in-lieu thereof in accordance with § 155.203(H) shall be required.

(L) **GUARANTEES OF IMPROVEMENTS**

Guarantee of improvements shall be made in accordance with § 155.607.

(M) **INSPECTIONS OF REQUIRED IMPROVEMENTS**

Inspections of improvements shall be made in accordance with § 155.607(d).

(N) **~~APPROVED PLAT MODIFICATIONS TO APPROVED PLAT~~**

(1) **Minor Modifications**

(a) ***Preliminary Plat***

Minor ~~revisions-modifications~~ to an approved preliminary plat ~~may~~ shall be reviewed and approved by the Planning Director and TRC if the revisions-proposed changes are within the scope and intent of the original approval, meet all other standards of this chapter, and meet the criteria below. Such revisions may include but not be limited to:

1. Reducing the lot count or dwelling unit count up to 10%;
2. Modifying phase lines; and

3. Minor internal adjustments to lot or street locations of no more than 50' in any direction.

(b) ***Final Plat***

A final plat may be rerecorded to:

1. Revise or correct dimensions;
2. Change street names;
3. Add, delete or modify easements or private covenants;
4. Change subdivision name; ~~or~~
5. ~~Other minor modifications that are within the scope and intent of the original approval subject to approval of the Planning Director.~~

(c) ***Procedures***

1. Preliminary Plat

- A. When minor ~~revisions~~ modifications are proposed to an approved preliminary plat, the applicant shall submit an Administrative Amendment application ~~written request~~ to the Planning Director with a copy sent to the Technical Review Committee delineating the revisions and requesting authorization for administrative revision.
- B. The Planning Director shall notify the applicant whether the proposed revision qualifies for minor modification and the basis for the determination. If approved, the final plat may be submitted in accordance with the revisions.
- C. The Planning Director shall distribute copies of the revised plat to the appropriate agencies.

2. Final Plat

- A. When minor ~~revisions~~ modifications are proposed to an approved final plat, the applicant shall submit a written request to the Planning Director with a copy sent to the Technical Review Committee delineating the revisions and requesting authorization for administrative revision.
- B. If the plat has been recorded, the applicant shall submit the recorded plat with a statement describing the revisions made and title block for the Planning Director signature, and date of signing.

- C. If the ownership of the subdivision has changed or if any lots have been sold since the previous recording, an owner's and notary's certificates shall be provided on the plat for each current owner.
- D. In addition to the letter and the revised final plat, the applicant shall submit the required fees to the Planning Director for processing and rerecording the revised plat.
- E. The Planning Director shall distribute copies of the recorded final plat to the appropriate agencies.

(2) **Major Modifications**

Proposed modifications to an approved preliminary plat or final plat not considered minor revisions shall be submitted and processed as new applications in accordance with the provisions of this section.

(O) **RESUBDIVISION AND RECOMBINATION PROCEDURES**

For any replatting or resubdivision of land, the same procedures, rules, and regulations shall apply as prescribed for an original subdivision. Lot size and configuration may, however, be varied on an approved plat after recording, provided that:

- (1) No lot or parcel of land shall be created or sold that does not conform to the minimum standards of the applicable zoning district;
- (2) Easements or rights-of-way shall not be changed;
- (3) Street alignment and block sizes shall not be changed;
- (4) The character of the area shall be maintained;
- (5) A recombination of existing parcels ~~may~~ shall be approved by the Planning Director, subject to the following:
  - (a) The resultant lots are equal to the standards of this chapter or more closely conform to the minimum lot size standards in this chapter;
  - (b) The total number of lots is not increased;
  - (c) All the metes and bounds boundaries of the affected lots are shown;
  - (d) All lot boundaries changed or eliminated by requested combination are indicated by dashed lines;
  - (e) The title block contains the word "recombination";
  - (f) Structures on the affected lots are shown and the requested recombination does not violate setback requirements of the §§ 155.200 through 155.204;

- (g) The recombination plat is signed by all property owners if either the number of lots is reduced or different owners for different lots are involved in the recombination;
- (h) The recombination plat is signed and sealed by a registered surveyor;
- (i) The recombination plat is certified by the Planning Director; and
- (j) The recombination plat conforms to all laws and ordinances for the recordation of maps.

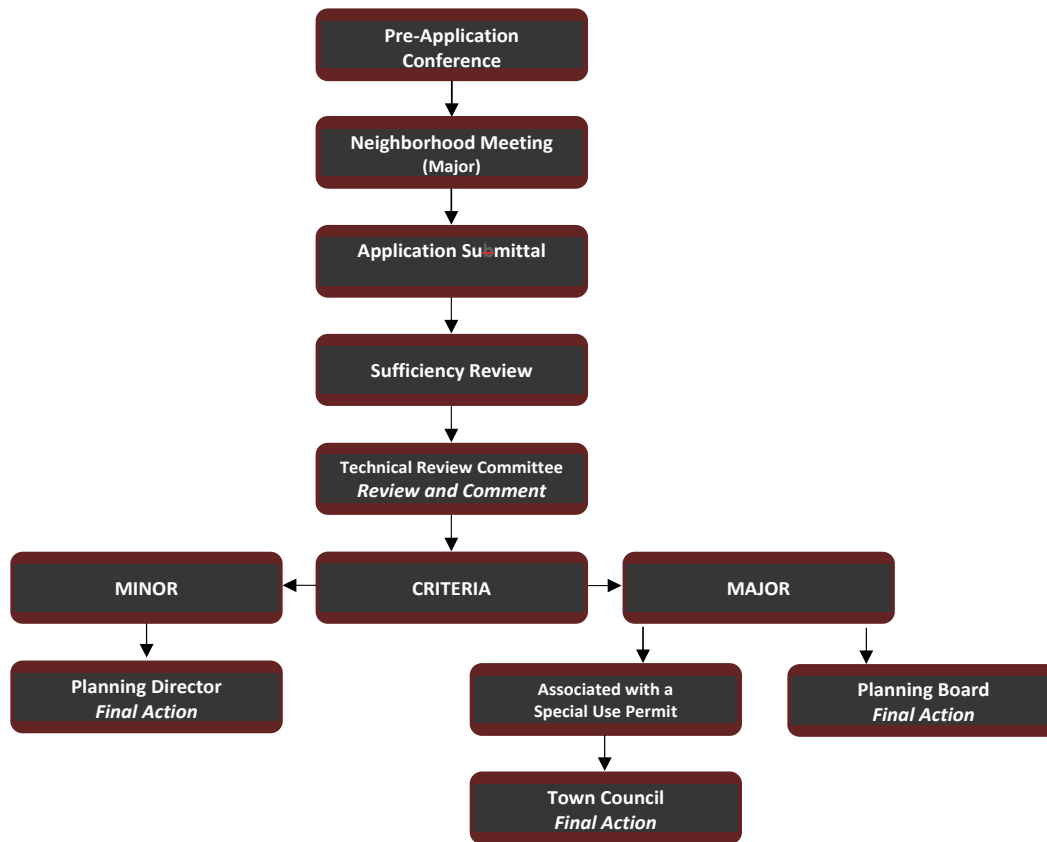
(P) **APPEAL**

Final action on a final plat may be appealed to the Board of Adjustment in accordance with § 155.717.

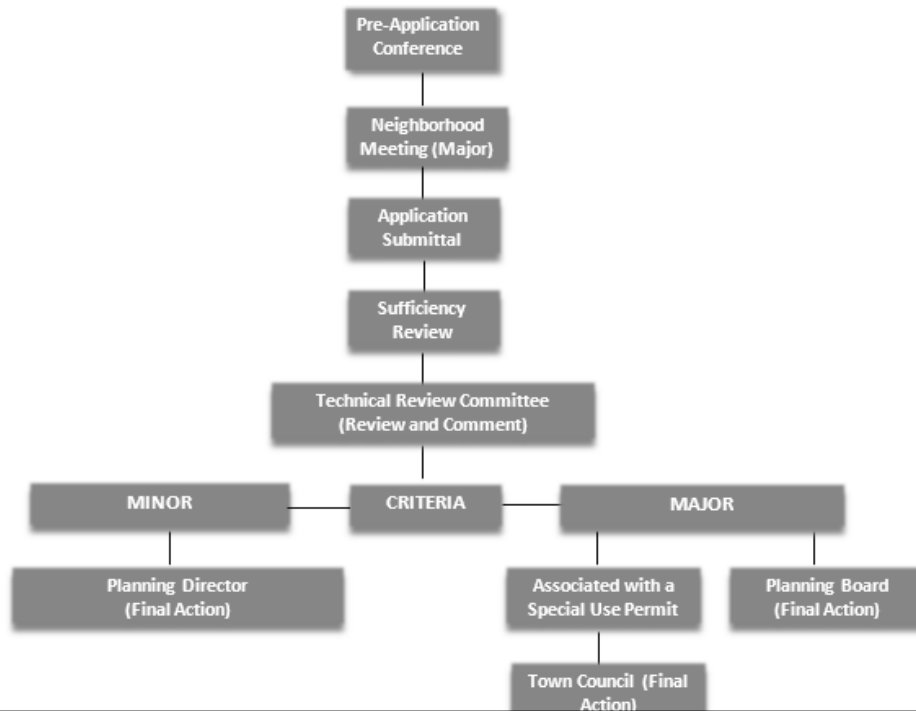
(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2008-08-04, passed 8-4-08; Am. Ord. 2011-05-02, passed 5-2-11; Am. Ord. 2018-07-02, adopted 07/16/2018)

## **§155.707 SITE PLAN REVIEW**

Site Plan Review



**SITE PLAN REVIEW**





(A) **APPLICABILITY**

- (1) All proposed development, except for single-family detached, zero lot line, duplexes, and alley-loaded dwelling units on individual lots, shall be subject to the site plan review process.
- (2) Temporary uses may require site plan review (see § 155.712).

~~(B)~~ **SITE PLAN TYPES**

There are two types of site plans with differing levels of approval required for each. The criteria for establishing which type of site plan and the corresponding level of approval for each are indicated below.

~~(1)~~ **Minor Site Plans**

~~(a)~~ **Applicability**

1. The following shall be reviewed as a minor site plan:
  - A. Parking lot expansions where there is no increase in excess of 5% of floor area of the principal structure;
  - B. Accessory uses in commercial districts involving structures less than 500 square feet; and
  - C. Amenity facilities, park and open area uses in approved subdivisions.
2. Projects listed below shall also be reviewed as a minor site plan provided they do not require a traffic impact analysis in accordance with § 155.708; do not require modification of the standards established in this chapter other than those which the Planning Director may modify administratively; and do not involve the issuance of a conditional use permit or a special use permit.
  - A. Developments of up to 2,500 square feet of building for nonresidential uses; and
  - B. Expansion of an existing conforming structure or expansion of a previously approved site plan by less than 2,500 square feet or 5% in floor area or number of units, whichever is greater.

~~(b)~~~~(a)~~ **Approval Authority**

The Planning Director shall be responsible for approving ~~a minor site plan~~site plans, following review and certification from the TRC.

~~(2)~~ **Major Site Plans**

~~(a)~~ **Applicability**

Any development requiring site plan review not listed in (B)(1) of this section as a minor site plan shall be considered a major site plan.

~~(b)~~ **Approval Authority**

1. ~~The Planning Board shall be responsible for approving major site plans other than those associated with special use permits.~~
2. ~~The Town Council shall be responsible for approval of major site plans associated with special use permits (see § 155.711).~~

~~(C)(Q)~~ **PRE-APPLICATION CONFERENCE**

- (1) All applicants seeking site plan approval shall schedule a pre-application conference with the Planning Director, in accordance with § 155.702(A).
- ~~(2) The Planning Director shall make a determination as to which approval process authorized by this section can be used. The Planning Director may require the applicant to submit whatever supplemental information is necessary to make this determination.~~

~~(D)(R)~~ **MINOR SITE PLAN REVIEW**

(1) **Application Requirements**

An application for ~~minor~~ site plan approval shall be submitted accordance with § 155.702(C).

(2) **Action by Planning Director**

- (a) Upon submission of a completed application, the Planning Director shall schedule the ~~minor~~ site plan for review by the Technical Review Committee. The Technical Review Committee shall review the ~~minor~~ site plan for consistency with the requirements of this chapter and other applicable Town ordinances.
- (b) After technical review, the Planning Director shall determine whether the ~~minor~~ site plan conforms to the requirements of this chapter.

~~(3)~~ **~~Modifications to Approved Minor Site Plans~~**

~~The Planning Director shall have authority to grant modifications to approved minor site plans in accordance with the provisions of this section or refer the modification to the Technical Review Committee if deemed necessary.~~

~~(E)~~ **MAJOR SITE PLAN REVIEW**

~~(1)~~ **Application Requirements**

An application for major site plan approval shall be submitted accordance with § 155.702(C).

~~(2)~~ **Neighborhood Meeting**

~~All applicants seeking major site plan approval shall hold a neighborhood meeting in accordance with § 155.702(B).~~

~~(3)~~ **Action by Planning Director**

~~(a) Upon submission of a completed application, the Planning Director shall schedule the major site plan for review by the Technical Review Committee. The Technical Review Committee shall review the major site plan for consistency with the requirements of this chapter.~~

~~(b) Upon completion of the technical review, the Planning Director shall prepare a report that reviews the application in light of comments provided by the Technical Review Committee, and in light of the adopted plans and policies of the Town and the general requirements of this chapter. The report, site plan and any related application materials shall be forwarded to the Planning Board. If the site plan is running concurrently with an associated Special Use Permit, the site plan and any related application materials shall be forwarded directly to the Town Council for final review.~~

~~(4)~~ **Action by Planning Board**

~~(a) After considering the Planning Director's comments, the Planning Board shall approve or disapprove the major site plan, or send the site plan back to the Technical Review Committee for additional consideration.~~

~~(b) Major site plans requiring revisions shall be returned to the Planning Board within 90 days or the application shall be considered withdrawn. One extension period may be granted by the Planning Board.~~

~~(5)~~ **Action by Town Council**

~~(a) After considering the Planning Director's comments, the Town Council shall approve or disapprove a major site plan associated with a Special Use Permit application, or send the site plan back to the Technical Review Committee for additional consideration.~~

~~(b) Major site plans requiring revisions shall be returned to the Technical Review Committee within 90 days or the application shall be considered withdrawn.~~

~~(6)~~(3) **Modifications to Approved ~~Major~~ Site Plans**

~~(a) Minor deviations/modifications. If a proposed amendment to a major site plan represents only a minor deviation from modification to the approved site plan, the applicant shall file-submit a-an Administrative Amendment application written application for such amendment with-to the Planning Director who shall act upon such application within ten business days of its receipt. Minor deviations/modifications shall include, but are not limited to, the following:~~

1. A less than 5% increase, or any decrease, in the floor area or number of dwelling units, provided that the district maximums of the subject property ~~for which an minor site plan has been submitted,~~ is not exceeded.
2. A less than 10% decrease in parking spaces, open space or livability space;
3. The minor relocation of any structure, dedicated street, easement or landscape screen in any direction from the location shown on the site plan unless deemed by the Planning Director to significantly alter the approved plan such that it would not meet the performance standards of this UDC.

~~(7)~~(4) **Substantial Deviations**

If a proposed amendment to a site plan deviates substantially from the approved site plan, the approved site plan shall be amended in accordance with the procedure and standards which governed its approval. Such substantial deviations include the following, in addition to any modifications not identified as minor:

- (a) A 5% or greater increase in floor area or number of dwelling units;
- (b) A 10% or greater decrease in parking spaces, or open space ~~or livability space;~~
- (c) The relocation of any structure, dedicated street, or easement, ~~or landscape screen~~ in any direction from the location shown on the major site plan for the distances specified below based on the size of the development:
  1. 25 feet or more for major site plans of two acres or less;
  2. 50 feet or more for major site plans of more than two acres but less than eight acres;
  3. 100 feet or more for major site plans of eight acres but less than 20 acres; and
  4. 150 feet for major site plans of 20 acres or more.

~~(F)~~(S) **APPROVAL CRITERIA**

In approving a site plan, ~~the Planning Director, Planning Board, and Town Council shall consider the following shall be considered:~~

- (1) Consistency with the adopted plans and policies of the Town;
- (2) Compliance with all applicable requirements of this Chapter;
- ~~(3) Site design and development intensity is appropriate for and tailored to the unique natural characteristics of the site, such as significant wooded areas, specimen trees, wetlands, steep slopes, and floodplains;~~

~~(4)~~(3) For nonresidential and multifamily projects, the site plan displays the location of trash handling, recycling, grease bins, and other waste-related facilities employed in the normal operation of the use;

~~(5)~~(4) Adequacy and location of parking areas and pedestrian and vehicular access points;

~~(6)~~(5) Compliance with site construction specifications;

~~(7)~~(6) Adequacy of stormwater facilities, water supply, sanitary sewer service, fire protection, street signs, and street lighting as evidenced by conformance with department standards, specifications and guidelines;

~~(8)~~ That the application will not substantially injure the value of adjoining or abutting property, and will not be detrimental to the use or development of adjacent properties or other neighborhood uses;

~~(9)~~(7) Compliance with requirements for easements or dedications;

~~(10)~~(8) Compliance with any applicable subdivision improvements; and

~~(11)~~(9) If applicable, compliance with the an approved ~~planned development~~ master plan.

~~(12)~~ Building design and materials uphold and promote high quality development in the Town and are compatible with other uses in the surrounding neighborhood.

~~(G)~~(T) **PERIOD OF VALIDITY**

An approved site plan shall expire two years from the date of approval unless the proposed development is pursued as set forth below:

- (1) A complete building permit application has been submitted and remains valid;
- (2) Where more than one building is to be built, the applicant may submit a series of building permit applications. The first application shall be submitted within two years from the date that site plan approval is granted. Each subsequent application shall be submitted within 180 days from the date of issuance of a certificate of occupancy for the previous building; or if no building permit is required, a certificate of occupancy has been issued.

~~(H)~~(U) **BUILDING PERMIT/CERTIFICATE OF OCCUPANCY**

- (1) No building permit or certificate of occupancy shall be issued until the required site plan of the proposed use or development has been approved by the appropriate Town officials.
- (2) In order to secure a vested right for a site plan, the applicant must submit a site-specific vesting development plan in accordance with § 155.718.

~~(I)~~(V) **DEDICATION AND IMPROVEMENTS**

- (1) In the development of any property for which a site plan is required in this section, the applicant shall be required to dedicate any additional right-of-way necessary to the width required by the Town for streets adjoining the property, to install curbs and gutters and pave all streets adjoining the property to Town standards, and to install sidewalks in accordance with the policies and requirements of ~~§§ 155.600 through 155.607~~ Article 4006.
- (2) The applicant shall bear the costs of the installation of all on-site improvements as required by this chapter, including provision for surface drainage, pavement, landscaping, and utilities. Any applicant required to install or construct off-site improvements pursuant to this section may, with the approval of the Planning Director as a condition of site plan approval, and upon a determination by the ~~Planning Director~~ Town that such improvements are not necessary or desirable at the time, but will be needed in the future, make a payment in lieu of such improvements or part thereof. The amount of any such payment shall be an amount estimated by the Town to be the actual and total installation and construction costs of such improvements. The amount paid for a given improvement shall be considered total and complete payment for the improvements considered, and will preclude any further assessment of the property in the event that the Town elects to install such improvements at a later date. Full payment shall be made before any building permit or certificate of occupancy is issued for any use shown on the site plan.
- (3) For all residential and ~~planned developments~~ master planned conditional zoning districts involving a residential component, approved after January 1, 2021 ~~the effective date of this chapter~~, recreation and open space dedication, or payment of fee-in-lieu thereof in accordance with § 155.203(H) shall be required.

#### ~~(H)~~(W) GUARANTEES OF IMPROVEMENTS

- (1) Prior to the approval of any site plan, the applicant shall submit a cost estimate and time schedule for installation of each phase of the site improvements.
- (2) The Town shall require a ~~bond~~ performance guarantee ~~guaranteeing~~ for all ~~required~~ on-site and off-site improvements. This ~~bond shall be in the amount determined by the Town Manager~~ performance guarantee shall be in the amount of 125% of the estimated cost of improvements. The guarantee shall be a surety bond, a letter of credit, or other form of guarantee that provides equivalent security to a surety bond or letter of credit, the form to be at the election of the person required to give the performance guarantee. This bond shall be in cash, certified check, or be made by a bonding/insurance company authorized to do business in North Carolina. See also NC GS § 160D-804(g).
- (3) As each phase of improvements is installed and inspected by the Town, the ~~guarantee~~ shall be reduced to an amount equal to 125% of the reasonably estimated cost of completion of the remaining incomplete improvements. ~~bond amount shall be reduced by the costs of the installed improvements.~~
- (4) In the event that the applicant wishes to occupy any building or any portion of any building prior to the completion of the required site improvements, the bond guaranteeing improvements shall be retained by the Town until the remaining required improvements are completed.

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~~(K)~~(X) **INSPECTIONS OF REQUIRED IMPROVEMENTS**

Inspections during ~~of~~off-site improvements shall be made in accordance with § 155.607(d).

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2018-07-02, adopted 07/16/2018)

## § 155.708 TRAFFIC IMPACT ANALYSIS

### (A) APPLICABILITY

- (1) A traffic impact analysis may be required to be submitted in conjunction with an application for a ~~Conditional Zoning District Master Plan~~ planned development, preliminary plat, ~~major~~ site plan, or special use permit.
- (2) Unless exempted in (B) of this section, a traffic impact analysis shall be required for projects, which can be anticipated to generate at least 1,000 new vehicle trips per day or at least 100 new vehicle trips at peak hour from the latest edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual.

*Commentary: 100 peak hour vehicle trips equates to approximately 100 single-family units or 25,000 square feet of general commercial space.*

### (B) EXEMPTIONS

The following projects shall not be required to submit a traffic impact analysis:

- (1) Developments approved prior to the effective date of this chapter that have maintained valid conditional district master plans (formerly planned development master plans), preliminary plats, major site plans, or special use permits.
- (2) Redevelopment of any site on which the additional traffic at peak hour represents an increase of less than 100 trips from the previous development, where the redevelopment is initiated within 12 months of the completion of demolition of the previous project.
- (3) ~~Minor site plans.~~ Site plans that do not trigger the requirements for a Traffic Impact Analysis outlined in § 155.708(A).

### (C) PRE-APPLICATION CONFERENCE

- (1) All applicants required to submit a traffic impact analysis shall schedule a pre-application conference with the Planning Director, in accordance with § 155.702(A).
- (2) The Planning Director and the Town's consultant, if applicable, shall determine the type and scope of the study during the pre-application conference, which may also involve representatives from other agencies or departments.

### ~~(D)~~ WAIVER AUTHORIZED

- ~~(1) The Planning Director may waive the requirement to submit a traffic impact analysis. If the Director waives the requirement to submit a traffic impact analysis, the Director shall include the reason for the waiver in the Director's decision or recommendation on the application.~~



- ~~(2) An applicant who obtains a waiver under this section must mitigate adverse effects of the traffic generated from a proposed development.~~
- ~~(3) The traffic generated from a proposed development for which the requirement to submit a traffic impact was waived may not:~~
  - ~~(a) In combination with existing traffic, exceed the desirable operating level established in (H) of this section; or~~
  - ~~(b) Endanger the public safety.~~

#### ~~(F)~~(D) **APPLICATION REQUIREMENTS**

A traffic impact analysis prepared by a professional engineer licensed in the state of North Carolina shall be submitted in accordance with § 155.702(c). The traffic impact analysis must conform with the requirements of this section and the Town's engineering design manual. The traffic impact analysis report must describe the study methodology, the data used, and the study findings and provide recommendations based on the results.

#### ~~(F)~~(E) **DEFINITION OF IMPACT AREA**

The Planning Director shall determine the geographic area to be included in a traffic impact analysis. Identification of the points of access and key streets and intersections to be affected by development of the subject parcel shall be required. Traffic recorder and turning movement assessment locations may also have to be determined. The study area shall extend to the point where the project traffic at build-out is less than 10% of the capacity of the roadway or intersection.

#### ~~(G)~~(F) **CONSULTANTS**

The Planning Director may require that an independent consultant be hired by the Town to perform the required studies, or to review all or part of a study prepared by the applicant's consultant. The Planning Director is authorized to administer the contract for any such consultant.

- (1) The Town shall determine the scope of services to be performed by the independent consultant and receive a cost estimate of such services.
- (2) The applicant shall provide an amount equal to the cost estimate to the Town, which shall deposit the amount in an escrow or other special account set up for this purpose. Any funds not used shall be returned to the applicant in a timely manner, without interest. If the estimated or actual cost increases during the review from the Town's initial cost estimate, the applicant immediately shall provide an amount equal to the increased cost to the Town, which the Town shall deposit in the escrow or special account. The final approval of any application requiring a traffic impact analysis by the Town shall be contingent upon the full payment of all consultant costs incurred for the analysis.
- (3) The Town may require additional funds for independent review where a decision-making body expands the scope of the required review; the applicant substantially amends the application; additional meetings involving the consultant are requested by the applicant; or

the consultant's appearance is requested at public or affected agency meetings beyond those anticipated in the original scope of services.

#### ~~(H)~~(G) **DESIRABLE OPERATING LEVELS FOR CERTAIN STREETS AND INTERSECTIONS**

Traffic on a residential local or collector street is operating at a desirable level if it does not exceed the following levels:

| <i>Pavement Width</i>        | <i>Vehicles Per Day</i> |
|------------------------------|-------------------------|
| Less than 30 feet            | 1,200                   |
| 30 feet to less than 40 feet | 1,800                   |
| 40 feet or wider             | 4,000                   |

#### ~~(H)~~(H) **ACTION ON APPLICATION**

- (1) The Planning Director ~~may~~ shall deny an application if the ~~results of a traffic impact analysis demonstrate that a proposed development may overburden the Town's street system~~ applicant is unwilling or unable to successfully mitigate the proportional impact that the proposed development will have on the public transportation network.
- (2) The Planning Director shall deny an application if the traffic impact analysis demonstrates that:
  - (a) The projected traffic generated by the project, combined with existing traffic, exceeds the desirable operating level established in ~~(H)~~(G) of this section in the traffic impact analysis study area; ~~or~~
  - ~~(b) The project endangers the public safety.~~

#### ~~(H)~~(I) **APPLICATION MODIFICATION BASED ON TRAFFIC ANALYSIS**

An applicant may modify an application to minimize the traffic-related effects identified in a traffic impact analysis. Modifications may include:

- (1) A reduction in the projected vehicle trips per day;
- (2) The dedication of additional right-of-way;
- (3) The rerouting of traffic ~~and a~~ or modifications or additions of the internal street network or proposed access and egress points;
- (4) Participation in the funding of a traffic signal ~~or~~ intersection improvement, or other off-site transportation improvement; and
- (5) Other modification determined to be necessary.

#### ~~(K)~~(J) **APPEAL OF PLANNING DIRECTOR'S ACTION**

- 
- (1) An applicant may appeal the Planning Director's denial to the Town Council.
  - (2) The Town Council may approve the traffic impact analysis if the Council determines that the:
    - (a) Applicant has satisfactorily mitigated adverse traffic effects; or
    - (b) Additional traffic from the project has an insignificant effect on the Town's streets.

~~(L)~~(K) **PERIOD OF VALIDITY**

A traffic impact analysis shall be valid for a specific site for no more than the period for which the plan is vested~~ten years~~, so long as no significant modifications to the development approved for the site are made.

(Ord. 2005-11-02, passed 11-21-05)

## **§ 155.709 ZONING PERMIT**

### **(A) APPLICABILITY**

- (1) It shall be unlawful to begin moving, constructing, altering, or repairing, except ordinary repairs, of any building or other structure on a site including an accessory structure, until the Planning Department has issued a zoning permit for such work.
- (2) It shall be unlawful to change the type of use of land, or to change the type of use or type of occupancy of any building, or to extend any use or any lot on which there is a nonconforming use, until the Planning Department has issued a zoning permit for such intended use, including a determination that the proposed use, in all respects, conforms to the provisions of this chapter.
- (3) It shall be unlawful to undertake any land-disturbing activity until the Planning Department has issued a zoning permit for such work.
- (4) No zoning permit is required for permitted temporary uses (see § 155.712).

### **(B) TIMING OF APPLICATION**

In all cases where a building permit is required, application for a zoning permit shall be made concurrently with the application for a building permit. In all other cases, application shall be made before initiating any of the activities that trigger compliance with this Section.

### **(C) APPLICATION REQUIREMENTS**

All applications for a zoning permit shall be submitted in accordance with § 155.702(c).

### **(D) ACTION BY PLANNING DIRECTOR**

- (1) If the proposed application is in conformity with the provisions of this chapter, the Planning Department shall issue a zoning permit, provided that all of the following conditions shall apply:
  - (a) Issuance of a zoning permit shall in no case be construed as waiving any provisions of this Chapter or other Town Ordinances or other governmental regulations;
  - (b) The Planning Director shall not grant any exceptions to the actual meaning of any clause, standards, or regulation contained in this chapter to any person making application to excavate, construct, move, alter or use buildings, structures or land;
  - (c) The Planning Director shall issue a permit when the imposed conditions of this Chapter are complied with by the applicant regardless of whether the use of the permit would violate contractual or other arrangements (including, but not by way of limitation, restrictive covenants) among private parties; and

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(d) The zoning permit shall include a determination that plans, specifications and the intended use of such structure and land do, in all respects, conform to the provisions of this Chapter. Prior to the issuance of a zoning permit, the Planning Director shall consult with other applicable departments, as necessary.

(2) If the proposed application, is not in conformity with the provisions of this Chapter, the Planning Director shall not issue the zoning permit and shall provide in writing the cause of such disapproval to the applicant.

(E) **EXPIRATION**

Once a zoning permit has been issued, all activities pursuant to such permit shall be commenced within six months. If the proposed moving, constructing, altering, repairing, or use of land, as set forth in an application for a zoning permit, is discontinued for a period of one year or more, the zoning permit shall lapse and be of no further force and effect.

(F) **APPEAL**

Final action on a zoning permit may be appealed to the Board of Adjustment in accordance with § 155.717.

(Ord. 2005-11-02, passed 11-21-05)

**§ 155.710 ~~<RESERVED; PREVIOUSLY “CONDITIONAL USE PERMIT REVIEW”>~~ CONDITIONAL USE PERMIT REVIEW**

**CONDITIONAL USE PERMIT PROCESS**

**CONDITIONAL USE PERMIT PROCESS**



**~~(A)~~ APPLICABILITY**

- ~~(1) Conditional Uses are considered to be uses that may be appropriate in a particular zoning district, but because of their potential for incompatibility with adjacent uses require individual review by the Board of Adjustment.~~
- ~~(2) A Conditional Use Permit shall be required for all Conditional Uses as set forth in the Permitted Land Use Table (see § 155.202(B)). A development comprised of uses regulated by separate rows on the table shall be reviewed using the most restrictive process from among the proposed uses. The Conditional Use review process is as follows:~~
- ~~(3) Where a use requiring approval as Conditional Use lies on a separate legal parcel, only the building containing the use and its separate parcel shall be subject to Conditional Use review, not the entire project. However, where the separate legal parcel is an outparcel, the application shall describe the relationship of the outparcel to the remaining site.~~

~~(G)~~ **PRE APPLICATION CONFERENCE**

All applicants seeking Conditional Use approval shall schedule a pre-application conference with the Planning Director, in accordance with ~~§ 155.702(A).~~

~~(H)~~ **APPLICATION REQUIREMENTS**

~~(1) An application for a Conditional Use Permit shall be submitted in accordance with § 155.702(C).~~

~~(2) If a Site Plan is required for the proposed Conditional Use Permit pursuant to § 155.707, the applicant shall submit a Site Plan for review and approval concurrent with the Conditional Use Permit request, in accordance with § 155.707. The two applications shall be filed together and review of each application shall proceed simultaneously in accordance with the provisions of this Chapter. However, the designated decision-making body shall render separate decisions on each application, recognizing that the applications are distinct and subject to different standards for approval.~~

~~(3) A Traffic Impact Analysis may be required if the proposed development meets the thresholds established in § 155.708.~~

~~(I)~~ **NEIGHBORHOOD MEETING**

All applicants seeking Conditional Use Permit approval shall hold a neighborhood meeting in accordance with ~~§ 155.702(B).~~

~~(J)~~ **ACTION BY PLANNING DIRECTOR**

~~(1) Upon submission of a completed application, the Planning Director shall schedule the Conditional Use Permit request and site plan, if applicable, for review by the Technical Review Committee. The Technical Review Committee shall review the request for consistency with the requirements of this Chapter.~~

~~(2) Upon completion of the technical review, the Planning Director shall prepare a report that reviews the application in light of comments provided by the Technical Review Committee, in light of the adopted plans and policies of the Town, and the general requirements of this Chapter. The report, site plan and any related application materials shall be forwarded to the Board of Adjustment.~~

~~(3) Where a Major Site Plan is required, the Planning Board shall consider the site plan application following action by the Board of Adjustment. The site plan shall be processed pursuant to § 155.707.~~

~~(K)~~ **NOTICE AND PUBLIC HEARINGS**

The Town shall hold all required public hearings and give notice in accordance with ~~§ 155.702(D).~~

~~(L)~~ **ACTION BY BOARD OF ADJUSTMENT**

~~(1)~~ **Procedure**

- ~~(a)~~ The Board of Adjustment may approve the request, deny the request, or continue the request. A simple majority vote of the Board is necessary to grant a Conditional Use Permit.
- ~~(b)~~ Each decision shall be accompanied by the Findings of Fact that specifies the reason for the decision.
- ~~(c)~~ In approving the Conditional Use Permit, the Board of Adjustment may prescribe reasonable and appropriate conditions which will ensure that the use will be compatible with adjacent properties and will not alter the character of the neighborhood.
- ~~(d)~~ Conditions may be imposed by the Board of Adjustment regarding the location, character, and other features of the proposed building or use as may be deemed by the Board of Adjustment to protect property values and general welfare of the neighborhood. Nonconformance with such conditions and safeguards, when part of the terms under which the Conditional Use Permit is granted, shall be deemed a violation of this Chapter.
- ~~(e)~~ Any additional condition approved by the Board of Adjustment shall become a part of the permit.

~~(2)~~ **Findings of Fact**

No Conditional Use Permit shall be approved by the Board of Adjustment, unless the following findings are made concerning the application:

- ~~(a)~~ That the application will not materially endanger the public health or safety if located where proposed, and developed according to the plans as submitted and approved.
- ~~(b)~~ That the application meets all required specifications and conforms to the standards and practices of sound land use planning and the Town Code of Ordinances, or other applicable regulations.
- ~~(c)~~ That the application will not substantially injure the value of adjoining or abutting property, and will not be detrimental to the use or development of adjacent properties or other neighborhood uses.
- ~~(d)~~ That the application will not adversely affect the adopted plans and policies of the Town, or violate the character of existing standards for development of the adjacent properties.

~~(M)~~ **MODIFICATIONS TO APPROVED CONDITIONAL USE PERMITS**



~~(1)~~ **Minor Deviations**

The Planning Director is authorized to approve minor deviations to a Conditional Use Permit, if such change is not contrary to the approving action of the Board of Adjustment, but shall not have the authority to approve substantial deviations as set forth below.

~~(2)~~ **Substantial Deviations**

~~(a)~~ Any deviation requiring evidentiary support in addition to that presented at a public hearing on applications for the original permit shall constitute a substantial deviation. Before making a determination as to whether a proposed action is a minor deviation or a substantial deviation, the Planning Director shall review the record of the proceedings on the original application. Substantial deviations shall include the following:

- ~~1.~~ A change in the boundaries of the approved site;
- ~~2.~~ A change from the approved use;
- ~~3.~~ An increase of 5% or more in the approved floor area, unless proposed addition is 500 square feet of floor area or less, whether such addition is proposed at one time or over an extended period of time;
- ~~4.~~ An increase of 5% or more in the number of approved parking spaces, unless the proposed addition is ten or fewer spaces, whether such addition is proposed at one time or over an extended period of time;
- ~~5.~~ Substantial change in the location of principal or accessory structures;
- ~~6.~~ Structural alterations significantly affecting the basic size, form, style, ornamentation, and appearance of principal or accessory structures as shown on the approved site plan;
- ~~7.~~ Substantial changes in pedestrian or vehicular access or circulation; and
- ~~8.~~ Substantial change in the amount or location of landscape screens.

~~(b)~~ If a proposed amendment deviates substantially from the approved Conditional Use Permit, the approved Conditional Use Permit shall be amended in accordance with the procedure and standards which governed its approval.

~~(N)~~ **EFFECT OF DECISION**

~~(1)~~ If the Board of Adjustment votes to deny an application, there may be no subsequent application for the same or similar use submitted by any party for any part of the subject property until 12 months have elapsed from the date of denial. If the Board of Adjustment votes to approve an application, the permit shall be recorded in the County Register of Deeds office.

- ~~(2) The Conditional Use Permit and additional conditions, if applicable, shall run with the land and shall be binding on the original applicant as well as any successors, assigns, and heirs. Any decision by the Board of Adjustment, may be appealed within 30 days of the decision in accordance with G.S. § 160A-381.~~

~~(O) PERIOD OF VALIDITY~~

- ~~(1) An approved Conditional Use Permit shall expire 12 months from the date of approval unless the proposed development is pursued as set forth below:~~
- ~~(a) A complete building permit application has been submitted and remains valid;~~
- ~~(b) Where more than one building is to be built, the applicant may submit a series of building permit applications. The first application shall be submitted within 12 months from the date approval was granted. Each subsequent application shall be submitted within 180 days from the date of issuance of a certificate of occupancy for the previous building; or~~
- ~~(c) If no building permit is required, a Zoning Permit has been issued.~~
- ~~(2) Once the appropriate permit has been issued, the Conditional Use Permit shall remain in force unless the use, construction, or activity ceases for a period of 12 consecutive months. In such instance the Conditional Use Permit shall become void. If a Conditional Use is determined by the Planning Director to be void, such determination shall be transmitted in writing to the applicant.~~

~~(P) BUILDING PERMIT/CERTIFICATE OF OCCUPANCY/ZONING PERMIT~~

- ~~(1) No building permit, certificate of occupancy or Zoning Permit shall be issued for the Conditional Use Permit until the site plan (if required) for the proposed use or development has been approved by the Planning Director (minor) or the Planning Board (major).~~
- ~~(2) In order to secure a vested right for a site plan, the applicant must submit a site specific development plan in accordance with § 155.718.~~

~~(Q) REVOCATION OF A CONDITIONAL USE PERMIT~~

- ~~(1) If any conditions of a Conditional Use Permit or other requirements of this Chapter are violated, the Board of Adjustment may revoke the permit. Revocation may occur after an evidentiary hearing is conducted by the Board of Adjustment.~~
- ~~(2) Upon a four fifths vote, the Board of Adjustment shall revoke the permit, and notice of such revocation shall be recorded in the County Register of Deeds office.~~
- ~~(3) Violations of conditions of a Conditional Use Permit shall be considered a violation of this Chapter and thereby subject to the provisions of § 155.720.~~

~~(R) COORDINATION WITH VARIANCES~~

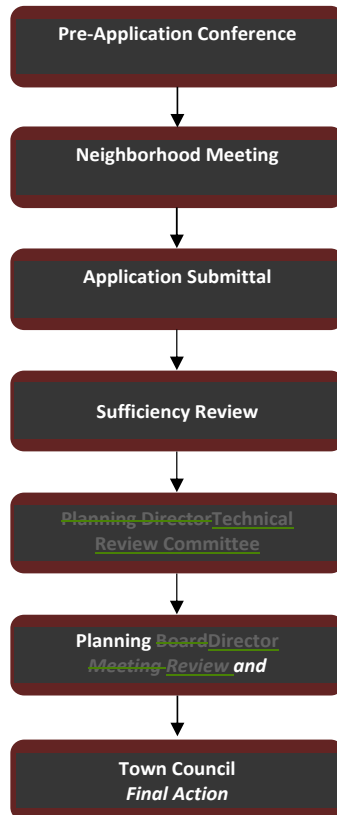
~~Applications for Variances may be submitted concurrently with a request for a Conditional Use Permit. However, decisions shall be rendered with separate motions. The Conditional Use Permit request shall be considered first, and where it is denied, the variance request shall be null and void.~~

~~(S)~~ **COORDINATION WITH REZONING**

~~An application for a Conditional Use Permit may be reviewed concurrently with a Rezoning application. However, a decision shall be rendered first for any Rezoning and then subsequently for any Conditional Use Permit.~~

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2011-05-01, passed 5-2-11; Am. Ord. 2014-03-02, passed 3-17-14; Am. Ord. 2018-07-02, adopted 07-16-18)

**§ 155.711 SPECIAL USE PERMIT -REVIEW**



**SPECIAL USE REVIEW**



(A) **APPLICABILITY**

~~(4)~~(1) Special uses within each general use district are uses that may be appropriate in a particular district, but because of the increased potential for incompatibility with adjacent uses requires individual review by the Town Council.

~~(1)~~(2) A special use permit shall be required for all special uses as set forth in the Permitted Land Use Table (see § 155.202(B)). A development comprised of uses regulated by separate rows on the table shall be reviewed using the most restrictive process from among the proposed uses.

(3) Where a use requiring a approval as a special use lies on a separate legal parcel, only the building containing the use and its separate parcel shall be subject to special use review, not the entire project. However, where the separate legal parcel is an outparcel, the application shall describe the relationship of the outparcel to the remaining site.

~~(2)~~(4) Previously approved and valid Conditional Use Permits are subject to §155.109.

(B) **PRE-APPLICATION CONFERENCE**

All applicants seeking special use approval shall schedule a pre-application conference with the planning director, in accordance with § 155.702(a).

(C) **NEIGHBORHOOD MEETING**

All applicants seeking special use approval shall hold a neighborhood meeting in accordance with § 155.702(b).

(D) **APPLICATION REQUIREMENTS**

(1) Concurrent with a request for a special use permit, an applicant shall submit a site plan application for review and approval.

(2) An application for a special use permit shall be submitted in accordance with § 155.702(C).

(3) A traffic impact analysis may be required if the proposed development meets the thresholds established in § 155.708.

(E) **NOTICE AND PUBLIC HEARINGS**

The ~~town~~Town shall hold all required public hearings and give notice in accordance with § 155.702(d).

(F) **ACTION BY PLANNING DIRECTOR**

(1) Upon submission of a completed application, the Planning Director shall schedule the associated site plan application for review by the Technical Review Committee. The Technical

Review Committee shall review the site plan for consistency with the requirements of this chapter.

- (2) Upon completion of the technical review, the Planning Director shall prepare a report that reviews the application in light of comments provided by the Technical Review Committee, in light of the adopted plans and policies of the ~~town~~Town, and the general requirements of this chapter. The report, site plan and any related application materials shall be forwarded to the Town Council.

(G) **ACTION BY TOWN COUNCIL**

- (1) Before taking action on the special use request, the Town Council shall consider the recommendation of the Planning Director.
- (2) The Town Council may approve the request, deny the request, or send the request back to the Technical Review Committee for additional consideration.

(H) **FINDINGS OF FACT REQUIRED**

No special use permit shall be approved unless the following findings are made concerning the application:

- (1) That the application will not materially endanger the public health or safety if located where proposed, and developed according to the plans as submitted and approved.
- (2) That the application meets all required specifications and conforms to the standards and practices of sound land use planning and the Town Code of Ordinances or other applicable regulations.
- (3) That the application will not substantially injure the value of adjoining or abutting property, and will not be detrimental to the use or development of adjacent properties or other neighborhood uses.
- (4) That the application will not adversely affect the adopted plans and policies of the ~~town~~Town, or violate the character of existing standards for development of the adjacent properties.

(I) **ADDITIONAL CONDITIONS**

- (1) In granting approval of a special use permit, the Town Council may impose reasonable conditions which serve to assure that the required findings are upheld. Such conditions may include, but are not limited to, right-of-way or easement dedication; recreation, open space, or buffer provision; limitation in scale, intensity, or hours of operation; and other reasonable restrictions.
- (2) Any additional condition approved by the Town Council shall become a part of the permit and be of equal importance in the responsibility of the applicant or subsequent assigns to adhere to its terms.

~~(2)~~(3) Prior to a decision by the Town Council, the applicant shall consent to these conditions in writing or decline consent to the conditions. Conditions and safeguards imposed under this section shall not include requirements for which the Town does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by a local government.

(J) **MODIFICATIONS TO APPROVED SPECIAL USE PERMITS**

(1) **Minor Deviations**

The Planning Director ~~is authorized to~~ shall approve minor deviations (also known as minor modifications) to a special use permit provided that such changes are, if such change is not contrary to the approving action of the Town Council, ~~but~~ The Planning Director shall not have the authority to approve substantial deviations as set forth below.

(2) **Substantial Deviations**

- (a) Any deviation requiring evidentiary support in addition to that presented at a public hearing on applications for the original permit shall constitute a substantial deviation. Before making a determination as to whether a proposed action is a minor deviation or a substantial deviation, the Planning Director shall review the record of the proceedings on the original application. Substantial deviations shall include the following:
1. A change in the boundaries of the approved site;
  2. A change from the approved use;
  3. An increase of 5% or more in the approved floor area, unless proposed addition is 500 square feet of floor area or less, whether such addition is proposed at one time or over an extended period of time;
  4. An increase of 5% or more in the number of approved parking spaces, unless the proposed addition is ten or fewer spaces, whether such addition is proposed at one time or over an extended period of time;
  5. Substantial change in the location of principal or accessory structures;
  6. Structural alterations significantly affecting the basic size, form; style, ornamentation, and appearance of principal or accessory structures as shown on the approved site plan;
  7. Substantial changes in pedestrian or vehicular access or circulation; and
  8. Substantial change in the amount or location of landscape screens.
- (b) If a proposed amendment deviates substantially from the approved special use permit, the approved special use permit shall be amended in accordance with the procedure and standards which governed its approval.



(K) **EFFECT OF DECISION**

- (1) If the Town Council votes to deny an application, there may be no subsequent application for the same or similar use submitted by any party for any part of the subject property until 12 months have elapsed from the date of denial. If the Town Council votes to approve an application, the permit shall be recorded in the County Register of Deeds office.
- (2) The special use permit and additional conditions, if applicable, shall run with the land and shall be binding on the original applicant as well as any successors, assigns, and heirs. Any decision by the Town Council may be appealed within 30 days of the decision in accordance with G.S. § 160A-384D-406.

(L) **PERIOD OF VALIDITY**

- (1) An approved special use permit shall expire 12 months from the date of approval unless the proposed development is pursued as set forth below:
  - (a) A complete building permit application has been submitted and remains valid;
  - (b) Where more than one building is to be built, the applicant may submit a series of building permit applications. The first application shall be submitted within 12 months from the date approval was granted. Each subsequent application shall be submitted within 180 days from the date of issuance of a certificate of occupancy for the previous building; or
  - (c) If no building permit is required, a certificate of occupancy has been issued.
- (2) Once the appropriate permit has been issued, the special use permit shall remain ~~in force~~ valid unless the use, construction, or activity ceases for a period of 12 consecutive months. In such instance the special use permit shall become void. If a special use is determined by the Planning Director to be void, such determination shall be transmitted in writing to the applicant.

(M) **BUILDING PERMIT/CERTIFICATE OF OCCUPANCY**

- (1) No building permit or certificate of occupancy shall be issued until the required site plan of the proposed use or development has been approved by the appropriate review body.
- (2) In order to secure a vested right for a site plan, the applicant must submit a site-specific development plan in accordance with § 155.718.

(N) **REVOCACTION OF A SPECIAL USE PERMIT**

- (1) If any conditions of a special use permit, or other requirements of this chapter are violated, ~~the town may~~ the Planning Director shall begin proceedings to revoke the permit.
- (2) Revocation may occur after an evidentiary hearing is conducted by the Town Council.

(3) Upon a four-fifths vote, the Town Council shall revoke the permit, and notice of such revocation shall be recorded in the County Register of Deeds office.

(4) Violations of conditions of a special use permit shall be considered a violation of ~~the~~ this chapter and thereby subject to the provisions of § 155.720.

(O) **COORDINATION WITH VARIANCES**

Applications for variances may be submitted concurrently with a request for a special use permit. ~~The special use permit request~~variance shall be considered first ~~(including any site plan), and where it is denied, the variance request shall be null and void~~any special use permit application shall be decided afterward.

(P) **COORDINATION WITH REZONING**

An application for a special use permit may be reviewed concurrently with a rezoning application. However, a decision shall be rendered first for any rezoning and then subsequently for any special use permit.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2018-07-02, adopted 07-16-18)

(Ord. 2005-11-02, passed 11-21-05)

## § 155.712 TEMPORARY USE PERMIT

**Commentary:** *Temporary outdoor uses should not be confused with permanent outdoor activities (for example, a car sales lot) that are only allowed in certain districts and require site plan approval, nor should they be confused with an outdoor display area (for example, a garden center that is part of a building supply store) that may be a part of a retail store and require site plan approval.*

### (A) APPLICABILITY

~~(3)~~(5) Temporary uses occurring on property outside of the public right-of-way, including those operating for less than 30 days within a one-year time period, shall obtain a temporary use permit from the Planning Department that outlines conditions of operations to protect the public, health, safety and welfare subject to the standards of § 155.306.

~~(4)~~(6) Temporary uses occurring within the public right-of-way require approval by the Town Council.

### (B) APPLICATION REQUIREMENTS

An application for a temporary use permit shall be submitted in accordance with § 155.702(c).

- (1) Each permit must, at the time of acquisition, state all dates that the temporary use will operate at a given site. Dates not initially specified shall be subject to acquisition an additional permit.
- (2) During a one-year period no single site may be utilized for more than 30 days total aggregate of all dates included on all temporary use permits issued for that given location
- (3) An approved temporary use permit must be available on-site upon request by an authorized Town representative.

### (C) ACTION BY PLANNING DEPARTMENT

- (1) After receiving a complete application, the Planning Department shall have up to 30 days to review the application.
- (2) Following completion of the technical review period, the Planning Department shall approve the issuance of a temporary use permit subject to the following:
  - (a) No lighting or electrical service shall be provided without an electrical permit;
  - (b) No temporary use structure shall be erected without a building permit;
  - (c) No temporary use structure shall block fire lanes or pedestrian or vehicular access;
  - (d) The site of the temporary use shall be cleared of all debris at the end of the temporary use. All temporary structures shall be cleared from the site within five days after the use is terminated;

- (e) Written permission of both the property owner and the principal tenant of the property for the temporary use shall be provided;
- (f) Adequate parking shall be provided;
- (g) Required parking for other uses shall remain available;
- (h) Adequate traffic control measures shall be provided;
- (i) Adequate provisions for trash disposal and sanitary facilities shall be provided; and
- (j) When appropriate, adequate provisions for crowd control shall be provided.

(D) **REVOCATION OF A TEMPORARY USE PERMIT**

A temporary use permit shall be revoked if the Planning Director finds that the terms of the permit have been violated or that there is a hazard to the public health, safety and welfare.

(E) **EXCEPTIONS**

Temporary uses conducted by bona fide nonprofit organizations, as defined by and registered with the North Carolina Office of the Secretary of State, shall be exempt from this section to the extent permitted by state law, except that a temporary use permit must be obtained prior to any scheduled event.

(F) **APPEAL**

Final action on a temporary use permit may be appealed to the Board of Adjustment in accordance with § 155.717.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2010-12-03, passed 12-6-10)

## **§ 155.713 SIGN PERMIT**

### **(A) APPLICABILITY**

- (1) Except as otherwise provided in § 155.403(D) Exemptions, no sign may be erected, located, or altered in any manner until a Sign Permit, and Building Permit if necessary, has been secured from the Planning Department. The change of copy on a legally constructed sign shall not require a Sign Permit.
- (2) Any sign which does not comply with the appropriate regulations in §155.403 "Signs" and cannot produce a valid Sign Permit within one week of request shall be considered in violation and/or non-conforming, depending on the specifics of the sign.

### **(B) APPLICATION REQUIREMENTS**

An application for Sign Permit shall be submitted in accordance with § 155.702(c).

### **(C) ACTION BY PLANNING DIRECTOR**

Following completion of the technical review period, the Planning Director shall review and take final action on the Sign Permit application, provided that all requirements of this chapter, and all other applicable electrical and North Carolina Building Code requirements are met.

### **(D) ACTION BY TOWN COUNCIL**

Following completion of the technical review period, the Town Council shall review and take final action on any Alternative Sign Plan application or billboard sign application provided that all requirements of this chapter, Chapter §155.403 "Signs", and all other applicable electrical and North Carolina Building Code requirements are met.

### **(E) INSPECTION OF PERMANENT SIGNS**

- (1) The applicant shall request an inspection by the appropriate inspector after installation of the signs.
- (2) The Sign Permit shall be null and void if sign installation is not completed within six months or the signs are not in conformance with the approved application.
- (3) Valid Sign Permits may be assigned to a successor as holder of a business license for the same premises.

### **(F) TEMPORARY SIGN PERMIT**

A Temporary Sign Permit shall be issued in accordance with the criteria in § 155.403 "Signs". An Alternative Sign Plan shall not be required for applications for Temporary Sign Permits.

### **(G) REVOCATION OF A SIGN PERMIT**

The Sign Permit shall be revoked if a sign is found to be in violation of the requirements of this chapter, or other applicable electrical and North Carolina State Building Code requirements.

(H) **APPEAL**

Final action on a Sign Permit may be appealed to the Board of Adjustment in accordance with §155.717 "Administrative Appeals".

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2013-09-06, passed 9-3-13; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord. 2017-01-01, adopted 01/03/2017)

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**§ 155.714 RESERVED**

*Reserved.*

## **§ 155.715 WRITTEN INTERPRETATION**

### **(A) APPLICABILITY**

When uncertainty exists, the Planning Director, after consultation with other involved staff and Town Attorney, shall ~~be authorized to make all~~ interpretations concerning the provisions of this Chapter.

### **(B) APPLICATION REQUIREMENTS**

An application for a written interpretation shall be submitted in accordance with § 155.702(C).

### **(C) ACTION BY PLANNING DIRECTOR**

- (1) The Planning Director shall review and evaluate the request in light of the text of this chapter, the zoning map, the adopted plans and policies of the Town, state and federal law, and any other relevant information.
- (2) Following completion of the technical review period, the Planning Director shall render an opinion.
- (3) The interpretation shall be provided to the applicant in writing.

### **(D) OFFICIAL RECORD**

The Planning Director shall maintain an official record of all interpretations. The record of interpretations shall be available for public inspection during normal business hours.

### **(E) APPEAL**

Final action on a written interpretation may be appealed to the Board of Adjustment in accordance with § 155.717.

(Ord. 2005-11-02, passed 11-21-05)



## § 155.716 VARIANCE

### (A) APPLICABILITY

- (1) The Board of Adjustment may vary certain requirements of this Chapter that will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this Chapter, will, in an individual case, result in practical difficulty or unnecessary hardship. The Board of Adjustment shall ensure that the spirit of this Chapter shall be observed, public safety and welfare secured, and substantial justice done.
- (2) The existence of a nonconforming use of neighboring land, building, or structure in the same district, or of permitted or nonconforming uses in other districts, shall not constitute a reason for the requested variance.

### (B) APPLICATION REQUIREMENTS

An application for a variance shall be submitted in accordance with § 155.702(C).

### (C) NOTICE AND PUBLIC HEARINGS

- (1) The Town shall hold all required public hearings and give notice in accordance with § 155.702(D).
- (2) A neighborhood meeting is required.

### (D) BURDEN OF PROOF

The applicant seeking the variance shall have the burden of presenting competent, material and substantial evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth below as well as the burden of persuasion on those issues.

### (E) ACTION BY PLANNING DIRECTOR

The Planning Director shall provide the Board of Adjustment with a copy of the application and all relevant materials pertaining to the request.

### (F) ACTION BY BOARD OF ADJUSTMENT

#### ~~(4)~~(1) Procedure

- (a) The Board of Adjustment may approve the request, deny the request, or continue the request. A concurring vote of four-fifths of the Board is necessary to grant a variance.
- (b) Each decision shall be accompanied by ~~a~~ findings of fact that ~~specify~~ies the reasons for the decision.

- (c) In approving the variance, the Board of Adjustment may prescribe reasonable and appropriate conditions which will ensure that the use will be compatible with adjacent properties and will not alter the character of the neighborhood.
- (d) Conditions may be imposed by the Board of Adjustment regarding the location, character, and other features of the proposed building or use as may be deemed by the Board of Adjustment to protect property values and general welfare of the neighborhood. Failure to comply~~Nonconformance~~ with such conditions and safeguards, when part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

~~(5)~~(2) **Findings of Fact**

No variance shall be approved by the Board of Adjustment unless all of the following findings are made:

- (a) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- (b) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- (c) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- (d) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2013-12-04, passed 12-2-13)

## § 155.717 ADMINISTRATIVE APPEALS

### (A) APPLICABILITY

Pursuant to G.S. §160D-405, aAn appeal by any person aggrieved by a final order, interpretation or decision of the Planning Director or other administrator of this Chapter in regard to the provisions of this Chapter may be taken to the Board of Adjustment.

### (B) APPLICATION REQUIREMENTS

- (1) An appeal of an administrative decision shall be taken by filing a written notice of appeal specifying the grounds for the appeal with the Planning Director and the Board of Adjustment.
- (2) An application for appeal of an administrative decision shall be submitted in accordance with § 155.702(C).
- (3) A notice of appeal of an administrative decision shall be considered filed when a complete application is delivered to the Planning Director. The date and time of filing shall be entered on the notice.
- (4) The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.

### (C) APPEAL DEADLINE

~~(6)~~(3) An appeal of an administrative decision may be filed by the Town, the owner or other person affected by the decision, or by a person with standing under G.S. ~~160A-393(d)~~ § 160D-1402. AnThe appeal request by an owner or other person affected by the decision must be received by the Town Clerk within 30 days of receipt of written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.

- (a) It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least 10 days. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision.

### (D) NOTICE AND PUBLIC HEARINGS

The Town shall hold all required public hearings and give notice in accordance with § 155.702(D).

### (E) ACTION BY PLANNING DIRECTOR

The Planning Director or designee shall transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

(F) **ACTION BY BOARD OF ADJUSTMENT**

- (1) The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement, decision, or determination appealed from and shall make any order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the Board of Adjustment shall have all the powers of the officer from whom the appeal is taken.
- (2) A motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.
- (3) If a motion to reverse or modify is not made, or a motion fails to receive a majority vote from Board members eligible to vote, then the appeal shall be denied.
- (4) Any motion to overturn a decision shall state the reasons or findings of fact that support the motion.

(G) **EFFECT OF APPEAL**

- (1) An appeal shall stay all proceedings in furtherance of the action appealed, unless the administrative official from who the appeal is taken certifies in an affidavit to the Board of Adjustment that, because of facts stated in the affidavit certificate, a stay would, in their opinion, cause imminent peril to life or property or that because the violation is transitory in nature a stay would seriously interfere with the effective enforcement of this chapter. In that case, proceedings shall not be stayed except by order of the Board of Adjustment or a court, issued on application of the party seeking the stay, for due cause shown, after notice to the administrative official.
- (2) An appeal shall not stop action lawfully approved (including construction activities authorized by a building permit); only actions presumed in violation of this chapter are stayed.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2013-12-05, passed 12-2-13)

## § 155.718 ZONING VESTED RIGHT

### (A) APPLICABILITY

The purpose of this section is to implement the provisions of ~~g.s. § 160a-385.1~~ G.S. §160D-108 pursuant to which a statutory zoning vested right is established upon the approval of a site specific ~~development-vesting plan (also known as a site specific development plan)~~.

### (B) ESTABLISHMENT

- (1) A zoning vested right shall be deemed established upon the valid approval, or conditional approval, by the Town Council, of a site specific ~~development-vesting plan~~.
- (2) The approving authority may approve a site specific ~~development-vesting plan~~ upon such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare.
- (3) Notwithstanding (B)(1) and (2) of this Section, approval of a site specific ~~development-vesting plan~~ with the condition that a variance be obtained shall not confer a zoning vested right unless and until the necessary variance is obtained.
- (4) A site specific ~~development-vesting plan~~ shall be deemed approved upon the effective date of the approval authority's action or ordinance relating thereto.
- (5) The establishment of a zoning vested right shall not preclude the application of overlay zoning that imposes additional requirements, but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land use regulation by the Town, including, but not limited to, building, fire, plumbing, electrical and mechanical codes. Otherwise applicable, new or amended regulations shall become effective with respect to property that is subject to a site specific ~~development-vesting plan~~ upon the expiration or termination of the vested right in accordance with this Chapter.
- (6) A zoning vested right is not a personal right, but shall attach to and run with the applicable property. After approval of a site specific ~~development-vesting plan~~, all successors to the original landowner shall be entitled to exercise such right while applicable.
- (7) A site specific ~~vesting plan specifically includes preliminary plats, site plans, construction plans, conditional zoning master plans, and special use permits.~~<sup>4</sup>
- (8) Substantial commencement of a development, as determined by the Planning Director and as it relates to establishment of a vested right, shall specifically include consideration of the following:
  - (a) The development has received and maintained a valid erosion and sedimentation control permit and conducted grading activity on a continuous basis and not discontinued it for more than thirty (30) days;

(b) The development has installed substantial on-site infrastructure; or 15

(c) The development has received and maintained a valid building permit for the construction and approval of a building foundation.

~~(6)~~(9) Even if work has substantially commenced, a development approval still expires if development work is discontinued for a period of more than 24 consecutive months, pursuant to N.C.G.S. 160D-108.

(C) **APPROVAL PROCEDURES**

- (1) Except as otherwise provided in this section, an application for site specific ~~development~~ vesting plan approval shall be processed in accordance with the procedures established by Ordinance and shall be considered by the designated approval authority for the specific type of zoning or land use permit or approval for which application is made.
- (2) Notwithstanding the provisions of (C)(1) of this section, if the authority to issue a particular zoning or land use permit or approval has been delegated by ordinance to a board, committee or administrative official other than the Town Council or Board of Adjustment, in order to obtain a zoning vested right, the applicant must request in writing at the time of application that the application be considered and acted on by the Town Council or Board of Adjustment, following notice and a public hearing as provided in G.S. ~~§ 160A-364~~160D-601.
- (3) In order for a zoning vested right to be established upon approval of a site specific ~~development~~ vesting plan, the applicant must indicate at the time of application, on a form to be provided by the Town, that a zoning vested right is being sought.
- (4) Each map, plat, site plan or other document evidencing a site specific ~~development~~ vesting plan shall contain the following notation: "Approval of this plan established a zoning vested right under G.S. ~~§ 160A-385.1~~160D-108. Unless terminated at an earlier date, the zoning vested right shall be valid until (date)."
- (5) Following approval or conditional approval of a site specific ~~development~~ vesting plan, nothing in this Chapter shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval.
- (6) Nothing in this chapter shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or this Chapter.

(D) **DURATION**

- (1) A zoning right that has been vested as provided in this chapter shall remain vested for a period of two years unless specifically and unambiguously provided otherwise pursuant to (D)(2) of this section. This vesting shall not be extended to any amendments or modifications to a site specific ~~development~~ vesting plan unless expressly provided by the approval authority at the time the amendment or modification is approved.

- (2) Notwithstanding the provisions of (D)(1) of this section, the approval authority may provide that rights shall be vested for a period exceeding two years by not exceeding five years where warranted in light of all relevant circumstances, including, but not limited to, the size of the development, the level of the development, economic cycles, and market conditions. These determinations shall be in the sound discretion of the approval authority at the time the site specific ~~development~~-vesting plan is approved.

3) Notwithstanding the provisions of (D)(1) of this section, a multi-phased development as defined in G.S. 160D-108(d)(4) shall be vested for the entire development and the vesting shall be valid for a period of seven (7) years from the time a site plan is approved for the initial phase of the multi-phase development.

~~(2)~~ (4)

- ~~(3)~~ Upon issuance of a building permit, the expiration provisions of G.S. ~~§ 160A-418~~160D-403(c) and the revocation provisions of G.S. ~~§160D-403(f)~~160A-422 shall apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding.

(E) **TERMINATION**

A zoning right that has been vested as provided in this chapter shall terminate:

- (1) At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;
- (2) With the written consent of the affected landowner;
- (3) Upon findings by the Town Council, by ordinance after notice and an evidentiary-~~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 was contemplated in the site specific ~~development~~-vesting plan;
- (4) Upon payment to the affected landowner of 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 thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is cause by such action;
- (5) Upon findings by the Town Council, by ordinance after notice and an evidentiary hearing, that the landowner or his or her representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority of the site specific development plan; or
- (6) Upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the site specific development plan, in which case the approval authority may modify the affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the plan, by ordinance after notice and a hearing.

(F) **VOLUNTARY ANNEXATION**

A petition for annexation filed with the Town under G.S. ~~§-160a~~§160A-31 or G.S. ~~§-160Aa~~§160A-58.1 shall contain a ~~singed~~signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established under G.S. ~~§-160a-385.1~~§160D-108, ~~or~~ ~~G.S. § 153a-344.1~~. A statement that declares that no zoning vested right has been established under G.S. ~~§160D-108~~ ~~160a-385.1~~ ~~or~~ ~~G.S. § 153a-344.1~~, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any such zoning vested right shall be terminated.

(G) **LIMITATIONS**

Nothing in this chapter is intended or shall be deemed to create any vested right other than those established pursuant to G.S. §160D-108 or common law. ~~160a-385.1~~.

(H) **REPEALER**

In the event that G.S. ~~§160D-108~~ ~~160a-385.1~~ is repealed, this chapter shall be deemed repealed and the provisions hereof no longer effective.

(I) **EFFECTIVE DATE**

This Chapter shall be effective and shall only apply to site specific ~~development~~ vesting plans approved on or after November 18, 1991.

(Ord. 2005-11-02, passed 11-21-05)



**§ 155.719 RESERVED**

*<Reserved; previously "Nonconformities".>*

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2016-04-04, passed 04-04-2016)

## § 155.720 ENFORCEMENT

### (A) ENFORCEMENT OF PROVISIONS

The Planning Director, or his or her designee, ~~is~~ is charged with the enforcement of the provisions of this Chapter. If the Planning Director or a designee finds that any of the provisions of this Chapter are being violated, he or she shall notify in writing the persons responsible for such violations, indicating the nature of violation and ordering the actions necessary to correct it. They shall also take any other action authorized by this Chapter to ensure compliance with or to prevent the violation of its provisions.

### (B) APPLICABILITY

- (1) In accordance with G.S. §-160A-175 and § 10.98 of the Town's Code of Ordinances, any person violating any provision of this Chapter must remedy the violation. Violations are considered a civil penalty, and violators are required to pay a separate penalty for each violation until the provisions of this Chapter are met. Each day that a violation fails to comply with a provision of this Chapter is considered a separate and distinct violation.
- (2) In case a building or structure is erected, constructed, reconstructed, repaired, converted, or maintained, or a building, structure, or land is used in violation of this Chapter, the Planning Director or his or her designees, in addition to other remedies, may institute injunction, mandamus, or other appropriate action in proceeding to prevent the violation.
- (3) In accordance with G.S. ~~§-160A-375~~ §160D-807, "Penalties for Transferring Lots in Unapproved Subdivisions", any person who, being the owner or agent of the owner of any land located within the jurisdiction of the Town, subdivides his land in violation of the subdivision requirements set forth in the Town's Unified Development Code, or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under in accordance with the UDC and recorded in the office of the appropriate register of deeds, shall be guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The Town may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the UDC.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2013-12-06, passed 12-2-13)

## § 155.721 TREE CLEARING CERTIFICATE

### (A) PURPOSE

This section implements the enabling legislation granted to the Town by the North Carolina General Assembly. The purposes of these regulations are to:

- (1) Protect existing trees and shrubs located upon undeveloped sites for use as future buffers and streetscapes to meet site and/or subdivision plan requirements;
- (2) Preserve existing tree and vegetative cover to protect the health safety and welfare of the public by preserving the visual and aesthetic qualities of the Town; maintaining property values; controlling erosion; and reducing sediment and other pollutant run-off into streams and waterways in an effort to protect water quality; and
- (3) Create a process whereby some properties are required to obtain a tree clearing certificate, recognize some properties are exempted from the requirement to obtain a tree clearing certificate prior to the removal of vegetation, and establish penalties for removal of all or substantially all of the required vegetation within required vegetation protection areas.

### (B) APPLICABILITY

The requirements for obtaining a tree clearing certificate and penalties for non-compliance are applicable to all undeveloped properties that are zoned for residential or nonresidential use located within the Town limits and/or extraterritorial jurisdiction (ETJ). For the purposes of the section, undeveloped properties shall include any property within the Town's jurisdiction that is not the subject of an approved site and/or subdivision plan.

### (C) EXEMPTIONS

A tree clearing certificate shall not be required for the activities listed below.

- (1) Forestry activities on property that is taxed on the basis of its present-use value as agricultural, horticultural, or forestland under G.S. Ch. 105, Article 12, and forestry activity that is conducted in accordance with a forestry management plan prepared or approved by a forester registered pursuant to G.S. Ch. 89B, and provided such activities are accomplished in compliance with this section. In cases where all trees or substantially all trees are removed from the perimeter buffers described in division (D) of this section, the Town will not grant a building permit and site and/or subdivision plan approval for said property for a period of three years following the harvest of such trees. The three-year waiting period may be waived if the Town Council, by a 3/4 vote, determines a project to be desirable and grants the right to immediate development on recently timbered land where no perimeter buffer was kept. For the purposes of this section, the term **ALL OR SUBSTANTIALLY ALL** shall mean 75% or more of the existing trees with a caliper of four inches or greater.
- (2) Properties with a town-approved site and/or subdivision plan, provided such plan has not expired and that any clearing or vegetation removal is performed in strict accordance with the approved site and/or subdivision plan.

- (3) The removal of vegetation by public or private agencies within the lines of any public street rights-of-way, utility easements, or other Town property, as may be necessary to ensure public safety, to obtain clear visibility at driveways or intersections, to perform authorized field survey work, or to preserve or enhance the symmetry and beauty of such Town property.
- (4) The town-initiated or approved removal of any vegetation which is in an unsafe condition, constitutes a nuisance or noxious weed, or which by its nature is injurious to sanitary sewers, electrical power lines, gas lines, water lines, stream or conveyance channels, or other public improvements, or vegetation which is infected with any injurious fungus, insect, or other pest.
- (5) The removal of vegetation on property located within an approved residential subdivision that is zoned for single-family use, and provided such vegetation is not a portion of a required streetscape or other landscaping buffer.
- (6) The removal of vegetation on a lot of two acres or less. Subdivision of property to circumvent these requirements is not permitted.

(D) **REQUIRED BUFFERS AND VEGETATION**

Other than that necessary to gain reasonable access to the property, clearing and/or removal of trees and other vegetation shall be prohibited in the areas listed below. In situations where one or more buffer zones or vegetation protection areas overlap on the same site, then the more restrictive requirement shall apply.

- (1) A perimeter buffer zone having a width of 50 feet as measured from all ultimate property boundaries that adjoin existing public roadways. For the purposes of this section, the term ***ULTIMATE PROPERTY BOUNDARY*** of a parcel or tract shall mean the final demarcation line around the perimeter of a parcel excluding all areas that must be dedicated to the Town for use as rights-of-way.
- (2) A perimeter buffer zone having a width of 50 feet as measured from all property boundaries that adjoin developed property or vacant property with an approved site and/or subdivision plan.
- (3) A perimeter buffer zone having a width of 25 feet as measured from all property boundaries that adjoin undeveloped property or vacant property without an approved site and/or subdivision plan.
- (4) Any other areas necessary for the protection of existing vegetation as indicated within this section (such as riparian buffers).
- (5) Notwithstanding any requirements of this section, the area of the required perimeter buffer zones for any tract shall not exceed 20% of the area of the tract, net of public road rights-of-way, and any required conservation easements.

(E) **APPLICATION REQUIREMENTS**

- (1) An application for a tree clearing certificate may be filed only by all the owners of the property or by such owners' authorized agent.
- (2) An application for a tree clearing certificate shall be filed with the Planning Department. The application form shall be accompanied by a Vegetation Protection Plan that shall include, at a minimum, the following information on a sheet size no larger than 24 by 36 inches at a minimum scale of one inch equals 50 feet:
  - (a) Vicinity map showing the location of the tract at a readable scale.
  - (b) A map of the entire tract, including the property boundary of the entire tract by courses and distances with references to true meridian and the location and dimension of all on-site and adjacent off-site easements (such as drainage, utility, public access, aerial utility, conservation, permanent and temporary construction easements).
  - (c) General information about the tract, including but not limited to the owner of the tract; the current zoning of the tract, the area of the tract, and the conditional use zoning conditions, planned unit development master plan requirements, if applicable.
  - (d) The location and use(s) of all existing building(s) on the tract.
  - (e) The owner, current zoning and present use of all contiguous properties (including property on opposite side of adjoining streets).
  - (f) The general classification of all existing and proposed adjacent roadways (as depicted in the Clayton Transportation Plan) and the ultimate right-of-way boundaries associated with these roadways.
  - (g) The location and width of all future/existing buffers and associated vegetation protection areas, including riparian buffers, perimeter buffers and perimeter streetscapes.
  - (h) The proposed limits of timbering activities, including the location and extent of all tree protection areas as required under § 155.402(H)(4).
  - (i) A survey of individual trees is not required.
- (3) The Planning Director may reduce or waive the requirements for a Vegetation Protection Plan in situations where it can be demonstrated that all vegetation removal will take place outside of required vegetation protection areas.

(F) **PROCEDURE**

Prior to the commencement of any vegetation clearing or removal on any undeveloped property, the owner or the owner's agent must demonstrate exemption from the requirements of this section, or submit the required application materials and applicable fees for a tree clearing certificate.

- 
- (1) Upon receipt of documentation that a property is exempted from obtaining a tree clearing certificate, the Planning Director shall review all materials and make a determination if a property is exempted from the requirements or if the requirements apply. In situations where exemption status is claimed based on forestry use, this documentation shall include proof that the property is taxed under the present-use value standard or a copy of the valid forestry management plan prepared or approved by a North Carolina registered forester. The decision of the Planning Director may be appealed to the Zoning Board of Adjustment pursuant to § 155.717.
  - (2) If a property is not exempted from the provisions pertaining to a tree clearing certificate, then such application materials shall include a Vegetation Protection Plan consistent with the requirements listed in division (E)(2) above.
  - (3) The Vegetation Protection Plan shall be reviewed by the Planning Director. The Director ~~may~~ shall defer the decision on disapprove the Vegetation Protection Plan ~~to the Town Council~~ if he or she has concerns about the plan's ability to meet the standards of this Section. In the event the Director disapproves the plan, an ~~appeal~~ Administrative Appeal may be filed ~~with the Town Council within ten days of disapproval. If an appeal is filed, the Town Council shall decide whether to consider the appeal by majority vote and may affirm, reverse or modify the Director's disapproval.~~
  - (4) An applicant for a tree clearing certificate shall be notified upon approval of the Vegetation Protection Plan, and shall be free to erect or install any and all barriers necessary to protect existing vegetation within required buffer areas and vegetation protection areas from damage during tree clearing and/or removal activities. Failure to protect these areas shall result in penalties as indicated in division (G) below.
  - (5) Once all barriers for the protection of existing vegetation have been installed, a property owner or agent shall request inspection of such barriers for compliance with the requirements of this section.
  - (6) Upon a passing inspection of vegetation protection barriers, the Director shall issue a tree clearing certificate, and authorized vegetation clearing and/or removal may commence.
  - (7) An approved tree clearing certificate shall be valid for a period of not more than 12 months from the date of issuance.
- (G) **NON-COMPLIANCE**
- (1) Failure to comply with the provisions of this section shall constitute a violation of this section, and shall subject an offending party to a series of actions, including the payment of fines, delay in site and/or subdivision plan approval or building permit issuance, and the requirement to double the amount of required vegetation as would typically be required during the site and/or subdivision plan review and approval process. The following table summarizes the penalties for non-compliance with this section.
  - (2) An "X" in a particular cell indicates that the associated penalty applies:

| <b><i>Penalties for Non-Compliance</i></b>                                                                                                                                                                                |                         |                                                                               |                                                                                        |                                                                                    |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|-------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|
| <b>Type of Violation</b>                                                                                                                                                                                                  | <b>Payment of Fines</b> | <b>Review of All Subsequent Site and/or Subdivision Plans by Town Council</b> | <b>Three-Year Delay in Approval of Building Permit or Site and/or Subdivision Plan</b> | <b>Landscaping Requirements Doubled During Site and/or Subdivision Plan Review</b> |
| Property is exempt from tree clearing certificate requirements, but all or substantially all vegetation within required buffers and/or vegetation protection areas is removed                                             |                         | X                                                                             | X                                                                                      | X                                                                                  |
| Property owner obtains a tree clearing certificate, but removes some of the vegetation within a required buffer and/or tree protection area                                                                               | X                       |                                                                               |                                                                                        | X                                                                                  |
| Property is not exempt from tree clearing certificate requirements, but property owner obtains no certificate, and removes some of the vegetation within a required buffer and/or tree protection area                    | X                       | X                                                                             |                                                                                        | X                                                                                  |
| Property is not exempt from tree clearing certificate requirements, but property owner obtains no certificate and removes all or substantially all of the vegetation within a required buffer and/or tree protection area | X                       | X                                                                             | X                                                                                      | X                                                                                  |

(Ord. 2006-07-03, passed 7-17-06)





## ARTICLE 8: DEFINITIONS

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### § 155.800 GENERAL

- (A) Words used in the present tense include the future tense.
- (B) Words used in the singular number include the plural, and words used in the plural include the singular.
- (C) The word "shall" is always mandatory and not merely directory.
- (D) The words "day" or "days" shall refer to calendar days and shall be computed by excluding the first day and including the last day, unless the last day is a Saturday or Sunday or a holiday declared by the United States Congress or the State of North Carolina, in which event it shall also be excluded.
- (E) Any term not herein defined shall be as defined elsewhere in the town code of ordinances or, if not defined elsewhere in the Town Code of Ordinances, as defined in Webster's New International Dictionary, most recent edition.
- (F) In case of any difference of meaning or implication between the text of this chapter and any caption, illustration or table, the text shall control.

(Ord. 2005-11-02, passed 11-21-05)

## **§ 155.801 ABBREVIATIONS**

ANSI: American National Standards Institute

BMP: Best Management Practices

BOA: Board of Adjustment

DAS: Distributive Access System

dbh. Diameter at Breast Height

DDA: Downtown Development Association

DENR: Department of Environment and Natural Resources (now known as Department of Environmental Quality)

DEQ: North Carolina Department of Environmental Quality

ETJ: Extraterritorial Jurisdiction

FAA: Federal Aviation Administration

FAR: Floor Area Ratio

FCC: Federal Communications Commission

FEMA: Federal Emergency Management Agency

FIRM: Flood Insurance Rate Map

GFA: Gross Floor Area

NCDOT: North Carolina Department of Transportation

NIER: Non-Ionizing Electromagnetic Radiation

PAAB: Public Arts Advisory Board

PB: Planning Board

PD: Planning Director

PW: Public Works Director

RF: Radio Frequency

SHO: Scenic Highway Overlay

TIA: Traffic Impact Analysis

TC: Town Council

TOD: Thoroughfare Overlay District

TRC: Technical Review Committee

UDC: Unified Development Code

USDA: United States Department of Agriculture

USGS: United States Geologic Survey

WP- Watershed Protection Overlay

(Ord. 2005-11-02, passed 11-21-05; Am. Ord 2016-04-04, adopted 04-04-2016)

## § 155.802 DEFINED TERMS

### **Abutting**

A property that directly touches another piece of property.

### **Accessory Structure**

A structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. A subordinate dwelling unit, garage, carport or storage shed are all examples of accessory structures.

### **Acreage, Gross**

Land area with streets, rights-of-way, driveways which serve as access to more than two units or uses, and major transmission lines not included in its measurement.

### **Acreage, Net**

Land area excluding streets, rights-of-way, driveways which serve as access to more than two units or uses, and major transmission lines not included in its measurement.

### **Adjacent**

Property abutting directly on the boundary of, touching, or sharing a common point.

### **Administrative Decision**

Pursuant to G.S. § 160D-102, decisions made in the implementation, administration, or enforcement of development regulations that involves the determination of facts and the application of objective standards set forth in G.S. § 160D or local government development regulations. These are sometimes referred to as “administrative determinations.”

### **Administrative Hearing**

Pursuant to G.S. § 160D-102, a proceeding to gather facts needed to make an administrative decision.

### **Alley**

A public or private vehicular way providing service access along rear or side property lines of lots which are also served by one of the other listed street types.

### **Alteration**

Any change, addition, or modification in construction or occupancy of an existing structure.

### **Antenna**

A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals. Such shall include, but not be limited to radio, television, cellular, internet, microwave telecommunications and services not licensed by the FCC, but not expressly exempt from the Town's siting, building and permitting authority.

### **Applicant**

Any person, firm, or corporation requesting approval of any land-use, development, or improvement application, or similar entitlement regulated by the municipal code.

**Approval Authority**

The Town Council, Planning Board, Board of Adjustment or other board or official designated by ordinance or this chapter as being authorized to grant the specific zoning or land use permit or approval that constitutes a site specific development plan.

**Best Management Practices (BMP)**

A structural or nonstructural management-based practice used singularly or in combination to reduce non-point source inputs to receiving waters in order to achieve water quality protection goals.

**Buffer**

Open spaces, landscaped areas, fences, walls, berms, or any combination thereof used to physically and visually separate one use or property from another in order to mitigate the impacts of noise, light, or other nuisance.

**Buffer, Stream**

An area of natural or planted vegetation surrounding and running parallel to a stream or waterway through which stormwater runoff flows in a diffuse manner so that the runoff does not form a channel, and which provides for infiltration of the runoff and filtering of pollutants.

**Building**

Pursuant to G.S. § 160D-102, Any structure having a roof supported by columns or by walls, and intended for shelter, housing, or enclosure of persons, animals, or property, any structure used or intended for supporting or sheltering any use or occupancy.

**Building Coverage**

The maximum area of the lot that is permitted to be covered by buildings, including both principal structures and accessory buildings. Building coverage does not include paved areas such as driveways, uncovered porches or patios, decks, swimming pools or pool cages, or roof overhangs of less than three feet.

**Building Separation**

The required separation between any two buildings.

**Caliper**

The diameter of plant material, measured at six inches above grade for calipers of up to four inches, and 12 inches above grade for larger calipers.

**Clearance**

The shortest distance between two objects that must be maintained clear and free from obstructions or another specific identified object(s).

**Co-Location**

The use of a wireless telecommunication support facilities by more than one wireless telecommunication provider for the provision of wireless services without increasing the height of the tower or structure.

**Conditional Zoning~~Conditional Use~~**

Pursuant to G.S. § 160D, a legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment. ~~A use or occupancy of a structure, or a use of land, permitted only upon issuance of a conditional use permit and subject to the limitations and conditions specified therein.~~

**Condominium**

A building, group of buildings, or portion thereof, in which units are owned individually, and the structure, common areas, or facilities are owned by all the owners on a proportional, undivided basis. For the purposes of development and use regulation, condominiums are treated as apartments.

**Construction**

On-site erection, fabrication, installation, alteration, demolition or removal of any structure, facility, or addition thereto, including all related activities, including, but not restricted to, clearing of land, earthmoving, blasting and landscaping.

**Crosswalk**

A public pedestrian right-of-way which cuts across a block to facilitate pedestrian access to adjacent streets and properties.

**Cul-De-Sac (Commercial, Residential)**

A short, street having one end open to traffic and the other permanently terminated by a vehicular turnaround.

**Dedication**

The transfer of ownership without payment or other interest in real property from a private entity to a public agency.

**Density**

The number of dwelling units permitted per acre of land.

**Development**

~~The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure, mining excavation, landfill, land disturbance, and any use or extension of the use of land. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure. The excavation, grading, filling, clearing, or alteration of land. The subdivision of land as defined in G.S. § 160D-802. The initiation or substantial change in the use of land or the intensity of use of land.~~

**Development Approval**

An administrative or quasi-judicial approval made pursuant to G.S. § 160D that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to G.S. § 160D including plat approvals, permits issued, development agreements entered into, and building permits issued.

**Driveway**

A private roadway located on a parcel or lot used for vehicle access.

**Dwelling**

Pursuant to G.S. § 160D-102, a building that contains one or more dwelling units used, intended, or designed to be used, rented, leased, let, or hired out to be occupied for living purposes.

**Dwelling Unit**

Pursuant to G.S. § 160D-102, a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. ~~One or more habitable rooms which are occupied, or which are intended or designed to be occupied as a residence by one family, with facilities for living, sleeping, cooking, and dining.~~

**Easement**

A grant of one or more of the property rights by the owner to, or for the use by, the public, a corporation, or another person or entity.

**Extraterritorial Jurisdiction (ETJ)**

An area outside the Town of Clayton's town limit delineated on the Official Zoning District Map. Pursuant to the North Carolina General Statutes, the Town enforces the following regulations within the ETJ: zoning ordinance; subdivision regulations and the North Carolina State Building Code.

**Evidentiary Hearing**

A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation, pursuant to G.S. § 160D-102.

**Fence**

An enclosure or barrier, such as wooden posts, wire, iron, etc., used as a boundary, means of protection, privacy screening or confinement, but not including hedges, shrubs, trees, or other natural growth.

**Floor Area, Gross**

The sum of the gross horizontal area of the several floors of a building, measured from the exterior faces of the exterior walls or from the center of the common walls of attached buildings. Gross floor area includes basement floors, attic floor space, halls, closets, stairwells, space devoted to mechanical equipment, and enclosed porches. Gross Floor Area also includes all outside storage areas.

**Flood Fringe Area**

That area of the floodplain lying outside the floodway but still lying within the area of special flood hazard, that is, within the 100-year floodplain.

**Floodplain**

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

**Floodway**

The channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the 100-year flood without a significant increase in the base flood elevation.

**Food Truck**

A food truck is a mobile food service establishment that prepares and serves food and/or beverages for sale to the general public on a recurring basis from a truck, vehicle-mounted, or vehicle-towed piece of equipment designed to be readily moved.

**Frontage, Building**

The straight-line length of any building or store which fronts upon a public street, a customer parking area, or pedestrian mall and which has one or more entrances to the main part of the building or store. If specified, this may also apply to the equivalent distance on another lot line, such as side.

**Frontage, Lot**

The distance for which the front boundary line of the lot and the street line are coincident. If specified, this may also apply to the equivalent distance on another lot line, such as side.

**Frontage, Street**

See “Lot Frontage”. Not to be confused with “Frontage Road”, which is a type of physical street occurring near a thoroughfare.

**Greenway**

A linear, multi-use (pedestrian, bicycle) trail, generally with a finished surface of asphalt or concrete, providing passive and active recreational opportunities. Greenways are typically built to the Town’s specification (“Typical Bikeway / Greenway Pavement Section”, Detail # 401.03), with a minimum width of 10’, with 2’ of clear, graded natural surface on each side. Occasionally, greenways will be built to a lesser width and/or with alternative materials, such as gravel, stone dust, lime rock, packed clay, rubber, pervious pavement, or mulch.

**Ground Cover**

Any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.

**Hazardous Material**

Any substance that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment.

**Home Occupation**

An occupation carried on in a dwelling unit by the resident thereof; provided that the use is limited in extent and incidental and secondary to the use of the dwelling unit for residential purposes and does not change the character thereof.

**Household**

A domestic establishment including a member or members of a family or others living under the same roof.

**Impervious Surface**

Any hard-surfaced, man-made area that does not readily absorb or retain water, including but not limited to building roofs, parking and driveway areas, graveled areas, sidewalks, and paved recreation areas.

**Infrastructure**



Streets, water lines, sewers lines and other public facilities necessary to the functioning of a community.

**Junk**

Any scrap, waste, worn out, discarded material or debris collected or stored for destruction, disposal or some other use.

**Land Disturbing Activity**

Any use of land in residential, industrial, educational, institutional or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. Sedimentation occurs whenever solid particulate matter, mineral or organic, is transported by water, air, gravity, or ice from the site of its origin, and is deposited elsewhere.

**Landscape Plan**

A plan associated with a subdivision, land development, or parking facility plan indicating the placement of landscape materials, including specifications, species, quantities, and method of installation.

**Landscaping**

The area within the boundaries of a given a lot that consists of planting materials, including but not limited to trees, shrubs, ground covers, grass, flowers, decorative rock, bark, mulch, and other similar materials.

**Legislative Hearing**

Pursuant to G.S. § 160D-102, a hearing to solicit public comment on a proposed legislative decision.

**Livestock**

Grazing animals kept either in open fields or structures for training, boarding, home use, sales, or breeding and production, including but not limited to: cattle, riding and draft horses, hogs, sheep, goats, miniature horses, llamas, and alpacas.

**Loading, Off-Street**

An unobstructed area provided and maintained for the temporary parking of trucks and other motor vehicles for the purpose of loading and unloading goods, materials and merchandise.

**Local Street Network**

System of local streets that include commercial streets, collector streets, residential collectors, cul-de-sacs, and alleys.

**Lot**

A portion of a subdivision or other parcel of land, intended as a unit for transfer of ownership or for development or both.

**Lot Area**

The horizontal area within the exterior lines of the lot, exclusive of any area in a public or private way open to public uses.

**Lot, Corner**

A lot having at least two adjacent sides that abut for their full length upon streets. Both such lot lines shall be considered front lot lines.

**Lot, Double Frontage**

A continuous or through lot of the same depth as the width of a block, and which is accessible from both of the streets upon which it fronts.

**Lot, Flag**

A lot that has access to a public right-of-way by means of a narrow strip of land.

**Lot, Nonconforming**

See Nonconforming Lot.

**Lot of Record**

A lot which is part of a subdivision recorded in the Office of the Register of Deeds of Johnston County or Wake County, as appropriate, or a lot described by metes and bounds, the description of which has been so recorded.

**Lot Width**

Parcel or lot width shall be measured by the distance between the side lot lines (generally running perpendicular to a street), measured at the rear edge of the street yard along a straight line parallel to the front of the property line or along the chord of the front property line.

**Multi-Family Residential**

A building or portion thereof containing 3 or more dwelling units, including condominiums, apartments, and townhomes with shared parking, with varying arrangements of entrances and party walls.

**Net Acreage, Net Gross**

Land area with streets, rights-of-way, driveways which serve as access to more than two units or uses, and major transmission lines not included in its measurement.

**Nonconformity**

A condition that occurs when, on the effective date of adoption of this code or a previous ordinance or on the effective date of an ordinance text amendment or rezoning, an existing lot, structure, building, sign, development, or use of an existing lot or structure does not conform to one or more of the regulations currently applicable to the district.

**Nonconforming Lot (of Record)**

A recorded lot described by a plat or a deed that does not meet the minimum lot size or other development requirements.

**Nonconforming Site Element**

A nonconforming site element is a feature of or on the which existed or was lawfully established prior to this Ordinance being adopted or amended. Site elements include but are not limited to access, parking, pedestrian amenities, landscaping, signage, and lighting.

**Nonconforming Structure**

A nonconforming structure is a structure that was lawfully established on a property prior to this Ordinance being adopted or amended, but does not conform with the square footage, density, yard, dimensional, height, lot coverage, or other dimensional or structural provision of this Ordinance.

**Nonconforming Use**

A nonconforming use is the use of land, buildings, or structures that was lawfully established on a property prior before this Ordinance was adopted or amended, but does not conform to the use regulations of his Ordinance.

**Outdoor Storage**

The keeping of personal or business property or motor vehicles in a required open parking space or any other area outside of a building for a period of time exceeding 72 consecutive hours.

**Outparcel**

An area located within a non-residential development that may share common parking and circulation areas with other buildings or parcels, but is usually situated as its own parcel and is separated from anchor buildings by parking and circulation areas.

**Owner**

Any person having charge of any real property according to the records held by the Register of Deeds.

**Parcel**

A continuous plot of recorded land in the possession of or owned by any individual or group of individuals.

**Parking Lot**

An off-street area used for the storage of motor vehicles on a temporary, daily, or overnight basis.

**Parking Space**

An off-street area designed to accommodate the parking of one vehicle.

**Pervious Surface Coverage**

Ground treatments which will allow the infiltration of water, air and nutrients to root systems of adjacent plant material which lie directly under the ground treatment.

**Planting Area**

The area within the boundaries of a given a lot consists of planting materials, including but not limited to trees, shrubs, ground covers, grass, flowers, decorative rock, bark, mulch, and other similar materials.

**Plat**

A map or plan of a parcel of land which is to be or which has been subdivided.

**Quasi-judicial Decision**

Pursuant to G.S. §160D-102, decision involving the findings of fact regarding a specific application of development regulation and that requires the exercise of discretion when applying the standards of the regulation.

**Resource Conservation Area**

An area set aside for the conservation of natural, archeological or historic resources.

**Right-of-Way**

An area or strip of land, either public or private, on which an irrevocable right-of- passage has been recorded for the use of vehicles or pedestrians or both.

**Road**

See “Street”.

**Frontage Road**

A street, parallel and adjacent to a major or minor thoroughfare, which provides access to abutting properties, protection from through traffic, and control of access to the major or minor thoroughfare. Not to be confused with “Street Frontage”, which is a measurement of distance.

**Screening**

A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

**Setback**

A line delineating the minimum allowable distance between the property line or right-of-way line and a building on a lot, within which no building, significant development, or other structure shall be placed except as otherwise provided. Wherever property lines and right-of-way lines both occur, the most restrictive setback distance on the lot shall prevail.

**Sewer System, Public**

An off-site system for the treatment and disposal of sewage in which sewage is conveyed by interceptor to a publicly operated treatment plant

**Sign**

Exclusive of architectural features, any words, lettering, figures, numerals, emblems, devices, trademarks, , or trade names, or any combination thereof, by which anything is made known and which is designed to attract attention or to convey a message.

**Single Family Residential**

A single detached dwelling unit located on a single lot with private yards on all four sides. See also “Single Family Detached House”, in §155.301(D).

**Site**

A continuous plot of land to be developed as a single project. A site may contain multiple parcel or lots.

**Site Area**

Site area shall be the total land area of the proposed development. A site may include multiple parcels or lots.

**Site Area, Net**

Net site area shall mean the total gross area of the parcel, minus any resource conservation areas.

**Site Element, Nonconforming**

See Nonconforming Site Element.

**Site Plan**

A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include, but not be limited to site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to project and site plan review.~~A plan, to scale, showing uses and structure proposed for a parcel of land as required by the regulations. Includes lot lines, streets, building sites, reserve open space, buildings, landscape features both natural and manmade.~~

**Special Use**

A use that meets the intent and purpose of the zoning district but which requires the review and approval by Town Council to ensure that any adverse impacts on adjacent uses, structures, or public services and facilities that may be generated are mitigated.

**Special Use Permit**

Pursuant to G.S. §160D-102, a permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards.~~A permit issued for a special use following review and approval by Town Council after consideration and mitigation of potential impacts or incompatibility with adjacent uses.~~

**State**

The State of North Carolina.

**Stream**

A body of concentrated flowing water in a natural low area or natural channel on the land surface.

**Stream Buffer**

See Buffer, Stream.

**Stream, Intermittent**

A watercourse that collects surface runoff and is shown as a dashed blue line on the most recent United States Geologic Survey (USGS) 7½-minute quadrangle topographic maps, is shown as an intermittent stream on the most recent US Department of Agriculture (USDA) Soil Survey, or is shown as an intermittent stream on the Natural Resource Conservation Service (NRCS) maps.

**Stream, Perennial**

A watercourse that collects surface runoff and is shown as a solid blue line on the most recent USGS 7½-minute quadrangle topographic maps, is shown as a perennial stream on maps in the most recent US Department of Agriculture (USDA) Soil Survey, or is shown as a perennial stream on the Natural Resource Conservation Service (NRCS) maps.

**Street, Collector**

A street whose principal function is to carry traffic between residential collectors, residential streets, cul-de-sacs and major and minor thoroughfares, but that may also provide direct access to abutting properties. It is designed to carry more than 3,500 but less than 6,000 trips per day. Typically, a collector is able to serve, directly or indirectly, between 350 and 600 dwelling units.

**Street, Commercial**

A multi-lane, street connecting to major or minor thoroughfares designed to accommodate large volumes (in excess of 6,000 trips per day) of traffic at moderate speeds while also providing, as a major part of its function, direct access to nonresidential or mixed use high trip generating land uses.

**Street, Private**

Any road or street that is not publicly owned and maintained and used for access by the occupants of the development, their guests, and the general public.

**Street, Public**

A dedicated and accepted public right-of-way for vehicular traffic and access to abutting property.

**Street, Residential**

A street whose principal function is to provide access to adjacent properties.

**Street, Residential Collector**

A street which serves as a connector street between residential streets, cul-de-sacs and major and minor thoroughfares. Residential collector streets typically collect traffic from 100 to 400 dwelling units.

**Structure, Nonconforming**

See Nonconforming Structure.

**Thoroughfare, Major**

Major streets, excluding freeways but not excluding limited access facilities that provide for the expeditious movement of large volumes of traffic within and through the urban area. A street serving the principal network for high volumes of traffic or high-speed traffic as shown on the town's Transportation Plan. This street type consists of at least two travel lanes in each direction. A major thoroughfare shall be designated where the anticipated average daily volume exceeds 10,000 vehicles.

**Thoroughfare, Minor**

Streets that perform the function of collecting traffic from local access streets and carrying it to the major thoroughfare system. Such streets may be used to supplement the major thoroughfare system by facilitating minor through movements and may also serve abutting property. A street designed primarily to collect and distribute traffic between the local street network and major thoroughfares as shown on the town's Transportation Plan. This street type generally consists of more than one travel lane in each direction. A minor thoroughfare shall be designated where the anticipated average daily volume ranges exceeds 6,000 vehicles.

**Town**

The Town of Clayton, North Carolina.

**Transportation Plan**

A map approved by the Town Council that indicates the system of roads expected to serve major access and travel needs with regard to auto, truck and transit transportation.

#### **Unified Development Code**

Chapter 155 of the Town Code of Ordinances, as adopted by Town Council.

#### **Use, Nonconforming**

See Nonconforming Use.

#### **Variance**

Permission which is granted by the Board of Adjustment to deviate from zoning requirements when strict enforcement of certain provisions of the Unified Development Code would cause undue hardship because of circumstances unique to the individual property for which the variance is granted. Only the Board of Adjustment can do this after specific findings of fact.

#### **Waiver**

Permission which is granted by Town Council or a part of a Planned Development Approval to deviate from specific provisions of the Unified Development Code if mitigating circumstances are justified.

#### **Water Supply, Public**

A publically owned system of pipes, structures and facilities through which a water supply is obtained, treated, sold and distributed for human consumption or household use.

#### **Watershed**

All of the land area draining to a particular point on a water course or to a water body.

#### **Yard, Front, (also known as Street Yard)**

An open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the front line of the lot and the front line of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front line of the building and the front line of the lot. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required yard.

#### **Yard, Rear**

An open space on the same lot with a main building, unoccupied except as hereinafter permitted, extending the full width of lot and situated between the rear line of lot and the rear line of the building.

#### **Yard, Side (Street), (also known as Street Side Yard)**

The area extending between the front yard and the rear yard or rear street yard and situated between the side street lot line and the face of the principal building which is parallel to, or most nearly parallel to, the side lot line.

#### **Yard, Side (Interior), (also known as Interior Yard)**

A side yard located immediately adjacent to another zoning lot or to an alley separating such side yard from another zoning lot.

#### **Zoning District**

A part, zone, or geographic area within the Town or its Extraterritorial Jurisdiction (ETJ) where certain zoning and development regulations apply.

**Zoning Vested Right**

The right to undertake and complete development and use of property under the terms and conditions of an approval secured as specified in G.S. §160D-108 or under common law. ~~A right pursuant to G.S. § 160A-385.1 to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan.~~

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2009-08-01, passed 8-3-09; Am. Ord. 2016-04-04, adopted 04-04-2016; Am. Ord. 2017-01-01, adopted 01/03/2017; Ord. 2017-04-06, approved 04/03/2017)



### **PUBLIC NOTICE**

In accordance with NC GS 160A-364, the Clayton Town Council will hold a public hearing on Monday, February 1, 2021, at 6:00 PM in the Council Chambers at the Clayton Center, 111 E Second Street, to consider the following amendment to the Unified Development Code:

- 2021-07-OA 160D Ordinance Amendment. Copies of the proposed amendment are available in the Planning office, the Town Clerk's office, and on the Town's website for review by the public. Title XV, Chapter 155 is proposed to amend the following articles:
  - Article 1 – General Provisions
  - Article 2 – Zoning Districts
  - Article 3 – Specific Use Standards
  - Article 4 – General Development Standards
  - Article 5 – Natural Resource Protection
  - Article 6 – Subdivision Standards
  - Article 7 - Administration
  - Article 8 – Definitions

The public is invited to attend.

Samantha Wullenwaber, Planning Director  
919-553-5002

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The Johnstonian Newspaper

Please advertise on the following dates:

January 20, 2021

January 27, 2021

Affidavit of publication required.

**TOWN OF CLAYTON**  
**ORDINANCE AMENDMENT**  
**CONSISTENCY AND REASONABLENESS STATEMENT**

[2021-07-OA 160D Ordinance Amendment]

The Town Council of the Town of Clayton hereby states:

**Section 1:** The above referenced ordinance amendment IS APPROVED.

**Section 2:** The above referenced ordinance amendment IS CONSISTENT with:

The Town of Clayton's Comprehensive Plan 2040, specifically:

- Goal IC1: Coordinate with local, regional, state, and federal agencies to ensure consistency among plans and policies, identify and resolve conflict, and promote cooperation.

**The requested ordinance amendment is consistent with the Comprehensive Plan 2040. Most of the ordinance amendment is required by North Carolina state statute. Chapter 160D of the North Carolina General Statutes is new and will consolidate current city and county enabling statutes for development regulations into a single, unified chapter. Several changes were made as a part of this ordinance amendment to adhere to the requirements of 160D and better align the Town with these requirements and best practices.**

**Section 3:** Based upon information presented at the public hearings and by the applicant, and based upon the recommendations and detailed information developed by staff and the Planning Board contained in the staff report, and considering the criteria applicable sections of the Unified Development Code of the Town of Clayton, specifically **that the ordinance amendment is consistent with the Comprehensive Plan 2040,** and the above referenced ordinance amendment is reasonable and in the public interest.

**TOWN OF CLAYTON  
AMENDMENT TO THE CODE OF ORDINANCES  
CHAPTER 155**

**BE IT HEREBY ADOPTED THAT THE TOWN COUNCIL FOR THE TOWN OF CLAYTON, NORTH CAROLINA** Amend Chapter 155 of its Code of Ordinances to read as follows:

*All amendments are made per Chapter 160D requirements.*

**ARTICLE 1: GENERAL PROVISIONS**

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**§ 155.100 TITLE**

This Chapter shall be known and may be cited as the Unified Development Code of the Town of Clayton, North Carolina, and may be referred to as “this Chapter,” “this Code,” “this Ordinance”, “this UDC,” or “the UDC.”

(Ord. 2005-11-02, passed 11-21-05)

**§ 155.101 AUTHORITY AND ENACTMENT**

The Town Council, pursuant to the authority conferred by the General Assembly of the State of North Carolina in G.S. § 160D generally, and more specifically § 160D-702 and -103, does hereby ordain and enact into laws these articles and sections.

(Ord. 2005-11-02, passed 11-21-05)

## **§ 155.102 PURPOSE**

### **(A) GENERAL**

For the purpose of promoting the health, safety, morals, and general welfare, this Chapter is adopted by the governing body to regulate and restrict 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, general design, appearance and use of buildings, structures and land for trade, industry, residence, or other purposes.

### **(B) ZONING**

The zoning regulations in this Chapter are in accordance with a comprehensive plan and are designed 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 preserve and improve the character of development in the Town and its neighborhoods; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. The regulations have been made with reasonable consideration, among other things, as to the character of the jurisdiction and its areas and their peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdiction.

### **(C) SUBDIVISION**

The purpose of this Chapter is also to provide for the orderly development of the Town and its environs through the regulation of the subdivision of land. The regulations contained herein are intended to coordinate proposed development with existing development and with officially adopted plans for the future development of the Town; to ensure the provision of adequate facilities for transportation, water, sewerage, and other public facilities in subdivisions; to ensure the proper legal description, monumentation, and recording of subdivided land; and to promote the public health, safety, and general welfare of the Town.

(Ord. 2005-11-02, passed 11-21-05)

## **§ 155.103 EFFECTIVE DATE**

This Chapter was adopted on February 01, 2021, becoming effective on **EFFECTIVE DATE**. From time to time this chapter or sections herein may be amended by the Town Council.

(Ord. 2005-11-02, passed 11-21-05; Ord. 2017-04-06, approved 04/03/2017)

## **§ 155.104 JURISDICTION**

### **(A) ZONING DISTRICTS**

- (1) The boundaries of the zoning districts, including but not limited to Conventional Districts, Conditional Zoning Districts (some of which are formerly-approved Special Use Districts), and Overlay Districts, are shown upon the map accompanying this Chapter, and made a part hereof, entitled "Town of Clayton Official Zoning Map" (also known as "zoning map"), as amended from time to time. The zoning map and all the notations, references and all amendments thereto, and other information shown thereon is hereby made a part of this Chapter the same as if such information set forth on the map were all fully described and set out herein. The most current and updated version of the Official Zoning Map properly attested is maintained by the Planning Department, and is on file in the Planning Department and the Office of the Town Clerk, and is available for inspection by the public. When duly adopted by the Town Council, these regulations shall also govern each and every subdivision of land within the corporate limits of the Town, as now or hereafter established, and within the extraterritorial jurisdiction adopted by the Town.

### **(B) FUTURE LAND USE DISTRICTS**

- (1) Certain Future Land Use Designations are established and incorporated by reference on the "Town of Clayton Future Land Use Map" (as part of the most current, adopted comprehensive plan, and also known as "future land use map"), which is hereby made a portion of this Ordinance. The future land use map shall guide and govern changes to the Official Zoning Map and the districts therein. The most current and updated version of the Future Land Use Map properly attested is maintained by the Planning Department, is on file in the Planning Department and the Office of the Town Clerk, and is available for inspection by the public.

### **(C) OTHER MAPS AND ORDINANCES**

- (1) The most recent officially adopted version of other maps adopted by the state or federal government, including regulatory language, as necessary to accomplish the purpose of this UDC, are hereby incorporated by reference. This includes but is not limited to maps of floodplains, soils, watersheds, water supply protection areas, and United States Geological Survey (USGS) maps depicting streams or other water courses.

(Ord. 2005-11-02, passed 11-21-05; Ord. 2017-04-06, approved 04/03/2017)

## **§ 155.105 LEGAL STATUS PROVISIONS**

### **(A) LEGAL STATUS PROVISIONS**

- (1) In its interpretation and application, the provisions of this Chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Whenever the requirements of lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants are at variance with the requirements of this Chapter, the most restrictive, or that imposing the highest standards, shall govern.

(2) This Chapter and various parts, sections, subsections, and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection, section, or clause is

adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Chapter shall not be affected thereby. Whenever any condition or limitation is included in an order authorizing a special use permit, conditional zoning, variance, certificate of occupancy, or site plan approval or is offered by an applicant in an application or public hearing for such permit or approval, it shall be conclusively presumed that the authorizing officer or body considered such condition or limitation necessary to carry out the spirit and purpose of this Chapter or the requirements of some provisions hereof, and to protect the public health, safety, and welfare, and that the officer or body would not have granted the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful. All conditions proposed to be attached to a Special Use Permit or a Conditional Zoning must be voluntarily agreed to in writing by all owners of the property to which those regulations may be applied.

(B) **STATUTE OF LIMITATIONS**

In accordance with G.S. § 160D-1405, a cause of action as to the validity of this Chapter, or amendment thereto, shall accrue upon the adoption of this Chapter or amendment thereto, and shall be brought within the time period specified therein.

(C) **REPEAL OF CONFLICTING ORDINANCE**

All ordinances or parts of ordinances of the Town which are in conflict or inconsistent with this Chapter are repealed and superseded to the extent necessary to give this Chapter full force and effect.

(D) **ADMINISTRATOR**

(1) The Planning Director is appointed to serve as administrator of this Chapter. If this position should at any time be vacant, then the Town Manager shall designate another Town official to act as administrator until the office is filled.

(2) Delegation of Authority

The Planning Director may designate any staff member to represent the Planning Director in any function assigned by this Chapter but shall remain responsible for any final action.

(E) **EXAMPLES AND ILLUSTRATIONS**

The examples, illustrations, and any other commentaries used in this Chapter are for informational purposes only and are not intended for the purpose of construing the substantive or procedural provisions of this Chapter or the Town's intent in adopting specific provisions in this Chapter. In instances with contradictions, the text always supersedes illustrations or graphics.

(Ord. 2005-11-02, passed 11-21-05)

## **§ 155.106 APPLICATION OF REGULATIONS**

The regulations set forth in this Chapter shall affect all land, every structure, and every use of land or structure, and shall apply as follows:

(A) **COMPLIANCE REQUIRED**

No structure or land shall hereafter be used, occupied, or modified, and no structure or part thereof shall be erected, moved onto, or structurally altered, except in compliance with the regulations of this Chapter, for the district in which it is located. This definition shall include all forms of development as defined in GS 160D-102(12).

(B) **ZONING PERMIT REQUIRED**

No building, sign, structure, or land-disturbing activities, or any part thereof shall be erected, structurally altered, moved, or changed in use until a zoning permit has been issued by the Planning Director, as set forth in § 155.709 "Zoning Permit".

(Ord. 2005-11-02, passed 11-21-05; Ord. 2017-04-06, approved 04/03/2017)

## **§ 155.107 INTERPRETATION OF REGULATIONS**

The regulations in this Chapter shall be enforced and interpreted according to the following rules:

(A) **MINIMUM REQUIREMENTS**

Regulations set forth by this Chapter shall be minimum regulations. If the requirements set forth in this Chapter are inconsistent with the requirements of any other lawfully adopted uses, regulations, or ordinances, the more restrictive or higher standard shall govern, unless otherwise specified.

(B) **RESTRICTIVE COVENANTS**

Unless restrictions established by covenants with the land are prohibited by or contrary to the provisions of this Chapter, nothing contained within this Chapter shall be construed to render such covenants inoperative.

(Ord. 2005-11-02, passed 11-21-05)

## **§ 155.108 COMPLIANCE WITH PLANS**

(A) **APPROVED PLANS**

Permits or certificates issued on the basis of plans and applications shall authorize only the use, arrangement, and construction as set forth in such approved plans and applications and no other use, arrangement, or construction.

(B) **ADOPTED PLANS AND POLICIES**

All proposed subdivisions, structures, developments, and associated infrastructure shall be placed and designed in a manner consistent with the adopted plans and policies of the Town.

(Ord. 2005-11-02, passed 11-21-05; Ord. 2017-04-06, approved 04/03/2017)

## **§ 155.109 TRANSITIONAL PROVISIONS**

(A) **CONFORMING USES AND STRUCTURES**

- (1) Any use or structure existing prior to the effective date of this Chapter that conforms to the regulations of this Chapter for permitted uses, and satisfies the dimensional requirements and any other applicable regulations of the district in which it is located, may be continued, provided any use, structural, or other changes shall comply with the provisions of this Chapter.
- (2) Any use or structure existing prior to the effective date of this Chapter that would be permitted by this Chapter as a special use (or previously as a conditional use) in the district in which it is located, may be continued as if a special or conditional use permit had been issued,



provided that any use, structural, or other changes shall comply with the provisions of this Chapter.

(B) **EFFECT OF AMENDMENT**

If subsequent amendments to this Chapter or the zoning map result in the creation of additional nonconformities or conformities, such nonconformities or conformities shall be governed by the provisions of this Chapter, unless otherwise stated in the amendment.

(C) **APPLICATIONS AND PRIOR APPROVALS**

(1) **Projects Under Construction Prior to Effective Date**

- (a) Any building or development for which a permit was issued before the effective date of this Chapter may be completed in conformance with the issued permit and other applicable permits and conditions, even if such building or development does not fully comply with provisions of this Chapter.
- (b) Nothing in this Chapter shall require a change to a phasing plan approved prior to the adoption of this Chapter, provided construction is consistent with the terms and conditions of the phasing plan and proceeds to completion in a timely manner. The applicant shall ensure that a period of no more than two years without an active building permit occurs in order to continue a project under a previous phasing plan.
- (c) If construction is not completed according to the applicable permit terms, the Town Council may, for good cause shown, grant an extension of up to one year for such construction. If the building is not completed within the time allowed under the original permit or any extension granted, then the building may be constructed, completed, or occupied only in compliance with this Chapter.

(2) **Applications Submitted Prior to Effective Date**

- (a) Pursuant to G.S. §160D-108, any complete application submitted before the effective date of this Chapter or sections herein may be completed in conformance with applicable permits and conditions of the regulations in effect at the time of submission of the application, even if such application does not fully comply with provisions of this Chapter.
- (b) If construction is not commenced or completed according to the applicable terms of the application, the Town Council may, for good cause shown, grant an extension of up to one year for such construction. If the building or improvements are not completed within the time allowed under the original application or any extension granted, then the building or improvements may be constructed, completed, or occupied only in compliance with this Chapter.

(3) **Prior Approvals**

- (a) Where a planned development, special use district, special use, or conditional use was approved prior to the effective date of this Chapter, the provisions of this Chapter shall apply to the extent that they do not conflict with the original conditions of approval.
- (b) Pursuant to Section 2.9(b) of S.L. 2019-111, any Conditional Use Permit approved prior to the adoption of this subsection that is valid and legal as of the effective date of this Ordinance is hereby transformed into an identical Special Use Permit immediately, subject to all established conditions and applicable standards of this Chapter.
- (c) Pursuant to Section 2.9(b) of S.L. 2019-111, any special use district, conditional use district, or Planned Development districts (formerly identified as PD-R, PD-C, PD-I, or PD-MU) that is valid and legal as of the effective date of this Ordinance hereby transformed into an identical Conditional Zoning District immediately, subject to all established conditions and applicable standards of this Chapter.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07, Am. Ord. 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)

## **§ 155.110 NONCONFORMITIES**

### **(A) PURPOSE AND INTENT**

The purpose of this Section is to establish regulations to address lots, structures, uses and site elements that were lawfully established before this Chapter was adopted or amended, but do not conform to the terms and current requirements of this Chapter, or were required as part of an approval but do not exist. It is the intent of this Section to regulate and limit the continued existence of such nonconformities; and, where possible, bring them into conformance with this Chapter.

### **(B) APPLICABILITY**

This Section applies to nonconforming lots, structures, uses, and site elements. In determining whether such nonconformities will be regulated by the provisions of this Section, the following shall apply:

- (1) Nonconforming status shall not be provided for any lot, structure, use, or site element which was illegally created, commenced, constructed, or unlawfully continued.
- (2) Nonconforming status shall only be authorized upon demonstration by the applicant that a lot, structure, use or site element was lawfully approved, created, commenced or constructed, and not merely contemplated.
  - (a) To obtain nonconforming status, the applicant must demonstrate that the use was in continuous operation during business hours and not an occasional use of the property.
- (3) An accessory nonconforming use shall not become the principal use.

### **(C) NONCONFORMING LOT**

A nonconforming lot is a lot that was lawfully created before this Chapter was adopted or amended, but does not conform to the minimum lot acreage and dimensional criteria as set forth in Article 2, Zoning Districts of this Chapter.

- (1) Where the owner of a residential lot that was lawfully created before this Chapter was adopted or amended, or any successor in title does not own sufficient land to conform to the standards provided in Section 155.203, District Standards, such a lot may be used as a building site for a single-family residence in a district in which residences are permitted, provided that the required standards are not more than 20 percent below the minimum specified in this Chapter, or within five percent of the average deviation on lots adjacent to or within the same subdivision. The County Health Department's approval of the reduction is required if on-site water or wastewater facilities are involved. In cases where the criteria above cannot be met, the Board of Adjustment may grant a Variance, subject to the required findings set forth in Section 155.716, Variance.

- (2) Nonconforming, substandard lots may be granted a Variance for development, subject to approval by the Board of Adjustment and the required findings set forth in Section 155.716, Variance.
- (3) If two or more adjoining and vacant lots are in one ownership when this Chapter is adopted, or at any time after the adoption of this Chapter, and either or both lots do not meet the dimensional requirements of this Chapter for the district in which such lots are located, then such group of lots shall be considered as a single lot.

(D) **NONCONFORMING USE**

A nonconforming use is the use of land, buildings, or structures that was lawfully established on a property prior before this Chapter was adopted or amended, but does not conform to the use regulations of his Chapter.

(1) **Continuation**

No nonconforming use may be enlarged, expanded, or extended, or moved to occupy a different or greater area of land, buildings or structures than was occupied by the use at the time it became nonconforming.

(2) **Change in Use**

A nonconforming use shall not be changed to any other use, unless the new use conforms to this Chapter. A nonconforming use physically replaced by a permitted use shall not be re-established.

(3) **Maintenance**

Maintenance and repair of a building occupied by a nonconforming use is permitted, provided it does not extend the nonconforming use.

(4) **Discontinuance or Cessation**

- (a) A nonconforming use that is discontinued, abandoned, or changed to an accessory use for a period of more than 90 consecutive days, or for a total of 180 calendar days during any twelve month period, shall lose its nonconforming status and shall not be reestablished or resumed. Any subsequent use in the same location shall be consistent with this Chapter.

(E) **NONCONFORMING STRUCTURE**

A nonconforming structure is a structure that was lawfully established on a property prior to this Chapter being adopted or amended, but does not conform with the square footage, density, yard, dimensional, height, lot coverage or other structural provision of this Chapter.

- (1) The nonconforming features of a structure shall not be changed or increased in such a way as to intensify the nonconformity or increase the degree to which the structure is nonconforming. A nonconforming structure can be changed if the area of the improvement will reduce the nonconformity.
- (2) Changes to or expansion of a nonconforming structure shall not result in the intensification or expansion of a nonconforming use.
- (3) Substandard structures which are damaged or destroyed by fire, wind, flood or other natural causes may be reconstructed and shall comply with the applicable provisions of this Chapter, unless the structure is situated on a substandard lot of record, in which case the provisions concerning nonconforming lots shall apply.

(F) **NONCONFORMING SITE ELEMENT**

A nonconforming site element is a site improvement that is required as part of an approval but does not exist, or was existing or lawfully established prior to this Chapter being adopted or amended. Site elements include, but are not limited to access, parking, landscaping, signage and lighting.

- (1) No nonconforming site element shall be erected, replaced, or modified except to reduce or eliminate the nonconformity. Repair and maintenance of nonconforming site elements is permitted.
- (2) When improvements or major external renovations are proposed to an existing conforming structure, the associated non-conforming site elements must also be improved to comply with the current requirements of this Chapter.
- (3) If all site elements cannot be brought into compliance with the current requirements of this Chapter for reasons which include, but are not limited to site layout, space limitations, tree preservation, or other natural features, the Planning Director may approve a deviation from site element requirements so long as the modifications to the elements are moving in the direction of conformity with the provisions of this Chapter.

(G) **NONCONFORMITIES IN THE WATER PROTECTION OVERLAY (WPO)**

Nonconforming lots, buildings, and structures located within the WPO may be continued and maintained. Expansions to nonconformities must meet the requirements of § 155.501.

(Ord. 2013-10-03, passed 10-7-13)

## ARTICLE 2: ZONING DISTRICTS

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### § 155.200 DISTRICTS ESTABLISHED

To carry out the provisions of this Chapter, within the jurisdiction of the Town, the following zoning districts are established.

#### (A) INTERPRETATION OF ZONING DISTRICT BOUNDARIES

##### (1) **Defined**

District boundaries are as shown upon the Official Zoning Map and Future Land Use Map as set forth in § 155.104, and as adopted by Town Council. The provisions of this chapter are hereby established and declared to be in effect upon all land included within the boundaries as shown on the maps.

##### (2) **Rules for Interpretation**

- (a) The Planning Director shall be responsible for interpretations of the Official Zoning Map and Future Land Use Map in accordance with the standards set forth in this Section. Where uncertainty exists as to the boundaries of any district shown on the Official Zoning Map, the following rules shall apply:
  - 1. Boundaries indicated as approximately following the centerlines of streets, alleys, highways, streams or railroads shall be construed to follow such centerlines.
  - 2. Boundaries indicated as approximately following lot lines, Town limits or extraterritorial jurisdiction boundary lines, shall be construed as following such lines, limits or boundaries; and
  - 3. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as following such changed shorelines.

4. Where a district boundary divides a lot or where distances are not specifically indicated on the zoning map, the boundary shall be determined by measurement, using the scale of the zoning map.

5. Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.

(b) Any person or party aggrieved by the Planning Director's interpretation of the Official Zoning Map may file an Administrative Appeal application to the Board of Adjustment, as provided in §155.717 of this ordinance. The application shall contain sufficient information to enable the Board of Adjustment to make the necessary interpretation.

(B) **CONVENTIONAL DISTRICTS**

(1) **Residential Districts**

(a) ***R-E / Residential-Estate.*** The R-E district is comprised of low density, single-family dwellings, and other selected uses which are compatible with the open and rural character of the area. The established regulations for this district are designed to promote and encourage an environment for family life and agriculture. To encourage higher quality development and to ensure greater environmental protection, open space (cluster) subdivisions are permitted.

(b) ***R-10 / Single-Family Residential-10.*** The R-10 district is established to provide for orderly suburban residential development and redevelopment and is intended to maintain residential areas at relatively low densities characterized predominantly by single-family detached units. The district requirements protect existing neighborhoods from undesirable or incompatible uses. To encourage higher quality development and to ensure greater environmental protection, open space (cluster) subdivisions are permitted. A special permit process for higher intensity development is also allowed, using discretion to balance issues of higher density with improved amenities.

(c) ***R-8 / Single-Family Residential-8.*** The R-8 district is established to provide for orderly suburban residential development and redevelopment and is intended to maintain residential areas at suburban densities characterized predominantly by single-family detached units. To encourage higher quality development and to ensure greater environmental protection, open space (cluster) subdivisions are permitted. A special permit process for higher intensity development is also allowed, using discretion to balance issues of higher density with improved amenities.

(d) ***R-6 / Single-Family Residential-6.*** The R-6 district is established to provide for orderly suburban residential development and redevelopment. Intended to protect, preserve and enhance existing residential areas of higher density, which includes multi-family dwellings mixed with other housing types. A special permit process for higher intensity development is also allowed, using discretion to balance issues of higher density with improved amenities.

(2) **Nonresidential Districts**

- (a) **O-R | Office-Residential.** The O-R district is intended to accommodate modest-scale professional occupations, along with single-family and multi-family residential units, to serve as a neighborhood activity center and as a transition between residential and more intense commercial uses.
- (b) **O-I | Office-Institutional.** The O-I district is intended to permit offices, institutions, and associated administrative, executive, professional and research uses in new and existing structures and limited retail uses. Such offices and institutional uses are generally located along or proximate to major roadways or adjacent to commercial uses and may act as a buffer between such areas and residential uses.
- (c) **B-1 | Central-Business.** The B-1 district is intended to foster a vibrant, safe, central business district and town center by encouraging dense residential development while retaining and further developing a broad range of commercial, retail, service, office, institutional, public, cultural, and entertainment uses and activities. The district is intended to define and promote the town center as a desirable place to live, work, shop, and recreate.
- (d) **B-2 | Neighborhood-Business.** The B-2 district provides opportunities for small-scale commercial uses offering primarily convenience shopping and services for adjacent residential areas. Proximity to residences requires that commercial operations are low intensity, unobtrusive, and conducted at a scale and density compatible with the surrounding neighborhood. There is a relatively low demand on public services, transportation, and utilities.
- (e) **B-3 | Highway-Business.** The B-3 district provides opportunities for offices, service uses, and businesses retailing durable and convenience goods for the community as a whole. Located on major and minor thoroughfares, this district is accessible to and serves the entire community. Site design and buffering mitigate impacts of traffic, operations, and scale on adjacent businesses and residential neighborhoods.
- (f) **I-1 | Industrial-Light.** The I-1 district fosters the retention and growth of employment opportunities by providing areas where a broad range of industrial uses may locate and where options for complementary uses exist. Industries should be operated in a relatively clean and quiet manner, and should not be obnoxious to nearby residential or business districts, warehousing and wholesaling activities, and research facilities. The regulations of this district are intended to prohibit the use of land for industries that by their nature may create very minor nuisance to surrounding properties.
- (g) **I-2 | Industrial-Heavy.** The I-2 district fosters the retention and growth of employment opportunities by providing areas where a broad range of industrial uses may locate and where options for complementary uses exist. Intended for heavy industries that, by their nature, may create some nuisance, and which are not properly associated with or are compatible with nearby residential or business districts, warehousing and wholesaling activities, and research facilities.
- (h) **PF | Public Facilities.** The PF district is established to provide a coordinated land planning approach to the sale, rent, lease, purchase, management, or alteration of publicly owned or operated lands. Notwithstanding those public uses permitted elsewhere in this Code, the PF district is primarily intended for, although not limited to,



public parks and recreation areas, public buildings and facilities, and other capital improvements of a significant nature. (*Ord. 2015-09-03, adopted 09/28/2015*)

(C) **CONDITIONAL ZONING DISTRICTS**

- (1) Pursuant to G.S. § 160D-703(B), the Town Council may establish by ordinance conditional districts (§ 155.705) upon request by or on behalf of all owners. A conditional zoning is a legislative map amendment with site-specific conditions incorporated into the zoning map amendment. Conditional districts provide the opportunity for developments that do not fit easily into existing zoning district(s) even when divided into component parts, and that also demonstrate excellence in site design, circulation, use coordination, and compatibility with neighboring properties such that it is in the public interest to create a new and novel zoning district to accommodate them. Conditional districts shall be designated by adding “-CZ” followed by the ordinance or project number establishing the district. Novel conditional zoning districts shall be designated by adding “CZ” followed by the ordinance number creating the district.
- (2) If for any reason a condition imposed pursuant to these regulations is found to be illegal or invalid, it is the intent of this chapter that the authorization of such conditional district shall be null and void and of no effect and that proceedings be instituted to rezone the property to its previous zoning classification. All conditions on conditional zonings must be voluntarily agreed to in writing by all owners of property to which the conditions apply.

(D) **OVERLAY DISTRICTS**

(1) **Thoroughfare Overlay District (TOD)**

The Thoroughfare Overlay District is established for the purpose of maintaining a safe, efficient, and functional development pattern adjacent to major thoroughfares, while maintaining an aesthetic streetscape environment. It is recognized that an enhanced development quality in areas of high visibility promotes economic development and stability in the entire community. The standards established in § 155.204(A) shall be applied to properties which adjoin major thoroughfares, as designated on the Town's Overlay Zoning Map.

(2) **Watershed Protection Overlay (WPO)**

- (a) The Watershed Protection Overlay (WPO) is hereby established as a district that overlays the designated water supply watershed. The designated water supply watershed under this district is defined and established by the overlay district "Watershed Protection Overlay" on the zoning map. Land use and development within the WPO must comply with all the requirements of both the underlying zoning district and the watershed overlay.
- (b) The designated water supply watershed within the Town is designated by the state as a Class IV watershed protected area (WS-IV PA) and is referred to as the Neuse River (Smithfield) watershed within the Neuse River basin. Only new development activities that require an erosion/sedimentation control plan under state law or approved local government program are required to meet the provisions of this program. See § 155.501 for watershed protection standards.

(3) **Downtown Overlay District (DOD)**

The Downtown Overlay District is established for the purpose of fostering the economic vitality of the area within the district's boundaries, as well as the aesthetics and character of the district as further described in this Article, specifically in §155.204.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2009-08-02, passed 8-3-09, Am. Ord. 2012-04-02, passed 4-2-12; Am. Ord. 2012-12-02, passed 12-3-12; Am. Ord. 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)

## § 155.201 MEASUREMENTS AND EXCEPTIONS

### (A) GENERAL

No lot, even though it may consist of one or more adjacent lots of record in single ownership, shall be reduced in size so that the lot area per dwelling unit, lot width, yard and lot coverage requirements, and other requirements of this chapter are not maintained. This prohibition shall not be construed to prevent the purchase or condemnation of narrow strips of land for public utilities or street right-of-way purposes.

### (B) GROSS FLOOR AREA

The gross floor area of a building shall be measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings.

### (C) HEIGHT

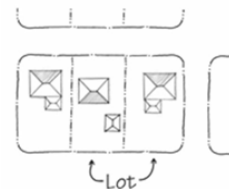
- (1) Height shall be determined by the vertical distance from the average of the finished ground level to the highest finished roof surface.
- (2) No structure shall be erected or altered so as to exceed the height limit or density regulations of this article for the district in which it is located, except that in an Industrial district the maximum height may be exceeded by 1 vertical foot for every additional horizontal foot of setback provided for all sides, up to a maximum 100' of structure height. Structures may be stepped in order to meet this performance standard.
- (3) The Board of Adjustment may grant a Variance in accordance with § 155.716 for structures exceeding the maximum height limits of any district.

### (D) AREA

Area shall be measured in gross square feet or acres.

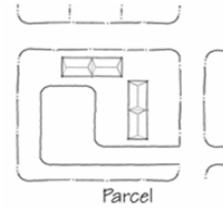
#### (1) **Lot**

- (a) Lot area shall be that area included in a single, undivided piece of land.
- (b) Minimum lot areas shall be exclusive of existing or proposed public or private right-of-way, resource conservation areas (see § 155.500), and required recreation and open space (see § 155.203(H)).



#### (2) **Parcel**

- (a) A parcel may contain multiple buildings or uses.
- (b) Parcel area shall be that area required for each individual building in a multi-building project. A parcel may include multiple lots.



(E) **WIDTH**

(1) **Building Width**

Building width shall be measured by the distance along the front plane of any building (as determined by the location of an entrance fronting on a street).

(2) **Parcel or Lot Width**

Parcel or lot width shall be measured by the distance between the side lot lines (generally running perpendicular to a street), measured at the rear edge of the front setback (also commonly known as the street yard) along a straight line parallel to the front of the property line or if the front property line is not straight, parallel to the chord of the front property line.



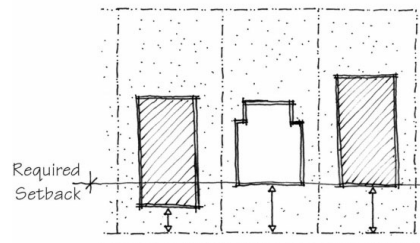
(F) **DENSITY**

- (1) The maximum possible density on any parcel of land shall be as follows:
  - (a) One hundred percent of the district density for the area outside of resource conservation areas; and
  - (b) Fifty percent of the district density for any resource conservation areas (see Article 5).
- (2) Maximum allowable density for residential development shall be calculated by dividing the acreage of land (in square feet) by the minimum lot area (in square feet) for the district, and then rounding down to the nearest whole number.

(G) **YARDS AND SETBACKS**

(1) **General**

- (a) All front yard and side street yard setbacks shall be measured from the edge of the right-of-way.
- (b) The minimum front yard requirements of this article for residential dwellings shall not apply on any lot where the average front yard of existing dwellings located on either side of the lot in question within the same block and zoning district and fronting on the same side of the street is less than the minimum required front yard. In such cases, the front yard on such lots may be less than the required front yard, but not less than the adjacent dwelling with the greatest front yard depth.



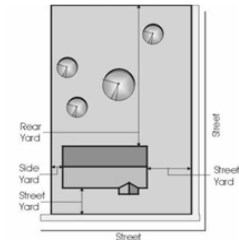
- (c) Every part of every required yard shall be open and unobstructed above the general ground level of the graded lot upward to the sky except as provided or as otherwise permitted in this section.
- (d) No part of a yard or other open space required about any structure or use for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another structure or use.

(2) **Types of Yards**

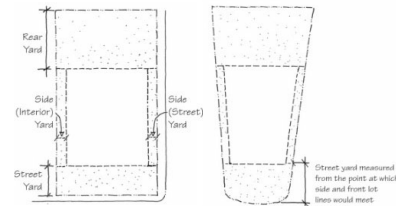
- (a) There are four types of yards – front, side street (also commonly known as street side), side interior, and rear.

(3) **Measurement of Yards**

- (a) Depth of a required front yard shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot lines, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding.



- (b) Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line.
- (c) Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line.



(4) **Yard Encroachments**

The following encroachment standards shall apply to all required yards, so long as they do not extend into any easements:

- (a) Parking structures may extend into the rear yard of a dwelling unit.
- (b) Chimneys, pre-fabricated chimneys, flues, or smokestacks may extend a maximum of four feet into a required yard.
- (c) Building eave or roof overhang may extend up to 24 inches into a required yard; provided that such extension is at least three feet from the property line, its lower edge is at least seven and one-half feet above the ground elevation, and it is located at least five feet from any other building or eave.
- (d) Sills and ornamental features may project up to 24 inches into any required yard.
- (e) Except in the B-1 District, fire escapes may project up to eight feet into any required yard.

- (f) Signs may extend into required yards in conformance with standards found in § 155.403.
- (g) Pedestrian bridges, breezeways, building connections, and supports of these structures may extend into required yards upon findings by the approving authority that the connecting feature is necessary to provide safe pedestrian access or to improve transit access.
- (h) Security gates and guard stations may be located within any required yard.
- (i) Unenclosed patios, decks or terraces, including lighting structures, may extend up to four feet into any required side yard, or up to eight feet into any required rear yard.
- (j) Covered porches may encroach a maximum of 20% of the required front yard setback depth.
- (k) Mechanical equipment for residential uses, such as HVAC units and security lighting, may extend into any required side yard but shall remain at least four feet from the property line.
- (l) Bay windows, entrances, balconies, and similar features that are less than ten feet wide may extend up to 18 inches into any required yard, but shall remain at least six feet from the property line.
- (m) Structures below and covered by the ground may extend into any required yard.
- (n) Driveways may extend into any required yard, provided that, to the extent practicable, they extend across rather than along the setback area and may be no closer than two feet from the property line.
- (o) Planters, retaining walls, fences, hedges, and other landscaping structures may encroach into any required yard subject to visibility restrictions.
- (p) Utility lines located underground and minor structures accessory to utility lines (such as hydrants, manholes, and transformers and other cabinet structures) may encroach into any required yard.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2012-04-02, passed 4-2-12; Am. Ord. 2012-12-02, passed 12-3-12; Am. Ord. 2014-03-01, passed 3-17-14; Am. Ord 2016-04-04, passed 04-04-2016)

## § 155.202 LAND USE REGULATIONS

### (A) USE REGULATIONS TABLE

The use regulations table is subject to the explanation as set forth below.

#### (1) **Key to Types of Use**

- (a) **Permitted.** A "P" indicates that a use is permitted in the respective district subject to the specific use standards in §§ 155.300 through 155.311. Such uses are also subject to all other applicable requirements of this chapter.
- (b) **Special Use Review.** An "S" indicates a use that may be permitted in the respective general use district only where approved by the Town Council upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards, and in accordance with § 155.711. Special uses are subject to all other applicable requirements of this chapter, including the specific use standards contained in §§ 155.300 through 155.311, except where such use standards are expressly modified by the Town Council as part of the special use approval.
- (c) **Specific Use Section.** The "Specific Use Section" column on the table is a cross-reference to any specific use standard listed in §§ 155.300 through 155.311. Where no cross-reference is shown, no additional use standard shall apply.
- (d) **Uses Not Permitted.** A blank cell in the use table indicates that a use is not permitted in the respective district. Except as pursuant to §155.110 and §155.300, the following uses are entirely prohibited within the jurisdiction of the Town, although such enumeration shall not necessarily be deemed exclusive or all-inclusive:
  - 1. Open dump;
  - 2. Outdoor gun range; and
  - 3. Any use prohibited by an applicable overlay zoning district.

#### (2) **Uses**

Table 2-1 "Use Regulations" lists the principal uses regulated by this chapter for conventional districts. For conditional zoning districts see § 155.200(C), for overlay districts see § 155.200(D), and for accessory structures and uses see § 155.308. In all cases, additional clarification and/or restrictions may be found in the Specific Use Standards (Article 3 of this chapter).

**§ 155.202 - Table 2-1 Use Regulations**

| Use Type         | Zoning Districts |      |     |     |                |     |     |     |     |     |     |    | Specific Use Section |
|------------------|------------------|------|-----|-----|----------------|-----|-----|-----|-----|-----|-----|----|----------------------|
|                  | Residential      |      |     |     | Nonresidential |     |     |     |     |     |     |    |                      |
|                  | R-E              | R-10 | R-8 | R-6 | O-R            | O-I | B-1 | B-2 | B-3 | I-1 | I-2 | PF |                      |
| Residential Uses |                  |      |     |     |                |     |     |     |     |     |     |    |                      |

| Use Type                                  | Zoning Districts |      |     |     |                |     |     |     |     |     |     |    | Specific Use Section |
|-------------------------------------------|------------------|------|-----|-----|----------------|-----|-----|-----|-----|-----|-----|----|----------------------|
|                                           | Residential      |      |     |     | Nonresidential |     |     |     |     |     |     |    |                      |
|                                           | R-E              | R-10 | R-8 | R-6 | O-R            | O-I | B-1 | B-2 | B-3 | I-1 | I-2 | PF |                      |
| Group Care Home (2-6 residents)           | P                | P    | P   | P   |                |     |     |     |     |     |     |    | \$155.301(A)         |
| Group Care Home (7-12 Residents)          | S                | S    | S   | S   | S              | S   |     | S   |     |     |     |    | \$155.301(A)         |
| Group Care Home (13+ Residents)           |                  |      |     |     |                | S   |     | S   |     |     |     |    | \$155.301(A)         |
| Apartments                                |                  | S    | S   | S   | S              | S   | S   | S   | S   |     |     |    | \$155.301(B)         |
| Boarding House                            |                  |      |     | S   |                | S   |     | S   |     |     |     |    | \$155.301(C)         |
|                                           |                  |      |     |     |                |     |     |     |     |     |     |    |                      |
| Duplex                                    |                  | S    | S   | S   | S              |     |     |     |     |     |     |    | \$155.301(G)         |
| Manufactured Home                         | P                |      |     |     |                |     |     |     |     |     |     |    | \$155.301(D)         |
| Manufactured Home Park                    | S                |      |     |     |                |     |     |     |     |     |     |    | \$155.301(E)         |
| Nursing Home (Congregate Living Facility) | P                |      |     |     |                | P   |     | P   | P   |     |     |    | \$155.301(F)         |
| Townhouse                                 |                  | S    | S   | S   | S              | S   |     | S   | S   |     |     |    | \$155.301(H)         |
| Security/Caretaker Quarters               | P                |      |     |     |                |     |     |     | S   |     |     | S  | \$155.301(I)         |
| Single Family House                       | P                | P    | P   | P   | P              |     |     |     |     |     |     |    | \$155.301(J)         |
| Upper-story Residence                     |                  |      |     |     | P              | P   | P   | P   | P   |     |     |    | \$155.301(K)         |
| Zero Lot Line House                       |                  | P    | P   | P   |                |     |     |     |     |     |     |    | \$155.301(L)         |
| Public and Civic Uses                     |                  |      |     |     |                |     |     |     |     |     |     |    |                      |
| Assembly                                  | S                |      |     |     |                | P   | S   | S   | P   |     |     | P  | \$155.302(A)         |
| Cemetery                                  | P                |      |     |     |                |     |     |     | S   |     |     | P  | \$155.302(B)         |
| Church or Place of Worship                | S                | S    | S   | S   |                | P   |     | P   | S   |     |     |    | \$155.302(C)         |
| College or University                     |                  |      |     |     |                | P   |     |     |     |     |     | P  | \$155.302(D)         |
| Day Care Facility                         | S                | S    | S   | S   | S              | P   |     | P   | P   |     |     |    | \$155.302(E)         |
| Government Service                        | S                | S    | S   | S   | P              | P   | P   | P   | P   | P   | P   | P  | \$155.302(F)         |
| Hospital or Medical Center                |                  |      |     |     |                | P   |     |     | P   |     |     | P  | \$155.302(G)         |
| School (Elementary or Secondary)          | S                | S    | S   | S   |                | P   |     |     |     |     |     | P  | \$155.302(H)         |
| School (Technical, Trade or Business)     | S                | S    | S   | S   |                | P   |     |     | P   | P   | P   | P  | \$155.302(I)         |
| Recreational Uses                         |                  |      |     |     |                |     |     |     |     |     |     |    |                      |
| Entertainment, Indoor                     |                  |      |     |     |                | P   | S   | P   | P   | P   |     | P  | \$155.303(A)         |
| Entertainment, Outdoor                    |                  |      |     |     |                |     |     |     | S   | P   |     | P  | \$155.303(B)         |
| Fitness/Recreation Center                 |                  |      |     |     |                | P   | S   | P   | P   | P   |     | P  | \$155.303(C)         |
| Golf Course                               | P                | P    | P   | P   |                |     |     |     |     |     |     | P  | \$155.303(D)         |
| Gun Range                                 |                  |      |     |     |                |     | S   |     | S   | S   | S   | S  | \$155.303(E)         |
| Park                                      | P                | P    | P   | P   | P              | P   | S   | P   |     |     |     | P  | \$155.303(F)         |
| Stable, Private                           | P                |      |     |     |                |     |     |     |     |     |     |    | \$155.303(G)         |
| Agricultural Uses                         |                  |      |     |     |                |     |     |     |     |     |     |    |                      |
| Agriculture, Livestock                    | S                |      |     |     |                |     |     |     |     |     |     |    | \$155.304(A)         |
| Agriculture, Sales and Service            | P                |      |     |     |                |     |     |     |     |     | S   |    | \$155.304(B)         |
| Nursery                                   | P                |      |     |     |                | P   | S   | P   | P   |     |     | P  | \$155.304(C)         |
| Commercial Uses                           |                  |      |     |     |                |     |     |     |     |     |     |    |                      |
| Adult Oriented Business                   |                  |      |     |     |                |     |     |     |     | S   |     |    | \$155.305(A)         |
| Bed and Breakfast                         | P                |      |     | S   | S              |     | S   |     |     |     |     |    | \$155.305(B)         |
| Car Wash/Auto Detailing                   |                  |      |     |     |                |     |     | P   | P   |     |     |    | \$155.305(C)         |
| Contractor Office                         |                  |      |     |     |                | P   |     |     | P   | P   | P   |    | \$155.305(D)         |
| Convenience Store with Gas Sales          |                  |      |     |     |                |     |     | P   | P   | P   |     |    | \$155.305(E)         |
| Creative Studio                           |                  |      |     |     | P              | P   | P   | P   | P   |     |     |    | \$155.305(F)         |
| Financial Institution                     |                  |      |     |     |                | P   | S   | P   | P   |     |     |    | \$155.305(G)         |
| Funeral Home                              | S                |      |     |     | P              | P   |     |     |     |     |     |    | \$155.305(H)         |
| Hotel/Motel                               |                  |      |     |     |                | P   | S   | P   | P   |     |     |    | \$155.305(I)         |
| Kennel                                    | S                |      |     |     |                |     |     | P   | P   |     |     |    | \$155.305(J)         |
| Laundry Services                          |                  |      |     |     |                |     |     | P   | P   | P   | P   |    | \$155.305(K)         |
| Lounge, Cocktail                          |                  |      |     |     |                |     | S   | S   | S   | S   |     |    | \$155.305(L)         |
| Microbrewery                              |                  |      |     |     |                |     | P   | S   | P   | P   | P   |    | \$155.305(M)         |
| Publisher                                 |                  |      |     |     |                | P   |     |     | P   | P   | P   |    | \$155.305(N)         |
| Office, General                           |                  |      |     |     | P              | P   | P   | P   | P   | P   |     | P  | \$155.305(O)         |
| Office, Medical                           |                  |      |     |     | P              | P   | P   | P   | P   |     |     |    | \$155.305(P)         |
| Outdoor Seating/Sidewalk Cafe             |                  |      |     |     |                | P   | P   | P   | P   |     |     |    | \$155.305(Q)         |
| Parking Lot                               |                  |      |     |     |                | S   | S   | S   | S   | S   | S   | S  | \$155.305(R)         |
| Pawn Shop                                 |                  |      |     |     |                |     |     |     | P   | P   |     |    | \$155.305(S)         |
| Radio or Television Studio                |                  |      |     |     |                |     |     |     | P   | P   | P   |    | \$155.305(T)         |
| Restaurant                                |                  |      |     |     |                | P   | P   | P   | P   |     |     |    | \$155.305(U)         |
| Retail Sales                              |                  |      |     |     |                |     | P   | P   | P   | P   |     |    | \$155.305(V)         |



| Use Type                     | Zoning Districts                                                                                               |      |     |     |                |     |     |     |     |     |     |    | Specific Use Section |
|------------------------------|----------------------------------------------------------------------------------------------------------------|------|-----|-----|----------------|-----|-----|-----|-----|-----|-----|----|----------------------|
|                              | Residential                                                                                                    |      |     |     | Nonresidential |     |     |     |     |     |     |    |                      |
|                              | R-E                                                                                                            | R-10 | R-8 | R-6 | O-R            | O-I | B-1 | B-2 | B-3 | I-1 | I-2 | PF |                      |
| Self-storage Facility        |                                                                                                                |      |     |     |                |     |     |     | S   | P   |     |    | \$155.305(W)         |
| Service                      |                                                                                                                |      |     |     | P              | P   | P   | P   | P   |     |     |    | \$155.305(X)         |
|                              |                                                                                                                |      |     |     |                |     |     |     |     |     |     |    |                      |
| Tattoo Parlor                |                                                                                                                |      |     |     |                |     |     |     | P   |     |     |    | \$155.305(Y)         |
| Towing Service and Storage   |                                                                                                                |      |     |     |                |     |     |     | S   | S   | P   |    | \$155.305(Z)         |
| Vehicle Repair or Service    |                                                                                                                |      |     |     |                |     |     |     | S   | P   | P   |    | \$155.305(AA)        |
| Vehicle Sales and Rental     |                                                                                                                |      |     |     |                |     |     |     | S   | P   | P   |    | \$155.305(BB)        |
| Veterinary Clinic            |                                                                                                                |      |     |     |                | P   |     | P   | P   |     |     |    | \$155.305(CC)        |
|                              |                                                                                                                |      |     |     |                |     |     |     |     |     |     |    |                      |
| Industrial Uses              |                                                                                                                |      |     |     |                |     |     |     |     |     |     |    |                      |
| Building Supplies, Wholesale |                                                                                                                |      |     |     |                |     |     |     |     | P   | P   |    | \$155.306(A)         |
| Crematorium                  |                                                                                                                |      |     |     |                |     |     |     |     | P   | P   |    | \$155.306(B)         |
| Gas and Fuel, Wholesale      |                                                                                                                |      |     |     |                |     |     |     |     | P   | P   | P  | \$155.306(C)         |
| Laboratory, Research         |                                                                                                                |      |     |     |                | P   |     |     |     | P   | P   |    | \$155.306(D)         |
| Manufacturing, Light         |                                                                                                                |      |     |     |                |     |     |     |     | P   | P   |    | \$155.306(E)         |
| Manufacturing, Heavy         |                                                                                                                |      |     |     |                |     |     |     |     |     | P   |    | \$155.306(F)         |
| Research and Development     |                                                                                                                |      |     |     |                | P   |     |     |     | P   | P   |    | \$155.306(G)         |
| Warehouse, Freight Movement  |                                                                                                                |      |     |     |                |     |     |     | S   | P   | P   |    | \$155.306(H)         |
| Utilities                    |                                                                                                                |      |     |     |                |     |     |     |     |     |     |    |                      |
| Recycling Center             |                                                                                                                |      |     |     |                |     |     |     |     | S   | P   | P  | \$155.307(A)         |
| Renewable Energy Facility    | S                                                                                                              |      |     |     |                |     |     |     |     | S   | S   | S  | \$155.307(B)         |
| Telecommunication Facility   | S                                                                                                              | S    | S   | S   | S              | S   | S   | S   | S   | S   | S   | S  | \$155.307(C)         |
| Utility, Minor               | P                                                                                                              | P    | P   | P   | P              | P   | P   | P   | P   | P   | P   | P  | \$155.307(D)         |
| Utility, Major               |                                                                                                                |      |     |     |                |     |     |     |     | P   | P   | P  | \$155.307(E)         |
| Waste Service                |                                                                                                                |      |     |     |                |     |     |     |     | S   | P   | P  | \$155.307(F)         |
| Accessory Uses               |                                                                                                                |      |     |     |                |     |     |     |     |     |     |    |                      |
| Accessory Dwelling Unit      | S                                                                                                              | S    | S   | S   |                |     |     |     |     |     |     |    | 155.308(C)(1)        |
| Food Truck                   |                                                                                                                |      |     |     |                | P   | P   | P   | P   | P   | P   | P  | 155.308(D)(2)        |
| Day Care Facility            | S                                                                                                              | S    | S   | S   |                | P   |     | P   | P   | P   | P   | P  | 155.308(D)(3)        |
| In-Home Daycare              | P                                                                                                              | P    | P   | P   | P              |     |     |     |     |     |     |    | 155.308(C)(3)        |
| Park                         |                                                                                                                |      |     |     |                |     |     |     | P   |     |     | P  | 155.308(D)(4)        |
| Outdoor Display/Sales        |                                                                                                                |      |     |     |                |     | P   | P   | P   |     |     |    | 155.308(D)(5)        |
| Outdoor Dining               |                                                                                                                |      |     |     |                | P   | P   | P   | P   |     |     |    | 155.308(D)(6)        |
| Outdoor Storage, Limited     |                                                                                                                |      |     |     |                |     |     |     | S   | P   | P   | P  | 155.308(D)(7)        |
| Outdoor Storage, General     |                                                                                                                |      |     |     |                |     |     |     |     | P   | P   | P  | 155.308(D)(8)        |
|                              |                                                                                                                |      |     |     |                |     |     |     |     |     |     |    |                      |
|                              | Key:                                                                                                           |      |     |     |                |     |     |     |     |     |     |    |                      |
|                              | P – Permitted                                                                                                  |      |     |     |                |     |     |     |     |     |     |    |                      |
|                              | S – Special Use Permit required in the zoning district only if approved by the Town Council (TC) ( \$ 155.711) |      |     |     |                |     |     |     |     |     |     |    |                      |

(Ord. 2005-11-02, adopted 11/21/2005; Am. Ord. 2006-06-01, adopted 06/19/2006; Am. Ord. 2007-04-05, adopted 04/02/2007; Am. Ord. 2007-05-02, adopted 05/07/2007; Am. Ord. 2009-06-06, adopted 06/01/2009; Am. Ord. 2009-08-03, adopted 08/03/2009; Am. Ord. 2012-01-04, adopted 01/03/2012; Am. Ord. 2012-04-02, adopted 04/02/2012; Am. Ord. 2012-12-02, adopted 12/03/2012; Am. Ord. 2014-12-02, adopted 12/01/2014; Ord. 2015-09-03, adopted 09/28/2015; Am. Ord 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)

## § 155.203 GENERAL USE DISTRICT STANDARDS

### (A) INTENT

The conventional district development standards establish lot sizes and certain restrictions for residential and nonresidential development. These standards allow for variety in housing types while maintaining the overall character of neighborhoods and commercial areas of the town. Separate standards are established to regulate development in each conventional district. This approach to district development standards benefits the public by:

- (1) Allowing for development that is more sensitive to the environment and encourages the preservation of open and natural areas.
- (2) Promoting quality site design and energy-efficient development.
- (3) Promoting affordable and life-cycle housing.
- (4) Promoting development intensities that maximize existing and proposed infrastructure investments.

### (B) RESOURCE CONSERVATION AREAS

See Article 5 for restrictions on the use of resource conservation areas.

### (C) CLAYTON GENERAL DESIGN GUIDELINES

The town has established a manual to guide the future growth of development. The design guidelines provide a basis for making decisions about the appropriate treatment of new construction and land development. Property owners, real estate agents, developers, tenants, architects and decision makers shall use the guidelines contained in the document when considering a project. This will help establish an appropriate direction for its design. For any project subject to review, the applicant shall refer to the guidelines at the outset, to avoid planning efforts that later may prove to be inappropriate.

### (D) HOW TO USE THIS SECTION

This section is divided into the following:

|                                                                                                                         |                                   |
|-------------------------------------------------------------------------------------------------------------------------|-----------------------------------|
| <b>Part 1. Residential Districts.</b> This Part sets forth specific standards for development in residential districts. | § 155.203(E) through § 155.203(J) |
|-------------------------------------------------------------------------------------------------------------------------|-----------------------------------|

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|-------------------------------------------------------------------------------------------------------------------------------|--------------|
| <b>Part 2. Nonresidential Districts.</b> This Part sets forth specific standards for development in nonresidential districts. | § 155.203(K) |
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| <b>Part 3. Conditional Zoning Districts.</b> This Part sets forth specific standards for development in conditional districts. | § 155.203(L) |
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## **PART 1. RESIDENTIAL DISTRICTS**

### **(E) PURPOSE AND INTENT**

The purpose and intent of the residential districts is to provide a safe and healthy living environment for residents, protect the town's existing neighborhoods from incompatible uses, maintain natural areas and open spaces within neighborhoods, encourage connectivity and interconnectivity for multiple modes of transportation, and ensure adequate public facilities and services are available to meet the needs of current and future residents.

### **(F) RESIDENTIAL SUBDIVISION TYPES**

Development within the residential districts allows a variety of housing types. To further the purpose of residential districts, two types of residential subdivisions are permitted, as follows.

#### **(1) Conventional Residential Subdivision**

A conventional residential subdivision is a pattern of residential development that provides a majority of property owners with substantial yards on their own property. A recreation and open space dedication or payment of a fee-in-lieu is required for conventional residential subdivisions.

#### **(2) Open Space Residential Subdivision**

An open space residential subdivision trades conventional minimum lot size and dimensions for additional common recreation and open space. An open space residential subdivision shall be a sufficient size to ensure adequate common recreation and open space can be incorporated into the subdivision design. An open space residential subdivision may allow additional density provided certain enhancements are incorporated into the design of the subdivision.

### **(G) CONVENTIONAL SUBDIVISION STANDARDS**

#### **(1) Applicability**

A conventional residential subdivision is permitted in all residential districts subject to the following standards.

#### **(2) Density**

In the R-10 and R-8 Districts, townhouse parcels, apartment parcels and upper-story residential units shall not exceed a density of ten units per acre. In the R-6 District, townhouse parcels, apartment parcels and upper-story residential units shall not exceed a density of 12 units per acre.

(3) **Development Standards**

Applicants utilizing the conventional residential subdivision option shall meet all applicable development standards as set forth in § 155.400 through § 155.405 and § 155.500 through § 155.502. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

(4) **Lots Not Served by Public Water and Sewer**

No permit to install a septic tank system shall be issued until the County Health Director has determined by a field investigation of the area that the site is acceptable for a septic tank system and that such a system can be installed at the site in compliance with these rules and regulations. The field investigations shall include evaluation of such factors as size and shape of the lot or lots, character and porosity of soil, percolation rate, topography, depth of the water table, rock or other impervious formations, location or proposed location of any water supply wells, and the success or failure history of any other septic tank systems in the area. The County Health Director shall not issue a permit if he determines that the site is not acceptable for septic tank systems.

(5) **Dimensional Standards**

Applicants utilizing the conventional residential subdivision option shall meet the dimensional standards provided in Table 2-2. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

Table 2-2 Conventional Subdivision Regulations

| Conventional Subdivision Standards |                                                          |                        |                            |                                             |                                    |                      |                            |                                 |                        |               |             |      |                    |    |                      |
|------------------------------------|----------------------------------------------------------|------------------------|----------------------------|---------------------------------------------|------------------------------------|----------------------|----------------------------|---------------------------------|------------------------|---------------|-------------|------|--------------------|----|----------------------|
| Zoning District                    | Unit Type                                                | Lot Standards          |                            |                                             |                                    |                      |                            | Density (dwelling units / acre) | Minimum Setbacks (ft.) |               |             |      | Building Standards |    |                      |
|                                    |                                                          | Min. Site Area (Acres) | Min. Parcel Size (sq. ft.) | Min. Lot Area (sq. ft.)                     | Min. Lot Width (ft.) <sup>10</sup> | Max Lot Coverage (%) | Max Impervious Surface (%) |                                 | Front <sup>9</sup>     | Side Interior | Side Street | Rear | Max. Height (ft.)  |    | Accessory Structures |
| R-E                                | Single Family with water and sewer                       | --                     | --                         | 20,000                                      | 80                                 | 35                   | 50                         | 2.1                             | 35                     | 15            | 25          | 30   | 35                 | -- | See §155.308         |
|                                    | Single Family with well and septic                       | --                     | --                         | 40,000                                      | 100                                | 35                   | 50                         | 1.0                             | 35                     | 15            | 25          | 30   | 35                 | -- |                      |
|                                    | Single Family with public water and septic               | --                     | --                         | 25,000                                      | 80                                 | 35                   | 50                         | 1.7                             | 35                     | 15            | 25          | 30   | 35                 | -- |                      |
| R-10                               | Single Family                                            | --                     | --                         | 10,000                                      | 70                                 | 35                   | 50                         | 4                               | 30                     | 10            | 20          | 25   | 35                 | -- | See §155.308         |
|                                    | Zero Lot Line                                            | --                     | --                         | 10,000                                      | 70                                 | 35                   | 50                         | 4                               | 30                     | 0             | 20          | 25   | 35                 | -- |                      |
|                                    | Alley Loaded <sup>10</sup>                               | --                     | --                         | 10,000                                      | 70                                 | 35                   | 50                         | 4                               | 30                     | 10            | 10          | 25   | 35                 | -- |                      |
|                                    | Two Family                                               |                        | 12,000                     | Set by Special Use Process <sup>9, 10</sup> |                                    |                      |                            |                                 |                        |               |             |      |                    | -- |                      |
|                                    | Townhouse (2 units)                                      |                        | 12,000                     |                                             |                                    |                      |                            |                                 |                        |               |             |      |                    | -- |                      |
|                                    | Townhouse (3+ units)                                     |                        | 20,000                     |                                             |                                    |                      |                            |                                 |                        |               |             |      |                    | -- |                      |
|                                    | Apartments                                               |                        | 20,000                     |                                             |                                    |                      |                            |                                 |                        |               |             |      |                    |    |                      |
| R-8                                | Single Family                                            | --                     | --                         | 8,000                                       | 60                                 | 35                   | 55                         | 5                               | 25                     | 10            | 15          | 25   | 35                 | -- | See §155.308         |
|                                    | Zero Lot Line                                            | --                     | --                         | 8,000                                       | 60                                 | 35                   | 55                         | 5                               | 25                     | 0             | 15          | 25   | 35                 | -- |                      |
|                                    | Alley Loaded <sup>10</sup>                               | --                     | --                         | 8,000                                       | 60                                 | 35                   | 55                         | 5                               | 15                     | 10            | 15          | 25   | 35                 | -- |                      |
|                                    | Two Family                                               |                        | 10,000                     | Set by Special Use Process <sup>9, 10</sup> |                                    |                      |                            |                                 |                        |               |             |      |                    | -- |                      |
|                                    | Townhouse (2 units)                                      |                        | 10,000                     |                                             |                                    |                      |                            |                                 |                        |               |             |      |                    | -- |                      |
|                                    | Townhouse (3+ units)                                     |                        | 20,000                     |                                             |                                    |                      |                            |                                 |                        |               |             |      |                    | -- |                      |
|                                    | Apartments                                               |                        | 20,000                     |                                             |                                    |                      |                            |                                 |                        |               |             |      |                    |    |                      |
| R-6                                | Single Family                                            | --                     | --                         | 6,000                                       | 50                                 | 35                   | 60                         | 7                               | 25                     | 6             | 10          | 20   | 35                 | -- | See §155.308         |
|                                    | Zero Lot Line                                            | --                     | --                         | 6,000                                       | 50                                 | 35                   | 60                         | 7                               | 20                     | 0             | 10          | 25   | 35                 | -- |                      |
|                                    | Alley Loaded <sup>10</sup>                               | --                     | --                         | 6,000                                       | 50                                 | 35                   | 60                         | 7                               | 10                     | 6             | 10          | 25   | 35                 | -- |                      |
|                                    | Two Family                                               |                        | 8,000                      | Set by Special Use Process <sup>9, 10</sup> |                                    |                      |                            |                                 |                        |               |             |      |                    | -- |                      |
|                                    | Townhouse (2 units)                                      |                        | 8,000                      |                                             |                                    |                      |                            |                                 |                        |               |             |      |                    | -- |                      |
|                                    | Townhouse (3+ units)                                     |                        | 20,000                     |                                             |                                    |                      |                            |                                 |                        |               |             |      |                    | -- |                      |
|                                    | Apartments                                               |                        | 20,000                     |                                             |                                    |                      |                            |                                 |                        |               |             |      |                    |    |                      |
| Notes                              |                                                          |                        |                            |                                             |                                    |                      |                            |                                 |                        |               |             |      |                    |    |                      |
| 1                                  | Minimum dwelling unit size = total heated square footage |                        |                            |                                             |                                    |                      |                            |                                 |                        |               |             |      |                    |    |                      |

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 Adopted 12-3-2015, amended 3-17-14 (155.201(J)(4)), amended 6-16-14 (155.203(G) Table; 155.204(A)(5)(b)6; 155.204(C)(9)(b) table 2-8)  
 Ordinance #2021-01-01

Article 2 / Zoning Districts  
§155.203 General Use District Standards

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|    |                                                                                                                                                                                                                                                                                                                                                             |
|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2  | Manufactured homes and manufactured home parks shall meet the minimum requirements set forth in UDC §155.301 (F) and (G)                                                                                                                                                                                                                                    |
| 3  | In no instance shall the area of a residential lot be less than the size determined to be adequate by the County Health Department after soil and ground water table investigations have been made.                                                                                                                                                         |
| 4  | A minimum of 1,245 square feet of Recreation and Open Space is required per unit for Single Family, Zero Lot Line and Alley Loaded units.                                                                                                                                                                                                                   |
| 5  | Public water and sewer is required in the R-10, R-8 and R-6 Zoning Districts. Within Town limits, connection to public water and sewer is also required for lots contiguous to existing service.                                                                                                                                                            |
| 6  | Lots using a zero side interior setback for one lot line are required to double the side interior setback requirement established for a single family unit for the opposite lot line.                                                                                                                                                                       |
| 7  | In the R-10 and R-8 Zoning Districts, townhouse parcels, apartment parcels, and upper story residential shall not exceed a density of 10 dwelling units per acre.                                                                                                                                                                                           |
| 8  | In the R-6 Zoning District, townhouse parcels, apartment parcels, and upper story residential shall not exceed a density of 12 dwelling units per acre.                                                                                                                                                                                                     |
| 9  | When dwelling units are front-loaded or accessed from the front or side, a minimum 25' setback is required from the right-of-way providing access.                                                                                                                                                                                                          |
| 10 | Where lot width is less than 42' (except in existing in-fill lots), the lot must be alley-loaded or have parking accessed from the rear of the lot. Alley-loaded units are permitted only if at least 60% of the dwellings on that side of the block are also alley-loaded and formal on-street parking is required in the front of all alley-loaded units. |

(H) **OPEN SPACE SUBDIVISION STANDARDS**

(1) **Intent**

The intent of an open space residential subdivision is to provide a development alternative to a conventional subdivision. An open space residential subdivision involves clustering home sites within a portion of the development site and allowing housing units on smaller lots than those permitted in a conventional residential subdivision. Open space subdivisions promote the preservation of environmentally sensitive land and allows for efficient use of the land to provide additional common open space. Open space subdivision development is encouraged by the Town in the form of these flexible design and maximum density provisions. Other purposes of an open space residential subdivision include the following:

- (a) To preserve in perpetuity unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes, woodlands and wildlife habitat.
- (b) To preserve important historic and archaeological sites.
- (c) To permit clustering of houses and structures in a manner that will reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development.
- (d) To reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development.
- (e) To promote interconnected greenways and corridors throughout the community.
- (f) To create contiguous greenspace within and adjacent to the development site.
- (g) To protect scenic views.
- (h) To protect prime agricultural land and preserve farming as an economic activity.

(2) **Applicability**

An open space residential subdivision is permitted in the R-E, R-10, and R-8 Zoning Districts subject to the following standards.

(3) **Mix of Housing Types**

Two-family, townhouse, apartment, and upper-story residential units may comprise no more than 50percent of the total dwelling units of a proposed open space residential subdivision. In no case shall the density allowance be exceeded for the overall site. In the R-10 and R-8 Districts, townhouse parcels, apartment parcels, and upper-story residential units shall not exceed a density of ten units per acre.

(4) **Development Standards**

Applicants utilizing the open space residential subdivision option shall meet all applicable development standards as set forth in §§ 155.400 through 155.405 and §§ 155.500 through 155.502. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

(5) **Dimensional Standards**

Applicants utilizing the open space residential subdivision option shall meet the dimensional standards provided in Table 2-3. Applicants shall comply with all other provisions this chapter and all other applicable laws.

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**Table 2-3 Open Space Subdivision Regulations**

| Open Space Subdivision Standards |                                                                                                                                                                                                     |                              |                                     |                               |                                             |                                |                                  |                                           |                        |                      |                    |      |                         |    |                                 |
|----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|-------------------------------------|-------------------------------|---------------------------------------------|--------------------------------|----------------------------------|-------------------------------------------|------------------------|----------------------|--------------------|------|-------------------------|----|---------------------------------|
| Zonin<br>g<br>Distric<br>t       | Unit Type                                                                                                                                                                                           | Lot Standards                |                                     |                               |                                             |                                |                                  | Density<br>(dwellin<br>g units /<br>acre) | Minimum Setbacks (ft.) |                      |                    |      | Building Standards      |    |                                 |
|                                  |                                                                                                                                                                                                     | Min. Site<br>Area<br>(Acres) | Min.<br>Parcel<br>Size<br>(sq. ft.) | Min. Lot<br>Area<br>(sq. ft.) | Min.<br>Lot<br>Width<br>(ft.) <sup>12</sup> | Max Lot<br>Coverag<br>e<br>(%) | Max<br>Impervious<br>Surface (%) |                                           | Front <sup>1</sup>     | Side<br>Interio<br>r | Side<br>Stree<br>t | Rear | Max.<br>Height<br>(ft.) |    | Accessor<br>y<br>Structur<br>es |
| R-E                              | Single Family                                                                                                                                                                                       | 10                           | --                                  | 12,000                        | 48                                          | 35                             | 50                               | 3.7                                       | 25                     | 9                    | 15                 | 18   | 35                      | -- | See<br>§155.308                 |
| R-10                             | Single Family                                                                                                                                                                                       | 10                           | --                                  | 8,000                         | 50                                          | 35                             | 50                               | 5                                         | 25                     | 6                    | 15                 | 15   | 35                      | -- | See<br>§155.308                 |
|                                  | Zero Lot Line                                                                                                                                                                                       | 10                           | --                                  | 8,000                         | 50                                          | 35                             | 50                               | 5                                         | 25                     | 0                    | 15                 | 15   | 35                      | -- |                                 |
|                                  | Alley<br>Loaded <sup>12</sup>                                                                                                                                                                       | 10                           | --                                  | 6,000                         | 42                                          | 35                             | 50                               | 7                                         | 15                     | 5                    | 10                 | 15   | 35                      | -- |                                 |
|                                  | Two Family                                                                                                                                                                                          | 10                           | 12,000                              | 12,000                        | 75                                          | 35                             | 50                               | 3                                         | 25                     | 6                    | 15                 | 15   | 35                      | -- | See<br>§155.308                 |
|                                  | Townhouse<br>(2 units)                                                                                                                                                                              | 10                           | 12,000                              | 6,000                         | 42                                          | 35                             | 50                               | 3                                         | 25                     | 6                    | 15                 | 15   | 35                      | -- |                                 |
|                                  | Townhouse<br>(3+ units)                                                                                                                                                                             | 10                           | 20,000                              | 4,000                         | 25                                          | 35                             | 50                               | 10                                        | 25                     | 15                   | 15                 | 15   | 35                      | -- |                                 |
|                                  | Apartments                                                                                                                                                                                          | 10                           | 20,000                              | --                            | --                                          | 35                             | 50                               | 10                                        | 25                     | 15                   | 15                 | 15   | 35                      | -- |                                 |
| R-8                              | Single Family                                                                                                                                                                                       | 10                           | --                                  | 6,000                         | 42                                          | 35                             | 55                               | 7                                         | 25                     | 6                    | 10                 | 15   | 35                      | -- | See<br>§155.308                 |
|                                  | Zero Lot Line                                                                                                                                                                                       | 10                           | --                                  | 6,000                         | 42                                          | 35                             | 55                               | 7                                         | 25                     | 0                    | 10                 | 15   | 35                      | -- |                                 |
|                                  | Alley<br>Loaded <sup>12</sup>                                                                                                                                                                       | 10                           | --                                  | 4,800                         | 40                                          | 40                             | 55                               | 9                                         | 10                     | 5                    | 10                 | 15   | 35                      | -- |                                 |
|                                  | Two Family                                                                                                                                                                                          | 10                           | 10,000                              | 9,000                         | 65                                          | 40                             | 55                               | 4                                         | 25                     | 6                    | 10                 | 15   | 35                      | -- |                                 |
|                                  | Townhouse<br>(2 units)                                                                                                                                                                              | 10                           | 10,000                              | 4,800                         | 40                                          | 40                             | 55                               | 9                                         | 25                     | 6                    | 10                 | 15   | 35                      | -- |                                 |
|                                  | Townhouse<br>(3+ units)                                                                                                                                                                             | 10                           | 20,000                              | 3,000                         | 21                                          | 40                             | 55                               | 10                                        | 25                     | --                   | 10                 | 15   | 35                      | -- |                                 |
|                                  | Apartments                                                                                                                                                                                          | 10                           | 20,000                              | --                            | --                                          | 40                             | 55                               | 10                                        | 15                     | 10                   | 15                 | 20   | 35                      | -- |                                 |
| Notes                            |                                                                                                                                                                                                     |                              |                                     |                               |                                             |                                |                                  |                                           |                        |                      |                    |      |                         |    |                                 |
| 1                                | Minimum dwelling unit size = total heated square footage                                                                                                                                            |                              |                                     |                               |                                             |                                |                                  |                                           |                        |                      |                    |      |                         |    |                                 |
| 2                                | Minimum dwelling unit size for multi-family is a per unit minimum                                                                                                                                   |                              |                                     |                               |                                             |                                |                                  |                                           |                        |                      |                    |      |                         |    |                                 |
| 3                                | Manufactured homes and manufactured home parks shall meet the minimum requirements set forth in UDC §155.301 (F) and (G)                                                                            |                              |                                     |                               |                                             |                                |                                  |                                           |                        |                      |                    |      |                         |    |                                 |
| 4                                | In no instance shall the area of a residential lot be less than the size determined to be adequate by the County Health Department after soil and ground water table investigations have been made. |                              |                                     |                               |                                             |                                |                                  |                                           |                        |                      |                    |      |                         |    |                                 |
| 5                                | A minimum of 1,245 square feet per unit of public Recreation and Open Space is required in the R-E Zoning District                                                                                  |                              |                                     |                               |                                             |                                |                                  |                                           |                        |                      |                    |      |                         |    |                                 |
| 6                                | A minimum of 12.5% of the total site acreage is required to be Recreation and Open Space in all Open Space Subdivisions.                                                                            |                              |                                     |                               |                                             |                                |                                  |                                           |                        |                      |                    |      |                         |    |                                 |
| 7                                | Public water and sewer is required in all residential Zoning Districts.                                                                                                                             |                              |                                     |                               |                                             |                                |                                  |                                           |                        |                      |                    |      |                         |    |                                 |
| 8                                | Lots using a zero side interior setback for one lot line are required to double the side interior setback requirement established for a single family unit for the opposite lot line.               |                              |                                     |                               |                                             |                                |                                  |                                           |                        |                      |                    |      |                         |    |                                 |
| 9                                | In the R-10 and R-8 Zoning Districts, townhouse parcels, apartment parcels, and upper story residential shall not exceed a density of 10 dwelling units per acre.                                   |                              |                                     |                               |                                             |                                |                                  |                                           |                        |                      |                    |      |                         |    |                                 |

Article 2 / Zoning Districts  
§155.203 General Use District Standards

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|    |                                                                                                                                                                                                                                                                                                                                                             |
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| 10 | The minimum building separation for townhouse parcels and apartment parcels is 20 feet.                                                                                                                                                                                                                                                                     |
| 11 | When dwelling units are front-loaded or accessed from the front or side, a minimum 25' setback is required from the right-of-way providing access.                                                                                                                                                                                                          |
| 12 | Where lot width is less than 42' (except in existing in-fill lots), the lot must be alley-loaded or have parking accessed from the rear of the lot. Alley-loaded units are permitted only if at least 60% of the dwellings on that side of the block are also alley-loaded and formal on-street parking is required in the front of all alley-loaded units. |

(6) **Utilities**

To the maximum extent feasible, utilities in open space residential subdivisions shall be placed underground.

(7) **Project Boundary Buffer**

- (a) No buffer is required where the width of the project's perimeter lots is equal to or greater than the minimum lot width of the adjoining development or the minimum lot width required by the zoning district applied to any adjoining undeveloped parcel.
- (b) Where narrower lot widths are provided, a Class C buffer shall be provided (see § 155.402) along all project boundaries of an open space subdivision.

(I) **RECREATION AND OPEN SPACE REQUIREMENTS**

(1) **Applicability**

Recreation and open space is an integral part of both conventional and open space residential subdivisions. The minimum recreation and open space requirement for each subdivision type is set forth below. No additional recreation or open space shall be required on the site, except where otherwise required by state or federal law. In the case that a subdivision is being developed in phases, the amount of recreation and open space shall be computed separately for each phase, but may be combined with existing recreation and open space in earlier phases to create a larger uniform area.

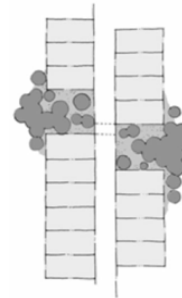
(2) **All Residential Subdivisions**

- (a) All residential development shall be required to either dedicate a portion of the land in the subdivision, or land in another location if approved by Town Council for recreation or open space use, or make a payment-in-lieu of dedication at a rate as set forth in the Town's Comprehensive List of Fees and Charges per lot or dwelling unit. If a development is approved which provides private recreation and open space, to be maintained by a homeowner or property management organization, and meeting the minimum standards of this section, the required fee-in-lieu payment shall be as set forth in the Town's Comprehensive List of Fees and Charges per lot or dwelling unit. A combination of dedication and payment-in-lieu may be used to meet these requirements.
- (b) At least 1,245 square feet of land shall be required for each proposed dwelling unit. Such land shall not include resource conservation areas (see § 155.500). The Town Council reserves the right to refuse to accept dedication of parcels for subdivisions, in which case the applicant shall pay the fee-in-lieu of dedication. The Town shall use fee-in-lieu payments for the acquisition or development of recreation and open space sites.
- (c) The location of the proposed recreation and open space areas, its suitability for recreational use, and any recreational plans adopted by the Town shall be considered

in determining whether to accept dedication or payment-in-lieu. The decision shall be made by the Town Council as a component of preliminary subdivision plans or special use permits, or by the Planning Director as a component of site plans. Any decision of the Planning Director relative to this section may be appealed to the Town Council.

(3) **Open Space Residential Subdivision**

- (a) All development utilizing the open space residential subdivision option shall provide recreation and open space equal to 12.5% of the net site area as public or private recreation and open space.
- (b) Where the Town Council accepts dedication of a portion or all of this recreation and open space, the dedicated portion shall receive 100% credit toward the requirement for recreation and open space in (1)(2) of this section. The Town Council reserves the right to refuse to accept dedication. If dedication is not accepted by the Town Council, the development shall pay 100% of the required fee-in-lieu payment as set forth in the Town's Comprehensive List of Fees and Charges per lot or dwelling unit.



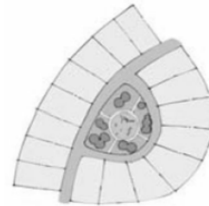
(4) **Configuration of Recreation and Open Space**

- (a) The minimum width for any required recreation and open space shall be 50 feet. Exceptions may be granted by the Town Council for items such as trail easements, mid-block crossings, linear parks/medians, when their purpose meets the intent of this section.
- (b) At least 60% of the required recreation and open space shall be in a contiguous parcel. For the purposes of this section, contiguous shall include any recreation and open space bisected by a residential street (including a residential collector), provided that:
  - 1. A pedestrian crosswalk is constructed to provide access to the recreation and open space on both sides of the street; and
  - 2. The right-of-way area is not included in the calculation of minimum recreation and open space required.
- (c) The recreation and open space shall adjoin any neighboring areas of recreation and open space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future area of protected recreation and open space.
- (d) The required recreation and open space shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjoining lots shall be provided with safe, convenient access to the open space (i.e. mid-block connections in logical locations). No lot within the subdivision should be further than a one-quarter-mile radius from the required recreation and open space. This radius shall be measured in a straight line, without regard for street, sidewalk or trail connections to the open space.

- (e) Access to the recreation and open space shall be provided either by an abutting street or easement. Such easement shall be not less than 30 feet wide.
- (f) At least 25% of the recreation and open space shall be improved. Trails may be developed in accordance with the Clayton General Design Guidelines. Other improved recreation and open space areas shall be developed as set forth below. The shape, topography, and subsoils shall be appropriate to the improvements proposed. Where recreation or open space consists of prime agricultural land, this improvement requirement shall not apply.

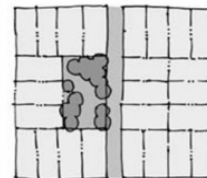
**Tot Lot & Playgrounds (Private Only).** *Playgrounds provide play areas for children as well as open shelter and benches. Playgrounds may be built within squares, greens, mini-parks and neighborhood parks or may stand alone within a residential block.*

Playgrounds shall be designed with commercial grade play equipment for two age groups: tot lot for children ages one to five; and separate play equipment for children ages six to ten. May include picnic units and shelters. Minimum requirements include two park benches and one trash receptacle. Must have shock absorbing surface with a maximum 2% slope. Playgrounds must meet all federal, state and local regulations and be compliant with the Americans with Disabilities Act. Due to the continuing maintenance obligations, the Town does not accept dedication of tot lots and playgrounds.



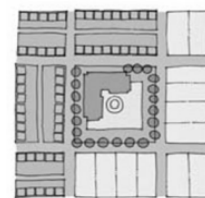
**Mini-Park (Private Only).** *The mini-park provides active recreational facilities for the use by the residents of the immediate surrounding neighborhood within the development.*

Size is from 2,500 sq. ft to one acre. May include: tennis courts, basketball courts, playgrounds and seating accommodations. Each mini-park shall be centrally located and easily accessible so that it can be conveniently and safely reached and used by those persons in the surrounding neighborhood it is designed to serve. Rear facing lots are allowed. Mini-parks shall be attractively landscaped and be provided with sufficient natural or man-made screening or buffer areas to minimize any negative impacts upon adjacent residences. Due to the continuing maintenance obligations, the Town does not accept dedication of mini-parks.



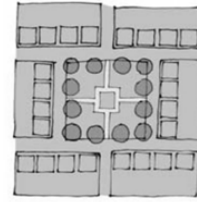
**Plaza.** *Plazas are for passive recreation use adjacent to a civic or commercial building. Plazas are paved in brick or another type of imperious surface.*

Plazas shall be level, stepped or gently sloping. At no time shall a plaza's horizontal length or width be greater than three times the height of surrounding buildings. Size is from 2,000 to 30,000 sq. ft.



**Squares.** *Squares are formal areas for passive recreation use bound by streets or front facing lots.*

Squares shall be bound by streets on a minimum of three sides or 75% of their perimeter and may be bound by front facing lots on one side or 25% of their perimeter. No rear facing lots allowed adjacent to a square. Trees plantings are encouraged parallel to the street right-of-way. Geometrical tree planting layouts for internal plantings are encouraged. Minimum size is 500 sq. ft. to one acre.



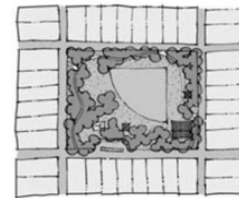
**Green.** *The green is an informal area for passive use bound by streets or front facing lots.*

A green shall be bound by streets on a minimum of three sides or 75% of their perimeter and may be bound by front facing lots on one side or 25% of their perimeter. No rear facing lots allowed adjacent to a green. Tree plantings can be informal and the topography irregular. Greens may be used to preserve specimen trees. Size is 500 sq. ft. to one acre.



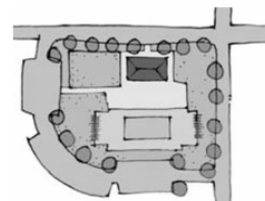
**Neighborhood Park.** *Neighborhood parks are designed for active or passive recreation use. Maximum park size can exceed five acres if the neighborhood park creates an open space that services an entire neighborhood or a group of neighborhoods; or incorporates physical features which are an asset to the community (i.e. lake or river frontage, high ground, or significant stands of trees).*

Minimum size from one to five acres. Neighborhood parks shall be bound by streets on a minimum of 50% of their perimeter. Front facing lots are encouraged around the perimeter. Neighborhood parks shall include benches and walking paths. Neighborhood parks may include but are not limited to: tennis courts, racquet ball courts, basketball courts, volley ball courts, ball fields, swings, slides, playgrounds, dog parks, benches, restrooms, picnic units, shelters, walking paths and parking areas.



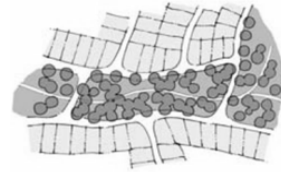
**Clubhouse/Pool Amenity Area.** *Clubhouse/pool areas can be found in a neighborhood park, mini-park or alone as an amenity area for the residents of a developed community. Clubhouse/pool areas can include: swimming pools, group activity room, gazebos, outdoor eating areas, and exercise stations.*

Pools should be a minimum size of 1,000 sq. ft. Clubhouses and swimming pools must meet all applicable building and health codes for the Town and the state.



**Greenway.** *Greenways typically follow natural or constructed features such as streams or roads and are designed to incorporate natural settings such as creeks and significant stands of trees within neighborhoods, and are used for transportation, recreation, and environmental protection. Greenways differ from parks; plazas and squares in that their detailing is natural (i.e. informally planted) except along rights-of-way, and may contain irregular topography.*

Design of the greenway should incorporate conservation of existing mature tree canopy and landscape, protection of existing natural drainage ways and creeks. Improvements shall include paved walks/trails and benches, and trash receptacles.



**(5) Adopted Municipal and County Plans**

Adopted municipal and County plans shall be taken into consideration when evaluating land proposals.

**(6) Permitted Uses of Recreation and Open Space**

Uses of recreation and open space may include the following:

- (a) Conservation areas for natural, archeological or historical resources;
- (b) Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
- (c) Pedestrian or multipurpose trails;
- (d) Passive recreation areas;
- (e) Active recreation areas, provided that impervious area is limited to no more than 50% of the total recreation and open space;
- (f) Golf courses (excluding clubhouse areas and maintenance facilities), provided the area does not exceed 50% of the required recreation and open space, and further provided that impervious area is limited to no more than 10% of the total recreation and open space;
- (g) Above-ground utility rights-of- way, provided the area does not exceed 50% of the required recreation and open space;
- (h) Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts;
- (i) Landscaped stormwater management facilities;
- (j) Easements for drainage, access, and underground utility lines; and

- (k) Other conservation-oriented uses compatible with the purposes of this chapter.

(7) **Prohibited Uses of Recreation and Open Space**

Recreation and open space shall not include the following:

- (a) Community or individual wastewater disposal systems;
- (b) Streets (except for street crossings as expressly provided above) and parking areas; and
- (c) Other activities as determined by the applicant and recorded on the legal instrument providing for permanent protection.

(8) **Ownership and Management of Recreation and Open Space**

(a) ***Ownership***

Recreation and open space shall be accepted and owned by one of the following entities:

- 1) Town of Clayton. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by the Town.
- 2) Land conservancy or land trust. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by a land conservancy or land trust.
- 3) Homeowners association. A homeowners association representing residents of the subdivision shall own the recreation and open space. Membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. The homeowners' association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by the homeowner's association.
- 4) Private landowner. A private landowner may retain ownership of recreation and open space. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by the private landowner.

(b) ***Management***

Applicants shall submit a plan for the management of recreation and open space and other common facilities that:

- 1) Allocates responsibility and guidelines for the maintenance and operation of the recreation and open space, and any facilities located thereon, including provisions for ongoing maintenance and for long-term capital improvements;



- 2) Estimates the costs and staffing requirements needed for maintenance and operation of, and insurance for, the recreation and open space and outlines the means by which such funding will be obtained or provided;
- 3) Provides that any changes to the plan be approved by the Town; and
- 4) Provides for enforcement of the plan.

(c) **Maintenance**

- 1) Passive recreation and 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.
- 2) No specific maintenance is required for agricultural uses.
- 3) Active recreation and 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.

(d) **Failure to Maintain**

In the event the party responsible for maintenance of the recreation and open space fails to maintain all or any portion in reasonable order and condition, the Town may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to the homeowner's association, or to the individual property owners that make up the homeowner's association, and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties.

(9) **Legal Instrument for Permanent Protection**

- (a) The recreation and open space shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument shall be one of the following:
  - 1) A permanent conservation easement in favor of either:
    - A. A land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for re-transfer in the event the organization becomes unable to carry out its functions; or
    - B. A governmental entity with an interest in pursuing goals compatible with the purposes of this chapter. If the entity accepting the easement is not the

Town, then a third right of enforcement favoring the Town shall be included in the easement.

- 2) A permanent restrictive covenant for conservation purposes in favor of a governmental entity.
- 3) An equivalent legal tool that provides permanent protection, if approved by the Town.

- (b) The instrument for permanent protection shall include clear restrictions on the use of the recreation and open space. These restrictions shall include all restrictions contained in this chapter, as well as any further restrictions the applicant chooses to place on the use of the recreation and open space. Where appropriate, the instrument shall allow for stream or habitat restoration within the easement area.

(J) **NONRESIDENTIAL DEVELOPMENT IN RESIDENTIAL DISTRICTS**

As set forth in the Use Regulation Table (Table 2-1 § 155.202(B)) certain nonresidential uses are permitted in residential districts. Permitted nonresidential uses shall meet the dimensional standards provided in table 2-4. Applicants shall comply with all other provisions of this chapter and all other applicable laws.

**Table 2-4 Nonresidential Development Standards for Residential Districts**

| Zoning District | Lot Standards          |                      |                      | Minimum Setbacks |               |             |      | Building Standards                        |                   |                    |
|-----------------|------------------------|----------------------|----------------------|------------------|---------------|-------------|------|-------------------------------------------|-------------------|--------------------|
|                 | Min. Lot Area (sq.ft.) | Min. Lot Width (ft.) | Public Water & Sewer | Street (Front)   | Side Interior | Side Street | Rear | Max. Building Height (ft.) <sup>(1)</sup> | Building Coverage | Impervious Surface |
| <b>R-E</b>      | 20,000                 | 80                   | Required             | 35               | 15            | 25          | 30   | 35                                        | 35%               | 50%                |
| <b>R-10</b>     | 10,000                 | 70                   | Required             | 30               | 10            | 20          | 25   | 35                                        | 35%               | 50%                |
| <b>R-8</b>      | 8,000                  | 60                   | Required             | 25               | 10            | 15          | 25   | 35                                        | 35%               | 55%                |
| <b>R-6</b>      | 6,000                  | 50                   | Required             | 20               | 6             | 10          | 20   | 35                                        | 35%               | 60%                |
| <b>Notes</b>    |                        |                      |                      |                  |               |             |      |                                           |                   |                    |
| (1)             |                        |                      |                      |                  |               |             |      |                                           |                   |                    |

## PART 2. NONRESIDENTIAL DISTRICTS

(K) **NONRESIDENTIAL DISTRICT STANDARDS**

- (1) **Development Standards**

Applicants shall meet all applicable development standards as set forth in §§ 155.400 through 155.405 and §§ 155.500 through 155.502. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

(2) **Nonresidential Dimensional Standards**

- (a) As set forth in the Use Regulations Table (Table 2-1 § 155.202(B)) certain uses are allowed in nonresidential districts. Allowed uses shall meet the dimensional standards provided in Table 2-5. Applicants shall comply with all other provisions of this chapter and all other applicable laws.

**§ 155.203, PART 2. Table 2-5 Nonresidential Dimensional Standards**

| Zoning District          | Lot Standards                                                                                                                   |                      |                      | Minimum Setbacks (ft.) |                                      |             |                             | Building Standards <sup>(3)</sup>         |                   |                    |
|--------------------------|---------------------------------------------------------------------------------------------------------------------------------|----------------------|----------------------|------------------------|--------------------------------------|-------------|-----------------------------|-------------------------------------------|-------------------|--------------------|
|                          | Min. Lot Area (sq.ft.)                                                                                                          | Min. Lot Width (ft.) | Public Water & Sewer | Street / Front (Max.)  | Side Interior (abutting residential) | Side Street | Rear (abutting residential) | Max. Building Height (ft.) <sup>(1)</sup> | Building Coverage | Impervious Surface |
| <b>O-R</b>               | 6,000                                                                                                                           | 50                   | Required             | 20                     | 6 (6)                                | 10          | 20 (20)                     | 35                                        | 50%               | 75%                |
| <b>O-I</b>               | 6,000                                                                                                                           | 60                   | Required             | 30                     | 10 (30)                              | 20          | 20 (30)                     | 60                                        | 50%               | 75%                |
| <b>B-1<sup>(1)</sup></b> | None                                                                                                                            | None                 | Required             | 0 <sup>(2)</sup>       | 0 (30)                               | 0           | 0 (30)                      | 50                                        | --                | --                 |
| <b>B-2</b>               | 6,000                                                                                                                           | 50                   | Required             | 20                     | 10 (30)                              | 10          | 20 (30)                     | 35                                        | 50%               | 75%                |
| <b>B-3</b>               | 8,000                                                                                                                           | 60                   | Required             | 25                     | 15 (30)                              | 30          | 30 (30)                     | 60                                        | 50%               | 75%                |
| <b>I-1</b>               | 20,000                                                                                                                          | 100                  | Required             | 50                     | 20 (30)                              | 30          | 40 (40)                     | 50                                        | 50%               | 75%                |
| <b>I-2</b>               | 20,000                                                                                                                          | 100                  | Required             | 50                     | 20 (30)                              | 30          | 40 (40)                     | 50                                        | 50%               | 75%                |
| <b>PF</b>                | --                                                                                                                              | --                   | --                   | --                     | --                                   | --          | --                          | --                                        | --                | --                 |
| <b>Notes:</b>            |                                                                                                                                 |                      |                      |                        |                                      |             |                             |                                           |                   |                    |
| (1)                      | No maximum building coverage or impervious surface limits in the B-1 Zoning District                                            |                      |                      |                        |                                      |             |                             |                                           |                   |                    |
| (2)                      | Maximum 10 foot street yard setback in B-1 Zoning District                                                                      |                      |                      |                        |                                      |             |                             |                                           |                   |                    |
| (3)                      | Minimum Building Separation in all Zoning Districts is 20 feet                                                                  |                      |                      |                        |                                      |             |                             |                                           |                   |                    |
| (4)                      | The Town Council may grant a special use permit in accordance with § 155.711 for structures exceeding the maximum height limits |                      |                      |                        |                                      |             |                             |                                           |                   |                    |

- (b) More than one building may be permitted be on a single lot.
- (c) In the B-1 District, no rear yard shall be less than that of the nearest building facing on the same side of the street with the least rear yard depth. In no case shall the required rear yard setback exceed ten feet from the rear property line.
- (d) The Town Council may grant a special use permit in accordance with § 155.711, allowing specified nonresidential buildings to exceed the maximum height limits of the district.

(3) **Residential Dimensional Standards**

- (a) As set forth in the Use Regulations Table (Table 2-1 § 155.202(B)) certain residential uses are permitted in nonresidential districts. Dimensional standards for townhouses and apartments are established through the special use process (see § 155.711). Within

the B-1 District, no townhouse or apartment shall be established on a parcel less than 20,000 square feet in area.

- (b) Upper-story residential is permitted on the upper floors of a nonresidential building and shall conform to the lot, yard and bulk requirements of the principal building.
- (c) Except in the B-1 District, townhouse and apartment parcels and upper-story residential units shall not exceed a density of 12 units per acre in a standard residential district.

### **PART 3. CONDITIONAL ZONING DISTRICTS**

#### **(L) CONDITIONAL ZONING DISTRICT STANDARDS**

##### **(1) General Provisions for all Conditional Zoning Districts**

###### **(a) *Rezoning Criteria***

In approving a rezoning for a conditional district, the Town Council shall find the district designation and master plan comply with the general standards of this section and the specific criteria of (§ 155.705).

###### **(b) *Master Plan***

The development proposed in the master plan is compatible with the character of surrounding land uses and maintains and enhances the value of surrounding properties. The master plan shall be prepared by a professionally certified landscape architect, engineer or architect.

###### **(c) *Design Guidelines and Dimensional Standards***

Each master plan shall provide a comprehensive set of design guidelines that demonstrate the project will be appropriate within the context of the surrounding properties and the larger community. All bulk, area, and dimensional standards shall be established by the Town Council at the time of approval.

###### **(d) *General Development Standards***

Unless granted Variance by the Board of Adjustment, all standards specified in §§ 155.400 through 155.405 shall apply.

###### **(e) *Resource Conservation Areas***

See Article 5 for restrictions on the use of resource conservation areas.

###### **(f) *Recreation and Open Space***

The master plan shall meet or exceed the recreation and open space requirements of an open space residential subdivision (see § 155.203(H)).

(g) ***Stormwater Management***

The master plan shall contain a comprehensive stormwater management plan prepared by a professional engineer licensed in the state.

(h) ***Phasing***

If development is proposed to occur in phases, the master plan shall include a phasing plan for the development, and if appropriate, with specific build-out dates. Guarantees shall be provided that project improvements and amenities that are necessary and desirable for residents and tenants of the project, or that are of benefit to the Town, are constructed with the first phase of the project, or, if this is not possible, then as early in the project as is technically feasible.

(i) ***Landscaping, Buffering, and Screening***

As otherwise required by Article 4, with a minimum requirement of a 15' wide buffer meeting Class "C" perimeter buffer planting requirements.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2012-04-02, passed 4-2-12; Am. Ord. 2012-12-02, passed 12-3-12; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord. 2017-08-05, adopted 8/7/2017)

## § 155.204 OVERLAY DISTRICT STANDARDS

### (A) THOROUGHFARE OVERLAY DISTRICT

#### (1) **Established**

The thoroughfare overlay district (TOD) is established for the purpose of maintaining a safe, efficient, and functional development pattern adjacent to major thoroughfares while maintaining an aesthetic streetscape environment. It is recognized that an enhanced development quality in areas of high visibility promotes economic development and stability in the entire community. The standards established in this section shall be applied, at the discretion of the town council, to nonresidential properties which adjoin major thoroughfares.

#### (2) **Designation**

Properties subject to these regulations shall be adjacent to, or have immediate access to a major thoroughfare. The boundaries follow the major thoroughfares both within the corporate limits and extraterritorial jurisdiction, and in no case extend more than 150 feet from the outer edge of the right-of-way of a thoroughfare.

#### (3) **Permitted Uses**

All permitted and special uses of the underlying zoning district are allowed subject to the specific requirements and procedures for each classification and any standards listed herein.

#### (4) **Dimensional Requirements**

The dimensional requirements of this overlay district shall be the same as the underlying zoning district.

#### (5) **Street Yard Requirements**

- (a) All new developments or major expansions of existing development (25% increase in building area, lot area, or parking requirement) shall provide a landscaped street yard as provided in Table 2-6.

**Table 2-6 TOD Street Yard Requirements**

|                | Street Yard Width (feet) |         |         |
|----------------|--------------------------|---------|---------|
|                | Average                  | Minimum | Maximum |
| TOD Commercial | 20                       | 10      | 40      |
| TOD Industrial | 40                       | 20      | 80      |

- (b) For purposes of this section, the street yard area is determined by multiplying the lot frontage, less driveways, times the average required width to determine the required

street yard area. There shall be no structures allowed in this street yard, except as follows:

- 1) Landscaping;
- 2) Drainage features designed to mimic the natural environment;
- 3) Public utilities and facilities;
- 4) Driveways and streets;
- 5) Sidewalks, pedestrian ways, or bikeways;
- 6) Other than a Development Identification Sign described in §155.403, freestanding signs may not exceed six feet in height and 24 square feet per sign face.

(6) **Landscape Requirements**

- (a) All required street yard areas shall be covered by lawn, ground cover, trees, shrubs, or mulch, except as noted above. Maintenance shall be the responsibility of the property owner. Landscaping shall be required according to Table 2-7 below.

**Table 2-7 TOD Landscape Requirements**

|                | Min. Landscape Requirements              |                                           |
|----------------|------------------------------------------|-------------------------------------------|
|                | Trees (per 1,000 sq. ft. of street yard) | Shrubs (per 1,000 sq. ft. of street yard) |
| TOD Commercial | 1                                        | 5                                         |
| TOD Industrial | 2                                        | 10                                        |

- (b) The preservation of existing trees shall be required when practical, utilizing recognized professional standards. The species and size of all plant material shall be specified on the site plan, and at least 50% of the total shall be evergreen. Trees shall have a minimum height of six feet and shrubs must have a minimum height of 18 inches at planting and reach 30 inches within two years. Additional trees may substitute for shrubs on a one-for-one basis. The requirements set forth in this section may be used to fulfill up to 67% (two-thirds) of the landscaping required under § 155.402(D), except that landscaping within all parking areas for vehicles, as set forth in § 155.401(C)(3)(d)2., and buffers, as set forth in § 155.402(E)(2)(c) shall be provided completely, as required, in addition to these requirements.

(7) **Access Regulations**

All driveways and public street intersections in a Thoroughfare Overlay District shall be subject to NCDOT and the town standards and permitting processes, whichever is applicable. Any parcel of land with less than 400 feet of frontage on a thoroughfare may have no more than one point of access to the thoroughfare. One additional driveway for each additional 400 feet

of thoroughfare frontage shall be allowed, and one per 400 feet of additional frontage. Where medians are provided which prohibit turns into oncoming traffic, access points may be provided every 200 linear feet. No driveway shall be allowed within 300 feet of the intersection of two thoroughfares or within 200 feet of an intersection of any other public street on the thoroughfare. Driveways shall be a minimum of 200 feet apart (measured from center line to center line) on thoroughfares, and shall align with opposing drives, where possible. Shared driveways or parallel access roads shall be used when deemed necessary, and the appropriate legal documents may be required by the town prior to driveway permit issuance. If access to a lot or legally created parcel of land is physically unobtainable under these provisions, an access point may be approved which is located the greatest distance possible from an existing access point and in the safest possible location to be approved by NCDOT and/or the town. For the purpose of this section, adjacent lots in common ownership fronting on a thoroughfare in a Thoroughfare Overlay District shall be considered as one lot when determining permitted driveways.

**(8) Alternative Means of Compliance**

It is recognized that strict interpretation and application of these standards may create particular hardships in areas of unusual topographic condition, or in retrofitting existing developed properties which are expanded. The Board of Adjustment may grant a Variance for any proposed development which proposes to meet any specific standard of this section via an alternate means of compliance, subject to making the following findings (in addition to those of a Variance):

- (a) The proposed development attempts to meet the intent of the Thoroughfare Overlay District.
- (b) There are physical conditions, not only economic considerations, which prevent the proposed development from meeting the specific standards of this chapter.
- (c) The proposed development will be designed to meet the standards of this section to the fullest extent possible.
- (d) In determining alternative means of compliance, the Board may consider various features such as width in relation to opacity of landscaping in street yard, number of required parking spaces, and driveway locations and/or distances from nearby intersections.

**(B) WATERSHED PROTECTION OVERLAY (-WP)**

The use and development standards for the Watershed Protection Overlay (-WP) are found in § 155.501.

**(C) DOWNTOWN OVERLAY DISTRICT**

The Downtown Overlay District is established for the purpose of fostering the economic vitality of the area within the district's boundaries. It is recognized that an attractive and vibrant downtown promotes the economic development and stability of the entire community. The uses, character,



and design of the public and private realm all contribute to the success of the downtown. The standards established herein shall be applied to all properties which are located within the district's boundaries.

(1) **Designation of Downtown Overlay District**

This district shall be an overlay district and shall include all properties located wholly or partially (20 percent or more) within the Downtown Overlay District of the Town Zoning Map.

(2) **Permitted Uses**

- (a) All permitted and special uses of the underlying zoning district are allowed subject to the specific requirements and procedures for each classification, subject to site plan approval and the additional requirements of this section.
- (b) All nonresidential tenants, businesses, uses, and activities on the ground (first) floor of a building which fronts on Main Street shall be responsive to and provide services, goods, or otherwise engage in business with pedestrians and the general public. More specifically, the following use types are prohibited on the first floor (street level) of Main Street:
  - 1. Businesses which exclusively engage in "by appointment only" clientele or do not have active reception areas which accept walk-in customers;
  - 2. Residential uses. This does not include ancillary facilities, such as lobbies which serve upper story residential uses;
  - 3. Drive-thru facilities;

(3) **Sign Regulations**

The following criteria modifies, but does not replace, the text of §155.403 "Signs", and may be either more or less restrictive.

- (a) All signs allowed in the Downtown Overlay District, with the exception of Window / Door Signs, Awning / Marquee / Canopy Signs, and Flags, shall have at least one distinguishing architectural or design feature, including but not limited to one of the following:
  - 1. Exterior illumination with decorative lighting fixture;
  - 2. Decorative or architectural mounting bracket;
  - 3. Decorative border design that deviates from a standard rectangle;
  - 4. Or some other design feature or embellishment that distinguishes the sign as high quality and enhancing of the downtown streetscape.
- (b) **Illumination**

Illumination of sign shall not be restricted based on proximity to residential uses, but rather by the business hours of the use.

(c) **Clearance**

1. The minimum required clearance for any overhead sign, awning, or canopy is seven feet – six inches.
2. In order to ensure adequate pedestrian movement on the sidewalk (including the opening and closing of vehicular doors), no overhead sign, awning, or canopy shall be supported through the use of columns or other measure which requires it to be anchored to the ground



(d) **Prohibited Signs**

Except for “Historic Signs”, the following additional signs shall be prohibited in the Downtown Overlay District:

1. All signs designated in §155.403(E) “Signs Prohibited”;
2. Electronic Changeable Copy Signs;
3. Freestanding Signs that cannot meet the setback criteria;
4. Billboards;
5. Manual Changeable Copy Signs, unless associated with a theater, assembly, or a church;
6. Drive-Thru Menu Boards;

(e) **Promotional Banners and Seasonal Displays**

1. Small window posters advertising upcoming special events, sales events, or other such seasonal information are allowed on ground-floor storefront windows without requirement for a sign permit. A maximum of one 24 inchesx36 inches poster, or two 18 inches x24 inches posters are allowed per storefront, and these posters must be relevant and current.

(f) **Easels / Sandwich Boards / A-Frame Signs**

1. Easels / Sandwich Boards / A-Frames Signs shall be permitted provided that there is a minimum of five feet of sidewalk clearance.
2. Easels / Sandwich Boards / A-Frames Signs shall be a maximum of six square feet in area (per side).
3. Easels / Sandwich Boards / A-Frames Signs shall only be displayed during business hours, and may not be attached to anything else.
4. Easels / Sandwich Boards / A-Frames Signs shall be constructed of quality frame materials, such as decorative metal or wood; plastic shall not be allowed.

(g) **Wall / Fascia Signs**

1. All tenants not on the ground floor and located within the same building with units accessed internally may only utilize a Tenant Identification Sign (§155.403(G)(9)).
2. A wall sign designed and functioning as a larger version of a tenant identification sign (advertising for some or all on-site tenants) may be permitted provided that it:
3. Adheres to the dimensional requirements of a wall sign, and
4. Each tenant may not be advertised more than once per façade, if they are included on the modified wall sign.

(h) **Flags**

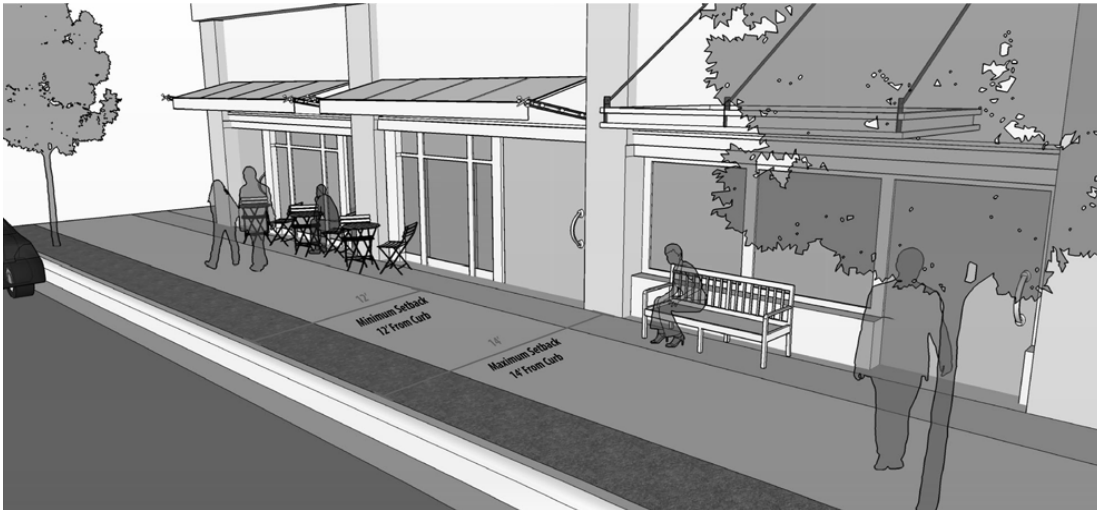
1. Angled- or horizontally-projecting flagpoles may encroach into the right-of-way with an approved sign permit, although they must remain three feet from the back of curb. Permission from NCDOT may be required, depending on ownership of the right-of-way.
2. Only one flagpole per building or site is allowed, with a minimum required frontage as follows:
  - A. One angled- or horizontally-projecting flagpole allowed for buildings with 25 feet of building frontage.
3. An exemption to the maximum number of flags and clearance requirements is that each ground floor entrance may have one small flag (two square feet per side) projecting from adjacent to the door.

(4) **Dimensional Requirements**

- (a) The purpose of modified setbacks on Main Street in the Downtown Overlay District is to provide adequate room for outdoor seating and dining, display of wares, an enhanced pedestrian realm, and create space for an active street life, while also continuing a unified visual building frontage along the street. This is in addition to the standard purpose for enforcing setbacks in the Town.
- (b) Setbacks and build-to lines for nonresidential and mixed use zoning districts:
  1. The dimensional requirements of this Overlay District are the same as the underlying zoning district, with the following modifications to setbacks and

dimensional standards on that portion of Main Street that is within the Downtown Overlay District.

- A. Minimum and maximum setbacks are established on properties that front on roads, sidewalks, or public rights-of-way:
  - i. A minimum setback line is established at 12 feet from back of curb.
  - ii. A maximum setback line is established at 14 feet from back of curb.



- iii. The Board of Adjustment may grant a Variance to allow an alternate building setback that pulls the building or a portion thereof closer to the street to provide consistency with adjacent properties and continue an established streetscape rhythm.
    - iv. The Board of Adjustment may grant a Variance to vary the maximum setback requirement in order to preserve the historic character or landmark status of an existing building, to preserve the character of a park or public square, or to ensure the Americans with Disabilities Act (ADA) requirements are met.
    - v. Architectural, landscaping, or other site elements may still be required as part of the site plan to continue the appearance of a unified frontage with neighboring buildings.
  - B. The Street-facing façades of a building are permitted to exceed the minimum and maximum setback lines established above to allow for decorative, recessed or projected entries, balconies, or window treatments that are in accordance with other parts of this Section.
  - C. If a building is set back further than neighboring buildings, some design element shall be incorporated in front of the first floor façade, such as knee wall, first floor

roof projection designating outdoor seating area, or other architectural element or design feature that continues the streetscape rhythm of neighboring buildings.

(5) **Development Standards**

The following criteria modifies, but does not replace, the text of §155.400 “Access”, §155.401 “Off-Street Parking and Loading”, §155.402 “Landscaping, Screening, and Buffering”.

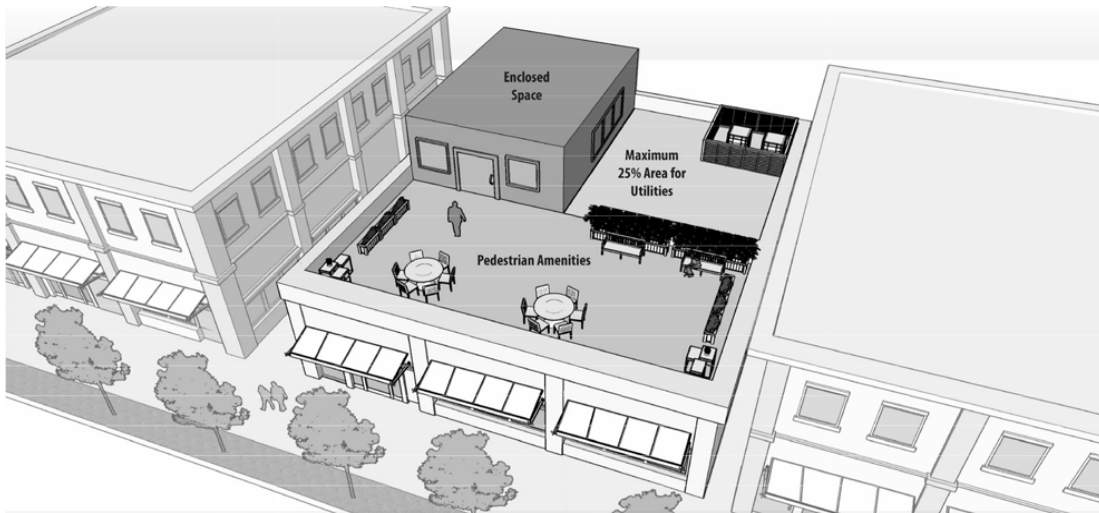
- (a) Widths of access ways, as described in Table 4-1 “Dimensional Standards of Access Ways”, may be reduced to match the dimensions of existing streets in the Downtown Overlay District, with approval by the Planning Director, Engineering Director, and Fire Marshal as part of the standard review of individual development projects.
- (b) **Parking Requirements**
  - 1. **General:**
    - A. Cross access shall be provided between adjacent parking lots to minimize the number of access points along streets. The Board of Adjustment may grant a Variance to this requirement if cross access is not feasible due to natural features or site layout restrictions. Cross access shall be accompanied by a cross access easement or agreement, recorded with the Clerk of Court. Single family residential and duplexes are exempt from this requirement.
    - B. Any new construction in the Downtown Overlay District with frontage on a public right-of-way shall be required to formalize on-street, parallel parking, along the frontage(s) of the property, including landscaped bump-outs at intersections. Adjacent on-street parking spaces may count toward meeting the parking requirement for a site.
    - C. All parking spaces within the Downtown Overlay District shall be paved. Permeable paving that is dustless and meeting the load-bearing standards required for its use and meeting any other engineering standards of the town may be allowed if approved by the Town Engineer. No grass, gravel, dirt, or other non-engineered surfaces are allowed.
    - D. Multi-story parking structures/decks:
      - i. If visible from the street, multi-story parking structures/decks shall place the shortest dimension along the street, if possible.
      - ii. On Main Street, multi-story parking structures/decks shall incorporate usable spaces for nonresidential uses (i.e. – storefronts and/or tenant spaces) along the entirety of first floor facades that front on public rights-of-way, excepting entrances and exits.
      - iii. Multi-story parking structures/decks shall be architecturally consistent with surrounding buildings and shall meet all other criteria of this section.
  - 2. **Residential off-street parking**
    - A. Residential off-street parking requirements may be satisfied with off-site parking provided the following are met:

- i. The off-site parking area is in proximity to the parcel on which the residential dwellings are located;
  - ii. The off-site parking spaces are designated as reserved for the residential units which they serve;
  - iii. Required handicap parking spaces are located as close as possible to the residential dwellings;
  - iv. Required guest spaces may utilize adjacent on-street parking, to the extent that it is feasible and that those spaces remain publicly accessible.
  - v. All other relevant conditions of §155.401(C)(3)(c), "Off-Site Parking", are met.
- 3. Nonresidential development and uses:
  - A. All nonresidential and mixed use developments shall utilize alley loaded and/or parking to the rear of the building.
  - B. The Board of Adjustment may grant Variance to the parking and loading requirements of Section 155.401 for business or structure expansions provided that as much off-street parking and loading as can reasonably be provided is provided, and no foreseeable traffic congestion problems will be created.
  - C. New construction shall provide bicycle rack(s) on site or pay fee-in-lieu. The fee-in-lieu shall be calculated using an average purchase price for the bicycle rack(s) plus installation cost, and will be used to provide appropriate bicycle infrastructure and parking facilities in the public right-of-way or on public property in downtown.
- (c) Landscaping, Screening, and Buffering Requirements
  - 1. The Board of Adjustment may grant Variance to the landscaping, screening, and buffering requirements provided that as much landscaping, screening, and buffering as can be reasonably provided is provided.
  - 2. All landscaping shall be designed to reduce unsafe areas of limited visibility.
  - 3. Berms may not be used for required screening.
  - 4. Landscape buffers or opaque visual screening, except that used for screening parking areas to a maximum height of three feet, shall not be required along any public right-of-way.
  - 5. Fences or walls not used for required screening or for providing security for a parking area shall be limited to four feet in height. This requirement does not apply to single family residential, duplexes, or townhomes. Chain link fencing is prohibited.
  - 6. Plastic, vinyl, and similar low quality materials are prohibited for planters and window boxes.
  - 7. Street trees:

- A. At the discretion of the Planning Director, street trees shall be required at appropriate, coordinated locations along all public rights-of-way at an interval that mimics the existing tree placement in that area.
- 8. The following are considered minor administrative modifications:
  - A. In zoning districts where the maximum allowed impervious area infringes on site area available for landscaping, the number of site interior landscaping materials may be reduced up to 25% as a minor administrative modification.
  - B. Understory tree species may be substituted for canopy trees. This includes trees required as part of overlay districts, site interior landscaping requirements, parking lot landscaping, street trees, and incompatibility buffers.
  - C. High-quality, raised landscaping planters may be substituted for required plantings provided that the planters match the existing streetscape materials and design palette if adjacent to a public right-of-way, or that of the primary structure. Plastic, vinyl, and similar low quality materials are prohibited.

(6) **Neighborhood Character, Appearance, and Architectural Design**

- (a) General requirements applicable to all properties:
  - 1. Right-of-way shall be dedicated (if necessary) to allow for two-way traffic and on-street parking (both sides) along public streets.
  - 2. In new construction, a minimum of eight feet of mostly-unobstructed walking surface (from back of curb) shall be provided for pedestrian traffic on Main Street. Some of this area may be used for public display of wares or outdoor seating, pursuant to the relevant portions of this Chapter, so long as a minimum of five feet of fully unobstructed clearance remains for pedestrian traffic.
  - 3. Structures shall be oriented so that their primary façade faces and is parallel with the principal street on which they are located.
  - 4. Nonresidential and mixed use infill development shall occupy the full width of the lot width to create a continuous streetscape. Allowances may be made for required vehicular and pedestrian ingress/egress points, courtyards, or other pedestrian friendly points of interest.
  - 5. The following shall apply to properties on Main Street:
    - A. New and infill development shall be a minimum of two stories, with the uppermost story being enclosed space, space for pedestrian amenities, or a combination thereof. A maximum of 25 percent of the uppermost story may be set aside to allow room for mechanical equipment. .



- B. Buildings shall not have a single tenant space which exceeds 10,000 square feet in area on the first floor, unless at least one external, storefront entrance is provided for every 5,000 square feet, and the internal space is designed to be able to be partitioned.
- 6. Corner Lots on Main Street:
  - A. Corner buildings shall match or exceed the height of adjacent buildings, with a minimum height of two stories.
  - B. Façades shall be oriented so that they face and are parallel with adjoining streets.
  - C. Where practicable, vehicular access shall be located on the side street and as far as possible from the intersection.
- 7. Materials:
  - A. Quality building materials shall be used on the exterior facades of new construction, replacement, renovation, or covering of an existing façade. The following materials are prohibited from use: stucco; metal panels; corrugated metal; fiberglass; metal screening; horizontal lap siding made of plastic, vinyl, or aluminum; concrete block (flat or textured); and concrete panels.
- 8. Windows:
  - A. Opaque windows shall be limited to a maximum of 10 percent of the total window requirement of a building. In this instance, “opaque” is defined as any window material or glazing (glass block, frosted or smoked windows, wraps, etc.) that inhibits view from the outside to the inside of the building.
  - B. False windows or faux windows are not permitted on the first floor on any façade that is visible from a public right-of-way.
  - C. Security bars or similar theft prevention devices of high visual impact shall not be allowed on any window that is visible to the public. Any security measures shall be of low visual impact or seamlessly integrated into the design of the window, building, or façade.

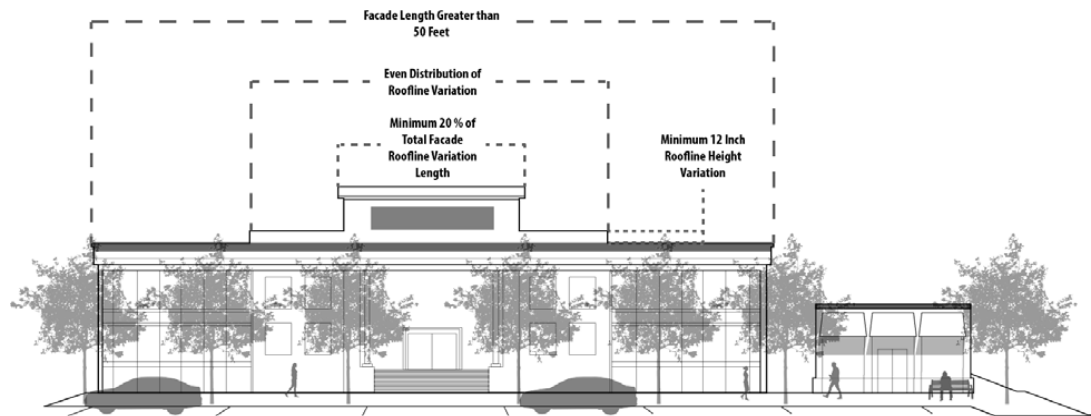


D. Nonresidential and mixed use zoning districts, and conforming nonresidential buildings in residential zoning districts:

- i. For the purpose of calculating the window percentages required below, a building floor shall be measured from two feet above finished floor to a height of 10 feet.
- ii. The ground floor of a building shall provide a minimum window coverage of 60 percent on the primary façade. Corner buildings may reduce the ground floor window coverage to 30 percent on the side street façade.
- iii. Upper floors shall provide a minimum of 30 percent window coverage of the façade, and simple patterns shall be used to subdivide the windows to add character to the buildings. Horizontal massing of upper floor windows is prohibited.
- iv. Buildings shall not be altered as to reduce the amount or area of first (ground) floor storefront windows to less than the amount specified in this Section.
- v. Ground floor windows and translucent doors within 20 feet of the back of curb along a road frontage shall not be covered or screened with window coverings, so as to obstruct visibility over more than 25 percent of the surface area, for more than one half of business hours. Existing violations shall be removed no later than December 31, 2019.
- vi. Ground floor storefront windows shall incorporate at least one architectural design element to enhance the visual appeal of the district. Elements may include but are not limited to soldier courses, brick patterns, columns, knee walls, recessed entrances, peaked or arched windows, or decorative window frames. Large windows that open and provide a direct connection to the street, such as roll-up, accordion, or retracting windows are permitted, so long as they blend into the character of the street and district.

9. Roofs:

- A. Parapet style roofs are required for all new development that is not single family residential or duplexes.
- B. Peaked roofs are prohibited on new or infill development on of Main Street.
- C. Façades with rooflines greater than 50 feet in length shall incorporate a change in height. This roofline variation shall be minimum 12 inches, for a minimum of 20 percent of the total length of the façade. Roofline variations shall be evenly distributed along the façade to balance the overall appearance of the building.



10. Utilities:

- A. New or replacement of existing utilities shall be undergrounded where practicable.
- B. New utilities shall be consolidated with existing utilities to reduce the proliferation of overhead wires and cables.
- C. All mechanical equipment shall be completely screened from view and located on the roof, where practicable, or an alternate location (for instance underground) that achieves the same screening performance standard..

11. Entrances

The following shall apply to entrances in nonresidential and mixed use zoning districts, and in conforming nonresidential buildings in residential zoning districts.

- A. Existing entrances with features such as recessed or angled entries shall not be removed, except to restore the storefront to a more historically accurate design.
- B. Entrance doors shall be a minimum of 25 percent translucent.
- C. Shingled or plastic awnings are prohibited.

(7) **Incentives and disincentives:**

- (a) The Town encourages the use, re-use, renovation, and other creative endeavors that preserve historic structures, create new structures, or otherwise enhance the private or public realm, and which add value and enhance or promote the character of downtown Clayton. To that purpose, the following incentives and disincentives are established in the Downtown Overlay District.
- (b) Incentives:
  1. Outdoor seating and dining areas and outdoor display areas, on private property and in public rights-of-way, shall be allowed with approval of a Zoning Compliance Permit and accompanying dimensioned site drawing complying with §155.311(B) "Outdoor Dining". In this instance and within this Overlay District, the Zoning Compliance Permit expressly replaces any other requirement for a Site Plan application..

- A. Outdoor seating and dining areas and site elements shall be constructed of high-quality materials. Plastic or unfinished wood are not allowed for tables, chairs, planters, window boxes, benches, or similar.
  - B. All outdoor seating and dining and site elements shall be kept in good working order and appearance and shall not fall into disrepair or they shall be removed immediately.
  - C. All accoutrements associated with outdoor seating and dining (tables, chairs, benches, planters, bollards, dividers, umbrellas, space heaters, lighting, entrance menus, etc.) shall be maintained to a high standard which demonstrates appreciation of the special character of the district.
- 2. Properties in the Downtown Overlay District may be developed at densities and intensities that are consistent with the Town's adopted Future Land Use Map, subject to the approval of a Special Use Permit.
  - 3. Downtown properties that meet other eligibility requirements may apply for:
    - A. The Façade and Site Element Improvement Grant;
    - B. The Clayton Downtown Redevelopment Incentive Grant (CDRIG).

(c) Disincentives:

- 1. Any demolition of a historically-contributing building or structure in the Downtown Overlay District shall result in a one year waiting period between application for a demolition permit and the time that the demolition occurs, and a one year moratorium (following demolition) of development applications and buildings permits upon that lot. The Town Council can waive the waiting period and the moratorium by a majority vote if the proposed new development is determined to be in the best interest of adjacent property owners and the Town.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2012-01-04, passed 1-3-12; Am. Ord. 2012-04-02, passed 4-2-12; Am. Ord. 2012-12-02, passed 12-3-12; Am. Ord. 2012-12-04, passed 12-3-12; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord. 2016-04-04, passed 04-04-2016)

## ARTICLE 3: SPECIFIC USE STANDARDS

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### § 155.300 USE INTERPRETATION

#### (A) USES

- (A) The list of uses included in the Use Regulations Table (Table 2-1 in §155.202) and defined in this subsection is intended to classify uses on the basis of common functional characteristics (activity, type of customers, goods or services) and land use compatibility. Other uses not specifically listed in the Use Table, but exhibiting similar characteristics to a listed use, shall be so classified by the interpretation of the Planning Director pursuant to the procedures and standards set forth in 155.300(B) below.

#### (B) USES NOT SPECIFICALLY LISTED

- (1) Any use not specifically listed in this chapter is expressly prohibited, unless the Planning Director determines in accordance with § 155.715, that the use is similar to a use or uses listed in this chapter. Where an unlisted use is similar to a use listed in Table 2-1 (§ 155.202), the unlisted use shall also be subject to the similar uses standards and approval process. The Planning Director shall not amend this chapter by adding to or eliminating any use standard for the unlisted use.
- (2) Where an unlisted use is found by the Planning Director not to be similar to any other use listed in Table 2-1 (§ 155.202), the use shall be permitted only following a text amendment in accordance with § 155.703. The decision of the Planning Director may be appealed to the Board of Adjustment.

- (3) When considering the appropriate districts for a use not listed in the Use Regulations Table, the district intent statements (see §155.200) shall be taken into consideration.
- (4) Determination of an appropriate category for a proposed use not currently listed shall be made by applying the following criteria.
  - (a) The actual or projected characteristics of the activity in relationship to the stated characteristics of each use category.
  - (b) The relative amount of site area or floor space and equipment devoted to the activity.
  - (c) Relative amounts of sales from each activity.
  - (d) The customer type for each activity.
  - (e) The relative number of employees in each activity.
  - (f) Hours of operation.
  - (g) Building and site arrangement.
  - (h) Types of vehicles used and their parking requirements.
  - (i) The relative number of vehicle trips generated.
  - (j) Signs.
  - (k) How the use is advertised.
  - (l) The likely impact on surrounding properties.
  - (m) Whether the activity is likely to be found independent of the other activities on the site.

(C) **DEVELOPMENTS WITH MULTIPLE USES**

- (1) Nonresidential, townhouse, and apartment complexes may be established on a single unified parcel, provided that the following requirements are met. Except as set forth above, no more than one principal building or use may be erected on a single lot of record.
- (2) Development with multiple uses shall meet all applicable development standards as set forth in §§ 155.200 through 155.204, §§ 155.400 through 155.404 and §§ 155.500 through 155.502. Applicants shall comply with all other provisions in this Chapter and all other applicable laws.
- (3) When the principal uses of a development fall within different group of uses or no group of uses, each principal use shall be classified in the applicable group of uses or treated as an individual use and each use shall be subject to all applicable regulations for that group of uses or individual use.

- (4) A development comprised of uses regulated by separate rows on the Use Regulations Table shall be reviewed using the most restrictive process from among the proposed uses. If a proposed development on a single parcel includes a special use review, then the entire development requires special use review.
- (5) Where a use requiring approval as a special use lies on a separate legal parcel, only the building containing the use and its separate parcel shall be subject to review, not the entire project. However, where the separate legal parcel is an outparcel, the application shall describe the relationship of the outparcel to the remaining site.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2006-06-01, passed 6-19-06; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Ord. 2017-04-06, approved 04/03/2017)

## **§ 155.301 RESIDENTIAL USE STANDARDS**

The following standards shall apply to all permitted uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

### **(A) GROUP CARE HOME**

- (1) An assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to residents, either directly or, for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed group 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.
- (2) In the R-E District, a group care home shall provide at least 150 square feet of gross floor area per occupant.
- (3) In the R-10 District, a group care home shall provide least 150 square feet of gross floor area per occupant.
- (4) In the R-8 District, a group care home shall provide least 150 square feet of gross floor area per occupant.
- (5) In the R-6 District, a group care home shall provide at least 150 square feet of gross floor area per occupant.
- (6) Pursuant to N.C. General Statutes 168-22, a Group Care Home shall not be located within a ½-mile radius of an existing Group Care Home.

### **(B) APARTMENTS**

Three or more attached dwelling units in a single structure on a single lot, although individual units may be owned by a single or many different entities. Apartments are usually multi-story, and individual units can be mixed vertically and/or horizontally.

- (1) No parking space shall be located in a required yard, except for the rear yard.
- (2) No off-street parking space shall be located closer than ten feet to any residential building wall.
- (3) For developments of 40 or more dwelling units, a divided ingress-egress driveway with a landscaped median is required at the main entrance to the community.
- (4) 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.

(C) **BOARDING HOUSE**

A building, other than a hotel/motel or bed and breakfast, containing not more than nine guest rooms. At least one meal is provided to guests. Individual guest rooms may not contain kitchens and personal services are not provided.

- (1) Boarding houses shall meet the standards of § 152.25 of the Town Code of Ordinances.
- (2) Each boarding house shall have a full-time resident manager.
- (3) Fifteen square feet of common living area other than kitchens, hallways and bathrooms shall be provided per occupant.
- (4) A boarding house shall not be located within 1,000 feet, as measured in any direction from property line to property line, of another boarding house.

(D) **MANUFACTURED HOME**

A structure, transportable in one or more sections, 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 definition and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the Manufactured Home Act.

Except as set forth in division (F)(1)(a) of this section, all manufactured homes shall meet or exceed the following criteria:

- (1) The manufactured home shall be set up and tied down in accordance with the standards set by the North Carolina Department of Insurance.
- (2) The manufactured home shall have a length not exceeding four times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis.
- (3) The manufactured home shall have a minimum of 960 square feet of enclosed and heated living area per dwelling area.
- (4) Screening of the foundation area shall be by a continuous, permanent masonry foundation or masonry curtain wall with a finished surface and constructed in accordance with North Carolina Building Code regulations. The foundation shall be unbroken except for required ventilation and access, and installed under the perimeter of the manufactured home.
- (5) Stairs, porches, entrance platforms, ramps, and other means of entrance and exit to and from the manufactured home shall be installed or constructed in accordance with the standards set by the North Carolina Building Code, free standing or attached firmly to the primary structure and anchored securely to the ground.



- (6) The exterior siding shall consist predominantly of vinyl or aluminum horizontal siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.
- (7) The moving hitch, wheels and axles, and transporting lights shall be have been removed.
- (8) At least two off-street parking spaces shall be provided.
- (9) The lot shall be cleared of all excess growth and graded to provide adequate drainage.
- (10) All areas not used for parking, manufactured homes, or required porches, shall be grassed or otherwise suitably landscaped to prevent erosion.
- (11) All standards must be met prior to issuance of a certificate of occupancy.

(E) **MANUFACTURED HOME PARKS**

Any plat of ground upon which two or more manufactured homes, occupied for dwelling purposes, are located, regardless of whether a charge is made for such accommodations. Includes a recreation vehicle park.

(1) **General Requirements**

- (a) Notwithstanding the criteria set forth in division (E) above, manufactured homes located within manufactured home parks shall be in accordance with all of the requirements of division (E) above, except divisions (E)(2), (E)(3) and (E)(4) shall not apply to manufactured homes located in manufactured home parks. All new or replacement manufactured homes located in manufactured home parks shall be a minimum of 12 feet in width, measured at the narrowest part of the shortest axis of the home, and shall contain a minimum of 480 square feet of enclosed and heated living area. The foundation area of the manufactured home shall be at a minimum, completely screened with faux skirting panels constructed from durable vinyl, or panels simulating a faux brick, rock or stone finish. The skirting shall be completely framed including a bottom track. The foundation screening must be kept in a well maintained condition.
- (b) All manufactured home parks shall be a minimum of three acres in size.
- (c) No living compartment or structure, other than a Florida Room or other prefabricated structure, specifically designed for manufactured home use or extension, shall be added to any manufactured home. Porches covered with a roof and open on three sides may be permitted if yard space requirements of this chapter are not violated, and if such addition complies with the North Carolina Building Code.
- (d) Up to two manufactured home park identification signs may be utilized, but the sum of the areas of one side of these signs shall not exceed 40 square feet. Only external, non-

flashing lighting shall be used for illumination. The top portion of any sign shall not exceed 12 feet in height.

- (e) Within a manufactured home park, one manufactured home may be used as an administrative office.

**(2) Streets and Parking**

- (a) Each manufactured home shall abut upon an improved street or driveway, which shall have unobstructed access to a Town or state maintained road.
- (b) Streets shall have a minimum paved width of 20 feet. In addition, every such street shall lie within a cleared right-of-way having a minimum width of 40 feet.
- (c) Maintenance of such streets shall be provided by the owner or operator of the park.
- (d) Permanent dead-end streets or cul-de-sacs shall not exceed 500 feet in length and shall be provided with a turnaround of at least 70 feet in diameter.
- (e) Streets or drives within the manufactured home park shall intersect as nearly as possible at right angles, and no street shall intersect at less than 75 degrees. Where a street intersects a public street or road, the design standards of the North Carolina Highway Commission shall apply.
- (f) New street names or manufactured home park names shall not duplicate nor be similar to existing street names or manufactured home park names in the area.
- (g) A minimum of two paved parking spaces shall be provided adjacent to each manufactured home space, but shall not be located within any public right-of-way or within any street in the park.
- (h) No manufactured home lots shall be located within the 100-year floodway area, as shown on the latest National Flood Insurance Program map for the Town.

**(3) Lot Size and Lot Width Requirements**

- (a) Lots served by community or public water and sewer shall have a minimum lot size of 6,000 square feet and have a minimum lot width of 50 feet at the front building line. The maximum coverage of the lot by the unit and any accessory structures shall not exceed 40% of the lot area.
- (b) Lots served by individual septic tank and individual well shall have a minimum lot size of 25,000 square feet and have a minimum lot width of 75 feet at the front building line. The maximum coverage of the lot by the unit and any accessory structures shall not exceed 40% of the lot area.
- (c) Lots served by community or public water and individual septic tank or public sewer and individual well shall have a minimum lot size of 15,000 square feet and have a

minimum lot width of 75 feet at the front building line. The maximum coverage of the lot by the unit shall not exceed 40% of the lot area.

(4) **Project Boundary Buffer**

A Class C buffer shall be provided (see § 155.402) along all project boundaries of a manufactured home park.

(5) **Yard Requirements**

(a) The following yard requirements shall pertain to every manufactured home in the manufactured home park:

1. Minimum depth of street yard, measured from front lot line: 20 feet.

2. Minimum width of side yard, measured from side lot line:

A. Ten feet.

B. Six feet, if served by public water and sewer.

(b) Minimum depth of rear yard, measured from rear lot line: 20 feet.

(c) Detached garages and accessory buildings may be erected on manufactured home lots as permitted in § 155.308.

(6) **Utility Requirements**

(a) ***Water***

An accessible, adequate, safe supply of water shall be provided in each manufactured home park. When a municipal water supply is not available, a community water supply shall be developed and its supply used exclusively in accordance with the standards of the Sanitary Engineering Division of the North Carolina Division of Health Services and the County Health Department.

(b) ***Sewer***

Adequate and safe sewage disposal facilities shall be provided in all manufactured home parks. Collection systems and sewage treatment complying with the requirements of the North Carolina Department of Natural Resources and Community Development and the County Health Department shall be provided.

(c) ***Solid Waste***

1. The storage, collection, and disposal of solid waste in the manufactured home park shall be so constructed as to create no health hazards, rodent harborage,

insect breeding area, accident or fire hazard, or pollution, and shall be maintained at least 100 feet from a well site.

2. All solid waste containing garbage shall be stored in a standard fly-tight, watertight, rodent-proof container, which shall be located at each manufactured home space, or an approved bulk container site. The manufactured home park management shall be responsible for the proper storage, collection, and disposal of solid waste as specified by the County Health Department.
3. Grounds, buildings, and structures shall be maintained free of insect and rodent harborage and infestation.
4. No junked or abandoned vehicles shall be allowed in the park.

**(7) Street Lights**

All streets in the manufactured home park shall be adequately illuminated. The minimum size street light shall be a 175-watt mercury vapor, approximately 7,000-lumen class or its equivalent, spaced at intervals of not more than 400 feet. Equivalent illumination LED lights are also allowed. Streetlights shall be at each intersection.

**(8) Telephone and Power Lines**

All telephone lines and power lines are to be located underground. Utility easements shall not be less than ten feet in width.

**(9) Recreation Areas and Facilities**

- (a) Adequate and suitable recreation areas to serve the anticipated population shall be provided and shall consist of at least 10,000 square feet for each 25 manufactured home lots. All manufactured home parks having five or more lots shall have a minimum size recreational area of 10,000 square feet. Manufactured home parks having more than 25 manufactured home lots shall provide 400 square feet of recreation space per lot in excess of 25.
- (b) No recreational facilities shall be placed in an area utilized for septic tank filter fields.

**(10) Mobile Home Parks with Prior Approval**

All mobile home parks approved for development by the Town, County, or State prior May 4, 1987 are hereby granted special use status under the terms of [§ 155.109\(A\)\(2\)](#), and the number of units contained therein may be maintained and replaced with other units, provided that:

- (a) A copy of the mobile home park plan bearing proof of approval by the responsible governmental agency shall be filed in the Planning Department no later than 90 days after the approval of this revision.

- (b) All replacement units shall obtain an approved zoning compliance permit and inspection by the Town Inspections Department prior to occupancy.
- (c) All replacement units shall meet the requirements of (F) of this section.
- (d) No replacement unit may increase any nonconforming standard of the existing unit, and in no case may any replacement unit be located nearer than ten feet to a public street right-of-way or periphery property line.
- (e) Any expansion of a mobile home park shall be in full accordance with the current standards of this chapter.
- (f) If a mobile home park which does not conform to current standards has been discontinued, or if 80% of the number of spaces are vacated for a period of 180 days, the mobile home park shall not be re-established, and all future use of the land therein shall comply fully with the provisions of this chapter.

**(F) NURSING HOME (CONGREGATE LIVING FACILITY)**

This term includes assisted living facilities, extended congregate care facilities, transitional living facilities, rehabilitative home care services, or home for the aged or any other residential structure, whether or not operated for profit, which undertakes for a period exceeding 24 hours: care, housing, food service, and one or more personal services for persons not related to the owner or administrator by blood or marriage. In addition, this term shall include other residential uses such as dormitories, group homes with a central dining facility, and similar bed-based uses.

(1) A nursing home/congregate living facility located in the Residential-Estate (R-E) zoning district shall provide a Class "C" landscape buffer along all property lines in accordance with the standards of this chapter.

**(G) DUPLEX (also known as "TWO FAMILY HOUSE")**

Two attached dwelling units in a single structure on a single lot. The two units can be located on separate floors or side-by-side.

**(H) TOWNHOUSE (also known as townhome or rowhouse)**

Two or more attached dwelling units located on separately owned lots or on a single lot where the units are lined up in a row and share side walls, individual units can be mixed vertically. each unit has direct access to the outside, with front and rear walls exposed, to be used for access, light, and/or ventilation.

- (1) Side yards are not required for interior townhouses, but street and rear yards shall be provided for all townhouses, and building separation requirements shall be maintained for all townhouse structures.
- (2) **Parking Options**
  - (a) ***Rear-Loaded Garage***

1. Garage is placed entirely to the rear of the townhouse and is rear-accessed or alley loaded. Garage can be attached or detached.
2. Garage doors must face the alley or rear access drive.

(b) ***Front-Loaded Garage***

1. Garage doors may constitute no more than 50% of the width of the individual townhouse unit.
2. The driveway must be aligned with the garage and shall not exceed the width of the garage entrance/door.
3. Any parking in the front setback must have sufficient depth so that parked cars do not encroach on the adjacent sidewalk. The garage doors must be set back at least twenty-five feet (25') from the sidewalk.
4. Garage doors must be recessed at least one foot behind the front wall plane, or a second story element over the garage doors must be provided that extends at least one foot beyond the front wall plane.
5. Front-loaded garages shall be prohibited on one-story townhome units.

(c) **Shared Parking Area/Shared Parking Lot**

1. The minimum parking requirement shall be calculated as for an apartment or multi-family development.
- (2) The maximum number of units allowed in a single building is eight.
- (3) The first floor shall be located from ground level to a maximum of three feet above grade.

**(I) SECURITY OR CARETAKER QUARTERS**

A dwelling unit, which may be a mobile home, a manufactured home, or a modular home, located on a site for occupancy by a caretaker or security guard. If located on the same parcel as a primary dwelling, this use shall be considered an "Accessory Dwelling Unit" and shall be subject to the requirements outlined in 155.308(C)(1).

(J) **SINGLE FAMILY HOUSE**

A detached dwelling unit located on a single lot with private yards on all four sides.

- (1) For alley-loaded houses, an alley shall be provided to the rear of the house. All vehicular access shall take place from the alley. No parking shall be permitted in the required street yard.

(K) **UPPER-STORY RESIDENTIAL**

A dwelling unit located on a floor above a nonresidential use.

- (1) An upper-story residential unit shall adhere to all dimensional standards of the nonresidential zoning district in which it is located.

(L) **ZERO LOT LINE**

A detached dwelling unit located on a single lot with private yards on three sides. The unit has a single side yard on one side comprising the equivalent of two side yards of a single-family detached house.

- (1) A single side yard shall be provided comprising the equivalent of two side yards of a conventional detached house. This reduction shall not be allowed on the street yard or to the side yard adjacent to lots that are not part of the zero lot line project.
- (2) An easement between the two property owners to allow for maintenance or repair of the house shall be required when the roof overhang or side wall of the house are within four feet of the adjacent property line (no roof overhang shall be permitted to extend across the property line). The easement on the adjacent property must provide at least five feet of unobstructed space. The easement shall be recorded on the subdivision plat.
- (3) If the sidewall of the house is on the property line, or within three feet of the property line, windows or other openings that allow for visibility into the side yard of the adjacent lot shall not be allowed. Windows that do not allow visibility into the side yard of the adjacent lot, such as a clerestory window or a translucent window, shall be allowed.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-06-02, passed 6-4-07; Am. Ord. 2012-01-04, passed 1-3-12; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord. 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)

## **§ 155.302 PUBLIC AND CIVIC USE STANDARDS**

The following standards shall apply to all permitted uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

### **(A) ASSEMBLY**

A site or facility open to the public or membership groups for social, civic, political, educational, or recreational purposes. Typical uses include museums, cultural centers, recreational facilities, botanical gardens and community services such as after school care or tutorial services, medical services, employment services, and may also include uses such as cultural organizations and union halls.

### **(B) CEMETERY**

A place used or to be used and dedicated or designated for interments of human remains or pet animal remains. A cemetery may include an office, chapel, mausoleum, columbarium or crematory.

### **(C) CHURCH OR PLACE OF WORSHIP**

A sanctuary which may include a retreat, convent, seminary or other similar use, owned or operated by a tax-exempt religious group that is used periodically, primarily or exclusively for religious worship, activities and related services.

- (1) Where a church or place of worship requires a Special Use Permit, following the initial approval of places of worship through the special use permit process (see § 155.7110), expansions of up to 20% of the area originally approved through the special use permit process may be approved administratively. Any administrative approvals of expansion shall not waive any conditions of approval of the special use permit.

- (2) Accessory uses standards for a place of worship are set forth in § 155.308(E).

### **(D) COLLEGE OR UNIVERSITY**

An institution of higher learning offering undergraduate or graduate degrees, and including the buildings required for educational or support services, such as classrooms, laboratories, dormitories and the like.

### **(E) DAY CARE FACILITY**

A non-residential day care facility licensed by the state, if applicable; providing care for children or adults who do not reside in the facility, are present primarily during daytime hours, and do not regularly stay overnight. all daycares shall be subject to the following:

- (1) An off-street passenger drop-off and passenger loading area shall be provided for any day care. Such area shall not be located in the street yard.



- (2) Where abutting a residential use, a Class "C" landscape buffer shall be provided so as to shield all parking areas, play areas and outdoor activity from abutting property.

(F) **GOVERNMENT SERVICE**

Buildings or facilities owned or operated by a government entity and providing services for the public, excluding utility and recreational services. Typical uses include administrative offices for government agencies, public libraries, police and fire stations, and resource centers.

(G) **HOSPITAL OR MEDICAL CENTER**

A facility licensed by the State of North Carolina which maintains and operates organized facilities for medical or surgical diagnosis, overnight and outpatient care, and treatment of human illness. A hospital may include related support facilities such as a helipad, laboratories, out-patient departments, staff offices, food services, and a gift shop.

(H) **SCHOOL (ELEMENTARY OR SECONDARY)**

A public or private institution offering a curriculum of education authorized by the state giving regular instruction at the primary, secondary level, or a school for the mentally or physically handicapped. Included in this definition are preschool programs. However, this definition does not include day care facilities, individual instruction, or classes in a specialized subject.

- (1) Following the initial approval of a school through the special use permit process (see § 155.711), expansions of up to 20% of the area originally approved through the special use permit process may be approved administratively.
- (2) Administrative approvals of expansions of schools shall not waive any conditions of approval of the special use permit.

(I) **SCHOOL (TECHNICAL, TRADE OR BUSINESS)**

An institution offering instruction beyond high school level with a course of study in vocational, technical or other special subjects.

- (1) Following the initial approval of a school through the special use permit process (see § 155.711), expansions of up to 20% of the area originally approved through the special use permit process may be approved administratively.
- (2) Administrative approvals of expansions of schools shall not waive any conditions of approval of the special use permit.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2009-08-02, passed 8-3-09; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)

## **§ 155.303 RECREATIONAL USE STANDARDS**

The following standards shall apply to all permitted uses, conditional zoning district uses, and uses requiring a special use permit, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

### **(A) INDOOR ENTERTAINMENT**

Amusement activities carried on wholly within a building. Typical uses include bowling alleys, billiard parlors, theaters, escape rooms, video game arcades, laser tag, indoor paint ball, skating rink, and activities of a similar nature. This does not include an adult-oriented business or adult-oriented amusement center.

### **(B) OUTDOOR ENTERTAINMENT**

Amusement activities where any portion of the activity takes place outside or in the open, excluding recreation centers and parks. Typical uses include batting cages, golf driving ranges, go-cart tracks, outdoor paint ball, drive-in theater, outdoor skating rink, and miniature golf courses.

### **(C) FITNESS/RECREATION CENTER**

A facility for conducting recreational activities, either indoors or outdoors, including but not limited to raquetball, handball, swimming, running, weight lifting, athletic fields, tennis courts, and aerobic exercises. THIS FACILITY MAY also INCLUDE classrooms, BABYSITTING, AND LIMITED FOOD SERVICE FOR THE facility.

### **(D) GOLF COURSE**

A facility providing a golf recreation area designed for executive or regulation play along with accessory support facilities, excluding miniature golf.

### **(E) GUN RANGE**

An enclosed facility used for the discharge of firearms or projectiles at targets.

### **(F) PARK**

An outdoor recreation area relying on a natural resource base or man-made recreation amenity and developed with a low to medium intensity of impact on the land. Typical uses include greenway (non-equestrian multi-use trail) systems, community gardens, wildlife management, playground, dog park, other small-scale recreational amenities, such as sand volleyball, basketball, or tennis court, or other active recreational opportunities, as well as demonstration areas for historical, cultural, scientific, educational, or other purposes that relate to the natural qualities of the area, and support facilities for such activities. commercial amusement facilities, such as water slides, minature golf, or go-cart tracks, are not considered parks (see "Outdoor entertainment").

### **(G) STABLE, PRIVATE**

The breeding, boarding, training, or raising and care of horses owned by the occupants or owners of the premises. Property used for Private Stables shall be a minimum of five (5) acres in size.

(Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Ord. 2017-04-06, approved 04/03/2017)

## **§ 155.304 AGRICULTURAL USE STANDARDS**

The following standards shall apply to all permitted uses, conditional zoning district uses, and uses requiring a special use permit, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

### **(A) AGRICULTURE, LIVESTOCK**

The breeding, raising and caring for domestic animals including horses (excluding private stables).

- (1) Property used for livestock shall be a minimum of five acres in size.
- (2) All accessory uses and structures, such as troughs, feed mechanisms and storage, shall be setback a minimum of 100 feet from any property line.
- (3) The maximum number of large animals permitted for each acre shall not exceed five. Large animals shall include horses, swine, cattle, goats, and sheep. An enclosed structure with one stall for each large animal is required when the total number of large animals exceeds three per acre.
- (4) The maximum number of small animals permitted for each acre shall not exceed 100. Small animals shall include rabbits and fowl, excluding peafowl. Small animals shall be permitted in addition to large animals.
- (5) The use shall assure that there is no incompatibility with surrounding land uses. In the event that an incompatibility exists, the applicant shall satisfactorily mitigate the incompatibility prior to receiving final approval.

### **(B) AGRICULTURE, SALES AND SERVICE**

An establishment primarily engaged in the sale or rental of farm tools, small implements and farming equipment such as pickers, mowers, livestock, feed, grain, tack, riding attire, animal care products, and farm supplies.

- (1) Outdoor storage of materials shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)).

### **(C) NURSERY**

The sale of horticultural specialties such as flowers, shrubs, sod, trees, mulch and accessory hardscape materials such as decorative stones intended for ornamental or landscaping purposes.

- (1) Outdoor storage of materials shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)).

(Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12)

## **§ 155.305 COMMERCIAL USE STANDARDS**

The following standards shall apply to all permitted uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

### **(A) ADULT ORIENTED BUSINESS**

Any place defined as an "adult establishment" as defined by G.S. § 14-202.10, as such statute may be amended from time to time, including adult cabarets, and except the definition of "massage business" shall not include any establishment or business where massage is practiced that is a health club, exercise studio, hospital, physical therapy business or other similar health-related business. Adult-oriented business specifically includes, however, any massage business where massages are rendered by any person exhibiting "specified anatomical areas" and/or where massages are performed on any client's "specified anatomical areas." "Specified anatomical areas" are those defined by G.S. § 14-202.10 as such statute may be amended from time to time.

- (1) No such use shall be located within 1,000 feet of a church, primary, elementary or secondary school, residence or residentially zoned property, any establishment serving on-premises beverages requiring an ABC license, or any other adult-oriented business.
- (2) There shall be no more than one such use on the same property or in the same building or structure.
- (3) Except for permanent signage as permitted in § 155.403, there shall be no advertisement, promotional materials, displays, or temporary signs visible to the public from public rights-of-way.

### **(B) BED & BREAKFAST**

A building containing one or more guest rooms for an overnight stay which are rented at a daily rate and where breakfast is the only meal served to guests.

- (1) An owner shall reside on site.
- (2) There shall be no substantial modifications to the exterior appearance of the structure; however, fire escapes, handicapped entrances and other features may be added to protect public safety.
- (3) Meals shall be served on the premises only for guests and employees. Rooms may not be equipped with cooking facilities.
- (4) Parking shall not be allowed in any street yard.

(C) **CAR WASH/AUTO DETAILING**

A permanent establishment engaged in washing or detailing motor vehicles which may use production line methods with a conveyor, blower, or other mechanical devices, and which may employ some hand labor. Detailing includes hand washing and waxing, striping, and interior cleaning.

(D) **CONTRACTOR OFFICE**

A facility for a building, heating, plumbing, electrical, landscape, janitorial or similar contractor.

- (1) All activity shall be conducted entirely within a fully enclosed building. The temporary loading and off-loading of vehicles shall be permitted outside.
- (2) The overnight storage of fleet vehicles shall be considered an accessory use of "Limited Outdoor Storage" and shall be permitted only as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).

(E) **CONVENIENCE STORE WITH GAS SALES**

A convenience store which includes accessory gasoline retail sales to the general public.

(1) **General Standards**

- (a) Vehicle repair or service shall not be permitted.
- (b) The primary building, including any attached canopy, shall conform to all setback requirements.
- (c) Gasoline pumps, tanks and pump islands shall be located no closer than 20 feet to any side or rear property line or right-of-way.
- (d) No sign of any type or any gasoline pump or tank shall be located within 20 feet of a residential use.
- (e) A Class C buffer (see § 155.402) shall be established along any side of the property where the gas station abuts a residential use, provided such buffer shall not restrict clear sight at any intersection or driveway.
- (f) Freestanding vents shall not be permitted.

(2) **Fuel Canopies**

- (a) The canopy shall be located no closer than 15 feet to any side or rear property line or right-of-way.
- (b) The canopy shall not exceed the height of the principal building, but in no case shall the canopy height exceed 20 feet.

(3) **Single-Bay Automatic Car Wash**

(4) An accessory single-bay automatic (not self-service) car wash completely enclosed except for openings necessary to allow entry and exit of vehicles shall be permitted subject to the following:

- (a) The car wash structure shall be located no closer than 20 feet to any side or rear property line or right-of-way.
- (b) The car wash structure shall not exceed a height of 20 feet or exceed an overall building dimension of 25 feet in width and 50 feet in length.
- (c) The car wash structure shall be located behind the rear building line of the principal building.
- (d) All car wash structures shall meet all applicable yard requirements.

(F) **CREATIVE STUDIO**

A facility involved in the display and/or instruction of the arts, such as individually crafted artwork, jewelry, furniture, sculpture, pottery, leathercraft, hand-woven articles, and related items; art classroom; music studio or classroom; dance studio or classroom; martial arts instruction; or similar use. This definition does not include any adult entertainment establishment.

(G) **FINANCIAL INSTITUTION**

An establishment engaged in deposit banking. Typical uses include commercial banks, savings institutions, and credit unions, including outdoor automated teller machines and drive-thru only facilities.

- (1) Freestanding automated teller machines require site plan approval.
- (2) Drive-through service is only permitted as an accessory use in the B-3, O-I, and B-2 zoning districts. In the O-I and B-2 zoning districts, drive-through lanes/services shall not be located along any residentially zoned property.

(H) **FUNERAL HOME**

- (1) An establishment which arranges and manages funeral and prepares the human deceased for burial.
- (2) A funeral home may include a crematorium located within the principal building.

(I) **HOTEL/MOTEL**

A building containing one or more guest rooms, for overnight guests, and containing registration facilities, on-site management, cleaning services and combined utilities.

- (1) All hotel and motel buildings and parking shall be located at least 50 feet from any property line adjoining a residential district or use.
- (2) Any accessory commercial activities such as restaurants shall not be located along the side of the property adjacent to a residential district or use.
- (3) Any outdoor recreation facilities, such as swimming pools, shall not be located along the side of the property adjacent to a residential district or use. If the outdoor recreation facility is a swimming pool, it shall meet the standards of § 155.308(D)(3) "Swimming Pools".

(J) **KENNEL**

Any building or land used, designed or arranged to facilitate the care of four or more domestic animals, such as dogs and cats.

- (1) All animal boarding shall occur indoors. All kennels and runs shall be located in an enclosed structure.
- (2) An outdoor pen may be provided only for exercise/relief areas for the animals. This area shall be located to the side or rear of the building, and shall not be located closer than 50' from any residentially zoned properties. The area shall be securely fenced by a minimum 6' opaque fence.
- (3) Animal waste shall not be stored within 50' of any adjacent property.
- (4) Outdoor runs may be permitted subject to Town Council approval of a Special Use Permit (see § 155.711)

(K) **LAUNDRY SERVICES**

An establishment that provides washing, drying, dry-cleaning, or ironing machines for hire to be used by customers on the premises, or that is engaged in providing laundry and dry cleaning services with customer drop-off and pick-up.

(L) **LOUNGE, COCKTAIL**

A use or facility engaged primarily in the preparation and retail sale of alcoholic beverages (with food sales an allowed accessory use) for consumption on the premises. this use is also known as tavern, bar, nightclub, or similar use other than restaurant or alcohol sales for off-premises consumption.

- (1) Except in the B-1 zoning district, a cocktail lounge shall not be located within 250 feet of a residential district and shall be separated a minimum of 750 feet from another cocktail lounge.
- (2) Outdoor seating and open lounge areas shall meet the criteria set forth in § 155.305(R)

(M) **MICROBREWERY**

A facility for the production and packaging of beer and other malt beverages for distribution, retail, or wholesale, on or off premise, with a capacity of not more than 15,000 barrels per year. Areas for



demonstration, education, retail sale, or tasting are included in this definition as incidental to the primary use of producing beverages.

(N) **PUBLISHER**

A building used for the production and distribution of newspapers, magazines, books, and other related materials.

(O) **OFFICE, GENERAL**

A facility generally focusing on business, government, or professional services. General office shall include advertising offices; business management consulting, data processing, collection agency; real estate or insurance agents, and professional services such as lawyer, accountant, bookkeeper, engineer, or architect, sales office, travel agency or any similar use.

(P) **OFFICE, MEDICAL**

A facility in which a doctor, dentist, psychiatrist, physician's assistant, nurse practitioner, or similar medical provider treats or counsels patients.

(Q) **OUTDOOR SEATING AND SIDEWALK CAFES**

A restaurant which provides as a primary component of its business, an open area outside of the principal structure for seating including areas adjacent to sidewalks or pedestrian circulation areas.

(1) **Application**

Any restaurant or cocktail lounge seeking to operate a sidewalk cafe shall, in addition to acquiring all necessary health and sanitation permits and inspection and applicable ABC and other business licenses, prepare and file an application for outdoor seating with the Planning Director.

(2) **Site Plan Requirement**

A drawing or site plan showing the section of sidewalk or pedestrian way to be used for the sidewalk cafe, and the section to be kept clear for pedestrian use, and depicting the proposed placement of tables, chairs, barriers, and other furnishings on the sidewalk or pedestrian way.

(3) **Insurance and Indemnification**

Applicants must show proof of meeting minimum criteria for general liability insurance and must execute an indemnification statement in favor of the Town, each as approved by the Town Attorney.

(4) **Issuance of Permit**

No permit for outdoor seating may be issued unless the application is complete and unless the following requirements are met.

- (a) The sidewalk cafe must be associated with an operating restaurant or business such that it is under the same management and shares the same food preparation facilities, restroom facilities and other customer convenience facilities as the restaurant and does not exceed 50% of the interior seating for the associated restaurant or business.
- (b) The sidewalk cafe must be operated under the same name as the restaurant and may not be opened or operated at any time when the restaurant or business is not open for business.
- (c) The operation of the sidewalk cafe must be clearly incidental to the associated restaurant business.
- (d) The placement of tables, chairs and other furnishings, as shown in the site plan, must be done in such a manner not to extend more than five feet from the property line, provided that at least four feet of unobstructed space (as measured from the street-side edge of curb or sidewalk) remains for the passage of pedestrians. Trees, poles, signs, sandwich board signs, planters, benches, hydrants, trash receptacles, and the like are all considered obstructions.
- (e) The restaurant seeking to operate the sidewalk cafe must front on and open onto the sidewalk or pedestrian way proposed for the sidewalk cafe. The placement of tables, chairs, and other furnishings may not extend in front of other businesses or across other public rights-of-way.
- (f) The tables, chairs, and other furnishings used in the sidewalk cafe shall be of a type that is easily removed from the public right-of-way. Tables, chairs, and other furnishings used in the operation of the sidewalk cafe must be removed within 24 hours' notice from the Town. If such items are not removed upon 24 hours' notice, the Town shall have the right to remove and dispose of these items and may assess the property owner for the cost of such removal and disposal. The Town shall also have the right to remove such items immediately in an emergency situation. The Town shall not be responsible for damage to the public sidewalk cafe barricades and furnishings under any circumstances.
- (g) Except as elsewhere permitted, the operation or furnishing of the sidewalk cafe shall not involve any permanent alteration to or encroachment upon any street, sidewalk or pedestrian way or to the exterior of the associated restaurant. The owner of the sidewalk cafe shall be responsible for repairing any incidental damage to public sidewalks resulting from the operation of the sidewalk cafe.
- (h) The sidewalk cafe shall only be open when the restaurant is open. No person shall consume alcoholic beverages in a sidewalk cafe after such hours.
- (i) **Alcoholic Beverages.** Alcoholic beverages may be served and consumed at sidewalk cafes providing the following requirements are met:

1. The sidewalk cafe shall be part of a standard restaurant or business and shall otherwise be authorized, permitted or licensed under the state law and Town codes to serve and sell alcoholic beverages for on-premises consumption.
2. The portion of the sidewalk cafe where alcohol is or may be served shall be enclosed by clearly visible barricades and shall have not more than two points of ingress or egress.
3. The sidewalk cafe must be included as part of the premises for which an ABC permit is issued pursuant to G.S. § 18B-1001 for the purposes of applying and enforcing state laws regarding the sale or consumption of alcoholic beverages.
4. Signs shall be posted, visible at all exit points from the sidewalk cafe, that it is unlawful to remove alcoholic beverages in open and unsealed containers from the premises.
5. The business operator shall not have violated any law, regulation or ordinance relating to the possession, sale, transportation or consumption of intoxicating beverages or controlled substances for the five years preceding the commencement of the sale of alcoholic beverages at the sidewalk cafe.

(j) **Denial.** A permit may be denied if it is found that the granting of the permit would not be in the public interest. Any applicant denied a permit to operate a sidewalk cafe shall receive a written statement, outlining the grounds on which the denial is based. The applicant may appeal the denial of the permit to the Town Council within 30 working days after the date of the written denial and the Town Council may take such corrective action as it shall find necessary. The findings and determination of the Town Council shall be final.

(k) **Permit Revocation.** The Town Manager or his designee may revoke a permit issued pursuant to this section, if he finds that the restaurant operator has:

1. Deliberately misrepresented or provided false information in the permit application;
2. Violated any provision of this code;
3. Violated any law, regulation or ordinance regarding the possession, sale, transportation or consumption of intoxicating beverages or controlled substances;
4. Operate the sidewalk cafe in such a manner as to create a public nuisance or to constitute a hazard to the public health, safety or welfare, specifically including failure to keep the sidewalk cafe area clean and free of refuse; and/or
5. Failed to maintain any health, business or other permit or license required by law for the operation of a restaurant business. Before the revocation of a permit, the

Town Manager shall notify the permit holder of his intent to revoke the permit and the reasons therefor and shall afford the permit holder a reasonable opportunity to appear and be heard on the question of such revocation. After the hearing, the Town Manager shall notify permit holder in writing of the decision and the reasons therefor. A decision of the Town Manager to revoke permit may be appealed to the Town Council in accordance with the provision of this section.

(I) **Term, Transfer, Renewal, and the Like.** Permits issued in accordance with the provisions of this section shall:

1. Be renewed automatically on an annual basis unless notice is otherwise given to the applicant or business; and
2. Not be transferable or assignable.

(5) **Definitions**

For purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Pedestrian Way. An improved walk or passageway intended for use by pedestrians, but not adjacent to any Town street.

Restaurant. An establishment engaged in the business of regularly and customarily selling food, primarily to be eaten on the premises, including businesses that are referred to as restaurants, cafeterias, cafes, lunch stands, grills, snack bars, fast food businesses and other establishments, such as drug stores, which have a lunch counter or other section where food is sold to be eaten on the premises. This definition does not include food vendors selling food as part of a festival or nonprofit event.

Restaurant Operator or Business Operator. The person, firm or corporation operating a restaurant and associated sidewalk cafe. As used in this section, this definition includes the owner and manager, if different from the owner of the restaurant and associated sidewalk cafe.

Sidewalk. That portion of a public street between the curb line, or the lateral lines of the roadway if there is no curb and the adjacent property line that is intended for the use of pedestrians.

(R) **PARKING LOT**

An area provided for self-parking or valet parking of operable passenger automobiles or commercial vehicles by employees, visitors, and/or patrons of any office of government, public accommodations, commercial or industrial establishments, institutions, or any other business open to the general public. Parking lots may be further defined as being available for compensation, free, or as an accommodation to clients or customers, and are generally only utilized during regular business hours. For short-term or long-term vehicle storage, see "Self-Storage Facility".

(S) **PAWN SHOP**

Any establishment engaged in the loaning of money on the security of personal property pledged in the keeping of the pawnbroker, and the sale of such property.

- (1) Outdoor storage shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).

(T) **RADIO OR TELEVISION STUDIO**

An establishment primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Excluded are facilities classified as major utility services, broadcasting or telecommunication facilities.

(U) **RESTAURANT**

A use, facility, or establishment whose primary purpose is the preparation and sale of food for on- or off-premise consumption. this use may or may not include the accessory sale of alcoholic beverages.

**(V) RETAIL SALES**

A facility involved in the wholesale or retail sale, lease, or rental of new or used products. retail shall include the selling, leasing or renting of the following goods: antiques; art; art supplies; bicycles; books; building supplies; cameras; carpet and floor coverings; crafts; clothing; computers; dry goods; electronic equipment; fabric; furniture; garden supplies; hardware; health and beauty products; household products; jewelry; medical supplies; musical instruments; music; pets; pet supplies; photo finishing; printed materials; crafts; flowers; gifts or souvenirs; groceries; plants; picture frames; produce; sporting goods; stationery; tobacco; videos, or any similar use. Also includes preparation and sale of baked goods, coffee, ice cream, fountain drinks, confections, and similar products whose preparation does not require installation of an exhaust hood. The retail sale of automobile parts is allowed provided that no on-site automobile service or repair is provided. This definition does not include any adult-oriented business or adult-entertainment establishment.

- (1) Outdoor display and sales and outdoor seating and dining may be allowed subject to § 155.308.
- (2) Outdoor storage of shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).
- (3) Uses that are strictly wholesale and not available to the general public shall not be allowed in the B-1, B-2, or B-3 zoning districts.

(W) **SELF STORAGE FACILITY**

A facility consisting of individual, self-contained units that are leased for the storage of business or personal goods.

- (1) All storage shall be contained within a fully enclosed building. Outdoor storage of shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).
- (2) A Class C buffer (see § 155.402) shall be established along any side of the property where the self-storage facility abuts or is across the street from a residential use or a public right-of-way.
- (3) Where the end wall of the self-storage facility is visible from a public right-of-way, the wall shall be buffered by a hedge that has a mature height of at least four feet.
- (4) The following activities shall be prohibited on the premises:
  - (a) Commercial, wholesale or retail sales, flea markets or peddling, or miscellaneous or garage sales. However, once a month, the management of the self-storage facility may conduct a one-day auction or sale of abandoned or stored materials to settle unpaid storage bills in accordance with state regulations.
  - (b) Servicing, repair, or fabrication or motor vehicles, boats, trailers, lawn mowers, appliances, or other similar equipment.
  - (c) Operation of a transfer-and-storage business.
  - (d) Operation of power tools, spray painting equipment, table saws, lathes, compressors, welding equipment, kilns, or other similar equipment except when needed for maintenance of the use.
  - (e) Any activity that is noxious or offensive because of odors, dust, noise, fumes, or vibrations.
  - (f) Storage of hazardous chemicals, flammable liquids, or combustible and explosive materials.
  - (g) Habitation of storage units by humans or animals.

**(X)SERVICE**

A facility involved in providing personal or repair services to through traffic as well as the surrounding neighborhood. General services shall include the following personal services: beauty, hair, nail, or tanning salon, massage therapy, pack-and-ship facility, animal grooming; photographic; photography, blueprint, quick-sign service; psychic or medium; security service; taxidermist; catering service or any similar use. General services shall also include the following repair services: bicycles; moped, canvas products; clocks; computers; jewelry; musical instruments; office equipment; radios; shoes; televisions; furniture; watches or any similar use. Also includes a tailor, milliner, upholsterer or locksmith. This definition does not include any adult-oriented business or adult entertainment establishment. All activity shall be conducted entirely within a fully-enclosed building, except for the following:

- (1) Outdoor storage of shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).
- (2) Outdoor display and sales shall be considered an accessory use and only permitted as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).

**(Y) TATTOO PARLOR**

An establishment whose principal business activity is the practice of one or more of the following:

- (2) Placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin.
- (3) Piercing of the body of a person (other than the ear) for the purpose of inserting jewelry or other decoration.

**(Z) TOWING SERVICE AND STORAGE**

The use of a lot for the temporary storage of operable or inoperable vehicles in conjunction with a commercial towing service, with no sales or repair or salvage activity occurring on the lot and subject to the following standards:

- (1) Outdoor storage shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).

**(AA) VEHICLE REPAIR OR SERVICE**

An establishment engaged in the repair of new or used motorized vehicles, equipment.

- (1) No vehicle sales shall be permitted.
- (2) A Class C buffer (see § 155.402) shall be established along any side of the property adjacent to a residential use.
- (3) If the facility has more than one service bay, the additional service bay doors shall not be oriented toward any residential use, or the service bays shall be screened from view from adjacent property using landscaping.
- (4) All repair or service operations, excluding washing, shall be conducted entirely within a fully enclosed building. The term fully enclosed building shall not be construed to limit open bay doors during hours of operation.
- (5) Operable vehicles may be parked on-site during business hours. All vehicle parking shall be accomplished on the site, and in no case shall a parked vehicle encroach into the right-of-way.
- (6) Overnight outdoor storage of vehicles shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).

- (7) There shall be no dismantling of vehicles for salvage.
- (8) The storage of impounded vehicles shall not be permitted.

**(BB) VEHICLE SALES AND RENTAL**

An establishment engaged in the sale, rental, or lease of new or used motorized vehicles, equipment, or mobile homes as defined by the Department of Motor Vehicles. Typical uses include auto and truck rental, lease and sales; boat rental and sales; mobile home and recreational vehicle sales; construction equipment rental yards; moving trailer rental, and large implement sales or rental.

- (1) A Class C buffer (see § 155.402) shall be established along any side of the property adjacent to a residential use.
- (2) Operable vehicles for sale/rental may be parked on-site.. All vehicle parking shall be accomplished on the site, and in no case shall a parked vehicle for sale/rental encroach into the right-of-way or utilize required off-street parking spaces for the business.
- (3) Overnight outdoor storage of inoperable vehicles or vehicles under repair shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).
- (4) Vehicle sales displayed for rental or sale visible from the public right-of-way shall provide a parking buffer as set forth in § 155.402(E)(2)(b).

**(CC) VETERINARY CLINIC**

An establishment engaged in providing medical care, treatment and temporary boarding for animals.

- (1) Animal boarding may be permitted but shall occur entirely indoors.
- (2) An outdoor pen may be provided only for exercise/relief areas for the animals. This area shall be located to the side or rear of the building, and shall not be located closer than 50' from any residentially zoned properties. The area shall be securely fenced by a minimum 6' opaque fence.
- (3) Animal waste shall not be stored within 50' of any adjacent property.
- (4) Outdoor runs may be permitted subject to Town Council approval of a Special Use Permit (see § 155.711)
- (5)

(Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)



## **§ 155.306 INDUSTRIAL USE STANDARDS**

The following standards shall apply to all permitted uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

### **(A) BUILDING SUPPLIES, WHOLESALE**

An establishment engaged in the sale or fabrication and allied products to contractors for the construction, maintenance, repair and improvement of real property.

- (1) Retail sales of lumber and allied products to the consumer may be conducted, but must be clearly accessory to the primary use.

### **(B) CREMATORIUM**

A place used and dedicated to the cremation of human remains or pet animal remains.

### **(C) GAS AND FUEL, WHOLESALE**

The use of land for bulk storage and wholesale distribution of 2,500 gallons or more of flammable liquid, or 2,000 gallons water capacity or more of flammable gas, excluding below-ground storage which is clearly accessory to the principal use on the site.

### **(D) LABORATORY, RESEARCH**

An establishment engaged in industrial, scientific or medical research, bio-manufacturing, testing, and analysis, including support services and structures. Typical uses include natural science/manufacturing research facilities and product testing/quality control facilities.

- (1) Outdoor manufacturing, processing or testing shall be limited to industrial districts only.

### **(E) MANUFACTURING, LIGHT**

A facility conducting medium and light manufacturing operations, primarily involving the creation of finished products or parts from previously prepared materials and the manufacturing of products and materials from extracted raw materials. The processing, fabrication, assembly, treatment, packaging, and storage of such products is also included. All activities shall occur within a fully enclosed building and no manufacturing involved shall produce noise, vibration, air pollution, fire hazard, or noxious emission which may disturb or endanger neighboring properties.

- (1) All manufacturing activity shall be conducted entirely within a fully enclosed building.
- (2) Overnight outdoor storage and display shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)).
- (3) Uses shall not emit smoke, odor, objectionable waste materials or excessive noise.

- (4) No vibration shall be produced that is transmitted through the ground (and is discernible without the aid of instruments) at or beyond the lot line.
- (5) No direct glare from high temperature processes such as combustion or welding visible from the street shall be permitted.

(F) **MANUFACTURING, HEAVY**

A facility conducting assembly heavy manufacturing with operation conducted indoors and outdoors. Heavy manufacturing shall include the following: heavy factory production; industrial yards; any use that is potentially dangerous, noxious or offensive to neighboring uses or those who pass on public ways by reason of smoke, odor, noise, glare, fumes, gas, vibration, threat of fire or explosion, emission of particulate matter, interference with radio, television reception, radiation or any other likely cause; animal processing, packing, treating, and storage; livestock or poultry slaughtering; citrus concentrate plant; processing of food and related products; production of chemical, rubber, leather, clay, bone, paper, pulp, plastic, stone, or glass materials or products, production or fabrication of metals or metal products including enameling and galvanizing, sawmill; bulk storage of flammable liquids; commercial feed lot; concrete batching and asphalt processing and manufacture; wrecking, junk or salvage yard; bottling plant; or any similar use.

(G) **RESEARCH AND DEVELOPMENT**

A facility focused primarily on the research and development of new products. Research and development shall include: offices, and other facilities used for research and development by or for any individual, organization, or concern, whether public or private; prototype production facilities that manufacture a limited amount of a product in order to fully investigate the merits of such a product; pilot plants used to test manufacturing processes planned for use in production elsewhere; production facilities and operations with a high degree of scientific input; facilities and operations in which the input of science, technology, research, and other forms of concepts or ideas constitute a major element of the value added by manufacture per unit of product.

(H) **WAREHOUSE AND FREIGHT MOVEMENT**

A facility involved in the storage or movement of goods for themselves or other firms. Goods are delivered to other firms or the final consumer with little on-site sales activity to customers. Warehouse and freight movement shall include the following: bulk storage, including nonflammable liquids, feed and grain storage; cold storage plants, including frozen food lockers; household moving and general freight storage; separate warehouse used by retail store such as furniture or appliance store; bus barn; parcel services, mail order facility; stockpiling of sand, gravel, or other aggregate materials; transfer and storage business where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred; or any similar use.

(Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Ord. 2017-04-06, approved 04/03/2017)

## **§ 155.307 UTILITIES USE STANDARDS**

The following standards shall apply to all permitted uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

### **(A) RECYCLING CENTER**

A permanent facility designed and used for receiving, separating, storing, converting, baling or processing of non-hazardous recyclable materials that are not intended for disposal. The use may include construction debris recycling or other intensive recycling processes such as chipping and mulching.

- (1) To ensure compatibility with surrounding uses, screening and buffering around the perimeter of the proposed recycling plant shall be required at the time the facility is constructed.

### **(B) RENEWABLE ENERGY FACILITY**

A facility that generates renewable energy from sources such as solar, wind, or other systems with a principal use of producing electric, thermal power, or mechanical power.

### **(C) TELECOMMUNICATION FACILITY**

Any tower, site, building, structure, or other facility whose principal use is to facilitate transmissions for AM/FM radio, television, microwave, and cellular telephone transmission towers, antennae, and accessory equipment and buildings. Specific standards for communication towers are set forth in § 155.310.

- (1) Facilities in the B-1, B-2, or B-3 districts are only permitted if they are attached to a habitable structure and are completely screened or camouflaged from view. This does not apply to pre-existing and unrelated utility structures, such as water towers.

### **(D) UTILITY, MAJOR**

A large-scale utility such as a water or wastewater treatment plant, water tower, electrical generation plant, or transmission facility or any similar use.

### **(E) UTILITY, MINOR**

All utility facilities not considered major, including, but not limited to neighborhood-serving facilities such as pump stations, telephone exchanges, lift stations, and stormwater detention facilities, or any similar use.

### **(F) WASTE SERVICE**

A facility that generally receives solid or liquid wastes from others for transfer to another location, collects sanitary waste, or manufactures a product from the composting of organic material. Waste-

related service shall include the following: animal waste processing; landfill, incinerator; manufacture and production of goods from composting organic material; outdoor recycle processing center; outdoor storage of recyclable material, including construction material; transfer station; or any similar use.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-05-02, passed 5-7-07; Am. Ord. 2007-05-03, passed 5-7-07; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)

## **§ 155.308 ACCESSORY STRUCTURES AND USES.**

### **(A) GENERAL**

Accessory structures and uses shall be consistent with all standards in the district for the principal use, except as expressly set forth below. Additional design considerations may be outlined in the Clayton General Design Guidelines.

- (1) Accessory structures and uses shall be accessory and clearly incidental and subordinate to a permitted principal uses. An accessory use shall only be allowed when a principal use exists.
- (2) Accessory structures and uses shall be located on the same lot as the permitted use or structure, or on a contiguous lot in the same ownership.
- (3) Accessory structures and uses shall not involve operations or structures not in keeping with the character of the primary use or principal structure served.
- (4) Accessory structures and uses shall not be of a nature likely to attract visitors in larger numbers than would normally be expected, where applicable.
- (5) An accessory use shall contribute to the comfort, convenience, or necessity of occupants of the primary use served.
- (6) An accessory use shall be located within the same district as the principal use.
- (7) Tractor-trailers are prohibited as storage buildings or structures except as permitted on an active construction site.

### **(B) ACCESSORY STRUCTURES**

Accessory structures, not including accessory dwelling units (see (C)(1) of this section) or in-ground pools, shall be subject to the following requirements:

#### **(1) Zoning Permit Required**

It shall be unlawful to begin moving, constructing, altering, or repairing, except ordinary repairs, of an accessory structure, until the Planning Department has issued a zoning permit for such work (see § 155.709).

#### **(2) Setbacks**

- (a) No accessory structure shall be located closer than ten feet to any other building or manufactured home.
- (a) No accessory structure shall extend in front of the front line of the principal structure, except in the B-1 zoning district where the Planning Board may approve a Variance for an accessory use or structure to be placed in any yard other than the rear yard.

- (b) No accessory structure may extend within five feet of any lot line in R-6 and R-8 Districts, and within ten feet in all other zoning districts. No accessory structure shall be located within 20 feet of any street right-of-way.

(3) **Height**

The height of an accessory structure shall not exceed the height of the principal structure or 25 feet, whichever is lesser, unless approved in accordance with the requirements outlined in §155.201(C) Measurements and Exceptions.

(4) **Number**

- (a) Up to two accessory structures may be permitted on the same lot, subject to meeting the criteria elsewhere in this section.
- (b) No more than one shed is permitted in the R-6 and R-8 zoning districts.
- (c) Two or more accessory structures may not be joined together by adding a roofline, such as a breezeway or covered walkway, to give the appearance of a lesser number of structures.

(5) **Size**

An accessory structure may not exceed the gross floor area of the primary structure on the site. This restriction does not apply to in-ground pools.

(6) **Architectural consistency**

On non-residential or mixed use sites, the architecture of accessory structures shall be consistent with the primary structure.

(C) **ACCESSORY USES IN RESIDENTIAL DISTRICTS**

(1) **Accessory Dwelling Units**

- (a) One accessory dwelling may be permitted as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)).
- (b) The living area of the accessory dwelling shall not exceed the living area of the principal structure. In no case shall the total floor area of the accessory dwelling unit exceed 600 square feet.
- (c) The accessory dwelling shall not have a separate electrical meter.
- (d) The owner of the property shall occupy either the primary structure or the accessory dwelling.

- (e) The principal dwelling and accessory dwelling unit together shall not exceed the maximum building coverage and impervious surface requirements for the district.
- (f) All principal structure setbacks and yard requirements shall be met.
- (g) One additional parking space on the same premises shall be required for the accessory dwelling unit.
- (h) A subdivision with accessory dwelling units shall not exceed the maximum district density requirements, counting all principal dwelling units and any accessory dwelling units.
- (i) An accessory dwelling shall either be located within the principal structure; or meet the following standards:
  - 1. The accessory dwelling shall be located on the same lot as the principal structure.
  - 2. The accessory dwelling shall be separated by at least ten feet from the principal structure.
  - 3. The accessory dwelling shall be located in the rear or side yard of the principal structure. The rear and side setback shall be equal to those of all accessory structures.
  - 4. Total building coverage and impervious surface area shall not exceed that permitted in the district.
  - 5. The height of a principal structure shall not be exceeded by any accessory dwelling.
  - 6. The accessory dwelling unit shall be architecturally consistent with the principal structure.

(2) **Home Occupations**

(a) **Prohibited Home Occupations**

The following uses are not permitted as home occupations:

- 1. Vehicle and/or body and fender repair.
- 2. Outdoor repair or outdoor storage.
- 3. Commercial nursery or truck farming.
- 4. Food handling, processing or packing, other than services that utilize standard home kitchen equipment.

5. Medical or dental lab.
6. Restaurant.
7. Sale or repair of firearms.
8. Bulk storage of flammable liquids.
9. Funeral homes and mortuaries.
10. Animal hospitals and kennels.

(b) ***Class A Home Occupations***

The intent of a Class A Home Occupation is to permit very limited activities in a residential dwelling, provided such activities do not impact or detract from the residential character of the neighborhood. A Class A Home Occupation shall be deemed an accessory use and no further approval shall be required, provided the use meets the standards of this chapter.

1. The use of the dwelling unit for Class A Home Occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and shall under no circumstances change the residential character of the structure.
2. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of a home occupation.
3. No business, storage or warehousing of material, supplies or equipment shall be permitted outside of the primary dwelling unit.
4. No equipment or process shall be used that creates excessive noise, vibration, glare, fumes, odors, or electrical interference.
5. No display of products shall be visible from the street.
6. A Class A Home Occupation shall be subject to all applicable licenses and business taxes.
7. No persons other than members of the family residing on the premises shall be engaged in the home occupation.
8. Storage space and the operation of the business inside the dwelling unit shall not exceed 25% of the first floor area of the residence.
9. Customers and employees coming to the residence to conduct business shall not be permitted.



10. No signage shall be permitted.

(c) ***Class B Home Occupations***

A Class B Home Occupations is a business, profession, occupation or trade conducted for gain or support within a residential dwelling or its accessory buildings that requires employees, customers, clients or patrons to visit the home. This use does not include "In-Home Daycares" which are subject to separate requirements as outlined in this Chapter. A Class B Home Occupation may be permitted as a special use permit provided that the Town Council shall determine in its judgment that:

1. It is carried on by a person residing on the premises and employs no more than two employees not living on the premises.
2. No more than 20% of the total actual floor area of the dwelling shall be in the conduct of the home occupation.
3. No more than two vehicles are used in the conduct of the home occupation, and such vehicles are parked off the street.
4. No merchandise or commodity is sold on the premises, except what is incidental to the home occupation.
5. No mechanical equipment is installed or used except such that is normally used for domestic or professional purposes.
6. No expansion shall be permitted outside the principal structure that houses the home occupation, except that which is necessary to house vehicles used in the conduct of home occupation.
7. It is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.
8. The use will not create undue traffic congestion or create a traffic hazard.
9. Advertising signs shall be limited to one unlighted wall sign no larger than three square feet in area, attached to the structure housing the home occupation, or one yard sign of the same size not to exceed three feet in height.

(3) **In-Home Daycare**

The operation of a day care within a residential dwelling unit by a person that is a resident of the dwelling. All in-home daycares shall obtain proper licensing from the State of North Carolina. In-Home daycares shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)).

(a) A Zoning Compliance Permit shall be obtained from the Town to operate an in-home daycare. A site layout and floor plan shall be submitted with the permit application to ensure the following requirements are met:

1. No more than five (5) children may be supervised at a time. This includes any resident children that may be on the premises during hours of operation.
2. The day care shall be carried on by a person residing on the premises and employ no additional employees. If additional employees are proposed, the day care shall be subject to the requirements of a Class "B" Home Occupation.
3. No more than 20% of the total actual floor area of the dwelling shall be in the conduct of the home occupation.
4. No expansion shall be permitted outside the principal structure that houses the home occupation.
5. An off-street drop off and passenger loading area shall be provided. This may be provided within a residential driveway.
6. Hours of operation shall be limited to Monday-Friday, 7 am- 6 pm.
7. Visual buffers shall be provided to shield all play areas and outdoor activity from abutting residentially zoned properties. This shall be done in the form of 6' tall opaque fencing and/or landscaping that is 6' in height at the time of planting.

(b) Advertising signs shall be limited to one unlighted wall sign no larger than three (3) square feet in area, attached to the structure housing the in-home daycare, or one yard sign of the same size not to exceed 3 feet in height. All signage is subject to review and approval of a Permanent Sign Permit application.

(4) **Swimming Pools**

When allowed, in-ground and aboveground swimming pools that have a water depth over 24 inches and or have a surface area of at least 100 square feet shall be subject to the following requirements (see Chapter 154, Swimming Pools, of the Town Code of Ordinances for additional standards).

(a) **Private Pools**

Private swimming pools (including any associated decking, pool house, pool chemical storage shed, or equipment associated with the pool) on single-family detached, zero lot lines, alley-loaded, and two-family lots shall not be located in the street yard and shall not be closer than five feet to any property line.

(b) **Outdoor Community Pools, Private Club Pools, or Pools in Multi-Family Complexes**

1. Outdoor pools (including any associated decking, pool house, pool chemical storage shed, or equipment associated with the pool) shall be located at least 50 feet from any property line adjacent to a residential district or use, and at least 25 feet from any property line adjacent to any other district or use.

2. When the pool is adjacent to off-site residences, the playing of music detectable off-site on a public address system is prohibited. Informational announcements shall be permitted. This requirement is waived if a permit has been issued for a special event.

(5) **Vehicle Repair**

Up to two vehicles may be repaired simultaneously on a residential property if the vehicles are registered to an occupant of the residence.

(6) **Vehicle Sales**

Vehicle sales shall be prohibited within a residential district or on property devoted to residential use, except that the sale of a private vehicle registered to the occupant of the residence shall be allowed. No more than one such vehicle shall be displayed at a time.

(D) **ACCESSORY USES IN NONRESIDENTIAL DISTRICTS**

(1) **Drive-Thru (aka Drive-Through)**

Drive-thru facilities shall be subject to the following requirements:

- (a) A drive-thru shall only be permitted in conjunction with a permitted nonresidential use.
- (b) Drive-thru windows and lanes shall be screened in accordance with § 155.402(G).

(2) **Food Truck**

(a) ***Permits Required***

1. Food truck vendors must provide documentation of approval from the Health Department of the County in which the food truck's associated restaurant or commissary is located.
2. The County Health Permit must be displayed during hours of operation.

(b) ***Public Safety***

1. Temporary connections to potable water are prohibited. All plumbing and electrical connections shall be in accordance with the State Building Code.
2. Grease and wastewater must be contained and disposed of in an approved grease receptacle located at the associated restaurant or commissary.
3. If the food truck is operating after dark, the food truck vendor shall provide appropriate lighting.
4. A food truck vendor shall not operate the food truck as a drive-in window.

5. The Planning Director may engage in zoning enforcement or prohibit/suspend a food truck vendor's operations if are causing parking, traffic congestion, or litter problems either on or off the property where the use is located or such use is otherwise creating a danger to the public health or safety.

(c) **General Location Requirements**

1. Food trucks must be located on private property with written permission from property owner.
2. Food trucks shall be positioned at least 400 feet from the customer entrance of an existing restaurant during hours of operation, unless the vendor provides documentation that the restaurant owner supports a closer proximity.
3. Food trucks shall not block parking spaces, drive aisles, access to loading/service areas, or emergency access and fire lanes. Food truck vending must also be positioned at least 15 feet away from fire hydrants, any fire department connection, and driveway entrances.
4. No more than two food trucks are permitted as an accessory use, unless at an approved special event, market, festival, or an active construction site.

(d) **Hours of Operation**

Food trucks must cease operations between the hours of 12 a.m. and 7 a.m., and are not permitted to remain on site overnight.

(e) **Signage**

No signage shall be allowed other than signs permanently attached to the motor vehicle. An easel sign no more than 12 square feet per sign face in display area may be placed within the customer waiting area.

(3) **Day Care Facility**

- (a) A non-residential accessory day care facility shall only be permitted as an accessory to the following uses
  1. Hospital or Medical Center (§155.302(G))
  2. School (Elementary or Secondary) (§155.302(H))
  3. School (Technical, Trade, or Business) (§155.302(I))
  4. Entertainment, Indoor (§155.303(A))
  5. Entertainment, Outdoor (§155.303(B))
  6. Fitness/Recreation Center (§155.303(C))
  7. Creative Studio, (§155.305(G))
  8. Office, General, (§155.305(P))
  9. Office, Medical, (§155.305(Q))

10. Research & Development, (§155.306(G))

11. Church or Place of Worship, (§155.302(C))

- (b) All accessory daycare facilities shall be subject to the same requirements for Day Care Facilities, outlined in §155.302(E). This shall not include in-home daycares which are governed by separate requirements outlined in 155.

(4) **Park**

- (a) An accessory park shall be permitted in the forms of community gardens, playgrounds, or other small-scale recreational amenities that are secondary in nature to the primary use of the property.
- (b) Accessory park uses shall be subject to site plan review in accordance with §155.707, illustrating the proposed boundaries of the park, amenities, and any other applicable elements.
- (c) Additional parking to accommodate the accessory park shall be required in accordance with §155.401.

(5) **Outdoor Display & Sales**

- (a) Outdoor display and sales shall be generally defined as the display and sales of goods, wares or merchandise outside of a permanent structure on property owned or leased by the person, firm or corporation. Outdoor display and sales must be secondary and incidental to the principal use or structure on the property, unless authorized pursuant to § 155.309, Temporary Use.
- (b) Outdoor display and sale areas greater than 50 square feet shall only be permitted following review of a site plan in accordance with § 155.707, illustrating the extent of the permitted area for outdoor display and sales subject to the standards below. Outdoor display and sale areas 50 square feet or less do not require site plan approval, but are still subject to the standards below.
- (c) The location of outdoor merchandise must be on the same property as the principal use, and not within the right-of-way, except that in the B-1 zoning district it may be displayed in the right-of-way, provided that clearance requirements are maintained for pedestrian passage.
- (d) No outdoor merchandise displayed shall exceed five (5) feet in height. Wholesale of materials and any display that exceeds this height limitation shall be considered accessory outdoor storage and shall be permitted only in districts as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)).
- (e) Merchandise shall be displayed to allow pedestrians use of the adjacent sidewalk or parking areas, and shall meet ADA accessibility requirements.

1. Any merchant desiring to display and sell merchandise along a public sidewalk or right-of-way must also comply with the following stipulations:
  - A. Merchandise must be removed from the sidewalk within 24 hours of notice from the Town. If such items are not removed following notice, the Town has the right to remove and dispose of these items and may assess the property owner for the cost of removal and disposal. The Town has the right to remove such items immediately in emergency situation. The Town is not responsible for damage to the merchandise under any circumstances.
  - C. The owner of the business displaying or selling merchandise within a public sidewalk is responsible for repairing any incidental damage to public sidewalk resulting from the display of merchandise.
  - D. Merchandise must be removed from the sidewalk when the business is closed.

(6) **Outdoor Dining**

- (a) Outdoor dining shall be defined as the placement of tables and chairs for dining outside of a permanent structure.
- (b) **General Requirements**
  1. Outdoor dining shall be permitted with a zoning compliance permit for 8 or fewer seats. More than 8 seats is subject to site plan approval, illustrating the extent of the outdoor dining area, the maximum seating capacity, and subject to the standards below. The impact of outdoor dining areas on adjacent churches, hospitals, public schools, and residential uses shall be mitigated to minimize potential impacts related to glare, light, loitering, and noise.
  2. Patron tables and other outdoor dining area components shall be clearly defined and located on the same site as the other facilities of the restaurant or on the adjacent public right-of-way. Separation between the seating and vehicular or pedestrian traffic by a physical barrier may be required, with the design to be approved by the Planning Director.
  3. Separation may be achieved through the use of materials which include, but are not limited to landscape planters, walls, railings or a combination thereof. Only barriers composed of landscape planters or masonry walls may be solid.
- (c) The additional parking necessary to accommodate seating created in the outdoor dining area shall comply with the parking requirements set forth in § 155.401 of this Chapter.
- (d) Outdoor dining areas and associated structural elements, such as awnings, covers, umbrellas, or other physical elements shall be compatible with the overall design of the

main structure and must maintain a height clearance of eight feet and meet ADA accessibility requirements. Dining equipment (including, but not limited to tables, chairs, space heaters, barriers) may remain in place.

- (e) The Town may revoke the outdoor dining area if it is determined that its operation is causing litter problems either on or off the property where the dining is located or that such use is otherwise creating a danger to the public health or safety.
- (f) In addition to the requirements set forth above, if any portion of the outdoor dining area is to be located within a public right-of-way (sidewalks only), the dining area must also comply with the following stipulations. Outdoor dining within right-of-way owned and operated by the State of North Carolina, must also meet the requirements of G.S. 136-27.4 listed below.
  - 1. Tables, chairs, and other furnishings shall be placed a minimum of six feet from any travel lane.
  - 2. Tables, chairs, and other furnishings shall be placed in such a manner that at least five feet of unobstructed paved space of the sidewalk, measured from any permanent or semi-permanent object, remains clear for the passage of pedestrians and provides adequate passing space that complies with the Americans with Disabilities Act.
  - 3. Tables, chairs, and other furnishings shall not obstruct any driveway, alleyway, building entrance or exit, emergency entrance or exit, fire hydrant or standpipe, utility access, ventilations areas, or ramps necessary to meet accessibility requirements under the Americans with Disabilities Act.
  - 4. The maximum posted speed permitted on the roadway adjacent to the right-of-way to be used for sidewalk dining activities shall not be greater than 45 miles per hour.
  - 5. The restaurant operator shall provide evidence of adequate liability insurance specified by the Town under G.S. 160A-485 as the limit of the Town's waiver of immunity or the amount of Tort Claim liability specified in G.S. 143-299.2, whichever is greater. The insurance shall protect and name NCDOT and the Town as additional insured on any policies covering the business and the sidewalk activities.
  - 6. The restaurant operator shall provide an agreement to indemnify and hold harmless NCDOT and the Town from any claim resulting from the operation of sidewalk dining activities.
  - 7. The restaurant operator shall provide a copy of all permits and licenses issued by the State, County or Town, including health and ABC permits, if any, necessary for the operation of the restaurant or business, or a copy of the application for the permit if no permit has been issued. This requirement includes any permits

or certificates issued by the Town for exterior alterations or improvements to the restaurant.

8. The restaurant operator shall cease part or all sidewalk dining activities in order to allow construction, maintenance, or repair of any street, sidewalk, utility, or public building, by NCDOT, the Town, its agents or employees, or by any other governmental entity or public utility.

9. Any other requirements deemed necessary by the NCDOT, either for a particular Town or a particular component of the State highway system.

(g) The Town reserves the right to terminate the use of outdoor dining within the public right-of-way at any time. Upon notice, all furnishings must be removed from the sidewalk within 24 hours of notice from the Town. If furnishings are not removed within the time specified, the Town has the right to remove and dispose of these items and may assess the property owner for the cost of removal and disposal. The Town has the right to remove such items immediately in emergency situations. The Town is not responsible for damage to the furnishings under any circumstances.

(h) The owner of the business utilizing a dining area within a public sidewalk is responsible for repairing any incidental damage to public sidewalk resulting from outdoor dining furnishings.

**(7) Accessory Limited Outdoor Storage**

(a) Accessory Limited outdoor storage shall be defined as the overnight outdoor storage of vehicles (not associated with outdoor sales and display including vehicle sales, vehicle repair or car rental), merchandise or material in boxes, crates, on pallets or other kinds of containers, shopping carts, or other similar merchandise, material or equipment.

(b) Limited outdoor storage shall only be considered an accessory use and permitted in districts as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)). Limited outdoor storage areas shall meet the standards below:

1. Limited outdoor storage shall not be more than 12 feet in height and shall be fully screened from view from the public right-of-way, public parking areas, or adjacent residential development by a 100% opaque visual barrier or screen.

2. All limited outdoor storage shall be located at least 15 feet from the public right-of-way and any abutting residential use or residentially-zoned district.

3. Limited outdoor storage shall not be permitted in a street yard or otherwise forward of the front building line.

**(8) Accessory General Outdoor Storage**



- (a) General outdoor storage shall be defined as salvage yards, vehicle junk yards, overnight outdoor storage of shipping containers, lumber, pipe, steel, junk and other similar merchandise, material or equipment.
- (b) General outdoor storage shall only be considered an accessory use and permitted in districts as set forth in the Use Regulations Table (Table 2-1 1 § 155.202(B)). General outdoor storage areas shall meet the standards below:
  - 1. General outdoor storage shall be screened by 100% opaque, eight foot high visual barrier or screen. When located abutting or across the street from a residential use or residentially-zoned property such screening shall be high enough to completely conceal all outdoor storage from view.
  - 2. All general outdoor storage shall be located at least 15 feet from the public right-of-way and any abutting residential use or residential district.
  - 3. No general outdoor storage shall be permitted in a street yard or otherwise forward of the front building line.
  - 4. General outdoor storage may be located in the side or rear yard.

(9) **Swimming Pools**

- (a) Outdoor pools shall meet the standards of Chapter 154, Swimming Pools, of the Town Code of Ordinances.
- (b) Outdoor pools including decking shall be located at least 50 feet from any property line adjacent to a residential district or use, and at least 25 feet from any property line adjacent to any other district or use.
- (c) When the pool is adjacent to residences, the playing of music detectable off-site on a public address system is prohibited. Informational announcements shall be permitted. This requirement may be waived if a permit has been issued for a special event.

(E) **ACCESSORY USES FOR PLACES OF WORSHIP**

Accessory uses are permitted for a place of worship in accordance with the following standards.

The following facilities may be considered accessory to a place of worship. Additional buffering may be required through the review and approval of a site plan to address the intensity of the proposed place of worship and the proposed accessory uses.

- (a) Offices for the place of worship;
- (b) Rooms for religious instruction or counseling;
- (c) Meeting rooms for intermittent community meetings or instruction;

- (d) Fellowship hall;
  - (e) Kitchen facilities;
  - (f) Senior center, neighborhood arts center or other community center;
  - (g) Temporary child care during religious services or events;
  - (h) Outdoor play area;
  - (i) Columbarium;
  - (j) "Meals on Wheels" or other similar programs using the kitchen in the place of worship but delivering food elsewhere; and
  - (k) Residence for clergy employed by the place of worship.
- (2) The following accessory uses are subject to approval of a site plan (see § 155.707).
- (a) Gymnasium or similar indoor recreational facility;
  - (b) Cemetery;
  - (c) Overnight accommodation for visiting clergy and non-paying guests of clergy employed by the place of worship;
  - (d) Child care center;
  - (e) School;
  - (f) Soup kitchen or other social service facility; and
  - (g) Athletic field or similar facility.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-05-02, passed 5-7-07; Am. Ord. 2007-05-03, passed 5-7-07; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Ord. 2017-04-06, approved 04/03/2017)

## **§ 155.309 TEMPORARY USES**

### **(B) GENERAL REQUIREMENTS**

Certain uses are temporary in character. They vary in type and degree, as well as length of time involved. Such uses may have little impact on surrounding and nearby properties or they may present questions involving potential incompatibility of the temporary use with existing uses. Unless otherwise specified in this chapter, the following regulations shall govern temporary uses.

### **(F) TEMPORARY USES EXEMPT FROM PERMIT**

The following permitted temporary uses are exempt from these requirements.

- (1) Christmas tree sales lots.
- (2) Garage or yard sales are permitted only by the property owner on their property and are allowed once every four months at any given location. The sale may not exceed three consecutive days in length. Advertising signs may not be placed on any rights-of-way or off-site locations without the owners' permission.
- (3) Storage pods for off-site storage of household or other goods located in any street yard are permitted for a maximum of seven consecutive days, and any side or rear yard for a maximum of 30 consecutive days.

### **(G) TEMPORARY USE PERMIT REQUIRED**

The following temporary uses are allowed in the frequency stated below, except that no property shall have more than four of the events listed below in one calendar year.

#### **(1) Commercial Circuses, Carnivals or Fairs**

Commercial circuses, carnivals or fairs, for not more than two consecutive weeks in any calendar year.

#### **(2) Temporary Religious or Revival Activities**

Temporary religious or revival activities in tents in association with a place of worship, for not more than two consecutive weeks in any calendar year.

#### **(3) Non-profit Special Events**

Special events run by non-profit, charitable organizations occurring no longer than seven consecutive days once every three months.

#### **(4) Tent Sales**

Tent sales by merchants occupying the premises on which the sale is conducted and having a valid certificate of occupancy, and occurring no longer than seven consecutive days once every six months.

(5) **Grand Opening Sales**

Grand opening sales, including outside food and beverage vending, for three consecutive days, once per certificate of occupancy.

(6) **Outdoor Vehicle Show or Sale**

Outdoor motor vehicle or recreational vehicle show or sale, for three consecutive days, twice per calendar year.

(7) **Other Temporary Uses**

Other temporary uses similar in nature to the ones listed above, with corresponding limitations, as determined by the Planning Director.

(H) **TEMPORARY OUTDOOR DISPLAY OF MERCHANDISE**

(1) Outdoor display of merchandise in nonresidential districts by merchants occupying the premises and having a valid certificate of occupancy, occurring no longer than nine consecutive days up to four times per year, is allowed subject to issuance of a temporary use permit and all of the following conditions.

- (a) Merchandise shall only be displayed in front of the premises occupied by the merchant.
- (b) Merchandise shall not be displayed closer than five feet to any entrance to the premises.
- (c) Merchandise shall only be displayed in a manner that does not obstruct pedestrian or vehicular circulation or traffic.
- (d) The display of merchandise shall not exceed eight feet in height.
- (e) Merchandise shall only be displayed during the merchant's hours of operation, and must be taken inside the premises at closing.
- (f) Merchandise shall only be displayed in an area not wider than 50% of the total linear foot frontage of the building occupied by the merchant.
- (g) The required temporary use permit must be visibly displayed at the main entrance of the associated merchant.
- (h) A violation of any conditions set out in this section shall constitute a violation of the temporary use permit and cause said temporary use permit to be revoked. Once

revoked, a temporary use permit shall not be issued for the same temporary use for a period of one year.

- (2) Any temporary use permit issued under (C)(1) through (7) of this section shall be counted in the maximum number of temporary use permits allowed for the temporary outdoor display of merchandise.
- (3) The requirements of this section do not supersede the permanent outdoor storage or display requirements of §155.308. Permanent outdoor display/sales of merchandise shall be considered an accessory use and permitted in districts as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). This use shall be subject to site plan approval.

(I) **MANUFACTURED HOME OR TRAILER FOR TEMPORARY USE**

One manufactured home or trailer may be used as a temporary office, security shelter, or shelter for materials or tools (but not for residential purposes or sales offices) incident to construction on or development of the premises upon which the manufactured home or trailer is located. Such use shall be strictly limited to the time construction or development is actively underway. The temporary use may continue more than six months upon finding that actual construction is continuing.

(J) **TEMPORARY USE IN CONJUNCTION WITH SPECIAL EVENT PERMIT**

Where a valid permit has been issued by the Town for use of adjacent right-of-way that makes the street unavailable to vehicular traffic, a temporary use permit may be issued in accordance for events on the grounds or in the parking lot of any adjacent parcel during the period of the special event permit.

(K) **REAL ESTATE DEVELOPMENT PROJECTS**

- (1) A developer may request a temporary use permit for necessary commercial promotional, storage, or fabrication activities at the development site which occur during construction of that developer's project.
- (2) When the request is for a temporary sales office, model home, or apartment, the application shall list the lots, apartment units, or dwelling units to be initially sold.
- (3) The temporary use permit shall be restricted to only those activities and properties listed on the petition. Such activities shall not include any sale of properties outside the development site or any resale of properties.
- (4) The following uses in connection with such a project require a temporary use permit:
  - (a) Offices for sale of real estate or for persons engaged in the development.
  - (b) Construction materials storage, general contractor's business office, processing, or fabrication.

(c) Equipment storage.

(d) Model homes or sample apartments.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-05-02, passed 5-7-07; Am. Ord. 2007-05-03, passed 5-7-07; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12)

## **§ 155.310 TELECOMMUNICATION FACILITIES**

### **(A) PURPOSE AND LEGISLATIVE INTENT**

The purpose of this Section is to establish general guidelines for the locating, collocating, modifying or upgrading of telecommunications towers, antenna, ground equipment and related accessory structures. It is the intent of this Section to:

- (1) Promote the health, safety, and general welfare of the public by regulating the locating of telecommunication facilities.
- (2) Minimize the impacts of wireless communication facilities on surrounding land uses by establishing standards for location, structural integrity, and compatibility.
- (3) Encourage the location and collocation of telecommunication equipment on existing structures thereby minimizing new visual, aesthetic, and public safety impacts, effects upon the natural environment and wildlife, and to reduce the need for additional towers.
- (4) Accommodate the growing need and demand for new and upgraded telecommunication services.
- (5) Encourage coordination between suppliers and providers of personal telecommunication services.
- (6) Establish predictable and balanced codes governing the construction and location of telecommunications facilities within the confines of permissible local regulations.
- (7) Establish review procedures to ensure that applications for telecommunications facilities are reviewed and acted upon within a reasonable period of time as required by applicable state and federal regulations.
- (8) Respond to the policies embodied in the Telecommunications Act of 1996 so that no discrimination between providers of functionally equivalent personal wireless services occurs, or to prohibit or have the effect of prohibiting personal wireless services.
- (9) Respond to the policies in Section 6409 of the Tax Relief and Job Creation Act of 2012 (47 USC §1445(a)).
- (10) Protect the character of the Town while meeting the needs of its citizens to enjoy the benefits of telecommunication services.
- (11) Encourage the use of public lands, buildings, and structures as locations for telecommunications infrastructure demonstrating concealed technologies and revenue generating methodologies.

### **(B) AUTHORITY**

The provisions of this Section are permitted under authority granted by the General Assembly of the State of North Carolina with particular reference to Article 9, Part 3, of Chapter 160D of the North Carolina General Statutes.

(C) **SPECIFIC WIRELESS COMMUNICATION DEFINITIONS**

(1) **Alternative Structure**

A structure that is not primarily constructed for the purpose of holding Antennas but on which one or more antennas may be mounted, including, but not limited to buildings, water tanks, pole signs, billboards, church steeples, and electric power transmission towers.

(2) **Amateur Radio Tower**

Any tower used for amateur radio transmissions consistent with the "Complete FCC U.S. Amateur Part 97 Rules and Regulations" for amateur radio towers.

(3) **Ancillary Structure**

Any form of development associated with a Wireless Communications Facility, including, but not limited to foundations, concrete slabs on grade, guy anchors, generators, and transmission cable supports, but excluding equipment cabinets.

(4) **Anti-Climbing Device**

A piece or pieces of equipment designed to prevent people from climbing the structure.

(5) **Antenna**

Any apparatus designed for the transmitting and/or receiving of communication signals, including, but not limited to telephonic, radio and television communications.

(6) **Antenna Array**

A single or group of antenna elements and associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support structure for the sole purpose of transmitting or receiving communication signals.

(7) **Antenna Element**

Any antenna or antenna array.

(8) **ASR**

The Antenna Structure Registration Number as required by the FAA and FCC.

(9) **Base Station**

The electronic equipment utilized at the base of a Wireless Communication Facility for the transmission and reception of communication signals.

(10) **Breakpoint Technology**

The engineering design of a tower wherein a specified point on the tower is designed to have stresses concentrated so that the point is at least five percent (5%) more susceptible to failure



than any other point. In the event of a structural failure, the failure will occur at the breakpoint rather than at the base plate, anchor bolts, or any other point on the tower.

(11) **Broadcast Facilities**

Towers, antennas, and/or antenna arrays for AM/FM/TV/HDTV broadcasting transmission facilities that are licensed by the Federal Communications Commission.

(12) **Collocation**

The practice of installing and operating multiple wireless carriers, service providers, and/or radio common carrier licensees on the same tower or alternative structure using different and separate antenna, feed lines, and radio frequency generating equipment.

(13) **Combined Antenna**

An antenna or an antenna array designed and utilized to provide services for more than one wireless provider, or a single wireless provider utilizing more than one frequency band or spectrum, for the same or similar type of services.

(14) **Concealed**

A Wireless Communication Facility is not readily identifiable as such, and is designed to be aesthetically compatible with the natural environment or existing and proposed building(s) and uses on a site. There are two types of concealed facilities:

(a) **Attached.** Attachment to an alternative structure in a manner that blends with the alternative structure, which may include painted antenna and feed lines to match the color of a building or structure, faux windows, dormers or other architectural features that blend with an existing or proposed building or structure.

(b) **Freestanding.** Freestanding concealed tower, usually having a secondary, obvious function which may include church steeple, windmill, bell tower, clock tower, light standard, flagpole with or without a flag, or tree.

(15) **Development Area**

The area occupied by a Wireless Communication Facility including areas inside or under an antenna-support structure's framework, equipment cabinets, ancillary structures, and/or access ways.

(16) **Discontinued**

Any tower without any mounted transmitting and/or receiving antennas in continued use for a period of 180 consecutive days.

(17) **Distributed Antenna System (DAS)**

A network of smaller, spatially separated antenna nodes and typically installed on either existing or new utility poles and connected to a communications network. A DAS network splits the transmitted signal among several smaller antennas.

(18) **Eligible Facilities Request.**

Modification of an existing tower, or alternative structure supporting a Wireless Communication Facility, that involves collocation of new transmission equipment or removal or replacement of transmission equipment, including structural enhancement of the support structure, but does not include a Substantial Modification.

(19) **Equipment Compound**

The fenced-in area surrounding the base station equipment including the areas inside or under a structure's framework and ancillary structures such as equipment necessary to operate the antenna on the structure including cabinets, shelters, pedestals, and other similar structures.

(20) **Equipment Cabinet**

Any structure including cabinets, shelters, pedestals, and other similar structures and used exclusively to contain radio or other equipment necessary for the transmission or reception of communication signals.

(21) **FAA**

The Federal Aviation Administration.

(22) **FCC**

The Federal Communications Commission.

(23) **Feed Lines**

Cables used as the interconnecting media between the transmission/receiving base station and the antenna.

(24) **Flush-Mounted**

Any antenna or antenna array attached directly to the face of the support structure or building such that no portion of the antenna extends above the height of the support structure or building. Where a maximum flush-mounting distance is given, that distance shall be measured from the outside edge of the support structure or building to the inside edge of the antenna.

(25) **Geographic Search Ring**

An area designated by a wireless provider or operator for a new Wireless Communication Facility, produced in accordance with generally accepted principles of wireless engineering.

(26) **Handoff Candidate**

A Wireless Communication Facility that receives call transference from another Wireless Communication Facility.

(27) **Least Visually Obtrusive Profile**

The design of a Wireless Communication Facility to present a visual profile that is the minimum profile necessary for the facility to properly function.

(28) **Non-concealed**

A Wireless Communication Facility that is readily identifiable as such and can be either supported by a freestanding Tower or attached to an Alternative Structure.

(29) **Personal Wireless Service**

Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services as defined in the Telecommunications Act of 1996.

(30) **Public Safety Communications Equipment**

All communications equipment utilized by a public entity for the purpose of ensuring the safety its citizens and operating within the frequency range of 700 MHz and 1,000 MHz and any future spectrum allocations at the direction of the FCC.

(31) **Radio Frequency Emissions**

Any electromagnetic radiation or other communications signal emitted from an antenna or antenna-related equipment on the ground, tower, or alternative structure.

(32) **Satellite Earth Station**

A single or group of parabolic or dish antennas mounted to a support device that may be a pole or truss assembly attached to a foundation in the ground, or in some other configuration, including the associated separate equipment cabinets necessary for the transmission or reception of communications signals with satellites.

(33) **Structure**

Anything constructed or erected, the use of which required permanent location on the ground, or attachment to something having a permanent location on the ground, including advertising signs.

(34) **Substantial Modification**

Modification of an existing tower, or alternative structure supporting a wireless communication facility, that substantially changes the physical dimensions of the support structure. A modification is presumed to be a Substantial Modification if it meets any one or more of the following criteria:

(a) Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional Antenna array with separation from the nearest existing Antenna not to exceed 20 feet.

(b) Except where necessary to shelter the Antenna from inclement weather or to connect the Antenna to the structure via cable, adding an appurtenance to the body of the structure that protrudes horizontally from the edge of the structure the greater of (i) more than 20 feet or (ii) more than the width of the structure at the level of the appurtenance.

(c) Excavation or deployment of transmission equipment outside of the current site by more than 30 feet in any direction, excluding any access or utility easements currently related to the site. The boundaries of the current site for existing Towers are the boundaries of the leased or owned property surrounding the Tower and any access or utility easements

currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground. The current boundaries of the site are the boundaries that existed as of the date that the original support structure or a modification to that structure was last reviewed and approved by the Town or other local government.

(d) Involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets.

(e) The modification will not comply with applicable regulations, restrictions, and/or conditions, if any, associated with the prior approval of construction or modification of the tower or alternative structure, unless non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the thresholds of a Substantial Modification.

(35) **Tower**

A new or existing structure that is primarily designed to support or capable of supporting Wireless Communication Facilities. Types of tower structures include the following:

- (a) **Guyed.** A style of tower consisting of a single truss assembly composed of sections with bracing incorporated. The sections are attached to each other, and the assembly is attached to a foundation and supported by a series of wires that are connected to anchors placed in the ground or on a building.
- (b) **Lattice.** A tapered style of tower that consists of vertical and horizontal supports with multiple legs and cross bracing, and metal crossed strips or bars to support Antennas.
- (c) **Monopole.** A style of freestanding tower consisting of a single shaft usually composed of two or more hollow sections that are in turn attached to a foundation. This type of tower is designed to support itself without the use of guy wires or other stabilization devices. These facilities are mounted to a foundation that rests on or in the ground or on a building's roof. All feed lines shall be installed within the shaft of the structure.

Towers do not include any structure used to attach antennas to an existing building, unless the device extends above the highest point of the building by more than twenty feet.

(36) **Tower Base**

The foundation, usually concrete, on which the Tower and other support equipment are situated. For measurement calculations, the Tower Base is that point on the foundation reached by dropping a perpendicular line from the geometric center of the Tower.

(37) **Tower Height**

The vertical distance measured from finished grade to the highest point of the Tower, including any antenna, lighting or other equipment affixed thereto.

(38) **Tower Site**

The land area that contains, or will contain, a proposed Tower, support structures and other related buildings and improvements.

(40) **Wireless Communication Facility**

Equipment at a fixed location for the transmission and/or reception of radio frequency signals or other wireless communications between user equipment and a communications network, and usually consisting of an antenna or group of antennas, transmission cables and equipment cabinets. The following developments shall be deemed a wireless communication facility: new, mitigated, or existing towers, public towers, replacement towers, collocation on existing towers, attached wireless communications facilities, concealed wireless communication facilities, and non-concealed wireless communication facilities.

(D) **EXEMPTIONS**

The following items are exempt from the provisions of this Section:

- (1) Any amateur radio tower less than 50 feet in height or communications towers existing or permitted prior to the adoption of this Section.
- (2) Satellite earth stations that are one meter (39.37 inches) or less in diameter in all residential zoning districts and two meters or less in all other zoning districts.
- (3) A government-owned communications facility, upon the declaration of a state of emergency by federal, state, or local government, and a written determination of public necessity by the Town designee; except that such facility must comply with all federal and state requirements. No communications facility shall be exempt from this Section beyond the duration of the state of emergency.
- (4) A government-owned communications facility erected for the purposes of installing antenna(s) and ancillary equipment necessary to provide communications for public health and safety.
- (5) A temporary, commercial communications facility, for the purposes of providing coverage of a special event such as news coverage or sporting event, subject to approval by the Town, except that such facility must comply with all federal and state requirements. Said communications facility may be exempt from this Section for up to one week following the special event.

(E) **APPLICABILITY**

Unless specifically exempted above, this Section applies to development activity involving the installation, construction, or modification of all Wireless Communication Facilities. This includes but is not limited to:

- (1) Non-commercial, amateur radio station antennas.
- (2) Existing towers.
- (3) Proposed towers.

- (4) Public towers.
- (5) Replacement or consolidation of towers.
- (6) Collocation on existing towers.
- (7) Attached wireless communication facilities.
- (8) Concealed wireless communication facilities.
- (9) Non-concealed towers.
- (10) Broadcast facilities.

(F) **ABANDONMENT (DISCONTINUED USE)**

- (1) Towers, antennas, and the equipment compound shall be removed at the owner's expense should the facility/tower not have active antennas in use for a period of 180 days.
- (2) An owner wishing to extend the time for removal or reactivation shall submit an application stating the reason for such extension. The Town may extend the time for removal or reactivation up to 60 additional days upon a showing of good cause. If the tower or antenna is not removed within this time, the Town may give notice that it will contract for removal within 30 days following written notice to the owner. Thereafter, the Town may cause removal of the tower with costs being borne by the owner.
- (3) Upon removal of the tower, antenna, and equipment compound, the development area shall be returned to its natural state and topography and vegetated consistent with the natural surroundings or consistent with the current uses of the surrounding or adjacent land at the time of removal, excluding the foundation, which does not have to be removed.

(G) **CONFLICT WITH OTHER LAWS OR REGULATIONS**

When the requirements of this Section conflict with the requirements of other lawfully adopted rules, regulations, or ordinances of the Town, State or Federal Government, or deeds restrictions imposed by the developer or subdivider, the more stringent requirements shall govern, except to the extent pre-empted by State or Federal law.

(H) **INTERFERENCE WITH PUBLIC SAFETY COMMUNICATIONS**

In order to facilitate the regulation, placement, and construction of Wireless Communication Facilities, and to ensure that all parties are complying to the fullest extent possible with the rules, regulations, and/or guidelines of the FCC, each owner of a Wireless Communication Facility or applicant for a collocation shall agree in a written statement to the following:

- (1) Compliance with "Good Engineering Practices" as defined by the FCC in its rules and regulations.

- (2) Compliance with FCC regulations regarding susceptibility to radio frequency interference, frequency coordination requirements, general technical standards for power, antenna, bandwidth limitations, frequency stability, transmitter measurements, operating requirements, and any and all other federal statutory and regulatory requirements relating to radio frequency interference (RFI).
- (3) In the case of an application for co-located Wireless Communication Facilities, the applicant, together with the owner of the subject site, shall use their best efforts to provide a composite analysis of all users of the site to determine that the applicant's proposed facilities will not cause radio frequency interference with the Town's public safety communications equipment and will implement appropriate technical measures, as described in antenna element replacements, to attempt to prevent such interference.
- (4) Whenever the Town has encountered radio frequency interference with its public safety communications equipment, and it believes that such interference has been or is being caused by one or more antenna arrays, the following steps shall be taken:
  - (a) The Town shall provide notification to all wireless service providers operating in the Town of possible interference with the public safety communications equipment, and upon such notifications, the owners shall use their best efforts to cooperate and coordinate with the Town and among themselves to investigate and mitigate the interference, if any, utilizing the procedures set forth in the joint wireless industry-public safety "Best Practices Guide," released by the FCC in February 2001, including the "Good Engineering Practices," as may be amended or revised by the FCC from time to time.
  - (b) If any equipment owner fails to cooperate with the Town in complying with the owner's obligations under this section or if the FCC makes a determination of radio frequency interference with the Town public safety communications equipment, the owner who failed to cooperate and/or the owner of the equipment which caused the interference shall be responsible, upon FCC determination of radio frequency interference, for reimbursing the Town for all costs associated with ascertaining and resolving the interference, including but not limited to any engineering studies obtained by the Town to determine the source of the interference. For the purposes of this subsection, failure to cooperate shall include failure to initiate any response or action as described in the "Best Practices Guide" within 24 hours of Town's notification.

(I) **BUILDING CODE REQUIREMENTS**

Towers shall be constructed and maintained in conformance with all applicable building code requirements.

(J) **ZONING PROCESS LEVELS**

Table 3-1 below indicates the zoning process for the different types of tower projects.

**Table 3-1 Process**

| PROCESS LEVEL                                                                                                                                                            | APPROVAL AUTHORITY  | PROCESS TYPE <sup>1</sup> | USE                                                                                                                                                                    |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| I                                                                                                                                                                        | Planning Department | P                         | Amateur radio no greater than fifty (50) feet in height                                                                                                                |
| II                                                                                                                                                                       | Planning Department | TRC                       | DAS network equipment, concealed towers, collocation and Eligible Facilities Requests, attached Wireless Communication Facilities                                      |
| III                                                                                                                                                                      | Town Council        | TC                        | New towers other than those defined as concealed; Collocation or other modifications to existing towers or alternative structures involving a Substantial Modification |
| IV                                                                                                                                                                       | Town Council        | TC                        | Broadcast facilities                                                                                                                                                   |
| Notes:<br>1. P - Permitted by right<br>TRC - Subject to Technical Review Committee approval (staff level)<br>TC - Subject to Special Use Permit approval by Town Council |                     |                           |                                                                                                                                                                        |

(1) **Process Level I**

The Zoning Compliance Permit issued by the Planning Department to an individual, corporation, partnership, or other entity to engage in the creation of amateur radio tower

(2) **Process Level II**

The Zoning Compliance Permit issued by the Planning Department (after Technical Review Committee approval) to an individual, corporation, partnership, or other entity to engage in the installation of DAS network equipment or concealed towers and collocation not qualifying as an Eligible Facilities Request, or attached antennas, base station equipment or antenna element replacements that do not qualify as an Eligible Facilities Request.

(3) **Process Level III**

The Special Use Permit issued by the Planning Department (after public hearing and approval by Town Council) to an individual, corporation, partnership, or other entity to engage in the creation of new towers, excluding amateur radio towers.

(4) **Process Level IV**

The Special Use Permit issued by the Planning Department (after public hearing and approval by Town Council) to an individual, corporation, partnership, or other entity to engage in the creation of new towers, specifically broadcast facilities.



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(K) **LOCATING ALTERNATIVES ORDER**

(1) **Locating of New Wireless Communication Facilities & New Towers**

Locating of a new Wireless Communication Facilities and new towers shall be in accordance with the preferred location hierarchy provided in Table 3-2 below.

**Table 3-2 Preferred Location Hierarchy**

| Ranking | Type                                                                                                                                                |
|---------|-----------------------------------------------------------------------------------------------------------------------------------------------------|
| 1       | Concealed or camouflaged attached Wireless Communication Facilities                                                                                 |
| 2       | Collocation on existing tower or Alternative Structure supporting one or more Wireless Communication Facilities, or use of DAS or Combined Antennas |
| 3       | Replacement of existing tower                                                                                                                       |
| 4       | Non-concealed attached Wireless Communication Facilities                                                                                            |
| 5       | Concealed freestanding tower                                                                                                                        |
| 6       | Non-concealed freestanding tower                                                                                                                    |

Where a lower ranked alternative is proposed, the applicant must file relevant information as required including, but not limited to, an affidavit by a radio frequency engineer demonstrating that despite diligent efforts to adhere to the established hierarchy within the geographic search area, higher ranked options are not technically feasible, practical or justified given the location of the proposed Wireless Communication Facility.

(L) **APPLICATION REQUIREMENTS**

All new tower applications shall contain the following:

- (1) Completion of the Town of Clayton's Site Plan and Tower Application.
- (2) Proof that a property and/or tower owner's agent has appropriate authorization to act upon the owner's behalf, if applicable.
- (3) Application Fee.
- (4) Site Plan.

(5) Written statement indicating that the criteria set forth in Section 155.310 (H) are met.

(6) Valid FCC license / approval, as applicable.

(M) **GENERAL DEVELOPMENT STANDARDS**

(1) **Visibility**

- (a) New towers shall be configured and located in a manner that shall minimize adverse effects including visual impacts on the landscape and adjacent properties.
- (b) New freestanding towers shall be designed to match adjacent structures and landscapes with specific design considerations such as architectural designs, height, scale, color, and texture.
- (c) A balloon test shall be required in order to demonstrate the proposed height of the new tower. The applicant shall arrange to raise a colored balloon no less than three feet in diameter at the maximum height of the proposed tower, and within fifty horizontal feet of the center of the proposed tower. The applicant shall provide photo simulations of the proposed tower based on the balloon test pursuant to Section 7(n).
- (d) The applicant shall meet the following for the required balloon test:
  - 1. Applicant must inform the Planning Department and abutting property owners in writing of the date and times, including alternative date and times, of the test at least 14 days in advance.
  - 2. The date, time, and location, including alternative date, time and location, of the balloon test shall be advertised in a locally distributed paper by the applicant at least seven but no more than 14 days in advance of the test date.
  - 3. The balloon shall be flown for at least four consecutive hours during daylight hours on the date chosen. The applicant shall record the weather during the balloon test.
  - 4. Re-advertisement will not be required if inclement weather occurs.
- (e) New antenna mounts shall be flush-mounted or camouflaged, unless the applicant's engineer seals and signs an attestation that flush-mounted antennas are not technically feasible for the proposed Tower.
- (f) In residential zoning districts, new towers shall only be considered on lots whose principal use is not residential.

(2) **Construction**

- (a) Grading shall be minimized and limited only to the area necessary for the new Tower and equipment.

- (b) Towers shall be constructed to accommodate antenna arrays as follows:
  - 1. All freestanding towers up to 120 feet in height shall be engineered and constructed to accommodate no less than four antenna arrays.
  - 2. All towers between 121 feet and 150 feet shall be engineered and constructed to accommodate no less than five antenna arrays.
  - 3. All towers between 151 feet and taller shall be engineered and constructed to accommodate no less than six antenna arrays.
- (c) Freestanding non-concealed tower shall be limited to monopole type towers, unless the applicant demonstrates that such design is not feasible to accommodate the intended uses.

(3) **Setbacks**

Freestanding towers and equipment compounds shall be subject to the setbacks described below:

- (a) If the tower has been constructed using breakpoint technology (see 'Definitions'), the minimum setback distance shall be equal to 110 percent (110%) of the distance from the top of the structure to the breakpoint level of the structure, or the minimum side and rear yard requirements, whichever is greater. Certification by a registered professional engineer licensed by the State of North Carolina of the breakpoint design and the design's fall radius must be provided together with the other information required herein from an applicant. (For example, on a 100-foot tall monopole with a breakpoint at 80 feet, the minimum setback distance would be 22 feet (110 percent of 20 feet, the distance from the top of the monopole to the breakpoint) plus the minimum side or rear yard setback requirements for that zoning district.)
- (b) If the tower is not constructed using breakpoint design technology, the minimum setback distance shall be equal to the height of the proposed tower.

(4) **Height**

- (a) Height calculations shall include above ground foundations, including lightning rods or lights required by the FAA that do not provide any support for antennas or communications operations. It is intended that all new non-broadcasting towers be 150 feet or less in height. However, should a Tower be required in excess of 151 feet, under no circumstance shall any tower exceed 300 feet. All new towers in excess of 151 feet shall be subject to the following additional requirements:
  - 1. Evidence that the proposed height is necessary to provide the applicant's designed service.

2. The tower shall be designed to allow for a future reduction of elevation to no more than 150 feet, or the replacement of the tower with a monopole type structure at such time as the wireless network had developed to the point that such heights can be justified.

- (b) New concealed towers shall be limited to 150 feet or less in height. Height calculations shall include above ground foundations and include exclude lightning rods or lights required by the FAA that do not provide any support for antennas.

**(5) Equipment Compound**

- (b) Equipment compounds shall be completely screened from view and shall not be used for the storage of any excess equipment or hazardous materials. No outdoor storage yards shall be allowed in a tower equipment compound. The compound shall not be used as habitable space.

1. Equipment cabinets shall be screened in accordance with Section 155.402(G)(4). Cabinets may be provided within the principal building, behind a screen on a rooftop, or on the ground within the fenced-in and screened equipment compound.

**(6) Parking**

Parking shall be required in accordance Section 155.401(C) of the UDC.

**(7) Fencing**

All equipment compounds shall be screened from view and enclosed with an opaque fence, masonry wall, landscaping, or combination thereof. Alternative equivalent screening may be approved through the site plan approval process described in Section 155.402 of the UDC.

**(8) Buffer**

The equipment compound shall be landscaped with a minimum 10 foot wide perimeter buffer containing the following planting standards:

- (a) All plants and trees shall be indigenous to eastern North Carolina.
- (b) Existing trees and shrubs on the site should be preserved and may be used in lieu of required landscaping with approval from the Planning Department.
- (c) One row of evergreen trees with a minimum two inch caliper, 25 foot on center.
- (d) Evergreen shrubs capable of creating a continuous hedge and obtaining a height of at least five feet shall be planted, minimum three gallon or 24 inches tall at the time of planting, five foot on center.

- (e) Alternative landscaping plans which provide for the same average canopy and understory trees but propose alternative locating on the entire subject property may be considered and approved by the Planning Department, provided the proposed alternative maximizes screening as provided above, and is otherwise consistent with the requirements of Section 155.402 of the UDC.

**(9) Signage**

Commercial messages shall not be displayed on any tower. Required noncommercial signage shall be limited to the following:

- (a) The only signage that is permitted upon a tower, equipment cabinets, or fence shall be informational, and for the purpose of identifying the tower (such as ASR registration number), as well as the party responsible for the operation and maintenance of the facility, and any additional security and/or safety signs as applicable.
- (b) If 220 volts or more is necessary for the operation of the facility and is present in a ground grid or in the tower, signs located every 20 feet and attached to the fence or wall shall display in large, bold, high contrast letters, minimum height of each letter four inches, the following: "HIGH VOLTAGE - DANGER."
- (c) Name plate signage shall be provided, in an easily visible location, including the address and telephone number of the contact to reach in the event of an emergency or equipment malfunction, including property manager signs as applicable.

**(10) Lighting**

Lighting on towers shall not exceed the Federal Aviation Administration (FAA) minimum standards. All other lighting shall be subject to the following.

- (a) Any lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) allowable by the FAA. Dual lighting standards are required and strobe light standards are prohibited unless required by the FAA.
- (b) Lights shall be oriented so as not to project directly onto surrounding property or rights-of-way, consistent with FAA requirements.

**(N) ADDITIONAL REQUIREMENTS FOR LEVEL II and LEVEL III FACILITIES**

**(1) Requirements for all Level II Facilities:**

- (a) Compliance with American National Standards Institute (ANSI) standards for electromagnetic radiation: In order to protect the public from excessive exposure to electromagnetic radiation, the facility applicant shall certify through a written

statement that the facility meets or exceeds current ANSI standards as adopted by the FCC.

- (b) Certification furnished by a registered professional engineer licensed in the State of North Carolina that the structure has sufficient structural integrity to support the proposed antenna and feed lines in addition to all other equipment located or mounted on the structure.
- (c) One original and two copies of a survey of the property completed by a registered professional surveyor, licensed in the State of North Carolina showing all existing uses, structures, and improvements.
- (d) Any applicant for facilities under this section shall certify that such proposed facility shall comply with all applicable federal regulations regarding interference protection, including but not limited to federal regulations regarding adjacent channel receiver (blanket) overload and intermodulation distortion.

**(2) Collocation & Combination (Level II)**

The Town requires collocation and combining of antennas on existing communications towers as a first priority where collocation is possible. Collocations are subject to the following additional requirements:

- (a) A collocated or combined antenna or antenna array shall not increase the height of an existing tower by more than 10 percent or 20 feet, whichever is greater.
- (b) New antenna mounts shall be flush-mounted or camouflaged onto existing structures, unless the applicant's engineer seals and signs an attestation that flush-mounted antennas are not technically feasible for the proposed collocation .
- (c) The equipment cabinet shall be subject to the setback requirements of the underlying zoning district.
- (d) When a collocated or combined antenna is to be located on a nonconforming building or structure, then the existing permitted nonconforming setback shall prevail.
- (e) Collocation and eligible facilities requests of wireless support structures described in Section 160D-934 North Carolina General Statutes, shall meet all the following requirements:
  - 1. Shall not involve installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets.
  - 2. The proposed collocation shall not increase the overall height of the tower or alternative structure to which the proposed infrastructure is to be attached by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.

3. Excavation or deployment of transmission equipment outside of the current site by more than 30 feet in any direction, excluding any access or utility easements currently related to the site.
  4. The collocation shall not, except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, add an appurtenance to the body of a communications tower that protrudes horizontally from the edge of the tower the greater of (i) more than 20 feet or (ii) more than the width of the tower at the level of the appurtenance increase.
  5. The existing tower on which the collocation will attach shall comply with applicable regulations, restrictions, and/or conditions, if any, associated with the prior approval of construction or modification of the tower or alternative structure, unless non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the thresholds of a Substantial Modification.
  6. The proposed additional collocation and tower shall comply with all federal, state, and local safety requirements.
  7. The proposed collocation and ancillary equipment shall not exceed the applicable weight limits for the tower.
- (f) Applications for collocation entitled to processing pursuant to Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 USC §1445(a)) shall be approved provided they meet the following requirements:
1. A collocation on an existing antenna-supporting structure shall not increase the overall height of the antenna-supporting structure, antenna and/or antenna array more than 10% or 20 feet, whichever is greater, and shall not cause the width (girth) of the structure to be increased more than 20 feet or the existing girth of the structure, whichever is greater.
  2. Any collocation on an existing antenna-supporting structure shall meet current building code requirements (including windloading).
  3. A collocation shall not add more than four additional equipment cabinets.
  4. A collocation shall not require excavation more than 30 feet outside of the existing leased or owned parcel.
  5. Proposed collocations that do not meet these standards shall be processed as a Level III application.
- (g) Collocation approvals entitled to processing pursuant to Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 USC §1445(a)) are subject to the following:

1. A collocation application shall be deemed complete unless the Town notifies the applicant within 45 days of submission (or within some other mutually agreed upon timeframe) that the submission is incomplete. Notices of application incompleteness shall identify the deficiencies in the application which, if cured, would make the application complete. Approval or denial of a complete application shall be in writing and shall be postmarked to the applicant by the 45<sup>th</sup> day after the submission is deemed complete.
2. Upon resubmitting of the revised application the Town shall follow the process identified in this section, above, until all deficiencies identified are deemed cured.
3. If the Town does not respond in writing to the applicant within the specified timeframe detailed above, then the application shall be deemed approved.
4. Applications subject to this review process shall not be subject to design or placement requirement, or public hearing review. All applications shall be initially submitted to the Planning Department for review and processing.

- (h) New concealed and non-concealed towers shall be reviewed and have a decision rendered within 150 days of receipt of the application.

**(3) Attachment: Concealed & Non-Concealed (Level II)**

Antennas may be mounted onto a structure which is not primarily constructed for the purpose of holding attachment antennas but on which one or more antennas may be mounted. Attached antenna shall be subject to the following:

- (a) The top of the attached antenna shall not be more than 20 feet above the existing or proposed building or structure
- (b) Non-concealed attachments shall only be allowed on electrical transmission towers and existing light stanchions subject to approval by the Technical Review Committee and utility company.
- (c) When an attached antenna is to be located on a nonconforming building or structure, the existing permitted nonconforming setback shall prevail.
- (d) Except for non-concealed attached antennas, feed lines and antennas shall be designed to architecturally match the façade, roof, wall, and/or structure on which they are affixed so that they blend with the existing structural design, color, and texture.

**(4) Antenna Element Replacement (Level II)**

For any replacement of an existing antenna element on an antenna, the applicant must, prior to making such modifications, submit the following:



- (a) A description of the proposed modifications to the antenna, including modifications to antenna element design, type and number, as well as changes in the number and/or size of any feed lines, from the base of the equipment cabinet to such antenna elements.
- (b) A signed statement from a qualified person, together with their qualifications, shall be included representing the tower's owner or owner's agent that the radio frequency emissions comply with FCC standards for such emissions. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the replacement antenna complies with FCC standards.
- (c) A stamped or sealed structural analysis of the existing structure prepared by a registered professional engineer licensed by the State of North Carolina indicating that the existing tower as well as all existing and proposed appurtenances meets North Carolina Uniform Statewide Building Code (USBC) requirements, including wind loading, for the antenna support structure.

(5) **DAS Equipment and Small Cell (as applicable) (Level II)**

(a) ***System Design Review***

A DAS applicant, prior to its initial application for a DAS facility, shall furnish an overall system design application to the Planning Department for review and approval by the Technical Review Committee. The system design application shall include the following information:

- 1. A statement of the identity and number of wireless services providers that will utilize the DAS systems;
- 2. A statement that the DAS system will be capable of accommodating at least eight (8) wireless service providers on the proposed system
- 3. A graphic depiction of the conceptual plan for the proposed total area of service coverage by the DAS system;
- 4. A statement of the number of handoff facilities for the DAS system;
- 5. A proposed build-out timeline and graphic depiction of the build-out phases through completion.

(b) ***Equipment Design Review***

A DAS applicant, prior to its initial application for a DAS facility, shall furnish an equipment design application to the Planning Department for review and approval by the Technical Review Committee. The equipment design application shall include the following information for each proposed design:

1. Elevation of the antenna and/or antenna support structure to include the following proposed dimensions: height, width and breadth. Height shall include the base, the antenna support structure, and lightning rod.
2. Elevation views of any security barrier or equipment compound, indicating architectural design, exterior appearance and materials, including color.
3. Mounting location on antenna support structure or building, including height AGL).
4. Identification of all mounting frames, arms, brackets or other devices or equipment used to hold antennas and other equipment in place.
5. Equipment brochures or drawings for the proposed facility, shall be provided for antennas, support structures/mounts, equipment shelters, feed lines and security barrier, if any.
6. Photo-simulated post-construction renderings of a sampling of completed proposed DAS facilities, equipment compound and/or equipment cabinets, ancillary structures, and landscaping, if any, from locations determined at the pre-application conference. The views shall incorporate before and after scenarios, a scaled color image of the proposed type of facility, an aerial map with the location of the selected views, and a description of the technical approach used to create the photo simulations. The simulations shall include a minimum of four vantage points (north, south, east, and west).
7. Individual sample site plan (no larger than 24 inches by 36 inches with an 8½ inch by 11 inch reduced copy) prepared and certified by a North Carolina-licensed professional engineer shall include all information listed on the DAS application checklist, and including existing or proposed public rights-of-ways, private roads and/or access easements through, on, or adjacent to the subject property.
8. Applicants should submit the information required by subsections (1) through (7) above for each design, if multiple designs are proposed.

(c) ***Individual Component Application and Approval***

Following approval of the DAS system design and DAS equipment design by the Technical Review Committee, a DAS applicant shall submit applications for individual DAS installations to the Planning Department for administrative approval provided the individual application provides documentation certifying it is consistent with the system design and equipment design standards previously approved in subsections (a) and (b) above.

(6) **Replacement of Existing Towers**

For a replacement of an existing tower with a new structure, the applicant must submit the following items outlined in subsection (7) below for new towers, including items (c) through (h), (k) through (p) and (r).

- (a) The height of a tower approved for replacement shall not exceed one hundred and fifteen percent (115%) of the height of the tallest tower that is being replaced or consolidated.

(b) ***Level III***

The height of a tower may exceed one hundred and fifteen percent (115%) of the height of the tallest tower that is being replaced or consolidated with evidence that the Tower height is necessary to provide the applicant's designed service. Under no circumstance shall any mitigated tower exceed a height of 300 feet.

2. Height & Setbacks

A new tower approved for replacement of an existing tower shall not exceed one hundred and fifteen percent (115%) of the height of the existing tower and shall not be required to meet new setback standards so long as the new tower and its equipment compound are no closer to any property lines or dwelling units as the tower and equipment co

mpound being replaced. The intent is to encourage the replacement process, not penalize the tower owner for the change out of the old facility.

1. Buffers

At the time of replacement, the tower equipment compound shall be brought into compliance with any applicable buffer requirements.

2. Visibility

Replacement towers shall be configured and located in a manner that minimizes adverse effects on the landscape and adjacent properties, with specific design considerations as to height, scale, color, texture, and architectural design of the buildings on the same and adjacent zoned lots.

(7) **New Towers (Level III)**

All new towers shall submit the following addition information as a part of a complete application:

- (d) A report and supporting technical data shall be submitted, demonstrating the following:

1. All antenna attachments and collocations, including all potentially useable cross country utility distribution towers and other elevated structures within the Geographic Search Ring have been examined, and found unacceptable.
2. Reasoning as to why existing facilities such as cross country utility distribution and other elevated structures are not acceptable alternatives to a new freestanding tower.
3. Reasoning as to why the adequacy of alternative existing facilities or the mitigation of existing facilities are not technically or commercially feasible and that no existing communications facility could accommodate the applicant's proposed facility shall consist of any of the following:
  - A. No existing towers located within the Geographic Search Ring meet the applicant's engineering requirements, and why.
  - B. Existing towers are not of sufficient height to meet the applicant's engineering requirements, and cannot be mitigated to increase in height.
  - C. Existing towers do not have sufficient structural integrity to support the applicant's proposed wireless communications facilities and related equipment, and the existing facility cannot be sufficiently improved.
  - D. Other limiting factors that render collocation technically or commercially impractical, or the owner of the existing structure is unwilling to enter into a contract for such use at fair market value.
- (b) Signed statement from a qualified person, together with their qualifications, shall be included that warrants radio frequency emissions from the antenna array(s) comply with FCC standards. The statement shall also certify that both individually and cumulatively the replacement antenna complies with FCC standards.
- (c) A stamped or sealed structural analysis of the proposed tower prepared by a registered professional engineer licensed by the State of North Carolina indicating the proposed and future loading capacity of the tower is compliant with EIA/TIA-222-G (as amended) for either Johnston or Wake County, North Carolina, as appropriate.
- (d) An affidavit by a radio frequency engineer demonstrating compliance with 'Locating Alternatives Order' located in Section 155.310(K) above. If a lower ranking alternative is proposed the affidavit must address why higher ranked options are not technically feasible, practical, and/or justified given the location of the proposed communications facility.
- (e) Statement as to the potential visual and aesthetic impacts of the proposed tower and equipment on all adjacent residential zoning districts.
- (f) Written statement by a registered professional engineer licensed by the State of North Carolina specifying the design structural failure modes of the proposed facility.

- (g) Statement certifying that sound levels shall not exceed seventy decibels (70 db) at the related property line.
- (h) A map showing the Geographic Search Ring.
- (i) Signed and sealed certification from the applicant's radio frequency (RF) engineer that the proposed facility cannot be achieved by any higher ranked alternative such as a concealed facility, attached facility, replacement facility, collocation, or new tower.
- (j) One original and two copies of a survey of the property completed by a registered professional engineer, licensed in the State of North Carolina showing all existing uses, structures, and improvements.
- (k) Signed and sealed site plans shall include the following:
  - 1. Name of project and date.
  - 2. Deed Book, and Page and Map Book and Page Reference.
  - 3. Scale, north arrow, and vicinity map.
  - 4. Subject property information including zoning, watershed classification, and percent coverage of lot to be impervious surface (if located in a designated watershed area).
  - 5. Adjacent property information, including land owners, land uses, height of principal building, size of lots, zoning, and land use designation.
  - 6. Tower elevations.
  - 7. Landscape buffering plans.
  - 8. Maximum height of the proposed Tower and proposed and future mounting elevations of future antenna, including individual measurement of the base, the tower, and lightning rod.
  - 9. Location, classification, and size of all major public or private streets and rights-of-way.
  - 10. Identify adjacent features within 500 feet of property boundary including driveways, public parking areas, pedestrian ways, trails, and any other pertinent features.
  - 11. Two reduced copies (8½"×11"), of the foregoing preliminary grading plans may be included on site plans or separately submitted in equal quantities.
- (e) Title report or American Land Title Association (A.L.T.A.) survey showing all easements on the subject property, together with a full legal description of the property.

- (l) List of adjacent property owners and keyed to the map. The list must be from the most current ownership information supplied by the appropriate County Tax Department, together with two sets of mailing labels for such property owners. Applicant will also provide a notarized Certification Letter stating the ownership list referenced herein is accurate to the best of the applicant's ability.
- (m) Simulated photographic evidence of the proposed tower and antenna appearance from any and all residential areas within 1,500 feet and vantage points approved by the Planning Department including the facility types the applicant has considered and the impact on adjacent properties. The simulations shall include depictions of:
  - 1. Overall height
  - 2. Configuration
  - 3. Physical location
  - 4. Mass and scale
  - 5. Materials and color
  - 6. Illumination
  - 7. Architectural design
- (n) All other documentation, evidence, or materials necessary to demonstrate compliance with the applicable approval criteria set forth in this Section.
- (o) A pre-application conference will be required for any new tower. The applicant shall demonstrate that the following notice was mailed (via certified mail) to all other wireless service providers licensed to provide service within the Town as indicated on the list of wireless service providers provided by the Town:

"Pursuant to the requirements set forth in Section 155.310 of the Town of Clayton Unified Development Code, [TOWER PROVIDER] is hereby providing you with notice of our intent to meet with the Town Staff in a pre-application conference to discuss the location of a free-standing wireless communication facility that would be located at \_\_\_\_\_ (physical address, latitude and longitude (NAD-83)). In general, we plan to construct a tower of \_\_\_\_\_ feet in height for the purpose of providing \_\_\_\_\_ (type of wireless service) \_\_\_\_\_. Please inform the Town staff if you have any desire for placing additional Wireless Communication Facilities or equipment within two miles of our proposed Tower. Please provide us with this information within 20 business days after the date of this letter. Your cooperation is sincerely appreciated.

Sincerely, (pre-application applicant, wireless provider)"

- (p) Prior to issuance of a building permit, proof of FAA compliance with Subpart C of the Federal Aviation Regulations, Part 77, and "Objects Affecting Navigable Airspace," if applicable.

(O) **ADDITIONAL REQUIREMENTS FOR LEVEL IV (BROADCAST) FACILITIES**

(2) **Broadcast Facilities**

All new broadcast facilities shall submit the following addition information as a part of a complete application:

- (a) Technical data included in the report shall include the purpose of the proposed facility as described in the FCC Construction Permit Application.
- (b) Signed statement from a qualified person, together with their qualifications, shall be included that warrants radio frequency emissions from the antenna array(s) comply with FCC standards regarding interference to other radio services. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the replacement antenna complies with FCC standards regarding human exposure to RF energy.
- (c) A stamped or sealed structural analysis of the proposed tower prepared by a registered professional engineer licensed by the State of North Carolina indicating the proposed and future loading capacity of the tower is compliant with EIA/TIA-222-G (as amended) for either Johnston or Wake County, North Carolina, as appropriate.
- (d) Statement certifying that no unusual sound emissions such as alarms, bells, buzzers, or the like are permitted. Emergency Generators are permitted. Sound levels shall not exceed seventy decibels (70 db).
- (e) One original and two copies of a survey of the property completed by a registered professional engineer, licensed in the State of North Carolina showing all existing uses, structures, and improvements.
- (f) Six sets (24"×36") of signed and sealed site plans shall include the following:
  - 1. Name of project and date
  - 2. Deed Book, and Page and Map Book and Page Reference
  - 3. Scale, north arrow, and vicinity map
  - 4. Subject property information including zoning, watershed classification, percent coverage of lot to be impervious surface (if located in a designated watershed area)
  - 5. Adjacent property information including land owners, land uses, height of principal building, size of lots, and existing zoning and land use

6. Landscape buffering plans
  7. Maximum height of the proposed tower and/or antenna, including individual measurements of the base, tower, and lightning rod
  8. Location, classification, and size of all major public or private streets and rights-of-way
  9. Identify adjacent features within 500 feet of property boundary including driveways, public parking areas, pedestrian ways, trails, and any other pertinent features
  10. Two reduced copies (8½"×11"), of the foregoing preliminary grading plans may be included on site plans or separately submitted in equal quantities.
  11. Structure elevations
- (g) Title report or American Land Title Association (A.L.T.A.) survey showing all easements on the subject property, together with a full legal description of the property.
- (h) List of property owners within 1,000 feet in residential zoning districts and 500 feet in all other zoning districts and keyed to the map. The list must be from the most current ownership information supplied by the appropriate County Tax Department, together with two sets of mailing labels for such property owners. Applicant will also provide a notarized Certification Letter stating the ownership list referenced herein is accurate to the best of the applicant's ability.
- (i) A pre-application conference will be required for any new broadcast facility.
- (j) Prior to issuance of a building permit, proof of FAA compliance with Subpart C of the Federal Aviation Regulations, Part 77, and "Objects Affecting Navigable Airspace," if applicable.
- (2) **Supplemental Requirements for Broadcast Facilities**

All new broadcast facilities shall meet the following supplemental requirements:

(a) ***Determination of Need***

No new broadcast facilities shall be permitted unless the applicant demonstrates that no existing broadcast tower can accommodate the applicant's proposed use.

(b) ***Height***

Height for broadcast facilities shall be evaluated on a case by case basis. The determination of height contained in the applicant's FCC Form 351/352 Construction Permit or application for Construction Permit and an FAA Determination of No Hazard



(FAA Form 7460/2) shall be considered prima facie evidence of the tower height required for such broadcast facilities.

(c) ***Setbacks***

New broadcast facilities and anchors shall be subject to the setbacks described below:

1. Minimum of 500 feet from any single-family dwelling unit on same lot.
1. Minimum of one foot for every one feet of tower height from all adjacent lots of record.

(d) ***Equipment Cabinets***

Except for AM broadcast facilities, cabinets shall not be visible from pedestrian and right-of-way views.

(e) ***Fencing***

All broadcast facility towers, AM antenna(s) towers, and guy anchors shall each be surrounded with an anti-climbing fence compliant with applicable FCC regulations.

(f) ***Buffer***

Except for AM broadcast facilities, it is the intent that all pedestrian views from public rights-of-way and adjacent residential land uses be screened from proposed broadcast facilities using existing vegetation or be landscaped with a minimum 10 foot wide perimeter buffer containing the following planting standards:

1. All plants and trees shall be indigenous to this part of North Carolina.
2. Existing trees and shrubs on the site should be preserved and may be used in lieu of required landscaping where approved by the Planning Department.
3. One Row of evergreen trees with a minimum two inches caliper, 25 foot on center.
4. Evergreen shrubs capable of creating a continuous hedge and obtaining a height of at least five feet shall be planted, minimum three gallon or 24 inches tall at the time of planting, five foot on center.
5. Alternative landscaping plans which provide for the same average canopy and understory trees but propose alternative locating on the entire subject property may be considered and approved by the Planning Department, provided the proposed alternative maximizes screening as provided above, and is otherwise consistent with the requirements of this section.

(P) **ADMINISTRATION, ENFORCEMENT, AND PENALTIES**

(1) **Administration**

This Section shall be administered and enforced by the Planning Director or designee. The Town may, through contract, secure the professional services of telecommunications consultants to assist Town staff in the implementation of this Section. Such professional services include, but are not limited to, review and evaluation of permit applications, determination of compliance with existing and proposed Federal regulations, minimization of the aesthetic impact, review of the technical data and expert testimony as needed.

(2) **Enforcement and Penalties**

If the Planning Director or designee shall find that any of the provisions of this Section are being violated, it shall notify in writing the person responsible for the violation, specifying the nature of the violation and what corrective measures must be taken. The Planning Director or designee shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by law to insure compliance with or to prevent violation of the provisions of this Section.

(3) **Penalties**

Any person failing to take corrective action within a reasonable time after receiving written notice from the Planning Department and any person operating a communications Tower without a valid permit shall be guilty of a misdemeanor and subject to the enforcement provisions listed in Section 155.720 of the Unified Development Code.

(4) **Fees**

The Town Council shall set a fee, payable to the Town to cover the necessary processing cost of all Communications Tower Permits. The set fee shall be posted in the Town's Comprehensive List of Fees and Charges.

(5) **Supplemental Review**

The Town reserves the right to require a supplemental review for any Process Level (I, II, III, or IV) subject to the following:

- (a) Where due to the complexity of the methodology or analysis required to review an application for a Process Level (I, II, III or IV), the Town may require the applicant to pay for a technical review by a third party expert, the costs of which shall be borne by the applicant and be in addition to other applicable fees. Schedules of current fees are listed in the Town Fee Schedule.
- (b) Based on the results of the expert review, the approving authority may require changes to the applicant's application or submittals.
- (c) The supplemental review may address any or all of the following:

1. The accuracy and completeness of the application and any accompanying documentation.
2. The applicability of analysis techniques and methodologies.
3. The validity of conclusions reached.
4. Whether the proposed Wireless Communication Facility complies with the applicable approval criteria set forth in these codes.
5. Other items deemed by the Town to be relevant to determining whether a proposed communications facility complies with the provisions of these codes.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-05-02, passed 5-7-07; Am. Ord. 2007-05-03, passed 5-7-07; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12)

(Ord. 2013-10-02, passed 10-7-13; Ord. 2017-04-06, approved 04/03/2017)

## ARTICLE 4: GENERAL DEVELOPMENT STANDARDS

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### § 155.400 ACCESS

#### (A) PURPOSE AND INTENT

It is the intent of this Section to establish procedures and design standards for driveways and access points to promote efficiency and safety of the connecting street system, support operations of the surrounding pedestrian and bicycle network, ensure safe roadway access to all parcels and lots, and promote a vibrant and attractive streetscape character. These procedures and standards are intended to preserve and enhance the character of the community, and protect the health, safety and general welfare of Clayton's residents.

#### (B) ACCESS

For the purposes of this Section, access means the point or points of ingress and egress from a development or parcel to the existing right-of-way network.

(C) **ACCESS REQUIRED**

- (1) Except as provided in paragraph(c)(2) below, no principal building, structure, or use may be erected or established on any lot which does not abut at least 30 feet on a street that is publicly-dedicated and maintained by the Town or the North Carolina Department Of Transportation (NCDOT).
- (2) The Board of Adjustment may authorize, as a Variance, alternative driveway access when:
  - (a) The effect of such application would be to deprive the parcel of reasonable access; or
  - (b) The size, configuration, or lack of frontage makes alternatives infeasible.
  - (c) At a minimum, entrances and exits, except those associated with a single-family residential use, shall be subject to the dimensional standards provided in Table 4-1 below.

**TABLE 4-1 –DIMENSIONAL STANDARDS OF ACCESS WAYS**

| Min. Entrance/Exit Width                                                                                                                                                                                                                                 | Feet <sup>(1)</sup> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| One-Way                                                                                                                                                                                                                                                  | 15                  |
| Two-Way without median                                                                                                                                                                                                                                   | 25 (35 maximum)     |
| Two-way with median                                                                                                                                                                                                                                      | 40 <sup>(2)</sup>   |
| <b>Right Turn Radius <sup>(3)</sup></b>                                                                                                                                                                                                                  |                     |
| Minimum                                                                                                                                                                                                                                                  | 25                  |
| Maximum                                                                                                                                                                                                                                                  | 30                  |
| <b>Notes:</b>                                                                                                                                                                                                                                            |                     |
| 1. All entrances and exits are subject to approval by the Town of Clayton and/or NCDOT. Widths exceeding these standards by up to 20% may be approved by the Planning Director or Town Engineer, depending on the use. Otherwise a Variance is required. |                     |
| 2. Width excludes median. 20 foot unobstructed pavement required on both sides of median, excluding landscape islands.                                                                                                                                   |                     |

(D) **COMPLIANCE WITH LOCAL AND STATE REQUIREMENTS**

- (1) Prior to beginning any construction, permits necessary to connect to the right-of-way network of the Town or State shall be secured. Driveway connections to individual residences are generally excluded from this requirement, but may be necessary if a safety concern is identified.
- (2) Failure to secure necessary permits prior to construction may result in the removal of the driveways and/or denial of access at that location.
- (3) A Certificate of Occupancy shall not be issued until the access requirements of this Chapter have been met.

(E) **ACCESS TO RESIDENTIAL SUBDIVISIONS**

- (1) When a residential subdivision borders on or contains a major thoroughfare, direct driveway access from lots within the subdivision onto the thoroughfare shall not be permitted.
- (2) In order to accommodate emergency and service vehicles, the following standards shall apply:
  - (a) Any residential subdivision of greater than 30 lots shall include at least two separate and constructed access points.
  - (b) Residential subdivisions of 300 or more lots shall provide at least three separate and constructed access points. Where three or more access points are required, the Town Council may waive the requirement for immediate construction of more than two access points, provided that subdivision phasing and design illustrates the additional required connections. Street stub-outs to adjacent undeveloped properties shall be provided as deemed appropriate. Stub-outs to adjacent undeveloped properties shall not count towards the minimum number of required access points. All stub-outs shall be constructed to the property line.
  - (c) Street connections shall be made to existing stub-outs on adjacent developed properties. These street connections may count towards the minimum number of required access points.
  - (d) All required access points outlined in this section shall be constructed prior to plat recordation of the phase in which the access points are located.
  - (e) A waiver of the standards of this subsection may be allowed by the Town Council pursuant to the standards of §155.706(1)(6) only in instances where limited frontage, natural features (slope, topography), or similar circumstances preclude the required connections and there is no substantial impact noted regarding emergency service delivery.

(F) **MULTI-FAMILY RESIDENTIAL DEVELOPMENTS**

- (a) Multi-Family projects having more than 100 dwelling units shall provide at least two separate and constructed access points. Required access points shall be constructed prior to issuance of the first Certificate of Occupancy for the phase in which they are located.

**RESIDENTIAL DRIVEWAY STANDARDS**

Residential driveway access to and from streets shall be constructed in accordance with Town standards as outlined below:

(1) **Design**

The standard residential driveway access for the Town shall be a "ramp" type driveway section. Ramp-type driveways shall be constructed in accordance with Town standards and specifications as outlined in the Town's *Engineering Design Manual*.

(2) **Width**

The width of a residential driveway shall be no less than ten feet and no more than 24 feet. When two residential driveways coincide along a property line, the maximum width of both driveways combined shall not exceed 24 feet.

(3) **Number**

The number of driveway access points servicing a residential lot should be limited to one. In no instance shall there be more than two residential driveway access points servicing the lot.

(4) **Setbacks**

- (a) Residential driveways shall be spaced at least 20 feet from any other driveway on the same lot.
- (b) Driveways shall be no closer than three and one-half feet to any lot line, except where two residential driveways coincide along the same lot line.
- (c) The minimum corner clearance from the curb line or edge of pavement of intersecting streets shall be at least 20 feet from the point of tangency of the radius curvature, or 20 feet from the intersection of right-of-way lines, whichever is greater.
- (d) The radius of the driveway shall not encroach on the minimum corner clearance.

(H) **NON-RESIDENTIAL DRIVEWAY STANDARDS**

(1) **Design**

Non-residential driveway access to and from streets shall be constructed in accordance with the standards and specifications provided in the manual, *Policy on Street and Driveway Access to North Carolina Highways*, as adopted and amended by NCDOT.

(2) **Number**

- (a) For any development, the number of driveway access points may be restricted where it is necessary for purposes of decreasing traffic congestion or hazards. These restrictions may include required common access points.
- (b) Approval of driveway access between a lot and the right-of-way at an interval less than those specified by the *Policy on Street and Driveway Access to North Carolina Highways*



manual, as adopted and amended by NCDOT, may be granted only by review and recommendation of the Town Engineer and NCDOT.

(3) **Outparcels**

Outparcels shall take access from within the development, where possible.

(I) **CROSS ACCESS CONNECTIONS**

- (1) Internal driveway connections to adjacent existing or future development shall be provided for residential and commercial development, and clearly identified. All driveway connections shall be constructed and stubbed to the property line, and future development of adjacent property shall complete a connection to any existing stub.
- (2) Access easements may be required to ensure outparcels or adjacent developments have adequate access if ownership patterns change.

(J) **SHARED ACCESS**

A shared access easement may be required between adjacent lots fronting on a thoroughfare in order to minimize the total number of access points along those streets and to facilitate traffic flow between lots.

(K) **CLOSURE OR RELOCATION OF EXISTING ACCESS POINTS**

- (1) The Planning Board or Town Council, in conjunction with NCDOT, shall have the authority to require the closure or relocation of existing access points where multiple access points to the site are available.
- (2) The Planning Board or Town Council may approve the closure of driveway access in those cases where adjoining parcels are subsequently developed with a residential use.

(L) **VISIBILITY AT INTERSECTIONS**

- (1) On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of 30 inches and ten feet in a triangular area formed by a diagonal line between two points on the right-of-way lines, 20 feet from where they intersect.
- (2) Adequate sight distance should be provided at all driveway access points and shall be in accordance with the standards provided in the manual, *Policy on Street and Driveway Access to North Carolina Highways*, as adopted and amended by the NCDOT.

(M) **THOROUGHFARE OVERLAY DISTRICT**

In addition to the standards set forth in this Section, driveways to be constructed within a Thoroughfare Overlay District are subject to the additional standards set forth in § 155.204(A).

(N) **SIDEWALKS**

- (1) All sidewalks associated with a residential subdivision shall be required as outlined in Article 6 of this chapter.
- (2) All residential and non-residential development projects not associated with a residential subdivision shall be required to install sidewalks and curb-and-gutter along all property lines with road frontage. If there is no existing sidewalk within 300' of the proposed development project, a fee-in-lieu of sidewalk may be accepted.
- (3) If fee-in-lieu of sidewalk is made, an Engineer's estimate for fee-in-lieu shall be provided to the Town's Engineering department for review. Fee-in-lieu shall be paid for sidewalks prior to issuance of building permits.
- (4) Sidewalks shall be installed prior to issuance of a Certificate of Occupancy for the development.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2013-09-03, passed 9-3-13)

## **§ 155.401 OFF-STREET PARKING AND LOADING**

### **(A) PURPOSE AND INTENT**

The purpose of this Section is to ensure the provision of off-street parking, loading, queuing and on-site circulation is in proportion to the demand created by each use. By requiring such facilities, it is the intent of the Town to ensure the provision of functional and safe off-street parking, loading, queuing, and on-site circulation.

### **(B) APPLICABILITY**

The standards of this Section shall apply to all new development or existing development that is modified to the extent that it includes uses or site design features that were not specifically shown on previously approved plans. All off-street parking areas shall be maintained in accordance with this Section. No Certificate of Occupancy shall be issued until the requirements of this Section are met.

- (1) All required off-street parking shall be provided on the same lot as the principal use, except developments with common parking lots and as provided in §155.401(C)(4)(d), Shared Parking. The location of required off-street parking spaces shall not interfere with normal vehicular, bicycle and pedestrian traffic flow or with the operation of queuing and backup areas. Loading areas shall not obstruct pedestrian pathways.
- (2) With the exception of the restriping of a parking area or other vehicular use area which does not result in a reconfiguration of the parking spaces, any modification to existing off-street parking and loading facilities shall conform to the requirements of this Section.
- (3) No land shall be developed as a parking area or parking garage without an approved site plan issued in accordance with § 155.707 or a Zoning Permit in accordance with § 155.709.
- (4) Buildings and uses lawfully existing as of the effective date of this chapter may be redeveloped, renovated or repaired without providing additional off-street parking and loading facilities, provided there is no increase in gross floor area or change in use of existing floor area that would increase parking demands.
- (5) Where a vehicular use area existed as of the effective date of this Chapter, and such building is enlarged in gross floor area or impervious area by less than 10% or 2,000 square feet, whichever is less, the off-street parking and loading requirements as specified in this Section shall only be required for the enlarged area.
- (6) A change in use of a building or of a use existing as of the effective date of this Chapter shall require additional off-street parking and loading facilities to comply with the requirements of this Section for the new use unless the new use has the same parking requirement or a lesser requirement than the previous use.

- (7) Parking required within an Overlay District is subject to the provisions of this Section, except that regulations within § 155.204 (Overlay Districts) shall supersede and may be either more or less restrictive than the regulations for parking contained in this Section.
- (8) In the Downtown Overlay District, the Planning Director may allow a new use to be established, or existing structure expansion even if off-street parking and loading requirements of this Section cannot be met for the new use, provided that as much off-street parking and loading as can reasonably be provided is provided, and no foreseeable traffic congestion problems will be created.

## **PART 1. PARKING STANDARDS**

### **(C) OFF-STREET PARKING REQUIREMENTS**

#### **(1) Computing Parking Standards**

- (a) Developments containing more than one use shall provide parking spaces in an amount equal to the total of the requirements for all uses.
- (b) Off-street parking requirements that are based on square footage shall be computed using Gross Floor Area (GFA), unless another measurement is specifically called for in this Section.
- (c) Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.
- (d) The parking space requirements for a use not specifically listed in the Table 4-2 below shall be the same as for the listed use deemed most similar to the proposed use by the Planning Director.
- (e) In residential districts in which garage space is provided, the garage space may be considered in determining whether required parking has been met.

#### **(2) Minimum Parking Requirements**

Off-street vehicular and bicycle parking spaces shall be provided in accordance with Table 4-2, Minimum Off-Street Parking Requirements. An alternative parking plan with data submitted in support of higher or lower ratios in accordance with § 155.401(C)(4) may be submitted to support variations to the requirements below. 1. For bicycle parking, the minimum required parking shall be two bicycle parking spaces (or one rack) unless “no requirement” is listed in the table.

**TABLE 4-2 MINIMUM OFF-STREET PARKING REQUIREMENTS**

| Use Type                                                                                 | Parking Ratio                                                                                                                                               | Bicycle Parking Ratio                         |
|------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|
| <b>Residential Uses</b>                                                                  |                                                                                                                                                             |                                               |
| Accessory Dwelling                                                                       | 1 space per unit                                                                                                                                            | None                                          |
| Farm Residence                                                                           | 2 spaces per unit                                                                                                                                           | None                                          |
| Farm Worker Quarters                                                                     | 1 space per 4 units or                                                                                                                                      | None                                          |
| Guest Cottage                                                                            | 1 space per cottage                                                                                                                                         | None                                          |
| Home Occupation                                                                          | N/A                                                                                                                                                         | None                                          |
| Multi-Family (including Apartments and Manufactured Home Parks)                          | 1 space per studio or 1 bedroom unit;<br>2 spaces per unit (two bedrooms or more);<br>plus 1 guest parking space per 4 units                                | 1 rack per building or 1 per 50 units*        |
| Nursing Home (Congregate Living Facility)                                                | 1 space per unit or 2 beds (whichever is greater)<br>plus 1 space per 200 sq. ft. of office space                                                           | 1 rack per building                           |
| Security or Caretaker Quarters                                                           | 1 space per unit                                                                                                                                            | No requirement                                |
| Senior Apartments                                                                        | 1.3 spaces per unit                                                                                                                                         | 1 rack per building                           |
| Single-family, Zero Lot Line , Alley Loaded, Two-Family, Townhouse, or Manufactured Home | 2 spaces per unit                                                                                                                                           | No requirement                                |
| <b>Public and Civic Uses</b>                                                             |                                                                                                                                                             |                                               |
| Assembly, Not For Profit                                                                 | 1 space per 3 seats or 200 sq. ft. for the principal place of assembly, whichever is greater.                                                               | 1 rack, or 1 rack per 100 auto spaces*        |
| Cemetery                                                                                 | 1 space per 200 sq. ft. of office space; plus 1 space per 500 sq. ft. of maintenance area; plus a minimum of 5 public spaces.                               | No requirement                                |
| Church or Place of Worship                                                               | 1 space per 3 seats or 200 sq. ft. for the principal place of worship, whichever is greater.                                                                | 1 rack, or 1 rack per 100 auto spaces*        |
| Civic Club                                                                               | 1 space per 500 sq. ft.                                                                                                                                     | 1 rack, or 1 rack per 100 auto spaces*        |
| College or University                                                                    | 1 space per 2 students; plus 1 space per 5 seats in gymnasiums and auditoriums; plus 1 space per 200 sq. ft. of administrative and educational office space | 1 rack per 40 students and employees          |
| Day Care                                                                                 | 1 space per 5 persons plus drop off stall                                                                                                                   | No requirement                                |
| Government Services                                                                      | 1 space per 500 sq. ft.; or 1 space per 3 seats, whichever is greater                                                                                       | 1 rack                                        |
| Homeless Resource Centers                                                                | 1 space per 200 sq. ft. of accessory service delivery areas                                                                                                 | 1 rack, or 1 rack per 100 auto spaces*        |
| Hospital or Medical Center                                                               | 1 space per 2 beds; plus 1 space per 200 sq. ft. of outpatient treatment area                                                                               | 1 rack per building, or 1 rack per 50,000 sf* |

| Use Type                                     | Parking Ratio                                                                                                                                                      | Bicycle Parking Ratio                                                |
|----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------|
| School: Elementary or Secondary              | 1 space per employee, 1 visitor space for every 50 students, 1 space for every 5.5 students in 10th thru 12th grade;<br>Auditorium or stadium- 1 space per 3 seats | 1 rack per 40 students above 2 <sup>nd</sup> grade and all employees |
| School: Technical, Trade or Business         | 1 space per classroom; plus 1 space per 5 students; plus 1 space per 200 sq. ft. of administration, and assembly areas                                             | 1 rack per 40 students and employees                                 |
| <b>Recreational Uses</b>                     |                                                                                                                                                                    |                                                                      |
| Arena, Auditorium or Stadium                 | 1 space per 3 seats                                                                                                                                                | 3 racks, or 1 rack per 50 auto spaces*                               |
| Bowling Alley                                | 3 spaces per lane                                                                                                                                                  | 3 racks, or 1 rack per 100 auto spaces*                              |
| Campground                                   | 1 space per campsite                                                                                                                                               | 1 rack                                                               |
| Community Clubhouse                          | 1 space per 300 sq. ft.                                                                                                                                            | 3 racks, or 1 rack per 50 auto spaces*                               |
| Entertainment, Indoor (except Bowling Alley) | 1 space per 200 sq. ft. or 1space per 3 seats, whichever is greater                                                                                                | 3 racks, or 1 rack per 100 auto spaces*                              |
| Entertainment, Outdoor                       | 1 space per 3 seats; or 10 spaces per acre occupied by amusements, whichever is greater                                                                            | 3 racks, or 1 rack per 100 auto spaces*                              |
| Fitness Center                               | 1 space per 200 sq. ft.                                                                                                                                            | 3 racks, or 1 rack per 100 auto spaces*                              |
| Golf Course                                  | 4 spaces per hole; plus 1 space per 300 sq. ft. of clubhouse                                                                                                       | 3 racks, or 1 rack per 100 auto spaces*                              |
| Gun Club or Gun Range                        | 1 space per target area                                                                                                                                            | 1 rack, or 1 rack per 100 auto spaces*                               |
| Park, Passive                                | 2 spaces for the first acre plus 1 space for each additional 2 acres; accessory uses shall be parked as required                                                   | 3 racks, or 1 rack per 50 auto spaces*                               |
| Special Event                                | 1 space per 3 seats; or 10 spaces per acre occupied by amusements, whichever is greater                                                                            | No requirement                                                       |
| Stable, Commercial or Private                | 1 space per 500 sq. ft.; plus 1 space per 4 animal stalls                                                                                                          | 1 rack, or 1 rack per 100 auto spaces*                               |
| Swimming pool                                | 1 space per 200 sq. ft. of pool area                                                                                                                               | 3 racks, or 1 rack per 100 auto spaces*                              |
| Tennis and Basketball Courts                 | 1.5 spaces per court                                                                                                                                               | 3 racks, or 1 rack per 100 auto spaces*                              |
| <b>Agricultural Uses</b>                     |                                                                                                                                                                    |                                                                      |
| Agriculture Use (Unless Otherwise Specified) | 1 space per 1,000 sq. ft. or 1 space per employee on maximum shift                                                                                                 | No requirement                                                       |
| Agriculture, Sales and Service               | 1 space per 250 sq. ft.                                                                                                                                            | No requirement                                                       |
| Agriculture, Storage                         | 1 space per 1,000 sq. ft.                                                                                                                                          | No requirement                                                       |
| Agriculture, Accessory Use                   | 5 spaces or 1 space per employee, whichever is greater                                                                                                             | No requirement                                                       |
| Community Garden                             | 4 spaces per garden                                                                                                                                                | 3 racks, or 1 rack per 50 auto spaces*                               |

| Use Type                                     | Parking Ratio                                                                                                                                                                                    | Bicycle Parking Ratio                  |
|----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|
| Nursery, retail                              | 1 space per 500 sq. ft. of indoor or covered retail and office areas plus 1 space per 4 acres if the nursery is 20 acres or less, or 1 space per 5 acres if the nursery is greater than 20 acres | No requirement                         |
| Nursery, wholesale                           | 1 space per 4 acres if the nursery is 20 acres or less, or 1 space per 5 acres if the nursery is greater than 20 acres                                                                           | No requirement                         |
| Produce Stand                                | 1 space per 200 sq. ft. including outdoor sales display area                                                                                                                                     | No requirement                         |
| <b>Commercial Uses</b>                       |                                                                                                                                                                                                  |                                        |
| Adult Oriented Business                      | 1 space per 200 sq. ft.                                                                                                                                                                          | 1 rack, or 1 rack per 100 auto spaces* |
| Bed and Breakfast                            | 2 spaces for the primary dwelling unit plus 1 space per guest room                                                                                                                               | No requirement                         |
| Car Wash / Auto Detailing                    | 1 space per 200 sq. ft. of office, retail, or indoor seating area                                                                                                                                | No requirement                         |
| Contractor Office                            | 1 space per 200 sq. ft.                                                                                                                                                                          | No requirement                         |
| Contractor Storage Yard                      | 1 space per 5,000 sq. ft. of outdoor storage area                                                                                                                                                | No requirement                         |
| Convenience Store, with or without Gas Sales | 1 space per 200 sq. ft.                                                                                                                                                                          | 1 space per 20 auto spaces provided    |
| Creative Studio                              | 1 space per 400 sq. ft.                                                                                                                                                                          | 1 rack, or 1 rack per 100 auto spaces* |
| Dispatching Office                           | 1 space per 250 sq. ft.                                                                                                                                                                          | 1 rack                                 |
| Financial Institution                        | 1 space per 250 sq. ft.                                                                                                                                                                          | 1 rack, or 1 rack per 100 auto spaces* |
| Funeral Home                                 | 1 space per 4 seats                                                                                                                                                                              | 1 rack                                 |
| Hotel/Motel                                  | 1.25 spaces per room (convention areas, restaurants, etc. over 2,000 sq. ft. to be calculated separately)                                                                                        | 1 space per 20 auto spaces provided    |
| Kennel                                       | 1 space per employee; and, 1 space for each 200 sq. ft. of sale, grooming or office area.                                                                                                        | 1 rack                                 |
| Kiosk                                        | N/A                                                                                                                                                                                              | No requirement                         |
| Laundry Services                             | 1 space per 200 sq. ft.                                                                                                                                                                          | 1 rack                                 |
| Lounge, Cocktail                             | 1 space per 3 seats                                                                                                                                                                              | 1 rack, or 1 rack per 100 auto spaces* |
| Microbrewery                                 | 1 space per 1,000 sq. ft. (accessory uses calculated separately)                                                                                                                                 | 1 rack, or 1 rack per 100 auto spaces* |
| Newspaper Publisher                          | 1 space per 1,000 sq. ft.                                                                                                                                                                        | 1 rack                                 |
| Office, General                              | 1 space per 300 sq. ft.                                                                                                                                                                          | 1 rack, or 1 rack per 100 auto spaces* |
| Office, Medical                              | 1 space per 200 sq. ft.                                                                                                                                                                          | 1 rack, or 1 rack per 100 auto spaces* |
| Outdoor Seating / Sidewalk Cafe              | 1 space per 3 seats                                                                                                                                                                              | 1 rack, or 1 rack per 100 auto spaces* |
| Pawn Shop                                    | 1 space per 200 sq. ft.                                                                                                                                                                          | 1 rack, or 1 rack per 100 auto spaces* |
| Personal services                            | 1 space per 200 sq. ft.                                                                                                                                                                          | 1 rack, or 1 rack per 100 auto spaces* |
| Radio or Television Studio                   | 1 space per 300 sq. ft.                                                                                                                                                                          | 1 rack, or 1 rack per 100 auto spaces* |

| Use Type                                    | Parking Ratio                                                                                                                                     | Bicycle Parking Ratio                  |
|---------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|
| Restaurant                                  | 1 space per 3 seats including outdoor seating area                                                                                                | 1 rack, or 1 rack per 100 auto spaces* |
| Retail Sales, General                       | 1 space per 200 sq. ft.                                                                                                                           | 1 rack, or 1 rack per 100 auto spaces* |
| Retail Sales, Neighborhood                  | 1 space per 200 sq. ft.                                                                                                                           | 1 rack, or 1 rack per 100 auto spaces* |
| Self-Service Storage                        | 1 space per 100 storage bays; minimum of 5 customer spaces (security quarters calculated separately)                                              | No requirement                         |
| Service, General                            | 1 space per 200 sq. ft.                                                                                                                           | 1 rack, or 1 rack per 100 auto spaces* |
| Service, Neighborhood                       | 1 space per 200 sq. ft.                                                                                                                           | 1 rack, or 1 rack per 100 auto spaces* |
| Theater, indoor                             | 1 space per 3 seats                                                                                                                               | 1 space per 20 auto spaces provided    |
| Vehicle Repair or Service                   | 1 space per 250 sq. ft.                                                                                                                           | No requirement                         |
| Vehicle Sales or Rental                     | 1 space per 250 sq. ft. of enclosed area; plus 1 space per 5,000 sq. ft. of outdoor sales, rental and display area; plus 2 spaces per service bay | 1 rack                                 |
| Veterinary Clinic                           | 1 space per 250 sq. ft. of floor area                                                                                                             | 1 rack, or 1 rack per 100 auto spaces* |
| Video Sweepstakes Operation / Internet Cafe | 1 space per 200 sq. ft. or 1 space per 3 seats, whichever is greater                                                                              | 1 rack, or 1 rack per 100 auto spaces* |
| <b>Industrial Uses</b>                      |                                                                                                                                                   |                                        |
| Building Supplies, Wholesale                | 1 space per 1,000 sq. ft.                                                                                                                         | No requirement                         |
| Crematorium                                 | 1 space per 4 seats or 100 square feet of chapel area, whichever is greater                                                                       | No requirement                         |
| Gas and Fuel, Wholesale                     | 1 space per 250 sq. ft.                                                                                                                           | No requirement                         |
| Laboratory, Research                        | 1.5 spaces per 1,000 sq. ft.                                                                                                                      | 1 rack                                 |
| Manufacturing and Processing                | 1.5 spaces per 1,000 sq. ft.                                                                                                                      | 1 rack                                 |
| Research and Development                    | 1.5 spaces per 1,000 sq. ft.                                                                                                                      | 1 rack                                 |
| Salvage or Junk Yard                        | 1 space per 200 sq. ft. of office space; plus 1 space per employee                                                                                | No requirement                         |
| Transportation Facility                     | 1 space per 200 sq. ft. of office space                                                                                                           | 1 rack                                 |
| Warehouse                                   | 1 space per 1,000 sq. ft.; plus 1 space per 200 sq. ft. of office space                                                                           | 1 rack                                 |
| Wholesaling, General                        | 1 space per 1,000 sq. ft.                                                                                                                         | 1 rack                                 |
| <b>Utilities</b>                            |                                                                                                                                                   |                                        |
| Electric Power Facility                     | 1 space per 200 sq. ft. of office space; plus 1 space per 10,000 sq. ft.                                                                          | No requirement                         |
| Recycling Center                            | 1 space per 200 sq. ft. of office space; plus one space per 250 sq. ft. of warehouse and maintenance area; plus 1 space per 10,000 sq. ft.        | No requirement                         |
| Recycling Drop-Off Bin                      | 1 space per bin                                                                                                                                   | No requirement                         |
| Renewable Energy Facility                   | 1 space per site and 1 space per 200 sq. ft. of office space                                                                                      | No requirement                         |
| Sanitary Landfill                           | 1 space per 200 sq. ft. of office space; plus 1 space per employee                                                                                | No requirement                         |



| Use Type                     | Parking Ratio                                                                                                     | Bicycle Parking Ratio |
|------------------------------|-------------------------------------------------------------------------------------------------------------------|-----------------------|
| Solid Waste Transfer Station | 1 space per 1,000 sq. ft.                                                                                         | No requirement        |
| Telecommunication Facility   | Exempt from parking regulations except that standalone cell towers require a minimum of 2 spaces and a turnaround | No requirement        |
| Utility                      | 1 space per 200 sq. ft. of office space plus 1 space per employee                                                 | No requirement        |

**Notes:**

1. The provision of parking spaces and passenger loading areas for persons who have disabilities shall be governed by the Americans with Disabilities Act (ADA) Standards for Accessible Design.
2. In addition to the parking requirements of Table 4.2, Minimum Off-Street Parking Requirements, uses with company vehicles shall provide 1 space per company vehicle.
3. The Planning Director may reduce the required number of parking spaces by up to 10% for reasons of topography, tree preservation, mixes of uses, ride sharing programs, availability of transit, or other conditions specific to the site, provided that the reduction in the required number of parking spaces satisfies the intent of this chapter.
4. Upon written request, the Planning Director shall reduce the required number of bike racks by 10% or one 2-bike rack (whichever is greater), provided that the reduction in the required number of spaces satisfies the intent of this chapter and that a minimum of one 2-bike rack is still provided.

(3) **Design Standards**

(a) **Landscaping**

1. Vehicular area landscaping, including interior, terminal and median islands, shall be designed in accordance with the requirements set forth in § 155.402(D)(2) of this Chapter.

(b) **Dimensions**

1. Parking space sizes shall be governed by the dimensions indicated in Table 4-3, Minimum Parking Dimensions for Nonresidential Uses and Residential Uses with Shared Parking Lots:

**TABLE 4-3 MINIMUM PARKING DIMENSIONS FOR NONRESIDENTIAL USES AND RESIDENTIAL USES WITH SHARED PARKING LOTS**

| Angle | Type        | Space Width (feet) | Space Depth (feet) | Aisle Width (feet) |
|-------|-------------|--------------------|--------------------|--------------------|
| 0     | General     | 10.0               | 23                 | 12.0               |
|       | Handicapped | 10.0               | 23                 | 12.0               |
| 45    | General     | 9.0                | 19.0               | 13.0               |
|       | Handicapped | 12.5               | 19.0               | 13.0               |
| 60    | General     | 9.0                | 19.0               | 18.0               |
|       | Handicapped | 12.5               | 19.0               | 18.0               |

|    |         |     |      |      |
|----|---------|-----|------|------|
| 70 | General | 9.0 | 19.0 | 18.0 |
|----|---------|-----|------|------|

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |             |      |      |      |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|------|------|------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Handicapped | 12.5 | 19.0 | 18.0 |
| 75                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | General     | 9.0  | 19.0 | 24.0 |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Handicapped | 12.5 | 19.0 | 24.0 |
| 80                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | General     | 9.0  | 19.0 | 24.0 |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Handicapped | 12.5 | 19.0 | 24.0 |
| 90                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | General     | 9.0  | 19.0 | 24.0 |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Handicapped | 12.5 | 19.0 | 24.0 |
| <b>Notes:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |             |      |      |      |
| <ol style="list-style-type: none"> <li>0 angle parking represents parallel parking</li> <li>Angled parking with two-way traffic movement shall be a minimum of 24 feet wide</li> <li>The maximum grade permitted for any required parking shall not exceed 8%.</li> <li>Parking spaces using geometric standards other than those specified above may be approved if developed and sealed by a registered engineer subject to a determination by the Town Engineer that the proposed facility will satisfy off-street parking requirements as adequately as would a facility using those specified above.</li> <li>Handicap parking spaces are required to have a minimum five foot wide access aisle for loading and unloading. Access aisle may be shared between two spaces.</li> </ol> |             |      |      |      |

(c) ***Bicycle Parking Facilities***

When required pursuant to Table 4-2, bicycle parking facilities shall meet the following requirements:

- Each bicycle rack shall accommodate two bicycle parking spaces. Where a bike can be locked on both sides of a rack without conflict, each side can be counted as a required space.
- Bicycle racks shall be securely anchored, easily usable with both U-locks and cable locks and support a bicycle at two points of contact to prevent damage to the bicycle wheels and frame.
- Spacing of the racks shall provide clear and maneuverable access. Each required bicycle parking space must have at least two by six feet of clearance and be located no closer than three feet from a wall.
- Bicycle racks may be placed on private property or within the public right-of-way. Facilities in the right-of-way must be approved by the Public Works Director or NCDOT, as applicable.
- Bicycle rack location shall not impede pedestrian and vehicular traffic.
- Bicycle racks must be publicly accessible and be located no more than 100 feet from the building entrance the bicycle rack is intended to serve.

7. Bicycle racks shall be separated from automobile parking by a physical barrier or by at least 6 feet where automobile parking is prohibited.

(d) ***Circulation Standards***

1. A safe arrangement of pedestrian pathways, bikeways, roads, driveways, and off-street parking and loading spaces within parking areas shall be provided.
2. Streets, pedestrian walks, parking areas, and open space shall be designed as integral parts of an overall site design and shall be properly related to existing and proposed buildings, adjacent uses and landscaped areas.
3. Structures, vehicular circulation lanes, parking spaces, driveways, and open spaces shall be designed to provide logical, impediment free pedestrian movement. The site shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic.
4. Where off-street parking directly abuts a walkway or sidewalk, the parking area shall be separated from the walkway or sidewalk by concrete wheel stops or continuous curbing. Walkways or sidewalks shall be a minimum of five feet wide, exclusive of vehicle overhang. Single family residential uses are exempt from this requirement.
5. A continuous internal pedestrian walkway shall be provided from each adjacent perimeter public sidewalk to all customer entrances.

(e) ***Surfacing Material***

1. Unless provided below, all off-street facilities provided for parking or any other vehicular use area shall be surfaced with asphalt or concrete and shall be maintained in a smooth, well-graded condition. Alternative surfaces may be reviewed and approved by the Town Engineer.
2. Grass Parking
  - A. Grass or other pervious parking surfaces may be permitted for specific uses as set forth below, subject to TRC approval. Where provided, such alternative parking surfaces shall be maintained in a smooth, well-graded condition. If parking demand is such that the grass is damaged or destroyed to the extent that it ceases to grow and is not repaired or replaced, then paving in accordance with this Section will be required.
  - B. All driveways, access aisles and parking spaces (excluding handicapped) may be surfaced with grass for the following:
    - i. Uses which require parking on an average of less than five days per week during a month;

ii. Schools and churches; and

iii. Parks, trailheads, playgrounds, ballfields, football and baseball stadiums, fairgrounds, and other similar outdoor recreation areas.

(f) ***Pavement Markings***

All pavement markings shall be maintained to be distinguishable.

(g) ***Lighting***

Where off-street facilities are provided for parking or any other vehicular use area adequate outdoor lighting shall be provided. Lighting shall be so arranged as to direct the light and glare away from streets and adjacent property in accordance with the requirements set forth in § 155.404.

(h) ***Drainage***

Parking lots shall not drain onto or across public sidewalks or into adjacent property, except into a natural watercourse or a drainage easement. In already developed areas where this condition would be impossible to meet, the Town Engineer may exempt the applicant from this requirement, provided that provisions are made for drainage.

(i) ***Entrances and Exits***

Entrances and exits, except those associated with a single-family residential use, are subject to the dimensional standards provided in § 155.400, Table 4-1.

(4) **Alternative Parking Plans**

(a) ***General***

To modify the parking ratios set forth in Table 4-2 of this Section where applicant-submitted parking data, prepared and sealed by a registered engineer in the State North of Carolina, illustrates that the standards of this Section do not accurately apply to a specific development, the applicant must apply for a variance. The variance request shall include:

1. The size and type of the proposed development;
2. The mix of uses;
3. The anticipated peak parking need;
4. The proposed parking rate; and
5. The data necessary to support the request.

(b) ***On-Street Parking***

On-street parking spaces may count toward meeting off-street parking requirements. To be considered, the on-street spaces shall be located immediately abutting the subject parcel, entirely within the extension of the side lot lines into the roadway, and not within any required clear sight triangle.

(c) ***Off-Site Parking***

Required off-street parking spaces may be located on a separate lot from the lot on which the principal use is located if the off-site parking complies with all of the following standards.

1. Ineligible Activities

Off-site parking may not be used to satisfy the off-street parking requirements for residential uses (except for guest parking), as well as convenience stores or other convenience-oriented uses. Required parking spaces reserved for persons with disabilities may not be located off-site.

2. Location

Off-site parking spaces shall be located within 750 feet from the primary entrance of the use served unless shuttle bus service is approved via a Variance. Off-site parking may not be separated from the use that it serves by a street right-of-way with a width of more than 80 feet unless a grade-separated pedestrian walkway is provided, or other traffic control or Variance-approved shuttle bus service is provided to the off-site parking area.

3. Zoning Classification

Off-site parking areas serving non-residential uses shall be located in nonresidential districts.

4. Agreement

Off-site parking shall be enforced by an off-site parking agreement, subject to review by, and in a form acceptable to the Town Attorney.

(d) ***Shared Parking***

The Planning Director may authorize up to a 20% reduction in the number of required parking spaces for multiple and mixed-use projects and for uses that are in close proximity to one another and which have different peak parking demands and operating hours. Shared parking shall be subject to the following standards:

1. Application

A shared parking study shall be submitted in writing to the Planning Director.

2. Location

All uses which participate in a shared parking plan shall be located on the same lot or on contiguous lots. The shared parking lot shall have access as though the uses were a single project.

3. Shared Parking Study

The shared parking study, shall clearly establish the uses that will use the shared spaces at different times of the day, week, month or year. The study shall:

- A. Be based on a generally accepted methodology for determining shared parking;
- B. Define the size and type of activities, the composition of tenants, the rate of turnover for proposed shared spaces, and the anticipated peak parking and traffic demands; and
- C. Provide for no reduction in the number of required handicapped spaces.

4. Shared Parking Agreement

A shared parking plan will be enforced through written agreement among all owners of record, subject to review by, and in a form acceptable to the Town Attorney.

5. Change in Use

Should any of the uses in the shared parking study change, or if any of the conditions described in the approved shared parking study or agreement no longer exist, the owner of record shall have the option of submitting a revised shared parking study in accordance with the standards of this Section or of providing the number of spaces required for each use as if computed separately.

(e) ***Valet Parking***

The Planning Director shall approve valet parking as a means of satisfying off-street parking requirements. Valet parking shall not cause customers or patrons who do not use the valet service to park off site or in the right-of-way or cause queuing in a street, driveway, or drive aisle. The following additional standards shall apply to valet parking:

- 1. Adequate assurance of the continued operation of the valet parking is provided, such as a contractual agreement for valet services or the tenant's affidavit agreeing to provide such services;

2. The maximum number of spaces reserved for valet parking shall not exceed 25 percent of the minimum number of required off-street parking spaces.
3. Valet parking area shall not be located within 200 feet of a public entrance to a building. Areas designated for valet parking shall not interfere with vehicular circulation or emergency access and shall not cause customers who do not use the valet service to park off-premise or cause queuing in the right-of-way.

## PART 2. QUEUING STANDARDS

### (D) OFF-STREET QUEUING REQUIREMENTS

Queuing shall be provided for all drive-thru establishments. Each queuing space shall be a minimum of eight feet by 20 feet, clearly defined and designed so as not to conflict or interfere with other traffic using the site. Unless otherwise indicated below, queuing shall be measured from the front of the stopped vehicle located at the point of service to the rear of the queuing lane. One additional queuing space shall also be provided after the point of service for all uses.

#### (1) **Minimum Number Of Spaces**

Queuing spaces shall be provided as indicated in Table 4-4 below.

**TABLE 4-4 - MINIMUM QUEUING STANDARDS**

| Use                                       | Number of Spaces                                                                                                                                                                                                                                                                                                                                                                                      | Required By-Pass <sup>(1)</sup> |
|-------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|
| <b>Drive-Thru Financial Institution</b>   |                                                                                                                                                                                                                                                                                                                                                                                                       |                                 |
| Teller Lanes                              | 5                                                                                                                                                                                                                                                                                                                                                                                                     | Y                               |
| Automatic Teller Lanes                    | 3                                                                                                                                                                                                                                                                                                                                                                                                     | N                               |
| <b>Drive-Thru Restaurant</b>              | 6                                                                                                                                                                                                                                                                                                                                                                                                     |                                 |
| Minimum before Menu Board                 | 4                                                                                                                                                                                                                                                                                                                                                                                                     | Y                               |
| <b>Drive-Thru Car Wash</b>                |                                                                                                                                                                                                                                                                                                                                                                                                       |                                 |
| Automatic                                 | 5                                                                                                                                                                                                                                                                                                                                                                                                     | N                               |
| Self-Service                              | 3                                                                                                                                                                                                                                                                                                                                                                                                     | Y                               |
| <b>Drive-Thru Oil Change</b>              | 4                                                                                                                                                                                                                                                                                                                                                                                                     | Y                               |
| <b>Gasoline Pump Island</b>               | 20 feet of queuing at each end of pump island                                                                                                                                                                                                                                                                                                                                                         | N                               |
| <b>Drive-Thru Dry Cleaning or Laundry</b> | 3                                                                                                                                                                                                                                                                                                                                                                                                     | Y                               |
| <b>Drive-Thru General Retail</b>          | 4                                                                                                                                                                                                                                                                                                                                                                                                     | Y                               |
| <b>Notes:</b>                             |                                                                                                                                                                                                                                                                                                                                                                                                       |                                 |
| 1.                                        | All Uses: a by-pass lane shall be required if 5 or more queuing spaces are provided. A by-pass lane a minimum of ten feet wide shall be provided before or around the point of service. A by-pass lane is not be required if the queuing lane is adjacent to a vehicular use area which functions as a by-pass lane. The by-pass lane shall be clearly designated and distinct from the queuing area. |                                 |
| 2.                                        | Queuing spaces shall not impede traffic circulation or movements into or out of off-street parking spaces.                                                                                                                                                                                                                                                                                            |                                 |

## PART 3. LOADING STANDARDS



(E) **OFF-STREET LOADING REQUIREMENTS**

(1) **Loading Facilities Required**

- (a) Off-street loading facilities shall be required for uses that regularly handle large quantities of goods. Loading facilities shall be of sufficient quantity to adequately serve the proposed use.
- (b) Any vehicle sales or rental facility or similar use requiring delivery of vehicles by truck shall demonstrate adequate on-site area exists for the loading and unloading of such trucks.
- (c) Any convenience store or similar use requiring deliveries by truck shall demonstrate adequate on-site area exists for the loading and unloading of such trucks.

(2) **Design and Layout**

- (a) Loading and unloading activity shall not be permitted in any public right-of-way. In no case shall loading and unloading activity encroach on or interfere with the public use of streets, sidewalks, and lanes by automotive vehicles or pedestrians. Adequate space shall be made available for the unloading and loading of goods, materials, items or stock for delivery and shipping.
- (b) Where off-street loading facilities are provided, they shall be not less than 15 feet in width by 40 feet in length, with not less than 15 feet of vertical clearance.
- (c) Hours of loading and unloading operation adjacent to ground floor residential uses shall be limited between the hours of 6:30 a.m. and 10:00 p.m. Loading docks shall be signed to indicate "no idling."

(3) **Screening**

All loading areas shall be screened in accordance with § 155.402(G).

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2012-01-04, passed 1-3-12; Am. Ord. 2013-09-04, passed 9-3-13; Am. Ord. 2014-06-10, passed 6-16-14)

## **§ 155.402 LANDSCAPING, SCREENING AND BUFFERING**

### **(A) PURPOSE AND INTENT**

The purpose and intent of this Section is to establish minimum standards for the design, layout, installation, and continued maintenance of landscaping. It is the intent of this Section to encourage creativity in landscape design while providing general direction and criteria for the evaluation of landscaping.

### **(B) APPLICABILITY**

- (1) Unless specifically exempt, all development which requires site plan approval (see § 155.707) shall meet the provisions of this Section.
- (2) Buildings and structures lawfully existing as of the effective date of this Chapter may be redeveloped, renovated or repaired without providing or modifying landscaping, screening, and buffering in conformance with this Section, provided there is no increase in gross floor area in such building or structure or impervious area on the site.
- (3) The maintenance standards in (G)(2) of this Section shall apply as of the effective date of this Chapter to all existing development and new construction.
- (4) Where a building or structure existed as of the effective date of this Chapter, and such building or structure is enlarged in gross floor area or impervious area by 10% or 2,000 square feet, whichever is less, landscaping, screenings, and buffering as specified in this Section shall be provided.
- (5) Landscaping required within an Overlay District is subject to the provisions of this Section, except that regulations within § 155.204 (Overlay Districts) shall supersede and may be either more or less restrictive than the regulations for landscaping contained in this Section. In the Downtown Overlay District, a permitted use may be established, even if all landscaping, screening, and buffering requirements cannot be met for the new use, provided that as much landscaping, screening and buffering as can reasonably be provided is provided by the use.

### **(C) LANDSCAPE PLAN REQUIRED**

- (1) A landscape plan shall be submitted in conjunction with a required site plan (see § 155.707).
- (2) A registered landscape architect shall prepare all landscape plans, except where expressly exempted by the Planning Director. The landscape treatment shall adequately detail the requirements of this section and any additional considerations set forth in the Clayton General Design Guidelines.

## **PART 1. SITE INTERIOR LANDSCAPE REQUIREMENTS**

(D) **SITE INTERIOR LANDSCAPING**

All site plans requiring landscaping in accordance with this Section shall provide site interior landscaping. Perimeter Buffer requirements set forth in PART 2 and Street Yard Trees set forth in PART 3 of this Section shall be provided completely, as required, in addition to these requirements.

(1) **Interior Landscaping**

- (a) 20 percent of the total lot area shall be landscaped.
- (b) One canopy tree, one understory tree, and two shrubs shall be planted for each 1,000 square feet of landscape area required. Trees need to be evenly planted throughout the landscaped area, but may be staggered or clustered as necessary to maximize visual and screening objectives, and to meet the needs of the particular species of plants for root space, water, light, and air circulation.
  - 1. Landscaping provided within vehicular use areas may be counted toward the site interior landscape requirement.
  - 2. Resource conservation areas (see § 155.500) may be used to satisfy a maximum of 40% of the total required landscaped area.

(2) **Vehicular Use Areas**

All vehicular use areas shall observe a minimum front yard of not less than five feet, and a side yard on a corner lot of not less than five feet. Parking lots in residential districts shall have front yards of not less than 15 feet and side and rear yards of not less than five feet.

Parking areas in excess of 1,500 square feet or five spaces shall provide landscaped areas in accordance with the requirements set forth in this Section.

(a) ***Perimeter Screening***

- 1. The perimeter of all parking areas and other vehicular use areas adjacent to residentially-zoned property shall provide a Class C buffer as set forth in this Section.
- 2. The perimeter of all parking areas and other vehicular use areas with frontage on or visibility from any portion of a public right-of-way shall be screened to a height of 3 feet by either a berm, continuous landscaped hedge, decorative fence, decorative masonry wall or any combination thereof.
- 3. Any vegetative screen shall be maintained at a minimum height of 36 inches within two years of planting.
- 4. No such buffer shall be required along an alley.

(b) ***Landscaping Islands***

1. Interior Islands

An interior landscape island shall be provided every ten spaces. Each island shall contain a minimum of 150 square feet of landscaped area with a minimum width of eight feet inside the curb. Each island shall include a minimum of one tree with a minimum caliper of two and one-half inches. Interior islands may be consolidated or intervals may be expanded in order to preserve existing trees of greater than 6" dbh.

2. Terminal Islands

All parking rows shall terminate in a curbed landscaped island. All terminal islands shall include a minimum of one tree with a minimum caliper of two and one-half inches.

3. Median Islands

A median island with a minimum width of eight feet inside the curb shall be sited between every six single parking rows and along primary internal and external access drives. Median intervals may be expanded in order to preserve existing trees of greater than 6" dbh.

(c) ***Curbing***

1. All landscaping in or adjacent to a vehicular use area shall be protected from vehicular damage by a raised concrete curb six inches in height or equivalent barrier, however, the barrier need not be continuous.
2. Landscaped areas adjacent to parking areas shall be landscaped so that no plant material greater than 12 inches in height will be located within two feet of the curb or other protective barrier.

## **PART 2. PERIMETER BUFFERS**

(E) **BUFFERS**

(1) **Buffer Defined**

A buffer is a specified land area, located parallel to and within the outer perimeter of a lot and extending to the lot line, together with the planting and landscaping required on the land. A buffer may also contain, or be required to contain, a barrier such as a berm or wall where such additional screening is necessary to achieve the desired level of buffering between various land use activities. A buffer is not intended to be commensurate with the term "yard" or "setback."

(2) **Buffer Types**

There are four types of required buffers that may occur on any given parcel, as described further in this section.

(a) **Street Buffers**

1. All new development with frontage on a commercial street or designated minor thoroughfare shall provide a Class A buffer as set forth in (E)(3) of this section.
2. Double frontage lots abutting a collector street or residential collector street shall provide a Class A buffer along the entire rear yard frontage.

(b) **Parking Buffers**

Parking buffer requirements are set forth in PART 1 of this Section.

(c) **Compatibility Buffers**

Perimeter compatibility is required along the boundaries of all incompatible zoning districts or existing uses, whichever is more restrictive. If the existing use of an adjacent property is nonconforming then the required buffer shall be determined by the zoning district instead of the existing use. Table 4-5 shall be used to determine the required buffer classification between adjacent districts.

**§155.402, PART 2. TABLE 4-5 COMPATIBILITY BUFFER REQUIREMENTS**

| Subject Property District | Adjacent Property District |      |     |     |     |     |     |     |     |     |     |    |
|---------------------------|----------------------------|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|----|
|                           | R-E                        | R-10 | R-8 | R-6 | O-R | O-I | B-1 | B-2 | B-3 | I-1 | I-2 | PF |
| R-E                       | --                         | --   | --  | --  | --  | --  | --  | --  | --  | --  | --  | -- |
| R-10                      | A                          | --   | --  | --  | --  | --  | --  | --  | --  | --  | --  | -- |
| R-8                       | B                          | A    | --  | --  | --  | --  | --  | --  | --  | --  | --  | -- |
| R-6                       | B                          | A    | A   | --  | --  | --  | --  | --  | --  | --  | --  | -- |
| O-R                       | B                          | A    | A   | A   | --  | --  | --  | --  | --  | --  | --  | -- |
| O-I                       | B                          | B    | B   | B   | A   | --  | --  | --  | --  | --  | --  | -- |
| B-1                       | B                          | B    | B   | B   | B   | B   | --  | B   | --  | --  | --  | -- |
| B-2                       | B                          | B    | B   | B   | B   | B   | --  | --  | --  | --  | --  | -- |
| B-3                       | C                          | C    | C   | C   | C   | B   | B   | B   | --  | --  | --  | B  |
| I-1                       | C                          | C    | C   | C   | C   | C   | C   | C   | B   | --  | --  | B  |
| I-2                       | C                          | C    | C   | C   | C   | C   | C   | C   | B   | --  | --  | B  |
| PF <sup>1</sup>           | --                         | --   | --  | --  | --  | --  | --  | --  | --  | --  | --  | -- |

<sup>1</sup> Where a use in a PF zoning district is generally found only in Industrial or Commercial districts, the use shall be buffered according to the more intensive buffer requirement found in that district.

(Ord. 2015-09-03, adopted 09-08-2015; Am. Ord. 2016-04-04, adopted 04-04-2016)

(d) ***Project Boundary Buffers***

Project boundary buffers are established to mitigate the effect of specific types of development on adjacent properties. Where project boundaries coincide with district boundaries the following project boundary buffers shall apply.

1. Open Space Residential Subdivision

A Class C buffer is required along all project boundaries of an open space subdivision (see § 155.203(H)(8)).

2. Planned Development

- A. A Class C buffer is required along all project boundaries of a planned development.
- B. The continuous visual barrier of Class C buffers is not required for the street-side of non-residential Planned Developments where they abut major or minor thoroughfares.
- C. A Class B buffer may be used when a Planned Development - Commercial (PD-C) abuts a non-residential district (see § 155.203(L)).

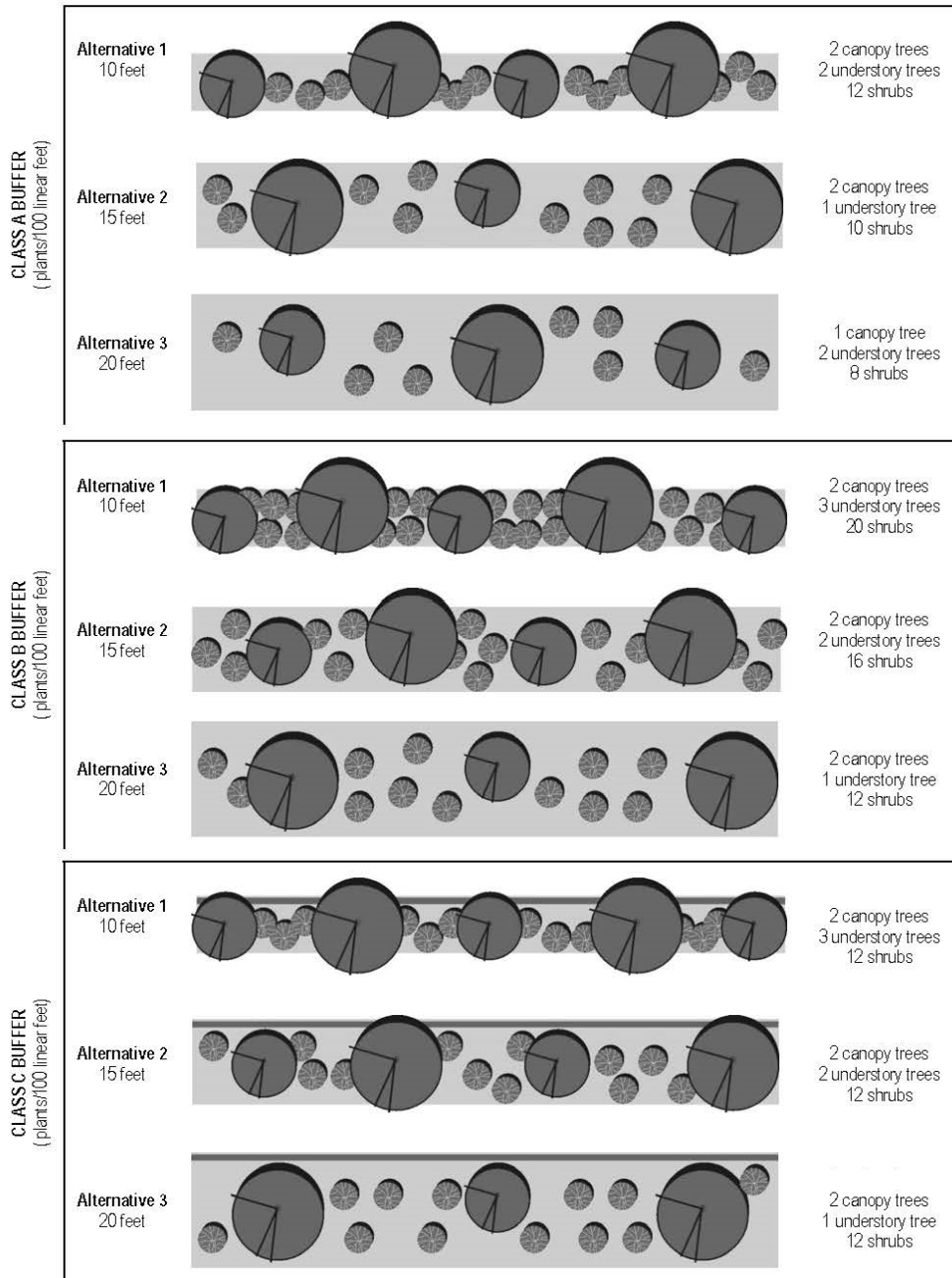
3. Manufactured Home Park

A Class C buffer is required along all project boundaries of a manufactured home park (see § 155.301(G)(4)).

(3) **Buffer Classification**

Figure 4-1 establishes the specific width and plant material for each buffer classification. The applicant may choose any alternative (1, 2, or 3) in the respective buffer classification. Buffers planted below overhead utility lines shall apply any of the allowed buffer alternatives, except that understory trees shall replace any canopy trees at a rate of two understory trees per required canopy tree.

**FIGURE 4-1 LANDSCAPE BUFFERS**



Class C buffer shall include a wall, opaque fence, evergreen hedge, berm, or combination thereof with a minimum height of six feet at installation.

**(4) Location of Buffer**

- (a) Buffers shall be located along the outer perimeter of a lot or parcel, parallel to and extending to the lot or parcel boundary line. Buffers shall not be located on any portion of an existing, dedicated or reserved public or private street or right-of-way.
- (b) Except as provided below, the required buffer shall be provided along the entire frontage abutting the existing, dedicated or reserved public or private street or right-of-way, district boundary, or project boundary, as applicable.
- (c) A buffer may be interrupted in order to provide access (pedestrian or vehicular) to adjacent parcels or public right-of-way.

**(5) Plant and Structure Location within Buffers**

The placement of required plants and structures shall be the decision of the applicant, except that the following requirements shall be satisfied:

- (a) Plant materials shall be located to achieve the maximum level of protection. Plant material shall meet the buffer requirements every 100 feet.
- (b) Canopy trees shall be located no closer than five feet from any structure. Understory trees shall be planted no closer than three feet from any structure.
- (c) Buffer areas not retained in native habitat shall be seeded or sodded with lawn, established with ground cover, or mulched with organic mulch. No turfgrass shall be planted under the dripline of trees. Inorganic ground cover shall not exceed 20% of the total required area of the buffer.

**(6) Planting in Easements**

- (a) Buffers may not be planted in wet retention ponds or drainage easements.
- (b) Trees and shrubs shall be installed no closer than five feet to the flow line of a swale.
- (c) Existing trees may remain in dry retention ponds provided that the natural grade is undisturbed to the tree line, the species that are planted are adapted to seasonal flooding and the pond is adequately maintained.
- (d) Trees may be planted within the boundaries of utility easements with Public Works Director approval, provided the root structure of the proposed tree is not anticipated to extend more than three feet below the ground. Shrubs may be planted, provided they are only within the outer three feet of the easement. Where such trees and shrubs are planted, the property owner shall be responsible for replacement of such required vegetation if maintenance or other utility requirements require their temporary removal.



- (e) A minimum buffer width of five feet or at least half the minimum required buffer width, whichever is greater, shall be provided outside of any required easements. The majority of buffer plantings and all structures shall be located outside the easements.

(7) **Permitted Structures in Buffer Areas**

(a) ***Walls***

Where walls are placed within a required buffer area, they shall meet the following requirements:

1. Walls shall have a minimum height of three feet and a maximum height of six feet. Additional height may be approved by the Planning Director after taking into account site topography, existing and proposed vegetative screening, setbacks, or unique site conditions, such that an overall 6' visual barrier is achieved.
2. Walls shall be constructed of one or a combination of the following materials: stucco over concrete block, brick, stone, split-faced block or glass block in a structurally safe and attractive condition. No walls of exposed concrete block are permitted, whether painted or not.
3. No wall shall be located within any required drainage, utility or similar easement.
4. The applicant shall be required to demonstrate provision for access and maintenance of landscaping and the wall structure at the time of landscape plan approval.
5. Breaks in the wall may be provided for pedestrian connections to adjacent developments.

(b) ***Berms***

Where berms are placed within any required buffer area, they shall meet the following requirements.

1. Berms shall have a minimum average height of 30 inches with side slopes not steeper than three feet horizontal for each one foot vertical.
2. Slopes steeper than three feet horizontal for each one-foot vertical may be permitted if sufficient erosion control methods are taken and deemed by the Town Engineer to be maintainable.

(c) ***Fences***

1. Fences may be constructed in a required buffer.

2. Fences shall have a minimum height of three feet and a maximum height of six feet. Additional height may be approved by the Planning Director after taking into account elements including, but not limited to, site topography, existing and proposed vegetative screening, setbacks, or unique site conditions, such that the maximum 6' height performance criteria is achieved.
3. Fences are subject to the requirements set forth in § 155.402 (G)(6) below.
4. Breaks in the fence may be provided for pedestrian connections to adjacent developments.
5. Fences shall be maintained in a structurally safe and attractive condition and with finished faces and required plantings located towards the adjacent property.
6. Any fence constructed in a buffer shall be capable of withstanding a 30 pound per square foot horizontal wind load from any direction.

**(8) Permitted Use of Buffer Area**

A buffer area shall not be used for any principal building or use, accessory building or use, vehicle use area or storage area except as specifically permitted below.

- (a) A buffer may be used for passive recreation and picnic facilities; and it may contain pedestrian or bike trails, provided that:
  1. Trails may be incorporated provided that adequate width (minimum 15 feet) is added to the required buffer width to accommodate both the trail and the required buffer plantings. Buffers with trails may also count toward the provision of recreation and open space for the development.
  2. Existing plant material, other than nuisance exotics, shall be preserved to the greatest extent possible; and
  3. All other requirements of this section shall be met.
- (b) Other appurtenances which require high visibility and easy access, such as fire hydrants, mail boxes and bus shelters or benches, are also permitted in a buffer. No screening of such appurtenances shall be required.
- (c) A buffer is encouraged to retain areas of native habitat and may incorporate water resources including stormwater detention or retention facilities. However a minimum 10-foot contiguous width of the buffer shall be preserved as a planting area without stormwater facilities.

**(9) Ownership of Buffers**

Buffers may remain in the ownership of the original applicant; they may be subjected to deed restrictions and subsequently be freely conveyed; or they may be transferred to any consenting grantees, such as the Town, a land conservancy or land trust, or homeowners association. Any such conveyance shall adequately guarantee the protection and maintenance of the buffer in perpetuity and in accordance with the provisions of this section.

**(10) Alternative Compliance**

- (a) Buffer requirements may be modified by the Planning Director upon finding that a modification would be consistent with the standards and purpose of this Chapter, this Section and the adopted plans and policies of the Town; that such modification would not adversely affect the land use compatibility or public interest; and that the subject parcel or modified buffer complies with one or more of the following criteria:
  - 1. The buffer is parallel and adjacent to an existing utility or drainage easement of at least 100 feet in width;
  - 2. The buffer is between uses that are to be developed under a common development plan or series of development plans;
  - 3. The buffer is adjacent to a property that has a joint use agreement with the subject parcel under;
  - 4. The buffer is parallel and adjacent to an existing railroad right-of-way; or
  - 5. The topography of the parcel is such that buffering would not be effective.
- (b) Financial hardship due to meeting the requirements of this is Section shall not be sufficient justification for alternative compliance.

**PART 3. STREET YARD TREES**

**(F) STREET YARD TREES**

- (1) Street yard trees shall be required along all rights of way at the rate of one canopy tree per lot or one canopy tree for every 40 linear feet (spaced a maximum of 50 feet part).
- (2) All street yard trees shall be a minimum of two and one-half caliper inches at time of planting and shall be planted no less than five feet or more than 15 feet from the back of the sidewalk.
- (3) Credit shall be given for any existing tree with a minimum dbh of six inches that is preserved within the planting strip at rate of one preserved tree for two required street yard trees.
- (4) Double frontage lots abutting a collector street or residential collector street shall provide a Class A buffer along the entire rear yard frontage.

**PART 4. SCREENING**

(G) **SCREENING**

(1) **Drive-thru Facilities**

Drive-thru windows and lanes shall be designed to adhere to the following standards:

- (a) Drive-thru windows and lanes placed between the right-of-way and the associated building shall require landscape plantings installed and maintained along the entire length of the drive-thru lane, located between the drive-thru lane and the adjacent right-of-way.
- (b) Such screening shall be a compact evergreen hedge or other type of dense foliage. At the time of installation, such screening shall be at least 36 inches in height and be maintained at a minimum height of 48 inches within two years of planting.
- (c) Drive-thru windows are not permitted on the side of a building adjacent to any residential district.

(2) **Service Areas**

- (a) Trash collection, trash compaction, recycling collection and other similar service areas shall be located on the side or rear of the building and shall be effectively screened from view from adjacent properties or public rights-of-way.
- (b) Service areas shall be fully enclosed by opaque walls, gates, and/or fences at least eight feet high and shall be constructed of the same materials as the primary building.
- (c) All service areas are limited to the area shown on an approved site plan.
- (d) All service areas shall be located a minimum of 50 feet away from any residentially-zoned property line.

(3) **Loading Areas**

Loading areas shall be subject to the following screening requirements:

- (a) A 100% year-round screen of all loading areas visible from residential properties or public rights-of-way is required.
- (b) Screening shall consist of berms, walls, fences, plant material or combination thereof totaling eight feet in height at installation or completion of construction. Wall or fence materials shall be compatible with the primary structure.
- (c) Loading docks not in an I-1 or I-2 District shall be located at the side or rear of buildings a minimum of 50 feet away from any residentially-zoned property, unless the loading area is wholly within a closed building.

(4) **Mechanical Equipment**

- (a) All roof, ground and wall mounted mechanical equipment including, but not limited to air handling equipment, vents, compressors, duct work, transformers and elevator equipment) shall be screened from view.
- (b) Roof-mounted mechanical equipment shall be shielded from view on all sides. Screening shall consist of materials consistent with the primary building materials, and may include metal screening or louvers which are painted to blend with the primary structure.
- (c) Wall or ground-mounted equipment screening shall be constructed of:
  - 1. Planting screens;
  - 2. Brick, stone, reinforced concrete, or other similar masonry materials; or
  - 3. Redwood, cedar, preservative pressure treated wood, or other similar materials.

(5) **Utilities**

Above-ground utilities and appurtenances to underground utilities which require above-ground installation shall be screened by a continuous planting of shrubs, with a minimum mature height equal to that of the utility structure. Required access to these utilities is exempt from the screening provisions.

(6) **Fencing and Walls**

- (a) A fence or wall not more than six feet in height may be installed along any side and rear lot line. A fence or wall in any required front yard shall not exceed four feet in height.
- (b) Fences and walls shall be constructed of high quality materials, such as decorative blocks, brick, stone, treated wood, wrought iron and black vinyl coated chain link fence . Black vinyl coated chain link fence is permitted subject to the following additional requirements:

1. Residential Uses

Black vinyl coated chain link fencing is permitted for individual lots from the front façade of the house in the side and/or rear. It may not be used forward of the front façade. It may be used along a side street or between the house and the side property line if screened from view by landscape materials maintained at the same height as the fence or higher. Shrubs shall be at least 30 inches in height at planting. Chain link fencing is not permitted for use by a developer for buffering and screening. Black vinyl coated fencing may be used for recreational uses including, but not limited to parks, playgrounds, swimming pools, tennis courts and basketball courts.

2. Non-Residential Uses

Black vinyl coated chain link fencing is permitted for the accessory enclosures of day care facilities, kennels or veterinary clinics. Black vinyl coated chain link fencing is permitted for industrial uses. Vinyl coating is not required for fences when not visible from adjacent property or right-of-way.

3. Public Utilities

Black vinyl coated chain link fencing is permitted for public utility purposes. Vinyl coating is not required for industrial fences when it is not visible from adjacent property or right-of-way.

4. The use of black coated vinyl chain link fencing for uses not listed above is permitted if the use of such material is consistent with, and will not impact the aesthetic appearance of the surrounding area.

- (c) Fences topped with razor, concertina, or barbed wire are limited to properties designated for industrial or utility use.
- (d) Breaks in the fence or wall may be provided for pedestrian connections to adjacent developments.
- (e) The maximum length of a continuous, unbroken and uninterrupted fence or wall plane shall be 100 feet. Breaks shall be provided through the use of columns, landscaped areas, transparent sections and a change in material.

## **PART 5. GENERAL LANDSCAPING, SCREENING AND BUFFERING PROVISIONS**

### **(H) GENERAL PROVISIONS**

#### **(1) Design, Installation and Establishment**

##### **(a) *Plant Material***

- 1. Except as otherwise specified in this article, landscaping materials shall conform to the following minimum specifications:
  - A. Canopy trees shall have a 2.5 inch caliper and be 8 feet tall following installation.
  - B. Understory trees shall have a 2.0 inch caliper and be 6 feet tall following installation.
  - C. Shrubs not used for screening shall be a minimum height of 12 inches following installation.

D. Shrubs explicitly used for screening shall be a minimum height of 24 inches following installation

2. Plant material shall be chosen from the lists of recommended plant species contained in the Clayton General Design Guidelines. Plant materials that vary from this list may be used provided they meet the general size requirements and growth habits of the existing list of recommended plant species.

3. Selected plants should be predominately hardy species that are native to North Carolina.

(b) ***Cold Hardy and Drought Tolerant Plants***

Plantings shall be cold hardy for the specific location where they are to be planted. Trees and shrubs shall be salt tolerant and drought tolerant and able to survive on natural rainfall once established with no loss of health.

(c) ***Soils***

Planting areas shall have uncompacted coarse loam that is a minimum of 12 inches deep. Soils shall be appreciably free of gravel, stones, rubble or trash. All compacted soil, contaminated soil or roadbase fill shall be removed.

(d) ***Issuance of Certificate of Occupancy***

The Code Enforcement Officer may not issue a permanent Certificate of Occupancy for an approved site plan or part thereof, until all seeding, trees, and plant material have been placed in accordance with the approved site plan and requirements of this Section. A temporary Certificate of Occupancy may be issued for a period of 30 days under circumstances that would affect the seeding and planting of the site, or until the proper planting season is reached to complete the landscaping requirements, and may be extended up to 90 days upon request to the Code Enforcement Officer.

(2) **Requirements for Maintaining Planted Areas**

(a) ***Responsibility***

The responsibility for maintenance of a planted area shall remain with the owner, his or her successors, heirs, assignees or any consenting grantee. Maintenance is required in order to ensure the proper functioning of a planted area.

(b) ***Maintenance***

1. All plantings shall be maintained in an attractive and healthy condition. Maintenance shall include, but not be limited to, watering, mulching, fertilizing

and pest management, mowing, weeding, removal of litter and dead plant material, and necessary pruning and trimming.

2. Necessary pruning and trimming shall be in accordance with the American National Standards for Tree Care Operations: Tree Shrub and Other Woody Plant Maintenance - Standards Practices (Pruning), and shall not be interpreted to include topping of trees through removal of crown material or the central leader, or any other similarly severe procedures such as lollipopping or meatballing that cause irreparable harm to the natural form of the tree, except where such procedures are necessary to maintain public overhead utilities. Any such activity shall be a violation of this Chapter. Additional plant material shall be required to replace or supplement the damaged plant material.
3. Dead or diseased plantings shall be removed. Replacement plantings shall be provided for any required plants which die or are removed for any reason and shall meet all minimum standards and conform to these regulations.
4. Natural water courses shall be maintained in a natural condition.
5. A water source shall be supplied within 50 feet of any planting requiring continuing watering. Where non-native or non-drought tolerant native vegetation is incorporated an irrigation system shall be required. Irrigation systems shall meet the standards of the Town.
6. Landscape structural features such as walls, fences, berms or water features shall be maintained in a structurally safe and attractive condition.
7. Where other uses, including pedestrian, bike or other trails these uses shall be maintained to provide for their safe use.

(c) ***Failure to Maintain***

In the event that any owner of a planted area fails to maintain the planted area according to the standards of this section, the Town shall have the right to recover the cost of enforcement, including reasonable attorney fees. The Town may also, following a notice of violation and a demand that deficiency of maintenance be corrected, enter the planted area to take maintenance action. The cost of such maintenance shall be charged to the party having the primary responsibility for maintenance of the planted area.

(3) **Credit for Existing Plant Material**

- (a) With the exception of street yard tree credit, credit for existing plant material shall be allocated on a one-for-one basis for canopy trees, understory trees or shrubs. The size of material shall not be taken into account, except where such material is below the required minimum planting size.



- (b) Required planting areas shall incorporate existing natural vegetation to the maximum extent feasible. Prior to disturbance of a required planting area approval shall be obtained from the Town. Where existing vegetation is inadequate to meet the required planting standards, additional plant material shall be required.
  - (c) The retention of existing vegetation shall be maximized within proposed planting areas. Existing native habitat or vegetation located within planting area that meets the requirements of this section may be counted, provided such plant material meets the minimum standards of this section. If the existing vegetation has been credited and is subsequently removed or dies, it shall be replaced with the appropriate planting material.
  - (d) Credit may be permitted for existing plant material and walls on adjacent property, provided such items are in a permanently protected area, including, but not limited to:
    - 1. A conservation easement or preserve area on adjacent property; or
    - 2. An existing utility or drainage easement exceeding 100 feet in width.
- (4) **Tree Protection During Construction**

Existing trees specified on the landscape plan to remain on the site as a function of fulfilling the purpose of this Section shall be protected from vehicular movement and material storage over their root spaces during the following construction. An undisturbed area with a porous surface shall be reserved around a tree, based on dbh of the tree as provided in Table 4-7, and with no protective distance less than four feet from the base of the tree.

**TABLE 4-7: TREE PROTECTION**

| Trunk Diameter dbh | Area Required |
|--------------------|---------------|
| 4-10 inches        | 80 sq. ft.    |
| 11-16 inches       | 180 sq. ft.   |
| 17-20 inches       | 320 sq. ft.   |
| 21 inches plus     | 340 sq. ft.   |

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2012-01-04, passed 1-3-12; Am. Ord. 2013-06-01, passed 6-3-13; Am. Ord. 2013-08-02, passed 8-5-13; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord 2016-04-04, adopted 04-04-2016)

## **§ 155.403 SIGNS**

### **(A) PURPOSE AND INTENT**

Signs are herein regulated in the interest of promoting traffic safety, safeguarding the public health, facilitating police and fire protection, preventing adverse community appearance, over-crowding of the land, and protecting the character of the area in which they are located. This Section is intended to establish requirements for the concentration, placement, height, bulk, and area of signs, while preserving community scenic, economic, and aesthetic values.

### **(B) PERMIT REQUIRED**

Except as exempted in this Section and in accordance with §155.713, no sign may be erected, located, or altered in any manner until a sign permit (if necessary), and building permit if necessary, has been secured from the Planning Department.

### **(C) SIGN DEFINITIONS**

A sign is described as any visual device or representation designed or used for the purpose of communicating a message or identifying a product, service, person, organization, business, or event, with the use of words or characters, visible from outside the premises on which such device is located. "Sign" is further defined in section §155.802 Defined Terms. Specific sign types are described below in further detail.

#### **(1) Abandoned Sign**

A sign which has not identified or advertised a current business, service, owner, product, or activity for a period of at least 360 days.

#### **(2) Awning/Marquee/Canopy Sign**

A sign which is attached flat to an awning, marquee, or canopy.

#### **(3) Backlit Sign, (as it applies to Awnings, Marquees, and Canopies)**

A awning, either fabric, plastic, or other material that is partially or wholly translucent, and allows lighting from behind to illuminate the part or whole of the awning, marquee, or canopy at night.

#### **(4) Billboard**

A structure used for the permanent display of off-premise advertising.

#### **(5) Cabinet Sign**

A sign in which a removable sign face (usually with translucent sign graphics which are illuminated from behind) is enclosed on all edges by a cabinet.

(6) **Clearance**

The distance above the walkway, or other surface if specified, to the bottom edge of a structure or sign. The term can also refer to a horizontal distance between two objects.

(7) **Changeable Copy Sign – Electronic**

A sign or portion thereof that displays non-pictorial, text information in which alphanumeric characters or symbols are defined by a small number of matrix elements using different combinations of light emitting diodes (LED's), fiber optics, light bulbs or other illumination devices within the display area. Electronic changeable copy signs include computer programmable, microprocessor controlled electronic displays. Electronic changeable copy signs include projected images or messages with these characteristics onto buildings or other objects.

(8) **Changeable Copy Sign – Manual**

A sign or portion thereof designed to accommodate frequent message changes composed of letters, characters, or illustrations and that can be changed or rearranged manually, without altering the face or surface of the sign.

(9) **Channel Letter Sign**

A sign consisting of fabricated or formed three-dimensional letters, individually applied to a wall or joined by a raceway. Channel letter signs are often internally illuminated. These signs may also include "bullets" or "taglines", which are smaller than and subordinate to the main sign letters, and function as small, irregularly shaped cabinets.

(10) **Deteriorated Sign**

Any sign which, together with its supports, braces, anchors, and other structural elements, is not maintained in accordance with the provisions of the North Carolina State Building Code, or where elements of the display area or panel are visibly cracked, broken, or discolored, or where the support structures or frame members are visibly corroded, bent, broken, torn, or dented, or where the message can no longer be read under normal viewing conditions.

(11) **Development Identification Sign – Non-residential**

A sign that identifies a non-residential development with multiple buildings. The sign may contain the name of the development, names of the tenants, or a combination of these components.

(12) **Development Identification Sign - Residential**

A sign that identifies a residential development such as a single family residential subdivision, apartments, or multi-family development.

(13) **Drive-thru Menu Board**

A sign displaying the bill of fare for a drive-thru restaurant.

(14) **Easel / Sandwich Board / A-Frame Sign**

An upright “A”-frame or “H”-frame structure used for displaying promotional information to the public.

(15) **Electronic Sign: Electronic Graphic or Video Display**

A sign or portion thereof that displays either static or moving pictorial images or graphics, with or without text information, defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs or other electronic illumination devices within the display area. Electronic graphic or video display signs include computer programmable, microprocessor controlled electronic or digital displays, not including electronic changeable copy signs. Electronic graphic or video display signs include projected images or messages with these characteristics onto buildings or other objects.

(16) **Façade**

Generally known as the face of a building, especially the principal face. More specifically, this is that portion of any exterior elevation on the building extending from grade to top of the parapet, wall, or eaves, and the entire width of the building elevation. The primary façade is the side that includes the storefront and main entrance, or main public facing portion of a building.

(17) **Feather Sign, or Feather Flag**

A piece of cloth or similar material, typically elongated, oblong, and/or with a curved top or bottom edge, which is attached by two edges or one long, curving edge to a pole, and resembles a feather in shape. Generally, the sign is self-supporting (not attached to a building) and/or stuck into the ground in a temporary fashion, the flag is attached by a sleeve (and not by grommets or rope), and the entire sign is temporary in nature.

**18 Fence Wrap**

Fence wraps, as defined by G.S. 160D-908, are exempt from this Ordinance as provided by G.S. 160D-908.

(18) **Flag, or Flag Sign**

A piece of cloth or similar material, typically rectangular, square, or triangular, which is attached by one edge to a pole or pole-mounted rope. More often than not, a flag is attached at distinct points, and not sleeved over the pole.

(19) **Flag Pole**

A straight pole used for flying a flag. A flag pole is a long, rigid structure, permanently mounted either vertically, horizontally, or angled, where one end is anchored and the other end displays one or more flags.

(20) **Flashing Sign**

Any sign whose artificial illumination is not kept constant in intensity at all times when in use and which exhibits changes in light, color, direction, or animation. This definition does not include Changeable Copy Signs or Electronic Signs which meet the requirements set forth herein.

(21) **Freestanding Sign**

A sign supported by a structure that is not itself part of a building.

(22) **Gas Balloon (or Balloon Sign)**

A lighter-than-air, gas-filled balloon, tethered in a fixed location, which may contain an advertisement message on its surface or attached to the balloon or its tether in any manner.

(23) **Hanging Sign**

A sign that is hanging from an awning, marquee or canopy.

(24) **Historic Sign**

A sign that is 50 years or older; particularly unique in character, design, or history; or part of the historic character of a business or building.

(25) **Illumination**

A source of artificial or reflected light, either directly illuminating a partially or wholly translucent material from a source of light incorporated inside a structure or sign, or indirectly from an artificial source outside of a structure or sign.

(26) **Illumination, Halo**

A sign using a 3-dimensional message, logo, etc., which is lit in such a way as to produce a halo effect. For the purposes of regulating total sign face area, the entirety of the area covered by the sign and the halo illumination shall be considered.

(27) **Inflatable Sign**

Signs that are inflated using air pressure.

(28) **Monument Sign**

A freestanding sign where the base of the sign is on the ground and is supported primarily by an internal structural framework or solid structural features other than support posts.

(29) **Obsolete Sign**

A sign whose message describes the availability of goods or services at a location where such goods and services are no longer available and have ceased to be available for a period of at least 60 days or, in the alternative, any sign whose content pertains to a time, event or purpose which has elapsed or expired.

(30) **Off-Premises Sign**

A sign which conveys information about a business, product, service, owner, or other activity not sold or offered on the premises on which the sign is located.

(31) **On-Premises Sign**

A sign which conveys information about a business, product, service, or other activity offered or sold at the premises on which the sign is located.

(32) **Pan Sign**

A flat sign where vinyl or other adhesive graphics are applied to a metal sheet or some other type of flat backing plate. Often these signs are rectangular and used above storefronts, taking the place of areas that might otherwise be channel letter or cabinet signs. Pan signs are not made of translucent materials and are externally illuminated, if they have illumination at all.

(33) **Personal Expression Sign**

An on-premises sign that expresses an opinion, interest, position, or other non-commercial message.

(34) **Pole Sign**

A sign mounted on a freestanding pole attached to the ground by a support structure having a ratio of greater than four to one sign width to narrowest width of support structure.

(35) **Portable Sign**

A sign that is not directly attached to the ground and is designed to be easily transportable.

(36) **Post Sign**

A freestanding sign permanently affixed to the ground by support posts and does not have a solid base.

(37) **Post and Arm Sign**

A sign supported by a single upright post, with a horizontal arm from which a sign is suspended.

(38) **Primary Building Identification Sign**

A sign communicating the generic or specific name of an entire building without communicating or advertising for a specific business, service, owner, or product housed therein.

(39) **Primary Side (of a Building)**

The face or façade of a building that generally occurs in association with the main storefront entrance.

(40) **Primary Sign**

Any sign generally occurring on the primary building façade or above or in association with the main storefront entrance.

(41) **Projecting Sign**

A sign fastened directly to and extending out from a building face or wall, so that the sign face is perpendicular to or at an angle to the building face or wall.

(42) **Roof Sign**

A sign that is mounted to a roof with an angle less than 75 degrees or a sign displayed above the highest point of the roofline on a pitched roof or the parapet wall on a flat roof.

(43) **Secondary Sign**

Any sign not occurring on the primary side of a building.

(44) **Snipe Sign**

A sign tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, public benches, trash cans, streetlights, or other objects, or placed on any public property or in the public right of way or on any private property without the permission of the property owner. May also be known as a “bandit sign”.

(45) **String or Rope Lighting**

Lights, either constant, flashing, or intermittent, arranged in a line, string, or rope, generally lining a window, door, or other architectural or façade feature.

(46) **Tenant Identification Sign**

An exterior sign that identifies tenants of a single building, such as a multi-family residential building or a multi-tenant, non-residential commercial building, where access to each tenant is provided internally, via a shared external entrance. The sign may contain the name of the development, names of the tenants, suite number or address of each tenant, or a combination of these components. Tenant identification signs are designed to the pedestrian scale, located on or to the side of the shared external entrance, and are generally readable at a distance of less than 10-15 feet.

(47) **Temporary Signs**

A sign that is not intended or designed for permanent display.

(48) **Wall/Fascia Sign**

A sign adhered to, attached to or mounted away from but parallel to the building wall.

(49) **Windblown Sign**

Any sign composed of a banner, flag, pennant, or other objects, mounted and fastened in such a manner as to move upon being subjected to pressure by air pressure, wind, or breeze.

(50) **Window / Door Sign**

A sign attached to the inside or outside of a window or door, or displayed behind a window.

(D) **EXEMPTIONS**

The following signs (known as “Exempt Signs”) shall not be subject to a Sign Permit application per §155.713 “Sign Permit”, with regulation hereunder. Exempt Signs shall not count toward the total allowed sign face area on a site, unless otherwise noted below. Exempt Signs shall still be governed by the General Sign Regulations and Specific Sign Regulations, including dimensional standards of each individual sign type, except as otherwise noted below:

- (1) Signs erected by, on behalf of, or pursuant to the authorization of a governmental body.



- (2) Personal expression signs of any sign type, including flags, provided that they do not exceed 4 square feet in area per side, are non-commercial in nature, and are non-illuminated. The maximum number of personal expression signs per lot is two.
- (3) Flags, pennants, or insignia of any governmental or non-governmental organization, when not displayed in connection with a commercial promotion or as an advertising device provided that the following criteria are met:
  - (a) Flags and flagpoles are not located within any public right-of-way, and must meet the setback requirements of the zoning district, as well as the setbacks described in “Flags” (G)(15) of this Section;
  - (b) Flags and flagpoles do not extend more than 25’ above the ground;
  - (c) No more than 2 flags per lot in residential districts, and no more than 3 flags per lot in all other districts;
  - (d) Maximum size per flag is 24 square feet in residential districts and 40 square feet in all other districts;
  - (e) Illumination is permitted so long as it is not brighter than the light produced by a 100W incandescent bulb, and shines directly up at the flag.
  - (f) Only one exempt flag pole is permitted per lot; this counts toward the total number of permitted flag poles on a site.
  - (g) If the above criteria are not met, or if the flag contains commercial messaging, then the flag shall require a sign permit and shall be regulated according to the General Sign Regulations and Specific Sign Regulations for that sign type.
- (4) Miscellaneous informational signs. The following types of miscellaneous informational signs shall be exempt from sign permit requirements:
  - (a) Informational signs appearing on gasoline pumps, such as the names of grades of fuel and prices and conditions relating to prices (i.e. full or self-service).
  - (b) Signs appearing on vending boxes, provided they do not project more than 12 inches above or past the sides of the vending box, and no more than a total of 80 square feet of signage exists on each vending box. Vending boxes that stand apart from the primary structure on a site shall be considered as accessory structures, and shall require sign permits as regulated by General and Specific Sign Regulations, of this Section.
  - (c) Directional signs less than 4 square feet appearing on or adjacent to entry doors such as PUSH, PULL, OPEN, and/or CLOSED, as regulated by (G)(3) “Window / Door Signs”, and a maximum of two signs are allowed per entry door.

- (d) "Open" or "closed" signs that are turned on or displayed only during business hours, provided they are less than 4 square feet and only one may be displayed per storefront or façade.
  - (e) Signs appearing on display windows or doors denoting hours of operation, credit cards accepted, payment options, and similar information, provided they cover less than 2 square feet, only one sign is allowed per façade or entrance, and these signs are also in conformance with other applicable regulations from (G)(3) "Window / Door Signs".
  - (f) Information pertaining to the operating instructions of vending machines and automatic teller machines, including bank logos on the face of ATM machines, provided they do not project more than 12 inches above or to the sides of the vending box or machine housing.
  - (g) Signs providing directions or guiding traffic on private property that do not exceed four square feet in size or four feet in height each, and do not contain a business name, logo, or an advertising message.
  - (h) Signs internal to a large campus or multi-building development that are not visible from the public right-of-way or public realm.
- (5) Signs painted on or otherwise permanently attached to currently licensed motor vehicles that are not primarily used for or strategically parked to be used as a sign.
  - (6) Signs not exceeding four square feet in size that are customarily associated with residential use and that are not of a commercial nature, such as signs giving names of occupants, signs on mailboxes and paper tubes, and signs posted on private property relating to private parking or warning the public against trespassing or danger from animals.
  - (7) "Yard sale" signs displayed at the location of the yard sale, not exceeding four square feet in area, and not used in connection with any continuous commercial activity. Yard Sale Signs are further regulated in Section (16) "Temporary Signs".
  - (8) Signs containing the message that the real estate on which the sign is located is for sale, lease, or rent, together with information identifying the owner or agent, provided that such signage meets the standards of Table 4-8 "Real Estate Sign Standards". Such signage may have a maximum of two sides, shall be non-illuminated, and shall be removed within 15 days after sale, lease, or rental. Only one sign on each street frontage may be erected, but on lots having a street frontage in excess of 400 feet, a second sign not exceeding nine square feet in size per side may be erected. Feather or windblown signs shall not be permitted as real estate signs, per Section (E) of this Article.
- (9) Fence wraps as defined and regulated by G.S. 160D-908.

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**TABLE 4-8: REAL ESTATE SIGN STANDARDS**

| Nonresidential or Mixed Use Property |                           |                |
|--------------------------------------|---------------------------|----------------|
| Acreage                              | Maximum sign face area    | Maximum Height |
| Less than two acres                  | 16 square feet per side   | Six feet       |
| Greater than two acres               | 32 square feet per side   | Six feet       |
| Residential Property                 |                           |                |
| Acreage                              | Maximum sign face area    | Maximum Height |
| Less than one acre                   | Six square feet per side  | Six feet       |
| One - Five acres                     | Nine square feet per side | Six feet       |
| Five – 20 acres                      | 16 square feet per side   | Six feet       |
| Greater than 20 acres                | 32 square feet per side   | Six feet       |

- (9) Displays, including lighting, flags (less than 12 square feet total area), and inflatables, erected in connection with the observance of holidays that do not bear an advertising message. Such displays shall be removed within ten days following the holiday.
- (10) Sign face plate changes, provided that it meets the applicable criteria of General and Specific Sign Regulations and other applicable portions of this Article.
- (11) Window and door signs, provided that these signs conform to the Specific Sign Regulations (§155.403(G)(3)), and such signage shall count toward the total allowed sign face area and number of signs on a site.
- (12) Easel / Sandwich Boards / A-Frames, provided that these signs conform to the Specific Sign Regulations (§155.403(G)(7)), and such signage shall count toward the total allowed sign face area and number of signs on a site.
- (13) Menu Displays

Restaurants and other food- or beverage- selling businesses where consumption occurs on-site may display a menu or list of daily specials on the wall adjacent to their main and secondary entrances provided that it is not larger than the actual printed menu available inside the establishment and is housed in a decorative frame.
- (14) Legal notices
- (15) Historic signs, provided
  - (a) the Planning Director determines the sign meets the following criteria:

1. The sign is 50 years or older; or
2. The sign is particularly unique in character, design, or history; or
3. The sign is a part of the historic character of a building, business, or district; and
4. The sign is kept in good, working order.

(b) Historic signs shall not count toward the total allowable sign face area for a site.

(16) Tenant identification signs, which shall count toward the total signage allowed on a site.

(E) **SIGNS PROHIBITED**

The following signs are expressly prohibited within all zoning districts:

- (1) Abandoned signs or obsolete signs.
- (2) Backlit Awnings, Marquees, or Canopies, unless part of an approved Alternative Sign Plan.
- (3) Portable signs, including any signs painted on or displayed on vehicles or trailers parked or located for the primary purpose of displaying that sign, except Easel / Sandwich Board / A-Frame Signs located on the ground as regulated herein.
- (4) Roof signs.
- (5) Cabinet signs of any shape, attached to a building wall or roof, except that portion that is a federally or state registered trademark. State or federally registered trademarks used in this fashion require a sign permit (per §155.713 "Sign Permit") and are allowed one per tenant per façade, up to a maximum size of 12 square feet.
- (6) Inflatable signs, with the exception of those erected in connection with the observance of holidays and do not bear an advertising message as described in D(8) of this Section.
- (7) Any sign or device set into motion by mechanical, electrical, or other means, except barber poles and those regulated in (G)(11) "Electronic Changeable Copy Sign / Electronic Sign" of this Section.
- (8) Flashing Signs, including but not limited to any sign or device displaying flashing or intermittent lights, lights of changing degrees or intensity, or animation. This includes electronic video display signs. However, Electronic Changeable Copy Signs / Electronic Signs are permitted, as regulated in (G)(11) of this Section.
- (9) String or rope lighting, that is not explicitly associated with the traditional observance of a holiday and regulated by the conditions of (D)(9) under "Exemptions". All string or rope lighting is required to be removed no later than February 1<sup>st</sup>, 2017 in order to comply with this section.

- (10) Any sign which is a copy or imitation of an official sign, or which purports to have official status.
- (11) Off-premises signs not specifically regulated herein, including but not limited to billboards.
- (12) Snipe signs.
- (13) Temporary product/promotional advertisement signs that are hung on, attached to or placed over a permanent fixture including but not limited to a light pole, tree, fence or bollard, whether on or off-premises, unless approved as part of a Temporary Sign Permit.
- (14) Pole signs.
- (15) Signs mounted inside a window or on a wall directly behind a window, and/or otherwise visible from outside the building that are not accounted for or do not meet the criteria of (G)(3) "Window / Door Signs".
- (16) Signs displayed in secondary windows not located on the first floor or in secondary windows not located in the primary building façade or a storefront entrance, unless as part of an Alternative Sign Plan.
- (17) Signs or murals of a commercial nature painted directly onto a wall or other building surface or structure, unless as part of an Alternative Sign Plan.
- (18) Windblown signs, except those exempted in Exemptions (found in (D)(2) and (3) of this Section), part of an approved Flag Sign ((G)(15) of this Section, or those allowed as part of a Temporary Sign Permit in accordance with §155.713 (F).
- (19) Any sign, other than those described in (D)(4)(g) of this Section, that is stenciled, painted, projected, or otherwise displayed on the ground, sidewalk, or pavement, unless as part of an Alternative Sign Plan.

(F) **GENERAL SIGN REGULATIONS**

(1) **Signs Located in Overlay Districts**

Signs located within an Overlay District are subject to the provisions of this Section, except that regulations within § 155.204 "Overlay Districts" shall supersede and may be either more or less restrictive than the regulations for signs contained in this Section, unless permitted as an Alternative Sign Plan per (K) of this Section.

(2) **Signs Located as Part of a Home Occupation**

Signs erected in connection with a home occupation pursuant to § 155.308(C)(2) are subject to the provisions of this Section, except that regulations within § 155.308(C)(2) shall supersede and may be either more or less restrictive than the regulations for signs contained

in this Section, unless permitted as an Alternative Sign Plan per (K) of this Section. Signs erected in connection with a home occupation shall not be illuminated.

(3) **Total Allowable Sign Face Area**

- (a) The total square footage of allowable sign face area permitted on any site shall be calculated by multiplying the amount of linear lot frontage or building frontage (in feet) by 1.25. The total allowable sign face area for any site shall not exceed this calculation (as shown below).

$$\text{Total allowable sign face area (in square feet)} = \text{Linear frontage (feet)} \times 1.25$$

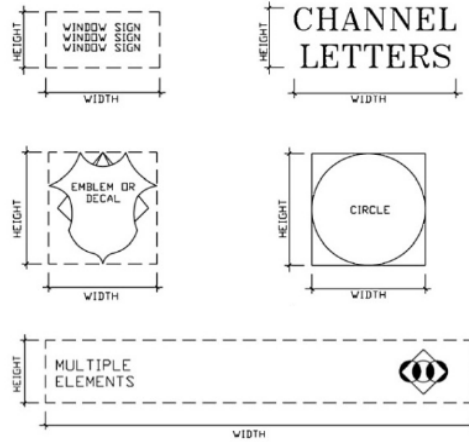
On lots with frontage on more than one street, the longest frontage may be used to calculate the total allowable sign face area.

- (b) In addition, the total area and specific area of allowable sign face area permitted on a sign or site shall be governed by the sign type criteria for each specific sign type (as described below in Section (G) "Specific Sign Regulations").

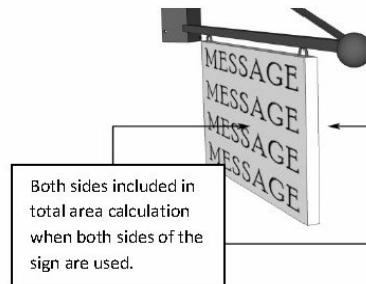
(4) **Computation of Sign Measurements**

(a) ***Computation of Sign Face Area***

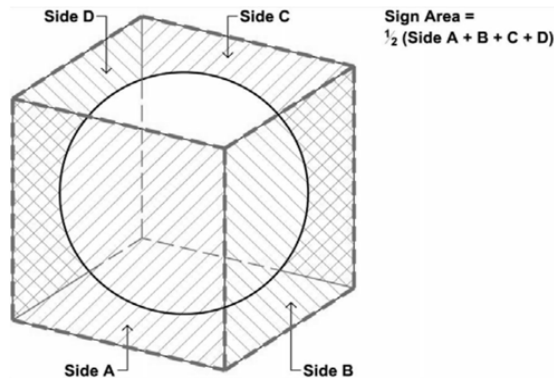
1. The area of a sign, otherwise known as sign face area, is measured by finding the area of the minimum imaginary rectangle or square, aligned parallel to the horizon which fully encloses all sign words, symbol, copy, or message, including any material or color forming the sign face or background used to differentiate the sign from the structure against which it is placed. Sign face area does not include any supporting framework or bracing, unless it is part of the message or sign face, or otherwise functions as an attention-attracting device.



2. Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, unless otherwise specified.



3. The sign face area of free-form or sculptural (non-planar) signs is calculated as fifty percent of the sum of the area of the four vertical sides of the smallest cube that will encompass the sign.



*Illustration of sign area for sculptural non-planar signs.*

(b) **Computation of Sign Height**

1. General

Sign height is measured as described below. The height of a sign shall include the highest point of the sign face area, with the supporting structure and/or any decorative elements dedicated or attached exclusively to the sign limited to 125% of the allowed sign height, unless approved as part of an Alternative Sign Plan per (K) of this Section.

2. Height Measurement

The vertical distance from the average grade of the ground or walkway immediately surrounding the sign to the highest point of the sign face area, or from the level of the average crown of the nearest abutting public street, alley or highway (other than a structurally elevated roadway) to the highest point of the sign face area, whichever measurement permits the greater elevation..

(5) **Construction Standards**

- (a) All signs shall comply with the appropriate provisions of the North Carolina Building Code, the National Electric Code, and this Section.
- (b) Signs shall be located in such a way that they maintain sufficient horizontal and vertical clearance of all overhead electrical conductors in accordance with National Electric Code specifications, provided that no sign, except governmental signs, shall be installed closer than ten feet horizontally or vertically from any conductor or public utility guy wire.



- (c) In no way shall a sign hinder or obstruct the visibility of the right-of-way, as defined by § 155.400(K) "Visibility at Intersections", either at intersections or points of ingress or egress from parking lots.
- (d) Signs and any associated structures shall match or exceed in quality the materials of the primary structure on a site. Signs should be integrated into the architectural style of the building and design of the site, and should complement the overall architectural style.
  - 1. All permanent signs shall be constructed of quality and permanent materials.
  - 2. No permanent sign shall be allowed if the materials are of a nature that it is reasonable to expect that the sign will fall into disrepair within a period of 5 years or less through natural weathering.
  - 3. Quality materials for permanent signs shall not include:
    - A. Unfinished wood, including unfinished posts or supports
    - B. Coroplast or other similar rigid, pan, vinyl or plastic backing, for wall signs or tenant identification signs
    - C. Painted signs
- (e) All signs shall be of a sign type that demonstrates a high quality development.
  - 1. Signs shall be constructed of a quality sign type.
    - A. For purposes of determining the quality of a sign type, the following shall apply for wall signs, in order of highest quality to lowest quality: channel letter sign or similar individually mounted lettering, raceway-mounted lettering, decorative pan sign, cabinet sign, painted sign or vinyl or other lettering adhered directly to the wall.
    - B. For purposes of determining the quality of a sign type, the following shall apply for freestanding and monument signs, in order of highest quality to lowest quality: monument sign, post sign, cabinet sign.
- (f) Signs with a separate electric meter shall have the pedestal and meter completely screened from view, or be otherwise seamlessly hidden by or integrated into the design of the sign or structure. Approval of a sign plan or issuance of a sign permit for an illuminated sign does not necessarily constitute exemption from this criteria or screening requirements.

(6) **Illumination**

- (a) At a minimum, illumination of signs shall be limited to business hours when the business is open to the public and/or clients, or as otherwise restricted in this Section. This does not apply to Billboards.
- (b) Illuminated signs shall have no movement, including but not limited to flashing, blinking, or animation, except as allowed for Electronic Changeable Copy Signs in (11) of this Section, or as otherwise permitted as part of an Alternative Sign Plan in (K) of this Section.
- (c) At a minimum, illumination of signs in or within 50' of residential zoning districts is prohibited from the hours of 9:00PM to 7:00AM, or as otherwise restricted in this Section.
- (d) Internal illumination of signs is prohibited in mixed use zoning districts with conforming residential uses, and in and within 50' of residential zoning districts, unless approved as part of an Alternative Sign Plan (K).
- (e) Signs associated with a home occupation shall not be illuminated.
- (f) All wires and non-decorative lighting structures shall be camouflaged or reasonably hidden from view.

**(7) Secondary Signs**

- (a) Where signs are displayed on more than the primary side of a building, any secondary signs shall be no larger than the primary sign.
- (b) Secondary signs shall be consistent with the primary sign in content, type, construction, illumination, and materials.
- (c) A secondary sign shall only be allowed if a primary sign already exists.
- (d) A secondary sign shall only be allowed if it is consistent with the content, user, tenant, business, or activity of the primary sign.

**(8) Windows and Translucent Doors**

- (a) Primary windows and translucent doors located in first floor, non-residential storefronts shall not be obstructed, covered, or otherwise blocked so as to prohibit visibility from the outside for more than half of regular business hours.
- (b) Permanent coverings, which include but are not limited to signage, window tinting, reflective window treatments, window wraps, or window treatments, shall cover no more than 25% of the above surfaces.

(G) **SPECIFIC SIGN REGULATIONS**

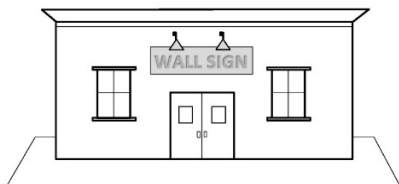
Requirements additional to Section (F) "General Sign Regulations", for sign area, dimensions, placement, illumination, and other standards as necessary are described below. All signs must be located on-premises unless otherwise explicitly indicated.

(1) **Sign Color**

The Pantone Matching System (PMS) colors, vinyl manufacturer and numbers, or comparable industry standard of color identification shall be clearly indicated for each proposed sign when applying for a sign permit.

(2) **Wall / Fascia Signs**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Allowed Sign Face Area (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 1. Twenty-five percent of the surface area of each wall, façade, storefront, or fascia area (as applicable) exclusive of windows/doors.<br>2. Max. 75 square feet                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>(b) Number (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 1. Each building face may have one Primary Building Identification Sign plus one sign per tenant, provided the cumulative area does not exceed the total allowable sign face area for that façade.<br>2. Only one sign per tenant per wall / façade is allowed.                                                                                                                                                                                                                                                                                   |
| <b>(c) Positioning</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 1. No portion of a wall/fascia sign may extend above the roof line of a building without a parapet wall.<br>2. No portion of a wall/fascia sign may extend above parapet walls.<br>3. No portion of wall/fascia sign may extend above the lower eave line of a building with a pitched roof with a vertical angle less than 75 degrees.<br>4. Signs may be placed in gables, provided they meet the conditions above.<br>5. No sign shall be allowed on a dormer.                                                                                 |
| <b>(d) Projection (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Twelve inches from wall or surface to which the sign is attached.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>(e) Clearance (min.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| If the sign projects more than six inches from the wall it is attached to, the sign shall maintain a clearance of 8 feet from the ground below.                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>(f) Construction</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 1. All wall signs shall be fastened directly to the supporting wall.<br>2. All supporting brackets or raceways shall be painted to blend in with the building.                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>(g) Location</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 1. Allowed in residential zoning districts as part of a permitted non-residential use.<br>2. Allowed in all non-residential and mixed use zoning districts.                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>(h) Other Conditions</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 1. In multi-tenant, non-residential or mixed use buildings,<br>a. Each tenant shall be allowed one color per wall sign with black also allowable as trim, background, or accent.<br>b. Pan or rectangular signs must incorporate decorative embellishments, borders, or features.<br>c. Federally and state registered trademarks may occupy a maximum of 12 square feet of sign face area per tenant and shall be counted toward the allowable sign face area.<br>d. Signs shall match or exceed the style of existing sign materials and style. |



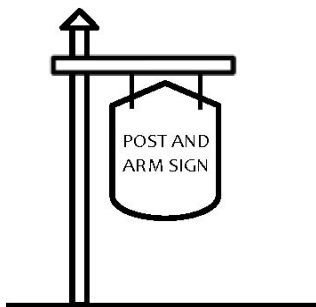
(3) **Window/Door Signs**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Allowed Sign Face Area (max)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Twenty-five percent of the area of the surface of each window/door area. The window/door area is counted as a continuous surface until divided by a solid architectural or structural element with a width greater than 12 inches. Stated alternatively, 75% transparency must be maintained for windows and transparent doors. Faux windows may be up to 100% opaque, but are restricted to the 25% sign face area maximum described above.                                                                                                                              |
| <b>(b) Positioning</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <ol style="list-style-type: none"><li>1. Window/door signs are only allowed for businesses or tenants with an exterior entrance directly into their unit.</li><li>2. Window signs are not allowed on exterior windows above the first floor, unless part of an approved Alternative Sign Plan. Real estate-related signs, such as "For Rent" or "For Sale" are not subject to this provision (see (D)(8) of this section).</li><li>3. Window signs are attached to the inside or outside of a window or door, or displayed behind a window or transparent door.</li></ol> |
| <b>(c) Illumination</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <ol style="list-style-type: none"><li>1. Illumination is prohibited, except for "Open" signs as described in Exempt Signs.</li><li>2. Illuminated window signs are prohibited in residential zoning districts. This prohibition includes the "Open" Signs described above under Exempt Signs.</li></ol>                                                                                                                                                                                                                                                                   |
| <b>(d) Location</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <ol style="list-style-type: none"><li>3. Allowed in residential zoning districts as part of a permitted non-residential use.</li><li>1. Allowed in all non-residential and mixed use zoning districts.</li></ol>                                                                                                                                                                                                                                                                                                                                                          |



(4) **Freestanding Signs (Monument Sign, Post Sign, Post and Arm Sign)**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Allowed Sign Face Area (max.) Per Sign Face</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <ol style="list-style-type: none"> <li>Maximum size of 64 square feet, and further restricted by type: <ol style="list-style-type: none"> <li>Monument Signs: A total of 0.25 square feet per linear foot of lot frontage or building frontage along the street on which the sign is oriented.</li> <li>Post Signs: A total of 0.20 square feet per linear foot of parcel street frontage or storefront street frontage along the street on which the sign is oriented.</li> <li>Post-and-Arm Sign: Six square feet.</li> </ol> </li> </ol> |
| <b>(b) Height (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Eight feet.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>(c) Minimum Frontage (either building frontage or lot frontage, both as measured parallel to the street on which the sign will be located or facing)</b>                                                                                                                                                                                                                                                                                                                                                                                 |
| <ol style="list-style-type: none"> <li>Monument and Post Signs: 100 linear feet</li> <li>Post-and-Arm Signs: 50 linear feet.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>(d) Number (max.) Per Site</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <ol style="list-style-type: none"> <li>0 to 599 linear feet = 1 sign.</li> <li>600 to 1499 linear feet = 2 signs (min. 300 linear feet on two frontages = 2 signs).</li> <li>1500+ linear feet = 3 signs (min. 300 linear feet on three frontages = 3 signs).</li> </ol>                                                                                                                                                                                                                                                                    |
| <b>(e) Setback and Separation (min.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <ol style="list-style-type: none"> <li>Five feet from the public right-of-way.</li> <li>Fifteen feet from any interior side lot line.</li> <li>Fifty feet between signs.</li> </ol>                                                                                                                                                                                                                                                                                                                                                         |
| <b>(f) Location</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Allowed in all non-residential and mixed use zoning districts.                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>(g) Landscaping</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <ol style="list-style-type: none"> <li>A planting bed area equal to at least one-half of the sign face area (for two-sided signs, use only one sign face area for the calculation) shall be planted around the entire base of any freestanding sign, with decorative landscape features or materials.</li> <li>All planting areas are required to comply with this requirement no later than May 1st, 2017 in order to comply with this section.</li> </ol>                                                                                 |



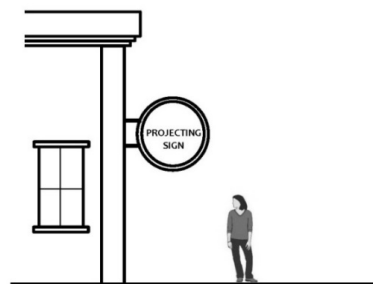
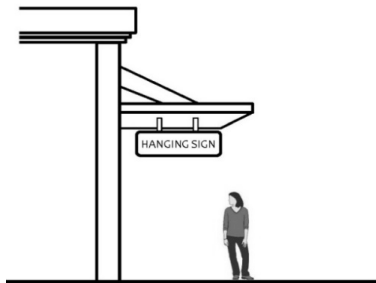
Post Sign



Monument Sign

(5) **Projecting Signs and Hanging Signs**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Allowed Sign Face Area (max.) Per Sign Face</b>                                                                                                                                                                                                                                                                                                                                                                                                           |
| <ol style="list-style-type: none"> <li>1. <u>Projecting signs</u>: 10 square feet.</li> <li>2. <u>Hanging signs</u>: Six square feet.</li> </ol>                                                                                                                                                                                                                                                                                                                 |
| <b>(b) Number (max.) Per Site</b>                                                                                                                                                                                                                                                                                                                                                                                                                                |
| One of each sign (hanging and projecting) per ground floor business frontage. A corner business unit may have one per street frontage.                                                                                                                                                                                                                                                                                                                           |
| <b>(c) Positioning and Clearance</b>                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <ol style="list-style-type: none"> <li>1. Minimum seven feet clearance from the ground level to the bottom of the sign.</li> <li>2. Maximum 15' from ground level to the top of the sign.</li> <li>3. Minimum three feet clearance from curb line.</li> <li>4. May not extend above roof eaves or parapet walls.</li> <li>5. A minimum of 10' clearance is required between hanging signs on the same business frontage.</li> </ol>                              |
| <b>(d) Projection (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <ol style="list-style-type: none"> <li>1. <u>Projecting sign</u>: Three feet from the building wall or one-half the width of the sidewalk.</li> <li>2. <u>Hanging Sign</u>: No restriction provided the sign does not extend past the roof, marquee, or awning to which it is attached.</li> </ol>                                                                                                                                                               |
| <b>(e) Construction</b>                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <ol style="list-style-type: none"> <li>1. <u>Projecting Signs</u>: Signs shall be fastened directly to a building wall and shall intersect the building wall at right angles. When a building corner is at the intersection of two streets, one projecting sign at a 45 degree angle is allowed in lieu of one sign per street frontage.</li> <li>2. <u>Hanging Signs</u>: Shall be fastened directly and securely to the awning, marquee, or canopy.</li> </ol> |
| <b>(f) Illumination</b>                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <ol style="list-style-type: none"> <li>1. Projecting signs may be illuminated internally or externally.</li> <li>2. Hanging signs may only be illuminated externally.</li> </ol>                                                                                                                                                                                                                                                                                 |
| <b>(g) Location</b>                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <ol style="list-style-type: none"> <li>1. Allowed in residential zoning districts as part of a permitted non-residential use.</li> <li>2. Allowed in all non-residential and mixed use zoning districts.</li> </ol>                                                                                                                                                                                                                                              |



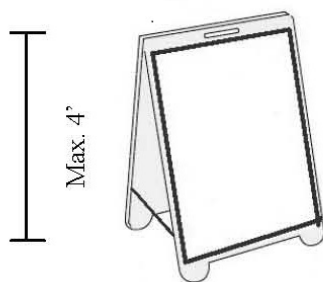
(6) **Awning, Marquee, or Canopy Signs**

|                                          |                                                                                                                   |
|------------------------------------------|-------------------------------------------------------------------------------------------------------------------|
| <b>(a) Allowed Sign Face Area (max.)</b> |                                                                                                                   |
|                                          | 75 percent of the surface area of the face of the awning, marquee, or canopy to which it is attached.             |
| <b>(b) Number (max.) Per Site</b>        |                                                                                                                   |
|                                          | One permitted on each side or face of awning, marquee, or canopy.                                                 |
| <b>(c) Clearance</b>                     |                                                                                                                   |
|                                          | Minimum eight feet from ground level.                                                                             |
| <b>(d) Positioning</b>                   |                                                                                                                   |
|                                          | Lettering or graphics shall not project horizontally more than one inch from the surface to which it is attached. |
| <b>(e) Construction</b>                  |                                                                                                                   |
|                                          | Shall be fastened or adhered directly and securely to the awning/marquee/canopy face.                             |
| <b>(f) Illumination</b>                  |                                                                                                                   |
|                                          | 1. Backlit illumination is prohibited.                                                                            |
| <b>(g) Location</b>                      |                                                                                                                   |
|                                          | 2. Allowed in residential zoning districts as part of a permitted non-residential use.                            |
|                                          | 1. Allowed in all non-residential and mixed use zoning districts.                                                 |



(7) **Easel/Sandwich Boards/A-frame**

|                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Allowed Sign Face Area (max) Per Sign Face</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|                                                       | 8 square feet.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>(b) Number (max.) Per Site.</b>                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|                                                       | One per business unit or tenant, with an overall maximum of 1 sign per 20 linear feet of store frontage.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>(c) Positioning</b>                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|                                                       | <ol style="list-style-type: none"><li>1. Sign must be located within 20 feet of the business entrance.</li><li>2. No easel/sandwich board / A-frame sign shall be placed on the sidewalk so as to leave less than 4 feet of unobstructed clearance for pedestrians.</li><li>3. Prohibited within the public right-of-way.</li><li>4. No easel/sandwich board / A-frame sign shall remain on the sidewalk adjacent to any premises at any time when the premises are closed to the public.</li><li>5. No easel / sandwich board / A-frame sign shall be tied, locked, chained, or otherwise attached to any other feature.</li><li>6. No easel / sandwich board / or A-frame shall be displayed outside of business hours.</li></ol> |
| <b>(d) Height (max.)</b>                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|                                                       | Four feet.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>(e) Width (max.)</b>                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|                                                       | Three feet.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>(f) Construction</b>                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|                                                       | <ol style="list-style-type: none"><li>1. All A-frame/sandwich board/easel signs shall be adequately weighted or anchored to prevent accidental movement of the sign, including by wind gusts. Such weighting shall be integral to the design of the sign, and shall not consist of separate materials such as sandbags or concrete blocks.</li><li>2. No sign shall obstruct any public street.</li></ol>                                                                                                                                                                                                                                                                                                                           |
| <b>(g) Illumination</b>                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|                                                       | Illumination is prohibited.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>(h) Location</b>                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|                                                       | <ol style="list-style-type: none"><li>1. Allowed in residential zoning districts as part of a permitted non-residential use.</li><li>2. Allowed in all non-residential and mixed use zoning districts.</li></ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |



(8) **Tenant Identification Signs**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Allowed Sign Face Area (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Six square feet.                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>(b) Number (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| One sign per external entrance.                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>(c) Positioning</b>                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 1. Signs shall be located to the side of the external door which accesses the internal tenants described on the sign.                                                                                                                                                                                                                                                                                                                                          |
| <b>(d) Projection (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Three inches from wall to which the sign is attached.                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>(e) Construction</b>                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 1. All tenant identification signs shall be fastened directly to the supporting wall.                                                                                                                                                                                                                                                                                                                                                                          |
| <b>(f) Illumination</b>                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 1. May be illuminated externally only. No backlighting.                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>(g) Location</b>                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 1. Allowed in residential zoning districts as part of a permitted non-residential use.<br>2. Allowed in all non-residential and mixed use zoning districts.                                                                                                                                                                                                                                                                                                    |
| <b>(h) Other Conditions</b>                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 1. Only tenant(s) accessed by the entrance adjacent to the sign may have their signage displayed.<br>2. Tenant and suite identification lettering shall not be taller than 1 inch, and main identification lettering shall not be taller than 4 inches.<br>3. Faceplates shall not be taller than 2 inches.<br>4. All faceplates shall utilize one color for lettering and one color for background. The colors shall be consistent among tenants on the sign. |

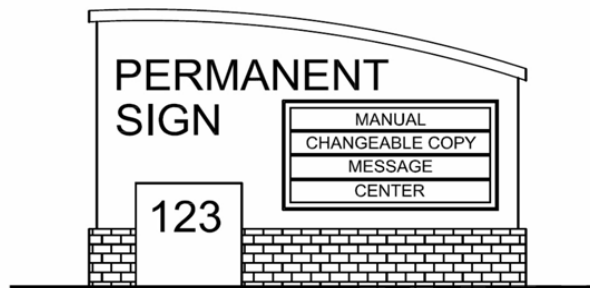
| <b>White House Plaza</b>     |                       |
|------------------------------|-----------------------|
| <b>1600 Pennsylvania Ave</b> |                       |
| Smith's Savory Sweets        | First Floor, Suite 1  |
| Guns & Gorgonzola            | First Floor, Suite 2  |
| Ruffs and Rolls              | First Floor, Suite 3  |
| Designs by DD                | Second Floor, Suite 1 |
| Bunns and Breads             | Second Floor, Suite 2 |
| So Sew Me                    | Second Floor, Suite 3 |
| Boss Hogg's BBQ              | Third Floor, Suite 1  |
|                              |                       |

(9) **Drive-Thru Menu Boards**

|                                                                                                                                                                                                                                         |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Number (max.)</b>                                                                                                                                                                                                                |
| Two per drive-thru lane.                                                                                                                                                                                                                |
| <b>(b) Allowable Sign Face Area (max.)</b>                                                                                                                                                                                              |
| 36 square feet allowed per drive-thru lane.                                                                                                                                                                                             |
| <b>(c) Height (max.)</b>                                                                                                                                                                                                                |
| Eight feet.                                                                                                                                                                                                                             |
| <b>(d) Construction</b>                                                                                                                                                                                                                 |
| Sign materials shall be consistent with the primary building construction or other signs on the site.                                                                                                                                   |
| <b>(e) Location</b>                                                                                                                                                                                                                     |
| Drive-Thru Menu Boards shall be located within the minimum vehicle queuing spaces plus one queuing space, of the ordering window or pick-up window, per the use, as identified in Table 4-4: Minimum Queuing Standards (§155.401(D)(1). |
| <b>(f) Illumination</b>                                                                                                                                                                                                                 |
| May be illuminated internally or externally.                                                                                                                                                                                            |
| <b>(g) Other</b>                                                                                                                                                                                                                        |
| Drive-Thru Menu Boards are only permitted as an accessory to a drive-thru business.                                                                                                                                                     |

(10) **Changeable Copy Sign – Manual**

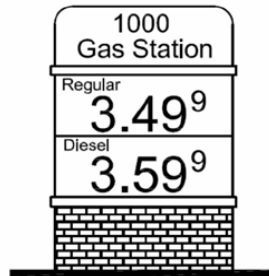
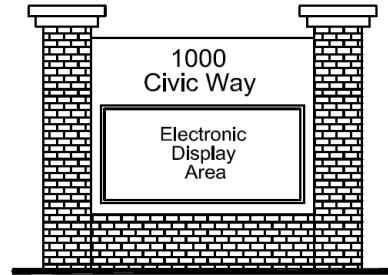
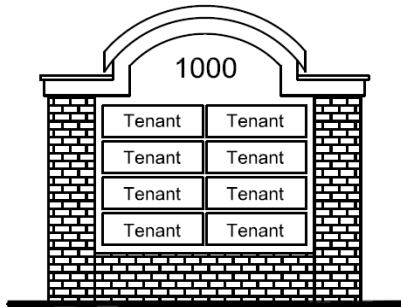
|                                                         |                                                                                                                                                                                                                                                       |
|---------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Location</b>                                     |                                                                                                                                                                                                                                                       |
|                                                         | Manual Changeable Copy Signs may be used as a part of a permitted freestanding sign for public, institutional and not-for-profit uses only, unless expressly prohibited elsewhere in the Town's code.                                                 |
| <b>(b) Number (max) Per Site</b>                        |                                                                                                                                                                                                                                                       |
|                                                         | One per parcel or site, whichever is more restrictive.                                                                                                                                                                                                |
| <b>(c) Allowable Sign Face Area (max) Per Sign Face</b> |                                                                                                                                                                                                                                                       |
|                                                         | The changeable copy area shall be limited to 40 percent of the total sign face area. Sign face area shall be otherwise regulated per Freestanding Signs, in (5) of this Section.                                                                      |
| <b>(d) Construction</b>                                 |                                                                                                                                                                                                                                                       |
|                                                         | 1. Sign structure shall be constructed of high quality materials.<br>2. Materials shall be consistent with the primary building construction.                                                                                                         |
| <b>(e) Illumination</b>                                 |                                                                                                                                                                                                                                                       |
|                                                         | Internal Illumination is prohibited.                                                                                                                                                                                                                  |
| <b>(f) Landscaping</b>                                  |                                                                                                                                                                                                                                                       |
|                                                         | A planting bed area equal to at least one-half of the sign face area (for two-sided signs, use only one sign face area for the calculation) shall be planted around the entire base of any freestanding sign, using shrubs, flowers, or ground cover. |
| <b>(g) Other Criteria</b>                               |                                                                                                                                                                                                                                                       |
|                                                         | Manual Changeable Copy Signs shall otherwise conform to the regulations of Freestanding Signs (per (4) of this Section).                                                                                                                              |



(11) **Changeable Copy Sign – Electronic, and Electronic Sign**

|                                                                                                                                                                                                                                                                                                                                                                                                                     |                     |                             |  |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|-----------------------------|--|
| <b>(a) Location</b>                                                                                                                                                                                                                                                                                                                                                                                                 |                     |                             |  |
| Electronic changeable copy signs may be a part of any permitted freestanding sign.                                                                                                                                                                                                                                                                                                                                  |                     |                             |  |
| <b>(b) Number (max) Per Site</b>                                                                                                                                                                                                                                                                                                                                                                                    |                     |                             |  |
| One per parcel or site, whichever is more restrictive.                                                                                                                                                                                                                                                                                                                                                              |                     |                             |  |
| <b>(c) Allowable Sign Face Area (max.)</b>                                                                                                                                                                                                                                                                                                                                                                          |                     |                             |  |
| Sign face may be any part of the total allowable sign face area for a freestanding sign.                                                                                                                                                                                                                                                                                                                            |                     |                             |  |
| <b>(d) Illumination</b>                                                                                                                                                                                                                                                                                                                                                                                             |                     |                             |  |
| Electronic signs shall be equipped with dimming technology that automatically adjusts the display's brightness based on ambient light conditions at all times of day and night, and be set at a level no higher than .3 foot candles above ambient light conditions (measured from a distance as specified below) as to not cause glare, distraction, reduced visibility or safety concerns from adjacent roadways. |                     |                             |  |
|                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>Sign Size</b>    | <b>Measurement Distance</b> |  |
|                                                                                                                                                                                                                                                                                                                                                                                                                     | 0-100 square feet   | 100 feet                    |  |
|                                                                                                                                                                                                                                                                                                                                                                                                                     | 101-350 square feet | 150 feet                    |  |
|                                                                                                                                                                                                                                                                                                                                                                                                                     | 351-650 square feet | 200 feet                    |  |
| <b>(e) Permitted Colors</b>                                                                                                                                                                                                                                                                                                                                                                                         |                     |                             |  |
| 1. Signs associated with associated with uses other than gas station pricing: background must be black. Electronic display is limited to text/logo which may be one of the following: white or red.                                                                                                                                                                                                                 |                     |                             |  |
| 2. Signs associated with gas station pricing: background must be black. Pricing may be white, red, and green.                                                                                                                                                                                                                                                                                                       |                     |                             |  |
| <b>(f) Copy/Text</b>                                                                                                                                                                                                                                                                                                                                                                                                |                     |                             |  |
| Copy/text may consist of alphanumeric symbols only, except that pictorial imagery associated with the logo may be permitted.                                                                                                                                                                                                                                                                                        |                     |                             |  |
| <b>(g) Construction</b>                                                                                                                                                                                                                                                                                                                                                                                             |                     |                             |  |
| 1. Sign structure shall be constructed of high quality materials.                                                                                                                                                                                                                                                                                                                                                   |                     |                             |  |
| 2. Materials shall be consistent with the primary building construction.                                                                                                                                                                                                                                                                                                                                            |                     |                             |  |
| <b>(h) Other</b>                                                                                                                                                                                                                                                                                                                                                                                                    |                     |                             |  |
| 1. Electronic changeable copy signs must be physically attached to the primary sign.                                                                                                                                                                                                                                                                                                                                |                     |                             |  |
| 2. Sign display shall be static. No portion of the sign may flash, scroll, twirl, change color, blink, or in any manner imitate movement.                                                                                                                                                                                                                                                                           |                     |                             |  |
| 3. Copy may change once every 6 minutes.                                                                                                                                                                                                                                                                                                                                                                            |                     |                             |  |
| 4. A sign strictly displaying time and temperature may change on no less than a five second interval.                                                                                                                                                                                                                                                                                                               |                     |                             |  |
| <b>(i) Landscaping</b>                                                                                                                                                                                                                                                                                                                                                                                              |                     |                             |  |
| A planting bed area equal to at least one-half of the sign face area (for two-sided signs, use only one sign face area for the calculation) shall be planted around the entire base of any freestanding sign, using shrubs, flowers, or ground cover.                                                                                                                                                               |                     |                             |  |

Electronic Changeable Copy Sign Examples:



(12) **Billboards**

|                                                                                                                                                                                                                                                  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Allowable Sign Face Area (max) Per Sign Face</b>                                                                                                                                                                                          |
| 1. 200 square feet per sign face.<br>2. Maximum sign face height of 15 feet.<br>3. Maximum sign face width of 20 feet.<br>4. Maximum one advertising face per side.                                                                              |
| <b>(b) Spacing between billboards (min)</b>                                                                                                                                                                                                      |
| 2,000 feet.                                                                                                                                                                                                                                      |
| <b>(c) Setback (min)</b>                                                                                                                                                                                                                         |
| 50 feet from right-of-way.                                                                                                                                                                                                                       |
| <b>(d) Height (max) of structure</b>                                                                                                                                                                                                             |
| 25 feet.                                                                                                                                                                                                                                         |
| <b>(e) Clearance (min)</b>                                                                                                                                                                                                                       |
| Eight feet above the ground at the base of the sign or highway grade level, whichever is higher.                                                                                                                                                 |
| <b>(f) Illumination</b>                                                                                                                                                                                                                          |
| 1. May be externally illuminated only.<br>2. Internal illumination is prohibited.                                                                                                                                                                |
| <b>(g) Location</b>                                                                                                                                                                                                                              |
| 1. Prohibited within Town limits.<br>2. Limited to locations on U.S. 70 Bus. HWY.<br>3. All billboards shall be primarily oriented toward the east-bound or west-bound lanes of U.S. 70 Business.<br>4. Billboards must be located off-premises. |
| <b>(h) Annexation</b>                                                                                                                                                                                                                            |
| Billboards located on property that is annexed into Town limits shall be removed within the timeframe established within a Developers Agreement or Annexation Agreement.                                                                         |

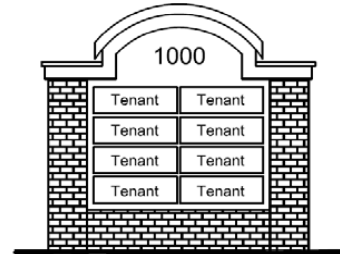
(13) **Development Identification Signs – Residential**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Allowable Sign Face Area (max.) per sign face</b>                                                                                                                                                                                                                                                                                                                                                                                                   |
| 24 square feet.                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>(a) Number (max.) per site</b>                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Two per each major project/development entrance, or one in the median of an entrance driveway.                                                                                                                                                                                                                                                                                                                                                             |
| <b>(b) Height (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <ol style="list-style-type: none"><li>1. Eight feet.</li><li>2. If attached to an approved entrance feature, the sign face may not exceed 8 feet in height. Entrance features shall comply with the provisions of this Chapter.</li></ol>                                                                                                                                                                                                                  |
| <b>(c) Setbacks (min.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Five feet from the public right-of-way or property line and may not encroach into safe sight triangles.                                                                                                                                                                                                                                                                                                                                                    |
| <b>(d) Construction</b>                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <ol style="list-style-type: none"><li>1. Sign may take the form of a freestanding sign or wall style sign.</li><li>2. Freestanding signs shall be a monument style sign or post-and-arm style sign.</li><li>3. Sign may be attached to a decorative wall or fence, or to a building wall.</li></ol>                                                                                                                                                        |
| <b>(e) Illumination</b>                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| May be illuminated externally or backlit.                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>(f) Location</b>                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <ol style="list-style-type: none"><li>1. Shall be located on property contiguous to the development identified.</li><li>2. Shall be located on private property or within the median of the entrance driveway.</li><li>3. May be located on one or both sides of major entrances to the development, or one sign may be located in the median of the entrance driveway with a sign easement and permission from NCDOT or the Town as applicable.</li></ol> |
| <b>(g) Landscaping</b>                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| A planting bed area equal to at least one-half of the sign face area (for two-sided signs, use only one sign face area for the calculation) shall be planted around the entire base of any freestanding sign, using shrubs, flowers, or ground cover.                                                                                                                                                                                                      |



**(14) Development Identification Signs – Non-residential (Sites with Multiple Buildings)**

A Non-residential Development Identification Sign may be used in association with a parcel with multiple buildings, or a grouping of parcels such as a medical park, business park, or a shopping center with outparcels where one or more tenants receive the benefit of common signage. A single building (either single or multi-story) with multiple tenants is not eligible for a Development Identification Sign.



Non-residential Development Identification Signs are approved via Alternative Sign Plan. Applications shall clearly identify what businesses, buildings, or parcels are included.

In addition to a Development Identification Sign, parcels within the development may have one monument style freestanding sign provided they meet the criteria for Freestanding Signs in (4) of this Section.

|                                                                                                                                                                                                                                                                                                                                                                                                                     |  |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <b>(a) Allowable Sign Face Area (max.)</b>                                                                                                                                                                                                                                                                                                                                                                          |  |
| A total of 0.25 square feet per linear foot of lot frontage or building frontage along the street on which the sign is oriented, or 64 square feet, whichever is less.                                                                                                                                                                                                                                              |  |
| <b>(a) Number (max.) per roadway frontage</b>                                                                                                                                                                                                                                                                                                                                                                       |  |
| One sign along roadway at main entrance to the development.                                                                                                                                                                                                                                                                                                                                                         |  |
| <b>(b) Height (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                            |  |
| <ol style="list-style-type: none"><li>1. Eight feet.</li><li>2. If attached to an approved entrance feature, the sign face may not exceed 8 feet in height. Entrance features shall comply with the provisions of this Chapter.</li></ol>                                                                                                                                                                           |  |
| <b>(c) Setbacks (min.)</b>                                                                                                                                                                                                                                                                                                                                                                                          |  |
| Five feet from the public right-of-way or property line and may not encroach into safe sight triangles.                                                                                                                                                                                                                                                                                                             |  |
| <b>(d) Construction</b>                                                                                                                                                                                                                                                                                                                                                                                             |  |
| <ol style="list-style-type: none"><li>1. Shall be a freestanding monument style sign, or attached to an entry feature.</li><li>2. Materials shall be consistent with or exceed the materials of the primary building.</li></ol>                                                                                                                                                                                     |  |
| <b>(e) Illumination</b>                                                                                                                                                                                                                                                                                                                                                                                             |  |
| May be illuminated internally or externally.                                                                                                                                                                                                                                                                                                                                                                        |  |
| <b>(f) Location</b>                                                                                                                                                                                                                                                                                                                                                                                                 |  |
| <ol style="list-style-type: none"><li>1. Shall be located on property contiguous to the development identified.</li><li>2. Shall be located on private property or within the median of the entrance driveway.</li><li>3. May be located at the main entrance to the development, or within the median of the entrance driveway with a sign easement and permission from NCDOT or the Town as applicable.</li></ol> |  |
| <b>(g) Landscaping</b>                                                                                                                                                                                                                                                                                                                                                                                              |  |
| A planting bed area equal to at least one-half of the sign face area (for two-sided signs, use only one sign face area for the calculation) shall be planted around the entire base of any freestanding sign, using shrubs, flowers, or ground cover.                                                                                                                                                               |  |
| <b>(h) Other Conditions</b>                                                                                                                                                                                                                                                                                                                                                                                         |  |

1. In multi-tenant, non-residential or mixed use buildings,
  - a. Each tenant or sign shall be allowed two colors for face plate lettering with black always allowed as trim or accent, and white required as the background.

(15) **Flags**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a) Allowable Sign Face Area (max.) per sign face</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <ol style="list-style-type: none"><li>1. For vertically-projecting poles, 24 square feet per flag in residential zoning districts, and 35 square feet per flag in all other zoning districts.</li><li>2. Twelve square feet per flag on angled- or horizontally projecting poles.</li></ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>(b) Number (max.) per site</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <ol style="list-style-type: none"><li>1. A maximum of up to three vertically-projecting flag poles or two angled- or horizontally-projecting flag poles are allowed per frontage, subject to satisfaction of all other criteria herein.</li><li>2. Only one type of flag pole – vertically-projecting or horizontally-projecting – is allowed on a site.</li><li>3. For vertically-projecting flag poles, as measured by lot frontage:<ol style="list-style-type: none"><li>a. 0 to 199 linear feet = 1 flag pole</li><li>b. 200 to 499 linear feet = 2 flag poles</li><li>c. 500+ linear feet = 3 flag poles</li></ol></li><li>4. Angled- or horizontally-projecting flag pole, as measured by lot frontage:<ol style="list-style-type: none"><li>a. 100-200 linear feet = 1 flag pole.</li><li>b. 200+ linear feet = 2 flag poles.</li></ol></li><li>5. One flag is allowed as advertising for an on-site operator, tenant, or use, and all other flags shall conform to the exemption listed in (D)(3) of this Section.</li><li>6. Vertically-projecting flag poles shall be allowed a maximum of three flags, with one flag allowed per every 5' above 15' of pole height.</li><li>7. Angled- or horizontally-projecting flag poles shall have a maximum of one flag per pole.</li><li>8. Residential zoning districts are allowed a maximum of one flag pole and two flags.</li></ol> |
| <b>(c) Height or length (max.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <ol style="list-style-type: none"><li>1. <u>Vertically-projecting flag poles</u> may not be taller than the primary structure on the site, or 35', whichever is less.</li><li>2. Angled- or horizontally-projecting flag poles may not have a pole length greater than 8'.</li></ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>(d) Minimum Required Frontage (either building frontage or lot frontage, as measured parallel to the street on which the flag pole(s) are located)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <ol style="list-style-type: none"><li>1. Vertically-projecting flag pole: 175 linear feet.</li><li>2. Angled- or horizontally-projecting flag pole: 100 linear feet.</li></ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>(e) Clearance (min.)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <ol style="list-style-type: none"><li>1. On vertically-projecting flagpoles, under normal operation but including times during which a flag is raised at half-mast, no portion of any flag shall extend below the mid-point of the flagpole, with an absolute minimum clearance of seven feet required above the ground beneath the flag.</li><li>2. On angled- or horizontally-projecting flag poles, all flags and flagpoles shall maintain a minimum of seven feet of vertical clearance above the ground beneath the flagpole and flag.</li><li>3. All flags and flagpoles shall maintain minimum required safety clearances from electrical utilities at all times.</li></ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>(f) Setbacks (min.) required for all parts of, flagpole and other supporting or related structure</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <ol style="list-style-type: none"><li>1. For vertically-projecting flagpoles, must meet setback requirements of the zoning district, plus one foot setback for every one foot of height above 25 feet.</li></ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

|                                                                                                                                                                                                                                                                                                                      |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2. For angled- or horizontally-projecting flagpoles, may not extend past the property line and must be anchored at or behind the setback line.                                                                                                                                                                       |
| <b>(g) Construction</b>                                                                                                                                                                                                                                                                                              |
| 1. Vertically-projecting flagpoles shall be anchored to a footing in the ground or attached to a wall or building and shall project vertically to the maximum allowed height.                                                                                                                                        |
| 2. Flagpoles may be attached to a structure or building wall, and may project vertically, horizontally, or at an angle to the wall.                                                                                                                                                                                  |
| 3. Zoning Compliance Permits and building permits may be required.                                                                                                                                                                                                                                                   |
| <b>(h) Illumination</b>                                                                                                                                                                                                                                                                                              |
| May be illuminated externally only.                                                                                                                                                                                                                                                                                  |
| <b>(i) Landscaping</b>                                                                                                                                                                                                                                                                                               |
| 1. On vertically-, or angled-projecting flagpoles anchored in the ground, a planting bed area equal to at least one-half of the sign face area (use only one side of the largest flag for the calculation) shall be planted around the entire base of any freestanding sign, using shrubs, flowers, or ground cover. |
| 2. On vertically-, angled-, or horizontally projecting flagpoles anchored directly to a building, no planting bed is required.                                                                                                                                                                                       |

(16) **Temporary Signs**

The signs described below may be erected on a temporary basis only after a permit has been issued by the Planning Director. No sign shall be placed in a public right-of-way, nor attached to a utility pole or other utility-related structure.

(a) ***On-Premises Construction Sign***

1. The regulation of on-premises construction signs shall be in accordance with G.S. § 160D-908 or as otherwise regulated below.
2. Residential  
  
One sign, not to exceed 20 square feet in size, may be erected in a residential zoning district.
3. Non-Residential  
  
Up to two on-premises construction project signs may be erected in a business, industrial, or office and institutional zoning district, so long as the total sign face area does not exceed 32 square feet. If a sign is two-sided with faces positioned back to back, only one side of the sign face shall be included in this calculation.
4. Construction signs shall not be erected prior to site plan or plat approval or the issuance of a building permit, and shall be removed within 15 days after final inspection and approval of the project.

(b) ***Political Signs***

The regulation of political signs shall be in accordance with G.S. § 136-32, Regulation of Signs.

(c) ***Special Event Signs*** (fair, carnival, festival, grand opening, sale, or similar non-permanent activity)

1. Limited to two feather signs, not exceeding 16 square feet each (per face), or one banner style sign, not exceeding 32 square feet (per face).
2. Signs may be erected, placed, or located for maximum of 10 consecutive days.
3. Limited to four times per calendar year (40 days in total).
4. Such signs shall be removed by the applicant by the permit expiration date.
5. Prohibited within public rights-of-way and shall not obstruct the view of oncoming traffic.

6. Upon written request, the Planning Director shall extend the timeframe up to a maximum of 60 days for new businesses or businesses undergoing exterior renovation.

(d) ***Yard Sale Signs***

1. Prohibited within public rights-of-way and shall not obstruct oncoming traffic.
2. Such signs may not exceed four square feet in size.
3. Signs shall not be erected more than seven days before the sale date and shall be removed within 48 hours of the sale date.
4. Signs shall not be affixed to any structure within public rights-of-way.

(e) ***Gas Balloons***

1. May be erected, placed, or located in connection with a special event, such as a fair, carnival, grand opening, sale, or similar non-permanent activity.
2. Balloons may be used for maximum of 10 consecutive days.
3. Limited to four times per calendar year (40 days in total).
4. Balloons shall be removed by the applicant within one day after the event has taken place.

(H) **REMOVAL OF ABANDONED, OBSOLETE, OR DETERIORATED SIGNS**

(1) **Abandoned Signs**

(a) ***Removal***

Obsolete signs shall be removed by the owner of the premises on which the sign is situated within 15 days of receipt of notification by the enforcement officer.

(2) **Obsolete Signs**

(a) ***Removal***

Obsolete signs shall be removed by the owner of the premises on which the sign is situated within 15 days of receipt of notification by the enforcement officer.

(3) **Deteriorated Signs**

(a) ***Removal/Compliance***

Deteriorated signs shall be removed or brought into compliance with all codes and ordinances within 15 days of notification by the enforcement officer.

(I) **MAINTENANCE**

- (1) All signs shall be maintained in a state of good repair, and shall not be abandoned, made to be obsolete, or become deteriorated. The Planning Director or designee is authorized to inspect each sign periodically to determine that it meets the requirements set forth in this Section. Whenever a sign has been built or is being maintained in violation of this Section, such sign shall be made to conform to all regulations herein, or shall be removed at the expense of the owner within 15 days after written verification thereof by the Planning Director.
- (2) To ensure that signs are erected and maintained in a safe and attractive manner, the following maintenance requirements shall apply to all signs visible from any right-of-way or public area:
  - (a) A sign shall have no more than five percent of its surface area covered with peeling paint, chipped corners, rust, mud, broken parts and pieces, or other unsightly conditions for a period of more than 15 successive days.
  - (b) A sign shall not stand with bent or broken sign facing, broken supports, loose appendages or struts, or leaning more than 15 percent from vertical for a period greater than 15 successive days.
  - (c) A sign shall not have weeds, trees, vines, or other vegetation growing upon it, that obscures the view of the sign from the street or right-of-way from which it is to be viewed, for a period greater than ten successive days.

(I) **ALTERNATIVE SIGN PLAN**

The purpose and intent of an Alternative Sign Plan is to allow for creativity of sign design, providing an opportunity to demonstrate the intent of this Section can be exceeded, in whole or in part. Any sign application may include an Alternative Sign Plan as an alternative. The Alternative Sign Plan need not comply with the requirements of this Section; however in no case shall an Alternative Sign Plan allow a prohibited sign. The Alternative Sign Plan shall be prepared in accordance with the design principles set forth below.

(1) **Application**

The Alternative Sign Plan shall be submitted to the Planning Department for review following the process requirements of § 155.713 "Sign Permit", with the decision made by Town Council.

(2) **Alternative Sign Plan Elements**

The Alternative Sign Plan shall include, at a minimum, criteria and specifications for the following:

- (a) Justification statement which details project information, modifications being requested, specific code references proposed for waiver, proposed alternatives, and explanation of how the alternative exceeds the requirements of this Section.
- (b) Alternative Sign Plans submitted for a permanent sign shall include all information required for a Permanent Sign Permit application (per §155.713), to be issued at a later date.
- (c) Location of regulated properties.
- (d) Allocation of permitted sign area among tenants and any other proposed signs. Total allowable sign face area for the project is determined using the total sign face area allowance calculation defined in (F)(3) of this Section.
- (e) Sketches of generic sign design and appearance for each sign type provided in Pantone Matching System (PMS) colors, vinyl manufacturer and numbers, or comparable industry standard of color identification. Permitted colors for each sign component shall be specified, including but not limited to sign face backgrounds, lettering, and sign structure.
- (f) Map, site plan, or other graphical depiction showing where each particular sign type is permitted.
- (g) Justification for the Alternative Sign Plan.

(3) **Approval Criteria**

To qualify for consideration, an Alternative Sign Plan shall demonstrate compliance with the following review criteria:

- (a) Components of the Alternative Sign Plan shall be consistent with the Town of Clayton General Design Guidelines.
- (b) The proposed sign design, size, color, illumination, and placement are compatible in style and character with any building to which the sign is to be attached, any surrounding structures, any adjoining signage on the site, and/or the district character or architectural character of the area in which it is located.
- (c) Innovative use of materials and design techniques in response to unique characteristics of the specific site, if applicable.
- (d) Sign design, scale, and placement.



- (e) Integrates architectural features in a manner compatible with the surroundings and district in which the development is located.
- (f) Consistent with approved neighborhood plans, studies, or area plans.
- (g) The Alternative Sign Plan improves the safety and welfare of the general public by minimizing distractions, hazards, and obstructions from sign design or placement.

(4) **Conditions of Approval**

The Town Council may impose Conditions of Approval to carry out the intent of the Alternative Sign Plan while still permitting each sign user opportunities for effective identification and communication. These conditions may include, but are not limited to, specification of color(s), reductions in the allowable number of signs, total sign face area, location of signs, and types of signs allowed.

(5) **Amendment**

An Alternative Sign Plan may be amended by filing an updated application with the Planning Director. The amended Alternative Sign Plan shall include a schedule that requires bringing all signs not conforming to the proposed plan into conformance.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2008-03-02, passed 3-3-08; Am. Ord. 2008-04-02, passed 4-7-08; Am. Ord. 2012-01-04, passed 1-3-12; Am. Ord. 2012-12-04, passed 12-3-12; Am. Ord. 2013-09-05, passed 9-3-13; Am. Ord. 2014-06-11, passed 6-16-14; Am. Ord. 2017-01-01, adopted 01/03/2017)

## **§ 155.404 OUTDOOR LIGHTING**

### **(A) APPLICABILITY**

- (1) Unless specifically exempt, all existing and proposed development for which site plan approval is required (see § 155.707) shall meet the provisions of this section.
- (2) Buildings and structures lawfully existing as of the effective date of this chapter, may be redeveloped, renovated or repaired without modifying outdoor lighting in conformance with this section, provided there is no increase in gross floor area in such building or structure or impervious area on the site.
- (3) Where a building or structure existed as of the effective date of this chapter, and such building is enlarged in gross floor area or impervious area on the site by 10% or 2,000 square feet, whichever is less, outdoor lighting as specified in this section shall be provided.

### **(B) PROHIBITED LIGHT SOURCES**

The following light fixtures and sources shall not be used within the town where the direct light emitted is visible from adjacent areas:

- (1) Low-pressure sodium and mercury vapor light sources;
- (2) Cobra-head-type fixtures having dished or drop lenses or refractors which house other than incandescent sources; and
- (3) Searchlights and other high-intensity narrow-beam fixtures.

### **(C) DESIGN REQUIREMENTS**

Outdoor lighting shall primarily be used to provide safety while secondarily accenting key architectural elements and to emphasize landscape features. Light fixtures shall be designed as an integral design element that complements the design of the project. This may be accomplished through style, material or color. All lighting fixtures designed or placed so as to illuminate any portion of a site shall meet the following requirements:

#### **(1) Fixture (Luminaire)**

The light source shall be concealed and shall not be visible from any street right-of-way or adjacent properties. In order to direct light downward and minimize the amount of light spillage into the night sky and onto adjacent properties, all lighting fixtures shall be cutoff fixtures.

#### **(2) Fixture height**

Lighting fixtures shall be a maximum of 30 feet in height within parking areas and shall be a maximum of 15 feet in height within non-vehicular pedestrian areas. All light fixtures located

within 50 feet of any residential use or residential property boundary shall not exceed 15 feet in height.

(3) **Light source (lamp)**

Only incandescent, fluorescent, metal halide, or color corrected high-pressure sodium may be used. The same light source type shall be used for the same or similar types of lighting on any one site throughout any development.

(4) **Mounting**

Fixtures shall be mounted in such a manner that the cone of light is contained on-site and does not cross any property line of the site.

(5) **Limit Lighting to Periods of Activity**

The use of sensor technologies, timers or other means to activate lighting during times when it will be needed may be required by the Planning Board to conserve energy, provide safety and promote compatibility between different land uses.

(D) **SPECIFIC LIGHTING STANDARDS**

(1) **Security Lighting**

- (a) Building-mounted security light fixtures such as wall packs shall not project above the fascia or roof line of the building and shall be shielded.
- (b) Security fixtures shall not face a residential property.
- (c) Security fixtures shall not be substituted for parking area or walkway lighting and shall be restricted to loading, storage, service and similar locations.

(2) **Accent Lighting**

Only lighting used to accent architectural features, landscaping or art may be directed upward, provided that the fixture shall be located, aimed or shielded to minimize light spill into the night sky.

(3) **Canopy Area Lighting**

All development that incorporates a canopy area over fuel sales, automated teller machines or similar installations shall use a recessed lens cover flush with the bottom surface of the canopy that provides a cutoff or shielded light distribution.

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(4) **Entrances and Exits in Nonresidential and Multi-Family Development**

All entrances and exits to buildings used for nonresidential purposes and open to the general public, along with all entrances and exits in multifamily residential buildings containing more than four units, shall be adequately lighted to ensure the safety of persons and the security of the building.

(5) **Commercial Parking Area Lighting**

All commercial parking areas shall be required to provide lighting during nighttime hours of operation.

(E) **EXCESSIVE ILLUMINATION**

- (1) Lighting within any lot that unnecessarily illuminates and substantially interferes with the use or enjoyment of any other property shall be prohibited. Lighting unnecessarily illuminates another lot if it exceeds the requirements of this section.
- (2) Lighting shall not be oriented so as to direct glare or excessive illumination onto streets in a manner that may distract or interfere with the vision of drivers.

**§ 155.405 DESIGN STANDARDS- NON-RESIDENTIAL & MULTI-FAMILY**

- (1) All existing and proposed non-residential and multi-family residential development, for which site plan approval is required, shall meet the provisions of this section. Townhomes that are developed to single-family residential building code standards shall be exempt from the requirements of this section
- (2) Any requirements within an overlay district shall supersede architectural standards noted within this section.

(F) **BUILDING MATERIALS**

- (1) Any building visible from a right-of-way or adjacent property shall be architecturally consistent on all sides of the building.
- (2) Metal is prohibited as the primary exterior building material or cladding in any zoning district except the I-1, I-2, and PF districts. Decorative metal or metal façade elements may be permitted as an accent feature but may not exceed more than 10% of any façade.

(Ord. 2005-11-02, passed 11-21-05)

## ARTICLE 5: NATURAL RESOURCE PROTECTION

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### § 155.500 RESOURCE CONSERVATION AREAS

#### (A) DEFINED

- (1) All resource conservation areas shall be unoccupied or predominately unoccupied by buildings or other impervious surfaces. Unoccupied or predominately unoccupied by buildings or other impervious surfaces shall mean that not more than 5% of the area of any resource conservation area shall be occupied by such surfaces.
- (2) Resource conservation areas shall be identified on plats as being permanently set aside from development, although they may still be used for other more passive uses pursuant to this Ordinance. No resource conservation area shall be counted towards lot area required by §§ 155.200 through 155.204, with the exceptions for stream buffers pursuant to G.S. §143-214.23A. This shall not preclude the platting of lots in such areas, provided that adequate lot area outside the resource conservation area is provided to meet the minimum lot area requirements of §§ 155.200 through 155.204.
- (3) No resource conservation area shall be counted towards the recreation and open space requirements as set forth in §§ 155.200 through 155.204, with the exceptions for stream buffers pursuant to G.S. §143-214.23A, except developed trails or trail-access or water-access facilities may be counted provided they are developed to the standards of this Ordinance.

#### (B) DETERMINATION OF RESOURCE CONSERVATION AREAS

The following are considered resource conservation areas and shall be unoccupied or predominately unoccupied by buildings or other impervious surfaces. If this provision would constitute an unusual hardship, is counter to the purposes of this chapter, and meets the standards outlined in Article 7, the applicant may pursue a Variance.

- (1) The 100-year floodplain including water bodies, such as lakes, ponds, streams, creeks and rivers.
- (2) Stream buffer areas (see § 155.502);
- (3) Slopes above 25% of at least 5,000 square feet contiguous area; and

- (4) Jurisdictional wetlands under federal law (see § 155.404) that meet the definition applied by the Army Corps of Engineers.

**RESOURCE CONSERVATION AREAS SHOWN ON PLAT**

All resource conservation areas shall be shown on any preliminary or final plat approved after January 1, 2006.

(C) **PERMITTED USES OF RESOURCE CONSERVATION AREAS**

Uses of resource conservation areas may include the following:

- (1) Conservation areas for natural, archeological or historical resources;
- (2) Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
- (3) Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts;
- (4) Walking or bicycle trails;
- (5) Easements for drainage, access, and underground utility lines;
- (6) Other conservation-oriented uses compatible with the purposes of this chapter;
- (7) Public infrastructure projects and supporting facilities.

(D) **PROHIBITED USES OF RESOURCE CONSERVATION AREAS**

Use of resource conservation areas may not include the following:

- (1) Landscaped stormwater management facilities;
- (2) Roads, parking lots and impervious surfaces, except as specifically authorized; and
- (3) Golf courses, agricultural and forestry activities not conducted according to accepted best management practices.

(E) **OWNERSHIP AND MAINTENANCE**

(1) **Ownership**

Resource conservation areas shall be accepted and owned by one of the following entities:

- (a) Land conservancy or land trust. The responsibility for maintenance shall be borne by a land conservancy or land trust.

- (b) Homeowners association. A homeowners association representing residents of the subdivision shall own the resource conservation areas. Membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. The homeowners' association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintenance shall be borne by the homeowner's association.
- (c) Private landowner. A private landowner may retain ownership of the resource conservation areas. The responsibility for maintenance shall be borne by the private landowner.

**(2) Maintenance**

Resource conservation area maintenance is limited to removal of litter, dead tree and plant materials and brush. 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. Unless otherwise specified by the Town Council, maintenance is limited to insuring that there exist no hazards, nuisances or unhealthy conditions.

**(3) Legal Instrument for Permanent Protection**

- (a) Resource conservation areas shall be protected in perpetuity by a binding legal instrument that is recorded with the deed.
- (b) The instrument for permanent protection shall include clear restrictions on the use of the of resource conservation area. These restrictions shall include all restrictions contained in this section, as well as any further restrictions the applicant chooses to place on the use of the resource conservation areas. Where appropriate, the instrument shall allow for stream or habitat restoration.

(Ord. 2005-11-02, passed 11-21-05)

## **§ 155.501 WATERSHED PROTECTION**

### **(A) AUTHORITY**

The State Legislature has, in G.S. §§ 143-214.5, 160D-701, -801, and -926 delegated the responsibility and authority to local governmental units to establish water supply watershed protection programs, to regulate land use and development within water supply watersheds, and to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.

### **(B) INTENT**

The intent of this section is to provide, in the designated watershed area, a higher level of control from activities and situations that could degrade the quality of the water entering the Neuse River, which serves as a public water source for the town and other jurisdictions.

- (1) Unless specifically exempt below, the provisions of this section shall apply to development within the Watershed Protection Overlay (-WP), as established in § 155.200(C)(2).
- (2) These requirements shall not apply to development existing as of January 1, 2006 except as provided in § 155.719, and shall not apply to a single-family detached, zero lot line, alley-loaded or accessory dwelling units developed on an existing lot.

### **(C) PUBLIC HEALTH REQUIREMENTS**

No activity, situation, structure or land use shall be allowed within the -WP Overlay 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 storm water runoff, or any other situation found to pose a threat to water quality.

### **(D) PERMITTED USES**

The following uses and activities are permitted provided such uses are also permitted in the underlying zoning district, and providing that the restrictions stated herein are met.

- (1) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
- (2) Silviculture, using BMPs required to implement the provisions of the Forest Practices Guidelines Related to Water Quality.
- (3) Residential development.



- (4) Nonresidential uses, excluding discharging landfills and sludge application sites, mining and quarrying activities, and the storage of toxic and hazardous materials unless a spill containment plan is implemented.

(E) **DENSITY AND IMPERVIOUS SURFACE LIMITATIONS**

For the purpose of calculating impervious surface area, total project area shall include total acreage in the parcel on which the project is to be developed.

(1) **Single Family Detached, Zero Lot Line, Alley-Loaded**

Unless approved under the terms of division (E)(4) below, single-family detached, zero lot line and alley-loaded dwelling units shall not exceed two dwelling units per acre or 36% of impervious surface area as defined on a project-by-project basis. No residential lot shall be less than 1/3 acre, except within an approved open space residential subdivision, which meets the standards established in Article 2.

(2) **All Other Residential and Nonresidential Development**

Unless approved under the terms of division (E)(4) below, all other residential and nonresidential development shall not exceed 24% of impervious surface area on a project-by-project basis unless storm water quality mitigation structures are installed and maintained by the property owner.

(3) **Vegetative Swales and Vegetative Swale Outlets**

- (a) All residential development within the -WP Overlay requiring sediment and erosion control permits shall utilize a curb and gutter stormwater collection system when practicable. When a curb and gutter stormwater collection system is used, the system shall utilize vegetative swale outlets to mitigate point-source stormwater flow out of the system into downstream creeks, streams, and waterways when practicable. The following standards shall apply to the use of vegetative swale outlets:
  - 1. The vegetative swale outlet shall be designed and constructed to accommodate the peak stormwater flow from the ten-year storm, and the velocity of the flow shall be non-erosive;
  - 2. The side-slopes of the vegetative swale shall not be steeper than 5:1 (horizontal to vertical). When this is not practicable due to physical or topographic constraints, devices to slow the rate of stormwater flow and to encourage infiltration to reduce pollutant delivery shall be provided; and
  - 3. The vegetative swale outlet shall be as wide and long as practicable under the circumstances to maximize the stormwater flow mitigation effect of the outlet.
- (b) When the Town Council determines that a curb and gutter stormwater collection system is not the preferred means of controlling stormwater runoff, vegetative swales

(with vegetative swale outlets) shall be utilized in lieu of a curb and gutter stormwater collection system when practicable. If site or development conditions do not favor the exclusive use of vegetative swales, hybrid stormwater drainage systems utilizing elements of vegetative swales and curb and gutter stormwater collection systems may be considered. The standards set out in division (a) above shall apply to the use of vegetative swale outlets, and the following standards shall apply to the use of vegetative swales in lieu of curb and gutter stormwater collection systems:

1. A vegetative swale shall be designed and constructed to provide for even distribution of stormwater runoff across the width of the swale;
  2. The slope and length of a vegetative swale shall be designed, constructed, and maintained to provide a non-erosive velocity of stormwater flow through the swale for the ten-year storm and shall have a slope of 5% or less when practicable; and
  3. A vegetative swale shall contain natural vegetation, grasses, or artificially planted wetland vegetation appropriate for the applicable site characteristics and proposed development.
- (c) For purposes of this section, the characteristics of the site and proposed development shall be considered in determining the practicability of utilizing vegetative swales and vegetative swale outlets and the design characteristics thereof, including soil types and compaction, topography, roadway and driveway design, lot sizes, front lot-line distances, and the need for and availability of sidewalks and pedestrian facilities in the development.
- (d) Alternative best management practices (BMPs) shall be considered by the town to satisfy the objectives of this section to provide safe and adequate pedestrian and road networks and facilities, control peak stormwater flow discharges, reduce total stormwater runoff volume, provide effective trapping and filtering of stormwater pollutants, and reduce the channelization and erosive velocity of stormwater runoff.

**(4) Industrial (I-1, I-2) or Business (B-1, B-2, B-3) Districts**

In addition to the development allowed under divisions (E)(1) and (E)(2) above, new development and expansions to existing developments may be approved on a project-by-project basis with impervious surfaces not exceeding 70% of the new project area within 10% of the total regulated watershed protection area, when approved by the Council as a special intensity allocation (SIA). The Planning Director shall be responsible for maintaining necessary records of SIA approvals as required. Projects developed under the terms of this division shall minimize impervious areas when feasible, give full consideration to dimension of proposed and required riparian buffers, direct storm water away from surface waters when possible, and follow best management practices in design of measures to minimize negative water quality impacts.

(F) **OPEN SPACE SUBDIVISION.**

Open space residential subdivisions (see §§ 155.200 through 155.204) are allowed in the -WP Overlay with the following requirements:

- (1) Density or impervious surface limitations of the project shall not exceed division (E) above.
- (2) All impervious surfaces shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated storm water flow.

(G) **CHANGES AND AMENDMENTS**

The Town Council may, on its own motion or on petition, after public notice and hearing, amend, supplement, change, or modify these requirements. All applications for changes, supplements, amendments, or modifications of this section shall follow the procedures outlined in § 155.703. Under no circumstances shall the Town Council adopt such amendments, supplements, or changes that would cause this section to violate the Water Supply Watershed Protection Rules as adopted by the state. All amendments must be approved and filed with the state.

(H) **PLANNING DIRECTOR**

- (1) The Planning Director shall monitor land use activities within the -WP Overlay to identify situations that may pose a threat to water quality.
- (2) The Planning Director shall report all findings to any appropriate public agency or official and request recommendations and assistance.
- (3) Where the Planning Director finds a threat to water quality and the public health, safety, and welfare, the Public Works Director shall institute any appropriate action in accordance with the provisions of § 10.99 of the Town Code of Ordinances.
- (4) The Planning Director shall issue zoning compliance permits in the -WP Overlay. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours.
- (5) The Planning Director shall keep records of the town's use of the provision, which allows a maximum of 10% of the regulated area to be developed at a maximum of 70% impervious surface area. Records shall include the total areas of non-critical watershed area, total acres eligible to be developed at this option, and total acres approved for this development option. Individual records, which include location, type of use, number of developed acres and stormwater management plans, shall be kept for each project.
- (6) The Planning Director shall keep records of all amendments to this section, and shall provide copies of all amendments upon adoption to the appropriate state agency.

- (7) The Planning Director shall keep a record of variances to this section (see § 155.716(G)). This record shall be submitted to the appropriate state agency on an annual basis on or before January 1, and shall provide a description of each project receiving a variance and the reasons for granting the variance.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2006-02-02, passed 2-20-06; Am. Ord. 2007-05-04, passed 5-7-07 )

## **§ 155.502 STREAM BUFFERS**

### **(A) BUFFER REQUIRED**

- (1) A 50-foot stream buffer shall be established on both sides of all perennial streams (indicated by a solid blue line on the USGS Quadrangle maps) and all intermittent streams (indicated by a dotted blue line on the USGS Quadrangle maps). Stream buffers shall be shown on all appropriate plans and plats for review by the Planning Board and Town Council.
- (2) The applicant may substitute a detailed survey to field verify the location of perennial and intermittent streams on the subject property and within 100 feet of the boundary of the subject property for the delineation on the USGS Quadrangle maps.
- (3) No development, including land-disturbing activities, shall occur within this buffer strip except as listed in (B) of this section.

### **(B) LIMITED ACTIVITY PERMITTED**

Except for the following limited activities stream buffer areas shall remain undisturbed.

- (1) When agricultural soil disturbing activities such as plowing, grading, ditching, excavating, placement of fill material, or similar activities must occur, they 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.
- (2) Permitted activities within the stream buffer area include sewer easements, providing the activities strictly adhere to all applicable erosion control requirements and all applicable water quality requirements as stipulated by North Carolina Department of Environment and Natural Resources. 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 or underground utilities, roads, streets, bridges, or similar structures should be placed within existing public rights-of-way if possible, but in any case, must cross the buffer as close to perpendicular as possible.

### **(C) REVEGETATION**

All disturbed areas within the stream buffer area, permitted or not, shall be revegetated with perennial vegetation as soon as practical (immediately) after the disturbance. Any noncompliance shall be treated as a violation of this chapter and be subject to enforcement as described in § 155.720.

### **(D) MINIMUM SETBACK**

A minimum setback from the stream buffers for all buildings shall be at least 20 feet.

(Ord. 2005-11-02, passed 11-21-05)

## ARTICLE 6: SUBDIVISION STANDARDS

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### § 155.600 APPLICABILITY

- (A) This subchapter shall apply to all development within the town's planning jurisdiction, unless expressly exempted by the language of the sections below.
- (B) Prior to approval of a final plat for the subdivision of land, the applicant shall have installed improvements specified in this subchapter or guaranteed their installation as provided.
- (C) In accordance with section §51.03 (G), no water or sewer service shall be provided to any property outside of the municipal limits of the town, except upon compliance with one of the following:
  - 1. If the property is contiguous to the municipal limits of the town, the property owners shall immediately petition for and obtain annexation of the property into the municipal limits of the town.
  - 2. If the property is not then contiguous to the municipal limits of the town, the property owners shall enter into a written agreement with the town for the voluntary annexation thereof at such future date as said property desires to begin construction activities pursuant to any Town-approved development entitlement.
  - 3. The Town Council may negotiate terms for voluntary annexation of major industrial or commercial tracts which require water and/or sewer system extensions.
- (D) The appropriate water and sewer System Development fees in accordance with § 50.02 of the Town Code of Ordinances, which addresses the water and sewer extension policy.

(Ord. 2005-11-02, passed 11-21-05)

## **§ 155.601 SEQUENCE OF IMPROVEMENTS**

Subdivision improvements shall be installed on the site in the following sequence:

- (A) Street grading and installation of water distribution lines, sanitary sewers, storm sewers, gas, telephone, cable television, and electric service lines, with connections for each system extended beyond the curb line to preclude subsequent cutting of pavement.
- (B) Street base material.
- (C) Curb and gutter and sidewalks.
- (D) Street paving.

(Ord. 2005-11-02, passed 11-21-05)



## **§ 155.602 STREETS**

### **(A) GENERAL**

- (1) Streets within the town are intended for multi-purpose use, as follows:
  - (a) To carry motor vehicle traffic, and, in some cases, allow on-street parking;
  - (b) To provide a safe and convenient passageway for pedestrian traffic; and
  - (c) To serve as an important link in the town's drainage system.
- (2) All public streets which serve properties connected to the town's utility system shall be constructed in conformance with town standards and specifications; however, if the roadway is maintained by NCDOT, then the roadway shall be constructed in conformance with either town or NCDOT standards and specifications, whichever is more stringent.
- (3) If the final plat for a residential subdivision outside the town limits but within the town's extraterritorial jurisdiction has been approved and improvements have been guaranteed by the developer in accordance with § 155.607, the applicant shall provide the town and purchasers of land in the subdivision with an agreement providing for adequate maintenance of the newly constructed streets until such time that the streets are taken over by the NCDOT, as required by G.S. § 136-102.6.

### **(B) STREET IMPROVEMENTS**

- (1) Required Improvements
- (1) The applicant shall be responsible for the cost and installation of the applicable standard residential, residential collector, collector, or commercial street width and pavement design requirements. Paving shall be installed for roadways through and adjoining the development in accordance with town standards and specifications (or NCDOT standards if applicable). The applicant shall also provide additional pavement surfaces for turning lanes in accordance with the town's Engineering Design Manual.
  - (a) The applicant shall be responsible for making improvements to thoroughfare rights-of-way, as designated on the town's Transportation Plan. The improvements to be installed are as follows: the thoroughfare sub-base and surface paving materials, thoroughfare grading, and the remaining standards of applicable minimum residential, residential collector, collector, or commercial streets shall be made to extend to the outer perimeter boundaries of a development for any development where any of the following conditions occur:
    1. The thoroughfare improvements would provide necessary access to the development or adjoining properties.
    2. The improvement would be an extension of an already existing section of thoroughfare roadway.

3. The traffic from the development is predominantly from nonresidential activities and the development would otherwise gain access through a residential area.

(2) **Fee-In-Lieu**

- (a) The town may require a fee-in-lieu of installation payment (at 125% of estimated cost) to the town for minimum residential, residential collector, collector, or commercial streets for the length of the thoroughfare if any of the following criteria are met:

1. No direct access to the thoroughfare is proposed.
2. The minimum street improvement is one-half of an existing unimproved right-of-way, and improvements, if constructed, would not be used for traffic circulation.
3. Where the new thoroughfare right-of-way is only partially contained on the development site and therefore, construction of only a portion of the new street cross-section is possible.

- (b) The Town may allow fee-in-lieu of minimum street construction payments to the town for residential, residential collector, collector, or commercial streets if any of the following criteria and their conditions are satisfied:

1. Where existing unimproved streets have:
  - A. Insufficient lineal footage to serve overall traffic circulation purposes or interrupts an existing swale/ditch storm drainage system with curb and gutter, which would disrupt the drainage system operation;
  - B. Curb and gutter improvements would not connect to existing curb and gutter, or there are no similar improvements on the same block;
  - C. There are no plans for town improvements on the same block; and
  - D. The area is sufficiently developed (75% of the block) such that few future subdivision or site plan submittals are anticipated.
2. Where construction of the streets by the town or other party is imminent.
3. Where construction of only a sidewalk is required without street improvements, and the new sidewalk is less than one block in length and would not connect to an existing sidewalk.
4. Where approved by the Planning Director for a new street that traverses a site when:
  - A. Street construction will not connect to an existing improved street;
  - B. There are no plans to construct an adjoining street in the near future; and

- C. A letter of credit is not an appropriate financial security.
  - 5. Where approved by the Town Engineer, when for reasons of topography, street construction is impractical due to:
    - A. The need for off-site construction or slope encroachment;
    - B. Proper street alignment should be determined with off-site development; or
    - C. Design of bridges or culverts are required and only a portion of the structure is on the development's property.
- (c) Developments will not be responsible for the cost and installation of any paving construction requirements along existing or planned roadways, if any of the following conditions exist:
  - 1. The roadway is a freeway, expressway or any other fully controlled access facility.
  - 2. The roadway is in the town's Capital Improvement Program, final design plans have been initiated, and the project will fall under the assessment policy of the town.
  - 3. The roadway is on NCDOT's Transportation Improvement Program, final design plans have been initiated, and there will be no town contribution or participation in funding the project. If the town funds a portion of the project, then a fee-in-lieu of installation will be required as a contribution towards town-funded improvements.

(C) **STREET CLASSIFICATION**

In all new subdivisions, streets that are dedicated to public use shall be classified as provided in (D) of this section.

- (1) The classification shall be based upon the projected volume of traffic to be carried by the street, stated in terms of the number of trips per day or during the peak hour of the day;
- (2) The number of dwelling units to be served by the street may be used as a useful indicator of the number of trips but is not conclusive; and
- (3) Whenever a subdivision street continues on an existing street or it is expected that a subdivision street will be continued beyond the subdivision at some future time, the classification of the street will be based upon the street in its entirety, both within and outside of the subdivision.

(D) **STREET TYPES**

See Defined Terms (§155.802) for description of each Street Type.

- (1) Residences shall not front on a major thoroughfare.
- (2) Where a parcel of land to be subdivided adjoins a major thoroughfare, the residential lots shall be provided access by a frontage road and no driveways shall be located within 150' of the intersection.

(E) **THOROUGHFARE DEDICATION**

- (1) Whenever a parcel of land included within any proposed development plan embraces any part of a thoroughfare system roadway and is so designated in the town's Transportation Plan, after such part of it has been adopted by the proper authority, such part of such proposed public way shall be platted and dedicated in the location and width indicated on the plans. This requirement shall not require the applicant to dedicate rights-of-way unless indicated on the town's Transportation Plan. It is the responsibility of the applicant to take future roadway plans of the town and the NCDOT into account when laying out a development plan.
- (2) Developments which embrace only one side of an existing or planned thoroughfare right-of-way will only be required to plat and dedicate additional right-of-way for that portion of roadway with which the development has frontage. Such improvements shall be in conformance with town standards and shall be measured from the right-of-way centerline.

(F) **CROSS-SECTIONS**

- (1) Appropriate street cross-sections shall be approved by the town or NCDOT. Appendix A contains approved street cross-sections for the town. Alternative cross-sections may be approved by the Town Council as a waiver (see § 155.706(l)(7)), and when necessary in conjunction with NCDOT.
- (2) Alternative designs must readily accommodate emergency vehicles and sanitation trucks.
- (3) Subdivisions along existing streets of inadequate right-of-way shall provide additional right-of-way to meet the minimum widths specified in Appendix A. The entire right-of-way shall be provided where any part of a new subdivision is on both sides of an existing street, and one-half the required right-of-way, measured from the center line of the existing street, shall be provided where a new subdivision is located on one side of an existing street.
- (4) A slope easement of 20 feet in width may be required adjoining each side of a street right-of-way. The town may reduce or increase the slope easement width, if due to terrain. If the applicant submits to the town sufficient information to show that improvements to be located in the slope easement do not interfere with the right of the public to construct within the adjoining right-of-way streets, sidewalks, or both, then the town shall allow the proposed improvement.

(G) **CUL-DE-SAC AND STUB-STREET LENGTHS**

- (1) No residential street cul-de-sac serving lots of 20,000 square feet or greater in size shall exceed 1,000 feet in length. No residential street cul-de-sac serving lots less than 20,000 square feet in size shall exceed 700 feet in length.
- (2) Stub-streets shall not exceed 700' in length without an approved turn-around for emergency services provided and installed. In the future, when an adjacent development connects to the stub-street and provides another point of ingress/egress, the developer may modify the approved subdivision through an amendment to remove the turn-around and convert it to recreational amenities, open space, or additional lots as permitted within this chapter.
- (3) Stub-streets shall be provided as outlined in Article 4 of this Chapter. See § 155.400(l) Cross Access Connections.
- (4) No commercial street cul-de-sac shall exceed 400 feet in length.
- (5) Cul-de-sac medians may be permitted where the cul-de-sac radius is increased and it can be demonstrated that emergency vehicles and sanitation trucks can be accommodated. Unless specifically agreed upon with the town, landscaped medians are not to be maintained by the town, and a private maintenance agreement for the median shall be required to be approved by the Town Attorney.

(H) **SIDEWALKS**

- (1) In order to enhance pedestrian safety and mobility, except as set forth below, sidewalks shall be required on both sides of all streets (see Appendix A for approved street cross-sections).
  - (a) Sidewalks shall not be required on the following roadways:
    1. In residential developments with minimum lot sizes one acre or greater, except where an existing school, park, open space, trail or greenway lies within one-quarter-mile of the boundaries of the proposed subdivision, in which case a safe pedestrian connection between the subdivision and the off-site facility is required.
    2. Residential streets serving less than or equal to ten dwelling units. Corner lots that have frontage on both a connective or loop street shall not be included in determining the number of dwelling units served by the street. Street stubs temporarily serving ten lots or less shall provide sidewalks on both sides of the street.
    3. Class "A" and "B" private streets.
    4. Commercial street cul-de-sacs that are less than 150 feet in length.
  - (b) Sidewalks shall be required on only one side of a frontage road.

- (2) Sidewalk access ramps, also commonly referred to as wheelchair ramps for the physically handicapped, shall be provided at all intersections where curb and gutter are provided (see (I) of this section), and where sidewalks and/or greenway trails intersect any street.
- (3) Pedestrian crosswalks are required on any residential street at each intersection and at any mid-block pedestrian or bicycle connections.
- (4) The Town may allow a fee-in-lieu for sidewalk construction as set forth in (B)(2)(b) of this section.

(I) **CURB AND GUTTER**

All public streets, inside the corporate limits of the town and outside the town when water or sewer is connected to the town utility system, shall be constructed with curb and gutter (see Appendix A for approved street cross-sections). Curb and gutter shall be a combination curb and gutter or such other construction approved in the Town's Engineering Design Manual. Rolled or valley-type curbs are permitted for new collector, residential collector, and residential streets.

(J) **RELATIONSHIP OF STREETS TO TOPOGRAPHY**

- (1) Streets shall be designed to relate appropriately to the topography of a site. In particular, streets shall be designed to facilitate the storm drainage requirements specified in § 155.604(E) and, subject to the design requirements relating to maximum grades set forth in (J)(2) of this section, street grades shall conform as closely as practicable to the original topography.
- (2) The maximum grade for street construction shall meet design requirements of the town or NCDOT. However, in no case may streets be constructed with grades that, in the professional opinion of the Public Works Director, create a substantial danger to the public safety or cause any substantial degradation to the street or drainage system.

(K) **STREET LAYOUT**

- (1) The street layout of any development should be in conformity with the town's Transportation Plan and all other applicable adopted plans and policies of the town. Public streets shall be constructed to the boundary lines of the development submitted for approval when required to provide for efficient circulation of traffic within the community.
- (2) Each side of a collector street, commercial street or residential street shall, within every 1,500 foot length of the street, be intersected by at least one connective street. The 1,500 foot length shall be measured from the origination point, if established, of the collector, commercial, residential or residential street.
- (3) Pursuant to the standards for a Variance as well as those outlined below, the Board of Adjustment may grant a Variance for developments that do not meet the above layout if:
  - (a) Existing surrounding development prevents extending a street to any adjoining developments to meet this regulation.

- (b) The adjoining existing street pattern or a planned "stub" street provides for an appropriate intersecting street beyond the 1,500-foot point, that would provide equivalent benefits as an intersecting street within 1,500 feet.
- (c) Severe topography or other physical features warrant making a connection of an intersecting street at another location either inside or outside the development to provide equivalent benefits as an intersecting street within a distance of 1,500 feet, and this other alternate specific location is provided for at the time the development making the request for an alternate location is approved.
- (4) Existing adjoining public streets, public platted streets, and publicly planned streets shall be continued and extended as public streets as part of the development. Streets that are not to be extended, as specifically and affirmatively determined by the Transportation Plan, shall be terminated in a permanent cul-de-sac.
- (5) Where a proposed development will extend a public street that is already stubbed out to the property line, such extension as a public street shall be required.
- (6) Wherever there exists a dedicated or platted half street adjacent to the parcel to be developed, the other half shall be platted and, where required, constructed.
- (7) Where a through street or a series of streets establishes a connection between two public streets and the connection is greater than 1,200 feet in length, or the connection may encourage through traffic not generated by the development, the street shall be a public street, except in instances where the Planning Director or Town Public Works Director or his/her designee determines that requiring such connection to be a public street will serve no purpose, due to the existing or proposed street pattern, traffic flow or traffic volumes.
- (8) Where a proposed development utilizing private streets has an area of 20 or more acres the Planning Director or Town Public Works Director or his/her designee may also require additional public through streets for the provision of emergency services, such as police and fire protection, or to provide alternate circulation at congested or critical intersections.

(L) **CONSTRUCTION STANDARDS AND SPECIFICATIONS**

All streets and sidewalks required by this section shall be constructed according to the specifications of the town's Engineering Design Manual, except that the Town Council may permit sidewalks to be constructed with other materials when they conclude that:

- (1) Such sidewalks would serve the residents of the development as adequately as concrete sidewalks;
- (2) Such sidewalks would be more environmentally desirable or more in keeping with the overall design of the development; or
- (3) Such sidewalks could be maintained as adequately as concrete sidewalks.

(M) **PRIVATE STREETS**

(1) Intent

- (a) Private streets serving single-family residential lots shall be permitted only within the Residential-Estate zoning district.
- (b) The private street standards of this section establish private street design and construction standards that vary based upon the number of single-family lots such streets will serve. These standards are intended to ensure public safety and the long-term durability of private streets while keeping public improvement costs as low as possible for the smallest of subdivisions.
- (c) The Town requires the logical and safe extension of public streets throughout the Town's jurisdiction. The Town shall allow private streets as outlined below, so long as the private streets are designed to protect the health, safety, and welfare of the residents whose primary access is the private street.
- (d) Private streets shall be designated on final plats as either "existing", "new", or "extended", in accordance with the standards of this section. Further, the initial purchasers of a newly created lot served by a private street shall be furnished by the seller with a disclosure statement outlining the maintenance responsibilities for the street, in accordance with the requirements set forth in G.S. § 136-102.6.
- (e) In the event that private streets are later made public through dedication to the Town, such streets shall be brought up to the current public construction and maintenance standards, prior to their acceptance by the Town.

(2) Existing Private Streets

- (a) Private access easements or streets, the existence of which as of July 1, 2018, can be established by documentary evidence, aerial photograph, or judicial decree, will be considered existing private streets.
- (b) All other private streets are considered new private streets or extensions of existing private streets, and must meet the standards set forth in sections (M)(3) and (M)(4) below.

(3) New or Extended Private Streets

- (a) New or extended private streets that serve as frontage for lots shall meet or exceed private street standards within this section.
- (b) Where an extension of an existing private street is proposed, the connecting private street shall be upgraded to comply with the private street standards within this article.

(4) Class "A" and "B" Private Streets

- (a) Class "A" private streets shall be permitted only when the proposed street will provide a maximum of eight (8) to ten (10) single-family residential lots. Extensions of private



streets that will result in the provision of more than ten (10) lots shall be brought up to public street standards as set forth by the Town of Clayton.

- (b) Class "B" private streets shall be permitted only when the proposed street will provide a maximum of seven (7) single-family residential lots. No extension of a Class "B" private street beyond seven (7) lots shall be permitted. Extensions of such roads that will result in the provision of more than seven (7) lots shall be permitted only if the entire length of the road is brought up to Class "A" private or public street standards (based upon the number of lots to be served).
  - (c) Subdivisions proposing lots served by private streets shall record the following notation on the final plat: "Further subdivision of any lot shown on this plat may require upgrades to the private street or its conversion to a public street, based upon the number of lots to be served. All maintenance and repair of private streets shall be borne by the owners of the lots served by the private street".
- (5) Design Standards for Private Streets
- (a) These standards described herein are the minimum set forth by the Town of Clayton for Class "A" and Class "B" private street standards.
  - (b) Class "A" private streets shall be paved and designed in accordance with the requirements outlined in the Town of Clayton Engineering Design Guidelines manual.
  - (c) Class "B" private streets may consist of alternative materials as permitted by the Town Engineer, and shall be designed in accordance with the requirements outlined in the Town of Clayton Engineering Design Guidelines manual.
  - (d) Class "A" and Class "B" private streets shall maintain 20' travel-way width to provide access for emergency vehicles.
  - (e) The property owners are responsible for all maintenance of Class "A" and Class "B" private streets, and shall be required to enter into a road maintenance agreement prior to plat recordation.

(N) **STREET NAMES AND SIGNS**

- (1) Street names shall be subject to the approval of the Planning Department and Johnston County. New street names shall not duplicate or be similar to existing street names in Johnston County. Existing street names, however, shall be projected where appropriate.
- (2) Street name signs shall be in place prior to approval of any certificate of occupancy for structures to be located on the street. Street name signs shall be clearly identified and labeled as "private".

(Ord. 2005-11-02, passed 11-21-05; (Ord. 2016-04-04, adopted 2016-04-04)

## **§ 155.603 LOTS AND BLOCKS**

### **(A) LOTS**

- (1) Every lot shall abut or front on a public or private street that complies with all applicable standards of this Chapter.
- (2) Lot sites, shapes, and locations shall be made with due regard to topographic conditions, contemplated uses, and the surrounding areas. All lots approved after January 6, 1997 shall contain the minimum required lot width of the applicable zoning district within 50 feet of the street right-of-way adjoining the front yard.
- (3) Double frontage lots shall be avoided, except when lots adjoin a thoroughfare and access is desirable by a street of residential scale, and discouraged or prohibited on the thoroughfare.
- (4) Side lot lines shall be substantially at right angles or radial to street lines.

### **(B) BLOCKS**

- (1) Blocks shall be laid out with special consideration given to the type of land use proposed within the block.
- (2) Blocks shall not exceed 1,500 feet in length.
- (3) Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth, except where otherwise required to separate residential development from through traffic.
- (4) In all districts except RE, I-1 and I-2, pedestrian connection not less than ten feet in width shall be required near the center and entirely across any block in excess of 900 feet in length to provide adequate access to schools, shopping centers, churches, or transportation facilities.
- (5) A pedestrian connection not less than ten feet in width shall be required through a residential cul-de-sac when the cul-de-sac helps provide adequate access to schools, shopping centers, churches, or transportation facilities. For these purposes, this connection is required when another connection (per (4) above) does not exist or the cul-de-sac terminates within 350' of either a public right of way, sidewalk, greenway, school, transportation facility, park, library or public community facility, or shopping center.

(Ord. 2005-11-02, passed 11-21-05)

## **§ 155.604 UTILITIES**

### **(A) EASEMENTS**

- (1) Utility easements shall be at least 20 feet wide, and shall run along side or rear lot lines. Wider easements may be required if the topography along the proposed right-of-way is such that maintenance equipment cannot reasonably operate within the minimum 20-foot wide easement.
- (2) Where a subdivision is traversed by a water-course, drainageway, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way, conforming substantially with the lines of such watercourses, and of such further width or construction, or both, as will be adequate for the purpose. Lakes, ponds, watercourses, and the land immediately adjacent thereto shall be considered for maintenance by the town only if sufficient land is dedicated as a public recreation area or park, or if such area constitutes a necessary part of the drainage control system. The town reserves the right to reject any intended dedications.

### **(B) OWNERSHIP OF UTILITIES**

All water, sanitary sewerage, electrical (when in town's service area) and storm drainage facilities installed under the requirements of this chapter shall become the sole property of the town upon acceptance. A deed to the town for such facilities, including easements pertaining to right-of-way entrance for maintenance, shall be executed prior to connections to the respective municipal systems.

### **(C) REQUIRED ADDITIONAL CAPACITY**

Where the Town Council deems it necessary, in the interest of the health, safety and general welfare of the residents of the town and its extraterritorial jurisdiction, the applicant shall make certain improvements at sizes in excess of those which would normally be required to serve only the applicant's subdivision. Where oversized improvements are required, the town shall reimburse the applicant for the cost of materials incurred over and above those required to serve the applicant's subdivision. Such reimbursement shall be mutually agreed upon through a Reimbursement Agreement as authorized by G.S. 160A-499.

### **(D) WATER DISTRIBUTION LINES AND SANITARY SEWERS**

- (1) Each lot in all subdivisions within the town's corporate limits, and each lot in all subdivisions in the extraterritorial jurisdiction within 300 feet of the town's water and/or sanitary sewer system shall be connected at the applicant's expense to the town's water and/or sewer system. In accordance with § 51.03 (A) of the Town Code of Ordinances, each developer of land shall be responsible for providing water and sewer line connections and all necessary pump stations, lift stations, and fire hydrants between their property and the town systems. In accordance with § 50.02 of the Town Code of Ordinances, the applicant shall pay water and sewer System Development fees for all property to be served by a connection to the town's water and/or sanitary sewer system.

- (2) Where a subdivision, in the extraterritorial jurisdiction lies more than 300 feet from the municipal water and/or sewer system, the applicant may, at the applicant's expense, connect the subdivision lots to the town's water and/or sanitary sewer system. In accordance with section § 51.20 (A) of the Town Code of Ordinances, any property owner or developer desiring to have water or sanitary sewer services extended to and along any public street or other area where no water or sanitary sewer main exists shall apply to the Town Manager, or designee, in writing requesting a specific daily allocation for such services. If the applicant provides a community water and/or sewer system, rather than connecting to the municipal system, or provides individual wells and/or septic tanks, the materials, design, and installation shall be made in accordance with all applicable state and Johnston County specifications and standards.
- (3) In accordance with section § 51.03(D) of the Town Code of Ordinances, the minimum diameter of a water main shall be six inches and the minimum diameter for a sewer main shall be eight inches. All sewer mains shall be installed at a maximum depth to ensure service to as large an area as possible. Water distribution lines shall be no smaller in size than six inches nominal diameter, with the following exception: On cul-de-sacs which are served by fire hydrants at their intersection with a local street, and the hydrant is connected to a water line of six inches nominal diameter, or larger, water service may be provided with lines smaller than six inches if a blow-off valve is established at the end of such line, or the line is connected to another line within the subdivision to form a loop. This exception shall not apply where such line represents the interconnection between the subdivision and the municipal system. On streets which are "stubbed out" at property lines to permit future development, service must be provided by lines of at least six inches nominal diameter.
- (4) In accordance with section § 155.301(F)(6)(a) and Title V of the Town Code of Ordinances, an accessible, adequate, safe supply of water and sewer shall be provided in each manufactured home park.
- (5) For the purpose of this section, the term "water system" shall include all appurtenances and fixtures normally associated with such facilities, including fire hydrants, gate valves, blow-offs, manholes, and pumping apparatus, but shall not include individual service meters, which shall be installed by the town; the aforementioned appurtenances and fixtures shall comply with the specifications and standards of the town.

(E) **STORM DRAINAGE**

- (1) The applicant shall provide an adequate drainage system for the proper drainage of all surface water in order to protect the proposed development from water damage. The design of such system shall be subject to the approval of the Town Public Works Director or his/her designee.
- (2) No surface water shall be channeled or directed into a sanitary sewer.
- (3) Where feasible, the applicant shall connect to the municipal storm drainage system.
- (4) Where the municipal storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to complement surface drainage systems to surrounding properties.

- (5) Cross pipes under streets and driveways shall be concrete, reinforced concrete, or other pipe, as approved by the Town Public Works Director or his/her designee. All such cross pipes shall be a minimum of 15 inches in diameter.
- (6) Surface drainage courses shall have side slopes of at least one foot of horizontal distance for each foot of vertical distance.
- (7) The minimum grade along the bottom of a surface drainage course shall be a vertical fall of approximately one foot in each 300 feet of horizontal distance.

(F) **ELECTRICAL UTILITIES**

Electrical improvements in accordance with town or progress energy standards, whichever is applicable, shall be required in all subdivisions.

(Ord. 2005-11-02, passed 11-21-05)

## **§ 155.605 PUBLIC FACILITIES**

### **(A) SCHOOL SITES**

- (1) When a subdivision plat is submitted for approval, in which, according to the land use or land development plan, a school site should be reserved, the Planning Director shall notify the County Board of Education that the subdivision has been submitted for approval, and that under this chapter, a school site may be reserved therein.
- (2) In reviewing the subdivision and giving approval the Planning Director shall consult the Board of Education in determining the exact size and location of any school site to be reserved therein.
- (3) Before the final plat of the subdivision is approved, the Board of Education shall determine whether or not it wishes to have a school site reserved in the subdivision. If the Board of Education does wish to have a school site reserved in the subdivision, the subdivision as finally approved shall reserve a school site of a size and location agreeable to the Board of Education and to the Planning Board. The Board of Education shall then have 18 months, beginning on the date of the final approval of the subdivision, within which to acquire the site. If the Board of Education has not purchased or begun proceedings to acquire the site within 18 months after the subdivision is finally approved, the applicant may proceed to dispose of it in accordance with the subdivision procedure and provisions of this chapter.

### **(B) RECREATION AND OPEN SPACE**

The minimum recreation and open space requirements for conventional and open space residential subdivisions are set forth in § 155.203(h).

(Ord. 2005-11-02, passed 11-21-05)

### **§ 155.606 PERMANENT REFERENCE POINTS**

Prior to the approval of the final plat, iron stakes shall be installed on all corners of the subdivision and at additional points in the subdivision, so that no point within the subdivision lies more than 500 feet from a monument. In addition, two or more control points shall be designated on the final plat.

(Ord. 2005-11-02, passed 11-21-05)

## **§ 155.607 GUARANTEE OF IMPROVEMENTS**

### **(A) GENERAL**

- (1) No final plat will be accepted for review by the Technical Review Committee unless accompanied by written notice by the Planning Director, acknowledging compliance with (B) and (C) of this section.
- (2) If the subdivision is to be phased or developed in sections, the Planning Director shall withhold final plat approval for the most recent phase until improvements in prior stages have been completed or guaranteed.

### **(B) PERFORMANCE GUARANTEES**

In lieu of prior construction of the improvements required by this subchapter, the town shall, for the purpose of approving a final plat, accept a guarantee from the applicant that such improvements will be carried out according to the town's specifications at the applicant's expense. Such guarantee may be in the form of a surety bond, letter of credit, certified check drawn in favor of the town, cash deposited with the town, or other form of guarantee that provides equivalent security to a surety bond or letter of credit, at the election of the person required to give the performance guarantee. Such guarantee shall be 125% of the estimated cost of the construction of the required improvements. This amount shall be determined by the Town Public Works Director or designee. Performance guarantees shall run for a period of one year upon written approval of the Town Council. If the improvements are not complete and the current performance guarantee is expiring, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period until such required improvements are complete. See also NC GS § 160D-804(g).

### **(C) SURETY BOND**

The town shall require a bond guaranteeing: street improvements, curbs, gutters, drainage facilities, sidewalks, electrical facilities, water and sewer lines and taps and all other improvements against defects for one year from the date of final acceptance by the town. This bond shall be in the amount determined by the Town Public Works Director or designee, and shall be in such form as allowed by subsection (B) immediately above.

### **(D) TOWN'S RIGHT OF INSPECTION AND ACCEPTANCE**

- (1) Whether the required improvements are performed prior to or following approval of the final plat, the applicant shall grant to the town and its assignees authority to inspect all construction of the required improvements, and moreover, shall advise the town at least two days in advance of beginning work on any of the various improvements. However, such right of inspection shall not constitute duty to inspect, nor shall it guarantee final acceptance by the town of any required improvements.
- (2) If improvements guaranteed as required by this Article do not meet the town's standards and the party responsible for constructing the improvements refuses to complete the



improvements to the Town's standards, the Town, at its sole discretion, may call or execute on the performance guarantee in order to finance the necessary completion of the guaranteed improvements. The town will provide the applicant with a written notice of its intent to carry out this provision at least two weeks prior to such liquidations, and shall also provide the applicant during this period a hearing at a regularly scheduled meeting of the Town Council, provided that sufficient time of validity remains on the guarantee.

- (3) The town's final acceptance of required improvements in the event of their construction following final plat approval shall be evidenced by a written letter from the Town Manager as specifically authorized by the Town Council.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07 )

## ARTICLE 7: ADMINISTRATION

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### § 155.700 REVIEW BODIES

#### (A) TOWN COUNCIL

##### (1) **Establishment and Composition**

The Town Council is established and composed pursuant to the Town Charter and Chapter 30 of the Town's Code of Ordinances.

##### (2) **Powers and Duties**

In execution of the provisions of this Chapter, the Town Council shall be responsible for final action per Table 7-1, Review and Approval Authority.

(B) **PLANNING BOARD**

(1) **Establishment and Composition**

The Planning Board is established and composed pursuant to G.S. § 160D-301 and Chapter 32 of the Town's Code of Ordinances. Per G.S. § 160D-307, residents of both the corporate limits and the ETJ shall serve on the Planning Board. The ratio of residents of the corporate limits and residents of the ETJ shall be proportional to the number of residents of the corporate limits to the number of residents of the ETJ. At least one resident of the ETJ shall serve on the Planning Board. The populations shall be taken from the most recent decennial census.

(2) **Powers and Duties**

In execution of the provisions of this Chapter, the Planning Board shall have the following power and duties.

(a) ***General Authority***

1. The Planning Board may exercise additional powers as may be described elsewhere in this chapter and as permitted by North Carolina General Statutes.
2. The Planning Board shall perform related duties as directed by the Town Council.

(b) ***Review Authority***

The Planning Board shall make recommendations per Table 7-1, Review and Approval Authority.

(c) ***Final Authority***

The Planning Board shall be responsible for final action per Table 7-1, Review and Approval Authority.

(C) **BOARD OF ADJUSTMENT**

(1) **Establishment and Composition**

Pursuant to G.S. § 160D-302, the Town has established a Board of Adjustment. Effective August 1, 2018, the Town designates the Town Planning Board established under Chapter 32.075 to 32.078 to perform the duties of a Board of Adjustment. The term "Board of Adjustment" when used in this Chapter shall be construed to mean the Planning Board.

(D) **PLANNING DIRECTOR**

(1) **Designation**

The Planning Director shall administer certain provisions of this Chapter as may be required below.

(2) **Powers and Duties**

In execution of the provisions of this Chapter, the Planning Director shall have the following powers and duties.

(a) ***General Authority***

1. The Planning Director may exercise additional powers as may be described elsewhere in this Chapter and as permitted by North Carolina General Statutes.
2. The Planning Director shall perform related duties as directed by the Town Council.

(b) ***Review Authority***

The Planning Director shall make recommendations per Table 7-1, Review and Approval Authority.

(c) ***Final Authority***

The Planning Director shall be responsible for final action per Table 7-1, Review and Approval Authority.

(E) **TECHNICAL REVIEW COMMITTEE**

(1) **Establishment and Composition**

Pursuant to G.S. § 160D-306, the Technical Review Committee (TRC) is established for the purpose of performing technical evaluations of land development activities, including but not limited to subdivisions, conditional rezonings, and site plan applications, per Table 7-1, Review and Approval Authority. The TRC is further authorized to complete appropriate analyses of land development activities pursuant to the Town's Code of Ordinances. The Technical Review Committee shall be composed of the persons below, or their designee:

- (a) The Planning Director, Chairman;
- (b) Planning Department staff, designated with primary review responsibility for each application;
- (c) The Public Works Director;
- (d) The Electric System Director;
- (e) The Town Engineer;
- (f) The Fire Chief;
- (g) The Parks and Recreation Director; and

(h) The North Carolina Department of Transportation.

The TRC may request input from other governmental agencies including, but not limited to, the School Board, the USPS Clayton Postmaster, Johnston County Department of Public Utilities, North Carolina Railroad, and adjacent municipalities as needed.

(2) **Powers and Duties.**

The Technical Review Committee has the following duties and responsibilities regarding the review and consideration of applications that come before them:

(a) The TRC shall undertake technical evaluations of land development applications and activities to identify deficiencies and/or discrepancies from the provisions of the Town's Unified Development Code and the Town's Code of Ordinances. These review duties are outlined in Table 7-1, Review and Approval Authority.

(b) The TRC may approve, disapprove, or postpone consideration of applications that require staff-level approval only. Actions by the TRC regarding staff-level approvals shall be final unless appealed in accordance with Section 155.717 of the UDC. Applications which proceed to the Board of Adjustment, Planning Board, or Town Council will be scheduled for the next available agenda, once receiving TRC certification to proceed.

(F) **MAINTENANCE OF THE PUBLIC TRUST**

(1) **Oath of Office**

Pursuant to G.S. § 160D-309, all members appointed to boards shall take the oath of office as required.

(2) **Conflict of Interest**

Pursuant to G.S. § 160D-109, no elected or appointed board member or administrative staff shall make a final decision as required by this Ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on themselves 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 associated relationship.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2008-09-01, passed 9-2-08; Am. Ord. 2011-12-02, passed 12-5-11; Am. Ord. 2013-02-02, passed 2-4-13; Am. Ord. 2013-12-03, passed 12-2-13; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord. 2017-01-01, adopted 01/03/2017)

## § 155.701 SUMMARY OF REVIEW AUTHORITY

Table 7-1 below summarizes review and approval authority under this chapter.

**§ 155.701 - Table 7-1: Review and Approval Authority**

|                                                                          | Decision Type  | Technical Review Committee<br>TRC | Planning Director<br>PD | Planning Board / Board of Adjustment<br>PB / BOA | Town Council<br>TC |           |
|--------------------------------------------------------------------------|----------------|-----------------------------------|-------------------------|--------------------------------------------------|--------------------|-----------|
| Text Amendment (aka Ordinance Amendment)                                 | Legislative    | Review, as needed                 | Review                  | Review                                           | <DECISION>         | § 155.703 |
| Rezoning                                                                 | Legislative    |                                   | Review                  | Review                                           | <DECISION>         | § 155.704 |
| Conditional Zoning District                                              | Legislative    | Review                            | Review                  | Review                                           | <DECISION>         | § 155.705 |
| Minor Preliminary Plat (formerly Minor Subdivision)                      | Administrative | Review                            | DECISION                |                                                  |                    | § 155.706 |
| Major Preliminary Plat (formerly Major Subdivision)                      | Administrative | Review                            | DECISION                |                                                  |                    | § 155.706 |
| Final Plat                                                               | Administrative | Review                            | DECISION                |                                                  |                    | § 155.706 |
| Administrative Amendment                                                 | Administrative | Review, as needed                 | DECISION                |                                                  |                    | § 155.707 |
| Site Plan                                                                | Administrative | Review                            | DECISION                |                                                  |                    | § 155.707 |
|                                                                          |                |                                   |                         |                                                  |                    |           |
| Traffic Impact Analysis                                                  | Administrative | Review, as needed                 | DECISION                |                                                  |                    | § 155.708 |
| Zoning Permit                                                            | Administrative |                                   | DECISION                |                                                  |                    | § 155.709 |
| Special Use Permit                                                       | Quasi-judicial | Review                            | Review                  |                                                  | <DECISION>         | § 155.711 |
| Temporary Use Permit                                                     | Administrative | Review, as needed                 | DECISION                |                                                  |                    | § 155.712 |
| Sign Permit                                                              | Administrative |                                   | DECISION                |                                                  |                    | § 155.713 |
| Alternative Sign Plan                                                    | Legislative    |                                   | Review                  |                                                  | <DECISION>         | § 155.713 |
| Written Interpretation (including Determination of Zoning Vested Rights) | Administrative |                                   | DECISION                |                                                  |                    | § 155.715 |

|                                                                                                                                                                             |                |                   |                 |            |  |            |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------------|-----------------|------------|--|------------|
| <b>Variance</b>                                                                                                                                                             | Quasi-judicial | Review, as needed | Review          | <DECISION> |  | \$ 155.716 |
| <b>Administrative Appeal</b>                                                                                                                                                | Quasi-judicial |                   |                 | <DECISION> |  | \$ 155.717 |
|                                                                                                                                                                             |                |                   |                 |            |  |            |
| <b>Tree Clearing Certificate</b>                                                                                                                                            | Administrative | Review, as needed | <b>DECISION</b> |            |  | \$155.721  |
| <b>&lt;Public Hearing Required&gt;</b><br>* Site Plans that are associated with a Special Use Permit application shall be reviewed during their hearing of the Special Use. |                |                   |                 |            |  |            |

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2013-02-02, passed 2-4-13; Am. Ord. 2013-12-03, passed 12-2-13; Am. Ord. 2017-01-01, adopted 01/03/2017; Am. Ord. 2018-07-02, adopted 07/16/2018)

## **§ 155.702 COMMON REVIEW PROCEDURES**

### **(A) PRE-APPLICATION CONFERENCE**

- (1) Before submitting an application for development approval, each applicant shall schedule a pre-application conference with the Planning Department to discuss the procedures, standards, and regulations required for development approval in accordance with this Chapter. The pre-application meeting shall have been held no more than six (6) months prior to application submittal.
- (2) Unless waived by the Planning Director, a pre-application conference with the Planning Department shall be required for all development approvals listed in Table 7-1, with the exception of Written Interpretations (§155.715), Administrative Appeals (§155.717), Zoning Permits (§155.709), and Sign Permits (§155.713).

### **(B) NEIGHBORHOOD MEETING**

- (1) After the pre-application conference and at least ten (10) days prior to the first public meeting or, if administrative, prior to final approval by the Technical Review Committee (TRC), the applicant shall hold a mandatory neighborhood meeting for the following:
  - (a) Rezoning ( § 155.704);
  - (b) Conditional Zoning ( § 155.705);
  - (c) Major Subdivision / Preliminary Plat Review, ( § 155.706);
  - (d) Major Site Plan Review (only required for site plans including new structures or building additions greater than 10,000 SF in size), ( § 155.707);
  - (e) Special Use Review ( § 155.711); and
  - (f) Variance ( § 155.716)
- (2) Only the initial application for Conditional Rezoning review shall require a neighborhood meeting. Subsequent applications for Minor Preliminary Plat or Site Plan review do not require further neighborhood meetings.
- (3) The purpose of the neighborhood meeting shall be to inform the neighborhood of the nature of the proposed land use and development features, explain the site plan if any, and solicit comments.
- (4) The applicant shall provide notification by mail to property owners as identified in (D)(2)(c) of this Section. The notice shall be mailed at least ten days but not more than 25 days prior to the date of the neighborhood meeting. Neighborhood meetings shall be held no earlier than 6:00 pm Monday through Friday to allow adequate time for attendees to get to the meeting.



- (5) The applicant shall provide to the Planning Department a copy of all notice materials including the letter and addresses, and provide written certification of the mailing. Certification shall note the date of the mailing and be signed by the applicant.
- (6) The applicant shall prepare and submit to the Planning Director a meeting summary that outlines attendance, major points discussed, and any agreements reached between the parties involved.
- (7) The Planning Director may develop administrative rules pertaining to any additional requirements for the conduct of the meeting.

(C) **APPLICATION REQUIREMENTS**

(1) **Forms**

Applications required under this Chapter shall be submitted on forms and in such numbers as required by the Planning Director.

(2) **Fees**

- (a) All applications and associated fees shall be filed with the Planning Department.
- (b) Filing fees shall be established from time to time to defray the actual cost of processing the application, as listed in the Town's Comprehensive List of Fees and Charges.
- (c) An applicant who has paid the appropriate fee pursuant to the submission of an application, but who chooses to withdraw such application prior to its distribution for review shall be entitled to a refund of the total amount paid, less 10% for administrative costs, upon written request to the appropriate department. Once review has begun, no refund shall be available, except that unused notice surcharges shall be refunded less 10% for administrative purposes.

(3) **Application Deadline**

Applications shall be submitted to the Planning Department in accordance with the published calendar schedule. Schedules indicating submittal dates shall be developed each year and made available to the public.

(4) **Applications Sufficient for Processing**

- (a) All applications shall be sufficient for processing before the Planning Department is required to review the application.
- (b) An application shall be sufficient for processing when it contains all of the required information and materials have been submitted for review.
- (c) The presumption shall be that all of the information required in the application materials is necessary to satisfy the requirements of this section. However, it is

recognized that each application is unique, and therefore more or less information may be required according to the needs of the particular case. The applicant may rely on the recommendations of the appropriate department as to whether more or less information should be submitted.

- (d) Once the application has been determined sufficient for processing, copies of the application shall be referred by the Planning Department to the appropriate reviewing entities.

(5) **Final Determinations on Sufficient Applications**

- (a) Following review by appropriate entities, Planning Department staff shall review any updated application materials and confer with the applicant to ensure an understanding of the applicable requirements of this Chapter; that the applicant has submitted all of the information they intend to submit; and that the application represents precisely and completely what the applicant proposes to do.
- (b) Once the applicant indicates that the application is as complete as the applicant intends to make it, Planning Department staff will make a determination on the application, or as required by this Chapter, the application shall be placed on the agenda of the appropriate review board in accordance with standard procedures.

(6) **Concurrent Applications**

- (a) If approved by the Planning Director, applications for development approvals may be filed and reviewed concurrently. Any application that also requires a variance shall not be eligible for final approval until the variance has been granted.
- (b) Applications submitted concurrently are subject to approval of all other related applications; denial or disapproval of any concurrently submitted application shall stop consideration of any related applications until the denied or disapproved application is resolved.

(D) **NOTICE AND PUBLIC HEARINGS**

(1) **Summary of Notice Required**

Notice shall be required for applications for approval as shown in Table 7-2 below.

**Table 7-2 – Public Notice Requirements**

|                                          | Published | Mailed | Posted |           |
|------------------------------------------|-----------|--------|--------|-----------|
| Text Amendment (aka Ordinance Amendment) | •         |        |        | § 155.703 |
| Rezoning                                 | •         | •      | •      | § 155.704 |
| Conditional Zoning District              | •         | •      | •      | § 155.705 |

|                       |   |   |   |           |
|-----------------------|---|---|---|-----------|
|                       |   |   |   |           |
|                       |   |   |   |           |
| Special Use Review    | • | • | • | § 155.711 |
| Variance              | • | • | • | § 155.716 |
| Administrative Appeal |   | • | • | § 155.717 |

(2) **Public Notice Requirements**

(a) ***Published Notice***

Where published notice is required, a distinctive advertisement shall be placed by the Town in a local newspaper of general circulation once a week for two successive calendar weeks, the first notice being published not less than ten days nor more than 25 days before the date fixed for the public hearing.

(b) ***Posted Notice (Sign)***

Where posted notice is required, a sign shall be posted within the same time period specified for mailed notices of the hearing.. The sign shall be posted on the property or at a point visible from the nearest public street. The sign shall indicate that a public hearing will be held and a phone number to contact the Town.

(c) ***Mailed Notice***

1. Where mailed notice is required, the applicant shall supply stamped addressed envelopes to the Planning Department. The notification shall be made by first-class mail by Planning Department staff (at the last addresses listed for such owners in the county tax records) to all property owners within 100 feet and immediately abutting the subject property. Pursuant to G.S. §160D-602, where the subject property immediately adjoins a street, railroad, other transportation corridor, public or private right-of-way, landscape or riparian buffer, commonly-owned private area, public property, or homeowners' association property, then letters of notification shall be sent to adjoining property owners as if they directly abut the subject property. The Planning Department shall certify to the Town Council that fact, and such certificate shall be deemed conclusive in the absence of fraud.
2. Pursuant to G.S. §160D-602(c) the notice shall be mailed at least ten but not more than 25 days prior to the date of the public hearing.
3. Mailed notice under this section shall not be required if a rezoning directly affects more than 50 properties owned by a total of at least 50 different property owners, and the Town elects to use the following expanded notice requirements:

- A. Published notice of the hearing shall be provided as set forth in (D)(2)(a) of this section. The advertisement shall not be less than one-half of a newspaper page in size.
- B. Mailed notice of the hearing shall be provided (as set forth in (D)(2)(c)1. and 2. of this section) to all property owners who reside outside of the newspaper's circulation area.

(d) ***Content of Notice***

A published or mailed notice shall provide at least the following:

1. Parcel identification number;
2. The address of the subject property (if available);
3. The general location of the land that is the subject of the application, which may include, a location map;
4. A description of the action requested;
5. Where a rezoning is proposed, the current and proposed districts;
6. The time, date and location of the public hearing;
7. A phone number to contact the Town; and
8. A statement that interested parties may appear at the public hearing.

(3)

(E) **DECISIONS**

Unless specifically provided elsewhere, all decisions on land use changes, including rezonings, shall require an affirmative vote. Tie votes shall be considered denials of any requested change.

(F) **NOTICE OF DECISION**

Within 14 days after a decision is made, a copy of the decision shall be delivered to the applicant by personal delivery, electronic mail, or first-class mail. The decision shall also be filed with the Planning Department and available for public inspection during regular office hours.

(G) **WITHDRAWAL OF APPLICATION**

- (1) An applicant may withdraw an application at any time, by filing a statement of withdrawal with the Planning Director.

- (2) The statement of withdrawal shall be signed by all persons who signed the application, or in the event of death or incompetence, by the estate's lawful personal representative.
- (3) The Planning Director shall withdraw applications due to failure of the applicant to submit required information within 90 days of the initial request.
- (4) An applicant may postpone a scheduled public hearing once per application for up to 90 days after the date the first public hearing was scheduled to occur, after which the Planning Director shall withdraw the application per (3) above.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2011-05-01, passed 5-2-11; Am. Ord. 2013-02-02, passed 2-4-13; Am. Ord. 2013-12-03, passed 12-2-13; Am. Ord. 2017-01-01, adopted 01/03/2017; Am. Ord. 2018-07-02, adopted 07/16/2018)

## **§ 155.703 TEXT AMENDMENT**

### **(A) APPLICABILITY**

Amendments to the text of the Town's Code of Ordinances or to this Chapter shall be made in accordance with the provisions of this section.

- (1) The Town Council shall consider amendments to the text of this chapter, as may be required from time to time.

### **(B) INITIATION OF AMENDMENT**

A request to amend the text of this chapter may be initiated by the Town Council, Board of Adjustment, Planning Board, Planning Director, or the general public.

### **(C) APPLICATION REQUIREMENTS**

Applications for a text amendment shall be submitted in accordance with § 155.702(c).

### **(D) NOTICE AND PUBLIC HEARINGS**

The Town shall hold all required public hearings and give notice in accordance with § 155.702(d).

### **(E) ACTION BY PLANNING DIRECTOR**

- (1) The Planning Director shall draft the appropriate amendment and prepare a staff report that reviews the proposed text amendment request.
  - (a) Following completion of technical review by staff, the Planning Director shall forward the completed request and any related materials to the Planning Board for a recommendation.

### **(F) ACTION BY PLANNING BOARD**

- (1) The Planning Board shall make a recommendation on the application to the Town Council. If the Planning Board fails to make a recommendation, the Town Council may process the request without a recommendation.
- (2) Following Planning Board review, the Planning Director shall forward the completed request and any related materials, including the Planning Board recommendation (if applicable), to the Town Council for final action.

### **(G) ACTION BY TOWN COUNCIL**

- (1) Before taking action on a text amendment, the Town Council shall consider the recommendations of the Planning Board and Planning Director.
- (2) The Town Council may approve the amendment, deny the amendment, or send the amendment back to the Planning Board for additional consideration.

(H) **APPROVAL CRITERIA**

- (1) In evaluating any proposed amendment of the text of this chapter, the Planning Board and the Town Council shall consider the following:
  - (a) The extent to which the proposed text amendment is consistent with the remainder of the chapter, including, specifically, any purpose and intent statements, and must adopt a statement describing whether the action is consistent or inconsistent with approved plans;
  - (b) The extent to which the proposed text amendment represents a new idea not considered in the existing chapter, or represents a revision necessitated by changing circumstances over time;
  - (c) Whether or not the proposed text amendment corrects an error in the chapter; and
  - (d) Whether or not the proposed text amendment revises the chapter to comply with state or federal statutes or case law.
  - (e) Any adopted plans of the Town.
- (2) In deciding whether to adopt a proposed text amendment to this chapter, the central issue before the Town Council is whether the proposed amendment advances the public health, safety or welfare and is consistent with the adopted plans and policies of the Town and the specific intent of this chapter.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2018-07-02, adopted 07/16/2018)

## **§ 155.704 REZONING**

### **(A) APPLICABILITY**

- (1) Amendments to the zoning map shall be made in accordance with the provisions of this section.
- (2) The Town Council shall consider amendments to the zoning map, as may be required from time to time.
- (3) Where appropriate, rezonings should correspond with the boundary lines of existing platted lots or parcels or the minimum area for an intended use, especially if that portion of the tract is to be subdivided. Where the boundaries of a rezoning request stop short of an exterior property line, it must be possible to subdivide and develop that portion of the property outside the proposed rezoning boundary in accordance with the existing zoning and other requirements of this chapter.
- (4) All zoning requirements shall be met within the boundaries of the area being rezoned. If all of the requirements cannot be met on the site being rezoned, prior to advertisement of the public hearing, the rezoning shall be expanded to include all property necessary to meet zoning requirements.

### **(B) INITIATION OF AMENDMENT**

- (1) A request for a rezoning may be initiated by the Town Council, the Planning Board, or the Planning Director.
- (2) An owner of land within the jurisdiction of the Town (or a duly authorized agent or representative) may petition the Town Council for a rezoning. Third-party downzoning petitions are specifically prohibited.

### **(C) PRE-APPLICATION CONFERENCE**

All applicants petitioning for a rezoning shall schedule a pre-application conference with the Planning Director in accordance with § 155.702(a).

### **(D) NEIGHBORHOOD MEETING**

All applicants petitioning for a rezoning shall hold a neighborhood meeting in accordance with § 155.702(b).

### **(E) APPLICATION REQUIREMENTS**

All applications for a rezoning shall be submitted in accordance with § 155.702(c).

### **(F) NOTICE AND PUBLIC HEARINGS**

The Town shall hold all required public hearings and give notice in accordance with § 155.702(d).



(G) **ACTION BY PLANNING DIRECTOR**

- (1) The Planning Director shall prepare a staff report that reviews the rezoning request in light of the adopted plans and policies of the Town and the general requirements of this chapter.
- (2) Following completion of technical review by staff, the Planning Director shall forward the completed request and any related materials to the Planning Board.

(H) **ACTION BY PLANNING BOARD**

- (1) The Planning Board shall make a recommendation on the application to the Town Council. The Planning Board's recommendation shall include a written statement to the Town Council describing whether its recommendation is consistent with the adopted plans and policies of the Town. If the Planning Board fails to make a recommendation, the Town Council may process the request without a recommendation.
- (2) Following Planning Board review, the Planning Director shall forward the completed rezoning request and any related materials, including the Planning Board recommendation (if applicable), to the Town Council for final action.

(I) **ACTION BY TOWN COUNCIL**

- (1) Before taking action on a rezoning, the Town Council shall consider the recommendations of the Planning Board and Planning Director.
- (2) The Town Council may approve the rezoning, deny the rezoning, or send the rezoning back to the Planning Board for additional consideration.
- (3) Concurrently with adopting, denying, or remanding any rezoning, the Town Council shall adopt a statement describing whether its action is consistent with the adopted plans and policies of the Town and explaining why the Town Council considers the action taken to be reasonable and in the public interest. If the Council adopts a rezoning which is not consistent with any adopted future land use map, there must be a note placed on the applicable map or maps that an amendment inconsistent with the map has been adopted, and the map or maps are deemed amended.

(J) **APPROVAL CRITERIA**

In connection with its legislative decision on a rezoning request, the Town Council may consider factors including, but not limited to, the following:

- (1) Consistency with the adopted plans and policies of the Town;
- (2) Suitability of the subject property for uses permitted by the current versus the proposed district;
- (3) Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the Town;

- (4) The capacity of adequate public facilities and services including schools, transportation infrastructure, recreation facilities, wastewater treatment, water supply facilities, and stormwater drainage facilities for the proposed use;
- (5) It has been determined that the legal purposes for which zoning exists are not contravened;
- (6) It has been determined that there will be no adverse effect upon adjoining property owners unless such effect can be justified by the overwhelming public good or welfare; and
- (7) It has been determined that no one property owner or small group of property owners will benefit materially from the change to the detriment of the general public.

(K) **MODIFICATION OF APPLICATION**

An applicant in a zoning matter may reduce the geographic scope and or propose a district of lower density or intensity from that requested in the application by filing a statement of modification with the Planning Director.

(L) **TIME LAPSE BETWEEN SIMILAR APPLICATIONS**

- (1) In the event of a withdrawal of an application during Town Council review on the merits, no application may be filed requesting the rezoning of any parcel contained in the withdrawn application prior to the expiration of a minimum period of six months from the withdrawal of the application. Where the application is withdrawn prior to the required public hearing, no expiration period shall be imposed on a new application.
- (2) When the Town Council has voted on a zoning application and the proposed rezoning has either been denied or has failed to be adopted by the vote required in the event of a valid protest petition, then the application shall be deemed to have expired.
- (3) No subsequent application requesting a zoning change for any parcel contained in an application which has expired may be made prior to the expiration of a minimum period of six months from the date of expiration.
- (4) No subsequent application requesting the same zoning district for any parcel contained in an application which has expired may be filed prior to the expiration of a minimum period of one year from the expiration.
- (5) The Town Council, by a three-fourths majority vote, may waive the time-lapse requirements of this section if the Town Council deems it to be in the public interest to do so.

(Ord. 2005-11-02, passed 11-21-2005; Am. Ord. 2007-04-05, passed 4-2-2007; Am. Ord. 2009-03-04, passed 3-2-2009; Am. Ord. 2016-04-04, passed 04-04-2016)

## **§ 155.705 CONDITIONAL ZONING DISTRICT**

### **(A) APPLICABILITY**

- (1) Conditional zoning district review (also known as conditional rezoning) shall occur in accordance with the provisions of this section.
- (2) The Town Council shall consider conditional districts, as may be required from time to time.
- (3) All requirements shall be met within the boundaries of the area being rezoned. If all of the requirements cannot be met on the site being rezoned, prior to advertisement of the public hearing, the rezoning shall be expanded to include all property necessary to meet zoning requirements.
- (4) A conditional district is not appropriate for developments that could be substantially achieved through traditional subdivision and conventional district rezoning.
- (5) At a minimum, and to avoid the potential for spot zoning, a conditional zoning application shall include a minimum amount of land of either:
  - (a) 5 acres, or
  - (b) One full city block (either existing or proposed) of at least 1 acre whose abutting street network connects to or extends in alignment with the existing public street network.

### **(B) INITIATION OF AMENDMENT**

An owner of land within the jurisdiction of the Town (or a duly authorized agent or representative) may petition the Town Council to establish a conditional district.

### **(C) PRE-APPLICATION CONFERENCE**

All applicants petitioning for a conditional district shall schedule a pre-application conference with the Planning Director in accordance with § 155.702(a).

### **(D) NEIGHBORHOOD MEETING**

All applicants petitioning for a conditional district shall hold a neighborhood meeting in accordance with § 155.702(b).

### **(E) APPLICATION REQUIREMENTS**

- (1) Concurrent with a request for establishment of a conditional district, an applicant shall submit a master plan, as detailed in this section, to govern the development and maintenance of the land within the conditional district. The master plan shall be prepared by a professionally certified landscape architect, engineer, AICP Planner, or architect.

- (2) All applications for establishment of a conditional district shall be submitted in accordance with § 155.702(C).
- (3) A traffic impact analysis shall be required if the proposed master plan meets the thresholds established in § 155.708.

(F) **NOTICE AND PUBLIC HEARINGS**

The Town shall hold all required public hearings and give notice in accordance with § 155.702(d).

(G) **ACTION BY PLANNING DIRECTOR**

- (1) Upon submission of a completed application, the Planning Director shall schedule the master plan for review by the Technical Review Committee. The Technical Review Committee shall review the master plan for consistency with the requirements of this Chapter.
- (2) Upon completion of the technical review, the Planning Director may meet with the applicant to discuss any changes in development design.
- (3) The Planning Director shall prepare a staff report that reviews the application in light of comments provided by the Technical Review Committee, in light of the adopted plans and policies of the town, and the general requirements of this chapter. The report, master plan and any related application materials shall be forwarded to the Town Council.

(H) **ACTION BY THE PLANNING BOARD**

- (1) The Planning Board shall make a recommendation on the application to the Town Council. The Planning Board's recommendation shall include a written statement to the Town Council describing whether its recommendation is consistent with the adopted plans and policies of the Town. If the Planning Board fails to make a recommendation, the Town Council may process the request without a recommendation.
- (2) Following Planning Board review, the Planning Director shall forward the completed conditional district request and any related materials, including the Planning Board recommendation (if applicable), to the Town Council for final action.

(I) **ACTION BY TOWN COUNCIL**

- (1) Before taking action on a conditional district proposal, the Town Council shall consider the recommendation of the Planning Board (if applicable) and the Planning Director.
- (2) The Town Council may approve, approve with conditions, or disapprove the conditional district. Any conditions of approval must be signed (or declined) by the applicant prior to the Council rendering a decision.
- (3) Concurrently with adopting, denying, or remanding any conditional district, the Town Council shall adopt a statement describing whether its action is consistent with the adopted plans and policies of the Town and explaining why the Town Council considers the action taken to be reasonable and in the public interest. If the Council adopts a conditional district that is

inconsistent with any adopted future land use map a note must be placed on the map or maps that an amendment inconsistent with the map has been adopted and that the map is deemed amended.

(J) **CONDITIONAL ZONING DISTRICT APPROVAL CRITERIA**

In connection with its legislative decision on a conditional zoning district request, the Town Council may consider factors including, but not limited to, the following:

- (1) Consistency with the adopted plans and policies of the Town;
- (2) Suitability of the subject property for uses permitted by the current versus the proposed conditional district;
- (3) Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the Town;
- (4) The capacity of adequate public facilities and services including schools, roads, recreation facilities wastewater treatment and water supply facilities and stormwater drainage facilities for the proposed conditional district;
- (5) It has been determined that the legal purposes for which zoning exists are not contravened;
- (6) It has been determined that there will be no adverse effect upon adjoining property owners unless such effect can be justified by the overwhelming public good or welfare; and
- (7) It has been determined that no one property owner or small group of property owners will benefit materially from the change to the detriment of the general public.

(K) **MASTER PLAN CONTENTS AND APPROVAL CRITERIA**

- (1) At a minimum, the master plan shall designate:
  - (a) Where and which uses or groups of uses will occur.
  - (b) The proposed intensity/density of those uses.
  - (c) The general location of the internal and external network of public rights-of-way and public infrastructure.
  - (d) All required elements for establishment of a zoning district including but not limited to dimensional standards, open space network, natural resource preservation, and landscaping or buffering.
- (2) The master plan shall include and the applicant shall be responsible for successfully addressing the following:
  - (a) Compliance with § 155.203(L) and all other applicable requirements of this chapter, or analysis and justification if it deviates from the requirements of this chapter;

- (b) Consistency with the Clayton General Design Guidelines;
- (c) Conformance of the proposal with the stated purpose of the requested conditional zoning district;
- (d) Compatibility of the proposed development with the adjacent community;
- (e) The quality of design intended for each component of the project and the ability of the overall development plan to ensure a unified, cohesive environment at full build-out;
- (f) Compatible relationships between each component of the overall project;
- (g) Self-sufficiency of each phase of the overall project;
- (h) Documentation that the proposed infrastructure improvements accommodate the additional impacts caused by the development, or documentation to assure that the development, as proposed, will not overtax the existing public infrastructure systems;
- (i) The fiscal impact of the proposal and the proposed financing of required improvements;
- (j) The success of the proposal in providing adequate pedestrian and bicycle links within the development and with the adjacent community; and
- (k) The effectiveness with which the proposal protects and preserves the ecologically sensitive areas within the development.

(L) **ACTION AFTER APPROVAL**

- (1) Upon approval of a conditional zoning district by the Town Council, and on recordation of the approved master plan, the district is deemed established. Properly executed documents shall be returned to the office of the Town Clerk for recording no later than 90 days from the date of approval or the approval shall be null and void. All documents (including the approved master plan) shall be an integral part of the approved proposal.
- (2) The approved conditional district and associated master plan shall run with the land and shall be binding on the original applicant as well as any successors, assigns and heirs. The approved master plan shall be recorded in the Johnston County Register of Deeds office and the Zoning Map amended.
- (3) Approval of a conditional district rezoning and associated master plan does not constitute site plan approval or subdivision approval (if the property is to be further subdivided), except where the master plan meets the requirements for and is approved as a preliminary plat.
- (4) Property to be further subdivided shall obtain approval in accordance with § 155.706. Where a preliminary plat has been approved, the applicant may move forward to provide construction plans and a final plat.
- (5) Property not to be further subdivided shall obtain site plan approval as set forth in § 155.707.

- (6) Special uses identified as such in the approved master plan require approval in accordance with § 155.711.
- (7) The master plan shall run with the land perpetually, or until a subsequent rezoning is approved.

(M) **TIME LAPSE BETWEEN SIMILAR APPLICATIONS**

- (1) In the event of a withdrawal of an application prior to action by the Town Council, no application may be filed requesting the same or substantively similar conditional district contained in the withdrawn application prior to the expiration of a minimum period of six months from the withdrawal of the application.
- (2) When the Town Council has voted on a conditional district and the proposed rezoning has failed to be adopted, then the application shall be deemed to have expired.
- (3) No subsequent application requesting a conditional district for any parcel contained in an application which has expired may be made prior to the expiration of a minimum period of six months from the date of expiration.
- (4) No subsequent application requesting the same zoning category for any parcel contained in an application which has expired may be filed prior to the expiration of a minimum period of one year from the expiration.
- (5) The Town Council, by a three-fourths majority vote, may waive the time-lapse requirements of this section if the Town Council deems it to be in the public interest to do so.

(N) **APPROVED MASTER PLAN MODIFICATIONS**

- (1) Amendments or modifications to an approved master plan, if minor in scope, shall be approved administratively by the Planning Director. Minor modifications shall include up to 10% modifications (by area, intensity, or dwelling units) from the original approval to the approved mixture of uses (so long as the maximums stated are not exceeded), adjustments to phasing, and the realignment of internal transportation infrastructure provided connectivity is not reduced. Changes in boundaries between land uses are permitted so long as the boundary abutting outside zoning districts does not change and the boundary between areas within the conditional district does not shift more than 100' for master plans covering 20 acres or less, 200' for master plans of 20-100 acres, or 300' for master plans of greater than 100 acres. Minor modifications to the typical project details, which include but are not limited to signage, lighting, parking, amenities, and landscape requirements shall also be approved administratively by the Planning Director provided they conform to all other aspects of the approved master plan, this Chapter, and other Town policies and specifications, as appropriate.
- (2) Major modifications include anything not identified as minor. Major modifications shall require resubmittal and reconsideration by per this Section. Major modifications shall also include any proposed revisions that are deemed by the Planning Director to be inconsistent with the adopted plans and policies of the Town, or the conditions of the district, or that

would otherwise negatively impact surrounding properties in any manner exceeding the originally approved master plan.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2008-06-01, passed 6-2-08; Am. Ord. 2009-03-04, passed 3-2-09; Am. Ord. 2015-02-01, passed 2-2-15; Am. Ord. 2016-04-04, passed 04-04-2016; Am. Ord. 2018-07-02, adopted 07-16-2018)



## **§ 155.706 PRELIMINARY PLAT REVIEW (FORMERLY SUBDIVISION REVIEW)**

### **(A) APPLICABILITY**

Pursuant to and in accordance with G.S. § 160D Article 8, subdivision approval shall be required before the division of land (for any purpose) into two or more parcels, except as expressly exempted below.

### **(B) ACTIONS EXEMPT FROM PRELIMINARY PLAT REVIEW**

For the purpose of this Article “subdivision” shall be as defined in G.S. §160D-802, and subject to the restrictions therein. Any subdivisions expressly exempted from all or a portion of the standards of this Ordinance shall still be required to meet the standards of G.S. §160D Article 8, including the filing of a Final Plat.

- (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resulting lots are equal to or exceed the standards of this Chapter;
- (2) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved;
- (3) The public acquisition by purchase of strips of land for water or sewer infrastructure or the widening or opening of streets or for public transportation system corridors
- (4) The division of a site 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 this Chapter.
- (5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under G.S. § 29.
- (6) The division of a tract or parcel of land in single ownership when the following criteria are met (see G.S. § 160D-802(c):
  - (a) The tract or parcel to be divided is not exempted based on any of the criteria listed above in this subsection
  - (b) No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division
  - (c) The entire area of the tract or parcel to be divided is greater than five acres
  - (d) After division, no more than three lots result from the division

(e) After division, all resultant lots comply with all of the following:

1. Any lot dimension size requirements of this Chapter.
2. The use of the lots is in conformity with this Chapter.
3. A permanent means of ingress and egress is recorded for each lot.

(C) **NO SUBDIVISION WITHOUT PLAT APPROVAL**

- (1) No person may subdivide land except in accordance with all of the provisions of this chapter. In particular, no subdivision may occur unless and until a final plat of the subdivision has been approved in accordance with the provisions of this section and recorded in the Johnston County Registry.
- (2) The County Register of Deeds shall not record a plat of any subdivision within the Town's planning jurisdiction unless the plat has been approved in accordance with the provisions of this Chapter.
- (3) Not all divisions of land constitute subdivisions that are subject to regulation under this chapter. However, to ensure that such divisions are in fact exempt from the requirements of this chapter, all plats creating a division of land shall be presented to the Planning Director before recordation in the Johnston County Registry and the Planning Director shall indicate on the face of the plat that the division is exempt from the provisions of this Chapter if that is the case.
- (4) No street shall be maintained or accepted by the Town, nor shall any street lights, water, or sewer be extended to or connected with any subdivision of land, or shall any permit be issued by any administrative agent or department of the Town for the construction of any building or other improvements requiring permit, upon any land for which a plat is to be approved, unless and until the requirements set forth in this Chapter are in compliance.
- (5) There are a variety of requirements for differing levels of resource protection in Article 5, which must be met prior to the subdivision of land.

(D) **DELEGATION OF AUTHORITY**

The Town Council delegates review and approval authority for all preliminary plats and final plats to the Planning Director, with review by the Technical Review Committee.

(E) **UNLAWFUL TO RECORD PLAT WITHOUT FINAL OR PRELIMINARY PLAT APPROVAL**

Except as described above, it shall be unlawful to offer and cause to be recorded any final plat within the Town limits with the County Register of Deeds unless the plat bears the endorsement and approval of the Planning Director or Town Clerk.

(F) **DEFINITIONS**

- (1) **Minor Subdivision**

- (a) A minor subdivision is a subdivision that does not involve any of the following:
  - 1. Creation of a total of more than five lots;
  - 2. Creation of any new public streets;
  - 3. Extension of any water or sewer lines; or
  - 4. Installation of drainage improvements through one or more lots to serve one or more other lots.
  - 5. A traffic impact analysis as established in § 155.708.
- (b) Minor subdivisions require minor preliminary plat review and final plat review.

(2) **Major Subdivision**

- (a) All other divisions of land not exempted in (B) of this section or listed in (F)(1) of this section shall be considered major subdivisions.
- (b) Major subdivisions require major preliminary plat approval and final plat approval.

(G) **PRE-APPLICATION CONFERENCE AND SKETCH PLAN**

- (1) All applicants seeking subdivision approval shall schedule a pre-application conference with the Planning Director, in accordance with § 155.702(A).
- (2) At the time of the pre-application conference, applicants shall submit a sketch plan for review by the Planning Director. This plan should, in simple sketch form, show the proposed layout of streets, lots and other features in relation to existing conditions (see Planning Department for specific submittal requirements).
- (3) The Planning Director shall make a determination as to which approval process authorized by this section can be used. The Planning Director may require the applicant to submit whatever supplemental information is necessary to make this determination.
- (4) When a subdivision is to be developed in phases or stages, a master plan shall be submitted for the entire development and a preliminary plat shall be submitted for each individual stage. A final plat is submitted for individual stages as each stage is developed. Each new stage shall be developed adjacent to an earlier stage.

(H) **MINOR PRELIMINARY PLAT REVIEW (FOR MINOR SUBDIVISIONS)**

(1) **Applicability**

- (a) The procedure for approval of a minor preliminary plat is intended to simplify processing of routine small subdivisions with due regard to protection of the public interest. The difference between the minor and major subdivision processes is that minor subdivisions do not require preliminary plat review.

(b) There shall be only one minor subdivision approved on any original tax parcel in any three-year period. This condition shall not apply to minor subdivisions for which the following conditions are met:

1. The owner and grantee certify that the grantee of each lot is the child or child and spouse, or grandchild and spouse of the owner;
2. The owner and grantee certify that no consideration shall be paid for any of the lots;
3. The owner and grantee certify that the purpose of the minor subdivision is not to circumvent the provisions of this chapter, and that none of the lots shall be conveyed to third parties for a period of not less than three years, and that the record plat shall indicate same.
4. Failure of any person to comply with the provisions of (H)(1)(b)1., 2. and 3. of this section shall be in violation of this chapter, and all of the remedies available in G.S. §160D-807 shall apply.

(2) **Application Requirements**

All applications for minor plat review shall be submitted in accordance with § 155.702(C).

(3) **Action by Planning Director**

- (a) Upon submission of a completed application, the Planning Director shall schedule the minor subdivision plat for review by the Technical Review Committee. The Technical Review Committee shall review the plat for consistency with the requirements of this chapter. The Planning Director shall, after review by the Technical Review Committee, determine whether the plat conforms to the standards of a minor subdivision.
- (b) If the minor subdivision plat is determined not to be in conformance with the requirements of this Chapter, the application shall be denied. If the Planning Director should disapprove the preliminary plat, the reasons for such action shall be given to the applicant.

(4) **Action Following Approval**

Upon minor preliminary plat approval, the applicant may begin preliminary site work. All site work shall be performed in compliance with the requirements of this chapter, and other applicable regulations of the Town, the County, and the state. The final plat may be recorded in the County Record of Deeds.

(5) **Continuing Validity of Minor Plats**

Within 24 months of the date of approval of the minor subdivision plat, the applicant shall submit application for final plat review otherwise the minor subdivision plat shall be null and void.

(6) **Minor Plat Approval Criteria**

Minor subdivision plats shall be approved only when the Planning Director, after Technical Review Committee review, finds that all of the following conditions exist:

- (a) Consistency with the adopted plans and of polices of the Town
- (b) The plat complies with the standards of §§ 155.600 through 155.607, and any other applicable requirements of this Chapter
- (c) The plat indicates that all subject lots will have frontage on existing approved streets
- (d) New or residual parcels conform to the requirements of this chapter and other applicable regulations
- (e) No new streets are required or are likely to be required for access to interior property
- (f) No drainage or utility easements will be required to serve interior property
- (g) No extension of public sewerage or water lines will be required
- (h) The proposed subdivision will not adversely affect permissible development of the remainder of the parcel or of adjoining property.

(I) **MAJOR PRELIMINARY PLAT REVIEW (FOR MAJOR SUBDIVISIONS ONLY)**

(1) **Applicability**

A preliminary plat shall be required for all subdivisions that do not meet the definition of a minor subdivision as set forth in (F) of this section.

(2) **Application Requirements**

- (a) All applications for preliminary plat review shall be submitted in accordance with § 155.702(C).
- (b) A traffic impact analysis may be required if the proposed subdivision meets the thresholds established in § 155.708.

(3) **Notice and Public Hearings**

The Town shall hold all required public hearings and give notice in accordance with § 155.702(D).

(4) **Neighborhood Meeting**

None required.

(5) **Action by Planning Director**

- (a) Upon submission of a completed application, the Planning Director shall schedule the preliminary plat for review by the Technical Review Committee. The Technical Review Committee shall review the preliminary plat for consistency with the requirements of this chapter. The Planning Director shall, after review by the Technical Review Committee, determine whether the plat conforms to the standards of this Chapter.
- (b) If the preliminary plat is determined not to be in conformance with the requirements of this Chapter, the application shall be denied. If the Planning Director should disapprove the preliminary plat, the reasons for such action shall be given to the applicant.

**(6) Waivers**

- (a) The Town Council may authorize, in specific situations, waivers to the access requirements enumerated in Article 4 if it is clear that adequate provisions for the type and intensity of the proposed use has been or will be provided, and there are special circumstances, such as unique characteristics of the lot and area, or strict interpretation of the requirements render the subdivision of the property not feasible or desirable. In granting a waiver, the Council shall affirmatively make the following findings:
  - 1. The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located;
  - 2. The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not generally applicable to other property;
  - 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 this chapter are enforced; and
  - 4. The purpose of the wavier is not based primarily upon financial consideration.
- (b) In granting a waiver, the Town Council may require certain conditions that in its judgment, substantially secure the objectives, standards, or requirements of this chapter.

**(7) Action Following Approval**

- (a) Upon preliminary plat approval, the applicant may initiate proceedings to begin site work and installation of improvements. All work shall be performed in compliance with the requirements of §§ 155.600 through 155.607, and other applicable regulations of the Town, the County, and the state.
- (b) Approval of a preliminary plat does not constitute approval of the final plat. Application for approval of the final (record) plat will be considered only after the requirements for

final plat approval as specified in (J) of this section have been fulfilled and after all other specified conditions have been met.

**(8) Continuing Validity of Preliminary Plats**

- (a) Within 24 months of the date of approval of the preliminary plat, the applicant shall submit a final plat for at least one section of the subdivision otherwise the preliminary plat shall be null and void.
- (b) For multi-phase developments greater than 25 acres, the preliminary plat shall expire seven years after approval and is subject to the requirements of G.S. § 160D-108(d)(4). As phases continue to receive development approvals or site specific vesting plans, the vesting period may extend past the initial seven year period according to the standards for those approvals.
- (c) For preliminary plats also approved as master plans for Conditional Zoning Districts, the preliminary plat does not expire and runs with the land, or until a subsequent rezoning changes the district.
- (d) Where more than one vested right may be in effect, the longer time period applies.

**(J) FINAL PLAT REVIEW (MAJOR AND MINOR SUBDIVISIONS)**

**(1) Applicability**

A final plat shall be required for all subdivision of land in the Town and its extraterritorial jurisdiction.

**(2) Application Requirements**

All applications for final plat review shall be submitted in accordance with § 155.702(C).

**(3) Action by Planning Director**

- (a) Upon submission of a completed application, the Planning Director shall within 60 days schedule the final plat for review by the Technical Review Committee. The Technical Review Committee shall review the final plat for consistency with the with the approved minor subdivision plat or approved preliminary plat, as applicable, and the general requirements of this chapter.
- (b) Upon completion of the technical review, the Planning Director may approve the final plat, deny the final plat, or send the plat back for additional consideration.
- (c) If the final plat is disapproved by the Planning Director, the reasons for such disapproval shall be stated in writing, specifying the provisions of this chapter with which the final plat does not comply.

**(4) Final Plat Approval Criteria**

Final plats shall be approved when the following conditions exist:

- (a) Consistency with the adopted plans and of policies of the Town;
- (b) The plat substantially complies with the approved minor plat or preliminary plat, as applicable;
- (c) The plat complies with the standards of §§ 155.600 through 155.607 and the other applicable requirements of this chapter;
- (d) New and residual parcels will conform to the requirements of this chapter and other applicable regulations;
- (e) All necessary right-of-way has been offered for reservation or dedication; and
- (f) All necessary drainage easements have been provided.

(5) **Endorsements On Final Plats**

(a) ***Minor Plats***

All minor subdivision final plats shall contain the following certificates:

- 1. Certificate of ownership;
- 2. Certificate of survey and accuracy;
- 3. Certificate of approval by the Planning Director; and
- 4. County Plat Review Officer's Certificate

(b) ***Major Plats***

- 1. All major subdivision final plats shall contain the following certificates:
  - A. Certificate of ownership and dedication;
  - B. Certificate of survey and accuracy;
  - C. Certificate of approval of water supply and sewage and disposal systems (county);
  - D. Certificate of approval of the design and installation of streets, utilities, and other required improvements;
  - E. Certificate of approval by the Town Manager, as applicable; and
  - F. County Plat Review Officer's Certificate.



2. All final plats located outside the corporate limits of the Town, but within the planning jurisdiction, shall contain the following certificates:
  - A. NCDOT Engineer Certificate; and
  - B. Certificate of approval of non-municipal water supply & sewage disposal systems.
3. When required by the federal government, all final plats shall contain a certificate for a federally funded project.

(6) **Action After Approval**

- (a) The applicant shall file the approved final plat with the County Register of Deeds for recording within 60 days after the date of approval. The Planning Director, upon receipt of a written request, may extend this date an additional 30 days, if the request is received prior to the original expiration date and the final plat meets all applicable provisions of this chapter.
- (b) The approval of a final plat shall not be deemed to constitute or affect the acceptance or affect the acceptance by the Town of the dedication of any street or other ground, public utility line, or other public facility shown on the plat. However, the Town 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 or dedication of lands or facilities located within the subdivision regulation jurisdiction but outside the corporate limits of the Town shall not place on the Town any duty to open, operate, repair, or maintain any street, utility line, or other land or facility, and the Town 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.

(K) **DEDICATION AND IMPROVEMENTS**

- (1) In the development of any subdivision requiring new or modified public infrastructure, the applicant shall be required to dedicate any additional right-of-way necessary to provide the width required by the Town for streets adjoining the property, to install curbs and gutters and pave all streets adjoining the property to Town standards, and to install sidewalks in accordance with the policies and requirements of Article 6.
- (2) The applicant shall bear the costs of the installation of all on-site improvements as required by this chapter, including provision for surface drainage, pavement, landscaping, and utilities. Any applicant required to install or construct off-site improvements pursuant to this section may, with the approval as a condition of subdivision approval, and upon a determination by the Planning Director that such improvements are not necessary or desirable at the time, but will be needed in the future, make a payment in lieu of such improvements or part thereof. The amount of any such payment shall be an amount estimated by the Town to be the actual and total installation and construction costs of such improvements. The amount paid for a given improvement shall be considered total and complete payment for the improvements

considered, and will preclude any further assessment of the property in the event that the Town elects to install such improvements at a later date.

- (3) For all residential developments and master planned conditional zoning district involving a residential component approved after July 3, 1995, recreation and open space dedication, or payment of fee-in-lieu thereof in accordance with § 155.203(H) shall be required.

(L) **GUARANTEES OF IMPROVEMENTS**

Guarantee of improvements shall be made in accordance with § 155.607.

(M) **INSPECTIONS OF REQUIRED IMPROVEMENTS**

Inspections of improvements shall be made in accordance with § 155.607(d).

(N) **MODIFICATIONS TO APPROVED PLAT**

(1) **Minor Modifications**

(a) ***Preliminary Plat***

Minor modifications to an approved preliminary plat shall be reviewed and approved by the Planning Director and TRC if the proposed changes are within the scope and intent of the original approval, meet all other standards of this chapter, and meet the criteria below. Such revisions may include but not be limited to:

1. Reducing the lot count or dwelling unit count up to 10%;
2. Modifying phase lines; and
3. Minor internal adjustments to lot or street locations of no more than 50' in any direction.

(b) ***Final Plat***

A final plat may be rerecorded to:

1. Revise or correct dimensions;
2. Change street names;
3. Add, delete or modify easements or private covenants;
4. Change subdivision name

(c) ***Procedures***

1. Preliminary Plat

- A. When minor modifications are proposed to an approved preliminary plat, the applicant shall submit an Administrative Amendment application to the Planning Director with a copy sent to the Technical Review Committee delineating the revisions and requesting authorization for administrative revision.
- B. The Planning Director shall notify the applicant whether the proposed revision qualifies for minor modification and the basis for the determination. If approved, the final plat may be submitted in accordance with the revisions.
- C. The Planning Director shall distribute copies of the revised plat to the appropriate agencies.

2. Final Plat

- A. When minor modifications are proposed to an approved final plat, the applicant shall submit a written request to the Planning Director with a copy sent to the Technical Review Committee delineating the revisions and requesting authorization for administrative revision.
- B. If the plat has been recorded, the applicant shall submit the recorded plat with a statement describing the revisions made and title block for the Planning Director signature, and date of signing.
- C. If the ownership of the subdivision has changed or if any lots have been sold since the previous recording, an owner's and notary's certificates shall be provided on the plat for each current owner.
- D. In addition to the letter and the revised final plat, the applicant shall submit the required fees to the Planning Director for processing and rerecording the revised plat.
- E. The Planning Director shall distribute copies of the recorded final plat to the appropriate agencies.

(2) **Major Modifications**

Proposed modifications to an approved preliminary plat or final plat not considered minor revisions shall be submitted and processed as new applications in accordance with the provisions of this section.

(O) **RESUBDIVISION AND RECOMBINATION PROCEDURES**

For any replatting or resubdivision of land, the same procedures, rules, and regulations shall apply as prescribed for an original subdivision. Lot size and configuration may, however, be varied on an approved plat after recording, provided that:

- (1) No lot or parcel of land shall be created or sold that does not conform to the minimum standards of the applicable zoning district;
- (2) Easements or rights-of-way shall not be changed;
- (3) Street alignment and block sizes shall not be changed;
- (4) The character of the area shall be maintained;
- (5) A recombination of existing parcels shall be approved by the Planning Director, subject to the following:
  - (a) The resultant lots are equal to the standards of this chapter or more closely conform to the minimum lot size standards in this chapter;
  - (b) The total number of lots is not increased;
  - (c) All the metes and bounds boundaries of the affected lots are shown;
  - (d) All lot boundaries changed or eliminated by requested combination are indicated by dashed lines;
  - (e) The title block contains the word "recombination";
  - (f) Structures on the affected lots are shown and the requested recombination does not violate setback requirements of the §§ 155.200 through 155.204;
  - (g) The recombination plat is signed by all property owners if either the number of lots is reduced or different owners for different lots are involved in the recombination;
  - (h) The recombination plat is signed and sealed by a registered surveyor;
  - (i) The recombination plat is certified by the Planning Director; and
  - (j) The recombination plat conforms to all laws and ordinances for the recordation of maps.

(P) **APPEAL**

Final action on a final plat may be appealed to the Board of Adjustment in accordance with § 155.717.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2008-08-04, passed 8-4-08; Am. Ord. 2011-05-02, passed 5-2-11; Am. Ord. 2018-07-02, adopted 07/16/2018)

## **§155.707 SITE PLAN REVIEW**

### **(A) APPLICABILITY**

- (1) All proposed development, except for single-family detached, zero lot line, duplexes, and alley-loaded dwelling units on individual lots, shall be subject to the site plan review process.
- (2) Temporary uses may require site plan review (see § 155.712).

#### **(a) *Approval Authority***

The Planning Director shall be responsible for approving site plans, following review and certification from the TRC.

### **(Q) PRE-APPLICATION CONFERENCE**

- (1) All applicants seeking site plan approval shall schedule a pre-application conference with the Planning Director, in accordance with § 155.702(A).

### **(R) SITE PLAN REVIEW**

#### **(1) *Application Requirements***

An application for site plan approval shall be submitted accordance with § 155.702(C).

#### **(2) *Action by Planning Director***

- (a) Upon submission of a completed application, the Planning Director shall schedule the site plan for review by the Technical Review Committee. The Technical Review Committee shall review the site plan for consistency with the requirements of this chapter and other applicable Town ordinances.
- (b) After technical review, the Planning Director shall determine whether the site plan conforms to the requirements of this chapter.

#### **(3) *Modifications to Approved Site Plans***

- (a) Minor modifications. If a proposed amendment to a site plan represents only a minor modification to the approved site plan, the applicant shall submit an Administrative Amendment application to the Planning Director who shall act upon such application within ten business days of its receipt. Minor modifications shall include the following:
  1. A less than 5% increase or any decrease, in the floor area or number of dwelling units, provided that the district maximums of the subject property is not exceeded.
  2. A less than 10% decrease in parking spaces, open space or livability space;

3. The minor relocation of any structure, dedicated street, easement or landscape screen in any direction from the location shown on the site plan unless deemed by the Planning Director to significantly alter the approved plan such that it would not meet the performance standards of this UDC.

(4) **Substantial Deviations**

If a proposed amendment to a site plan deviates substantially from the approved site plan, the approved site plan shall be amended in accordance with the procedure and standards which governed its approval. Such substantial deviations include the following, in addition to any modifications not identified as minor:

- (a) A 5% or greater increase in floor area or number of dwelling units;
- (b) A 10% or greater decrease in parking spaces or open space
- (c) The relocation of any structure, dedicated street, or easement in any direction from the location shown on the major site plan for the distances specified below based on the size of the development:
  1. 25 feet or more for major site plans of two acres or less;
  2. 50 feet or more for major site plans of more than two acres but less than eight acres;
  3. 100 feet or more for major site plans of eight acres but less than 20 acres; and
  4. 150 feet for major site plans of 20 acres or more.

(5) **APPROVAL CRITERIA**

In approving a site plan the following shall be considered:

- (1) Consistency with the adopted plans and policies of the Town;
- (2) Compliance with all applicable requirements of this Chapter;
- (3) For nonresidential and multifamily projects, the site plan displays the location of trash handling, recycling, grease bins, and other waste-related facilities employed in the normal operation of the use;
- (4) Adequacy and location of parking areas and pedestrian and vehicular access points;
- (5) Compliance with site construction specifications;
- (6) Adequacy of stormwater facilities, water supply, sanitary sewer service, fire protection, street signs, and street lighting as evidenced by conformance with department standards, specifications and guidelines;

- (7) Compliance with requirements for easements or dedications;
- (8) Compliance with any applicable subdivision improvements; and
- (9) If applicable, compliance with an approved master plan.

(T) **PERIOD OF VALIDITY**

An approved site plan shall expire two years from the date of approval unless the proposed development is pursued as set forth below:

- (1) A complete building permit application has been submitted and remains valid;
- (2) Where more than one building is to be built, the applicant may submit a series of building permit applications. The first application shall be submitted within two years from the date that site plan approval is granted. Each subsequent application shall be submitted within 180 days from the date of issuance of a certificate of occupancy for the previous building; or if no building permit is required, a certificate of occupancy has been issued.

(U) **BUILDING PERMIT/CERTIFICATE OF OCCUPANCY**

- (1) No building permit or certificate of occupancy shall be issued until the required site plan of the proposed use or development has been approved by the appropriate Town officials.
- (2) In order to secure a vested right for a site plan, the applicant must submit a site-specific vesting plan in accordance with § 155.718.

(V) **DEDICATION AND IMPROVEMENTS**

- (1) In the development of any property for which a site plan is required in this section, the applicant shall be required to dedicate any additional right-of-way necessary to the width required by the Town for streets adjoining the property, to install curbs and gutters and pave all streets adjoining the property to Town standards, and to install sidewalks in accordance with the policies and requirements of Article 400.
- (2) The applicant shall bear the costs of the installation of all on-site improvements as required by this chapter, including provision for surface drainage, pavement, landscaping, and utilities. Any applicant required to install or construct off-site improvements pursuant to this section may, with the approval of the Planning Director as a condition of site plan approval, and upon a determination by the Town that such improvements are not necessary or desirable at the time, but will be needed in the future, make a payment in lieu of such improvements or part thereof. The amount of any such payment shall be an amount estimated by the Town to be the actual and total installation and construction costs of such improvements. The amount paid for a given improvement shall be considered total and complete payment for the improvements considered, and will preclude any further assessment of the property in the event that the Town elects to install such improvements at a later date. Full payment shall be made before any building permit or certificate of occupancy is issued for any use shown on the site plan.

- (3) For all residential and master planned conditional zoning districts involving a residential component approved after January 1, 2021, recreation and open space dedication, or payment of fee-in-lieu thereof in accordance with § 155.203(H) shall be required.

(W) **GUARANTEES OF IMPROVEMENTS**

- (1) Prior to the approval of any site plan, the applicant shall submit a cost estimate and time schedule for installation of each phase of the site improvements.
- (2) The Town shall require a performance guarantee for all required on-site and off-site improvements. This performance guarantee shall be in the amount of 125% of the estimated cost of improvements. The guarantee shall be a surety bond, a letter of credit, or other form of guarantee that provides equivalent security to a surety bond or letter of credit, the form to be at the election of the person required to give the performance guarantee. See also NC GS § 160D-804(g).
- (3) As each phase of improvements is installed and inspected by the Town, the guarantee shall be reduced to an amount equal to 125% of the reasonably estimated cost of completion of the remaining incomplete improvements.
- (4) In the event that the applicant wishes to occupy any building or any portion of any building prior to the completion of the required site improvements, the bond guaranteeing improvements shall be retained by the Town until the remaining required improvements are completed.

(X) **INSPECTIONS OF REQUIRED IMPROVEMENTS**

Inspections during off-site improvements shall be made in accordance with § 155.607(d).

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2018-07-02, adopted 07/16/2018)



## **§ 155.708 TRAFFIC IMPACT ANALYSIS**

### **(A) APPLICABILITY**

- (1) A traffic impact analysis may be required to be submitted in conjunction with an application for a Conditional Zoning District Master Plan, preliminary plat, site plan, or special use permit.
- (2) Unless exempted in (B) of this section, a traffic impact analysis shall be required for projects, which can be anticipated to generate at least 1,000 new vehicle trips per day or at least 100 new vehicle trips at peak hour from the latest edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual.

***Commentary:** 100 peak hour vehicle trips equates to approximately 100 single-family units or 25,000 square feet of general commercial space.*

### **(B) EXEMPTIONS**

The following projects shall not be required to submit a traffic impact analysis:

- (1) Developments approved prior to the effective date of this chapter that have maintained valid conditional district master plans (formerly planned development master plans), preliminary plats, major site plans, or special use permits.
- (2) Redevelopment of any site on which the additional traffic at peak hour represents an increase of less than 100 trips from the previous development, where the redevelopment is initiated within 12 months of the completion of demolition of the previous project.
- (3) Site plans that do not trigger the requirements for a Traffic Impact Analysis outlined in § 155.708(A).

### **(C) PRE-APPLICATION CONFERENCE**

- (1) All applicants required to submit a traffic impact analysis shall schedule a pre-application conference with the Planning Director, in accordance with § 155.702(A).
- (2) The Planning Director and the Town's consultant, if applicable, shall determine the type and scope of the study during the pre-application conference, which may also involve representatives from other agencies or departments.

### **(D) APPLICATION REQUIREMENTS**

A traffic impact analysis prepared by a professional engineer licensed in the state of North Carolina shall be submitted in accordance with § 155.702(c). The traffic impact analysis must conform with the requirements of this section and the Town's engineering design manual. The traffic impact analysis report must describe the study methodology, the data used, and the study findings and provide recommendations based on the results.

(E) **DEFINITION OF IMPACT AREA**

The Planning Director shall determine the geographic area to be included in a traffic impact analysis. Identification of the points of access and key streets and intersections to be affected by development of the subject parcel shall be required. Traffic recorder and turning movement assessment locations may also have to be determined. The study area shall extend to the point where the project traffic at build-out is less than 10% of the capacity of the roadway or intersection.

(F) **CONSULTANTS**

The Planning Director may require that an independent consultant be hired by the Town to perform the required studies, or to review all or part of a study prepared by the applicant's consultant. The Planning Director is authorized to administer the contract for any such consultant.

- (1) The Town shall determine the scope of services to be performed by the independent consultant and receive a cost estimate of such services.
- (2) The applicant shall provide an amount equal to the cost estimate to the Town, which shall deposit the amount in an escrow or other special account set up for this purpose. Any funds not used shall be returned to the applicant in a timely manner, without interest. If the estimated or actual cost increases during the review from the Town's initial cost estimate, the applicant immediately shall provide an amount equal to the increased cost to the Town, which the Town shall deposit in the escrow or special account. The final approval of any application requiring a traffic impact analysis by the Town shall be contingent upon the full payment of all consultant costs incurred for the analysis.
- (3) The Town may require additional funds for independent review where a decision-making body expands the scope of the required review; the applicant substantially amends the application; additional meetings involving the consultant are requested by the applicant; or the consultant's appearance is requested at public or affected agency meetings beyond those anticipated in the original scope of services.

(G) **DESIRABLE OPERATING LEVELS FOR STREETS AND INTERSECTIONS**

Traffic on a residential local or collector street is operating at a desirable level if it does not exceed the following levels:

| <i>Pavement Width</i>        | <i>Vehicles Per Day</i> |
|------------------------------|-------------------------|
| Less than 30 feet            | 1,200                   |
| 30 feet to less than 40 feet | 1,800                   |
| 40 feet or wider             | 4,000                   |

(H) **ACTION ON APPLICATION**

- (1) The Planning Director shall deny an application if the applicant is unwilling or unable to successfully mitigate the proportional impact that the proposed development will have on the public transportation network.

(2) The Planning Director shall deny an application if the traffic impact analysis demonstrates that:

(a) The projected traffic generated by the project, combined with existing traffic, exceeds the desirable operating level established in (G) of this section in the traffic impact analysis study area.

(I) **APPLICATION MODIFICATION BASED ON TRAFFIC ANALYSIS**

An applicant may modify an application to minimize the traffic-related effects identified in a traffic impact analysis. Modifications may include:

- (1) A reduction in the projected vehicle trips per day;
- (2) The dedication of additional right-of-way;
- (3) The rerouting of traffic or modifications or additions of the internal street network or proposed access and egress points;
- (4) Participation in the funding of a traffic signal, intersection improvement, or other off-site transportation improvement; and
- (5) Other modification determined to be necessary.

(J) **APPEAL OF PLANNING DIRECTOR'S ACTION**

- (1) An applicant may appeal the Planning Director's denial to the Town Council.
- (2) The Town Council may approve the traffic impact analysis if the Council determines that the:
  - (a) Applicant has satisfactorily mitigated adverse traffic effects; or
  - (b) Additional traffic from the project has an insignificant effect on the Town's streets.

(K) **PERIOD OF VALIDITY**

A traffic impact analysis shall be valid for a specific site for no more than the period for which the plan is vested, so long as no significant modifications to the development approved for the site are made.

(Ord. 2005-11-02, passed 11-21-05)

## **§ 155.709 ZONING PERMIT**

### **(A) APPLICABILITY**

- (1) It shall be unlawful to begin moving, constructing, altering, or repairing, except ordinary repairs, of any building or other structure on a site including an accessory structure, until the Planning Department has issued a zoning permit for such work.
- (2) It shall be unlawful to change the type of use of land, or to change the type of use or type of occupancy of any building, or to extend any use or any lot on which there is a nonconforming use, until the Planning Department has issued a zoning permit for such intended use, including a determination that the proposed use, in all respects, conforms to the provisions of this chapter.
- (3) It shall be unlawful to undertake any land-disturbing activity until the Planning Department has issued a zoning permit for such work.
- (4) No zoning permit is required for permitted temporary uses (see § 155.712).

### **(B) TIMING OF APPLICATION**

In all cases where a building permit is required, application for a zoning permit shall be made concurrently with the application for a building permit. In all other cases, application shall be made before initiating any of the activities that trigger compliance with this Section.

### **(C) APPLICATION REQUIREMENTS**

All applications for a zoning permit shall be submitted in accordance with § 155.702(c).

### **(D) ACTION BY PLANNING DIRECTOR**

- (1) If the proposed application is in conformity with the provisions of this chapter, the Planning Department shall issue a zoning permit, provided that all of the following conditions shall apply:
  - (a) Issuance of a zoning permit shall in no case be construed as waiving any provisions of this Chapter or other Town Ordinances or other governmental regulations;
  - (b) The Planning Director shall not grant any exceptions to the actual meaning of any clause, standards, or regulation contained in this chapter to any person making application to excavate, construct, move, alter or use buildings, structures or land;
  - (c) The Planning Director shall issue a permit when the imposed conditions of this Chapter are complied with by the applicant regardless of whether the use of the permit would violate contractual or other arrangements (including, but not by way of limitation, restrictive covenants) among private parties; and

(d) The zoning permit shall include a determination that plans, specifications and the intended use of such structure and land do, in all respects, conform to the provisions of this Chapter. Prior to the issuance of a zoning permit, the Planning Director shall consult with other applicable departments, as necessary.

(2) If the proposed application, is not in conformity with the provisions of this Chapter, the Planning Director shall not issue the zoning permit and shall provide in writing the cause of such disapproval to the applicant.

(E) **EXPIRATION**

Once a zoning permit has been issued, all activities pursuant to such permit shall be commenced within six months. If the proposed moving, constructing, altering, repairing, or use of land, as set forth in an application for a zoning permit, is discontinued for a period of one year or more, the zoning permit shall lapse and be of no further force and effect.

(F) **APPEAL**

Final action on a zoning permit may be appealed to the Board of Adjustment in accordance with § 155.717.

(Ord. 2005-11-02, passed 11-21-05)

**§ 155.710 <RESERVED; PREVIOUSLY “CONDITIONAL USE PERMIT REVIEW”>**

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2011-05-01, passed 5-2-11; Am. Ord. 2014-03-02, passed 3-17-14; Am. Ord. 2018-07-02, adopted 07-16-18)

## **§ 155.711 SPECIAL USE PERMIT REVIEW**

### **(A) APPLICABILITY**

- (1) Special uses within each general use district are uses that may be appropriate in a particular district, but because of the increased potential for incompatibility with adjacent uses requires individual review by the Town Council.
- (2) A special use permit shall be required for all special uses as set forth in the Permitted Land Use Table (see § 155.202(B)). A development comprised of uses regulated by separate rows on the table shall be reviewed using the most restrictive process from among the proposed uses.
- (3) Where a use requiring approval as a special use lies on a separate legal parcel, only the building containing the use and its separate parcel shall be subject to special use review, not the entire project. However, where the separate legal parcel is an outparcel, the application shall describe the relationship of the outparcel to the remaining site.
- (4) Previously approved and valid Conditional Use Permits are subject to §155.109.

### **(B) PRE-APPLICATION CONFERENCE**

All applicants seeking special use approval shall schedule a pre-application conference with the planning director, in accordance with § 155.702(a).

### **(C) NEIGHBORHOOD MEETING**

All applicants seeking special use approval shall hold a neighborhood meeting in accordance with § 155.702(b).

### **(D) APPLICATION REQUIREMENTS**

- (1) Concurrent with a request for a special use permit, an applicant shall submit a site plan application for review and approval.
- (2) An application for a special use permit shall be submitted in accordance with § 155.702(C).
- (3) A traffic impact analysis may be required if the proposed development meets the thresholds established in § 155.708.

### **(E) NOTICE AND PUBLIC HEARINGS**

The Town shall hold all required public hearings and give notice in accordance with § 155.702(d).

### **(F) ACTION BY PLANNING DIRECTOR**

- (1) Upon submission of a completed application, the Planning Director shall schedule the associated site plan application for review by the Technical Review Committee. The Technical

Review Committee shall review the site plan for consistency with the requirements of this chapter.

- (2) Upon completion of the technical review, the Planning Director shall prepare a report that reviews the application in light of comments provided by the Technical Review Committee, in light of the adopted plans and policies of the Town, and the general requirements of this chapter. The report, site plan and any related application materials shall be forwarded to the Town Council.

(G) **ACTION BY TOWN COUNCIL**

- (1) Before taking action on the special use request, the Town Council shall consider the recommendation of the Planning Director.
- (2) The Town Council may approve the request, deny the request, or send the request back to the Technical Review Committee for additional consideration.

(H) **FINDINGS OF FACT REQUIRED**

No special use permit shall be approved unless the following findings are made concerning the application:

- (1) That the application will not materially endanger the public health or safety if located where proposed, and developed according to the plans as submitted and approved.
- (2) That the application meets all required specifications and conforms to the standards and practices of sound land use planning and the Town Code of Ordinances or other applicable regulations.
- (3) That the application will not substantially injure the value of adjoining or abutting property, and will not be detrimental to the use or development of adjacent properties or other neighborhood uses.
- (4) That the application will not adversely affect the adopted plans and policies of the Town, or violate the character of existing standards for development of the adjacent properties.

(I) **ADDITIONAL CONDITIONS**

- (1) In granting approval of a special use permit, the Town Council may impose reasonable conditions which serve to assure that the required findings are upheld. Such conditions may include, but are not limited to, right-of-way or easement dedication; recreation, open space, or buffer provision; limitation in scale, intensity, or hours of operation; and other reasonable restrictions.
- (2) Any additional condition approved by the Town Council shall become a part of the permit and be of equal importance in the responsibility of the applicant or subsequent assigns to adhere to its terms.



- (3) Prior to a decision by the Town Council, the applicant shall consent to these conditions in writing or decline consent to the conditions. Conditions and safeguards imposed under this section shall not include requirements for which the Town does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by a local government.

(J) **MODIFICATIONS TO APPROVED SPECIAL USE PERMITS**

(1) **Minor Deviations**

The Planning Director shall approve minor deviations (also known as minor modifications) to a special use permit provided that such changes are not contrary to the approving action of the Town Council. The Planning Director shall not have the authority to approve substantial deviations as set forth below.

(2) **Substantial Deviations**

- (a) Any deviation requiring evidentiary support in addition to that presented at a public hearing on applications for the original permit shall constitute a substantial deviation. Before making a determination as to whether a proposed action is a minor deviation or a substantial deviation, the Planning Director shall review the record of the proceedings on the original application. Substantial deviations shall include the following:
  - 1. A change in the boundaries of the approved site;
  - 2. A change from the approved use;
  - 3. An increase of 5% or more in the approved floor area, unless proposed addition is 500 square feet of floor area or less, whether such addition is proposed at one time or over an extended period of time;
  - 4. An increase of 5% or more in the number of approved parking spaces, unless the proposed addition is ten or fewer spaces, whether such addition is proposed at one time or over an extended period of time;
  - 5. Substantial change in the location of principal or accessory structures;
  - 6. Structural alterations significantly affecting the basic size, form; style, ornamentation, and appearance of principal or accessory structures as shown on the approved site plan;
  - 7. Substantial changes in pedestrian or vehicular access or circulation; and
  - 8. Substantial change in the amount or location of landscape screens.
- (b) If a proposed amendment deviates substantially from the approved special use permit, the approved special use permit shall be amended in accordance with the procedure and standards which governed its approval.

(K) **EFFECT OF DECISION**

- (1) If the Town Council votes to deny an application, there may be no subsequent application for the same or similar use submitted by any party for any part of the subject property until 12 months have elapsed from the date of denial. If the Town Council votes to approve an application, the permit shall be recorded in the County Register of Deeds office.
- (2) The special use permit and additional conditions, if applicable, shall run with the land and shall be binding on the original applicant as well as any successors, assigns, and heirs. Any decision by the Town Council may be appealed within 30 days of the decision in accordance with G.S. § 160D-406.

(L) **PERIOD OF VALIDITY**

- (1) An approved special use permit shall expire 12 months from the date of approval unless the proposed development is pursued as set forth below:
  - (a) A complete building permit application has been submitted and remains valid;
  - (b) Where more than one building is to be built, the applicant may submit a series of building permit applications. The first application shall be submitted within 12 months from the date approval was granted. Each subsequent application shall be submitted within 180 days from the date of issuance of a certificate of occupancy for the previous building; or
  - (c) If no building permit is required, a certificate of occupancy has been issued.
- (2) Once the appropriate permit has been issued, the special use permit shall remain valid unless the use, construction, or activity ceases for a period of 12 consecutive months. In such instance the special use permit shall become void. If a special use is determined by the Planning Director to be void, such determination shall be transmitted in writing to the applicant.

(M) **BUILDING PERMIT/CERTIFICATE OF OCCUPANCY**

- (1) No building permit or certificate of occupancy shall be issued until the required site plan of the proposed use or development has been approved by the appropriate review body.
- (2) In order to secure a vested right for a site plan, the applicant must submit a site-specific development plan in accordance with § 155.718.

(N) **REVOCAION OF A SPECIAL USE PERMIT**

- (1) If any conditions of a special use permit, or other requirements of this chapter are violated, the Planning Director shall begin proceedings to revoke the permit.
- (2) Revocation may occur after an evidentiary hearing is conducted by the Town Council.

(3) Upon a four-fifths vote, the Town Council shall revoke the permit, and notice of such revocation shall be recorded in the County Register of Deeds office.

(4) Violations of conditions of a special use permit shall be considered a violation of this chapter and thereby subject to the provisions of § 155.720.

(O) **COORDINATION WITH VARIANCES**

Applications for variances may be submitted concurrently with a request for a special use permit. The variance shall be considered first and any special use permit application shall be decided afterward.

(P) **COORDINATION WITH REZONING**

An application for a special use permit may be reviewed concurrently with a rezoning application. However, a decision shall be rendered first for any rezoning and then subsequently for any special use permit.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2018-07-02, adopted 07-16-18)

(Ord. 2005-11-02, passed 11-21-05)

## **§ 155.712 TEMPORARY USE PERMIT**

**Commentary:** *Temporary outdoor uses should not be confused with permanent outdoor activities (for example, a car sales lot) that are only allowed in certain districts and require site plan approval, nor should they be confused with an outdoor display area (for example, a garden center that is part of a building supply store) that may be a part of a retail store and require site plan approval.*

### **(A) APPLICABILITY**

- (5) Temporary uses occurring on property outside of the public right-of-way, including those operating for less than 30 days within a one-year time period, shall obtain a temporary use permit from the Planning Department that outlines conditions of operations to protect the public, health, safety and welfare subject to the standards of § 155.306.
- (6) Temporary uses occurring within the public right-of-way require approval by the Town Council.

### **(B) APPLICATION REQUIREMENTS**

An application for a temporary use permit shall be submitted in accordance with § 155.702(c).

- (1) Each permit must, at the time of acquisition, state all dates that the temporary use will operate at a given site. Dates not initially specified shall be subject to acquisition an additional permit.
- (2) During a one-year period no single site may be utilized for more than 30 days total aggregate of all dates included on all temporary use permits issued for that given location
- (3) An approved temporary use permit must be available on-site upon request by an authorized Town representative.

### **(C) ACTION BY PLANNING DEPARTMENT**

- (1) After receiving a complete application, the Planning Department shall have up to 30 days to review the application.
- (2) Following completion of the technical review period, the Planning Department shall approve the issuance of a temporary use permit subject to the following:
  - (a) No lighting or electrical service shall be provided without an electrical permit;
  - (b) No temporary use structure shall be erected without a building permit;
  - (c) No temporary use structure shall block fire lanes or pedestrian or vehicular access;
  - (d) The site of the temporary use shall be cleared of all debris at the end of the temporary use. All temporary structures shall be cleared from the site within five days after the use is terminated;

- (e) Written permission of both the property owner and the principal tenant of the property for the temporary use shall be provided;
- (f) Adequate parking shall be provided;
- (g) Required parking for other uses shall remain available;
- (h) Adequate traffic control measures shall be provided;
- (i) Adequate provisions for trash disposal and sanitary facilities shall be provided; and
- (j) When appropriate, adequate provisions for crowd control shall be provided.

(D) **REVOCATION OF A TEMPORARY USE PERMIT**

A temporary use permit shall be revoked if the Planning Director finds that the terms of the permit have been violated or that there is a hazard to the public health, safety and welfare.

(E) **EXCEPTIONS**

Temporary uses conducted by bona fide nonprofit organizations, as defined by and registered with the North Carolina Office of the Secretary of State, shall be exempt from this section to the extent permitted by state law, except that a temporary use permit must be obtained prior to any scheduled event.

(F) **APPEAL**

Final action on a temporary use permit may be appealed to the Board of Adjustment in accordance with § 155.717.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2010-12-03, passed 12-6-10)

## **§ 155.713 SIGN PERMIT**

### **(A) APPLICABILITY**

- (1) Except as otherwise provided in § 155.403(D) Exemptions, no sign may be erected, located, or altered in any manner until a Sign Permit, and Building Permit if necessary, has been secured from the Planning Department. The change of copy on a legally constructed sign shall not require a Sign Permit.
- (2) Any sign which does not comply with the appropriate regulations in §155.403 "Signs" and cannot produce a valid Sign Permit within one week of request shall be considered in violation and/or nonconforming, depending on the specifics of the sign.

### **(B) APPLICATION REQUIREMENTS**

An application for Sign Permit shall be submitted in accordance with § 155.702(c).

### **(C) ACTION BY PLANNING DIRECTOR**

Following completion of the technical review period, the Planning Director shall review and take final action on the Sign Permit application, provided that all requirements of this chapter, and all other applicable electrical and North Carolina Building Code requirements are met.

### **(D) ACTION BY TOWN COUNCIL**

Following completion of the technical review period, the Town Council shall review and take final action on any Alternative Sign Plan application or billboard sign application provided that all requirements of this chapter, Chapter §155.403 "Signs", and all other applicable electrical and North Carolina Building Code requirements are met.

### **(E) INSPECTION OF PERMANENT SIGNS**

- (1) The applicant shall request an inspection by the appropriate inspector after installation of the signs.
- (2) The Sign Permit shall be null and void if sign installation is not completed within six months or the signs are not in conformance with the approved application.
- (3) Valid Sign Permits may be assigned to a successor as holder of a business license for the same premises.

### **(F) TEMPORARY SIGN PERMIT**

A Temporary Sign Permit shall be issued in accordance with the criteria in § 155.403 "Signs". An Alternative Sign Plan shall not be required for applications for Temporary Sign Permits.

### **(G) REVOCATION OF A SIGN PERMIT**

The Sign Permit shall be revoked if a sign is found to be in violation of the requirements of this chapter, or other applicable electrical and North Carolina State Building Code requirements.

(H) **APPEAL**

Final action on a Sign Permit may be appealed to the Board of Adjustment in accordance with §155.717 “Administrative Appeals”.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2013-09-06, passed 9-3-13; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord. 2017-01-01, adopted 01/03/2017)

**§ 155.714 RESERVED**

*Reserved.*



## **§ 155.715 WRITTEN INTERPRETATION**

### **(A) APPLICABILITY**

When uncertainty exists, the Planning Director, after consultation with other involved staff and Town Attorney, shall make interpretations concerning the provisions of this Chapter.

### **(B) APPLICATION REQUIREMENTS**

An application for a written interpretation shall be submitted in accordance with § 155.702(C).

### **(C) ACTION BY PLANNING DIRECTOR**

- (1) The Planning Director shall review and evaluate the request in light of the text of this chapter, the zoning map, the adopted plans and policies of the Town, state and federal law, and any other relevant information.
- (2) Following completion of the technical review period, the Planning Director shall render an opinion.
- (3) The interpretation shall be provided to the applicant in writing.

### **(D) OFFICIAL RECORD**

The Planning Director shall maintain an official record of all interpretations. The record of interpretations shall be available for public inspection during normal business hours.

### **(E) APPEAL**

Final action on a written interpretation may be appealed to the Board of Adjustment in accordance with § 155.717.

(Ord. 2005-11-02, passed 11-21-05)

## **§ 155.716 VARIANCE**

### **(A) APPLICABILITY**

- (1) The Board of Adjustment may vary certain requirements of this Chapter that will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this Chapter, will, in an individual case, result in practical difficulty or unnecessary hardship. The Board of Adjustment shall ensure that the spirit of this Chapter shall be observed, public safety and welfare secured, and substantial justice done.
- (2) The existence of a nonconforming use of neighboring land, building, or structure in the same district, or of permitted or nonconforming uses in other districts, shall not constitute a reason for the requested variance.

### **(B) APPLICATION REQUIREMENTS**

An application for a variance shall be submitted in accordance with § 155.702(C).

### **(C) NOTICE AND PUBLIC HEARINGS**

- (1) The Town shall hold all required public hearings and give notice in accordance with § 155.702(D).
- (2) A neighborhood meeting is required.

### **(D) BURDEN OF PROOF**

The applicant seeking the variance shall have the burden of presenting competent, material and substantial evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth below as well as the burden of persuasion on those issues.

### **(E) ACTION BY PLANNING DIRECTOR**

The Planning Director shall provide the Board of Adjustment with a copy of the application and all relevant materials pertaining to the request.

### **(F) ACTION BY BOARD OF ADJUSTMENT**

#### **(1) Procedure**

- (a) The Board of Adjustment may approve the request, deny the request, or continue the request. A concurring vote of four-fifths of the Board is necessary to grant a variance.
- (b) Each decision shall be accompanied by findings of fact that specify the reasons for the decision.

- (c) In approving the variance, the Board of Adjustment may prescribe reasonable and appropriate conditions which will ensure that the use will be compatible with adjacent properties and will not alter the character of the neighborhood.
- (d) Conditions may be imposed by the Board of Adjustment regarding the location, character, and other features of the proposed building or use as may be deemed by the Board of Adjustment to protect property values and general welfare of the neighborhood. Failure to comply with such conditions and safeguards, when part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

(2) **Findings of Fact**

No variance shall be approved by the Board of Adjustment unless all of the following findings are made:

- (a) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- (b) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- (c) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- (d) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2013-12-04, passed 12-2-13)

## **§ 155.717 ADMINISTRATIVE APPEALS**

### **(A) APPLICABILITY**

Pursuant to G.S. §160D-405, an appeal by any person aggrieved by a final order, interpretation or decision of the Planning Director or other administrator of this Chapter in regard to the provisions of this Chapter may be taken to the Board of Adjustment.

### **(B) APPLICATION REQUIREMENTS**

- (1) An appeal of an administrative decision shall be taken by filing a written notice of appeal specifying the grounds for the appeal with the Planning Director and the Board of Adjustment.
- (2) An application for appeal of an administrative decision shall be submitted in accordance with § 155.702(C).
- (3) A notice of appeal of an administrative decision shall be considered filed when a complete application is delivered to the Planning Director. The date and time of filing shall be entered on the notice.
- (4) The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.

### **(C) APPEAL DEADLINE**

- (3) An appeal of an administrative decision may be filed by the Town, the owner or other person affected by the decision, or by a person with standing under G.S. § 160D-1402. An appeal request by an owner or other person affected by the decision must be received by the Town Clerk within 30 days of receipt of written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.
  - (a) It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least 10 days. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision.

### **(D) NOTICE AND PUBLIC HEARINGS**

The Town shall hold all required public hearings and give notice in accordance with § 155.702(D).

### **(E) ACTION BY PLANNING DIRECTOR**

The Planning Director or designee shall transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

(F) **ACTION BY BOARD OF ADJUSTMENT**

- (1) The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement, decision, or determination appealed from and shall make any order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the Board of Adjustment shall have all the powers of the officer from whom the appeal is taken.
- (2) A motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.
- (3) If a motion to reverse or modify is not made, or a motion fails to receive a majority vote from Board members eligible to vote, then the appeal shall be denied.
- (4) Any motion to overturn a decision shall state the reasons or findings of fact that support the motion.

(G) **EFFECT OF APPEAL**

- (1) An appeal shall stay all proceedings in furtherance of the action appealed, unless the administrative official from who the appeal is taken certifies in an affidavit to the Board of Adjustment that, because of facts stated in the affidavit, a stay would, in their opinion, cause imminent peril to life or property or that because the violation is transitory in nature a stay would seriously interfere with the effective enforcement of this chapter. In that case, proceedings shall not be stayed except by order of the Board of Adjustment or a court, issued on application of the party seeking the stay, for due cause shown, after notice to the administrative official.
- (2) An appeal shall not stop action lawfully approved (including construction activities authorized by a building permit); only actions presumed in violation of this chapter are stayed.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2013-12-05, passed 12-2-13)

## **§ 155.718 ZONING VESTED RIGHT**

### **(A) APPLICABILITY**

The purpose of this section is to implement the provisions of G.S. §160D-108 pursuant to which a statutory zoning vested right is established upon the approval of a site specific vesting plan (also known as a site specific development plan).

### **(B) ESTABLISHMENT**

- (1) A zoning vested right shall be deemed established upon the valid approval, or conditional approval, by the Town Council, of a site specific vesting plan.
- (2) The approving authority may approve a site specific vesting plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare.
- (3) Notwithstanding (B)(1) and (2) of this Section, approval of a site specific vesting plan with the condition that a variance be obtained shall not confer a zoning vested right unless and until the necessary variance is obtained.
- (4) A site specific vesting plan shall be deemed approved upon the effective date of the approval authority's action or ordinance relating thereto.
- (5) The establishment of a zoning vested right shall not preclude the application of overlay zoning that imposes additional requirements, but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land use regulation by the Town, including, but not limited to, building, fire, plumbing, electrical and mechanical codes. Otherwise applicable, new or amended regulations shall become effective with respect to property that is subject to a site specific vesting plan upon the expiration or termination of the vested right in accordance with this Chapter.
- (6) A zoning vested right is not a personal right, but shall attach to and run with the applicable property. After approval of a site specific vesting plan, all successors to the original landowner shall be entitled to exercise such right while applicable.
- (7) A site specific vesting plan specifically includes preliminary plats, site plans, construction plans, conditional zoning master plans, and special use permits.
- (8) Substantial commencement of a development, as determined by the Planning Director and as it relates to establishment of a vested right, shall specifically include consideration of the following:
  - (a) The development has received and maintained a valid erosion and sedimentation control permit and conducted grading activity on a continuous basis and not discontinued it for more than thirty (30) days;
  - (b) The development has installed substantial on-site infrastructure; or 15

- (c) The development has received and maintained a valid building permit for the construction and approval of a building foundation.
- (9) Even if work has substantially commenced, a development approval still expires if development work is discontinued for a period of more than 24 consecutive months, pursuant to N.C.G.S. 160D-108.

(C) **APPROVAL PROCEDURES**

- (1) Except as otherwise provided in this section, an application for site specific vesting plan approval shall be processed in accordance with the procedures established by Ordinance and shall be considered by the designated approval authority for the specific type of zoning or land use permit or approval for which application is made.
- (2) Notwithstanding the provisions of (C)(1) of this section, if the authority to issue a particular zoning or land use permit or approval has been delegated by ordinance to a board, committee or administrative official other than the Town Council or Board of Adjustment, in order to obtain a zoning vested right, the applicant must request in writing at the time of application that the application be considered and acted on by the Town Council or Board of Adjustment, following notice and a public hearing as provided in G.S. §160D-601.
- (3) In order for a zoning vested right to be established upon approval of a site specific vesting plan, the applicant must indicate at the time of application, on a form to be provided by the Town, that a zoning vested right is being sought.
- (4) Each map, plat, site plan or other document evidencing a site specific vesting plan shall contain the following notation: "Approval of this plan established a zoning vested right under G.S. §160D-108. Unless terminated at an earlier date, the zoning vested right shall be valid until (date)."
- (5) Following approval or conditional approval of a site specific vesting plan, nothing in this Chapter shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval.
- (6) Nothing in this chapter shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or this Chapter.

(D) **DURATION**

- (1) A zoning right that has been vested as provided in this chapter shall remain vested for a period of two years unless specifically and unambiguously provided otherwise pursuant to (D)(2) of this section. This vesting shall not be extended to any amendments or modifications to a site specific vesting plan unless expressly provided by the approval authority at the time the amendment or modification is approved.
- (2) Notwithstanding the provisions of (D)(1) of this section, the approval authority may provide that rights shall be vested for a period exceeding two years by not exceeding five years where

warranted in light of all relevant circumstances, including, but not limited to, the size of the development, the level of the development, economic cycles, and market conditions. These determinations shall be in the sound discretion of the approval authority at the time the site specific vesting plan is approved.

3) Notwithstanding the provisions of (D)(1) of this section, a multi-phased development as defined in G.S. 160D-108(d)(4) shall be vested for the entire development and the vesting shall be valid for a period of seven (7) years from the time a site plan is approved for the initial phase of the multi-phase development.

(4)

Upon issuance of a building permit, the expiration provisions of G.S. §160D-403(c) and the revocation provisions of G.S. §160D-403(f) shall apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding.

(E) **TERMINATION**

A zoning right that has been vested as provided in this chapter shall terminate:

- (1) At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;
- (2) With the written consent of the affected landowner;
- (3) Upon findings by the Town Council, by ordinance after notice and an evidentiary 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;
- (4) Upon payment to the affected landowner of 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 thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action;
- (5) Upon findings by the Town Council, by ordinance after notice and an evidentiary hearing, that the landowner or his or her representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority of the site specific development plan; or
- (6) Upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the site specific development plan, in which case the approval authority may modify the affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the plan, by ordinance after notice and a hearing.

(F) **VOLUNTARY ANNEXATION**



A petition for annexation filed with the Town under G.S. §160A-31 or G.S. §160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established under G.S. §160D-108. A statement that declares that no zoning vested right has been established under G.S. §160D-108, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any such zoning vested right shall be terminated.

(G) **LIMITATIONS**

Nothing in this chapter is intended or shall be deemed to create any vested right other than those established pursuant to G.S. §160D-108 or common law.

(H) **REPEALER**

In the event that G.S. §160D-108 is repealed, this chapter shall be deemed repealed and the provisions hereof no longer effective.

(I) **EFFECTIVE DATE**

This Chapter shall be effective and shall only apply to site specific vesting plans approved on or after November 18, 1991.

(Ord. 2005-11-02, passed 11-21-05)

## **§ 155.719 RESERVED**

*<Reserved; previously "Nonconformities".>*

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2016-04-04, passed 04-04-2016)

## **§ 155.720 ENFORCEMENT**

### **(A) ENFORCEMENT OF PROVISIONS**

The Planning Director, or his or her designee, is charged with the enforcement of the provisions of this Chapter. If the Planning Director or a designee finds that any of the provisions of this Chapter are being violated, he or she shall notify in writing the persons responsible for such violations, indicating the nature of violation and ordering the actions necessary to correct it. They shall also take any other action authorized by this Chapter to ensure compliance with or to prevent the violation of its provisions.

### **(B) APPLICABILITY**

- (1) In accordance with G.S. §160A-175 and § 10.98 of the Town's Code of Ordinances, any person violating any provision of this Chapter must remedy the violation. Violations are considered a civil penalty, and violators are required to pay a separate penalty for each violation until the provisions of this Chapter are met. Each day that a violation fails to comply with a provision of this Chapter is considered a separate and distinct violation.
- (2) In case a building or structure is erected, constructed, reconstructed, repaired, converted, or maintained, or a building, structure, or land is used in violation of this Chapter, the Planning Director or his or her designees, in addition to other remedies, may institute injunction, mandamus, or other appropriate action in proceeding to prevent the violation.
- (3) In accordance with G.S. §160D-807, "Penalties for Transferring Lots in Unapproved Subdivisions", any person who, being the owner or agent of the owner of any land located within the jurisdiction of the Town, subdivides his land in violation of the subdivision requirements set forth in the Town's Unified Development Code, or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under in accordance with the UDC and recorded in the office of the appropriate register of deeds, shall be guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The Town may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the UDC.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2013-12-06, passed 12-2-13)

## § 155.721 TREE CLEARING CERTIFICATE

### (A) PURPOSE

This section implements the enabling legislation granted to the Town by the North Carolina General Assembly. The purposes of these regulations are to:

- (1) Protect existing trees and shrubs located upon undeveloped sites for use as future buffers and streetscapes to meet site and/or subdivision plan requirements;
- (2) Preserve existing tree and vegetative cover to protect the health safety and welfare of the public by preserving the visual and aesthetic qualities of the Town; maintaining property values; controlling erosion; and reducing sediment and other pollutant run-off into streams and waterways in an effort to protect water quality; and
- (3) Create a process whereby some properties are required to obtain a tree clearing certificate, recognize some properties are exempted from the requirement to obtain a tree clearing certificate prior to the removal of vegetation, and establish penalties for removal of all or substantially all of the required vegetation within required vegetation protection areas.

### (B) APPLICABILITY

The requirements for obtaining a tree clearing certificate and penalties for non-compliance are applicable to all undeveloped properties that are zoned for residential or nonresidential use located within the Town limits and/or extraterritorial jurisdiction (ETJ). For the purposes of the section, undeveloped properties shall include any property within the Town's jurisdiction that is not the subject of an approved site and/or subdivision plan.

### (C) EXEMPTIONS

A tree clearing certificate shall not be required for the activities listed below.

- (1) Forestry activities on property that is taxed on the basis of its present-use value as agricultural, horticultural, or forestland under G.S. Ch. 105, Article 12, and forestry activity that is conducted in accordance with a forestry management plan prepared or approved by a forester registered pursuant to G.S. Ch. 89B, and provided such activities are accomplished in compliance with this section. In cases where all trees or substantially all trees are removed from the perimeter buffers described in division (D) of this section, the Town will not grant a building permit and site and/or subdivision plan approval for said property for a period of three years following the harvest of such trees. The three-year waiting period may be waived if the Town Council, by a 3/4 vote, determines a project to be desirable and grants the right to immediate development on recently timbered land where no perimeter buffer was kept. For the purposes of this section, the term **ALL OR SUBSTANTIALLY ALL** shall mean 75% or more of the existing trees with a caliper of four inches or greater.
- (2) Properties with a town-approved site and/or subdivision plan, provided such plan has not expired and that any clearing or vegetation removal is performed in strict accordance with the approved site and/or subdivision plan.

- (3) The removal of vegetation by public or private agencies within the lines of any public street rights-of-way, utility easements, or other Town property, as may be necessary to ensure public safety, to obtain clear visibility at driveways or intersections, to perform authorized field survey work, or to preserve or enhance the symmetry and beauty of such Town property.
- (4) The town-initiated or approved removal of any vegetation which is in an unsafe condition, constitutes a nuisance or noxious weed, or which by its nature is injurious to sanitary sewers, electrical power lines, gas lines, water lines, stream or conveyance channels, or other public improvements, or vegetation which is infected with any injurious fungus, insect, or other pest.
- (5) The removal of vegetation on property located within an approved residential subdivision that is zoned for single-family use, and provided such vegetation is not a portion of a required streetscape or other landscaping buffer.
- (6) The removal of vegetation on a lot of two acres or less. Subdivision of property to circumvent these requirements is not permitted.

(D) **REQUIRED BUFFERS AND VEGETATION**

Other than that necessary to gain reasonable access to the property, clearing and/or removal of trees and other vegetation shall be prohibited in the areas listed below. In situations where one or more buffer zones or vegetation protection areas overlap on the same site, then the more restrictive requirement shall apply.

- (1) A perimeter buffer zone having a width of 50 feet as measured from all ultimate property boundaries that adjoin existing public roadways. For the purposes of this section, the term ***ULTIMATE PROPERTY BOUNDARY*** of a parcel or tract shall mean the final demarcation line around the perimeter of a parcel excluding all areas that must be dedicated to the Town for use as rights-of-way.
- (2) A perimeter buffer zone having a width of 50 feet as measured from all property boundaries that adjoin developed property or vacant property with an approved site and/or subdivision plan.
- (3) A perimeter buffer zone having a width of 25 feet as measured from all property boundaries that adjoin undeveloped property or vacant property without an approved site and/or subdivision plan.
- (4) Any other areas necessary for the protection of existing vegetation as indicated within this section (such as riparian buffers).
- (5) Notwithstanding any requirements of this section, the area of the required perimeter buffer zones for any tract shall not exceed 20% of the area of the tract, net of public road rights-of-way, and any required conservation easements.

(E) **APPLICATION REQUIREMENTS**

- (1) An application for a tree clearing certificate may be filed only by all the owners of the property or by such owners' authorized agent.
- (2) An application for a tree clearing certificate shall be filed with the Planning Department. The application form shall be accompanied by a Vegetation Protection Plan that shall include, at a minimum, the following information on a sheet size no larger than 24 by 36 inches at a minimum scale of one inch equals 50 feet:
  - (a) Vicinity map showing the location of the tract at a readable scale.
  - (b) A map of the entire tract, including the property boundary of the entire tract by courses and distances with references to true meridian and the location and dimension of all on-site and adjacent off-site easements (such as drainage, utility, public access, aerial utility, conservation, permanent and temporary construction easements).
  - (c) General information about the tract, including but not limited to the owner of the tract; the current zoning of the tract, the area of the tract, and the conditional use zoning conditions, planned unit development master plan requirements, if applicable.
  - (d) The location and use(s) of all existing building(s) on the tract.
  - (e) The owner, current zoning and present use of all contiguous properties (including property on opposite side of adjoining streets).
  - (f) The general classification of all existing and proposed adjacent roadways (as depicted in the Clayton Transportation Plan) and the ultimate right-of-way boundaries associated with these roadways.
  - (g) The location and width of all future/existing buffers and associated vegetation protection areas, including riparian buffers, perimeter buffers and perimeter streetscapes.
  - (h) The proposed limits of timbering activities, including the location and extent of all tree protection areas as required under § 155.402(H)(4).
  - (i) A survey of individual trees is not required.
- (3) The Planning Director may reduce or waive the requirements for a Vegetation Protection Plan in situations where it can be demonstrated that all vegetation removal will take place outside of required vegetation protection areas.

(F) **PROCEDURE**

Prior to the commencement of any vegetation clearing or removal on any undeveloped property, the owner or the owner's agent must demonstrate exemption from the requirements of this section, or submit the required application materials and applicable fees for a tree clearing certificate.

- (1) Upon receipt of documentation that a property is exempted from obtaining a tree clearing certificate, the Planning Director shall review all materials and make a determination if a property is exempted from the requirements or if the requirements apply. In situations where exemption status is claimed based on forestry use, this documentation shall include proof that the property is taxed under the present-use value standard or a copy of the valid forestry management plan prepared or approved by a North Carolina registered forester. The decision of the Planning Director may be appealed to the Zoning Board of Adjustment pursuant to § 155.717.
- (2) If a property is not exempted from the provisions pertaining to a tree clearing certificate, then such application materials shall include a Vegetation Protection Plan consistent with the requirements listed in division (E)(2) above.
- (3) The Vegetation Protection Plan shall be reviewed by the Planning Director. The Director shall disapprove the Vegetation Protection Plan if he or she has concerns about the plan's ability to meet the standards of this Section. In the event the Director disapproves the plan, an Administrative Appeal may be filed.
- (4) An applicant for a tree clearing certificate shall be notified upon approval of the Vegetation Protection Plan, and shall be free to erect or install any and all barriers necessary to protect existing vegetation within required buffer areas and vegetation protection areas from damage during tree clearing and/or removal activities. Failure to protect these areas shall result in penalties as indicated in division (G) below.
- (5) Once all barriers for the protection of existing vegetation have been installed, a property owner or agent shall request inspection of such barriers for compliance with the requirements of this section.
- (6) Upon a passing inspection of vegetation protection barriers, the Director shall issue a tree clearing certificate, and authorized vegetation clearing and/or removal may commence.
- (7) An approved tree clearing certificate shall be valid for a period of not more than 12 months from the date of issuance.

(G) **NON-COMPLIANCE**

- (1) Failure to comply with the provisions of this section shall constitute a violation of this section, and shall subject an offending party to a series of actions, including the payment of fines, delay in site and/or subdivision plan approval or building permit issuance, and the requirement to double the amount of required vegetation as would typically be required during the site and/or subdivision plan review and approval process. The following table summarizes the penalties for non-compliance with this section.
- (2) An "X" in a particular cell indicates that the associated penalty applies:

***Penalties for Non-Compliance***

| Type of Violation                                                                                                                                                                                                         | Payment of Fines | Review of All Subsequent Site and/or Subdivision Plans by Town Council | Three-Year Delay in Approval of Building Permit or Site and/or Subdivision Plan | Landscaping Requirements Doubled During Site and/or Subdivision Plan Review |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|------------------------------------------------------------------------|---------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| Property is exempt from tree clearing certificate requirements, but all or substantially all vegetation within required buffers and/or vegetation protection areas is removed                                             |                  | X                                                                      | X                                                                               | X                                                                           |
| Property owner obtains a tree clearing certificate, but removes some of the vegetation within a required buffer and/or tree protection area                                                                               | X                |                                                                        |                                                                                 | X                                                                           |
| Property is not exempt from tree clearing certificate requirements, but property owner obtains no certificate, and removes some of the vegetation within a required buffer and/or tree protection area                    | X                | X                                                                      |                                                                                 | X                                                                           |
| Property is not exempt from tree clearing certificate requirements, but property owner obtains no certificate and removes all or substantially all of the vegetation within a required buffer and/or tree protection area | X                | X                                                                      | X                                                                               | X                                                                           |

(Ord. 2006-07-03, passed 7-17-06)



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## ARTICLE 8: DEFINITIONS

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### § 155.800 GENERAL

- (A) Words used in the present tense include the future tense.
- (B) Words used in the singular number include the plural, and words used in the plural include the singular.
- (C) The word "shall" is always mandatory and not merely directory.
- (D) The words "day" or "days" shall refer to calendar days and shall be computed by excluding the first day and including the last day, unless the last day is a Saturday or Sunday or a holiday declared by the United States Congress or the State of North Carolina, in which event it shall also be excluded.
- (E) Any term not herein defined shall be as defined elsewhere in the town code of ordinances or, if not defined elsewhere in the Town Code of Ordinances, as defined in Webster's New International Dictionary, most recent edition.
- (F) In case of any difference of meaning or implication between the text of this chapter and any caption, illustration or table, the text shall control.

(Ord. 2005-11-02, passed 11-21-05)

## **§ 155.801 ABBREVIATIONS**

ANSI: American National Standards Institute

BMP: Best Management Practices

BOA: Board of Adjustment

DAS: Distributive Access System

dbh. Diameter at Breast Height

DDA: Downtown Development Association

DENR: Department of Environment and Natural Resources (now known as Department of Environmental Quality)

DEQ: North Carolina Department of Environmental Quality

ETJ: Extraterritorial Jurisdiction

FAA: Federal Aviation Administration

FAR: Floor Area Ratio

FCC: Federal Communications Commission

FEMA: Federal Emergency Management Agency

FIRM: Flood Insurance Rate Map

GFA: Gross Floor Area

NCDOT: North Carolina Department of Transportation

NIER: Non-Ionizing Electromagnetic Radiation

PAAB: Public Arts Advisory Board

PB: Planning Board

PD: Planning Director

PW: Public Works Director

RF: Radio Frequency

SHO: Scenic Highway Overlay

TIA: Traffic Impact Analysis

TC: Town Council

TOD: Thoroughfare Overlay District

TRC: Technical Review Committee

UDC: Unified Development Code

USDA: United States Department of Agriculture

USGS: United States Geologic Survey

WP- Watershed Protection Overlay

(Ord. 2005-11-02, passed 11-21-05; Am. Ord 2016-04-04, adopted 04-04-2016)

## **§ 155.802 DEFINED TERMS**

### **Abutting**

A property that directly touches another piece of property.

### **Accessory Structure**

A structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. A subordinate dwelling unit, garage, carport or storage shed are all examples of accessory structures.

### **Acreage, Gross**

Land area with streets, rights-of-way, driveways which serve as access to more than two units or uses, and major transmission lines not included in its measurement.

### **Acreage, Net**

Land area excluding streets, rights-of-way, driveways which serve as access to more than two units or uses, and major transmission lines not included in its measurement.

### **Adjacent**

Property abutting directly on the boundary of, touching, or sharing a common point.

### **Administrative Decision**

Pursuant to G.S. § 160D-102, decisions made in the implementation, administration, or enforcement of development regulations that involves the determination of facts and the application of objective standards set forth in G.S. § 160D or local government development regulations. These are sometimes referred to as “administrative determinations.”

### **Administrative Hearing**

Pursuant to G.S. § 160D-102, a proceeding to gather facts needed to make an administrative decision.

### **Alley**

A public or private vehicular way providing service access along rear or side property lines of lots which are also served by one of the other listed street types.

### **Alteration**

Any change, addition, or modification in construction or occupancy of an existing structure.

### **Antenna**

A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals. Such shall include, but not be limited to radio, television, cellular, internet, microwave telecommunications and services not licensed by the FCC, but not expressly exempt from the Town's siting, building and permitting authority.

### **Applicant**

Any person, firm, or corporation requesting approval of any land-use, development, or improvement application, or similar entitlement regulated by the municipal code.

**Approval Authority**

The Town Council, Planning Board, Board of Adjustment or other board or official designated by ordinance or this chapter as being authorized to grant the specific zoning or land use permit or approval that constitutes a site specific development plan.

**Best Management Practices (BMP)**

A structural or nonstructural management-based practice used singularly or in combination to reduce non-point source inputs to receiving waters in order to achieve water quality protection goals.

**Buffer**

Open spaces, landscaped areas, fences, walls, berms, or any combination thereof used to physically and visually separate one use or property from another in order to mitigate the impacts of noise, light, or other nuisance.

**Buffer, Stream**

An area of natural or planted vegetation surrounding and running parallel to a stream or waterway through which stormwater runoff flows in a diffuse manner so that the runoff does not form a channel, and which provides for infiltration of the runoff and filtering of pollutants.

**Building**

Pursuant to G.S. § 160D-102, any structure used or intended for supporting or sheltering any use or occupancy.

**Building Coverage**

The maximum area of the lot that is permitted to be covered by buildings, including both principal structures and accessory buildings. Building coverage does not include paved areas such as driveways, uncovered porches or patios, decks, swimming pools or pool cages, or roof overhangs of less than three feet.

**Building Separation**

The required separation between any two buildings.

**Caliper**

The diameter of plant material, measured at six inches above grade for calipers of up to four inches, and 12 inches above grade for larger calipers.

**Clearance**

The shortest distance between two objects that must be maintained clear and free from obstructions or another specific identified object(s).

**Co-Location**

The use of a wireless telecommunication support facilities by more than one wireless telecommunication provider for the provision of wireless services without increasing the height of the tower or structure.

**Conditional Zoning**

Pursuant to G.S. § 160D, a legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

**Condominium**

A building, group of buildings, or portion thereof, in which units are owned individually, and the structure, common areas, or facilities are owned by all the owners on a proportional, undivided basis. For the purposes of development and use regulation, condominiums are treated as apartments.

**Construction**

On-site erection, fabrication, installation, alteration, demolition or removal of any structure, facility, or addition thereto, including all related activities, including, but not restricted to, clearing of land, earthmoving, blasting and landscaping.

**Crosswalk**

A public pedestrian right-of-way which cuts across a block to facilitate pedestrian access to adjacent streets and properties.

**Cul-De-Sac (Commercial, Residential)**

A short, street having one end open to traffic and the other permanently terminated by a vehicular turnaround.

**Dedication**

The transfer of ownership without payment or other interest in real property from a private entity to a public agency.

**Density**

The number of dwelling units permitted per acre of land.

**Development**

The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure. The excavation, grading, filling, clearing, or alteration of land. The subdivision of land as defined in G.S. § 160D-802. The initiation or substantial change in the use of land or the intensity of use of land.

**Development Approval**

An administrative or quasi-judicial approval made pursuant to G.S. § 160D that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to G.S. § 160D including plat approvals, permits issued, development agreements entered into, and building permits issued.

**Driveway**

A private roadway located on a parcel or lot used for vehicle access.

**Dwelling**

Pursuant to G.S. § 160D-102, a building that contains one or more dwelling units used, intended, or designed to be used, rented, leased, let, or hired out to be occupied for living purposes.

**Dwelling Unit**

Pursuant to G.S. § 160D-102, a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

**Easement**

A grant of one or more of the property rights by the owner to, or for the use by, the public, a corporation, or another person or entity.

**Extraterritorial Jurisdiction (ETJ)**

An area outside the Town of Clayton's town limit delineated on the Official Zoning District Map. Pursuant to the North Carolina General Statutes, the Town enforces the following regulations within the ETJ: zoning ordinance; subdivision regulations and the North Carolina State Building Code.

**Evidentiary Hearing**

A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation, pursuant to G.S. § 160D-102.

**Fence**

An enclosure or barrier, such as wooden posts, wire, iron, etc., used as a boundary, means of protection, privacy screening or confinement, but not including hedges, shrubs, trees, or other natural growth.

**Floor Area, Gross**

The sum of the gross horizontal area of the several floors of a building, measured from the exterior faces of the exterior walls or from the center of the common walls of attached buildings. Gross floor area includes basement floors, attic floor space, halls, closets, stairwells, space devoted to mechanical equipment, and enclosed porches. Gross Floor Area also includes all outside storage areas.

**Flood Fringe Area**

That area of the floodplain lying outside the floodway but still lying within the area of special flood hazard, that is, within the 100-year floodplain.

**Floodplain**

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

**Floodway**

The channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the 100-year flood without a significant increase in the base flood elevation.

**Food Truck**

A food truck is a mobile food service establishment that prepares and serves food and/or beverages for sale to the general public on a recurring basis from a truck, vehicle-mounted, or vehicle-towed piece of equipment designed to be readily moved.

**Frontage, Building**

The straight-line length of any building or store which fronts upon a public street, a customer parking area, or pedestrian mall and which has one or more entrances to the main part of the building or store. If specified, this may also apply to the equivalent distance on another lot line, such as side.

**Frontage, Lot**



The distance for which the front boundary line of the lot and the street line are coincident. If specified, this may also apply to the equivalent distance on another lot line, such as side.

**Frontage, Street**

See “Lot Frontage”. Not to be confused with “Frontage Road”, which is a type of physical street occurring near a thoroughfare.

**Greenway**

A linear, multi-use (pedestrian, bicycle) trail, generally with a finished surface of asphalt or concrete, providing passive and active recreational opportunities. Greenways are typically built to the Town’s specification (“Typical Bikeway / Greenway Pavement Section”, Detail # 401.03), with a minimum width of 10’, with 2’ of clear, graded natural surface on each side. Occasionally, greenways will be built to a lesser width and/or with alternative materials, such as gravel, stone dust, lime rock, packed clay, rubber, pervious pavement, or mulch.

**Ground Cover**

Any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.

**Hazardous Material**

Any substance that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment.

**Home Occupation**

An occupation carried on in a dwelling unit by the resident thereof; provided that the use is limited in extent and incidental and secondary to the use of the dwelling unit for residential purposes and does not change the character thereof.

**Household**

A domestic establishment including a member or members of a family or others living under the same roof.

**Impervious Surface**

Any hard-surfaced, man-made area that does not readily absorb or retain water, including but not limited to building roofs, parking and driveway areas, graveled areas, sidewalks, and paved recreation areas.

**Infrastructure**

Streets, water lines, sewers lines and other public facilities necessary to the functioning of a community.

**Junk**

Any scrap, waste, worn out, discarded material or debris collected or stored for destruction, disposal or some other use.

**Land Disturbing Activity**

Any use of land in residential, industrial, educational, institutional or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. Sedimentation occurs whenever solid particulate matter,

mineral or organic, is transported by water, air, gravity, or ice from the site of its origin, and is deposited elsewhere.

**Landscape Plan**

A plan associated with a subdivision, land development, or parking facility plan indicating the placement of landscape materials, including specifications, species, quantities, and method of installation.

**Landscaping**

The area within the boundaries of a given a lot that consists of planting materials, including but not limited to trees, shrubs, ground covers, grass, flowers, decorative rock, bark, mulch, and other similar materials.

**Legislative Hearing**

Pursuant to G.S. § 160D-102, a hearing to solicit public comment on a proposed legislative decision.

**Livestock**

Grazing animals kept either in open fields or structures for training, boarding, home use, sales, or breeding and production, including but not limited to: cattle, riding and draft horses, hogs, sheep, goats, miniature horses, llamas, and alpacas.

**Loading, Off-Street**

An unobstructed area provided and maintained for the temporary parking of trucks and other motor vehicles for the purpose of loading and unloading goods, materials and merchandise.

**Local Street Network**

System of local streets that include commercial streets, collector streets, residential collectors, cul-de-sacs, and alleys.

**Lot**

A portion of a subdivision or other parcel of land, intended as a unit for transfer of ownership or for development or both.

**Lot Area**

The horizontal area within the exterior lines of the lot, exclusive of any area in a public or private way open to public uses.

**Lot, Corner**

A lot having at least two adjacent sides that abut for their full length upon streets. Both such lot lines shall be considered front lot lines.

**Lot, Double Frontage**

A continuous or through lot of the same depth as the width of a block, and which is accessible from both of the streets upon which it fronts.

**Lot, Flag**

A lot that has access to a public right-of-way by means of a narrow strip of land.

**Lot, Nonconforming**

See Nonconforming Lot.

**Lot of Record**

A lot which is part of a subdivision recorded in the Office of the Register of Deeds of Johnston County or Wake County, as appropriate, or a lot described by metes and bounds, the description of which has been so recorded.

**Lot Width**

Parcel or lot width shall be measured by the distance between the side lot lines (generally running perpendicular to a street), measured at the rear edge of the street yard along a straight line parallel to the front of the property line or along the chord of the front property line.

**Multi-Family Residential**

A building or portion thereof containing 3 or more dwelling units, including condominiums, apartments, and townhomes with shared parking, with varying arrangements of entrances and party walls.

**Net Acreage, Net Gross**

Land area with streets, rights-of-way, driveways which serve as access to more than two units or uses, and major transmission lines not included in its measurement.

**Nonconformity**

A condition that occurs when, on the effective date of adoption of this code or a previous ordinance or on the effective date of an ordinance text amendment or rezoning, an existing lot, structure, building, sign, development, or use of an existing lot or structure does not conform to one or more of the regulations currently applicable to the district.

**Nonconforming Lot (of Record)**

A recorded lot described by a plat or a deed that does not meet the minimum lot size or other development requirements.

**Nonconforming Site Element**

A nonconforming site element is a feature of or on the which existed or was lawfully established prior to this Ordinance being adopted or amended. Site elements include but are not limited to access, parking, pedestrian amenities, landscaping, signage, and lighting.

**Nonconforming Structure**

A nonconforming structure is a structure that was lawfully established on a property prior to this Ordinance being adopted or amended, but does not conform with the square footage, density, yard, dimensional, height, lot coverage, or other dimensional or structural provision of this Ordinance.

**Nonconforming Use**

A nonconforming use is the use of land, buildings, or structures that was lawfully established on a property prior before this Ordinance was adopted or amended, but does not conform to the use regulations of his Ordinance.

**Outdoor Storage**

The keeping of personal or business property or motor vehicles in a required open parking space or any other area outside of a building for a period of time exceeding 72 consecutive hours.

**Outparcel**

An area located within a non-residential development that may share common parking and circulation areas with other buildings or parcels, but is usually situated as its own parcel and is separated from anchor buildings by parking and circulation areas.

**Owner**

Any person having charge of any real property according to the records held by the Register of Deeds.

**Parcel**

A continuous plot of recorded land in the possession of or owned by any individual or group of individuals.

**Parking Lot**

An off-street area used for the storage of motor vehicles on a temporary, daily, or overnight basis.

**Parking Space**

An off-street area designed to accommodate the parking of one vehicle.

**Pervious Surface Coverage**

Ground treatments which will allow the infiltration of water, air and nutrients to root systems of adjacent plant material which lie directly under the ground treatment.

**Planting Area**

The area within the boundaries of a given a lot consists of planting materials, including but not limited to trees, shrubs, ground covers, grass, flowers, decorative rock, bark, mulch, and other similar materials.

**Plat**

A map or plan of a parcel of land which is to be or which has been subdivided.

**Quasi-judicial Decision**

Pursuant to G.S. §160D-102, decision involving the findings of fact regarding a specific application of development regulation and that requires the exercise of discretion when applying the standards of the regulation.

**Resource Conservation Area**

An area set aside for the conservation of natural, archeological or historic resources.

**Right-of-Way**

An area or strip of land, either public or private, on which an irrevocable right-of- passage has been recorded for the use of vehicles or pedestrians or both.

**Road**

See "Street".

**Frontage Road**

A street, parallel and adjacent to a major or minor thoroughfare, which provides access to abutting properties, protection from through traffic, and control of access to the major or minor thoroughfare. Not to be confused with “Street Frontage”, which is a measurement of distance.

**Screening**

A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

**Setback**

A line delineating the minimum allowable distance between the property line or right-of-way line and a building on a lot, within which no building, significant development, or other structure shall be placed except as otherwise provided. Wherever property lines and right-of-way lines both occur, the most restrictive setback distance on the lot shall prevail.

**Sewer System, Public**

An off-site system for the treatment and disposal of sewage in which sewage is conveyed by interceptor to a publicly operated treatment plant

**Sign**

Exclusive of architectural features, any words, lettering, figures, numerals, emblems, devices, trademarks, or trade names, or any combination thereof, by which anything is made known and which is designed to attract attention or to convey a message.

**Single Family Residential**

A single detached dwelling unit located on a single lot with private yards on all four sides. See also “Single Family Detached House”, in §155.301(D).

**Site**

A continuous plot of land to be developed as a single project. A site may contain multiple parcel or lots.

**Site Area**

Site area shall be the total land area of the proposed development. A site may include multiple parcels or lots.

**Site Area, Net**

Net site area shall mean the total gross area of the parcel, minus any resource conservation areas.

**Site Element, Nonconforming**

See Nonconforming Site Element.

**Site Plan**

A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include, but not be limited to site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to project and site plan review.

**Special Use**

A use that meets the intent and purpose of the zoning district but which requires the review and approval by Town Council to ensure that any adverse impacts on adjacent uses, structures, or public services and facilities that may be generated are mitigated.

**Special Use Permit**

Pursuant to G.S. §160D-102, a permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards.

**State**

The State of North Carolina.

**Stream**

A body of concentrated flowing water in a natural low area or natural channel on the land surface.

**Stream Buffer**

See Buffer, Stream.

**Stream, Intermittent**

A watercourse that collects surface runoff and is shown as a dashed blue line on the most recent United States Geologic Survey (USGS) 7½-minute quadrangle topographic maps, is shown as an intermittent stream on the most recent US Department of Agriculture (USDA) Soil Survey, or is shown as an intermittent stream on the Natural Resource Conservation Service (NRCS) maps.

**Stream, Perennial**

A watercourse that collects surface runoff and is shown as a solid blue line on the most recent USGS 7½-minute quadrangle topographic maps, is shown as a perennial stream on maps in the most recent US Department of Agriculture (USDA) Soil Survey, or is shown as a perennial stream on the Natural Resource Conservation Service (NRCS) maps.

**Street, Collector**

A street whose principal function is to carry traffic between residential collectors, residential streets, cul-de-sacs and major and minor thoroughfares, but that may also provide direct access to abutting properties. It is designed to carry more than 3,500 but less than 6,000 trips per day. Typically, a collector is able to serve, directly or indirectly, between 350 and 600 dwelling units.

**Street, Commercial**

A multi-lane, street connecting to major or minor thoroughfares designed to accommodate large volumes (in excess of 6,000 trips per day) of traffic at moderate speeds while also providing, as a major part of its function, direct access to nonresidential or mixed use high trip generating land uses.

**Street, Private**

Any road or street that is not publicly owned and maintained and used for access by the occupants of the development, their guests, and the general public.

**Street, Public**

A dedicated and accepted public right-of-way for vehicular traffic and access to abutting property.

**Street, Residential**

A street whose principal function is to provide access to adjacent properties.

**Street, Residential Collector**

A street which serves as a connector street between residential streets, cul-de-sacs and major and minor thoroughfares. Residential collector streets typically collect traffic from 100 to 400 dwelling units.

**Structure, Nonconforming**

See Nonconforming Structure.

**Thoroughfare, Major**

Major streets, excluding freeways but not excluding limited access facilities that provide for the expeditious movement of large volumes of traffic within and through the urban area. A street serving the principal network for high volumes of traffic or high-speed traffic as shown on the town's Transportation Plan. This street type consists of at least two travel lanes in each direction. A major thoroughfare shall be designated where the anticipated average daily volume exceeds 10,000 vehicles.

**Thoroughfare, Minor**

Streets that perform the function of collecting traffic from local access streets and carrying it to the major thoroughfare system. Such streets may be used to supplement the major thoroughfare system by facilitating minor through movements and may also serve abutting property. A street designed primarily to collect and distribute traffic between the local street network and major thoroughfares as shown on the town's Transportation Plan. This street type generally consists of more than one travel lane in each direction. A minor thoroughfare shall be designated where the anticipated average daily volume ranges exceeds 6,000 vehicles.

**Town**

The Town of Clayton, North Carolina.

**Transportation Plan**

A map approved by the Town Council that indicates the system of roads expected to serve major access and travel needs with regard to auto, truck and transit transportation.

**Unified Development Code**

Chapter 155 of the Town Code of Ordinances, as adopted by Town Council.

**Use, Nonconforming**

See Nonconforming Use.

**Variance**

Permission which is granted by the Board of Adjustment to deviate from zoning requirements when strict enforcement of certain provisions of the Unified Development Code would cause undue hardship because of circumstances unique to the individual property for which the variance is granted. Only the Board of Adjustment can do this after specific findings of fact.

**Waiver**

Permission which is granted by Town Council or a part of a Planned Development Approval to deviate from specific provisions of the Unified Development Code if mitigating circumstances are justified.

**Water Supply, Public**

A publicly owned system of pipes, structures and facilities through which a water supply is obtained, treated, sold and distributed for human consumption or household use.

**Watershed**

All of the land area draining to a particular point on a water course or to a water body.

**Yard, Front, (also known as Street Yard)**

An open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the front line of the lot and the front line of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front line of the building and the front line of the lot. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required yard.

**Yard, Rear**

An open space on the same lot with a main building, unoccupied except as hereinafter permitted, extending the full width of lot and situated between the rear line of lot and the rear line of the building.

**Yard, Side (Street), (also known as Street Side Yard)**

The area extending between the front yard and the rear yard or rear street yard and situated between the side street lot line and the face of the principal building which is parallel to, or most nearly parallel to, the side lot line.

**Yard, Side (Interior), (also known as Interior Yard)**

A side yard located immediately adjacent to another zoning lot or to an alley separating such side yard from another zoning lot.

**Zoning District**

A part, zone, or geographic area within the Town or its Extraterritorial Jurisdiction (ETJ) where certain zoning and development regulations apply.

**Zoning Vested Right**

The right to undertake and complete development and use of property under the terms and conditions of an approval secured as specified in G.S. §160D-108 or under common law.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2009-08-01, passed 8-3-09; Am. Ord. 2016-04-04, adopted 04-04-2016; Am. Ord. 2017-01-01, adopted 01/03/2017; Ord. 2017-04-06, approved 04/03/2017)

Duly adopted this the 1st day of February, 2021 while in regular session.

\_\_\_\_\_  
Jody McLeod  
Mayor

Attest:

\_\_\_\_\_  
Kimberly A. Moffatt, CMC, NCMC  
Town Clerk  
Ordinance #2021-01-01



**Town of Clayton  
Town Council  
Zoning Ordinance Amendment Motion Sheet  
Text Amendment**

After considering the recommendations of the Planning Board and Planning Director, I move to **[approve OR deny] Case 2021-07-OA**

[IF APPROVING]

and to approve the Statement of Consistency and Reasonableness included in the Agenda packet [with the following modifications: STATE MODIFICATIONS, IF ANY].

**MOTION FORM  
Item 6d  
2021-07-OA  
Text Amendments to Chapter 155  
RE: 160D**



## Town Council Agenda Cover Sheet

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**Meeting Date**

February 1, 2021

**Agenda Location**

Public Hearings

**Item Title**

Update to Comprehensive List of Fees

**Presenter**

Planning Department

**Summary/Description**

Request to update the Town's Comprehensive List of Fees in coordination with the 160D ordinance amendment which will remove, replace, and modify some of the existing applications in the Planning Department.

**Requested Action**

Approval/Denial

**Funding Source (If Applicable):**

N/A

**Cost:** N/A    Yes ☐    No ☒

**Additional Documents to be Included in Agenda Packet**

Newspaper Ad

Proposed Fee Modifications

**Meeting Timeline**

February 1, 2021 – Town Council

### **PUBLIC NOTICE**

In accordance with NC GS 160A-314, the Clayton Town Council will hold a public hearing on Monday, February 1, 2021, at 6:00 PM in the Council Chambers at the Clayton Center, 111 E Second Street, to consider an amendment to the Comprehensive List of Fees and Charges related to the Planning Department. Copies of the proposed fees are available in the Planning office and the Town Clerk's office for review by the public.

The public is invited to attend.

Samantha Wullenwaber, Planning Director  
919-553-5002

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The Johnstonian Newspaper

Please advertise on the following dates:

January 20, 2021

January 27, 2021

Affidavit of publication required.

Town of Clayton  
Amendment to the Comprehensive List of Fees and Charges

**BE IT HEREBY APPROVED BY THE TOWN COUNCIL FOR THE TOWN OF CLAYTON, NORTH CAROLINA, THAT THE COMPREHENSIVE LIST OF FEES AND CHARGES WILL BE AMENDED TO INCLUDE THE FOLLOWING:**

**PLANNING DEPARTMENT FEES:**

**AMEND** Site Plan – *Now One Category*  
Minor & Major

\$500 + \$5 / acre

**REPLACE** Planned Development  
Conditional Zoning w/Associated Mater Plan

\$1000 + \$5 / acre

**ADD** under Rezoning:  
Conditional Zoning

\$500

Duly adopted this the 1<sup>st</sup> day of February, 2021 while in regular session.

\_\_\_\_\_  
Jody McLeod  
Mayor

ATTEST:

\_\_\_\_\_  
Kimberly A. Moffett, CMC, NCCMC  
Town Clerk



## Town Council Agenda Cover Sheet

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**Meeting Date**

February 1, 2021

**Agenda Location**

Old Business

**Item Title**

Assistant Town Engineer Position

**Presenter**

Rich Cappola, Deputy Town Manager

**Summary/Description**

Staff is requesting discussion and approval for creation and hiring of Assistant Town Engineer position. This position had been discussed previously and was scheduled to be incurred in next FY budget year. However, staff would like to begin the process now. This position would be funded in current budget with use of lapsed salary funds (Public Services Director).

**Requested Action**

Approval/Denial

**Funding Source (If Applicable):**

Current Budget Line Item

**Cost:** N/A   Yes ☐   No ☒

**Additional Documents to be Included in Agenda Packet****Meeting Timeline**



## Town Council Agenda Cover Sheet

**Meeting Date**

February 1, 2021

**Agenda Location**

New Business

**Item Title**

Water Reclamation Facility (WRF) Program Update

**Presenter**

JD Solomon, Town Manager

**Summary/Description**

Discussion of status of WRF Program, including progress-to-date, upcoming milestones, and risks. Some of the major points include:

Environmental review is complete.

Necessary discharge permit revision, including nitrogen allocations, has been approved.

Request for proposals for the plant's design-build contractor has been advertised.

Final design for the Little Creek transmission line and pump station conversion is nearly complete.

Conceptual design for the ECIA transmission line is underway.

The early grading and plant access road construction project is about to be advertised for bid.

Funding for planning, design, permitting, and early construction activities is in place.

Evaluation of mixes of funding alternatives and associated best rates is being completed as bid dates approach.

Coordination with Local Government Commission and major wastewater users is in progress.

The next phase of program communication is underway.

The Town's assistant program manager has been hired.

The program is approximately two months behind its original schedule.

The program is currently below its original budget.

Significant program risks have been identified and are being mitigated and/or monitored.

**Requested Action**

Informational Only

**Funding Source (If Applicable):**

N/A

**Cost:** N/A    Yes ☐    No ☒

**Additional Documents to be Included in Agenda Packet**

Slideshow Presentation

**Meeting Timeline**

Click or tap here to enter text.



## Town Council Agenda Cover Sheet

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**Meeting Date**

February 1, 2021

**Agenda Location**

New Business

**Item Title**

Special Rescue Operations with Archer Lodge Fire Department and Cleveland Fire Department.

**Presenter**

Deputy Chief Matthew Sutphin, Fire Department

**Summary/Description**

Over the past couple years, the Clayton Fire Department, Archer Lodge Fire Department, and Cleveland Fire Department has been in discussion about creating a partnership to improve our "Special Rescue Operations" and to provide a better service to the town/surrounding communities.

**Requested Action**

Informational Only

**Funding Source (If Applicable):**

N/A

**Cost:** N/A   Yes ☐   No ☒

**Additional Documents to be Included in Agenda Packet**

**Meeting Timeline**

Click or tap here to enter text.